

## **LEGISLATIVE COUNCIL BRIEF**

### **MERCHANT SHIPPING (LOCAL VESSELS AND MISCELLANEOUS AMENDMENTS) BILL 2005**

#### **INTRODUCTION**

A At the meeting of the Executive Council on 12 April 2005, the Council ADVISED and the Chief Executive ORDERED that the Merchant Shipping (Local Vessels and Miscellaneous Amendments) Bill 2005 (“the Bill”), at Annex A, should be introduced into the Legislative Council to provide for the operation of the Merchant Shipping (Local Vessels) Ordinance, (Cap. 548) (“LVO”) and better control of vessels.

#### **JUSTIFICATIONS**

2. In July 1999, the Legislative Council enacted LVO, which consolidated legal provisions relevant to local vessels scattered in various ordinances and subsidiary legislation into a single piece of legislation dedicated to local vessels. In addition to making the regulatory regime more user-friendly to vessel owners and operators, LVO also updated marine legislation to meet the modern day operational requirements of the local shipping industry and enhanced the safety standards of local vessels.

3. The Bill will make consequential amendments to primary and subsidiary legislation affected by the enactment of LVO and subsidiary legislation made under it. We will also take the opportunity to improve provisions in LVO and make miscellaneous amendments to marine-related legislation. All the proposed amendments will help ensure effective operation of LVO and provide for better control of vessels. Covering all amendments in a single bill ensures consistency in the drafting approach. The need for amendment is set out below by broad category:

##### **(a) Consequential amendments**

4. LVO repealed some parts of existing marine-related legislation. As the repealed parts are mentioned in other legislation, it is necessary to make consequential amendments to nine pieces of ordinances and

13 pieces of subsidiary legislation by amending or replacing those references for consistency.

**(b) Improvements to LVO**

5. The Bill proposes a number of improvements to LVO. The major one is the addition of a new Part VA which prescribes compulsory requirements for all local vessels to obtain third party risk insurance. At present, such requirements are imposed on launches, ferry vessels and pleasure vessels under the existing Part XIVA of the Merchant Shipping Ordinance, Cap. 281. To enhance protection for third parties, we propose to extend the compulsory requirements to all local vessels, and to increase the statutory levels of insurance cover. This policy is supported by the industry and the Economic Services Panel of the Legislative Council. The new Part VA extends the scope of application of the compulsory requirements, in phases, to all local vessels. The original plan was to prescribe the insurance requirements in a regulation made under LVO. Subsequently, it is considered that most of the requirements are rather substantive in nature as the proposed legislation imposes compulsory obligations on users of local vessels and mandatory requirements on insurers. To give effect to such substantive requirements, it is more appropriate to make the provisions in the principal ordinance, instead of in a piece of subsidiary legislation. A regulation, named as the Merchant Shipping (Local Vessels) (Compulsory Third Party Risks Insurance) Regulation, will also be made to provide for the details of implementation, such as the requirements to keep records of insurance and the specification of the form of certificate of insurance.

6. We will also take the opportunity to clarify the meaning of some provisions in LVO. For example, under LVO, the Secretary for Economic Development and Labour (SEDL) is empowered to make subsidiary legislation to provide for matters related to local vessels, and the Director of Marine (D of M) is provided with necessary powers to effectively enforce LVO. In drafting subsidiary legislation under LVO, it is found that some empowering provisions in LVO may not be sufficient: either the empowering provision is not explicit or the wording of the empowering provisions is too restrictive. Examples include provisions which empower SEDL to make regulation in respect of fire control and prevention measures, and those which empower D of M (or public officers) to perform survey and prohibit vessels from anchoring or lying. The Bill seeks to clarify and specify the powers of SEDL and D of M.

**(c) Miscellaneous amendments to marine-related legislation**

7. LVO is a dedicated piece of law for local vessels. D of M needs to rely on LVO and related legislation to ensure maritime safety and

effective control of both local vessels and ocean-going vessels. The Bill will make miscellaneous amendments to two ordinances (namely the Merchant Shipping Ordinance (Cap. 281) and Shipping and Port Control Ordinance (Cap. 313)) and three pieces of subsidiary legislation (namely the Merchant Shipping (Trawler Survey) Regulation (Cap. 281L), Dangerous Goods (Shipping) Regulations (Cap. 295C) and Shipping and Port Control Regulations (Cap. 313A)). The amendments are necessary to facilitate D of M's discharge of duties and ensure consistency in port operation requirements which are equally applicable to both local vessels and ocean-going vessels. For example -

- (a) upon commencement of LVO, outdated requirements relating to fire-fighting appliances in existing law will be repealed and we need to specify the applicable requirements in Cap. 281L; and
- (b) to tie in with the drafting changes made to LVO by clause 2 of the Bill, some definitions in Cap. 313 will be moved from section 36 to section 2.

#### **THE BILL**

8. The main provisions of the Bill are -

- (a) **Clauses 2 to 8, 10 to 19** propose improvements to LVO;
- (b) **Clause 9** adds a new Part VA in LVO to provide for compulsory insurance requirements for local vessels;
- (c) **Clauses 31 to 46** makes miscellaneous amendments to two marine-related ordinances and three pieces of marine-related subsidiary legislation;
- (d) **Clause 51** makes consequential amendments to nine pieces of ordinances and 13 pieces of subsidiary legislation.

B The existing provisions being amended are at Annex B. A total of 12 ordinances and 23 pieces of subsidiary legislation will be affected.

#### **LEGISLATIVE TIMETABLE**

9. The Bill will be gazetted on 6 May 2005 and introduced into the Legislative Council on 18 May 2005.

#### **IMPLICATIONS OF THE PROPOSAL**

10. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the current binding effect of the Ordinances concerned. It also has no economic,

productivity, financial, civil service, environmental and sustainability implications.

### **PUBLIC CONSULTATION**

11. We consulted and obtained support from the Economic Services Panel of the Legislative Council and the Provisional Local Vessels Advisory Committee in January 2003 and October 2004 respectively.

12. We also consulted the Advisory Council on the Environment on the proposed consequential amendments to the Waste Disposal (Charges for Disposal of Chemical Waste) Regulation. The Council supported the proposed amendments.

### **PUBLICITY**

13. A press release will be issued on 4 May 2005. A spokesman will be available to handle enquiries.

### **ENQUIRIES**

14. Any enquiries on this brief can be addressed to Mr. Y N Chan, Senior Marine Officer of the Marine Department (2852 4382) or Miss Florence Chan, Assistant Secretary for the Economic Development and Labour (2537 2842).

**Economic Development and Labour Bureau**

**4 May 2005**

**MERCHANT SHIPPING (LOCAL VESSELS AND MISCELLANEOUS  
AMENDMENTS) BILL 2005**

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A BILL

To

- (a) amend the Merchant Shipping (Local Vessels) Ordinance and some of its subsidiary legislation to provide for their effective operation;
- (b) amend other relevant enactments to provide for the better regulation and control of vessels; and
- (c) make further consequential amendments upon the enactment of the Merchant Shipping (Local Vessels) Ordinance and its subsidiary legislation.

Enacted by the Legislative Council.

PART 1

GENERAL

**1. Short title and commencement**

(1) This Ordinance may be cited as the Merchant Shipping (Local Vessels and Miscellaneous Amendments) Ordinance 2005.

(2) Subject to subsection (3), this Ordinance shall come into operation on the day appointed for the commencement of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548).

(3) Section 9 (so far as it relates to the new section 23B(1)(c)) shall come into operation 6 months after the day

appointed for the commencement of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548).

PART 2

AMENDMENTS TO THE MERCHANT SHIPPING (LOCAL VESSELS)  
ORDINANCE AND ITS SUBSIDIARY LEGISLATION

**Merchant Shipping (Local Vessels) Ordinance**

**2. Interpretation**

Section 2 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) is amended -

(a) in the definition of "local vessel" -

(i) in paragraph (b), by repealing "前來香港或自香港前往他處" and substituting "用於前來香港或自香港前往其他地方進行貿易";

(ii) by repealing paragraph (e) and substituting -

"(e) any vessel -

(i) registered  
in the  
Mainland of  
China or  
Macau;

(ii) employed in  
trading to

or from Hong  
Kong; and  
(iii) issued with  
any  
certificate by  
a government  
authority of  
the Mainland  
of China or  
Macau  
permitting its  
trading to  
Hong Kong  
other than any  
accepted  
convention  
certificate;"

(b) in the definition of "vessel", in paragraph (b),  
by repealing "navigation." and substituting  
"navigation;"

(c) by adding -

"accepted convention certificate" (獲認可的  
公約證明書) means a certificate in the  
form prescribed by the International  
Convention for the Safety of Life at

Sea, 1974 as amended from time to time;

"approved insurer" (認可保險人) means a protection and indemnity association approved under any regulation made in relation to insurance under section 89;

"authorized insurer" (獲授權保險人) means -

(a) an insurer authorized under the Insurance Companies Ordinance (Cap. 41) to carry on insurance business of the nature specified in class 12 in Part 3 of the First Schedule to that Ordinance;

(b) an association of underwriters approved by the Insurance Authority under section 6 of that Ordinance to carry on insurance business of the nature specified in class 12 in Part 3 of the First Schedule to that Ordinance;

(c) the society of underwriters known in the United Kingdom as Lloyd's; or

(d) an approved insurer;

"crane" (起重機) means any appliance

equipped with mechanical means of hoisting and lowering a load and for transporting the load while suspended; and also all chains, ropes, swivels, or other tackle (down to and including the hook), used in the operation of the appliance; but does not include -

(a) a hoist block running on a fixed rail or wire;

(b) a stacker or conveyer whereby a load is moved by means of a belt or platform; or

(c) an earth or mineral moving or excavating appliance not fitted with a grab;

"Insurance Authority" (保險業監督) has the

meaning assigned to it by section 2(1)

of the Insurance Companies Ordinance  
(Cap. 41);

"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;

"marine construction" (海上建造工程) means  
any construction or reclamation works,  
including dredging, drilling, pipe  
laying, buoy laying, cable laying and  
caisson construction, in which local  
vessels are used;

"person in charge of works" (工程負責人)

means -

- (a) the owner or coxswain of,  
or other person having  
control over, a local  
vessel on, to or by means  
of which any works are to  
be, or are being, carried  
out;
- (b) a principal contractor or  
sub-contractor, if any, who

contracts to carry out, or  
who carries out, any works;  
or

- (c) any other person having for  
the time being the command  
or charge of any works  
being carried out on, to or  
by means of a local vessel;

"principal contractor" (總承判商) means a  
person who enters into a contract  
directly with the owner or coxswain  
of, or other person having control  
over, a local vessel to carry out any  
works;

"protection and indemnity association" (保  
障及彌償組織) means an association  
established by shipowners to provide  
mutual indemnity for its members  
against losses and liabilities  
incident to marine adventure;

"repairs" (修理), in relation to -

- (a) any local vessel,  
means(except in section 74)  
any repairs, alterations or  
maintenance works on or to

the vessel carried out by any person other than a member of the crew or the coxswain of the vessel or that involve or are likely to involve the safety of any person other than a member of the crew or the coxswain of the vessel; and

- (b) any local vessel carrying dangerous goods, means(except in section 74) any repairs, alterations or maintenance works on or to the vessel capable of providing an ignition source, including those that involve welding, burning or the use of blow lamps, braziers or other devices using combustible materials;

"sub-contractor" (次承判商) means -

- (a) any person who enters into a contract, express or implied, with a principal

contractor to perform all or any part of the works which the principal contractor has contracted to perform; or

- (b) any other person who enters into a contract, express or implied, to perform all or any part of the works which a sub-contractor within the meaning of paragraph (a) has contracted to perform;

"works" (工程) means -

- (a) repairs to a local vessel;
- (b) the breaking up of a local vessel;
- (c) cargo handling; or
- (d) marine construction."

### 3. Application

Section 3 is amended -

- (a) in subsection (3), by repealing "and V" and substituting ",V and VA";
- (b) in subsection (5), by repealing "Nothing" and substituting "Except where otherwise specially

provided, nothing".

**4. Authorization of surveyors**

Section 7 is amended -

(a) by repealing subsection (4) and substituting -

"(4) The Director may carry out an audit check of any survey carried out or any plan approved by an authorized surveyor for the purposes of this Ordinance.";

(b) in subsection (6) -

(i) by repealing "Government surveyor, or";

(ii) in paragraph (a), by adding "or" at the end.

**5. Section added**

The following is added immediately before Part III -

**"7A. Recognition of government authority**

(1) The Director may recognize in writing any government authority for the purposes of carrying out any survey and approving any plan of any local vessel for the purposes this Ordinance subject to such conditions, if any, as the Director thinks fit.

(2) Where the Director is satisfied that a recognized government authority has contravened any of

the conditions imposed under subsection (1), he may serve a notice in writing on the authority withdrawing the recognition and setting out the reasons for such withdrawal.

(3) The Director may carry out an audit check of any survey carried out or any plan approved by a recognized government authority for the purposes of this Ordinance."

**6. Application**

Section 10(b) is repealed and the following substituted -

"(b) which is a vessel -

(i) used exclusively for pleasure purposes;

(ii) not fitted with an engine; and

(iii) in the opinion of the Director, incapable of being fitted with an engine,

including but not limited to a canoe, beach pleasure hire boat, windsurfer and dinghy;"

**7. Certificated local vessel must be licensed**

Section 13(1) is amended by repealing "annually".

**8. Section added**

The following is added in Part IV -

**"15A. Additional fees**

(1) The Director may -

(a) in the case of a local vessel which was

not licensed in accordance with any of the repealed regulations, require the owner of the vessel to pay a fee specified in subsection (2)(a); or

- (b) in the case of a local vessel which was not renewed from the expiry date of the licence in accordance with any of the repealed regulations, require the owner of the vessel to pay a fee specified in subsection (2)(b).

(2) The owner of a local vessel is required to

pay -

- (a) in the case described in subsection (1)(a), a fee which is equivalent to the prescribed licence fee for the issue of an operation licence for a period -
  - (i) commencing on the date the vessel had been without a licence in contravention of the repealed section; and
  - (ii) ending on the relevant day; and
- (b) in the case described in subsection (1)(b), a fee which is equivalent to the prescribed licence fee for the renewal of an operating licence for a period -
  - (i) commencing on the expiry date

of the licence; and

(ii) ending on the relevant day.

(3) Subsection (1) is without prejudice to the liability for an offence under section 13(2) and the liability to pay the additional licence fees under section 15.

(4) The owner of a local vessel may be required to pay a fee payable under subsection (1) in respect of a period whether or not he was the owner of the vessel during that entire period.

(5) A fee under subsection (1) shall not be payable in respect of -

(a) any continuous period exceeding 6 months during which the vessel had not been in use if the owner of the vessel produces evidence to that effect to the satisfaction of the Director; or

(b) any period during which the licence of the vessel was terminated by notice to the Director.

(6) In this section -

"relevant day" (有關日期) means the day of the commencement of this section;

"repealed regulations" (已廢除規例) means the Merchant

Shipping (Launches and Ferry Vessels) Regulations

(Cap. 313 sub. leg. E), the Merchant Shipping (Miscellaneous Craft) Regulations (Cap. 313 sub. leg. F) and the Merchant Shipping (Pleasure Vessels) Regulations (Cap. 313 sub. leg. G) repealed by this Ordinance;

"repealed section" (已廢除條文) means section 26 of the Shipping and Port Control Ordinance (Cap. 313) repealed by this Ordinance."

## **9. Part VA added**

The following is added -

### "PART VA

#### COMPULSORY THIRD PARTY RISKS INSURANCE

### **23A. Interpretation of Part VA**

In this Part -

"class" (類別), in relation to a local vessel, has the meaning assigned to it by section 2(1) of the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548 sub. leg. D);

"type" (類型), in relation to a local vessel, has the meaning assigned to it by section 2(1) of the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548 sub. leg. D).

**23B. Application of Part VA**

(1) Subject to subsection (2), this Part shall apply to the following local vessels -

- (a) local vessels which were subject to Part XIVA of the Merchant Shipping Ordinance (Cap. 281) immediately before the commencement of this paragraph;
- (b) local vessels which are certificated under the Merchant Shipping (Local Vessels)(Certification and Licensing) Regulation (Cap. 548 sub. leg. D) for the following classes and types -
  - (i) Class I: ferry vessel, launch and multi-purposes vessel;
  - (ii) Class II: transportation boat and tug; and
  - (iii) Class IV: all types; and
- (c) all other local vessels which are required to be certificated under this Ordinance.

(2) This Part shall not apply to -

- (a) any laid-up vessel which is the subject of a written permission under section 66; and
- (b) non-mechanically propelled vessels which do not exceed 4 metres in length overall.

**23C. Obligation on users of vessels  
to be insured against third  
party risks**

(1) No owner, charterer or coxswain of a local vessel to which this Part applies may use, or cause or permit any other person to use, the vessel in the waters of Hong Kong unless there is in force in relation to the use of the vessel by such owner, charterer or coxswain or that other person, as the case may be, such policy of insurance as complies with section 23D.

(2) If an owner, charterer or coxswain contravenes subsection (1), he commits an offence and is liable -

- (a) where the offence relates to the use of a local vessel permitted to carry more than 12 passengers, to a fine at level 6 and to imprisonment for 2 years; or
- (b) where the offence relates to the use of a local vessel permitted to carry no more than 12 passengers, to a fine at level 4 and to imprisonment for 1 year.

(3) It shall be a defence to a charge under subsection (2) for the person charged to prove that he took all reasonable precautions and exercised all due diligence to prevent the contravention to which the charge relates.

**23D. Requirements in respect of policies of insurance**

(1) For the purposes of section 23C(1), a policy of insurance shall be a policy which -

(a) is issued by an authorized insurer;

(b) is expressed to be -

(i) governed by the laws of Hong Kong; and

(ii) issued for the purposes of section 23C(1); and

(c) insures such person, persons or classes of persons as may be specified in the policy in respect of any liability which may be incurred by him or them in respect of the death of or bodily injury to any person caused by or arising out of the use of local vessels in the waters of Hong Kong.

(2) The liability covered by a policy of insurance required by subsection (1) shall include the liability for -

(a) interest, costs and expenses indemnified under the policy; and

(b) other costs and expenses incurred by the insured and recoverable from the insurer under the policy.

(3) A policy of insurance required by subsection (1) shall not be required to cover -

(a) liability in respect of the death of or bodily injury to any person in the employment of a person insured by the policy which arises out of and in the course of the first mentioned person's employment;

(b) any contractual liability; or

(c) any liability in respect of any one accident or series of accidents arising out of the same event exceeding such amount as shall be specified by the Director under any regulation made under section 89.

(4) Notwithstanding anything in any law, an authorized insurer issuing a policy of insurance for the purposes of section 23C(1) shall be liable to indemnify the persons or classes of persons specified in the policy in respect of any liability which the policy purports to cover in the case of those persons or classes of persons.

(5) A policy of insurance which is issued for the purposes of section 23C(1) shall be governed by the laws of Hong Kong.

