

LEGISLATIVE COUNCIL BRIEF

MERCHANT SHIPPING (LOCAL VESSELS) (CERTIFICATION AND LICENSING) REGULATION

MERCHANT SHIPPING (LOCAL VESSELS) (TYPHOON SHELTERS) REGULATION

INTRODUCTION

This paper briefs Members on two Regulations made under the Merchant Shipping (Local Vessels) Ordinance, Cap. 548 (LVO) to improve the safety, control and regulation of local vessels. The Regulations will be tabled at the Legislative Council on 3 March 2004.

BACKGROUND

2. The port of Hong Kong is served by vessels operating within Hong Kong waters for various purposes, including the carrying of passengers and cargoes. We refer to them as local vessels to distinguish them from ocean-going vessels engaged in international voyages.

3. Local vessels have been governed by requirements set out in various ordinances and their subsidiary legislation. This was not user-friendly to owners and operators of local vessels as they often need to refer to different pieces of law.

4. The LVO, enacted in July 1999, seeks to consolidate the provisions previously set out in different ordinances into one piece of legislation dedicated for local vessels. The implementation of LVO entails the introduction of ten pieces of subsidiary legislation. The Legislative Council passed three of them in 2001, namely the Merchant Shipping (Local Vessels) (Dwelling Vessels) Regulation, Merchant Shipping (Local Vessels) (Ferry Terminals) Regulation and Merchant Shipping (Local Vessels) (Conduct of Inquiries) Rules.

5. Under section 89(1) of the LVO, the Secretary for Economic Development and Labour (SEDL) may make regulations for the licensing and certification of local vessels, and the control of typhoon shelters.

THE REGULATIONS

6. On 3 March 2004, we will table two of the remaining pieces of subsidiary legislation under LVO, namely the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation and Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation. The Regulations are outlined in the ensuing paragraphs.

— (a) ***Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (“LV(C&L)R”) (Annex A)***

7. The LV(C&L)R provides for -

- (i) the issue and cancellation of a certificate of ownership;
- (ii) the issue, renewal, suspension and cancellation of an operating licence; and
- (iii) the application for permission for a laid-up vessel.

8. It also spells out other related matters, such as restrictions on the maximum number of passengers, restrictions on the use of pleasure vessels and the requirement for vessels to carry competent coxswain and engine operator.

9. Most of these requirements are adopted from provisions in the existing Merchant Shipping (Launches and Ferry Vessels) Regulations (Cap. 313E), Merchant Shipping (Miscellaneous Craft) Regulations (Cap. 313F) and Merchant Shipping (Pleasure Vessels) Regulations (Cap. 313G). These Regulations will be repealed upon commencement of the LVO and its subsidiary legislation.

10. In addition to the adoption of existing provisions in Cap.313E, 313F and 313G with appropriate modifications, the LV(C&L)R also introduces a number of improvements, including -

- (i) a new and streamlined classification system for local vessels, thus reducing the classes of local vessels from 11 to four;
- (ii) a new documentation system for local vessels similar to that applicable to road vehicles, which requires each local vessel to have both a certificate of ownership and an operating licence. This will facilitate the tracing of vessel owners in case of prosecution because of breach of law;

- (iii) a new permission for a laid-up vessel to enable a local vessel to be laid up without the need for an operating licence if it is not in use for operation for an extended period of time;
- (iv) a new provision to require pleasure vessels to be used by its owner or person to whom it is let, exclusively for pleasure purpose. When a pleasure vessel is chartered, a written charter agreement shall be kept on board for inspection. In addition, if the chartered pleasure vessel carries passengers, a valid certificate of inspection and relevant insurance policy shall also be kept on board for inspection; and
- (v) a new arrangement which allows a person, on the death of the owner of the vessel, to act as an interim owner and operate the vessel. This will allow the vessel to continue operation on a temporary basis by family members of the deceased owner pending disposal of the vessel according to the deceased's will or letters of administration.

(b) *Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation (“LV(TS)R”) (Annex B)*

11. The LV(TS)R adopts from the existing Shipping and Port Control (Typhoon Shelters) Regulations (Cap. 313D) the necessary provisions for the management of typhoon shelters, including the setting aside of passage areas in typhoon shelters, use of typhoon shelters, entry and anchoring of local vessels, removal of local vessels unlawfully remaining in typhoon shelters, etc. Cap. 313D will be repealed upon commencement of the LVO and its subsidiary legislation. Apart from modeling on existing provisions, the LV(TS)R also introduces the following new features -

- (i) a requirement for plans showing the passage areas of typhoon shelters to be made available for public inspection;
- (ii) codification of licensing conditions currently imposed by the Director of Marine to prohibit certain types of local vessels from entering or remaining in a typhoon shelter. The types of vessels involved are -
 - (a) vessels having on board specified dangerous goods;
 - (b) vessels having length overalls that exceed the permitted length overalls in relation to the relevant typhoon shelters;
 - (c) dwelling vessels; and

- (iii) improvement of control measures to maintain a clear passage for typhoon shelters, which are very busy nowadays. The notice period before the Director exercises his power to take possession of and remove a vessel anchoring in an inappropriate place will be shortened from 14 days to seven days.

LEGISLATIVE TIMETABLE

12. The legislative timetable for the two Regulations is -

Publication in the Gazette	27 February 2004
Tabling at the Legislative Council	3 March 2004
Implementation	On a date to be appointed by SEDL

IMPLICATIONS OF THE PROPOSAL

13. The proposals are in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the binding effect of the LVO. It has no additional financial implication and does not involve staff implications for the Government. The Marine Department will enforce the new Regulations using their existing staff and resources.

PUBLIC CONSULTATION

14. We have consulted 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, and secured their support. We have briefed the Panel on Economic Services of the Legislative Council on the Regulations and obtained Members' support.

PUBLICITY

15. A press release will be issued on 27 February 2004. A spokesman will be made available to answer public and media enquiries.

ENQUIRY

16. Any enquiry on this brief can be addressed to Mr K M LEE, Assistant Director of Marine (2852 4403) or Miss Florence CHAN, Assistant Secretary for Economic Development and Labour (2537 2842).

Economic Development and Labour Bureau
27 February 2004

**MERCHANT SHIPPING (LOCAL VESSELS)
(CERTIFICATION AND LICENSING) REGULATION**

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**MERCHANT SHIPPING (LOCAL VESSELS)
(CERTIFICATION AND LICENSING) REGULATION**

(Made under section 89 of the Merchant Shipping (Local Vessels)
Ordinance (Cap. 548))

PART 1

**COMMENCEMENT, INTERPRETATION AND
APPLICATION**

1. Commencement

This Regulation shall come into operation on the day appointed for the commencement of Part IV of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548).

2. Interpretation

(1) In this Regulation, unless the context otherwise requires –

“agent” (代理人) means a person appointed as an agent in accordance with section 7;

“ancillary vessel” (附屬船隻), in relation to a local vessel, means a vessel that falls within the description of an ancillary vessel endorsed under section 13 on the certificate of ownership of the local vessel;

“certificate of ownership” (擁有權證明書) means a certificate of ownership –

- (a) issued under section 10; or
- (b) issued or endorsed under section 23 or 26 (including, in the case of section 23, that section as applied by section 29);

“certificate of ownership number” (擁有權證明書號碼) means a number assigned by the Director under section 11(2) to the certificate of ownership of a local vessel;

“certificate of survey” (驗船證明書) means a certificate of survey within the meaning of the Survey Regulation;

“class” (類別), in relation to a local vessel, means a class of local vessel specified in column 1 of Schedule 1;

“document of identification” (身分證明文件) means –

- (a) in relation to an individual, the identity card issued to the individual under the Registration of Persons Ordinance (Cap. 177);
- (b) in relation to a company within the meaning of the Companies Ordinance (Cap. 32), the certificate of incorporation issued under that Ordinance in respect of the incorporation of the company in Hong Kong; or
- (c) in relation to an overseas company within the meaning of the Companies Ordinance (Cap. 32), the certificate of registration issued under that Ordinance in respect of the registration of the overseas company under Part XI of that Ordinance;

“floating restaurant” (水上食肆) means any vessel that customarily remains stationary in any area of the waters of Hong Kong that is used or is constructed for use primarily for the purpose of a food business involving the sale of meals to the general public for consumption on board;

“full licence” (正式牌照) means –

- (a) a full licence that is issued under section 15 or renewed under section 17; or
- (b) a full licence issued, endorsed or renewed under section 23 or 26 (including, in the case of section 23, that section as applied by section 29);

“Insurance Regulation” (《保險規例》) means any regulation made in relation to insurance under section 89 of the Ordinance;

“Local Certificate of Competency Rules” (《本地合格證明書規則》) means the rules made under section 16 of the Ordinance;

“material considerations” (考慮因素), in relation to a local vessel, means –

- (a) the class and type for which the vessel is or is to be certificated and the intended service of the vessel;
- (b) provisions of the Ordinance and regulations made under the Ordinance;
- (c) the condition of the vessel so far as it is relevant to seaworthiness or to any risk of pollution;
- (d) the safety, health and welfare of persons employed or engaged in any capacity on board the vessel; and
- (e) any other matter of public interest;

“permission for a laid-up vessel” (閑置船隻允許書) means the written permission granted under section 66 of the Ordinance for a laid-up vessel to be berthed, moored or anchored at any place in the waters of Hong Kong, including such permission that is endorsed or granted under section 23 or 26 (including, in the case of section 23, that section as applied by section 29);

“prescribed fee” (訂明費用) means a fee prescribed by regulation made under section 88 of the Ordinance;

“specified form” (指明表格) means a form specified by the Director;

“specified sheltered waters” (指明遮蔽水域) means the waters specified in Schedule 2;

“Survey Regulation” (《驗船規例》) means any regulation made in relation to the survey or inspection of vessels under section 89 of the Ordinance;

“temporary licence” (臨時牌照) means –

- (a) a temporary licence issued or renewed under section 19; or

- (b) a temporary licence issued, endorsed or renewed under section 23 or 26 (including, in the case of section 23, that section as applied by section 29);

“type” (類型), in relation to a local vessel, means a type of local vessel specified in column 2 of Schedule 1;

“typhoon shelter” (避風塘) means a typhoon shelter specified in the Merchant Shipping (Local Vessels)(Typhoon Shelters) Regulation (L.N. of 2004);

“working day” (工作日) means any day other than the following –

- (a) a general holiday;
- (b) a gale warning day or black rainstorm warning day as defined in section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1).

(2) A local vessel is certificated under this Regulation if there is in force in respect of it a certificate of ownership.

(3) In this Regulation –

- (a) a reference to a local vessel of any class and of any type is a reference to a local vessel certificated for that class and that type in accordance with section 4; and
- (b) a reference to a Class I, II, III or IV vessel is a reference to a local vessel certificated for Class I, II, III or IV respectively.

(4) A local vessel is licensed under this Regulation if there is in force in respect of it a full licence or a temporary licence.

(5) In this Regulation –

- (a) a reference to a person applying for certification as the owner, in relation to a local vessel, is a reference to a person who pursuant to an application made under section 10, 23 or 26 (including, in the case of section 23, that section as applied by section 29) is to be named as the

owner in the certificate of ownership to be issued or endorsed in respect of the vessel; and

- (b) a reference to a certificated owner, in relation to a local vessel, is a reference to a person who is named as the owner in the certificate of ownership of the vessel that is in force.

(6) In this Regulation, a transfer of ownership of a local vessel includes –

- (a) a transfer of an interest of a joint or part owner in a local vessel to any person; and
- (b) any disposition of interest in a local vessel by a personal representative of the estate of a deceased owner.

