

LEGISLATIVE COUNCIL BRIEF

MERCHANT SHIPPING (LOCAL VESSELS) (CONDUCT OF INQUIRIES) RULES

INTRODUCTION

This paper briefs Members on the Merchant Shipping (Local Vessels) (Conduct of Inquiries) Rules (“LV(CI)R”) made under the Merchant Shipping (Local Vessels) Ordinance, Cap. 548 (“Cap. 548”). The LV(CI)R will be tabled at the Legislative Council on 19 December 2001.

BACKGROUND

2. The port of Hong Kong has been served by vessels shuttling between different locations within Hong Kong waters for different purposes, e.g. carrying of passengers or cargoes. These are termed local vessels which are distinguished from the ocean-going vessels engaged in international voyages.

3. Over the years, local vessels have not been controlled or regulated systematically by a set of laws. Instead, their administration is governed by requirements scattered in various ordinances and subsidiary legislation. This was not user-friendly to owners and operators of local vessels.

4. In July 1999, the Legislative Council enacted Cap. 548, which consolidated the provisions previously set out in different ordinances into one piece of legislation dedicated for local vessels. Cap. 548 also introduced other changes necessary to meet the modern requirements of the local shipping industry. Implementation of Cap. 548 entails the introduction of a number of subsidiary legislation.

5. We plan to make a total of ten pieces of subsidiary legislation

under Cap. 548, and the Legislative Council had already passed two in October 2001. They are the Merchant Shipping (Local Vessels) (Dwelling Vessels) Regulations and the Merchant Shipping (Local Vessels) (Ferry Terminals) Regulations. On 19 December 2001, we will table the third piece of the subsidiary legislation, i.e. the LV(CI)R, at the Legislative Council for negative vetting.

THE PROPOSAL

6. The LV(CI)R will set out the procedures of the proceedings for the conduct of inquiries into the fitness or conduct of holders of Local Certificate of Competency ("LCC") working on board of local vessels provided for under Cap. 548. Before Cap. 548 was enacted, the Director of Marine was entrusted under section 30(1) of the Shipping and Port Control Ordinance, Cap. 313 with the power to cancel or suspend a LCC at his own discretion. On the other hand, the Merchant Shipping (Seafarers) Ordinance, Cap. 478 ("Cap. 478") provides for, in respect of seafarers on board of ocean-going vessels, a mechanism for the conduct of inquiries in a fair and transparent manner, and the procedures of the proceedings under the mechanism are prescribed in the Merchant Shipping (Seafarers) (Conduct of Inquiries) Rules, Cap. 478 ("S(CI)R").

7. To improve the transparency of the inquiries on LCC holders, Cap. 548 has modelled on Cap. 478 and provided for the conduct of inquiries into the fitness of conduct of LCC holders. Similar to Cap. 478, Cap. 548 has empowered the Chief Justice to make rules according to which the inquiries are to be conducted. These rules will be prescribed in the LV(CI)R, which will benchmark against the S(CI)R and will set out –

- (i) the inquiry procedures;
- (ii) that the notice of the inquiry must be served by the Director of Marine on the LCC holder;
- (iii) that the inquiry is to be held in public;
- (iv) that the person appointed by the Chief Justice to hold the inquiry shall be assisted by one or more assessors; and

- (v) that the above appointed person shall announce his decision in public at the end of the inquiry or as soon as possible thereafter and to make a report, which should be signed by each assessor with or without reservations, to the Director of Marine.

LEGISLATIVE TIMETABLE

8. The legislative timetable of the LV(CI)R is -

Publication in the Gazette	14 December 2001
Tabling at the Legislative Council	19 December 2001
Implementation	To be appointed by the Secretary for Economic Services for the commencement of Cap. 548

BASIC LAW IMPLICATIONS

9. The Department of Justice advises that the LV(CI)R do not conflict with those provisions of the Basic Law carrying no human rights implications.

HUMAN RIGHTS IMPLICATIONS

10. The Department of Justice advises that the LV(CI)R are consistent with the human rights provisions of the Basic Law.

BINDING EFFECT

11. The LV(CI)R do not affect the current binding effect of Cap. 548.

ECONOMIC IMPLICATIONS

12. The LV(CI)R, as stipulated, are not expected to give rise to economic implications. They do not cause compliance burden on business and do not have impact on jobs. The LV(CI)R do not have any implication on competition.

FINANCIAL AND STAFFING IMPLICATIONS

13. The LV(CI)R do not have additional financial and staffing implications for Government.

ENVIRONMENTAL IMPLICATIONS

14. There are no environmental implications.

PUBLIC CONSULTATION

15. The Provisional Local Vessel Advisory Committee and its relevant sub-committees/working group which comprise a wide-cross section of representatives from the local shipping industry have been consulted during the drafting process. They give support to the LV(CI)R. We briefed the LegCo Panel on Economic Services on the LV(CI)R at its meeting on 28 May 2001. The Panel gave in-principle support to the LV(CI)R.

PUBLICITY

16. A press release will be issued on 14 December 2001. A spokesman will be made available to answer public and media enquiries.

ENQUIRY

17. Any enquiry on this brief can be addressed to Mr K M VARGHESE, Assistant Director of Marine (Tel: 2852 4404) or Miss Polly CHOY, Assistant Secretary for Economic Services (Tel: 2537 2842).

Economic Services Bureau
14 December 2001