**23E. Certain conditions of policies  
to be of no effect**

(1) If a condition in a policy of insurance issued for the purposes of section 23C(1) provides that -

(a) no liability shall arise under the policy;

or

(b) any liability so arising shall cease, in the event of some specified thing being done or omitted to be done after the happening of the event giving rise to a claim under the policy, the condition shall be of no effect in connection with the liability mentioned in section 23D(1)(c).

(2) Nothing in this section shall be taken to render void any provisions in a policy of insurance requiring the person insured to repay to the authorized insurer any sums which -

(a) the authorized insurer may have become liable to pay under the policy; and

(b) have been applied to the satisfaction of the claims of third parties.

**23F. Duty of insurers to satisfy judgment  
against persons insured in respect  
of third party risks**

(1) If -

(a) a policy of insurance has come into operation;

- (b) the terms of the policy cover a liability which the policy is required under section 23D(1)(c) to cover (being a liability covered by the terms of the policy); and
- (c) judgment in respect of the liability is entered against any person insured by the policy,

the authorized insurer shall pay to the persons entitled to the benefit of the judgment any sum payable under the judgment in respect of the liability.

(2) A sum payable under subsection (1) shall include -

- (a) any amount payable in respect of costs; and
- (b) any amount payable under any law relating to interest on judgments in respect of interest on the sum.

(3) Subject to subsection (4), an authorized insurer shall make payment under subsection (1) notwithstanding that -

- (a) he may be entitled to avoid or cancel the policy of insurance concerned; or
- (b) he may have avoided or cancelled the policy.

(4) The amount required to be paid by an authorized insurer under subsection (3) shall not exceed the amount

specified by the Director in respect of the policy of insurance under any regulation made under section 89.

(5) An authorized insurer shall be entitled to recover the excess from a person insured by a policy of insurance if the amount of the liability of the authorized insurer under this section exceeds the amount of the liability of the authorized insurer under the policy of insurance.

(6) The Court of First Instance has power to hear and determine a claim against an authorized insurer in respect of his liability under subsection (1) notwithstanding that the authorized insurer is not within the jurisdiction of the Court.

(7) In subsection (1), "liability covered by the terms of the policy" (保險單條款所承保的法律責任) means a liability which -

- (a) is covered by the policy of insurance; or
- (b) would be so covered but for the fact that the authorized insurer is entitled to avoid or cancel, or has avoided or cancelled, the policy.

(8) In subsection (5) -  
 "amount of the liability of the authorized insurer under the policy of insurance" (獲授權保險人根據某保險單須負的法律責任的款額) means the amount for which the

authorized insurer would, apart from this section, be liable under the policy of insurance in respect of the liability of the person described in that subsection;

"amount of the liability of the authorized insurer under this section" (獲授權保險人根據本條須負的法律責任的款額) means the amount for which the authorized insurer becomes liable under this section to pay in respect of the liability of the person described in that subsection.

**23G. Supplementary provisions relating to duty of insurers under section 23F**

(1) No sum shall be payable by an authorized insurer under section 23F(1) in respect of any judgment -

(a) unless before or within 7 days after the commencement of the proceedings in which the judgment was given, the authorized insurer had notice of the bringing of the proceedings; or

(b) so long as execution on the judgment is stayed pending an appeal.

(2) No sum shall be payable by an authorized insurer under section 23F(1) in connection with any liability, if -

(a) before the happening of the event which was the cause of the death or bodily injury giving rise to the liability, the policy of insurance was cancelled by mutual consent or by virtue of any provision contained in the policy; and

(b) either -

(i) before the happening of the event, the policy was surrendered to the authorized insurer or the person in whose favour the policy was issued made a statutory declaration stating that the policy had been lost or destroyed; or

(ii) after the happening of the event, but before the expiration of a period of 14 days from the taking effect of the cancellation of the policy, the policy was surrendered to the authorized insurer or the person in whose favour the policy was issued made such a statutory declaration.

(3) Subject to subsection (4), no sum shall be payable by an authorized insurer under section 23F if in

an action commenced before, or within 3 months after, the commencement of the proceedings in which the judgment was given, he has obtained a declaration that -

(a) apart from any provision contained in the policy, he is entitled to avoid it on the ground that it was obtained by -

(i) the non-disclosure of a material fact; or

(ii) a representation of fact which was false in a material particular; or

(b) if he has avoided the policy of insurance on the ground described in paragraph (a)(i) or (ii), he was entitled so to do apart from any provision contained in it.

(4) An authorized insurer who has obtained a declaration referred to in subsection (3) shall not thereby become entitled to the benefit of that subsection as respects any judgment obtained in proceedings commenced before the commencement of that action unless he complies with the requirement specified in subsection (5).

(5) The requirement referred to in subsection (4) is that before or within 7 days after the commencement of that action, the authorized insurer -

(a) has given notice of the action to the person who is the plaintiff in the proceedings; and

(b) has specified in the notice the non-disclosure or false representation on which he proposes to rely.

(6) Any person to whom notice of an action is given under subsection (5) shall be entitled, if he thinks fit, to be made a party to the action.

(7) In this section, "material" (具關鍵性) means of such a nature as to influence the judgment of a prudent insurer in determining whether he will take the risk, and, if so, at what premium and on what conditions.

**23H. Bankruptcy, etc. of insured persons  
not to affect certain claims by  
third parties**

(1) Where -

(a) a policy of insurance has been issued for the purposes of section 23C(1) in favour of any person; and

(b) an event mentioned in section 2(1) or (2) of the Third Parties (Rights against Insurers) Ordinance (Cap. 273) happened in relation to any person insured by the policy,

the happening of the event shall, notwithstanding anything in that Ordinance, not affect any such liability of that person as is required to be covered by a policy under section 23D(1)(c).

(2) Nothing in this section shall affect any rights against the authorized insurer conferred by the Third Parties (Rights against Insurers) Ordinance (Cap. 273) on the person to whom the liability was incurred.

(3) Where -

(a) an insured person has rights against an authorized insurer under a policy of insurance issued for the purposes of section 23C(1); and

(b) the rights are by virtue of section 2 of the Third Parties (Rights against Insurers) Ordinance (Cap. 273) transferred to and vested in a third party,

the Court of First Instance has power to hear and determine a claim by the third party against the authorized insurer under the policy notwithstanding that the authorized insurer is not within the jurisdiction of the Court.

**23I. Avoidance of restrictions on scope of policies covering third party risks**

(1) Where a policy of insurance has been issued for the purposes of section 23C(1) in favour of any person, so much of the policy as purports to restrict the insurance of the persons insured thereby by reference to any of the matters specified in subsection (2) shall be of no effect as respect such liabilities as are required to be covered by a policy under section 23D(1)(c).

(2) The matters referred to in subsection (1) are -

- (a) the age or physical or mental condition of persons in charge of the local vessel;
- (b) the condition of the vessel;
- (c) the number of persons that the vessel carries;
- (d) the times at which or the areas within which the vessel is used;
- (e) the propulsion power or value of the vessel's engine;
- (f) the carrying on the vessel of any particular apparatus;
- (g) the carrying on the vessel of any particular means of identification other than any means of identification required to be carried by or under any regulations made under section 89.

(3) Nothing in this section shall require an authorized insurer to pay any sum in respect of the liability of any person otherwise than in or towards the discharge of that liability.

(4) Any sum paid by an authorized insurer in or towards the discharge of any liability of any person which is covered by the policy of insurance by virtue only of this section shall be recoverable by the insurer from that person.

(5) Where -

(a) a person uses, or causes or permits any person to use, a local vessel to which this Part applies in the waters of Hong Kong;

(b) the person uses, or causes or permits any other person to use the local vessel in such circumstances that under section 23C there is required to be in force in relation to the use of the vessel by that person or that other person, as the case may be, such a policy of insurance as complies with section 23D; and

(c) any other person is carried aboard the local vessel while the user is so using it,

any antecedent agreement or understanding between them (whether intended to be legally binding or not) shall be of no effect to the extent specified in subsection (6).

(6) Any antecedent agreement or understanding described in subsection (5) shall be of no effect to the extent that it purports or might be held -

- (a) to negative or restrict any such liability of the user in respect of persons carried in or upon the vessel as is required by section 23D(1)(c) to be covered by a policy of insurance; or
- (b) to impose any conditions with respect to the enforcement of any such liability of the user.

(7) The fact described in subsection (8) shall not be treated as negating any liability of the user in respect of persons carried in or upon the vessel as is required by section 23D(1)(c) to be covered by a policy of insurance.

(8) The fact referred to in subsection (7) is that a person carried aboard a local vessel as described in subsection (5)(c) has willingly accepted as his the risk of negligence on the part of the user of the vessel.

(9) For the purposes of this section -

- (a) references to a person being carried aboard a vessel include references to a person embarking or disembarking from the vessel; and

- (b) the reference to any antecedent agreement is to one made at any time before the liability arose.

**23J. Duty of person against whom claims are made to give information as to insurance**

(1) Any person against whom a claim is made in respect of any such liability as is required to be covered by a policy of insurance under section 23D(1)(c) shall -

- (a) on demand by or on behalf of the person making the claim, state -

- (i) whether or not he was insured in respect of that liability by any policy of insurance having effect for the purposes of this Part; or

- (ii) whether or not he would have been so insured if the authorized insurer had not avoided or cancelled the policy; and

- (b) if he was or would have been so insured, give particulars with respect to that policy.

(2) If, without reasonable excuse, any person fails to comply with subsection (1), or wilfully makes any false statement in reply to any such demand, he commits an offence and is liable to a fine at level 2 and to imprisonment for 3 months.

**23K. Requirements as to production of policy of insurance**

(1) Subject to subsection (2), the owner, charterer or coxswain of a local vessel to which this Part applies which is being used in the waters of Hong Kong shall, on being so required by an authorized officer, produce for inspection a policy of insurance complying with this Part.

(2) If the owner, charterer or coxswain contravenes subsection (1), he commits an offence and is liable to a fine at level 2 and to imprisonment for 3 months.

(3) The owner, charterer or coxswain of a local vessel shall not be convicted of an offence under subsection (2) if, within 5 days after the date on which a requirement was made under subsection (1), he complies with subsection (4).

(4) The owner, charterer or coxswain shall not be convicted of an offence under subsection (2) if he produces for inspection to an authorized officer in person at such place as may have been specified by the authorized officer at the time a requirement was made under subsection (1)-

(a) the relevant policy of insurance; or

- (b) satisfactory evidence that such policy of insurance had been in effect on that date."

#### **10. Interpretation**

Section 37 is amended -

- (a) by repealing the definitions of "crane", "marine construction", "person in charge of works", "principal contractor", "repairs", "sub-contractor" and "works";
- (b) in the definition of "machinery, equipment or appliance", by repealing the semicolon at the end and substituting a full stop.

#### **11. Duty to report collisions, etc.**

Section 57(2)(b) is amended by repealing "要項" where it twice appears and substituting "任何具關鍵性詳情".

#### **12. Sections added**

The following are added -

**"63A. Director may perform services and surveys, etc.**

(1) The Director may, upon request and payment of a prescribed fee or without request, perform services and surveys and grant facilities relating to local vessels.

(2) A certificate in the specified form issued by the Director for the purposes of this Ordinance in

respect of a survey performed on a local vessel may have endorsed on it a statement to the effect that the vessel is not fit to operate safely -

- (a) beyond the waters of Hong Kong; or
- (b) in such other waters, if any, as are specified in the certificate.

**63B. Director may charge fee**

The Director may charge a prescribed fee in respect of the services and surveys performed and facilities granted upon request under section 63A."

**13. Delegation by Director**

Section 72(3) is amended -

- (a) in paragraph (b), by repealing "or";
- (b) in paragraph (c), by repealing the full stop and substituting "; or";
- (c) by adding -
  - "(d) to make or grant exemptions under any regulations made under section 89(1)(zh)(i) or (4)(c), except in respect of a provision specified in writing for the purposes of this section by the Secretary for Economic Development and Labour."

**14. Section added**

The following is added -

**"76A. Proof of identity of agent  
in proceedings**

If, in any proceedings for an offence under this Ordinance involving any person appointed as an agent for the owner of a local vessel, there is produced to the court or a magistrate a notice of appointment signed by the owner and the person so appointed, the court or magistrate shall admit the notice as prima facie evidence that the person was the agent for the owner at the time of the offence."

**15. False information**

Section 78 is amended by repealing "要項" and substituting "具關鍵性詳情".

**16. Regulations relating to fees**

Section 88(1)(a) is amended by adding "or in connection with" before "this Ordinance".

**17. Regulations - general**

Section 89 is amended -

(a) in subsection (1) -

(i) by repealing paragraph (i) and

substituting -

- "(i) the measures to be taken for the control and prevention of fire and protection of life and property, including general and specific requirements relating to the life-saving appliances and fire-fighting apparatuses to be provided on vessels, and the training of the crew in the use of such appliances or apparatuses;"
- (ii) in paragraph (j), by adding ", approval of plans" after "the survey";
- (iii) by adding -
- "(va) empowering the Director to prohibit vessels from anchoring or lying at any place;"
- (iv) by repealing paragraph (zg) and substituting -
- "(zg) matters incidental to or relating to the insurance that is required to be taken out under the

Ordinance, including but not limited to the following -

- (i) empowering the Director to -
  - (A) approve protection and indemnity associations as insurers for the purposes of this Ordinance;
  - (B) revoke or suspend such approval;
  - (C) specify the amount of insurance to be covered by any policy of insurance;
- (ii) the conditions

and requirements  
 as to the issue  
 or sale of such  
 policies of  
 insurance;"

(b) by repealing subsection (2) and substituting -

"(2) The Secretary for Economic  
 Development and Labour may make  
 regulations providing for the grant by the  
 Director of a permit in respect of a  
 vessel referred to in paragraph (e) of the  
 definition of "local vessel" in section 2  
 for the regulation, control or use of the  
 vessel."

**18. Section added**

The following is added -

**"90A. Saving of notices made  
 under the pre-amended  
 regulation 41(2)(f) of  
 the Shipping and  
 Port Control  
 Regulations**

(1) A notice -

(a) made under the pre-amended regulation 41(2)(f)  
 of the Shipping and Port Control Regulations  
 (Cap. 313 sub. leg. A); and

(b) in force immediately before the commencement

of section 44 of the Merchant Shipping  
(Local Vessels and Miscellaneous Amendments)  
Ordinance 2005 ( of 2005) in respect of a  
place,

shall be treated as a notice prohibiting any vessel from  
anchoring or lying at that place posted under any  
regulation made in relation to the prohibition under  
section 89.

(2) In this section, a reference to the pre-amended  
regulation 41(2)(f) of the Shipping and Port Control  
Regulations (Cap. 313 sub. leg. A) shall be construed as  
a reference to that section in force immediately before  
the commencement of section 44 of the Merchant Shipping  
(Local Vessels and Miscellaneous Amendments) Ordinance  
2005 ( of 2005).".

#### **19. Consequential Amendments**

The Schedule is amended by repealing sections 32 and 40.

#### **Merchant Shipping (Local Vessels) (Dwelling Vessels) Regulation**

#### **20. Director may require information**

Section 14(2) of the Merchant Shipping (Local Vessels)  
(Dwelling Vessels) Regulation (Cap. 548 sub. leg. A) is  
amended by repealing "要項" and substituting "具關鍵性詳情".

**Merchant Shipping (Local Vessels)  
(Ferry Terminals) Regulation**

**21. Offences and penalties**

Section 30(8)(c) of the Merchant Shipping (Local Vessels) (Ferry Terminals) Regulation (Cap. 548 sub. leg. B) is amended by repealing "要項" wherever it appears and substituting "具關鍵性詳情".

**Merchant Shipping (Local Vessels)(Certification and  
Licensing) Regulation**

**22. Interpretation**

Section 2(1) of the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548 sub. leg. D) is amended by repealing the definitions of "Insurance Regulation" and "length overall".

**23. Restrictions on Class IV vessels**

Section 6 is amended -

(a) in subsection (3)-

(i) in paragraph (a), by adding "or certificate of survey" after "inspection";

(ii) in paragraph (b), by repealing "the Insurance Regulation" and substituting "Part VA of the Ordinance";

- (b) in subsection (5)(a)(ii), by adding "or certificate of survey" after "inspection".

**24. Resignation, etc. of agent**

Section 8(5) is repealed.

**25. Application for full licence**

Section 15(4)(b) is amended by repealing "the Insurance Regulation" and substituting "Part VA of the Ordinance".

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

Section 23(2)(d)(ii) is amended by repealing "the Insurance Regulation" and substituting "Part VA of the Ordinance".

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

Section 26(3)(b)(ii) is amended by repealing "the Insurance Regulation" and substituting "Part VA of the Ordinance".

**28. Offences for false statements or information**

Section 52(a) is amended by repealing "要項" and

substituting "具關鍵性詳情".

**Merchant Shipping (Local Vessels)  
(Typhoon Shelters) Regulation**

**29. Interpretation**

Section 2 of the Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation (Cap. 548 sub. leg. E) is amended by repealing the definition of "length overall".

**30. Offences**

Section 10(2) is amended by repealing "the offence was committed without his knowledge and that".

PART 3

AMENDMENTS TO MARINE-RELATED LEGISLATION

**Merchant Shipping Ordinance**

**31. Regulations applicable to trawlers**

Section 94(1) of the Merchant Shipping Ordinance (Cap. 281) is amended -

- (a) in paragraph (i), by repealing "; and" and substituting a semicolon;
- (b) in paragraph (j), by repealing the full stop and substituting "; and";
- (c) by adding -
  - "(k) the measures to be taken for the control and prevention of fire and protection of life and property,

including general and specific requirements relating to the life-saving appliances and fire-fighting appliances to be provided on trawlers."

### **Merchant Shipping (Trawler Survey) Regulations**

#### **32. Instructions to surveyors**

The First Schedule to the Merchant Shipping (Trawler Survey) Regulations (Cap. 281 sub. leg. L) is amended -

- (a) by repealing paragraph 2(*i*) and (j) and substituting -

"(*i*) that it complies with all the requirements specified in the Annex to this Schedule;"

- (b) by adding at the end -

#### **"ANNEX**

##### **PART 1 - FIRE-FIGHTING APPLIANCES**

1. Every trawler shall be provided with appliances whereby at least one jet of water can reach any part of the trawler normally accessible to the persons on the trawler while it is being navigated and any store room and any part of any cargo space when

empty.

2. Every trawler shall be provided with at least one fire pump operated by power which shall be capable of delivering at least one jet of water from any fire hydrant, hose and nozzle provided on the trawler.
3. In every trawler fitted with oil-fired boilers or internal combustion type propelling machinery, if the pump required by paragraph 2 of this Annex and its source of power and sea connection are not situated outside spaces containing such boilers or machinery, there shall be provided in a position outside such spaces an additional fire pump and its source of power and sea connection. If the pump is operated by power, it shall comply with the requirements of paragraph 2 of this Annex and, if it is manually operated, it shall be provided with a hose and 9.5 mm diameter nozzle through which it

shall be capable of producing a jet of water having a throw of not less than 6 m which can be directed onto any part of the trawler.