3. Application of this Regulation

This Regulation applies to local vessels to which Part IV of the Ordinance applies.

PART 2

CERTIFICATE OF OWNERSHIP, FULL LICENCE, TEMPORARY LICENCE AND PERMISSION FOR A LAID-UP VESSEL

General

4. Class and type of local vessels

(1) A local vessel, where certificated under this Regulation, shall be so certificated for Class I, II, III or IV and for a type specified opposite the relevant class in Schedule 1.

(2) Where a local vessel is certificated for a particular class and type, a full licence, a temporary licence, or permission for a laid-up vessel that is issued, renewed, granted or endorsed under section 15, 17, 19, 23 or 26 of this

Regulation (including, in the case of section 23, that section as applied by section 29) or section 66 of the Ordinance in respect of the vessel shall be so issued, renewed, granted or endorsed in respect of the vessel as a local vessel of that class and type.

5. Restrictions on vessels of Classes II and III

(1) No full licence or temporary licence for a Class II vessel shall permit the vessel to carry more than 12 passengers.

(2) No full licence or temporary licence for a Class III vessel shall permit the vessel to carry any passenger.

(3) A Class III vessel shall be used exclusively for fishing and related purposes.

(4) If a Class III vessel is used in contravention of subsection (3) without reasonable excuse, the owner, his agent and the coxswain each commits an offence and is liable on conviction to a fine at level 3.

6. Restrictions on Class IV vessels

- (1) A Class IV vessel shall not be used otherwise than –
- (a) by the owner exclusively for pleasure purposes; or
 - (b) if it has been let to any person, by that person exclusively for pleasure purposes.
- (2) A Class IV vessel shall not be let for hire or reward unless –
- (a) it is let under the terms of a written charter agreement or written hire-purchase agreement;
 - (b) the agreement contains a warning that states clearly –
 - (i) that the person to whom the vessel is let commits an offence if he does not comply with section 6(5)(b) of the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (L.N. of 2004);

- (ii) that the person to whom the vessel is let should read carefully section 6 (except subsections (1), (2) and (4)) of the Regulation; and
- (iii) where in the agreement the full text of those provisions may be found;
- (c) the agreement contains, either in its body or as its attachment, the full text of this section (except subsections (1), (2) and (4));
- (d) the warning and text referred to in paragraphs (b) and (c) are in the same language as that of the remaining parts of the agreement and are presented prominently in the agreement; and
- (e) the agreement is signed by the owner and the person to whom the vessel is let.

(3) A Class IV vessel shall not be let for hire or reward for an intended service that involves the carriage of passengers unless there is in force in respect of the vessel –

- (a) such certificate of inspection certifying that the vessel is fit for the intended service as is required under the Survey Regulation for a Class IV vessel of the type for which the vessel is certificated; and
- (b) such policy of insurance in respect of third party risks as is required under the Insurance Regulation for a Class IV vessel of the type for which the vessel is certificated, having regard to the intended service.

(4) If, without reasonable excuse, subsection (1), (2) or (3) is contravened the owner of the vessel, his agent and the coxswain each commits an offence and is liable on conviction to a fine at level 3.

(5) Where a Class IV vessel is let for hire or reward –

- (a) the owner, his agent and the coxswain shall ensure that there is kept on board the vessel –
 - (i) the relevant written charter agreement or written hire-purchase agreement; and
 - (ii) if any passenger is carried in the vessel, the certificate of inspection and the policy of insurance referred to in subsection (3), or certified copies of them;
- (b) the person to whom the vessel is let shall ensure that throughout the period when the person is in possession of the vessel –
 - (i) the vessel is not used otherwise than by him exclusively for pleasure purposes; and
 - (ii) the documents referred to in paragraph (a) are kept on board the vessel; and
- (c) the coxswain shall, on request by an authorized officer, produce for inspection the documents referred to in paragraph (a).

(6) A person who without reasonable excuse contravenes subsection (5), commits an offence and is liable on conviction to a fine at level 2.

(7) A person to whom a Class IV vessel is let does not have a reasonable excuse for contravening subsection (5)(b)(ii) merely because the person's contravention is attributable to the contravention by the owner, his agent and the coxswain of subsection (5)(a).

(8) For the purpose of this section, a Class IV vessel is to be regarded as being used by a person exclusively for pleasure purposes if –

- (a) in the case of the person being an individual, the vessel is used to carry the individual, his family members, relatives, friends and employees, and family members, relatives and friends of his employees, for their pleasure purposes; or

- (b) in the case of the person being a club, company, partnership or association of persons, the vessel is used to carry its members and employees, and family members, relatives and friends of those members and employees, for their pleasure purposes.

(9) If a person to whom a Class IV vessel is let under a hire-purchase agreement is named in the certificate of ownership as owner by virtue of section 9(b), then subsections (3) and (5) apply neither to the hire-purchase agreement nor to the vessel as far as that agreement is concerned.

7. Agent

- (1) A person who –
 - (a) is the certificated owner of a local vessel; or
 - (b) is a person applying for certification as the owner in relation to a local vessel,

may appoint another person as his agent for the purposes of this Regulation.

- (2) A person may be appointed as an agent only if the person –
 - (a) is a person referred to in section 12(1)(a) or (b) of the Ordinance; and
 - (b) has a shore address in Hong Kong.

(3) A person (“principal”) shall, before having another person act for him as his agent for the purposes of this Regulation –

- (a) deliver to the Director –
 - (i) a notice of appointment signed by the principal and the agent which shall, if the agent is an individual, contain a declaration made by the agent that the agent is ordinarily resident in Hong Kong; and
 - (ii) the document of identification of the agent or a certified copy of it; and

- (b) if the principal is the certificated owner of the vessel, produce to the Director the certificate of ownership and pay the prescribed fee.
- (4) The notice of appointment shall contain –
- (a) if the principal is the certificated owner of the vessel, the certificate of ownership number;
 - (b) if the principal is a person applying for certification as the owner, the particulars of the application;
 - (c) the name of the vessel, if any, specified under section 40(5);
 - (d) the name of the principal;
 - (e) the name, shore address in Hong Kong and telephone number of the agent;
 - (f) a statement by the principal that he appoints the agent for the purposes of this Regulation; and
 - (g) the agent's consent to act as agent for the principal and to perform all functions (including the assumption of all obligations) as such agent under this Regulation.

(5) The Director shall endorse the particulars of the agent on the certificate of ownership that is produced under subsection (3)(b).

(6) In the case of the principal being a person applying for certification as the owner, the Director shall endorse the particulars of the agent on the certificate of ownership when it is issued or endorsed under section 10, 23 or 26 (including, in the case of section 23, that section as applied by section 29).

(7) The particulars of an agent to be endorsed on a certificate of ownership are the name and address of the agent, and the number appearing on the document of identification of the agent.

8. Resignation, etc. of agent

(1) An agent who resigns shall forthwith give a written notice of the resignation, signed by him, to the person who appointed him and shall send a copy of the notice to the Director.

(2) An agent shall, if he ceases to meet the requirements in section 7(2), forthwith resign in the manner stated in subsection (1).

(3) If the Director is satisfied that an agent appointed in relation to a local vessel ceases to meet the requirements in section 7(2), the Director may, by written notice to the agent and the person who appointed the agent, inform them that the appointment of the agent ceases to be accepted as valid.

(4) A person who revokes the appointment of his agent shall forthwith give written notice of the revocation, signed by him, to the agent and shall send a copy of the notice to the Director.

(5) A person appointed as an agent for the certificated owner of a local vessel or for a person applying for certification as the owner of a local vessel remains liable under this Regulation as such agent even if he has resigned or has ceased to meet the requirements in section 7(2) or has his appointment revoked, and an act by him purporting to be such agent remains binding on the person who appointed him, until –

- (a) notice of the resignation, or of the revocation of the appointment, is received by the Director; or
- (b) in the case of his ceasing to meet the requirements in section 7(2) –
 - (i) he resigns in the manner stated in subsection (1);
or
 - (ii) a notice of cessation of validity of appointment is given by the Director under subsection (3).

(6) If the certificate of ownership of a local vessel is in the possession of an agent appointed in respect of the vessel when –

- (a) he gives a notice of resignation under subsection (1); or

- (b) he receives a notice of cessation of validity of appointment under subsection (3) or a notice of revocation under subsection (4),

he shall, at the time he gives the relevant notice or within 7 working days after he receives the relevant notice (as the case may be), return the certificate of ownership to the person who appointed him.

(7) The certificated owner of the vessel shall deliver the certificate of ownership on which particulars of an agent appointed by him are endorsed to the Director, and pay the prescribed fee, for Director's endorsement of the termination of appointment of the agent –

- (a) unless subsection (6) applies –
 - (i) within 7 working days after he receives a notice of resignation under subsection (1) or a notice of cessation of validity of appointment under subsection (3) (as the case may be); or
 - (ii) at the time he gives a notice of revocation under subsection (4); or
- (b) if subsection (6) applies, within 7 working days after he receives the certificate of ownership from the agent.

(8) A person who, without reasonable excuse, contravenes subsection (1), (2), (4), (6) or (7) commits an offence and is liable on conviction to a fine at level 2.

Certificate of ownership: Application, issue and endorsements

9. Eligibility for certification as the owner

A person is eligible to be named as the owner of a local vessel in the certificate of ownership in respect of the vessel if the person –

- (a) owns the vessel; or

- (b) is the person to whom the vessel is let under a hire-purchase agreement in respect of the vessel and is entitled to possession of the vessel.

10. Application for certificate of ownership

(1) The Director may, on application, issue a certificate of ownership in respect of a local vessel in the name of a person as the owner for a class and a type if the Director is satisfied –

- (a) that the person –
 - (i) is eligible to be named as the owner of the vessel under section 9; and
 - (ii) is a person referred to in section 12(1)(a) or (b) of the Ordinance; and
- (b) that the vessel is constructed for operation as a local vessel of that class and that type.

(2) An application for the purpose of subsection (1) may be made by a person who meets the requirements in subsection (1)(a) or the person's agent.

(3) An application –

- (a) shall be made to the Director in the specified form; and
- (b) shall be made at the time when an application for a full licence, temporary licence or permission for a laid-up vessel is made.

(4) An application shall indicate the class and the type that the vessel is to be certificated for and –

- (a) shall contain –
 - (i) the name, shore address in Hong Kong and telephone number of the person who is to be named as the owner;
 - (ii) a general description and the technical particulars of the vessel;

- (iii) a declaration made by the applicant that the general description and the technical particulars of the vessel contained in the application are correct;
 - (iv) if the person who is to be named as the owner is an individual, a declaration made by the person that he is ordinarily resident in Hong Kong;
 - (v) the year and place of construction;
 - (vi) the year of purchase and the purchase price;
 - (vii) a description of the material of which the hull of the vessel is constructed; and
 - (viii) a declaration made by the applicant as to whether the vessel is a used vessel and, if so, where the vessel was used;
- (b) shall be accompanied by –
- (i) proof for the claim that the person who is to be named as the owner is eligible to be so named under section 9; and
 - (ii) the document of identification of the person who is to be named as the owner, or a certified copy of it; and
- (c) if the vessel is a used vessel from a place outside Hong Kong, shall be accompanied by –
- (i) the vessel's previous certificate of ownership, certificate of registry, licence or document of a similar nature;
 - (ii) a confirmation in writing by a relevant authority in that place that the certificate, licence or document has been cancelled; or
 - (iii) any other evidence of its previous use in that place.

(5) The Director may require an applicant to provide such other information and documents as may be reasonably required for determining an application.

