

**For discussion
On 24 February 2003**

Legislative Council Panel on Economic Services

**Subsidiary Legislation under
Merchant Shipping (Local Vessels) Ordinance, Cap. 548 :**

**Merchant Shipping (Local Vessels)
(Compulsory Third Party Risks Insurance) Regulation**

INTRODUCTION

The proposed Merchant Shipping (Local Vessels) (Compulsory Third Party Risks Insurance) Regulation (“the Regulation”) was discussed at the January meeting of the Panel on Economic Services. At that meeting, Members commented on the levels of minimum liability and their application to different types of vessels. Taking into account the views of Members, we have reviewed and revised the proposed compulsory third party risks insurance requirement for local vessels, the details of which are set out below. The applicability of the compulsory third party risks insurance requirement to river trade vessels is also elaborated below as requested by Members.

THE REVISED PROPOSALS

Application to Different Types of Vessels

2. At present, only launches, ferry vessels and pleasure vessels which are mechanically propelled are required by law to take out third party risks insurance. The objective of the proposed Regulation is to extend the application of compulsory third party risks insurance requirements to all local vessels to enhance the protection for third parties who may suffer from bodily injury or death caused by marine accidents. Taking into account Members’ views, we now propose that –

- (a) All local vessels which do not carry fare-paying passengers, including pleasure vessels not letting for reward and irrespective

of their number of passengers, should be subject to a minimum level of third party risks insurance liability cover of \$1 million.

- (b) Local vessels which carry up to 12 fare-paying passengers¹ should also be subject to a minimum level of third party risks insurance liability cover of \$1 million.
- (c) Kaitos and shuttle passenger sampans in typhoon shelters, irrespective of the number of fare-paying passengers they carry, should be subject to the lower level of minimum coverage, i.e. \$1 million. Kaitos usually operate in remote areas of Hong Kong waters, and passenger sampans in typhoon shelters only shuttle within sheltered waters. Both types of vessels are relatively less likely to cause serious accidents.
- (d) Subject to (c) above, vessels which carry more than 12 fare-paying passengers should be subject to a minimum level of third party risks insurance liability cover of \$5 million. This is to ensure that vessels with a larger passenger carrying capacity will have a higher insurance cover to meet potential third party claims.

Levels of Minimum Liability Cover

3. Members asked at the January Panel meeting on information relating to marine accidents compensation. In the past years, in the few cases where compensation arising from marine accidents was known, the amount ranged from \$0.6 million to \$1.7 million per case of death. The existing levels of \$0.6 million (for pleasure vessels) and \$3 million (for launches and ferry vessels) were set in 1979 and 1990 respectively. We now propose to adjust downward the two tiers of minimum liability covers suggested in our earlier proposal from \$5 million to \$1 million, and from \$10 million to \$5 million. The revised levels of liability cover have taken account of the additional financial cost for vessel owners and operators without compromising the policy objective of extending the compulsory third party risks insurance requirement to all local vessels.

¹ It is an international practice to require a “passenger vessel”, i.e. a vessel with a passenger carrying capacity of more than 12 persons, to meet higher safety standards and more stringent regulatory requirements.

4. The following table summarises the revised proposal -

Types of Local Vessels	Minimum liability cover
(a) No fare-paying passengers	\$1 million
(b) Up to 12 fare-paying passengers	
(c) Kaitos and shuttle passenger sampans in typhoon shelters	
(d) More than 12 fare-paying passengers, except those in (c) above	\$5 million

EMPLOYEES COMPENSATION INSURANCE

5. To clarify that there will be no overlap between employees compensation insurance and third party risks insurance, the Regulation will provide that third party risks insurance for local vessels shall not cover liability in respect of an employee in the course of his employment. This is in line with existing arrangements in respect of pleasure vessels, launches and ferry vessels, which are at present required to take out third party risks insurance under the Merchant Shipping Ordinance.

RIVER TRADE VESSELS

6. At present, some 2,000 river trade vessels operate between Hong Kong and Mainland ports. They are cargo vessels engaged in economic activities.

7. As river trade vessels are not locally certificated vessels, unlike local vessels, we have difficulties regulating their insurance through registration. To enhance the protection for third parties who may suffer from bodily injury or death caused by marine accidents involving river trade vessels, we intend to regulate the requirement for third party insurance of such vessels through legislative means at their point of entry into Hong Kong waters.

8. More specifically, before river trade vessels enter into the waters of

Hong Kong, their owners or masters will be required to tender pre-arrival notification to the Director of Marine and provide information regarding third party risks insurance they have taken out for their vessels. The pre-arrival notification mechanism is provided for in the Shipping and Port Control Regulations (Cap. 313A). For vessels which fail to provide such information in accordance with the relevant provisions, the Director of Marine may refuse their entry into the waters of Hong Kong.

9. We are now maintaining close liaison with the relevant Mainland authorities, and will process legislative amendments to tie in with the full implementation of the compulsory third party risks insurance requirements in the Mainland. We will brief Members separately on amendments to the Shipping and Port Control Regulations when ready.

ADVICE SOUGHT

10. Members are invited to give their views and support to the above proposals.

Economic Development and Labour Bureau
17 February 2003