4. In every trawler there shall be provided a fire main, water service pipes and hydrants and at least 2 fire hoses.
5. In every trawler fitted with oil-fired boilers or internal combustion type propelling machinery, there shall be provided a spray nozzle suitable for use with the fire hoses required by paragraph 4 of this Annex.
6. Every trawler shall be provided with at least 2 portable fire extinguishers so situated as to be readily available for use in the accommodation and service spaces.
7. In every trawler there shall be provided for the protection of any space containing any oil-fired boiler,

oil fuel settling tank or oil fuel unit a fire smothering gas installation. If the engine and boiler rooms are not entirely separated from each other by a bulkhead, or if fuel oil can drain from the boiler room into the engine room, the combined engine room and boiler room shall, for the purpose of this paragraph, be regarded as a single space.

8. In addition to the requirements in paragraph 7 of this Annex, there shall be provided -
  - (a) in each boiler room and in each space which contains any part of any oil fuel installation, at least 2 portable fire extinguishers suitable for extinguishing oil fires; and
  - (b) in each firing space, a receptacle containing at least 0.14 m<sup>3</sup> of sand or other dry material suitable

for quenching oil fires together with a scoop for its distribution, or alternatively an additional portable fire extinguisher suitable for extinguishing oil fires.

9. In every trawler there shall be provided in any space containing internal combustion type machinery one portable fire extinguisher suitable for extinguishing oil fires for each 100 b.h.p. or part thereof of such machinery, except that no more than 7 such fire extinguishers shall be required in any one space and that alternatively there may be provided 2 such extinguishers together with either -
- (a) one foam fire extinguisher of at least 45 litres capacity; or
  - (b) one carbon dioxide fire extinguisher of at least 16 kg capacity.

10. Every trawler shall be provided with at least one fireman's axe.

PART 2 - LIFE SAVING APPLIANCES

1. Subject to paragraph 2 of this Annex, every trawler shall carry -

- (a) not less than one

lifeboat -

- (i) attached to davits; and

- (ii) the capacity of which, or if more than one such boat is carried the aggregate capacity of which, shall be sufficient to accommodate the total number of persons on board the trawler; and

- (b) not less than 2 inflatable liferafts -

- (i) the aggregate

capacity of which  
shall be

sufficient to  
accommodate the  
total number of  
persons on board  
the trawler; and

(ii) so stowed that  
they can readily  
be placed in the  
water on either  
side of the  
trawler.

2. In the case of any trawler less than 36.6 m in length, if the aggregate capacity of the inflatable liferafts carried is sufficient to accommodate twice the total number of persons on board the trawler, no such lifeboat need be carried.
3. Every trawler shall carry not less than 4 lifebuoys, 2 of which shall be provided with a self-igniting light which cannot be extinguished in water.

4. Every trawler shall carry one lifejacket for each person on board the trawler.
5. Every trawler shall be provided with a line-throwing appliance.
6. Every trawler shall be provided with not less than 12 rocket parachute flares."

### 33. Forms

Form 1 of the Second Schedule is amended -

- (a) in paragraph 4, by repealing "the Merchant Shipping (Life Saving Appliances) Regulations (Cap. 281 sub. leg.)" and substituting "Part 2 of the Annex to the First Schedule to the Merchant Shipping (Trawler Survey) Regulations (Cap. 281 sub. leg. L)";
- (b) in paragraph 5, by repealing "the Merchant Shipping (Fire Appliances) Regulations (Cap. 281 sub. leg.)" and substituting "Part 1 of the Annex to the First Schedule to the Merchant Shipping (Trawler Survey) Regulations (Cap. 281 sub. leg. L)".

**Dangerous Goods (Shipping) Regulations**

**34. Permits required for carriage  
of dangerous goods in type  
III vessels**

Regulation 12 of the Dangerous Goods (Shipping)

Regulations (Cap. 295 sub. leg. C) is amended -

- (a) by repealing paragraph (1);
- (b) in paragraph (2), by repealing "Without prejudice to the provisions of paragraph (1), no" and substituting "No";
- (c) by repealing paragraph (3) and substituting -  
    "(3) Any permission in writing granted for the purpose of paragraph (2) may be granted subject to such conditions or restrictions as the Director may think fit."

**35. Special restrictions relating to  
type III vessels conveying  
explosives and certain  
inflammables**

Regulation 17(1)(b) is repealed.

**36. Regulation added**

The following is added immediately before regulation 21 -

**"20A. Fees for grant of permission  
under regulation 12(2)**

The fees to be paid for the grant of permission

under regulation 12(2) shall be \$160."

### **Shipping and Port Control Ordinance**

#### **37. Interpretation**

Section 2 of the Shipping and Port Control Ordinance (Cap. 313) is amended -

(a) in the definition of "waters of Hong Kong", by repealing "(Cap. 1)." and substituting "(Cap.

1);";

(b) by adding -

"crane" (起重機) means any appliance

equipped with mechanical means of hoisting and lowering a load and for transporting the load while suspended; and also all chains, ropes, swivels, or other tackle (down to and including the hook), used in the operation of the appliance; but does not include -

(a) a hoist block running on a fixed rail or wire;

(b) a stacker or conveyer whereby a load is moved by means of a belt or platform; or

(c) an earth or mineral moving

or excavating appliance not fitted with a grab;

"lifting appliance" (起重裝置) means a crane, winch, hoist, derrick boom, sheer legs, excavator, pile driver, pile extractor, fork lift truck or other self-propelled machine, and any other description of lifting appliance, derrick and mast bands, goose-necks, eyebolts, and all other permanent attachments to a derrick, mast or deck, used on a vessel for the purposes of hoisting or lowering in connection with works;

"lifting gear" (起重工具) includes a chain sling, rope sling, canvas sling, net, tray, board, box, bull rope, snotter, can hook or other means of supporting cargo and attachments thereto including a ring, link, hook, plate, clamp, shackle, swivel, eyebolt, bridle, beam, spreader, rope and wire, used on a vessel in connection with works;

"marine construction" (海上建造工程) means

any construction or reclamation works, including dredging, drilling, pipe laying, buoy laying, cable laying and caisson construction, in which vessels are used;

"person in charge of works" (工程負責人)

means -

- (a) the owner or master of, or other person having control over, a vessel on, to or by means of which any works are to be, or are being, carried out;
- (b) a principal contractor or sub-contractor, if any, who contracts to carry out, or who carries out, any works; or
- (c) any other person having for the time being the command or charge of any works being carried out on, to or by means of a vessel;

"principal contractor" (總承判商) means a person who enters into a contract

directly with the owner or master of,  
or other person having control over,  
a vessel to carry out any works;

"repairs" (修理), in relation to -

- (a) any vessel, means any repairs, alterations or maintenance works on or to the vessel carried out by any person other than a member of the crew or the master of the vessel or that involve or are likely to involve the safety of any person other than a member of the crew or the master of the vessel; and
- (b) any vessel carrying dangerous goods, means any repairs, alterations or maintenance works on or to the vessel capable of providing an ignition source, including those that involve welding, burning or the use of blow lamps, braziers or other

devices using combustible materials;

"sub-contractor" (次承判商) means -

- (a) any person who enters into a contract, express or implied, with a principal contractor to perform all or any part of the works which the principal contractor has contracted to perform; or
- (b) any other person who enters into a contract, express or implied, to perform all or any part of the works which a sub-contractor within the meaning of paragraph (a) has contracted to perform;

"works" (工程) means -

- (a) repairs to a vessel;
- (b) the breaking up of a vessel;
- (c) cargo handling; or
- (d) marine construction."

**38. Interpretation**

Section 36 is amended -

- (a) by repealing the definitions of "crane", "lifting appliance", "lifting gear", "marine construction", "person in charge of works", "principal contractor", "repairs", "sub-contractor" and "works";
- (b) in the definition of "machinery, equipment or appliance", by repealing the semicolon at the end and substituting a full stop.

**39. Delegation by Director**

Section 58(3) is amended -

- (a) in paragraph (b), by repealing "or";
- (b) in paragraph (c), by repealing the full stop and substituting "; or";
- (c) by adding -
  - "(d) to make exemptions under any regulation made under section 80(1)(i)(i), except in respect of a provision specified for the purposes of this section in the Schedule."

**40. Regulations**

Section 80(1)(e) is amended by adding "marine" before "works".

**Shipping and Port Control Regulations**

**41. Pre-arrival notification or  
report for permission to  
enter the waters of  
Hong Kong**

Regulation 6A(1) of the Shipping and Port Control Regulations (Cap. 313 sub. leg. A) is amended by repealing "Part" and substituting "regulation".

**42. Entry into restricted areas, etc.**

Regulation 23(6A), (6B) and (6C) is amended by repealing "Chek Lap Kok Airport" and substituting "Hong Kong International Airport".

**43. Navigation near the Ngong Shuen Chau  
Naval Basin**

Regulation 24 is amended -

- (a) in paragraph (1), by repealing "a naval authority" and substituting "the Hong Kong Garrison";
- (b) by repealing paragraph (4) and substituting -

"(4) If without reasonable excuse  
this regulation is contravened -

- (a) in the case of a vessel not  
being towed, the master of  
the vessel commits an  
offence; or

(b) in the case of a vessel being towed, the master of the vessel and the master of any other vessel towing the vessel commit an offence,

and is or each of them is (as the case may be) liable to a fine at level 1."

#### **44. Anchoring of vessels**

Regulation 41(2) is amended -

(a) by repealing paragraph (f) and substituting -

"(f) except with the permission of the Director, at any place at which anchoring or lying is prohibited by notice posted under any regulation made in relation to the prohibition under section 89 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548);";

(b) in paragraph (k), by repealing "naval authorities" and substituting "Hong Kong Garrison".

#### **45. Part VIA added**

The following is added -

"PART VIA  
TYPHOON SHELTER

**55A. Interpretation of Part VIA**

In this Part, "typhoon shelter" (避風塘) means a typhoon shelter specified in the Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation (Cap. 548 sub. leg. E).

**55B. Permit to enter and remain  
in typhoon shelters**

(1) The Director may, subject to such conditions as he thinks fit, grant a permit in writing permitting any vessel to enter and remain in a typhoon shelter specified in the permit.

(2) The Director may, add to, delete or vary the conditions of a permit if he is satisfied that the vessel is so situated or in such a condition that it -

- (a) endangers the safety of persons, other vessels or property; or
- (b) poses a hazard to the environment.

**55C. Use of typhoon shelters**

Except with the permission of the Director granted under section 55B(1), no vessel shall enter or remain in

a typhoon shelter.

**55D. Power to remove vessels unlawfully  
in typhoon shelters**

(1) If any vessel enters or remains in a typhoon shelter in contravention of regulation 55C, the Director may, subject to paragraphs (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 paragraph (3), the Director shall give to the owner or his agent or master of a vessel not less than 7 days' notice in writing of any proposed exercise of his power under paragraph (1) and the notice shall state the reason therefor.

(3) The Director may exercise his power under paragraph (1) -

- (a) at any time after notice of the proposed exercise of power is given under paragraph (2), notwithstanding that the period of notice has not expired, if a strong monsoon signal or tropical cyclone warning signal is issued by the Hong Kong Observatory; or
- (b) without giving notice, if the owner or his agent or master 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 vessel obstructs the Director in the exercise of his power under paragraph (1), the Director may evict such person from the vessel.

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

#### **55E. Production of permit**

The Director may require the owner or his agent or master of a vessel to produce any permit granted under regulation 55B in respect of the vessel -

- (a) for inspection for the purpose of ensuring compliance with these regulations; or
- (b) for amendment of the conditions subject to which the permit is granted.

#### **55F. Offences**

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

- (a) a contravention of a condition of a permit granted under regulation 55B;
- (b) a contravention of regulation 55C; or
- (c) a failure to comply with a requirement under regulation 55E,

the owner, his agent and the master of the vessel commit an offence and each of them is liable to a fine at level

2.

(2) In a charge for an offence under paragraph (1), it shall be a defence for the person charged to show that he had taken all practicable steps to prevent the commission of the offence.

(3) Any person who obstructs the Director in the exercise of his power under regulation 55D(1) or (4) commits an offence and is liable to a fine at level 2 and to imprisonment for 6 months.

#### **55G. Saving**

(1) Where a permit granted under regulation 4(1) of the Shipping and Port Control (Typhoon Shelters) Regulations (Cap. 313 sub. leg. D) is in force immediately before the commencement of this regulation in respect of a vessel, the permit shall have effect from such commencement as if it were a permit granted under regulation 55B, and the other provisions of this Part shall apply accordingly.

(2) Where a permit that has effect by virtue of paragraph (1) has been granted in respect of a specified period, the permit shall remain in force for so much of the period as remains unexpired from the commencement of this regulation."

**46. Restricted Areas, etc.**

The Fifth Schedule is amended, in the headings of paragraphs 5, 6, 7, 8, 9, 10, 11 and 12, by repealing "CHEK LAP KOK AIRPORT" and substituting "HONG KONG INTERNATIONAL AIRPORT".

**Hydrofoil Ships (Exemption) Notice****47. Repeal**

The Hydrofoil Ships (Exemption) Notice (Cap. 369 sub. leg. F) is repealed.

**Sidewall Hovercraft (Exemption)(Consolidation) Notice****48. Repeal**

The Sidewall Hovercraft (Exemption)(Consolidation) Notice (Cap. 369 sub. leg. G) is repealed.

**Jetcat Catamarans (Exemption) Notice****49. Repeal**

The Jetcat Catamarans (Exemption) Notice (Cap. 369 sub. leg. H) is repealed.

**Life Saving Appliances (Exemption) Notice****50. Repeal**

The Life Saving Appliances (Exemption) Notice (Cap. 369 sub. leg. K) is repealed.

PART 4

AMENDMENTS CONSEQUENTIAL UPON THE ENACTMENT OF THE  
MERCHANT SHIPPING (LOCAL VESSELS) ORDINANCE AND  
ITS SUBSIDIARY LEGISLATION

**51. Amendment to enactments**

The enactments specified in the Schedule are amended as set out in that Schedule.

SCHEDULE

[s. 51]

AMENDMENT TO ENACTMENTS

**High Court Ordinance**

**1. Admiralty jurisdiction of  
Court of First Instance**

Section 12A of the High Court Ordinance (Cap. 4) is amended -

(a) in subsection (3) -

(i) in paragraph (a) -

(A) in subparagraph (v), by  
repealing "or";

(B) in subparagraph (vi), by adding  
"or" at the end;

(C) by adding -

"(vii) the Merchant  
Shipping (Local  
Vessels) Ordinance  
(Cap. 548);";

- (ii) in paragraph (c) -
  - (A) by repealing subparagraph (ii);
  - (B) in subparagraph (iv), by repealing "or";
  - (C) in subparagraph (v), by repealing the comma and substituting "; or";
  - (D) by adding -
    - "(vi) the Merchant Shipping (Local Vessels) Ordinance (Cap. 548),";

- (b) in subsection (8) -
  - (i) in paragraph (e), by repealing "or";
  - (ii) in paragraph (f), by repealing the full stop and substituting "; or";
  - (iii) by adding -
    - "(g) the Merchant Shipping (Local Vessels) Ordinance (Cap. 548).".

### **The Rules of the High Court**

#### **2. Saving for defence under Merchant Shipping Acts etc.**

Order 18 rule 22 of the Rules of the High Court (Cap. 4 sub. leg. A) is amended by repealing "Ordinance (Cap. 281)" and

substituting "(Local Vessels) Ordinance (Cap. 548)".

**Insurance Companies Ordinance**

**3. Accounts and Statements**

The Third Schedule to the Insurance Companies Ordinance (Cap. 41) is amended -

- (a) in Part 1, in paragraph 1(1), in the definition of "statutory business", by repealing paragraph (b) and substituting -

"(b) the business of insurance against liability described in section 23D of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548); or";

- (b) in Part 8, in Form 5, by repealing item C and substituting -

*"C. Local Vessels Insurance Business under section 23D of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548)*

No. of policies in force at end of period			No. of local vessels covered by such policies	No. of outstanding claims at end of period
THIRD PARTY RISKS	COMPREHENSIVE	TOTAL		

"

**Transfer of Businesses (Protection of  
Creditors) Ordinance**

**4. Interpretation**

Section 2(1) of the Transfer of Businesses (Protection of Creditors) Ordinance (Cap. 49) is amended, in the definition of "transfer", in paragraph (d)(i), by repealing "Part IV of the Shipping and Port Control Ordinance (Cap. 313)" and substituting "the Merchant Shipping (Local Vessels) Ordinance (Cap. 548)".

**Import and Export Ordinance**

**5. Restriction on carriage, etc.  
of prescribed articles in  
Hong Kong waters**

Section 6E(5) of the Import and Export Ordinance (Cap. 60) is amended -

- (a) in paragraph (e), by adding ", or as defined in section 2 of the Merchant Shipping (Local Vessels)(Ferry Terminals) Regulation (Cap. 548 sub. leg. B)," before "operating";
- (b) by repealing paragraph (f)(i);
- (c) by repealing paragraph (g)(i);
- (d) by repealing paragraph (h) and substituting -
  - "(h) by a passenger, or as part of his baggage, for his own use other than for trade or business, which vessel is

certificated by the Director of Marine  
for -

- (i) Class I vessel under the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548 sub. leg. D); or
- (ii) Class II vessel under that Regulation and is permitted to carry passengers under a licence issued under section 15 or 19 of that Regulation;".

#### **Export (Prescribed Articles) Regulations**

##### **6. Exemption for certain ferry passengers**

Regulation 4 of the Export (Prescribed Articles) Regulations (Cap. 60 sub. leg. D) is amended by adding ", or as defined in section 2 of the Merchant Shipping (Local Vessels)(Ferry Terminals) Regulation (Cap. 548 sub. leg. B)," before "operating".

#### **Waterworks Regulations**

##### **7. Interpretation**

Regulation 2 of the Waterworks Regulations (Cap. 102 sub. leg. A) is amended, in the definition of "shipping purpose",

by repealing paragraph (b)(i) and substituting -

"(i) to or for use on any vessel to which the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) applies; or".

### **Telecommunications Regulations**

#### **8. Form of Licences**

Schedule 3 to the Telecommunications Regulations (Cap. 106 sub. leg. A) is amended, in the form of Hong Kong Ship Station Licence -

(a) by repealing -

"Name of ship  
(the "Ship")"

and substituting -

"Name of ship or vessel  
("the Ship")";

(b) in the General Conditions -

(i) in General Condition 2(b)(i), by repealing "ships licensed under Part IV of the Shipping and Port Control Ordinance (Cap. 313)" and substituting "vessels certificated under the Merchant Shipping (Local Vessels) Ordinance (Cap. 548)";

(ii) in General Condition 9(d)(ii), by repealing "船舶" and substituting "該船";

- (iii) in General Condition 10(c), by repealing "船";
- (iv) in General Condition 10(d), by repealing "船舶" where it twice appears and substituting "該船";
- (v) by repealing General Condition 10(e) and substituting -
  - "(e) if, in case of a vessel certificated under the Merchant Shipping (Local Vessels) Ordinance (Cap. 548), the vessel has ceased to be so certificated."

**Dutiable Commodities (Marking and Colouring  
of Hydrocarbon Oil) Regulations**

**9. Interpretation**

Regulation 2 of the Dutiable Commodities (Marking and Colouring of Hydrocarbon Oil) Regulations (Cap. 109 sub. leg. C) is amended, in the definition of "pleasure vessel", by repealing paragraph (a) and substituting -

"(a) a vessel which is certificated for Class IV vessel under the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548 sub. leg. D); or".