(6) The Director, in refusing to issue a certificate of ownership, shall notify the applicant of the refusal and the reasons therefor.

(7) Even if an application under this section indicates that a local vessel is to be certificated for a particular class and a particular type, the Director may, with the agreement of the applicant, treat the application as an application for the vessel to be certificated for another class and another type and issue a certificate of ownership accordingly.

11. Certificate of ownership

(1) A certificate of ownership shall be in such form as the Director may determine.

(2) A certificate of ownership shall be assigned with a number by the Director and shall specify –

- (a) the class and the type that the local vessel is certificated for;
- (b) the name of the vessel, if any, specified under section 40(5);
- (c) the name and shore address in Hong Kong of the person whom the Director is satisfied to be eligible to be named as the owner under section 9 and the number appearing on the document of identification of the owner;
- (d) the business name of the owner (if any) included under section 12;
- (e) an endorsement of the particulars of an agent (if any) under section 7;
- (f) the year and place of construction of the vessel;
- (g) the year of purchase and the purchase price;

- (h) the length and breadth (in metres) of the vessel;
- (i) (if the measurements are made) the depth (in metres) and the tonnage of the vessel;
- (j) a description of the material of which the hull of the vessel is constructed;
- (k) an endorsement as to ancillary vessel (if any) under section 13; and
- (l) an endorsement as to mortgage or hire-purchase agreement (if any) under section 14.

12. Inclusion of business name of owner in certificate of ownership

(1) The Director may, on request, include the business name of the certificated owner of a local vessel in the certificate of ownership.

(2) A request for the purpose of subsection (1) in relation to a local vessel may be made –

- (a) by the certificated owner or his agent; or
- (b) by a person applying for certification as the owner or the person's agent.

(3) A person shall make a request for the purpose of subsection (1) in writing and –

- (a) if he is the certificated owner or his agent, shall produce the certificate of ownership and pay the prescribed fee;
- (b) if he is a person applying for certification as the owner or the person's agent, shall state the particulars of the application; and
- (c) shall produce the business registration certificate issued under the Business Registration Ordinance (Cap. 310) or its certified copy.

13. Ancillary vessel to be covered by certificate of ownership and full licence, etc.

(1) The Director may, on request, make on the certificate of ownership for a local vessel an endorsement –

- (a) in the case of the certificated vessel being a Class III vessel, to the effect that the certificated vessel may be used with one or more ancillary vessels where each ancillary vessel –
 - (i) belongs to the same owner as the certificated vessel;
 - (ii) does not exceed 4 metres in length overall; and
 - (iii) is not fitted with an engine; or
- (b) in the case of the certificated vessel being a Class IV vessel, to the effect that the certificated vessel may be used with one ancillary vessel being a vessel that –
 - (i) belongs to the same owner as the certificated vessel;
 - (ii) does not exceed 4 metres in length overall; and
 - (iii) either is not fitted with an engine or is fitted with engines not exceeding 7.5 kilowatts total propulsion power.

(2) A request for the purpose of subsection (1) in respect of a local vessel may be made –

- (a) by the certificated owner or his agent; or
- (b) by a person applying for certification as the owner or the person's agent.

(3) A person shall make a request for the purpose of subsection (1) in writing and shall –

- (a) if he is the certificated owner or his agent, produce the certificate of ownership and pay the prescribed fee; or

- (b) if he is a person applying for certification or the person's agent, state the particulars of the application.

(4) Where the certificate of ownership of a local vessel is endorsed under subsection (1) –

- (a) a vessel that falls within the description for the ancillary vessel as endorsed, and is carried on the certificated vessel when not in use or used in conjunction with the certificated vessel –
 - (i) shall be regarded as part of the certificated vessel; and
 - (ii) shall not require a separate certificate of ownership or a separate full licence, temporary licence, or permission for a laid-up vessel; and
- (b) conditions or restrictions attached to a full licence, temporary licence, or permission for a laid-up vessel in respect of the certificated vessel shall apply to each ancillary vessel unless otherwise specified by the Director in the conditions or restrictions.

14. Endorsement as to mortgage or hire-purchase agreement

(1) The Director may make, on the certificate of ownership for a local vessel, an endorsement to the effect that a mortgage or hire-purchase agreement subsists in relation to the vessel.

(2) A request for the purpose of subsection (1) in respect of a local vessel may be made –

- (a) by the certificated owner or his agent; or
- (b) by a person applying for certification as the owner or the person's agent.

(3) A person shall make a request for the purpose of subsection (1) in writing and –

- (a) shall produce the relevant proof;
- (b) if he is the certificated owner or his agent, shall produce the certificate of ownership and pay the prescribed fee; and
- (c) if he is a person applying for certification as the owner or the person's agent, shall state the particulars of the application.

(4) The Director may, on request, amend an endorsement made under this section. A request for amending an endorsement –

- (a) shall be made in accordance with subsections (2) and (3) with necessary modifications; and
- (b) shall be accompanied by the written consent to the amendment, signed by each party, other than the person by or for whom the request is made, to the mortgage or hire-purchase agreement (as the case may be).

**Full licence:
Application, issue and renewal**

15. Application for full licence

(1) The Director may, on application, issue in respect of a local vessel a full licence, if the applicant satisfies the Director that it is appropriate to issue it having regard to the material considerations.

(2) An application for the purpose of subsection (1) in respect of a local vessel may be made –

- (a) by the certificated owner or his agent; or
- (b) by a person applying for certification as the owner or the person's agent.

(3) An application shall be made in the specified form and shall be accompanied by the prescribed fee.

(4) An application shall be accompanied by the following documents in respect of the vessel, or their certified copies –

- (a) such certificate of survey as is required under the Survey Regulation for the vessel, having regard to the class and type for which the vessel is or is to be certificated and its intended service; and
- (b) such policy of insurance in respect of third party risks as is required under the Insurance Regulation for the vessel, having regard to the class and type for which the vessel is or is to be certificated and its intended service.

(5) The Director may require an applicant to provide such other information and documents as may be reasonably required for determining the application.

(6) The Director, in refusing an application for the issue of a full licence, shall notify the applicant of the refusal and the reasons therefor.

(7) A full licence shall be in such form as the Director may determine.

16. Validity period for full licence

A full licence for a local vessel is valid for such period as may be determined by the Director and specified in the licence, which shall not exceed 12 months, beginning from the date of issue of the licence.

17. Renewal of full licence

(1) The owner of a local vessel or his agent may apply for renewal of a full licence in respect of the vessel not earlier than 2 months prior to the expiry of the licence.

(2) Sections 15 and 16, with necessary modifications, apply to an application under subsection (1) for renewal of a full licence as they apply to an application under section 15 for its issue.

(3) A renewal of the full licence in respect of a local vessel before the expiry of the licence shall take effect on the day following the day of the expiry.

18. Conditions and restrictions attached to full licence

(1) Having regard to the material considerations, the Director may attach to a full licence in respect of a local vessel –

- (a) any conditions; or
- (b) any restrictions that the vessel concerned may only ply within certain specified sheltered waters, typhoon shelters or other areas of the waters of Hong Kong.

(2) The Director may, having regard to the material considerations, amend any conditions or restrictions attached to a full licence in respect of a local vessel and may request the owner or his agent to deliver the licence to him for the purpose of making the amendments.

(3) A person who, without reasonable excuse, fails to deliver a full licence on request under subsection (2) commits an offence and is liable on conviction to a fine at level 2 and to imprisonment for 6 months.

Temporary licence: Application, issue and renewal

19. Issue or renewal of temporary licence

(1) Where –

- (a) a local vessel is not eligible for issue or renewal of a full licence; or

- (b) a full licence for a local vessel is deemed to be suspended under section 32 pending the issue of a certificate of survey,

the Director may, on application, issue a temporary licence for the vessel if the applicant satisfies the Director that it is appropriate to issue it having regard to the material considerations.

(2) An application for the purpose of subsection (1) in respect of a local vessel may be made –

- (a) by the certificated owner or his agent ; or
- (b) by a person applying for certification as the owner or the person's agent.

(3) An application shall be made in the specified form and shall be accompanied by the prescribed fee.

(4) A temporary licence shall be in such form as the Director may determine.

(5) A temporary licence shall be issued for such period as may be determined by the Director and specified in the licence, which shall not exceed 12 months, beginning from the date of issue of the licence.

(6) A temporary licence for a local vessel may be renewed on an application made not earlier than 2 months prior to the expiry of the licence, and subsections (1) to (5), with necessary modifications, apply to an application for renewal of a temporary licence as they apply to an application for its issue.

(7) A renewal of the temporary licence in respect of a local vessel before the expiry of the licence shall take effect on the day following the day of the expiry.

20. Conditions and restrictions attached to temporary licence

(1) Having regard to the material considerations, the Director may attach to a temporary licence in respect of a local vessel –

- (a) any conditions; or
- (b) any restrictions that the vessel concerned may only ply within certain specified sheltered waters, typhoon shelters or other areas of the waters of Hong Kong.

(2) The Director may, having regard to the material considerations, amend any conditions or restrictions attached to a temporary licence in respect of a local vessel and may request the owner or his agent to deliver the licence to him for the purpose of making the amendments.

(3) A person who, without reasonable excuse, fails to deliver a temporary licence on request under subsection (2) commits an offence and is liable on conviction to a fine at level 2 and to imprisonment for 6 months.

Permission for a laid-up vessel

21. Grant of permission for a laid-up vessel

(1) An application for the grant of permission for a laid-up vessel in respect of a local vessel may be made –

- (a) by the certificated owner or his agent; or
- (b) by a person applying for certification as the owner or the person's agent.

(2) An application shall be made to the Director in the specified form and shall be accompanied by the prescribed fee.

(3) Without prejudice to the provisions of section 66 of the Ordinance, the Director may refuse to grant permission for a laid-up vessel in respect of a local vessel if no appropriate place is available for the vessel to be berthed, moored or anchored.

Transfer of ownership

22. Notice of transfer of local vessel

(1) Within 7 working days after the transfer of the ownership of a certificated local vessel –

- (a) the original owner and the new owner of the vessel shall sign a notice of transfer of ownership in duplicate (one copy for the original owner and the other for the new owner);
- (b) the original owner or his agent shall deliver to the Director –
 - (i) the original owner's copy of the notice of transfer of ownership;
 - (ii) the certificate of ownership relating to the vessel; and
 - (iii) any full licence, temporary licence or permission for a laid-up vessel relating to the vessel; and
- (c) the new owner of the vessel or his agent shall deliver to the Director the new owner's copy of the notice of transfer of ownership.

(2) A notice of transfer of ownership referred to in subsection (1) shall contain –

- (a) the name, shore address in Hong Kong and telephone number of the new owner;
- (b) the certificate of ownership number of the vessel;
- (c) the date of the transfer of ownership; and
- (d) where an endorsement as to a mortgage of or as to a hire-purchase agreement for the vessel is made on the certificate of ownership, the written consent to the transfer,

signed by each party, other than the original owner, to the mortgage or hire-purchase agreement (as the case may be).

(3) A person who without reasonable excuse contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine at level 3.

(4) On receipt of the certificate and the licence or permission delivered under subsection (1)(b), the Director –

- (a) shall cancel the certificate; and
- (b) shall cancel the licence or revoke the permission unless the licence or permission is endorsed under section 23(1)(b)(i).

23. Certificate of ownership, full licence, etc. in favour of new owner after transfer of local vessel

(1) Where the ownership of a certificated local vessel is transferred, the Director may on an application under subsection (2) and if satisfied that the person named in the application as the new owner of the vessel is eligible to be named as the owner of the vessel in a certificate of ownership under section 9(a) and is a person referred to in section 12(1)(a) or (b) of the Ordinance –

- (a) issue a certificate of ownership in respect of the vessel in which the person is named as the owner; and
- (b) either –
 - (i) make an endorsement on any full licence, temporary licence or permission for a laid-up vessel (as applicable) in respect of the vessel to reflect the transfer of ownership; or
 - (ii) issue a full licence or temporary licence or grant permission for a laid-up vessel (as applicable) in respect of the vessel in which the person is named as the owner.

(2) An application for the purpose of subsection (1) –

- (a) may be made by the new owner of the vessel to whom it is transferred or his agent;
- (b) shall be made in writing within 7 working days after the transfer and either at the time a notice of transfer under section 22 is delivered or after its delivery;
- (c) shall contain –
 - (i) the name, shore address in Hong Kong and telephone number of the new owner;
 - (ii) the certificate of ownership number of the vessel; and
 - (iii) if the new owner of the vessel is an individual, a declaration made by the new owner that he is ordinarily resident in Hong Kong; and
- (d) shall be accompanied by –
 - (i) the document of identification of the new owner, or a certified copy of it;
 - (ii) in the case of an application for endorsement or issue of a full licence or temporary licence under subsection (1), such policy of insurance in respect of third party risks as is required for the vessel under the Insurance Regulation, or a certified copy of that policy of insurance; and
 - (iii) the prescribed fee.

(3) The Director may require an applicant to provide such other information and documents as may be reasonably required for determining the application.

(4) The Director may grant an application under subsection (2) on being satisfied of the matters referred to in subsection (1), even if the original owner of the vessel and his agent fail to comply with section 22(1)(b).

(5) Where the ownership of a local vessel has been transferred, no person shall operate the vessel, and the new owner of the vessel, his agent, the coxswain shall not permit the vessel to operate, after the expiration of 7 working days after the transfer, unless, in accordance with this section –

- (a) a certificate of ownership is issued in respect of the vessel in which the new owner is named as the owner; and
- (b) a full licence or temporary licence is endorsed to reflect the transfer in favour of the new owner, or a full licence or temporary licence is issued to the new owner.

(6) Any person who without reasonable excuse contravenes subsection (5) commits an offence and is liable on conviction to a fine at level 3.

Cessation of certificate of ownership on death or dissolution of owner, etc.; interim ownership

24. Certificate of ownership and other documents ceasing to have effect on death or dissolution of owner, etc.

The certificate of ownership of a local vessel, and a full licence, temporary licence or permission for a laid-up vessel for the vessel, shall cease to have effect –

- (a) unless otherwise provided for in section 23 or 26 (including, in the case of section 23, that section as applied by section 29), on the death of the individual named as the owner of the vessel in the certificate of ownership;
- (b) on the dissolution of the company or overseas company within the meaning of the Companies Ordinance (Cap. 32) that is named as the owner of the vessel in the certificate of ownership;

- (c) on the person named as the owner of the vessel in the certificate of ownership ceasing to be a person referred to in section 12(1)(a) or (b) of the Ordinance; or
- (d) on the vessel being despatched permanently from Hong Kong or being broken up or destroyed.

25. Notice of death or dissolution of owner, etc.

(1) Where an individual who is named in the certificate of ownership as the owner of a local vessel has died (“deceased owner”), a person who is entitled to the vessel on his death (whether under a will of the deceased owner, on his intestacy, or otherwise) shall, within 30 days after the death, notify the Director in writing of the fact.

(2) Where a company or overseas company within the meaning of the Companies Ordinance (Cap. 32) named in the certificate of ownership as the owner of a local vessel has been dissolved, every person who, immediately before the dissolution, was a director of or an officer concerned in the management of the company shall, within 7 working days after the dissolution, notify the Director in writing of the fact.

(3) Where a person who is named as the owner in the certificate of ownership in respect of a local vessel ceases to be a person referred to in section 12(1)(a) or (b) of the Ordinance, the person shall, either by himself or through his agent and within 7 working days after the cessation, notify the Director in writing of the fact.

(4) Where a local vessel has been despatched permanently from Hong Kong or has been broken up or destroyed after a certificate of ownership was issued, the owner of the vessel shall, either by himself or through his agent and within 7 working days after the despatch, breaking up or destruction, notify the Director in writing of the fact.

(5) A person who is required to give a notice under subsection (1), (2), (3) or (4) in respect of a local vessel shall at the time of giving the notice –

- (a) deliver to the Director the certificate of ownership together with the full licence, temporary licence or permission for a laid-up vessel (as applicable) in respect of the vessel; and
- (b) where an endorsement as to a mortgage of or as to a hire-purchase agreement for the vessel is made on the certificate of ownership, send a copy of the notice to each party, other than the person by or for whom the notice is given, to the mortgage or hire-purchase agreement (as the case may be).

(6) A person who without reasonable excuse contravenes subsection (1), (2), (3), (4) or (5) commits an offence and is liable on conviction to a fine at level 2.

(7) On receipt of the certificate and the licence or permission delivered under this section, the Director shall cancel the certificate and shall cancel the licence or revoke the permission, unless the certificate and the licence or permission are endorsed under section 23 (as applied by section 29) or under section 26.

26. Person entitled to local vessel on owner's death may be interim owner

(1) After the death of the individual named as the owner of a local vessel in the certificate of ownership ("deceased owner"), if an application is made under subsection (2) and the applicant satisfies the Director that the applicant is a person mentioned in subsection (2), the Director –

- (a) may make an endorsement on any certificate of ownership and on a full licence, temporary licence or permission for a laid-up vessel (as applicable) issued to the deceased owner in respect of the vessel to the effect that the applicant is the interim owner of the vessel; or

- (b) may issue a certificate of ownership, and may issue a full licence or temporary licence or grant permission for a laid-up vessel (as applicable), in which the applicant is named as the interim owner of the vessel.
- (2) An application for the purpose of subsection (1) may be made by a person referred to in section 12(1)(a) or (b) of the Ordinance –
- (a) who is entitled to the vessel on the death of the deceased owner (whether under a will of the deceased owner, on his intestacy, or otherwise); or
 - (b) whom all the persons having an interest in the estate of the deceased owner appoint in writing to operate the vessel.
- (3) An application shall be made in writing and –
- (a) shall contain –
 - (i) the name, shore address in Hong Kong and telephone number of the applicant;
 - (ii) the certificate of ownership number of the vessel;
 - (iii) if the applicant is an individual, a declaration made by the applicant that he is ordinarily resident in Hong Kong;
 - (iv) where an endorsement as to a mortgage of or as to a hire-purchase agreement for the vessel is made on the certificate of ownership, the written consent to the applicant being named as interim owner of the vessel, signed by each party, other than the deceased owner, to the mortgage or hire-purchase agreement (as the case may be); and
 - (b) shall be accompanied by –
 - (i) the document of identification of the applicant, or a certified copy of it, and proof for the claim that

the applicant is a person referred to in subsection (2);

- (ii) in the case of an application for endorsement or issue of a full licence or temporary licence under subsection (1), such policy of insurance in respect of third party risks as is required for the vessel under the Insurance Regulation, or a certified copy of that policy of insurance; and
- (iii) the prescribed fee.

(4) The Director may require an applicant to provide such other information and documents as may be reasonably required for determining the application.

27. Implications of interim ownership

(1) If a certificate of ownership endorsed or issued under section 26 in respect of a local vessel, in which a person is named as the interim owner, is in force, then –

- (a) unless otherwise provided for under this section or in the certificate of ownership, the Ordinance and regulations made under it shall apply to the person named as the interim owner as if he were the owner of the vessel; and
- (b) without prejudice to the liability of any person for or in respect of the vessel otherwise than under this paragraph, a person named as the interim owner is liable under the Ordinance and regulations made under it for and in respect of the vessel as if he were the owner of the vessel.

(2) Except as provided for in subsection (1), section 26 shall not affect any issue relating to the ownership of a local vessel or the interest that any person may have in the vessel.

(3) Without prejudice to the generality of subsection (2) –

- (a) a notice of transfer in respect of a local vessel signed by the interim owner of the vessel as the original owner shall not be accepted by the Director for the purpose of section 22; and
- (b) the fact that a person is named as interim owner of a local vessel under section 26 does not by itself give such interim owner a right to operate the vessel and does not affect any claim a person having an interest in the vessel may have against such interim owner arising from the operation of the vessel by such interim owner.

28. Cancellation of interim ownership

(1) The Director shall cancel any certificate of ownership, and shall cancel a full licence or temporary licence or revoke any permission for a laid-up vessel (as applicable), in which a person is named as interim owner of a local vessel if the Director ceases to be satisfied that the person is a person referred to in section 26(2). The Director shall exercise the power of cancellation or revocation by notice in writing given to the interim owner concerned.

(2) The interim owner named in any certificate of ownership and a full licence, temporary licence or permission for a laid-up vessel shall deliver them to the Director, within 7 working days after their cancellation or revocation under subsection (1).

(3) A person who without reasonable excuse contravenes subsection (2) commits an offence and is liable on conviction to a fine at level 3.

29. Certificate of ownership, full licence, etc. in favour of person to whom personal representative has transferred the local vessel

(1) If, after the grant of representation of the estate of the deceased owner of a local vessel, the personal representative of the estate transfers the ownership of the vessel to any person, then subject to this section –

- (a) sections 22 and 23 apply to the transfer as if references in those sections to the original owner and new owner of the vessel were references to the personal representative of the estate and the person to whom the vessel is transferred respectively; and
- (b) a certificate of ownership and a full licence, temporary licence or permission for a laid-up vessel, in which the person to whom the vessel is transferred is named as the owner, may be issued, endorsed, or granted in respect of the vessel accordingly.

(2) The personal representative of the estate of the deceased owner shall be taken to have contravened section 22 (as applied by subsection (1) of this section) unless he delivers to the Director a certified copy of the probate or letters of administration in respect of the estate at the time he delivers his copy of the notice of transfer of ownership in respect of the vessel in compliance with section 22 (so applied).

(3) The requirements in section 22(1)(b)(ii) and (iii) (as applied by subsection (1) of this section) for delivery of the certificate of ownership and the full licence, temporary licence or permission for a laid-up vessel shall –

- (a) if the personal representative or the person to whom the vessel is transferred is named as the interim owner of the vessel under section 26, be read as a requirement for the personal representative or the person (as the case may be) to deliver to the Director the certificate of ownership and

the full licence, temporary licence or permission for a laid-up vessel issued, endorsed, or granted in respect of the vessel under section 26 at the time he delivers his copy of the notice of transfer of ownership in respect of the vessel in compliance with section 22 (as applied by subsection (1) of this section); or

- (b) if paragraph (a) does not apply, be treated as if they were omitted.

(4) On receipt of the certificate and the licence or permission delivered under subsection (3), the Director –

- (a) shall cancel the certificate; and
- (b) shall cancel the licence or revoke the permission unless it is endorsed under section 23(1)(b)(i) (as applied by subsection (1) of this section).

30. Director may require return of certificate of ownership, etc. that cease to have effect because of section 24

(1) Without prejudice to section 25, if the Director is satisfied that the certificate of ownership, and the full licence, temporary licence or permission for a laid-up vessel, in respect of a local vessel have ceased to have effect because of section 24, he may by written notice given to the owner and, if it appears to the Director that those documents are in the possession of any other person, to that person –

- (a) inform the owner and that person that the Director is so satisfied; and
- (b) require the owner or that person (as the case may be) to deliver to the Director, within 7 working days after the notice is given, the documents.