**10. Marking of fuel inlet of pleasure vessel**

Section 12A(a) is repealed and the following substituted -

"(a) which is certificated as a Class IV vessel under the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548 sub. leg. D); and".

**Boats and Wharves (Supply of Water) Regulations****11. Regulation amended**

Regulation 2(1) of the Boats and Wharves (Supply of Water) Regulations (Cap. 141 sub. leg. A) is amended by repealing "Merchant Shipping Ordinance (Cap. 281), or any licence" and substituting "Merchant Shipping (Local Vessels) Ordinance (Cap. 548), or any certificate or licence".

**Crimes Ordinance****12. Registration of notices and orders relating to vessels**

Section 153N of the Crimes Ordinance (Cap. 200) is amended by repealing "licensed in accordance with regulations made or deemed to have been made under Part IV of the Shipping and Port Control Ordinance (Cap. 313)" and substituting "certificated in accordance with regulations made or deemed to have been made under the Merchant Shipping (Local Vessels) Ordinance (Cap. 548)".

**Summary Offences Ordinance****13. Interpretation**

Section 2(1) of the Summary Offences Ordinance (Cap. 228) is amended, in the definition of "dwelling vessel", by repealing "section 24(1) of the Shipping and Port Control Ordinance (Cap. 313)" and substituting "section 2 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548)".

**Shipping and Port Control Regulations****14. Application**

Regulation 4 of the Shipping and Port Control Regulations (Cap. 313 sub. leg. A) is amended -

(a) in paragraph (1) -

(i) in subparagraph (a), by repealing "tons gross other than a vessel to which Part IV of the Ordinance applies" and substituting "gross tonnage";

(ii) by repealing subparagraph (b) and substituting -

"(b) a vessel of 300 gross tonnage or less and which is the subject of a direction given by the Director under section 16 of the Ordinance;"

- (iii) by repealing subparagraph (c) and substituting -

"(c) a vessel of 300 gross tonnage or less and which is the subject of a requirement made by the Director or an authorized officer at the vessel traffic centre to participate in the vessel traffic service.";

- (b) in paragraph (2) -

(i) by repealing "(including a vessel to which Part IV of the Ordinance applies)";

(ii) by repealing subparagraph (a);

- (c) in paragraph (3), by repealing "(2)(a) or (b)" and substituting "(2)(b)".

#### 15. **Speed of vessels**

Regulation 19(4) is amended by repealing "Shipping and Port Control (Typhoon Shelters) Regulations (Cap. 313 sub. leg.)" and substituting "Merchant Shipping (Local Vessels)(Typhoon Shelters) Regulation (Cap. 548 sub. leg. E)".

#### 16. **Vessels alongside berthed vessels**

Regulation 45(1) is amended by repealing "Shipping and Port Control (Typhoon Shelters) Regulations (Cap. 313 sub. leg.)" and substituting "Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation (Cap. 548 sub. leg. E)".

**17. Control over gathering of vessels  
in the waters of Hong Kong**

Regulation 66B is repealed.

**18. Port Dues and Fees**

Item 3(b) of the Thirteenth Schedule is repealed.

**Marine Fish Culture Ordinance**

**19. Power of search, seizure, etc.**

Section 17(3)(a) of the Marine Fish Culture Ordinance (Cap. 353) is amended by repealing "section 3(1)" and substituting "section 3(1)(a) or (b)".

**Waste Disposal (Charges for Disposal  
of Chemical Waste) Regulation**

**20. Exemption**

Section 4(a) of the Waste Disposal (Charges for Disposal of Chemical Waste) Regulation (Cap. 354 sub. leg. J) is amended by repealing "to which Part IV of the Shipping and Port Control Ordinance (Cap. 313) applies" and substituting "which is required to be certificated under the Merchant Shipping (Local Vessels) Ordinance (Cap. 548)".

**Waste Disposal (Designated Waste Disposal Facility)  
(Amendment) Regulation 2004**

**21. Powers of Director**

Section 4(3) of the Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2004 (L.N. 165 of 2004) is amended, in the new section 4(2)(b)(ia)(A), by repealing "regulation 3 of the Merchant Shipping (Miscellaneous Craft) Regulations (Cap. 313 sub. leg. F)" and substituting "section 15 or 19 of the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548 sub. leg. D)".

**Merchant Shipping (Safety) Ordinance**

**22. Saving**

Section 123(3) of the Merchant Shipping (Safety) Ordinance (Cap. 369) is amended -

- (a) by repealing paragraphs (b) and (d);
- (b) in paragraph (c), by adding "and" at the end.

**Merchant Shipping (Instructions to Surveyors)  
(Passenger Ships) Regulations**

**23. Preliminary**

Section II(1) of the Preliminary to the Merchant Shipping (Instructions to Surveyors) (Passenger Ships) Regulations (Cap. 369 sub. leg. C) is amended by repealing ", notwithstanding their revocation by the Merchant Shipping (Life Saving

Appliances) Regulations (Cap. 369 sub. leg.),".

**Merchant Shipping (Safety) (Means of  
Access) Regulations**

**24. Interpretation**

Regulation 2 of the Merchant Shipping (Safety) (Means of Access) Regulations (Cap. 369 sub. leg. AH) is amended, in the definition of "fishing vessel", by repealing "licensed under Part IV of the Shipping and Port Control Ordinance (Cap. 313)" and substituting "certificated as such under the Merchant Shipping (Local Vessels) Ordinance (Cap. 548)".

**Merchant Shipping (Safety)(Life-Saving  
Appliances) Regulation**

**25. Application**

Section 3(2)(d) of the Merchant Shipping (Safety)(Life-Saving Appliances) Regulation (Cap. 369 sub. leg. AY) is repealed.

**Clubs (Safety of Premises)(Exclusion) Order**

**26. Schedule amended**

The Schedule to the Clubs (Safety of Premises)(Exclusion) Order (Cap. 376 sub. leg. C) is amended, in items 3 and 4, by repealing "licensed under the Shipping and Port Control Ordinance (Cap. 313)" and substituting "certificated under the Merchant Shipping (Local Vessels) Ordinance (Cap. 548)".

**Environmental Impact Assessment Ordinance**

**27. Interpretation**

Schedule 1 to the Environmental Impact Assessment Ordinance (Cap. 499) is amended, in the definition of "typhoon shelter", by repealing "Shipping and Port Control (Typhoon Shelters) Regulations (Cap. 313 sub. leg.)" and substituting "Merchant Shipping (Local Vessels)(Typhoon Shelters) Regulation (Cap. 548 sub. leg. E)".

**Explanatory Memorandum**

This Bill contains miscellaneous amendments to various Ordinances.

2. Part 2 amends the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) ("the Ordinance"), the Merchant Shipping (Local Vessels) (Dwelling Vessels) Regulation (Cap. 548 sub. leg. A), the Merchant Shipping (Local Vessels) (Ferry Terminals) Regulation (Cap. 548 sub. leg. B), the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548 sub. leg. D) and the Merchant Shipping (Local Vessels)(Typhoon Shelters) Regulation (Cap. 548 sub. leg. E) (clauses 2 to 30).

3. Clause 2 clarifies paragraph (e) of the definition of "local vessel" in the Ordinance. It also moves the definitions of "crane", "marine construction", "person in charge of works", "principal contractor", "repairs", "sub-contractor" and "works" from section 37 to section 2 of the Ordinance and adds

the definitions of "accepted convention certificate", "approved insurer", "authorized insurer", "Insurance Authority", "length overall" and "protection and indemnity association". Clause 5 adds a new section to provide for the recognition of government authority for the purposes of carrying out any survey and approving any plan for the purposes of the Ordinance. It also empowers the Director of Marine ("the Director") to carry out audit check of surveys and plans. Clause 6 clarifies and elaborates the provision on application. Clause 7 dispenses with the requirement to license a certificated local vessel annually. Clause 8 adds a new section to empower the Director to require owners of local vessels to pay fees for vessels which were not licensed or the licence of which were not renewed in accordance with the Shipping and Port Control Ordinance (Cap. 313). Clause 9 adds a new Part VA to prescribe the insurance that is required to be taken out for or in relation to local vessels, the conditions and requirements in respect of such insurance, the conditions to such policies of insurance which are to be void or of no effect; the rights, duties and liabilities of insurers and insured persons in respect of third party risks; the effect of insolvency, bankruptcy and winding up of insured person in respect of claims by third parties and the avoidance of the imposition by insurers of restrictions relating to third party risks. Clause 12 empowers the Director to perform survey and services and grant facilities relating to local

vessels and to charge fee in relation thereto. Clause 13 provides that the Director shall not delegate his power to make or grant exemptions under certain regulations except with the permission of the Secretary for Economic Development and Labour. Clause 14 provides for the proof of the identity of the agent in legal proceedings. Clause 17 amends and clarifies the existing regulation making powers. Clause 18 saves notices made under section 41(2)(f) of the Shipping and Port Control Regulations (Cap. 313 sub. leg. A).

4. Part 3 amends the Merchant Shipping Ordinance (Cap. 281) (clause 31), the Merchant Shipping (Trawler Survey) Regulations (Cap. 281 sub. leg. L) (clauses 32 and 33), the Dangerous Goods (Shipping) Regulations (Cap. 295 sub. leg. C) (clauses 34 to 36), the Shipping and Port Control Ordinance (Cap. 313) (clauses 37 to 40) and the Shipping and Port Control Regulations (Cap. 313 sub. leg. A) (clauses 41 to 46) and repeals some subsidiary legislation (clauses 47 to 50) made under the Merchant Shipping (Safety) Ordinance (Cap. 369).

5. Clause 31 empowers the Chief Executive in Council to make regulation to provide for the measures to be taken for the control and prevention of fire and protection of life and property. Clause 37 moves the definitions of "crane", "lifting appliance", "lifting gear", "marine construction", "person in charge of works", "principal contractor", "repairs", "sub-contractor" and "works" from section 36 of the Shipping and

Port Control Ordinance (Cap. 313) to section 2 of that Ordinance.

6. Clause 39 provides that the Director shall not delegate his power to make exemptions under certain regulations unless it is specified in the Schedule to the Shipping and Port Control Ordinance (Cap. 313).

7. Clause 43 amends the penal provision for entering or navigating within the Ngong Shuen Chau Naval Basin.

8. Clause 44 prohibits vessels from anchoring or lying at any place at which anchoring or lying is prohibited by notice posted under any regulation made under the Merchant Shipping (Local Vessels) Ordinance (Cap. 548).

9. Clause 45 adds a new Part VIA to the Shipping and Port Control Regulations (Cap. 313 sub. leg. A) to provide for the regulation and control of vessels in typhoon shelters following the repeal of the Shipping and Port Control (Typhoon Shelters) Regulations (Cap. 313 sub. leg. D)("the repealed Regulations"). The provisions in that Part empower the Director to grant permit to vessels to enter and remain in a typhoon shelter specified in the permit, to remove vessels in typhoon shelters, to require the owner or his agent or master of a vessel to produce permits for inspection and save permit granted under the repealed Regulations.

10. Part 4 provides for miscellaneous amendments to various Ordinances as set out in the Schedule. The amendments are consequential upon the enactment of the Merchant Shipping

(Local Vessels) Ordinance (Cap. 548) and its subsidiary  
legislation.



Chapter:	548	MERCHANT SHIPPING (LOCAL VESSELS) ORDINANCE	Gazette Number	Version Date
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Section:	2	Interpretation		
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Remarks:  
not yet in operation

- In this Ordinance, unless the context otherwise requires-
- "agent" (代理人) means any person acting in Hong Kong as agent for the owner of a vessel for the purposes of this Ordinance;
- "aid to navigation" (助航設備) means a lighthouse, beacon or buoy, and any cables, wires and other forms of communication apparatus connected or used with a lighthouse, beacon or buoy;
- "authorized officer" (獲授權人員) means-
- (a) the Director and any public officer of the Marine Department of or above the rank of Marine Inspector Class II;
  - (b) any police officer of or above the rank of Sergeant; and
  - (c) any public officer authorized in writing in this behalf by the Director;
- "authorized surveyor" (特許驗船師) means a person appointed under section 7(1) to be a surveyor for the purposes of this Ordinance;
- "beacon" (航標) means any light, mark or sign established as an aid to navigation, other than a lighthouse or buoy;
- "buoy" (浮標) means any floating light, mark or sign established as an aid to navigation, other than a lighthouse or beacon;
- "cargo" (貨物) means any goods, container, pallet, material and solid ballast, vessels' stores, provisions and equipment, mail and passengers' baggage, carried, or intended to be carried, in or on a vessel; (Amended 70 of 1999 s. 17)
- "cargo handling" (貨物處理) means-
- (a) the loading of cargo on, or the unloading of cargo from, a local vessel;
  - (b) the transfer of cargo within a local vessel;
  - (c) the transfer of cargo by a local vessel to or from another vessel; or
  - (d) the hoisting, lowering, moving and handling of cargo or any other thing in any manner, on or from a local vessel;
- "certificate of ownership" (擁有權證明書), in relation to a local vessel, means its certificate of ownership issued under regulations made under section 89;
- "certificated" (領有證明書) means certificated under regulations made under section 89;
- "class" (類別), in relation to a vessel, includes type;
- "code of practice" (工作守則) includes-
- (a) a standard;
  - (b) a specification; and
  - (c) any other documentary form of practical guidance;
- "collision regulations" (《碰撞規例》) means the Merchant Shipping (Safety) (Signals of Distress and Prevention of Collisions) Regulations (Cap 369 sub. leg.);
- "Committee" (諮委會) means the Local Vessels Advisory Committee established under section 4(1);
- "coxswain" (船長), in relation to a local vessel, means the person having for the time being the charge or command of the vessel; but where there is no such person or the vessel is in the charge or command of a person under the age of 16, it means the person whose name appears in the vessel's certificate of ownership;

"crew" (船員) means the coxswain and any other person employed or engaged in any capacity on board a local vessel on the business of the vessel;

"dangerous goods" (危險貨物) means dangerous goods within the meaning of section 1 of the Merchant Shipping (Safety) (Dangerous Goods and Marine Pollutants) Regulation (Cap 413 sub. leg.);

"dead vessel" (廢置船隻) means any local vessel, other than a laid-up vessel which has a written permission under section 66 which is in force, which-

- (a) is, for any reason, unable to proceed under its own power;
- (b) is, for any reason, unable to manoeuvre with its own steering gear;
- (c) is, for any reason, unable to work its own anchors; or
- (d) has any part of the hull structure removed, or under repair, which may affect the water-tight integrity of the vessel;

"detention order" (扣留令) means a notice under section 52(4);

"Director" (處長) means the Director of Marine;

"domestic premises" (住宅處所) means any premises used wholly or mainly for residential purposes and constituting a separate household unit;

"dwelling vessel" (住家船隻) means a local vessel which-

- (a) is used, constructed or adapted principally for dwelling purposes; and
- (b) tends to remain stationary in any area of the waters of Hong Kong;

"dynamically supported craft" (動力承托的航行器) means a passenger carrying vessel that is operable-

- (a) on or above water and the weight of which, or a significant part thereof, is balanced in one mode of operation by other than hydrostatic forces; or
- (b) at speeds such that the function  $V(gL)^{-1/2}$  is equal to, or greater than, 0.9:

Where, in consistent units-

"V" means maximum speed;

"g" means the acceleration force due to gravity;

"L" means the waterline length;

"engine operator" (輪機操作員), in relation to a local vessel, means the person who is in charge of the vessel's machinery;

"Government surveyor" (政府驗船師) means a person appointed under section 5 of the Merchant Shipping (Safety) Ordinance (Cap 369) to be a Government surveyor;

"identity card" (身分證) means an identity card within the meaning of the Registration of Persons Ordinance (Cap 177);

"improvement notice" (敦促改善通知書) means a notice under section 73(1);

"junk" (中式帆船) includes any vessel-

- (a) of Chinese or other Asiatic build, construction or rig;
- (b) of Chinese or other Asiatic build and construction but of European rig; or
- (c) of European build and construction, but of Chinese or other Asiatic rig,

whether such vessel is of a sea-going type or not and whether mechanically propelled or not;

"licensed" (已領牌、領牌) means licensed under regulations made under section 89;

"lifting appliance" (起重裝置) means a crane, winch, hoist, derrick boom, sheer legs, excavator, pile driver, pile extractor, fork lift truck or other self-propelled machine, and any other description of lifting appliance, derrick and mast bands, goose-necks, eyebolts, and all other permanent attachments to a derrick, mast or deck, used on a vessel for the purposes of hoisting or lowering in connection with works; (Amended 70 of 1999 s. 17)

"lifting gear" (起重工具) includes a chain sling, rope sling, canvas sling, net, tray, board, box, bull rope, snotter, can hook or other means of supporting cargo and attachments thereto including a ring, link, hooks, plate, clamp, shackle, swivel, eyebolt, bridle, beam, spreader, rope and wire, used on a vessel in connection with works; (Amended 70 of 1999 s. 17)

"lighthouse" (燈塔) includes a lightship and any floating or other light exhibited for the guidance of vessels, other than a beacon or buoy;

"local certificate of competency" (本地合格證明書) means a certificate of competency issued under Part V;

"local vessel" (本地船隻) means-

- (a) any vessel used solely within the waters of Hong Kong, whether registered under the Merchant Shipping (Registration) Ordinance (Cap 415) or in a place outside Hong Kong;
- (b) any vessel regularly employed in trading to or from Hong Kong unless registered in a place outside Hong Kong;
- (c) any vessel possessed or used for pleasure purposes in the waters of Hong Kong;
- (d) any vessel employed in sea fishing plying regularly in the waters of Hong Kong, or using the waters of Hong Kong as a base; or
- (e) any vessel, not being a vessel referred to in paragraph (a), (b), (c) or (d), in respect of which a permit referred to in section 89(2) is in force;

"material" (物料) includes construction material, waste material and debris; (Added 70 of 1999 s. 17)

"mooring" (繫泊設備) includes a mooring dolphin or post, buoy, pontoon, floating pier or other floating structure used for the mooring of vessels or to assist in the embarkation or disembarkation to or from vessels;

"non-domestic premises" (非住宅處所) means any premises other than domestic premises;

"operating licence" (運作牌照), in relation to a local vessel, means its licence issued under regulations made under section 89;

"owner" (船東), in relation to a local vessel, means-

- (a) the person or persons named in the vessel's certificate of ownership as the owner of the vessel;
- (b) in the absence of such a certificate, the person or persons owning the vessel;

"passenger" (乘客) means any person carried in a vessel other than-

- (a) a member of the crew;
- (b) a child under 1 year of age;

"place on land" (陸上地方) means-

- (a) any premises, building or vehicle on land;
- (b) any building, structure or object erected or placed on the bed or shore of the sea; or
- (c) anything afloat (other than a vessel) if it is anchored or attached to the bed or shore of the sea;

"pleasure vessel" (遊樂船隻) means any launch, yacht, inflatable vessel, junk, lorcha or other vessel that-

- (a) has an engine installed in it, or is designed to have an engine installed in it or carried on it, whereby the vessel may be propelled by mechanical means;
- (b) is possessed or used exclusively for pleasure purposes; and
- (c) is not let for hire or reward other than under the terms of a charter agreement in writing or hire-purchase agreement in writing,

but does not include any launch, yacht, inflatable vessel, junk, lorcha or other vessel that has never been launched in the waters of Hong Kong;

"pleasure vessel operator" (遊樂船隻操作人), in relation to a pleasure vessel, means a person who is in charge of the vessel;

"port" (港口) means any area of the waters of Hong Kong which is declared to be a port under section 56 of the Shipping and Port Control Ordinance (Cap 313);

"port facility" (港口設施) means any aid to navigation, mooring or signal station;

"signal station" (信號站) means a signal station as specified in regulations made under the Shipping and Port Control Ordinance (Cap 313);

"specified" (指明), in relation to a form, means specified under section 71;

"tidal water" (感潮水域) means any part of the sea or of a river within the ebb and flow of the tide at ordinary spring tides;

"use of signals of distress regulations" (《使用遇險訊號規例》) means the Merchant Shipping (Safety) (Use of Signals of Distress) Regulations (Cap 369 sub. leg.);

"vessel" (船隻) includes-

- (a) any ship, junk, boat, dynamically supported craft, seaplane, or any other description of vessel used in navigation; and
- (b) any other description of vessel in Hong Kong or in the waters of Hong Kong not used in navigation or not constructed or adapted for use in navigation.