(2) Where an endorsement as to a mortgage of or as to a hire-purchase agreement for the vessel is made on the certificate of ownership, the Director

shall send a copy of the notice referred to in subsection (1) to each party, other than the owner, to the mortgage or hire-purchase agreement (as the case may be).

(3) Any person who without reasonable excuse fails to comply with a notice given under subsection (1) commits an offence and is liable on conviction to a fine at level 3.

**31. Cancellation of certificate of ownership, etc.
at owner's request**

(1) At the request of the owner of a local vessel, the Director may cancel the certificate of ownership and may cancel the full licence, temporary licence or revoke the permission for a laid-up vessel (as applicable) of the vessel.

(2) For the purpose of subsection (1), the owner's request shall be in writing and –

- (a) shall state the reason for the request for cancellation and revocation (if applicable) and how the owner proposes to dispose of the vessel;
- (b) where an endorsement as to a mortgage of or as to a hire-purchase agreement for the vessel is made on the certificate of ownership, shall contain the written consent to the cancellation and revocation (if applicable) signed by each party, other than the owner, to the mortgage or hire-purchase agreement (as the case may be); and
- (c) shall be accompanied by the certificate of ownership, and the full licence, temporary licence or permission for a laid-up vessel (as applicable), of the vessel.

Cancellation or suspension of full licence or temporary licence

32. Suspension of full licence, temporary licence after cancellation or suspension of certificate of survey

If the certificate of survey in respect of a local vessel is cancelled or suspended for any reason, the full licence or temporary licence for the vessel shall be deemed to be suspended until a certificate of survey is in force in respect of the vessel.

33. Suspension of full licence or temporary licence after damage of vessel

(1) Where a local vessel sustains damage that may affect its seaworthiness or affect the safety of persons on board, the owner, his agent and the coxswain shall report the occurrence forthwith to the Director.

(2) Having regard to the nature and extent of the damage reported under subsection (1), the Director may give a direction either orally or in writing to the owner, his agent or the coxswain that the vessel shall not operate until a Government surveyor or ship inspector has inspected the vessel and has found that the vessel is seaworthy and the safety of persons on board the vessel will not be at risk.

(3) If a Government surveyor or ship inspector, finds on inspection that the vessel is unseaworthy or unsafe, he shall notify the Director of the findings and the Director may by written notice given to the owner, his agent or the coxswain specifying the findings, suspend –

- (a) the certificate of survey (if any); and
- (b) the full licence or temporary licence,

and the owner, his agent or the coxswain to whom the notice is given shall forthwith deliver the certificate and licence that are suspended to the Director.

(4) The owner, his agent or the coxswain may, after proper repairs to the vessel and on payment of the prescribed fee, apply for the vessel to be re-inspected by a Government surveyor or ship inspector.

(5) If a Government surveyor or ship inspector finds on re-inspection that the vessel is seaworthy and the safety of persons on board the vessel will not be at risk, he shall notify the Director of the findings and the Director shall terminate the suspension of the certificate of survey and the full licence or temporary licence under subsection (3) and return the certificate and the licence to the owner, his agent or the coxswain by whom they were delivered.

(6) A person who, without reasonable excuse, contravenes subsection (1) or (3) or fails to comply with a direction under subsection (2) commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

(7) In this section, “ship inspector” (驗船督察) means a person holding the office of Chief Ship Inspector, Senior Ship Inspector, Ship Inspector or Assistant Ship Inspector in the Government.

34. Cancellation or suspension of full licence or temporary licence for contravention of conditions or restrictions, etc.

(1) If, in respect of a local vessel, the Director believes on reasonable grounds that any conditions or restrictions attached to the full licence or temporary licence is contravened or the Ordinance or any regulation made under it is contravened, the Director may, without prejudice to the liability of any person for the contravention, by written notice given to the owner or his agent –

- (a) cancel or suspend the licence; and
- (b) request the owner or his agent to deliver the licence to him within 7 working days after the notice is given.

(2) A person who, without reasonable excuse, fails to deliver a full licence or temporary licence that is cancelled or suspended as requested in a

notice given under subsection (1), commits an offence and is liable on conviction to a fine at level 3.

35. Cancellation of full licence, temporary licence

(1) Without prejudice to sections 31, 32, 33 and 34, the Director may cancel the full licence or temporary licence of a local vessel if the Director considers that it is inappropriate for the licence to continue to be in force having regard to the material considerations.

(2) If the Director intends to cancel the full licence or temporary licence of a local vessel under subsection (1), he shall give written notice of his intention and the reasons therefor to the owner, and shall not cancel the licence until the expiry of 7 working days after the notice is given.

(3) If the Director has given to the owner of a local vessel a notice under subsection (2) and, before the expiry of the 7 working days referred to in that subsection, the owner shows cause to the Director and satisfies him that the licence concerned should not be cancelled, the Director shall not cancel the licence for the reason set out in the notice given.

(4) If the full licence or temporary licence of a local vessel is cancelled under subsection (1), the Director shall, by notice in writing given to the owner, inform the owner of the cancellation and request the owner to deliver the licence to him within 7 working days after the notice is given.

(5) If without reasonable excuse a full licence or temporary licence that is cancelled is not delivered as requested in a notice given under subsection (4), the owner of the vessel commits an offence and is liable on conviction to a fine at level 3.

PART 3
REQUIREMENTS AND RESTRICTIONS RELATING TO
LOCAL VESSELS

36. Contravention of conditions and restrictions

If, without reasonable excuse, any of the conditions or restrictions attached to a full licence or temporary licence in respect of a local vessel is contravened, the owner, his agent and the coxswain each commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

37. Notification of change of particulars in certificate of ownership

(1) The owner of a local vessel and his agent (if any) shall within 7 working days after any change in the particulars specified in the certificate of ownership under section 11 –

- (a) notify the Director in writing of the change;
- (b) provide the Director with all such information as may be necessary for enabling him to verify the change so notified;
- (c) deliver to the Director –
 - (i) the certificate of ownership; and
 - (ii) a full licence, temporary licence or permission for a laid-up vessel, if its amendment is necessary for reflecting the change so notified; and
- (d) pay the prescribed fee in respect of the notice of change .

The Director shall amend the certificate of ownership and (if necessary) a full licence, temporary licence or permission for a laid-up vessel, or issue or grant new ones for replacement, to reflect the change so notified.

(2) Where subsection (1) is contravened without reasonable excuse, the owner of the local vessel and his agent each commits an offence and is liable on conviction to a fine at level 2.

(3) This section does not apply to a change in respect of which notice is required to be given to the Director under section 7, 8, 22 or 25 (including, in the case of section 22, that section as applied by section 29).

38. Certificate of ownership number to be marked

(1) Each certificated local vessel and each of its ancillary vessels shall at all times have painted on it, or permanently affixed to or mounted on it, on each side of its deck housing where it can best be seen or on each side of the hull of the vessel where it can best be seen, the following marking –

- (a) in the case of a certificated local vessel, the certificate of ownership number of the vessel; or
- (b) in the case of an ancillary vessel of a certificated local vessel, the certificate of ownership number of the certificated vessel with a suffix “D” but, if there are more than one ancillary vessels, the suffixes for the ancillary vessels shall be “D”, “D2”, “D3” and so on.

(2) The certificate of ownership number shall be in figures; each figure, each letter that forms part of that number, and the suffix (if any) shall be in a colour that contrasts with the colour of the surface on which they appear and –

- (a) in the case of a vessel not exceeding 10 metres in length overall, each figure, each letter, and the suffix shall be –
 - (i) at least 70 millimetres in height;
 - (ii) except in the case of the figure “1”, at least 40 millimetres in width; and
 - (iii) marked in lines that are at least 10 millimetres broad at every point;

- (b) in the case of a vessel exceeding 10 metres but not exceeding 24 metres in length overall, each figure, each letter, and the suffix shall be –
 - (i) at least 150 millimetres in height;
 - (ii) except in the case of the figure “1”, at least 90 millimetres in width; and
 - (iii) marked in lines that are at least 20 millimetres broad at every point; and
- (c) in the case of a vessel exceeding 24 metres in length overall, each figure, each letter, and the suffix shall be –
 - (i) at least 300 millimetres in height;
 - (ii) except in the case of the figure “1”, at least 170 millimetres in width; and
 - (iii) marked in lines that are at least 40 millimetres broad at every point.

(3) If, without reasonable excuse, subsection (1) or (2) is contravened, the owner of the vessel, his agent and the coxswain each commits an offence and is liable on conviction to a fine at level 2.

- (4) No person shall –
- (a) tamper with, obscure or erase wholly or in part any marking on a local vessel or ancillary vessel required under subsections (1) and (2); or
 - (b) in purported compliance with subsections (1) and (2), display on a local vessel or ancillary vessel a number that does not comply with those subsections.

(5) If any person contravenes subsection (4), that person, the owner of the vessel, his agent and the coxswain each commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

(6) It is a defence for the owner of a local vessel, his agent, or the coxswain to a charge with an offence under subsection (5) to show that he could not with reasonable diligence have prevented the contravention of subsection (4).

39. Further identification of vessels

(1) Having regard to the class and type of a local vessel and its intended service, the Director may, by written notice served on the owner, his agent or the coxswain, require that a local vessel be painted for the purpose of identification in such manner and colours, and within such period, as he may specify in the notice, but such a notice shall not be served in respect of a local vessel within 1 year after the vessel is painted in accordance with a notice previously served in respect of it under this section.

(2) If, without reasonable excuse, a requirement imposed by a notice served under subsection (1) is not complied with, each person on whom the notice is served commits an offence and is liable on conviction to a fine at level 2.

40. Display of vessel's name and other mark

(1) A local vessel shall not have displayed on it any name or mark, other than the certificate of ownership number, and the suffix (if applicable), painted, affixed or mounted on the vessel as required by section 38 unless the name or mark is kept separate and distinct from the number, and suffix (if applicable), so required.

(2) A local vessel shall not have displayed on it any name or mark that gives a false impression that the vessel belongs to, is operated by or on behalf of, or is otherwise connected with, the Government.

(3) If the name of a local vessel is specified under subsection (5) in the certificate of ownership, the vessel shall not have displayed on it another name as its name.

(4) If a local vessel has a name or mark displayed in contravention of subsection (1), (2) or (3), the owner, his agent and the coxswain each commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

(5) The Director may, on an application in accordance with subsection (6), specify in the certificate of ownership of a local vessel the name of the vessel, not being a name prohibited from being displayed under subsection (2).

(6) An application for the purpose of subsection (5) in respect of a local vessel may be made –

- (a) by the certificated owner or his agent; or
- (b) by a person applying for certification as the owner or the person's agent.

(7) A person shall make an application for the purpose of subsection (5) in writing and –

- (a) if he is the certificated owner or his agent, produce the certificate of ownership and pay the prescribed fee; or
- (b) if he is a person applying for certification as the owner or the person's agent, shall state the particulars of the application for certification as the owner.

41. Prohibition against exclusive occupation of Hong Kong waters

(1) No local vessel shall occupy an area of the waters of Hong Kong for its use exclusively.

(2) Without prejudice to subsection (1), no local vessel shall remain stationary in an area of the waters of Hong Kong unless its full licence, temporary licence or permission for a laid-up vessel permits it to do so.

(3) If subsection (1) or (2) is contravened, the owner of the vessel, his agent and the coxswain each commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

42. Full licence, temporary licence or permission for a laid-up vessel to be kept in vessel

(1) The full licence, temporary licence or permission for a laid-up vessel of a local vessel shall be kept on board the vessel and shall on request by an authorized officer be produced for inspection.