Chapter:	548	MERCHANT SHIPPING (LOCAL VESSELS) ORDINANCE	Gazette Number	Version Date
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Section:	3	Application		
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Remarks:  
not yet in operation

(1) Subject to subsections (2), (3) and (4), this Ordinance shall, except where otherwise specially provided, apply to all local vessels whether in or beyond the waters of Hong Kong.

(2) Subject to subsection (3), this Ordinance shall, except where otherwise specially provided, apply to a local vessel referred to in paragraph (e) of the definition of "local vessel" in section 2 only while it is within the waters of Hong Kong.

(3) Parts IV and V shall not apply to a local vessel-

- (a) referred to in paragraph (e) of the definition of "local vessel" in section 2; or
- (b) for the time being used for any purpose by the Government.

(4) This Ordinance shall not apply to any local vessel certified, under the provisions of the Merchant Shipping (Safety) Ordinance (Cap 369), as a passenger ship.

(5) Nothing in this Ordinance shall derogate from the provisions of any other law.

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Section:	7	Authorization of surveyors		
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Remarks:  
not yet in operation

(1) The Director may authorize in writing a person, or a person belonging to a class of persons, who is not a public officer to be a surveyor for the purposes of this Ordinance subject to such conditions, if any, as the Director thinks fit and specified in the authorization.

(2) Where the Director refuses to authorize a person as a surveyor for the purposes of this Ordinance, or authorizes a person as a surveyor for the purposes of this Ordinance subject to conditions, he shall serve a notice in writing on the person setting out the reasons for the refusal or conditions, as the case may be.

(3) Where the Director is satisfied that an authorized surveyor has contravened any of the conditions of his authorization, he may serve a notice in writing on the surveyor revoking the authorization and setting out the reasons for the revocation.

(4) The Director, or a Government surveyor authorized in writing by the Director to do so, may carry out an audit check of any survey carried out by an authorized surveyor for the purposes of this Ordinance.

(5) For the avoidance of doubt, it is hereby declared that the Director may authorize a person as a surveyor for the purposes of this Ordinance subject to the condition that he is such a surveyor only in relation to a local vessel of which he is the owner.

(6) A certificate in the specified form issued by a Government surveyor, or surveyor authorized for the purposes of this Ordinance, in respect of a survey carried out on a local vessel may have endorsed on it a statement to the effect that the vessel is not fit to operate safely-

- (a) beyond the waters of Hong Kong;
- (b) in such other waters, if any, as are specified in the certificate.

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Section:	10	Application		
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Remarks:  
not yet in operation

#### PART IV

#### CERTIFICATION AND LICENSING OF LOCAL VESSELS

This Part shall not apply to any local vessel-

- (a) which is a pleasure vessel-
  - (i) from a place outside Hong Kong; and
  - (ii) which does not remain in the waters of Hong Kong for more than 182 days out of 365 consecutive days;
- (b) which is a pleasure vessel-
  - (i) not fitted with an engine; and
  - (ii) in the opinion of the Director, incapable of being fitted with an engine;
- (c) which is a licensed dwelling vessel;
- (d) which has never been launched.

Chapter:	548	MERCHANT SHIPPING (LOCAL VESSELS) ORDINANCE	Gazette Number	Version Date
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Section:	13	Certificated local vessel must be licensed		
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Remarks:  
not yet in operation

(1) Every certificated local vessel shall be annually licensed except that this subsection shall not apply during any period when the vessel is the subject of a written permission under section 66 which is in force.

(2) Where subsection (1) is contravened, the owner of the local vessel, his agent and the coxswain commit an offence and each of them is liable on conviction to a fine at level 4 and to imprisonment for 1 year.

Chapter:	548	MERCHANT SHIPPING (LOCAL VESSELS) ORDINANCE	Gazette Number	Version Date
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Section:	37	Interpretation		
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Remarks:  
not yet in operation

## PART VIII

### WORKS

(Amended 70 of 1999 s. 18)

In this Part, unless the context otherwise requires-  
"approved code" (《守則》) means a code of practice issued under section 45A; (Added 70 of 1999 s. 19)

"crane" (起重機) means any appliance equipped with mechanical means of hoisting and lowering a load and for transporting the load while suspended; and also all chains, ropes, swivels, or other tackle (down to and including the hook), used in the operation of the appliance; but does not include-

- (a) a hoist block running on a fixed rail or wire;
- (b) a stacker or conveyer whereby a load is moved by means of a belt or platform; or
- (c) an earth or mineral moving or excavating appliance not fitted with a grab; (Added 70 of 1999 s. 19)

"inspector" (督察) means a person appointed under section 39;

"machinery, equipment or appliance" (機械、裝備或裝置), in the case of-

- (a) repairs to a local vessel, means any machinery, equipment or appliance provided or used for that purpose;
- (b) the breaking up of a local vessel, means any machinery, equipment or appliance provided or used for that purpose;
- (c) cargo handling, means any lifting appliance or lifting gear provided or used for that purpose;
- (d) marine construction, means any machinery, equipment or appliance provided or used for that purpose; (Added 70 of 1999 s. 19)

"marine construction" (海上建造工程) means any construction or reclamation works, including dredging, drilling, pipe laying, buoy laying, cable laying and caisson construction, in which local vessels are used; (Added 70 of 1999 s. 19)

"person in charge of works" (工程負責人) means-

- (a) the owner or coxswain of, or other person having control over, a local vessel on, to or by means of which any works are to be, or are being, carried out; (Amended 70 of 1999 s. 19)
- (b) a principal contractor or sub-contractor, if any, who contracts to carry out, or who carries out, any works; or (Amended 70 of 1999 s. 19)
- (c) any other person having for the time being in command or charge of any works being carried out on, to or by means of a local vessel; (Added 70 of 1999 s. 19)

"principal contractor" (總承判商) means a person who enters into a contract directly with the owner or coxswain of, or other person having control over, a local vessel to carry out any works;

"repairs" (修理), in relation to-

- (a) any local vessel, means any repairs, alterations or maintenance works on or to the vessel carried out by any person other than a member of the crew or coxswain of

the vessel or that involve or are likely to involve the safety of any person other than a member of the crew or the coxswain; and

- (b) any local vessel carrying dangerous goods, means any repairs, alterations or maintenance works on or to the vessel capable of providing an ignition source, including those that involve welding, burning or the use of blow lamps, braziers or other devices using combustible materials;

"sub-contractor" (次承判商) means-

- (a) any person who enters into a contract, express or implied, with a principal contractor to perform all or any part of the works which the principal contractor has contracted to perform; and
- (b) any other person who enters into a contract, express or implied, to perform all or any part of the works which a sub-contractor within the meaning of paragraph (a) has contracted to perform;

"works" (工程) means-

- (a) repairs to any local vessel;
- (b) the breaking up of a local vessel; (Amended 70 of 1999 s. 19)
- (c) cargo handling on a local vessel; or (Amended 70 of 1999 s. 19)
- (d) marine construction. (Added 70 of 1999 s. 19)

Chapter:	548	MERCHANT SHIPPING (LOCAL VESSELS) ORDINANCE	Gazette Number	Version Date
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Section:	57	Duty to report collisions, etc.		
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Remarks:  
not yet in operation

## PART XI

### DUTIES TO REPORT COLLISIONS AND FIRES, ETC.

- (1) Where, within the waters of Hong Kong or elsewhere-
  - (a) a local vessel is involved in a collision with another vessel, a port facility or other property;
  - (b) a local vessel sinks or becomes stranded or disabled;
  - (c) a person is killed or seriously injured on board a local vessel as a result of an accident;
  - (d) an explosion or fire occurs on board a local vessel;
  - (e) damage is caused by a local vessel to a port facility or other property; or
  - (f) a person, cargo or equipment is lost overboard from a local vessel,

the owner of the vessel, his agent or the coxswain shall report the occurrence forthwith to the Director orally, by means of signals, or in writing and shall furnish to the Director in writing full particulars thereof within 24 hours after the occurrence.

- (2) The owner of a local vessel, his agent or the coxswain who-
  - (a) without reasonable excuse fails to comply with subsection (1); or
  - (b) makes a report or furnishes any particulars under subsection (1) which he knows to be false in any material particular,

commits an offence and is liable on conviction to a fine at level 3.

- (3) For the purpose of subsection (1)(c), a person shall be deemed to be seriously injured if he is admitted to a hospital immediately after he sustains the injury for observation or treatment.

Chapter:	548	MERCHANT SHIPPING (LOCAL VESSELS) ORDINANCE	Gazette Number	Version Date
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Section:	72	Delegation by Director		
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Remarks:  
not yet in operation

(1) Subject to subsection (3), the Director may, either generally or in any particular case, delegate to any other public officer the performance or exercise on his behalf of any of the functions or powers imposed or conferred upon him under this Ordinance.

(2) Where any function or power imposed or conferred on the Director under this Ordinance is performed or exercised by any other public officer, the Director shall, unless the contrary is proved, be deemed to have delegated to the public officer under subsection (1) the performance or exercise of the function or power.

- (3) No delegation under subsection (1) shall be made of any power-
- (a) to amend a Schedule to the regulations made under this Ordinance;
  - (b) under this Ordinance to make regulations; or
  - (c) under section 69, except in respect of a provision specified in writing for the purposes of this section by the Secretary for Economic Development and Labour. (Amended L.N. 106 of 2002)

Chapter:	548	MERCHANT SHIPPING (LOCAL VESSELS) ORDINANCE	Gazette Number	Version Date
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Section:	78	False information		
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Remarks:  
not yet in operation

Without prejudice to any other provisions of this Ordinance, any person who, being required to give any information to the Director or any other person under this Ordinance, fails without reasonable excuse to give such information or gives any information, whether in writing, orally or otherwise, which he knows to be false or misleading as to a material particular commits an offence and is liable on conviction to a fine at level 2 and to imprisonment for 6 months.

Chapter:	548	MERCHANT SHIPPING (LOCAL VESSELS) ORDINANCE	Gazette Number	Version Date
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Section:	88	Regulations relating to fees		
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Remarks:  
not yet in operation

- (1) The Financial Secretary may by regulation prescribe or provide for-
- (a) fees to be paid in respect of the grant of certificates, clearances, licences, permits

and other documents, or the performance of services or surveys or grant of facilities under this Ordinance; and

- (b) fees to be paid whenever by or under this Ordinance the official signature of the Director to any certificate, authorization, consent, licence, permit or exemption, or to any alteration, transfer or renewal thereof, addition thereto or endorsement thereon, is requested or required, or wherever a search of any register kept under this Ordinance is granted.

(2) Any fees prescribed under this section may be fixed at levels which provide for the recovery of expenditure incurred or likely to be incurred by the Government or other authority in relation generally to the administration, regulation and control of the matters to which this Ordinance relates, and shall not be limited by reference to the amount of administrative or other costs incurred or likely to be incurred in the provision of any particular service, facility or matter.

Chapter:	548	MERCHANT SHIPPING (LOCAL VESSELS) ORDINANCE	Gazette Number	Version Date
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Section:	89	Regulations-general		
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Remarks:  
not yet in operation

(1) The Secretary for Economic Development and Labour may make regulations in respect of local vessels for all or any of the following matters- (Amended L.N. 106 of 2002)

- (a) the regulation, control, use and speed of vessels;
- (b) the certification of vessels;
- (c) the licensing of vessels and the renewal of licences, and in the case of vessels that have, contrary to the regulations made under this section, not been licensed for any period, for the payment of licence fees or penalty in respect of the period during which the vessels were not licensed;
- (d) the cancellation or suspension of certificates or licences;
- (e) empowering an authorized officer to seize and remove or cause to be removed from any place or premises or from any part of the waters of Hong Kong and to detain vessels, without notice to the owners thereof, which he has reason to believe are not certificated or licensed in accordance with regulations made under this section, together with any things on board and any trailer or other device whereby such vessels are transported;
- (f) the disposal by way of sale or otherwise of unclaimed vessels or things which have been seized, removed and detained pursuant to regulations made under this section and the payment of the proceeds, if any, of any such disposal into the general revenue;
- (g) the design and construction of vessels, the equipment required to be carried on board vessels and matters incidental thereto;
- (h) the accommodation for passengers and crew, and means for their safety and escape;
- (i) the life-saving appliances and fire-fighting apparatus to be provided on vessels, and the training of the crew in the use of such appliances or apparatus;
- (j) the survey or inspection of vessels and the issue (and cancellation) of certificates of survey or inspection;
- (k) the classification of vessels;
- (l) the prevention of collisions at sea, including giving effect to any international agreement applicable to Hong Kong so far as the agreement relates to the prevention of collisions at sea;
- (m) prescribing what signals may be used by vessels as signals of distress;

- (n) prescribing the circumstances in which, and the purposes for which, any such signal is to be used and the circumstances in which it is to be revoked;
- (o) prescribing the circumstances and manner in which warnings of navigational dangers shall be reported;
- (p) the employment on vessels of a coxswain and deck and engineering crew who possesses local certificates of competency, or certificates of competency recognized as equivalent to local certificates of competency by regulations made under this section;
- (q) the number and grade of crew to be employed on vessels;
- (r) the engagement and discharge of crew, their conditions of employment, and their hours of work and rest periods;
- (s) the duties of owners, their agents and crew;
- (t) regulating the noise, vibration and smoke which may be caused by vessels;
- (u) regulating the hiring of vessels and the carriage of passengers and the plying limits;
- (v) empowering the Director to provide anchorages and mooring areas for vessels, and to control and regulate their use;
- (w) the use of piers and the embarkation and disembarkation of persons;
- (x) the inquiry into charges of incompetency, misconduct or negligence of or by coxswains or deck or engineering crew and prescribing the procedure at such inquiries;
- (y) the registration of persons dwelling in any specified type or class of vessels;
- (z) empowering the Director to amend any Schedule to the regulations;
- (za) appeals to the Administrative Appeals Board-
  - (i) against any decision of the Director made under the regulations;
  - (ii) by any person aggrieved by any such decision;
- (zb) the establishment of typhoon shelters and typhoon anchorages and the control of their use and the vessels therein;
- (zc) the prohibition or control of fishing within specified areas of the waters of Hong Kong (including empowering the Director to so prohibit or control), the control of fishing by the use of bright lights, and the control of the erection and working of fishing stakes;
- (zd) prohibiting, restricting or regulating the embarkation or disembarkation of persons, the loading and unloading of cargo and goods, and the conveyance and disposal of cargo and goods unlawfully obtained;
- (ze) empowering the Director to control and regulate water sports, races, regattas or other similar activities in the waters of Hong Kong and providing for the safety of persons taking part in, or affected by, such activities;
- (zf) the packaging, marking, loading, placing, moving, inspection, stowing, securing, segregating, testing and measuring of cargo on vessels in the interests of safety of vessels and persons on them (including the health of such persons);
- (zg) prescribing the insurance that is required to be taken out for or in relation to local vessels or a class of local vessels, empowering the Director to approve insurers for the purposes of such insurance and empowering the Director to specify, by notice in the Gazette, the minimum amount of protection to be afforded by such insurance in relation to local vessels or a class of local vessels;
- (zh) the control of works, the control of salvaging of vessels, the control and use of lifting appliances and lifting gear, the safety and protection against accidents of persons employed in such works or operations, the provision of safe workplaces on local vessels, the operation, use and maintenance of hatches and hatch coverings on vessels in connection with works, and regulations made for the purpose of this paragraph may empower the Director to-
  - (i) make exemptions from the application of the regulations where he is satisfied that the regulations have been substantially complied with or where compliance therewith is unnecessary having regard to the circumstances;
  - (ii) approve any person to provide a safety training course and issue certificates

- to any person who attends the course; (Replaced 70 of 1999 s. 27)
- (zi) establishing piers and terminals and controlling their use;
  - (zj) the provision of port facilities and control over their use;
  - (zk) the procedure to be followed, and the provisions to be complied with, by vessels entering or leaving the waters of Hong Kong;
  - (zl) the prevention of hazards to navigation and the removal and disposal of objects which are a hazard to navigation;
  - (zm) the control of dead vessels, laid-up vessels, or vessels stranded, abandoned or sunk in the waters of Hong Kong, and the supply of information in relation thereto;
  - (zn) (Repealed 70 of 1999 s. 27)
  - (zo) the prevention and control of pollution of the waters of Hong Kong;
  - (zp) the control of the loading, discharge, storage and movement of logs and other timber in the waters of Hong Kong, and of the loading or discharge of logs and other timber at any public waterfront or public seawall within the waters of Hong Kong;
  - (zq) the notification of accidents involving vessels and injuries to persons on vessels within the waters of Hong Kong, and the investigation and inquiry into such accidents and injuries;
  - (zr) empowering the Director to give directions in any particular case in relation to such matters as may be specified;
  - (zs) prescribing any other matter which is to be or may be prescribed under this Ordinance;
  - (zt) generally providing for the better carrying out of the provisions and purposes of this Ordinance.

(2) The Secretary for Economic Development and Labour may make regulations providing for the issue by the Director of a permit in respect of a vessel to enable the vessel to enter and remain in the waters of Hong Kong where the vessel may not otherwise lawfully enter or remain in the waters of Hong Kong. (Amended L.N. 106 of 2002)

(3) Regulations made under this section for the regulation, control, use and licensing of dwelling vessels may-

- (a) empower the Director to declare any area of the waters of Hong Kong to be an area closed to dwelling vessels and within which no dwelling vessel may enter or remain;
- (b) empower the Director to-
  - (i) order the removal, within such time as may be prescribed, of any dwelling vessel from any part of the waters of Hong Kong being an area in respect of which a licence is required or being an area declared to be closed to dwelling vessels;
  - (ii) seize, remove and detain any dwelling vessel in respect of which an order for removal has been made and not complied with;
  - (iii) remove any person or property found on any dwelling vessel that has been seized and detained;
  - (iv) sell, by public auction or otherwise, any dwelling vessel which has been seized and detained;
  - (v) destroy or otherwise dispose of any vessel that has been seized and detained and which he is unable to sell;
  - (vi) pay any proceeds of sale of a dwelling vessel to the owner thereof, if known, or if the owner is not known or does not claim such proceeds, pay the same into general revenue;
- (c) provide for the seizure and disposal of any property found on a dwelling vessel which has been seized and detained and, in particular, may provide that any such property shall become the property of the Government free from the rights of any person and may be disposed of as the Director thinks fit;
- (d) provide for the service of an order to remove a dwelling vessel from any part of the waters of Hong Kong by affixing such order to a prominent part of the vessel.