(2) If a full licence, temporary licence or permission for a laid-up vessel in respect of a local vessel is withdrawn or is deposited with the Director for any reason other than cancellation or suspension, the Director may issue a certificate as proof of the fact of withdrawal or deposit. Such certificate shall be kept on board the vessel to which it relates, and shall on request by an authorized officer be produced for inspection, in lieu of the licence or permission.

(3) If subsection (1) or (2) is contravened, the owner of the vessel, his agent and the coxswain each commits an offence and is liable on conviction to a fine at level 2.

43. Director may require delivery of local vessel for inspection

(1) The Director may direct the owner of a local vessel, his agent or the coxswain to deliver the vessel, within such time and at such place as the Director may direct, to the Director for inspection if he thinks it is reasonable to do so having regard to the material considerations.

(2) A direction under subsection (1) may be given orally, in writing or in any other manner as the Director thinks fit.

(3) An owner, agent or coxswain who fails to comply with a direction under this section commits an offence and is liable on conviction to a fine at level 2.

44. Closure of floating restaurant

(1) The Director may make an order under subsection (2) if he is satisfied that a local vessel that is a floating restaurant –

- (a) is being used or operated without a full licence or temporary licence;
 - (b) is being used or operated while its full licence or temporary licence is suspended; or
 - (c) is being used or operated in contravention of –
 - (i) any of the conditions or restrictions attached to its full licence or temporary licence; or
 - (ii) any provision of the Ordinance or this Regulation.
- (2) An order –
- (a) may direct that no person, other than a public officer in the course of his duty or a person authorized by the Director, shall enter or be in the vessel or part of the vessel; or
 - (b) may prohibit the use or operation of the vessel or part of the vessel for all or any purposes.
- (3) A copy of an order shall be –
- (a) posted by the Director on a conspicuous part of the vessel; and
 - (b) served by the Director on the owner or his agent.
- (4) An order made under subsection (1) in respect of a local vessel shall remain in force until the order is cancelled by the Director –
- (a) in the case of an order made pursuant to subsection (1)(a), on the issue of a full licence or temporary licence in respect of the vessel;
 - (b) in the case of an order made pursuant to subsection (1)(b) or (c), on his being satisfied that the ground on which the order was made has ceased to exist; or
 - (c) on his being satisfied that the vessel will not be used as a floating restaurant.

The cancellation by the Director shall be by notice in writing to the owner or his agent.

(5) No person shall remove, obliterate, deface or otherwise render illegible an order made under subsection (1) unless the order has been cancelled.

(6) Where, without reasonable excuse –

(a) an order made under subsection (1) in respect of a local vessel is contravened; or

(b) subsection (5) is contravened in respect of a local vessel, the person who contravenes that order or subsection (5), the owner of the vessel and his agent each commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

45. Reduction in number of passengers permitted in Class I vessels

(1) If, at any time, any seat provided for passengers in a Class I vessel is occupied by cargo or baggage or is otherwise not available for use by a passenger, the maximum number of passengers that may be carried in the vessel shall be the number permitted under the full licence or temporary licence in respect of the vessel reduced by the number of seats that are occupied or not available.

(2) If a Class I vessel carries a greater number of passengers than the number that it is permitted to carry having regard to subsection (1), the coxswain of the vessel commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

PART 4

LOCAL CERTIFICATES OF COMPETENCY

46. Application of Part 4

This Part does not apply to a local vessel that is being towed by another vessel.

47. Vessels required to carry operators holding local certificates of competency

(1) A Class I, II or III vessel that is fitted with any propulsion engines shall not be underway unless there is on board—

- (a) a person in charge of the vessel who is the holder of a local certificate of competency as a coxswain appropriate for the vessel, or any equivalent certificate specified in the Local Certificate of Competency Rules;
- (b) in addition to the person referred to in paragraph (a), a person in charge of the engines who is the holder of a local certificate of competency as an engine operator appropriate for the total propulsion power of the engines of the vessel, or any equivalent certificate specified in the Local Certificate of Competency Rules; and
- (c) such additional number of crew with such qualification, training and experience as may be specified in the full licence or temporary licence for the vessel.

(2) Subsection (1)(b) does not apply to a local vessel specified in Schedule 3.

(3) It is sufficient compliance with subsection (1)(a) and (b) if—

- (a) a Government surveyor, having regard to the size of the vessel, the engines of the vessel, and the location of the controls, certifies in writing that a Class I, II or III vessel (including its engines) can be properly controlled by one person; and
- (b) the person in charge of the vessel (including its engines) is the holder of both of the certificates referred to in subsection (1)(a) and (b).

(4) A Class IV vessel or an ancillary vessel of a Class IV vessel that is more than 3 metres in length overall or is fitted with engines of more than 3

kilowatts total propulsion power shall not be underway unless there is on board a person in charge of the vessel who is the holder of a local certificate of competency as a pleasure vessel operator, or any equivalent certificate as specified in the Local Certificate of Competency Rules.

(5) If subsection (1) or (4) is contravened, the owner and the coxswain of the local vessel each commits an offence and is liable on conviction to a fine at level 3 and imprisonment for 6 months.

48. Person under 16 prohibited from operating certain vessels

(1) A person under the age of 16 shall not steer, navigate or operate a local vessel that is fitted with a propulsion engine.

(2) If subsection (1) is contravened by any person, that person, the owner and the coxswain of the local vessel each commits an offence and is liable on conviction to a fine at level 3.

49. Additional certificates required for coxswains and engine operators of dynamically supported craft

(1) A Class I vessel that is a dynamically supported craft shall not be underway in the waters of Hong Kong unless there is –

- (a) on board and in charge thereof a person who, in addition to holding any other appropriate local certificate of competency as a coxswain, holds a local certificate of competency issued under the Local Certificate of Competency Rules and known as a Type Rating Certificate; and
- (b) on board a person in charge of the engines who, in addition to holding any other appropriate local certificate of competency as an engine operator, holds a local certificate of competency issued under the Local

Certificate of Competency Rules and known as a Type Rating Certificate.

(2) If subsection (1) is contravened, the owner and the coxswain of the vessel each commits an offence and is liable on conviction to a fine at level 3 and imprisonment for 6 months.

50. Local certificates of competency to be carried on board

(1) A person while in charge of a local vessel fitted with a propulsion engine shall carry with him in the vessel the local certificates of competency, or their equivalents, required under sections 47 and 49 and shall, on request by an authorized officer, produce them for inspection.

(2) A person while in charge of the engines of a local vessel fitted with a propulsion engine shall carry with him in the vessel the local certificates of competency, or their equivalents, required under sections 47 and 49 and shall, on request by an authorized officer, produce them for inspection.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine at level 2.

PART 5

MISCELLANEOUS

51. Director may require information

(1) The Director may, for the purpose of determining whether this Regulation is complied with in respect of a local vessel, by notice served on the owner, his agent or the coxswain require that person to furnish him, within the time specified in the notice, with such information as he thinks necessary.

(2) A person who fails, without reasonable excuse, to comply with a requirement of a notice served under subsection (1) commits an offence and is liable on conviction to a fine at level 3.

52. Offences for false statements or information

A person who –

- (a) either –
 - (i) for the purpose of procuring, whether for himself or any other person, the issue, grant, renewal or amendment of, or the endorsement on, a certificate of ownership, full licence, temporary licence or permission for a laid-up vessel under section 7, 10, 12, 13, 14, 15, 17, 19, 23, 26, 37, 40 or 54 of this Regulation (including, in the case of section 23, that section as applied by section 29) or section 66 of the Ordinance; or
 - (ii) in purported compliance with, or otherwise for the purpose of, a requirement under this Regulation, makes a declaration or statement, or supplies any information, knowing it to be false or misleading as to a material particular;
- (b) fraudulently uses a document referred to in paragraph (a)(i), or a copy of it, that has been forged, altered, cancelled, revoked or suspended or to which he is not entitled; or
- (c) fraudulently lends a document referred to in paragraph (a)(i) or a copy of it to, or allows it to be used by, a person who is not entitled to use it,

commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

53. Appeals against decisions of Director

(1) A person who is aggrieved by a decision made in respect of him under any of the following sections may appeal to the Administrative Appeals Board –

- (a) section 10 (refusing to issue a certificate of ownership);
- (b) section 15 or 17 (refusing to issue or renew a full licence);
- (c) section 18 or 20 (attaching conditions or restrictions to a full licence or temporary licence);
- (d) section 19 (refusing to issue or renew a temporary licence);
- (e) section 23 (including that section as applied by section 29)(refusing to issue or endorse a certificate of ownership, etc. on transfer of a local vessel);
- (f) section 26 (refusing an application for a person to be named as interim owner);
- (g) section 33, 34 or 35 (cancelling or suspending a full licence or temporary licence);
- (h) section 44 (order to close a floating restaurant).

(2) An appeal under subsection (1) may be made within 14 days after the person aggrieved has received notice of the decision.

(3) The effect of a decision that is appealed against under subsection (1) shall be suspended as from the day on which the appeal is made until such appeal is disposed of, withdrawn or abandoned unless –

- (a) such suspension is, in the opinion of the Director, inappropriate having regard to the material considerations; and
- (b) the notice of the decision –
 - (i) contains a statement of the Director's opinion; and
 - (ii) states the ground on which the Director's opinion is based.

54. Duplicate certificate of ownership, full licence, temporary licence or permission for a laid-up vessel

- (1) The Director may –
- (a) on written application made by the owner of a local vessel or his agent, showing to the Director's satisfaction the destruction, defacement or loss of any certificate of ownership, full licence, temporary licence or permission for a laid-up vessel in respect of the vessel; and
 - (b) on payment of the prescribed fee,

issue to the owner or his agent a duplicate of the certificate, licence or permission.

(2) Every duplicate certificate, licence or permission issued under subsection (1) shall be clearly endorsed in a conspicuous place with the English word “DUPLICATE” and the Chinese characters “複本”.

(3) A duplicate certificate, licence or permission issued under subsection (1) shall supersede the original which shall cease to have effect and shall be returned to the Director –

- (a) if the original is defaced, on the making of an application under subsection (1); or
- (b) if the original is lost, as soon as it is found.

(4) Where without reasonable excuse an original certificate, licence or permission is not returned as required by subsection (3), the owner of the local vessel concerned and his agent each commits an offence and is liable to a fine at level 3.

55. Immunity; no warranty as to correctness of information

(1) No action shall lie against the Government, the Director or any other officer in respect of any loss or damage suffered by any person as a result

of any error or omission that was made in good faith and in the ordinary course of the performance of any function under this Regulation.

- (2) Without limiting the generality of subsection (1) –
- (a) it is declared that a certificate of ownership, full licence, temporary licence, permission for a laid-up vessel or any other document issued, granted, renewed or endorsed under this Regulation or section 66 of the Ordinance is issued, granted, renewed or endorsed for the purposes of the Ordinance only; and –
 - (i) the Director shall not be taken to warrant the correctness of any information contained in the document; and
 - (ii) such information is not to be taken as an exhaustive record of all interests in the vessel concerned;
 - (b) the fact that a person is named as the owner or interim owner of a local vessel in any document referred to in paragraph (a) shall not be relied on as an indication that the person owns, or is entitled to any interest in, the vessel; and
 - (c) the fact that no endorsement is made as to mortgage or hire-purchase agreement on the certificate of ownership shall not be relied on as an indication that no mortgage or hire-purchase agreement subsists in relation to the local vessel concerned.

56. Amendment of Schedules

The Director may, by notice in the Gazette, amend Schedule 1, 2 or 3.