- (4) Any regulations made under this section may empower the Director to-
- (a) prescribe, by notice in the Gazette, specifications, standards or additional requirements for the purposes of the regulations;
  - (b) issue instructions or directions providing practical guidance with respect to specifications, standards or requirements prescribed by or under the regulations; or
  - (c) grant exemptions from the requirements of the regulations, either generally or in any particular case.

(5) Any instructions or directions referred to in subsection (4)(b) and any amendment thereof shall be published in such manner as is specified in the regulations or, if not so specified, in such manner as the person issuing them thinks fit, and such publication shall be notified in the Gazette together with advice as to where copies may be obtained.

- (6) Any regulations made under this Ordinance may-
- (a) make different provisions for different circumstances and provide for a particular case or class of cases;
  - (b) be made so as to apply only in such circumstances as are prescribed by the regulations;
  - (c) be made to apply to local vessels wherever they may be;
  - (d) provide that in such cases as are prescribed by the regulations a local vessel shall be liable to be detained or delayed or refused a port clearance by such person as is prescribed by the regulations;
  - (e) authorize, or provide for the authorization of, persons to carry out inspections or other matters required by the regulations;
  - (f) be made generally for the better and more effectual carrying out of the provisions of this Ordinance, including incidental, consequential, evidential, transitional and supplemental provisions.

(7) Without prejudice to section 23 of the Interpretation and General Clauses Ordinance (Cap 1), any regulations made under this Ordinance may include regulations which provide for transitional or savings provisions in respect of any of the enactments repealed or amended by this Ordinance.

(8) Any regulations made under this section may prescribe offences in respect of contraventions of the regulations, and may provide for the imposition in respect of any such offence of a fine not exceeding level 6 and of imprisonment for a period not exceeding 2 years.

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Schedule:		SCHEDULE		
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***(Note: Only sections 32 and 40 are included)***

Remarks:  
not yet in operation

[section 91]

## CONSEQUENTIAL AMENDMENTS

Shipping and Port Control Regulations

32. Application

- Regulation 4 of the Shipping and Port Control Regulations (Cap 313 sub. leg.) is amended-
- (a) in paragraph (1), by repealing "Subject to paragraph (1A), this" and substituting "This";
  - (b) by repealing paragraph (1A).

40. Port Dues and Fees

Item 9 of the Thirteenth Schedule is repealed.

Chapter:	548A	MERCHANT SHIPPING (LOCAL VESSELS) (DWELLING VESSELS) REGULATION	Gazette Number	Version Date
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Section:	14	Director may require information		
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Remarks:  
not yet in operation

- (1) The Director may, from time to time, request the licensee of a licensed dwelling vessel to inform him of the name, age and identity card number of any person normally dwelling on the vessel at the time of the making of the request, and of the relationship of such person to the licensee.
- (2) A licensee who, having been requested to give information under subsection (1), fails to do so or gives information which he knows or reasonably ought to know to be false in a material particular, commits an offence and is liable on conviction to a fine at level 2 and to imprisonment for 6 months.

Chapter:	548B	MERCHANT SHIPPING (LOCAL VESSELS) (FERRY TERMINALS) REGULATION	Gazette Number	Version Date
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Section:	30	Offences and penalties		
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Remarks:  
not yet in operation

- (1) If without reasonable excuse section 4(2) or 5 is contravened, the coxswain of the local vessel commits an offence.
- (2) If without reasonable excuse a notice or sign exhibited under section 4(4) is contravened, the coxswain of the local vessel commits an offence.
- (3) The owner, his agent or the coxswain of a local vessel who, without reasonable excuse, fails to comply with a direction given to him under section 6 commits an offence.
- (4) The owner, his agent or the coxswain of a ferry vessel who, without reasonable excuse, fails to comply with a notice served on him under section 7, or fails to submit a return under section 8, commits an offence.

- (5) A person who, without reasonable excuse, contravenes section 9, 23(3) or 26 commits an offence.
- (6) A person who contravenes section 25 or 27 commits an offence.
- (7) A person who-
- (a) being a pass holder, without reasonable excuse, contravenes section 14(3), 17(2), 19, 20, 21 or 23(1);
  - (b) being an employer, without reasonable excuse, contravenes section 17(3), 18 or 23(2),
- commits an offence.
- (8) A person who-
- (a) makes use of or retains in his possession a pass which he knows or ought reasonably to know-
    - (i) has been cancelled; or
    - (ii) has ceased to be valid;
  - (b) without reasonable excuse, defaces, alters or destroys a pass;
  - (c) in, or in connection with, an application made under section 13 or 24 makes a statement or gives any information which he knows or ought reasonably to know is false in a material particular or recklessly makes a statement which is false in a material particular or knowingly omits any material particular;
  - (d) being a pass holder, contravenes a condition subject to which the pass was issued,
- commits an offence.
- (9) A person who contravenes section 11(1) or 14(2) commits an offence.
- (10) A person who-
- (a) commits an offence under subsection (1), (2), (3), (4), (5) or (6) is liable to a fine at level 1;
  - (b) commits an offence under subsection (7) is liable to a fine at level 2;
  - (c) commits an offence under subsection (8) is liable to a fine at level 3 and to imprisonment for 3 months;
  - (d) commits an offence under subsection (9) is liable to a fine at level 4 and to imprisonment for 6 months.

Chapter:	548D	MERCHANT SHIPPING (LOCAL VESSELS) (CERTIFICATION AND LICENSING) REGULATION	Gazette Number	Version Date
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Section:	2	Interpretation		
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Remarks:  
not yet in operation

- (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);

"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; (L.N. 63 of 2004)

"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 (Cap 548 sub. leg. E);

"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.

Chapter:	548D	MERCHANT SHIPPING (LOCAL VESSELS) (CERTIFICATION AND LICENSING) REGULATION	Gazette Number	Version Date
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Section:	6	Restrictions on Class IV vessels		
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Remarks:  
not yet in operation

- (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 (Cap 548 sub. leg. D);
    - (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.

Chapter:	548D	MERCHANT SHIPPING (LOCAL VESSELS) (CERTIFICATION AND LICENSING) REGULATION	Gazette Number	Version Date
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Section:	8	Resignation, etc. of agent		
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Remarks:  
not yet in operation

(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.

Chapter:	548D	MERCHANT SHIPPING (LOCAL VESSELS) (CERTIFICATION AND LICENSING) REGULATION	Gazette Number	Version Date
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Section:	15	Application for full licence		
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Remarks:  
not yet in operation

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

(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.

Chapter:	548D	MERCHANT SHIPPING (LOCAL VESSELS) (CERTIFICATION AND LICENSING) REGULATION	Gazette Number	Version Date
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Section:	23	Certificate of ownership, full licence, etc. in favour of new owner after transfer of local vessel		
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Remarks:  
not yet in operation

(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) If the Director refuses an application under subsection (2), he shall notify the applicant of the refusal and the reasons therefor. (L.N. 63 of 2004)
- (6) 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. (L.N. 63 of 2004)
- (7) Any person who without reasonable excuse contravenes subsection (6) commits an offence and is liable on conviction to a fine at level 3. (L.N. 63 of 2004)

Chapter:	548D	MERCHANT SHIPPING (LOCAL VESSELS) (CERTIFICATION AND LICENSING) REGULATION	Gazette Number	Version Date
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Section:	26	Person entitled to local vessel on owner's death may be interim owner		
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Remarks:

not yet in operation

(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.

(5) If the Director refuses an application under subsection (2), he shall notify the applicant of the refusal and the reasons therefor. (L.N. 63 of 2004)

Chapter:	548D	MERCHANT SHIPPING (LOCAL VESSELS) (CERTIFICATION AND LICENSING) REGULATION	Gazette Number	Version Date
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Section:	52	Offences for false statements or information		
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Remarks:  
not yet in operation

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.

Chapter:	548E	MERCHANT SHIPPING (LOCAL VESSELS) (TYPHOON SHELTERS) REGULATION	Gazette Number	Version Date
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Section:	2	Interpretation		
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Remarks:  
not yet in operation

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.

Chapter:	548E	MERCHANT SHIPPING (LOCAL VESSELS) (TYPHOON SHELTERS) REGULATION	Gazette Number	Version Date
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Section:	10	Offences		
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Remarks:  
not yet in operation

- (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.

Chapter:	281	MERCHANT SHIPPING ORDINANCE	Gazette Number	Version Date
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Section:	94	Regulations applicable to trawlers	64 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 64 of 1999 s. 3

(1) Without prejudice to the generality of other powers to make regulations conferred by this Ordinance, and without prejudice to the application of regulations made under such other powers except so far as they are inconsistent with regulations made under this section, the Chief Executive in Council may by regulation control, prescribe or provide for- (Amended 64 of 1999 s. 3)

- (a) the registry and conditions of sale and mortgage of trawlers, and the keeping of a trawler register and issuance of identification letters and numbers to such vessel;
- (b) the forms, period and conditions of agreement of crew, of reports of crew and of statements of change of crew, of wage accounts and certificates of discharge of crew, of records and reports of death, injuries, ill-treatment or punishment of crew and of every casualty to a trawler;
- (c) maintenance of discipline on board trawlers and also for the prevention of disorder and confusion;
- (d) the maintaining of a register of trawling masters and trawling engineers; (Replaced 73 of 1974 s. 4)
- (e) duties and obligations of the owners, agents, masters, masters for the time being, engineers and crew of trawlers and the institution of inquiries into disputes between the above persons, and of inquiries into deaths, injuries, ill-treatment or punishment of crew;
- (f) adequate means for preventing, by force if necessary, any trawlers from leaving, or attempting to leave the waters of Hong Kong or any port thereof in contravention of this Ordinance or of any regulations made thereunder; (Amended 61 of 1989 s. 13)
- (g) examination, approval of suitability and annual or periodic surveys of trawlers, including hulls, machinery and equipment, for the purpose of certifying in such form as may be prescribed that such vessels are fit for their intended service;
- (h) scale of manning suitable for the intended service of trawlers to ensure that trawlers are not over nor undermanned, and to ensure that trawlers are not carrying passengers, save that the Director may permit experts or observers to be signed on as members of the crew for specific purposes or duties;
- (i) regulation of entry of boys under 16 years of age into the sea-fishing service, and prescribing of forms of indenture and agreements with such boys and their

- enforcement; and
- (j) fees in respect of registration, permits, clearances, certificates, surveys and other documents or services relating to trawlers not otherwise provided for under this Ordinance.

(2) The Director may exempt any trawler from the provisions of any regulation made hereunder if he is satisfied that compliance therewith is either impracticable or unreasonable.

Chapter:	281L	MERCHANT SHIPPING (TRAWLER SURVEY) REGULATIONS	Gazette Number	Version Date
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Schedule:	1	INSTRUCTIONS TO SURVEYORS		30/06/1997
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[regulation 6(2)]

### SURVEY OF TRAWLERS

1. Examination of a trawler shall, if possible, be carried out in the presence of the owner, agent or master of the trawler.

2. A trawler shall be examined to ascertain whether it is fit for the service intended and in particular to ensure-

- (a) that the hull, superstructure and underwater fittings are in good condition and watertight. For the purpose of examining the hull, a trawler shall be dry docked or hauled out on a slipway;
- (b) that the watertight bulkheads and internal spaces are in good condition. If a Government surveyor considers it necessary, he may examine any internal space or require an hydraulic pressure test on any tank or watertight space;
- (c) that the protection of openings, guard rails and freeing ports is effective;
- (d) that the fuel oil tanks and piping installation are safe from undue risk of fire or explosion;
- (e) that the machinery installation is safe from undue risk of fire or explosion and is in satisfactory working condition for proceeding ahead and astern;
- (f) that the bilge pumping and draining systems are sufficient and in good working condition;
- (g) that the steering gear is in good working condition;
- (h) that the boilers and pressure vessels are safe. An external examination shall be carried out at least once in every 12 months and an internal examination at least once in every 24 months. A Government surveyor may require a hydraulic pressure test if the inside is inaccessible or for any other reason;
- (i) that it complies with the Merchant Shipping (Fire Appliances) Regulations (Cap 369 sub. leg.);
- (j) that it complies with the Merchant Shipping (Life Saving Appliances) Regulations (Cap 369 sub. leg.);
- (k) that its light and sound signals comply with the International Collision Regulations.

3. In the case of a survey of a new trawler, a Government surveyor shall, subject to paragraph 2, make a declaration of survey if the trawler has been constructed in accordance with plans approved by the Director under regulation 14. Such plans shall be in respect of-

- (a) the general arrangement, including arrangement of watertight bulkheads;
- (b) the construction, showing proposed scantlings;
- (c) propeller shafting and stern tube, showing materials, scantlings and design details;
- (d) fuel oil tanks and piping arrangement;

- (e) bilge pumping and draining arrangements;
- (f) fire fighting arrangements;
- (g) any other detail as may be required by the Director.

4. If survey of a trawler is carried out by more than one Government surveyor, each such surveyor shall make a declaration of survey respect of any item in the declaration of survey which concerns him and cancel the rest of the items. All such declarations of survey shall be considered together for the issue of a certificate of survey.

Chapter:	281L	MERCHANT SHIPPING (TRAWLER SURVEY) REGULATIONS	Gazette Number	Version Date
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Schedule:	2			30/06/1997
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[regulation 6(3)]

FORM 1

MERCHANT SHIPPING (TRAWLER SURVEY) REGULATIONS

DECLARATION OF SURVEY

Name of Ship	Port of Registry Official Number	Gross Tonnage	Name & Address of Owner, Agent or Master
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I hereby declare:-

1. That on ..... I completed the inspection of the above-named ship.
2. That the hull, closing appliances, freeing ports, guard rails, machinery installation, fuel oil installation, pressure vessels, bilge pumping and draining, and steering gear are in all respects satisfactory for the purpose intended, and will in my judgment be sufficient until .....
3. That the lifeboats, liferafts, their launching appliances and other life-saving appliances provide for a maximum total number of .....
4. That the life-saving appliances, navigation lights and shapes, means of making light and sound signals are such and in such condition as are required by the Merchant Shipping (Life Saving Appliances) Regulations (Cap 281 sub. leg.) and the International Collision Regulations and will in my judgment be sufficient until .....
5. That the fire-extinguishing appliances are such and in such condition as are required by

the Merchant Shipping (Fire Appliances) Regulations (Cap 281 sub. leg.) and will in my judgment be sufficient until .....

Dated at Hong Kong, this ..... day of ..... 19 .....

.....  
Government Surveyor

FORM 2

[regulation 7]

MERCHANT SHIPPING (TRAWLER SURVEY) REGULATIONS

CERTIFICATE OF SURVEY

Name of Ship	Port of Registry Official Number	Gross Tonnage
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This is to certify:-

1. That the above-mentioned ship has been duly surveyed in accordance with the provisions of the Merchant Shipping (Trawler Survey) Regulations.
2. That the hull, closing appliances, freeing ports, guard rails, machinery installation, fuel oil installation, pressure vessels, bilge pumping and draining, and steering gear are in all respects satisfactory for the purpose intended.
3. That the lifeboats, liferafts, their launching appliances and other life-saving appliances provide for a maximum total number of .....
4. That the life-saving appliances, fire fighting appliances, navigation lights and shapes, means of making light and sound signals are such and in such condition as are required by the Merchant Shipping Ordinance (Cap 281).
5. That in all other respects the ship complies with the requirements of the Merchant Shipping Ordinance (Cap 281) as far as its provisions apply thereto.

This certificate is issued by the Director of Marine, Hong Kong. It will remain in force, unless previously cancelled until .....

Issued at Hong Kong, the ..... day of ..... 19 .....

.....  
Director of Marine.  
(L.N. 543 of 1996)

Chapter:	295C	DANGEROUS GOODS (SHIPPING) REGULATIONS	Gazette Number	Version Date
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Regulation:	12	Permits required for carriage of dangerous goods in type III vessels	L.N. 35 of 2001	16/03/2001
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#### PART IV

##### PROVISIONS RELATING TO TYPE III VESSELS

(1) No type III vessel shall be used for the conveyance of any dangerous goods except with the permission in writing of the Director granted in respect of such vessel.

(2) Without prejudice to the provisions of paragraph (1), no dangerous goods shall be conveyed in any type III vessel except with the prior permission in writing of the Director granted in respect of such goods:

Provided that where for any reason it is not, in the opinion of the Director, practicable to grant such permission in writing, he may grant verbal permission to be confirmed thereafter in writing within 24 hours, general holidays excepted.

(3) For the purposes of paragraph (1), no permission in writing shall be granted unless the Director is satisfied that the vessel is in all respects suitable and fit for the conveyance of dangerous goods and is adequately equipped with fire fighting appliances; and any such permission, or any permission in writing granted for the purposes of paragraph (2), may be granted subject to such conditions or restrictions as the Director may think fit.

(4) Nothing in this regulation shall apply to the conveyance of any quantity of dangerous goods exempted from the application of the provisions of section 6 of the Ordinance by virtue of any of the provisions of the Dangerous Goods (General) Regulations (Cap 295 sub. leg.).

(5) Nothing in this regulation shall apply to the conveyance of any dangerous goods in category 1 which are materials within the meaning of pyrotechnic special effects material under the Entertainment Special Effects Ordinance (Cap 560) if and only if such conveyance is in accordance with the requirements specified in regulations made under section 26 of the Entertainment Special Effects Ordinance (Cap 560). (41 of 2000 s. 63)

(6) Nothing in this regulation shall apply to the conveyance of liquefied petroleum gas in a cylinder having a water capacity of less than 130 litres or a combination of cylinders having a combined water capacity of less than 130 litres if and only if the conveyance of such liquefied petroleum gas is for and incidental to the production of entertainment special effects within the meaning of the Entertainment Special Effects Ordinance (Cap 560). (41 of 2000 s. 63)

Chapter:	295C	DANGEROUS GOODS (SHIPPING) REGULATIONS	Gazette Number	Version Date
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Regulation:	17	Special restrictions relating to type III vessels conveying explosives and certain inflammables	L.N. 35 of 2001	16/03/2001
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(1) Except with the permission of the Director, no type III vessel while conveying any dangerous goods in category 1 or category 5, class 1 or 2 shall- (41 of 2000 s. 65)

(a) convey any other goods;

(b) enter or remain in any typhoon shelter specified in the Schedule to the Shipping

and Port Control (Typhoon Shelters) Regulations (Cap 313 sub. leg.); (L.N. 96 of 1974)

- (c) enter any dock or carry out in the harbour any repairs, other than running repairs to machinery for the safe operation of the vessel;
- (d) except with the permission of the Director, be underway in the harbour between the hours of sunset and sunrise, except by reason of stress of weather or other unforeseen circumstance beyond the control of the owner, agent or master of the vessel; or
- (e) anchor or berth-
  - (i) in the case of a vessel carrying dangerous goods in category 1, otherwise than alongside another vessel for the purpose of loading or discharging such goods and for such duration only between the hours of sunrise and sunset as is reasonably required for that purpose, or in the western dangerous goods anchorage, or as may otherwise be specified in a valid removal permit relating to the transport of such goods or as may otherwise be permitted in each case by the Director;
  - (ii) in the case of a vessel carrying dangerous goods in category 5, class 1 or 2, otherwise than alongside another vessel for the purpose of loading or discharging such goods and for such duration only as is reasonably required for that purpose, or alongside an approved petroleum wharf or in a dangerous goods anchorage other than the western dangerous goods anchorage, or as may otherwise be permitted in each case by the Director; and
  - (iii) notwithstanding sub-paragraphs (i) and (ii), in the case of a vessel carrying a freight container containing dangerous goods in category 1 or category 5, class 1 or 2, otherwise than alongside an approved container terminal, or as may otherwise be permitted in each case by the Director. (L.N. 96 of 1974)

(2) Nothing in paragraph (1)(a) and (e)(i) and (ii) shall apply to any type III vessel which has been exempted from the application of regulation 12 by virtue of regulation 12(4) or (5). (41 of 2000 s. 65)

Chapter:	313	SHIPPING AND PORT CONTROL ORDINANCE	Gazette Number	Version Date
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Section:	2	Interpretation	L.N. 319 of 1999	17/12/1999
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- In this Ordinance, unless the context otherwise requires-
- "agent" (代理人) means any person acting in Hong Kong as agent for the owner of a vessel for the purposes of this Ordinance;
- "aid to navigation" (助航設備) means a lighthouse, beacon or buoy, and any cables, wires and other forms of communication apparatus connected or used with a lighthouse, beacon or buoy;
- "authorized officer" (獲授權人員) means-
- (a) the Director and any public officer of the Marine Department of or above the rank of Marine Inspector Class II; (Amended 46 of 1981 s. 3)
  - (b) any police officer of or above the rank of Sergeant; and (Amended 60 of 1979 s. 2)
  - (c) any public officer authorized in writing in this behalf by the Director;
- "beacon" (航標) means any light, mark or sign established as an aid to navigation, other than a lighthouse or buoy;
- "buoy" (浮標) means any floating light, mark or sign established as an aid to navigation, other

than a lighthouse or beacon;

"cargo" (貨物) means any goods, container, pallet, material and solid ballast, ships' stores, provisions and equipment, mail and passengers' baggage, carried, or intended to be carried, in or on a vessel; (Amended 70 of 1999 s. 3)

"cargo handling" (貨物處理) means-

- (a) the loading of cargo on, or the unloading of cargo from, a vessel;
- (b) the transfer of cargo within a vessel; or
- (c) the hoisting, lowering, moving and handling of cargo or any other thing in any manner, on or from a vessel;

"collision regulations" (碰撞規例) means the Merchant Shipping (Safety) (Signals of Distress and Prevention of Collisions) Regulations (Cap 369 sub. leg. N); (Added 57 of 1990 s. 3)

"dangerous goods" (危險品) means the substances and articles which are specified in the Schedule to the Dangerous Goods (Application and Exemption) Regulations (Cap 295 sub. leg. A);

"dead ship" (廢船) means any ship exceeding 50 metres in length, other than a laid-up vessel, which-

- (a) is, for any reason, unable to proceed under its own power;
- (b) is, for any reason, unable to manoeuvre with its own steering gear;
- (c) is, for any reason, unable to work its own anchors; or
- (d) has any part of the hull structure removed, or under repair, which may affect the water-tight integrity of the ship;

"Director" (處長) means the Director of Marine;

"dynamically supported craft" (動力承托的航行器) means a craft that is operable on or above water and the weight of which, or a significant part thereof, is balanced in one mode of operation by other than hydrostatic forces;

"junk" (中式帆船) includes any vessel-

- (a) of Chinese or other Asiatic build, construction or rig;
- (b) of Chinese or other Asiatic build and construction but of European rig; or (Amended L.N. 386 of 1993)
- (c) of European build and construction, but of Chinese or other Asiatic rig,

whether such vessel is of a sea-going type or not and whether mechanically propelled or not;

"laid-up vessel" (閑置船隻) means any vessel exceeding 50 metres in length, other than a dead ship, which remains, or is to remain, within the waters of Hong Kong through lack of employment or pending the outcome of any legal proceedings before any court;

"lighthouse" (燈塔) includes a lightship and any floating or other light exhibited for the guidance of ships, other than a beacon or buoy;

"master" (船長), in relation to a vessel other than a vessel to which Part IV applies, means the person (except a pilot) having for the time being command or charge of the vessel;

"material" (物料) includes construction material, waste material and debris; (Added 70 of 1999 s. 3)

"mooring" (繫泊設備) includes a mooring dolphin or post, buoy, pontoon, floating pier or other floating structure used for the mooring of vessels or to assist in the embarkation or disembarkation to or from vessels;

"owner" (擁有人)-

- (a) in relation to a vessel, means-
  - (i) the person or persons registered or licensed as the owner of the vessel, or in the absence of registration or licensing, the person or persons owning the vessel, except that in relation to a vessel owned by a State which is operated by a person registered as the vessel's operator, it means the person registered as its operator; or
  - (ii) a demise charterer of the vessel; and

- (b) in relation to cargo, includes-
  - (i) the consignor, consignee or shipper of the cargo; and
  - (ii) the agent of the owner of the cargo;

"pilot" (領港員) means the person who is a pilot within the meaning of the Pilotage Ordinance (Cap 84);

"place on land" (陸上地方) means-

- (a) any premises, building or vehicle on land;
- (b) any building, structure or object erected or placed on the bed or shore of the sea; or
- (c) anything afloat (other than a vessel) if it is anchored or attached to the bed or shore of the sea;

"port" (港口) means any area of the waters of Hong Kong which is declared to be a port under section 56;

"port dues" (港口費) means any due, fee or charge payable under this Ordinance in respect of a vessel which enters the waters of Hong Kong or uses any port facility;

"port facility" (港口設施) means any aid to navigation, mooring or signal station;

"river trade limits" (內河航限) means-

- (a) the waters in the vicinity of Hong Kong within the following boundaries-
  - (i) to the East, meridian 114<sup>0</sup> 30' East;
  - (ii) to the South, parallel 22<sup>0</sup> 09' North; and
  - (iii) to the West, meridian 113<sup>0</sup> 31' East; and
- (b) all inland waterways in the provinces of Kwangtung and Kwangsi on the mainland of China to which access can be obtained by water from the area defined in paragraph (a);

"ship" (船、船舶) means any vessel used in navigation other than a vessel propelled by oars or a junk;

"signal station" (信號站) means a signal station so specified by regulations made under this Ordinance;

"tidal water" (感潮水域) means any part of the sea or of a river within the ebb and flow of the tide at ordinary spring tides;

"tons" (噸) and "tonnage" (噸位) mean tons and tonnage as calculated according to the Merchant Shipping (Registration) (Tonnage) Regulations (Cap 415 sub. leg. C); (Amended 64 of 1999 s. 3)

"use of signals of distress regulations" (《使用遇險訊號規例》) means the Merchant Shipping (Safety) (Use of Signals of Distress) Regulations (Cap 369 sub. leg. O); (Added 57 of 1990 s. 3. Amended 70 of 1999 s. 3)

"vessel" (船隻) includes-

- (a) any ship, junk, boat, dynamically supported craft, seaplane, or any other description of vessel used in navigation; and
- (b) any other description of vessel in Hong Kong or in the waters of Hong Kong not used in navigation or not constructed or adapted for use in navigation; (Amended 46 of 1981 s. 3)

"waters of Hong Kong" (香港水域) means waters of Hong Kong within the meaning of section 3 of the Interpretation and General Clauses Ordinance (Cap 1). (Replaced 26 of 1998 s. 44)  
(Amended 57 of 1990 s. 3)

Chapter:	313	SHIPPING AND PORT CONTROL ORDINANCE	Gazette Number	Version Date
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Section:	36	Interpretation	L.N. 319 of 1999	17/12/1999
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## PART V

### WORKS

(Amended 70 of 1999 s. 6)

- In this Part, unless the context otherwise requires-
- "approved code" (《守則》) means a code of practice issued under section 44A; (Added 70 of 1999 s. 7)
- "crane" (起重機) means any appliance equipped with mechanical means of hoisting and lowering a load and for transporting the load while suspended; and also all chains, ropes, swivels, or other tackle (down to and including the hook), used in the operation of the appliance; but does not include-
- a hoist block running on a fixed rail or wire;
  - a stacker or conveyer whereby a load is moved by means of a belt or platform; or
  - an earth or mineral moving or excavating appliance not fitted with a grab;
- (Added 70 of 1999 s. 7)
- "inspector" (督察) means a person appointed under section 38 to be an inspector;
- "lifting appliance" (起重裝置) means a crane, winch, hoist, derrick boom, sheer legs, excavator, pile driver, pile extractor, fork lift truck or other self-propelled machine, and any other description of lifting appliance, derrick and mast bands, goose-necks, eyebolts, and all other permanent attachments to a derrick, mast or deck, used on a vessel for the purposes of hoisting or lowering in connection with works; (Amended 70 of 1999 s. 7)
- "lifting gear" (起重工具) includes a chain sling, rope sling, canvas sling, net, tray, board, box, bull rope, snorter, can hook or other means of supporting cargo and attachments thereto including a ring, link, hook, plate, clamp, shackle, swivel, eyebolt, bridle, beam, spreader, rope and wire, used on a vessel in connection with works; (Amended 70 of 1999 s. 7)
- "machinery, equipment or appliance" (機械、裝備或裝置), in the case of-
- repairs to a vessel, means any machinery, equipment or appliance provided or used for that purpose;
  - the breaking up of a vessel, means any machinery, equipment or appliance provided or used for that purpose; (Amended 70 of 1999 s. 7)
  - cargo handling, means any lifting appliance or lifting gear provided or used for that purpose; and (Amended 70 of 1999 s. 7)
  - marine construction, means any machinery, equipment or appliance provided or used for that purpose; (Added 70 of 1999 s. 7)
- "marine construction" (海上建造工程) means any construction or reclamation works, including dredging, drilling, pipe laying, buoy laying, cable laying and caisson construction, in which vessels are used; (Added 70 of 1999 s. 7)
- "person in charge of works" (工程負責人) means-
- the owner or master of, or other person having control over, the vessel on, to or by means of which any works are to be, or are being, carried out; (Amended 70 of 1999 s. 7)
  - a principal contractor or sub-contractor, if any, who contracts to carry out, or who carries out, any works; or (Amended 70 of 1999 s. 7)
  - any other person having for the time being in command or charge of any works being carried out on, to or by means of a vessel; (Added 70 of 1999 s. 7)
- "principal contractor" (總承判商) means a person who enters into a contract directly with the owner or master of, or other person having control over, the vessel to carry out any works;
- "repairs" (修理), in relation to-

- (a) any vessel, means any repairs, alterations or maintenance works on or to the vessel carried out by any person other than a member of the crew or master of the vessel or that involve or are likely to involve the safety of any person other than a member of the crew or the master; and
- (b) any vessel carrying dangerous goods, means any repairs, alterations or maintenance works on or to the vessel capable of providing an ignition source, including those that involve welding, burning or the use of blow lamps, braziers or other devices using combustible materials;

"sub-contractor" (次承判商) means-

- (a) any person who enters into a contract, express or implied, with a principal contractor to perform all or any part of the works which the principal contractor has contracted to perform; and
- (b) any other person who enters into a contract, express or implied, to perform all or any part of the works which a sub-contractor within the meaning of paragraph (a) has contracted to perform;

"works" (工程) means-

- (a) repairs to any vessel;
- (b) the breaking up of a vessel; (Amended 70 of 1999 s. 7)
- (c) cargo handling on a vessel; or (Amended 70 of 1999 s. 7)
- (d) marine construction. (Added 70 of 1999 s. 7)

Chapter:	313	SHIPPING AND PORT CONTROL ORDINANCE	Gazette Number	Version Date
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Section:	58	Delegation by Director	64 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 64 of 1999 s. 3

(1) Subject to subsection (3), the Director may, either generally or in any particular case, delegate to any other public officer the performance or exercise on his behalf of any of the functions, duties or powers imposed or conferred upon him under this Ordinance.

(2) Where any function, duty or power imposed or conferred on the Director under this Ordinance is performed or exercised by any other public officer, the Director shall, unless the contrary is proved, be deemed to have delegated to the public officer under subsection (1) the performance or exercise of the function, duty or power.

(3) No delegation under subsection (1) shall be made of any power-

- (a) to amend a Schedule to the regulations made under this Ordinance;
- (b) under section 52(3); or
- (c) under section 63, except in respect of a provision specified for the purposes of this section in the Schedule. (Replaced 46 of 1981 s. 9)

(4) The Chief Executive in Council may, by order published in the Gazette, amend the Schedule. (Added 46 of 1981 s. 9. Amended 64 of 1999 s. 3)

Chapter:	313	SHIPPING AND PORT CONTROL ORDINANCE	Gazette Number	Version Date
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Section:	80	Regulations	L.N. 319 of 1999	17/12/1999
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- (1) The Chief Executive in Council may make regulations for all or any of the following matters- (Amended 64 of 1999 s. 3)
- (a) the provision of port facilities and control over their use;
  - (b) the procedure to be followed, and the provisions to be complied with, by vessels entering or leaving the waters of Hong Kong;
  - (c) the control of vessels within the waters of Hong Kong generally and in particular-
    - (i) the navigation of vessels and the prevention of collisions;
    - (ii) the speed of vessels;
    - (iii) the anchoring, mooring and berthing of vessels;
    - (iv) the manning of ships;
    - (v) the lights and signals to be exhibited by vessels;
  - (d) the radiotelephone equipment to be carried and operated on vessels;
  - (e) the aids to navigation to be laid or erected in respect of vessels which are disabled, stranded, abandoned or sunk in the waters of Hong Kong or in respect of construction or other works in the waters of Hong Kong;
  - (f) the control of the laying of private port facilities, or any floating or other structure, in the waters of Hong Kong and prescribing fees therefor;
  - (g) the prevention of hazards to navigation and the removal and disposal of objects which are a hazard to navigation;
  - (h) the control of dead ships, laid-up vessels, or vessels stranded, abandoned or sunk in the waters of Hong Kong, and the supply of information in relation thereto;
  - (i) the control of works, the control of salvaging of vessels, the control and use of lifting appliances and lifting gear, the safety and protection against accidents of persons employed in such works or operations, the provision of safe workplaces on vessels, the operation, use and maintenance of hatches and hatch coverings on vessels in connexion with works, and regulations made for the purpose of this paragraph may empower the Director-
    - (i) to make exemptions from the application of the regulations where he is satisfied that the regulations have been substantially complied with or where compliance therewith is unnecessary having regard to the circumstances;
    - (ii) to approve any person to provide a safety training course and issue certificates to any person who attends the course; (Replaced 70 of 1999 s. 16)
  - (j) (Repealed 70 of 1999 s. 16)
  - (k) the prevention and control of pollution of the waters of Hong Kong;
  - (l) the control of the loading, discharge, storage and movement of logs and other timber in the waters of Hong Kong, and of the loading or discharge of logs and other timber at any public waterfront or public seawall within the waters of Hong Kong;
  - (m) the establishment of typhoon shelters and typhoon anchorages and the control of their use and the vessels therein;
  - (n) the prohibition or control of fishing within specified areas of the waters of Hong Kong, the control of fishing by the use of bright lights, and the control of the erection and working of fishing stakes;
  - (o) the licensing of marine hawkers, tallyclerks and stevedores and the general control of persons engaged in the trade of, or acting as, marine hawkers, tallyclerks and stevedores;
  - (p) the port dues, fees and charges payable in respect of vessels and port facilities, any other fees or charges payable under this Ordinance, and the recovery of such port dues, fees and charges;
  - (q) empowering the Director, in order to calculate any port dues, to require the production of documents in respect of a vessel and to require the survey of a vessel at the cost of the owner or master of the vessel;
  - (r) the notification of accidents involving vessels and injuries to persons on vessels

- within the waters of Hong Kong, and the investigation and inquiry into such accidents and injuries;
- (s) prohibiting, restricting or regulating the embarkation or disembarkation of persons, the loading and unloading of cargo and goods, and the conveyance and disposal of cargo and goods unlawfully obtained;
  - (t) empowering the Director to control and regulate water sports, races, regattas or other similar activities in the waters of Hong Kong and providing for the safety of persons taking part in, or affected by, such activities;
  - (u) establishing piers and terminals and controlling their use;
  - (ua) the prevention of collisions at sea; (Added 57 of 1990 s. 6)
  - (ub) giving effect to any provisions of an international agreement applicable to Hong Kong so far as the agreement relates to the prevention of collisions at sea; (Added 57 of 1990 s. 6)
  - (uc) prescribing what signals may be used by vessels as signals of distress; (Added 57 of 1990 s. 6)
  - (ud) prescribing the circumstances in which, and the purposes for which, any such signal is to be used and the circumstances in which it is to be revoked; (Added 57 of 1990 s. 6)
  - (ue) prescribing the circumstances and manner in which warnings of navigational dangers shall be reported; (Added 57 of 1990 s. 6)
  - (v) empowering the Director to give directions in any particular case in relation to such matters as may be specified;
  - (w) empowering the Director to amend any Schedule to such regulations;
  - (x) prescribing any other matter which is to be or may be prescribed under this Ordinance;
  - (y) providing generally for the better carrying out of the provisions and purposes of this Ordinance.

(1A) Any port dues or other fees or charges prescribed under this Ordinance may be fixed at levels which provide for the recovery of expenditure incurred or likely to be incurred by the Government or other authority in relation generally to the administration, regulation and control of ports, vessels and navigation in the waters of Hong Kong, and shall not be limited by reference to the amount of administrative or other costs incurred or likely to be incurred in the provision of any particular service, facility or matter. (Added 25 of 1986 s. 2)

(1B) Port dues and other fees and charges prescribed under this Ordinance may, without prejudice to the generality of subsection (1A)-

- (a) in relation to moorings, be fixed having regard to any or all of the following-
  - (i) the size, whether measured by tonnage, length or otherwise, of any vessel moored or capable of being moored, at any mooring;
  - (ii) sums paid to owners of moorings by persons wishing to use or acquire them; and
  - (iii) the locations of moorings; and
- (b) in any case be fixed at different amounts in relation to different sizes of vessel, whether measured by tonnage, length or otherwise, or in relation to different classes, types or descriptions of service, facility, licence or vessel. (Added 25 of 1986 s. 2)

(1C) Regulations made under subsection (1) may-

- (a) be made to apply to vessels required to be licensed under Part IV wherever they may be and to other vessels while they are in the waters of Hong Kong;
- (b) regulate-
  - (i) the lights and shapes to be carried and exhibited;
  - (ii) the sound signals to be used; and
  - (iii) the steering and sailing rules to be observed, by vessels; and
- (c) provide for the prevention of collisions at sea-
  - (i) between seaplanes on the surface of the water; and

(ii) between vessels and seaplanes on the surface of the water. (Added 57 of 1990 s.6)

(2) Any regulations made under this section may provide that a contravention of specified provisions thereof is an offence and may prescribe penalties therefor not exceeding a fine of \$50000 and imprisonment for 6 months.