57. Transitionals

- (1) Each of the following documents, namely –
- (a) a temporary permit to remain in the waters of Hong Kong issued under regulation 7 of the repealed Launches and Ferry Vessels Regulations;
 - (b) a temporary operating permit in lieu of a licence or permit issued under regulation 8 of the repealed Launches and Ferry Vessels Regulations;
 - (c) a permit to ply issued under regulation 16(4) of the repealed Launches and Ferry Vessels Regulations;
 - (d) an anchorage permit issued under regulation 3(6)(a) of the repealed Miscellaneous Craft Regulations;
 - (e) a voyage permit issued under regulation 3(6)(b) of the repealed Miscellaneous Craft Regulations,

in so far as it is in force immediately before the commencement of this Regulation, shall be deemed to be a certificate of ownership and a temporary licence in respect of the local vessel to which it relates until the expiration of the period of validity it had left to run immediately before the commencement of this Regulation and may be dealt with under the provisions of this Regulation accordingly.

(2) If, in respect of a local vessel, a licence issued under the repealed Launches and Ferry Vessels Regulations is by virtue of section 91(4) of the Ordinance deemed to be a certificate of ownership and a full licence, the vessel, so long as it is painted as required by regulation 37(1) of those Regulations, shall be deemed to have complied with section 38 until –

- (a) the expiration of the period of validity the first-mentioned licence had left to run immediately before the commencement of this Regulation; or
- (b) the certificate of ownership and full licence otherwise cease to have effect under this Regulation,

whichever is the earlier.

(3) In this section –

“repealed Launches and Ferry Vessels Regulations” (已廢除的《小輪及渡輪船隻規例》) means the Merchant Shipping (Launches and Ferry Vessels) Regulations (Cap. 313 sub. leg. E) repealed under section 91 of the Ordinance;

“repealed Miscellaneous Craft Regulations” (已廢除的《雜類航行器規例》) means the Merchant Shipping (Miscellaneous Craft) Regulations (Cap. 313 sub. leg. F) repealed under section 91 of the Ordinance.

SCHEDULE 1

[ss. 2(1), 4(1) & 56]

CLASS AND TYPE OF LOCAL VESSEL

Class	Types
Class I	<ul style="list-style-type: none"> (a) ferry vessel (b) floating restaurant (c) launch (d) multi-purposes vessel (e) primitive vessel (f) stationary vessel
Class II	<ul style="list-style-type: none"> (a) crane barge (b) dangerous goods carrier (c) dredger (d) dry cargo vessel (e) dumb lighter (f) edible oil carrier (g) flat-top work barge

- (h) floating dock
- (i) floating workshop
- (j) hopper barge
- (k) landing platform
- (l) landing pontoon
- (m) noxious liquid substance carrier
- (n) oil carrier
- (o) pilot boat
- (p) special purpose vessel
- (q) stationary vessel
- (r) transportation boat
- (s) transportation sampan
- (t) tug
- (u) water boat
- (v) work boat

Class III

- (a) fish carrier
- (b) fishing sampan
- (c) fishing vessel
- (d) outboard open sampan

Class IV

- (a) auxiliary powered yacht
- (b) cruiser
- (c) open cruiser

SCHEDULE 2

[ss. 2(1) & 56]

SPECIFIED SHELTERED WATERS

Note: In this Schedule, a reference to the co-ordinates of a point is a reference to the co-ordinates of that point based on the World Geodetic System 1984 (WGS 84).

Victoria Harbour Area

The waters contained within the following boundaries –

On the north – The shoreline of Kowloon and the New Territories;

On the east – A straight line drawn from the northern shore of A Kung Ngam at position $22^{\circ}17.058'$ north $114^{\circ}14.027'$ east to the southern shore of Lei Yue Mun at position $22^{\circ}17.273'$ north $114^{\circ}14.192'$ east;

On the south – The shoreline of Hong Kong Island;

On the west – A straight line drawn from the westernmost point of Hong Kong Island to the westernmost point of Green Island, thence a straight line drawn from the westernmost point of Green Island to the southern shore of Tsing Yi at position $22^{\circ}19.623'$ north $114^{\circ}06.400'$ east, thence along the southern, eastern and northern shorelines of Tsing Yi to the westernmost extremity of Tsing Yi and thence a straight line drawn true north therefrom to the mainland.

Tai Po Area

The waters of Tolo Harbour and Plover Cove (Shuen Wan Hoi) enclosed to the westward of a straight line drawn true north and south through Tang Chau light.

Sai Kung Area

The waters bounded on the west by the mainland shore, on the north by a straight line drawn from position $22^{\circ}23.056'$ north $114^{\circ}16.653'$ east to the

northern extremity of Yeung Chau thence along the western, southern and eastern shore of Yeung Chau to the eastern extremity of Yeung Chau; on the east by a straight line drawn from the eastern extremity of Yeung Chau to the western extremity of Pak Sha Chau, and on the south by a straight line drawn from the western extremity of Pak Sha Chau to position 22° 22.363' north 114° 16.422' east.

Port Shelter Area

The waters of Port Shelter bounded on the north and west by the mainland shore, on the south and east by a straight line drawn from position 22° 20.111' north 114° 16.207' east to the southern extremity of Sharp Island (Kiu Tsui Chau), thence by a straight line drawn true east to the shore of Kau Sai Chau at position 22° 21.177' north 114° 18.237' east, thence along the western shore of Kau Sai Chau to a causeway at position 22° 22.386' north 114° 18.284' east, thence along the southern side of the causeway to the southern shore of Yim Tin Tsai, thence along the western, northern, eastern and southern shore of Yim Tin Tsai, and the northern side of the causeway back to the shore of Kau Sai Chau, thence along the northern shore of Kau Sai Chau to the breakwater light of Yim Tin Tsai Typhoon Shelter, and thence by a straight line drawn true north to the mainland at position 22° 23.144' north 114° 18.401' east.

Port Shelter and Rocky Harbour Area

The waters of Port Shelter and Rocky Harbour bounded on the north and west by the mainland shore and on the south and east by a straight line drawn from the eastern shore of Lung Ha Wan at position 22° 18.632' north 114° 18.199' east to the southern extremity of Ping Min Chau, thence by a straight line drawn to the north-westernmost point of Bluff Island (Sha Tong Hau Shan) at position 22° 19.507' north 114° 21.015' east, thence by the northern shore of Bluff Island (Sha Tong Hau Shan) to its eastern extremity, and thence by a straight line drawn to the southernmost point of High Island (Leung Shuen Wan).

SCHEDULE 3

[ss. 47(2) & 56]

**LOCAL VESSELS NOT REQUIRED TO HAVE A
COMPETENT ENGINE OPERATOR**

1. A Class I vessel of less than 10 metres in length overall, fitted with one engine not exceeding 38 kW propulsion power, and restricted to ply within a specified typhoon shelter and port in its full licence or temporary licence.
2. A Class II vessel that is fitted with one engine not exceeding 38kW propulsion power.
3. A Class III vessel, other than an outboard open sampan, that is fitted with one engine not exceeding 83 kW propulsion power.
4. A Class III vessel that is an outboard open sampan of less than 10 metres in length overall and fitted with one petrol outboard engine not exceeding 12 kW propulsion power.

Secretary for Economic Development
and Labour

2004

Explanatory Note

This Regulation is made under the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) (“the Ordinance”) to provide for the certification and licensing of local vessels, certain requirements and restrictions applicable to those vessels and related matters.

2. Part 1 provides for preliminary matters (commencement, interpretation and application).

3. Part 2 provides –

- (a) for the classes and types of local vessels (see Schedule 1) and restrictions on different classes of vessels;
- (b) for the appointment of an agent by the owner of a local vessel and for the termination of the appointment;
- (c) for the application for and the issue and cancellation of a certificate of ownership;
- (d) for the application for and the issue, renewal, cancellation and suspension of a full licence and temporary licence;
- (e) for the application for and grant of permission for a laid-up vessel;
- (f) in relation to a transfer of a local vessel, for the requirement for a notice to be given of the transfer and for the continuation of the certificate of ownership, full licence, etc. in favour of the new owner;
- (g) in relation to the death of the owner that is an individual or dissolution of the owner that is a company and certain other events –
 - (i) for the cessation of effect of the certificate of ownership, full licence, etc., except as stated in paragraph (h) below; and
 - (ii) for a requirement for a notice to be given of the event;
- (h) in relation to the death of the owner that is an individual –
 - (i) for the certification, and the issue or endorsement of a full licence, etc. in favour of an interim owner; and

- (ii) on the grant of representation and transfer of the local vessel by the personal representative, for the certification, and the issue and endorsement of a full licence, etc. in favour of the person to whom the vessel is transferred.

4. Part 3 provides for further requirements and restrictions in relation to local vessels, such as –

- (a) no contravention of conditions and restrictions attached to a full licence, etc.;
- (b) notifying changes of particulars in the certificate of ownership;
- (c) marking the certificate of ownership number;
- (d) not to exclusively occupy any area of the waters of Hong Kong;
- (e) to keep on board the vessel its full licence, temporary licence or permission for a laid-up vessel;
- (f) reduction in the passenger carrying capacity of a Class I vessel in certain circumstances.

It also provides for the powers of the Director of Marine (“Director”) to require delivery of a local vessel for inspection and to close a floating restaurant.

5. Part 4 requires persons in charge of local vessels and their engines to be holders of local certificates of competency. Certain of those requirements are relaxed regarding local vessels specified in Schedule 3.

6. Part 5 contains miscellaneous provisions on –

- (a) the Director’s power to require information;
- (b) offences for false statements or information;
- (c) appeals against the decisions of the Director;
- (d) issue of duplicate documents;
- (e) amendment of Schedules; and
- (f) transitional arrangements.

It also provides for immunity of the Government and officers in performing functions under the Regulation. In particular, it provides that a certificate of ownership or any other document issued, granted, renewed or endorsed is issued, granted, renewed or endorsed only for the purpose of the Ordinance and there is no warranty for the correctness of information contained in the certificate or document.

7. Schedule 2 sets out the specified sheltered waters (restrictions may be imposed in respect of a local vessel that it may only ply within certain specified sheltered waters).

Administrative Appeals Board Ordinance

23. Schedule amended

The Schedule to the Administrative Appeals Board Ordinance (Cap 442) is amended by adding –

"43. Merchant Shipping (Local Vessels)
Ordinance (Cap 548)

A decision of the Director of Marine –

- (a) to refuse to authorize under section 7 a person as a surveyor;
- (b) to attach conditions to an authorization under section 7;
- (c) to revoke an authorization under section 7;
- (d) to serve a detention order;
- (e) to give a direction under section 53(1)(a);
- (f) to refuse to comply with a request under section 54(2);
- (g) to refuse to grant permission under section 66;
- (h) to attach conditions to permission under section 66;
- (i) to revoke permission under section 66;
- (j) to give a direction specified in an improvement notice under section 73(1)."

C60, s.27(3) who appears to the court to have a right to claim ownership of, or a legal or equitable interest in, the article, vessel or vehicle,

C527, s.133(8) who appears to the court to have a right to claim ownership of, or a legal or equitable interest in, the article, vessel, aircraft, vehicle or thing,

C.132, s.127 any person having an interest in such premises or vessel

MERCHANT SHIPPING (LOCAL VESSELS)(TYPHOON SHELTERS) REGULATION

(Made under section 89 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548))

1. Commencement

This Regulation shall come into operation on a day to be appointed by the Secretary for Economic Development and Labour by notice published in the Gazette.

2. Interpretation

In this Regulation, unless the context otherwise requires -
"endorsement" (批註), in the context of endorsement on an operating licence or a permit, includes endorsement on any other documents issued by the Director in a legible form to replace the licence or permit;

"length overall" (總長度), in relation to a local vessel, means the distance between the foreside of the foremost fixed permanent structure and the aftside of the aftermost fixed permanent structure of the vessel;

"passage area" (通航區) means the area of the waters within the limits of a typhoon shelter set aside by the Director as a passage area under section 3;

"typhoon shelter" (避風塘) means a typhoon shelter specified in column 2 of the Schedule.

3. Passage areas in typhoon shelters

(1) Subject to subsection (2), the Director may set aside any area of the waters within the limits of a typhoon shelter as a passage area for the passage of local vessels.

(2) The Director shall, upon the setting aside of a passage area under subsection (1) -

- (a) prepare a plan of the typhoon shelter on which the passage area is shown coloured grey;
- (b) sign and date the plan;
- (c) keep such plan in his office; and
- (d) make available a copy of such plan for inspection by the public free of charge at his office during the hours when the office is normally open to the public.

4. Use of typhoon shelters

(1) Subject to the provisions of this Regulation, a local vessel may enter and remain in a typhoon shelter.

(2) Except with the permission of the Director, a local vessel shall not enter or remain in a typhoon shelter if the vessel has on board any substance or article specified in Category 1, 2 or 5 in the Schedule to the Dangerous Goods (Application and Exemption) Regulations (Cap. 295 sub. leg. A).

(3) For the purposes of subsection (2), the substance or article referred to in that subsection does not include any substance or article which -

- (a) forms part of the equipment, stores or fuel of

the vessel concerned; and

- (b) is required for the operation of the vessel or for use by the vessel during its passage.

(4) Except with the permission of the Director, a local vessel the length overall of which exceeds the permitted length overall specified in column 3 of the Schedule in relation to a typhoon shelter specified in column 2 of that Schedule opposite the reference to that permitted length overall shall not enter or remain in the typhoon shelter.

(5) A dwelling vessel shall not enter or remain in a typhoon shelter except in accordance with the Merchant Shipping (Local Vessels)(Dwelling Vessels) Regulation (Cap. 548 sub. leg. A) and with the conditions specified in the licence which is in force in respect of the vessel under that Regulation.

(6) If the Director is of the opinion that the presence of a local vessel in a typhoon shelter constitutes or is likely to constitute a hazard in the typhoon shelter owing to the size or design of the vessel, the Director may prohibit the vessel from entering or remaining in the typhoon shelter by -

- (a) endorsement on its operating licence;
- (b) endorsement on its permit which is in force under regulations made under section 89(2) of the Ordinance; or
- (c) a direction.

(7) If the Director is of the opinion that the presence of a local vessel in a typhoon shelter constitutes or is likely to

constitute a hazard in the typhoon shelter owing to the number of vessels in the typhoon shelter, the Director may by a direction prohibit the vessel from entering or remaining in the typhoon shelter.

(8) The Director may by a direction prohibit a local vessel, which apart from this subsection could enter and remain in a typhoon shelter, from entering or remaining in the typhoon shelter if -

- (a) the presence of the vessel in the typhoon shelter endangers or is likely to endanger the safety of persons, other vessels or property;
- (b) the vessel is in such a condition that it poses a hazard to the environment; or
- (c) in any other case, it is in the public interest to do so.

(9) An endorsement made or a direction given under subsection (6), (7) or (8) in respect of a local vessel may apply to the vessel in relation to a particular typhoon shelter or to any number of typhoon shelters generally.

5. Transitional arrangement in relation to certain local vessels

(1) Where -

- (a) in respect of a local vessel a previous licence issued under the Merchant Shipping (Launches and Ferry Vessels) Regulations (Cap. 313 sub. leg. E)

or the Merchant Shipping (Miscellaneous Craft) Regulations (Cap. 313 sub. leg. F) is in force immediately before the commencement of this Regulation; and

- (b) the length of the vessel as recorded in the previous licence does not exceed the permitted length overall specified in column 3 of the Schedule in relation to a typhoon shelter specified in column 2 of that Schedule opposite the reference to that length overall but the length overall of the vessel in fact exceeds such permitted length overall in relation to the typhoon shelter,

the Director may, by endorsement on the previous licence, permit the vessel to enter and remain in the relevant typhoon shelter.

(2) Upon the expiry of the previous licence referred to in subsection (1), the Director may, by endorsement on an operating licence issued in place of the previous licence, give the same permission as is mentioned in that subsection.

6. Local vessels entering or leaving typhoon shelters

(1) Subject to subsection (2), local vessels entering or leaving a typhoon shelter shall proceed one at a time.

(2) Where a local vessel which is permitted to tow under any provision of the Ordinance is engaged in towing within a typhoon shelter, it shall tow only one vessel in a chain or not

more than two vessels alongside.

**7. Local vessels to be anchored, etc.
as directed**

(1) The Director may direct a local vessel within a typhoon shelter to take up a particular position and to be berthed, moored, anchored or secured in accordance with the direction.

(2) Unless directed to do so under subsection (1), a local vessel shall not take up any position or be berthed, moored, anchored or secured -

- (a) in a typhoon shelter so as to obstruct the free access of other vessels to any unoccupied space in the typhoon shelter; or
- (b) in a passage area.

8. Power to remove local vessels in typhoon shelters

(1) If a local vessel -

- (a) enters or remains in a typhoon shelter in contravention of section 4(2), (4) or (5);
- (b) enters or remains in a typhoon shelter in contravention of a prohibition under an endorsement made or a direction given under section 4(6), (7) or (8);
- (c) fails to take up a particular position as directed by the Director under section 7(1) or to

be berthed, moored, anchored or secured in accordance with the direction;

(d) takes up a position or is berthed, moored, anchored or secured in a typhoon shelter or passage area in contravention of section 7(2), the Director may, subject to subsections (2) and (3), take possession of the vessel and remove it from the typhoon shelter or move it from the position in which it is lying.

(2) Subject to subsection (3), the Director shall give to the owner of the vessel concerned, his agent or the coxswain of the vessel not less than 7 days' notice in writing of any proposed exercise of his powers under subsection (1) and the notice shall state the reason therefor.

(3) The Director may exercise his powers under subsection (1) -

(a) at any time after notice of the proposed exercise of his powers under subsection (1) is given, notwithstanding that the period of the notice has not expired, if a strong monsoon signal or a tropical cyclone warning signal is issued by the Hong Kong Observatory; or

(b) without giving notice, if the owner of the vessel concerned, his agent or the coxswain of the vessel cannot be found or if, in the opinion of the Director, the vessel is abandoned.

(4) If any person on board a local vessel obstructs the

Director in the exercise of his powers under subsection (1), the Director may evict such person from the vessel.

(5) The Director may use such force as may be necessary for the exercise of his powers under subsection (1) or for the purposes of subsection (4).

9. Production of licence or permit, etc.

The Director may require the owner of a local vessel, his agent or the coxswain of the vessel to produce any licence, permit or other relevant documents issued in respect of the vessel -

- (a) for inspection for the purpose of ensuring compliance with this Regulation; or
- (b) for endorsement under section 4(6)(a) or (b) or 5.

10. Offences

(1) Subject to subsection (2), in the event of -

- (a) a contravention of section 4(2), (4) or (5), 6 or 7(2);
- (b) a contravention of a prohibition by an endorsement made or a direction given under section 4(6), (7) or (8);
- (c) a failure to comply with a direction given under section 7(1) or a requirement under section 9,

the owner of the vessel concerned, his agent and the coxswain of the vessel commit an offence and each of them is liable on

conviction to a fine at level 2.

(2) It shall be a defence for a person charged with an offence under subsection (1) to show that the offence was committed without his knowledge and that he had taken all practicable steps to prevent the commission of the offence.

11. Amendment of Schedule

The Director may, by notice in the Gazette, amend the Schedule.

12. Saving

(1) Where a permit granted under regulation 4(1) of the repealed Regulations is in force immediately before the commencement of this Regulation in respect of a local vessel, the permit shall have effect from such commencement as if it were a permission granted under section 4(2) or (4), as the case may be, and the other provisions of this Regulation shall apply accordingly.

(2) Where a direction given under regulation 5(3) of the repealed Regulations is in force immediately before the commencement of this Regulation in respect of a local vessel, the direction shall have effect from such commencement as if it were a direction given under section 4(8), and the other provisions of this Regulation shall apply accordingly.

(3) Where an endorsement made or direction given under regulation 5(4) of the repealed Regulations is in force

immediately before the commencement of this Regulation in respect of a local vessel, the endorsement or direction shall have effect from such commencement as if it were an endorsement made or direction given under section 4(6), and the other provisions of this Regulation shall apply accordingly.

(4) Where a permit, direction or endorsement that has effect by virtue of subsection (1), (2) or (3) has been granted, given or made, as the case may be, in respect of a specified period, the permit, direction or endorsement shall remain in force for so much of the period as remains unexpired from the commencement of this Regulation.

(5) In this section, "repealed Regulations" (已廢除規例) means the Shipping and Port Control (Typhoon Shelters) Regulations (Cap. 313 sub. leg. D).

SCHEDULE

[ss. 2, 4, 5 & 11]

PERMITTED LENGTH OVERALL FOR LOCAL VESSELS IN
TYPHOON SHELTERS

Item	Typhoon shelters	Permitted length overall (in metres)
1.	Aberdeen South Typhoon Shelter	30.4
2.	Aberdeen West Typhoon Shelter	30.4
3.	Causeway Bay Typhoon Shelter	30.4
4.	Cheung Chau Typhoon Shelter	50
5.	Hei Ling Chau Typhoon Shelter	50

6.	Kwun Tong Typhoon Shelter	50
7.	New Yau Ma Tei Typhoon Shelter	50
8.	Rambler Channel Typhoon Shelter	50
9.	Sam Ka Tsuen Typhoon Shelter	30.4
10.	Shau Kei Wan Typhoon Shelter	30.4
11.	Shuen Wan Typhoon Shelter	30.4
12.	To Kwa Wan Typhoon Shelter	50
13.	Tuen Mun Typhoon Shelter	50
14.	Yim Tin Tsai Typhoon Shelter	30.4

Secretary for Economic Development
and Labour

2004

Explanatory Note

This Regulation provides for the regulation and control of local vessels in typhoon shelters following the repeal of the Shipping and Port Control (Typhoon Shelters) Regulations (Cap. 313 sub. leg. D)("the repealed Regulations").

2. Section 3 empowers the Director of Marine ("the Director") to set aside any area of the waters in a typhoon shelter as a passage area for local vessels.

3. Section 4 provides for the use of typhoon shelters by local

vessels and sets out the circumstances under which a local vessel is prohibited from entering or remaining in a typhoon shelter.

4. Section 5 provides for transitional arrangement to permit certain local vessels to enter and remain in a typhoon shelter.

5. Sections 6 and 7 impose further requirements on a local vessel when entering, leaving or remaining in a typhoon shelter.

6. Section 8 empowers the Director to remove a local vessel from a typhoon shelter or to move the vessel from the position in which it is lying under certain circumstances.

7. Section 9 empowers the Director to require relevant persons to produce a licence, a permit or other relevant documents for inspection for the purposes of the Regulation.

8. Section 10 provides that the contravention of, or the failure to comply with, certain specified provisions of the Regulation constitutes an offence.

9. Section 11 empowers the Director to amend the Schedule.

10. Section 12 saves permits, directions and endorsements granted, given or made under the repealed Regulations.

MERCHANT SHIPPING (LOCAL VESSELS)(TYPHOON SHELTERS) REGULATION

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