Chapter:	313A	SHIPPING AND PORT CONTROL REGULATIONS	Gazette Number	Version Date
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Regulation:	6A	Pre-arrival notification or report for permission to enter the waters of Hong Kong		30/06/1997
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(1) Subject to paragraph (2), the owner or his local agent or the master of a vessel to which this Part applies shall-

- (a) not less than 24 hours before the intended entry of that vessel into the waters of Hong Kong from sea or river trade waters, as the case may be; or
- (b) where that vessel leaves its last port of call less than 24 hours before that intended entry immediately after so leaving,

apply to the Director for permission for that vessel to enter the waters of Hong Kong by notification and provide the information specified in the Sixteenth Schedule in that notification.

(2) Where the owner, agent or master of the vessel is unable to comply with paragraph (1) by means of notification because of the proximity of that vessel's last port of call to the waters of Hong Kong, the master of that vessel shall, immediately after the vessel leaves that last port of call on a course to enter those waters, report the information specified in the Sixteenth Schedule to the vessel traffic centre on the VHF channel appropriate to the VHF sector into which that vessel is to enter those waters, and apply for permission to so enter those waters.

(3) The Director may, on receiving an application under this regulation, grant the person making the application, permission for the vessel to enter the waters of Hong Kong and provide that person with such information, or give that person such directions (including directions under section 16 of the Ordinance) or instructions, as the case may be, as the Director thinks fit, or the Director may refuse to grant that person such permission.

(4) In complying with paragraph (1) or (2), a master of a vessel shall be deemed to have complied with section 10E of the Pilotage Ordinance (Cap 84).

(L.N. 408 of 1994)

Chapter:	313A	SHIPPING AND PORT CONTROL REGULATIONS	Gazette Number	Version Date
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Regulation:	23	Entry into restricted areas, etc.	L.N. 156 of 2002	01/11/2002
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(1)-(4) (Repealed L.N. 228 of 1997)

(5) No vessel shall enter and remain in an area of any cable reserve specified in the Sixth Schedule except for the purpose of-

- (a) laying or repairing a submarine cable or pipeline; or
- (b) berthing at any pier within any such area.

(6) Except with the permission of the Director, no vessel shall enter any area within-

- (a) (Repealed L.N. 228 of 1997)
- (b) 100 metres from the low water mark on Green Island;
- (c) the Ngong Shuen Chau Barracks area specified in paragraph 16 of the Fifth Schedule; or (L.N. 140 of 2000)

(d) 100 metres from the low water mark on Waglan Island. (L.N. 96 of 1990)

(6A) Except with the permission of the Director, no vessel shall enter or pass through the Chek Lap Kok Airport Approach Area No. 1, 2, 3 or 4 specified in paragraphs 5, 6, 7 and 8 respectively of the Fifth Schedule. (L.N. 228 of 1997)

(6B) Except with the permission of the Director, no vessel which has a height exceeding 15 metres above sea level shall enter or pass through the Chek Lap Kok Airport Approach Area No. 5 or 6 specified in paragraphs 9 and 10 respectively of the Fifth Schedule. (L.N. 228 of 1997)

(6C) Except with the permission of the Director, no vessel which has a height exceeding 30 metres above sea level shall enter or pass through the Chek Lap Kok Airport Approach Area No. 7 or 8 specified in paragraphs 11 and 12 respectively of the Fifth Schedule. (L.N. 228 of 1997)

(6D) Except with the permission of the Director, no vessel which has an overall length exceeding 10 metres shall enter the Kap Shui Mun Special Area specified in paragraph 18 of the Fifth Schedule-

(a) by crossing over the south-eastern boundary of the Special Area specified in paragraph 19 of the Fifth Schedule; or

(b) by crossing over the north-eastern boundary of the Special Area specified in paragraph 20 of the Fifth Schedule. (L.N. 117 of 2002)

(7) If without reasonable excuse this regulation is contravened-

(a) in the case of a vessel not being towed, the master of the vessel commits an offence;

(b) in the case of a vessel being towed, the master of the vessel and the masters of the tugs or other vessels towing the vessel commit an offence,

and is, or each of them is, as the case may be, liable to a fine at level 3 and to imprisonment for 6 months. (L.N. 228 of 1997)

Chapter:	313A	SHIPPING AND PORT CONTROL REGULATIONS	Gazette Number	Version Date
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Regulation:	24	Navigation near the Ngong Shuen Chau Naval Basin	L.N. 140 of 2000	19/05/2000
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(1) Except with the permission of a naval authority, no vessel shall enter or navigate within the Ngong Shuen Chau Naval Basin area specified in paragraph 17 of the Fifth Schedule. (L.N. 140 of 2000)

(2)-(3) (Repealed L.N. 140 of 2000)

(4) If without reasonable excuse this regulation is contravened, the master of the vessel commits an offence and is liable to a fine of \$2000.

Chapter:	313A	SHIPPING AND PORT CONTROL REGULATIONS	Gazette Number	Version Date
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Regulation:	41	Anchoring of vessels		30/06/1997
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## PART V

### ANCHORING, MOORING AND BERTHING OF VESSELS

(1) Subject to paragraph (2), a vessel shall not anchor at any place in a port other than at a place-

(a) set aside by the Director for the anchorage of that particular type, class or

- description of vessel or for a particular purpose; or
- (b) specified by the Director in any particular case.
- (2) No vessel shall anchor or lie-
- (a) within any principal fairway;
  - (b) in the direct approaches to the Lei Yue Mun Pass or Sulphur Channel;
  - (c) in a position which obstructs the approaches or entrances to any principal fairway, typhoon shelter or pier;
  - (d) in a position which gives a foul berth to any other vessel made fast to a mooring, pier or dock premises;
  - (e) except with the permission of the Director, within 500 metres of any place or vessel designated as a Government Explosives Depot under section 13A of the Dangerous Goods Ordinance (Cap 295);
  - (f) except with the permission of the Director, at any place at which anchoring or lying is prohibited by notice to that effect conspicuously posted at or near that place by order of the Director;
  - (g) if the vessel exceeds an overall length of 100 metres, within the Yau Ma Tei Anchorage except with the permission of the Director;
  - (h) in an immigration anchorage except for the purpose of compliance with the Immigration Ordinance (Cap 115);
  - (i) in a quarantine anchorage except for the purpose of compliance with the Quarantine and Prevention of Disease Ordinance (Cap 141);
  - (j) in a dangerous goods anchorage except for the purpose of compliance with the Dangerous Goods Ordinance (Cap 295); and
  - (k) in a naval anchorage except with the permission of the naval authorities.
- (3) If without reasonable excuse this regulation is contravened, the master of the vessel commits an offence and is liable to a fine of \$10000 and to imprisonment for 6 months.

Chapter:	313A	SHIPPING AND PORT CONTROL REGULATIONS	Gazette Number	Version Date
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Schedule:	5	RESTRICTED AREAS, ETC.	L.N. 156 of 2002	01/11/2002
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[regulations 23, 23A, 23B & 24]  
(L.N. 140 of 2000)

RESTRICTED AREAS, ETC.

(L.N. 309 of 1993)

1-2. (Repealed L.N. 228 of 1997)

3. TSING TSUEN AND TSING YI BRIDGES AREA

- (a) 17 metres above sea level;
- (b) the area of the waters of Hong Kong bounded by the shore and straight lines joining the following positions (i) to (ii), (iii) to (iv), (iv) to (v), and (v) to (vi)- (L.N. 470 of 1996)
  - (i) latitude 22° 21' 53" north,  
longitude 114° 06' 34" east;
  - (ii) latitude 22° 21' 53" north,  
longitude 114° 06' 18" east;
  - (iii) latitude 22° 20' 37" north,  
longitude 114° 06' 30" east;
  - (iv) latitude 22° 20' 36" north,

- longitude 114<sup>0</sup> 06' 34" east;
- (v) latitude 22<sup>0</sup> 20' 54" north,  
longitude 114<sup>0</sup> 06' 39" east;
- (vi) latitude 22<sup>0</sup> 20' 56" north,  
longitude 114<sup>0</sup> 06' 47" east.

(L.N. 309 of 1993)

4. AP LEI CHAU BRIDGE AREA

- (a) 14 metres above sea level;
- (b) the area of the waters of Hong Kong bounded by the shore and straight lines joining the following positions (i) to (ii), and (iii) to (iv)-
  - (i) latitude 22<sup>0</sup> 14' 49" north,  
longitude 114<sup>0</sup> 09' 33" east;
  - (ii) latitude 22<sup>0</sup> 14' 44" north,  
longitude 114<sup>0</sup> 09' 27" east;
  - (iii) latitude 22<sup>0</sup> 14' 50" north,  
longitude 114<sup>0</sup> 09' 21" east;
  - (iv) latitude 22<sup>0</sup> 14' 52" north,  
longitude 114<sup>0</sup> 09' 25" east.

(L.N. 309 of 1993)

5. CHEK LAP KOK AIRPORT APPROACH AREA NO. 1

The area of the waters of Hong Kong bounded by the shore and straight lines joining the following positions-

- (a) latitude 22<sup>0</sup> 17' 39" north,  
longitude 113<sup>0</sup> 54' 02" east;
- (b) latitude 22<sup>0</sup> 17' 34" north,  
longitude 113<sup>0</sup> 53' 58" east;
- (c) latitude 22<sup>0</sup> 17' 16" north,  
longitude 113<sup>0</sup> 53' 01" east;
- (d) latitude 22<sup>0</sup> 17' 40" north,  
longitude 113<sup>0</sup> 52' 51" east;
- (e) latitude 22<sup>0</sup> 17' 59" north,  
longitude 113<sup>0</sup> 53' 49" east.

(L.N. 228 of 1997)

6. CHEK LAP KOK AIRPORT APPROACH AREA NO. 2

The area of the waters of Hong Kong bounded by the shore and straight lines joining the following positions-

- (a) latitude 22<sup>0</sup> 18' 36" north,  
longitude 113<sup>0</sup> 56' 22" east;
- (b) latitude 22<sup>0</sup> 18' 39" north,  
longitude 113<sup>0</sup> 56' 29" east;
- (c) latitude 22<sup>0</sup> 18' 35" north,  
longitude 113<sup>0</sup> 56' 31" east;

- (d) latitude 22° 18' 32" north,  
longitude 113° 56' 21" east.

(L.N. 228 of 1997)

7. CHEK LAP KOK AIRPORT APPROACH AREA NO. 3

The area of the waters of Hong Kong bounded by the shore and straight lines joining the following positions-

- (a) latitude 22° 18' 24" north,  
longitude 113° 53' 47" east;
- (b) latitude 22° 18' 06" north,  
longitude 113° 52' 50" east;
- (c) latitude 22° 18' 30" north,  
longitude 113° 52' 40" east;
- (d) latitude 22° 18' 40" north,  
longitude 113° 53' 13" east;
- (e) latitude 22° 19' 01" north,  
longitude 113° 53' 41" east;
- (f) latitude 22° 19' 38" north,  
longitude 113° 55' 36" east;
- (g) latitude 22° 19' 39" north,  
longitude 113° 56' 19" east;
- (h) latitude 22° 19' 50" north,  
longitude 113° 56' 51" east;
- (i) latitude 22° 19' 25" north,  
longitude 113° 57' 00" east;
- (j) latitude 22° 19' 20" north,  
longitude 113° 56' 46" east.

(L.N. 228 of 1997)

8. CHEK LAP KOK AIRPORT APPROACH AREA NO. 4

The area of the waters of Hong Kong bounded by straight lines joining the following positions-

- (a) latitude 22° 20' 29" north,  
longitude 113° 59' 09" east;
- (b) latitude 22° 20' 03" north,  
longitude 113° 59' 09" east;
- (c) latitude 22° 20' 03" north,  
longitude 113° 58' 41" east;
- (d) latitude 22° 20' 29" north,  
longitude 113° 58' 41" east;
- (e) latitude 22° 20' 29" north,  
longitude 113° 59' 09" east.

(L.N. 228 of 1997)

9. CHEK LAP KOK AIRPORT APPROACH AREA NO. 5

The area of the waters of Hong Kong bounded by the shore and straight lines joining the following positions-

- (a) latitude 22° 18' 52" north,  
longitude 113° 56' 33" east;
- (b) latitude 22° 18' 57" north,  
longitude 113° 56' 50" east;
- (c) latitude 22° 18' 33" north,  
longitude 113° 56' 59" east;
- (d) latitude 22° 18' 20" north,  
longitude 113° 56' 19" east.

(L.N. 228 of 1997)

10. CHEK LAP KOK AIRPORT APPROACH AREA NO. 6

The area of the waters of Hong Kong bounded by straight lines joining the following positions-

- (a) latitude 22° 20' 40" north,  
longitude 113° 59' 09" east;
- (b) latitude 22° 19' 51" north,  
longitude 113° 59' 09" east;
- (c) latitude 22° 19' 51" north,  
longitude 113° 58' 41" east;
- (d) latitude 22° 20' 40" north,  
longitude 113° 58' 41" east;
- (e) latitude 22° 20' 40" north,  
longitude 113° 59' 09" east.

(L.N. 228 of 1997)

11. CHEK LAP KOK AIRPORT APPROACH AREA NO. 7

The area of the waters of Hong Kong bounded by the shore and straight lines joining the following positions (a) to (g), and (h) to (i)-

- (a) latitude 22° 17' 15" north,  
longitude 113° 53' 40" east;
- (b) latitude 22° 16' 53" north,  
longitude 113° 52' 32" east;
- (c) latitude 22° 17' 55" north,  
longitude 113° 52' 00" east;
- (d) latitude 22° 18' 32" north,  
longitude 113° 52' 00" east;
- (e) latitude 22° 20' 10" north,  
longitude 113° 57' 19" east;
- (f) latitude 22° 18' 36" north,  
longitude 113° 57' 54" east;
- (g) latitude 22° 18' 04" north,  
longitude 113° 56' 13" east;

- (h) latitude 22° 17' 42" north,  
longitude 113° 55' 04" east;
- (i) latitude 22° 17' 31" north,  
longitude 113° 54' 30" east.

(L.N. 228 of 1997)

## 12. CHEK LAP KOK AIRPORT APPROACH AREA NO. 8

The area of the waters of Hong Kong bounded by the shore and straight lines joining the following positions (a) to (d), and (e) to (f)-

- (a) latitude 22° 22' 57" north,  
longitude 113° 52' 40" east;
- (b) latitude 22° 22' 57" north,  
longitude 113° 53' 10" east;
- (c) latitude 22° 22' 43" north,  
longitude 113° 53' 17" east;
- (d) latitude 22° 22' 24" north,  
longitude 113° 53' 05" east;
- (e) latitude 22° 22' 28" north,  
longitude 113° 52' 56" east;
- (f) latitude 22° 22' 47" north,  
longitude 113° 52' 41" east.

(L.N. 228 of 1997)

## 13. TUNG CHUNG BRIDGES AREA

- (a) 8 metres above sea level;
- (b) the area of the waters of Hong Kong bounded by the shore and straight lines joining the following positions (i) to (ii), and (iii) to (iv)-
  - (i) latitude 22° 17' 48" north,  
longitude 113° 56' 10" east;
  - (ii) latitude 22° 17' 43" north,  
longitude 113° 56' 16" east;
  - (iii) latitude 22° 17' 30" north,  
longitude 113° 56' 02" east; (L.N. 602 of 1997)
  - (iv) latitude 22° 17' 32" north,  
longitude 113° 55' 54" east.

(L.N. 228 of 1997)

## 14. KAP SHUI MUN BRIDGE AREA

- (a) 41 metres above sea level;
- (b) the area of the waters of Hong Kong bounded by the shore and straight lines joining the following positions (i) to (ii), and (iii) to (iv)-
  - (i) latitude 22° 20' 46" north,  
longitude 114° 03' 00" east;
  - (ii) latitude 22° 20' 49" north,  
longitude 114° 03' 15" east;

- (iii) latitude  $22^{\circ} 20' 28''$  north,  
longitude  $114^{\circ} 03' 42''$  east;
- (iv) latitude  $22^{\circ} 20' 26''$  north,  
longitude  $114^{\circ} 03' 21''$  east.

(L.N. 228 of 1997)

#### 15. TSING MA BRIDGE AREA

- (a) 53 metres above sea level;
- (b) the area of the waters of Hong Kong bounded by the shore and straight lines joining the following positions (i) to (ii), and (iii) to (iv)-
  - (i) latitude  $22^{\circ} 21' 18''$  north,  
longitude  $114^{\circ} 03' 54''$  east;
  - (ii) latitude  $22^{\circ} 21' 29''$  north,  
longitude  $114^{\circ} 04' 45''$  east;
  - (iii) latitude  $22^{\circ} 21' 04''$  north,  
longitude  $114^{\circ} 04' 54''$  east;
  - (iv) latitude  $22^{\circ} 20' 48''$  north,  
longitude  $114^{\circ} 03' 57''$  east.

(L.N. 228 of 1997)

#### 16. NGONG SHUEN CHAU BARRACKS AREA

The area of the waters of Hong Kong bounded by the shore and straight lines joining the following positions-

- (a) latitude  $22^{\circ} 19' 05.4000''$  north,  
longitude  $114^{\circ} 07' 52.8000''$  east;
- (b) latitude  $22^{\circ} 19' 02.5000''$  north,  
longitude  $114^{\circ} 07' 51.2000''$  east;
- (c) latitude  $22^{\circ} 18' 59.7130''$  north,  
longitude  $114^{\circ} 07' 57.6390''$  east;
- (d) latitude  $22^{\circ} 18' 48.2090''$  north,  
longitude  $114^{\circ} 07' 59.5210''$  east;
- (e) latitude  $22^{\circ} 18' 45.7060''$  north,  
longitude  $114^{\circ} 08' 03.9010''$  east;
- (f) latitude  $22^{\circ} 18' 48.9450''$  north,  
longitude  $114^{\circ} 08' 08.7410''$  east;
- (g) latitude  $22^{\circ} 18' 50.9190''$  north,  
longitude  $114^{\circ} 08' 19.6010''$  east;
- (h) latitude  $22^{\circ} 18' 54.5320''$  north,  
longitude  $114^{\circ} 08' 22.0750''$  east;
- (i) latitude  $22^{\circ} 19' 00.6000''$  north,  
longitude  $114^{\circ} 08' 20.5000''$  east;
- (j) latitude  $22^{\circ} 18' 56.9000''$  north,  
longitude  $114^{\circ} 08' 23.5000''$  east;
- (k) latitude  $22^{\circ} 18' 50.4000''$  north,  
longitude  $114^{\circ} 08' 33.3000''$  east;

- (l) latitude 22° 18' 52.0000" north,  
longitude 114° 08' 33.2000" east;
- (m) latitude 22° 18' 56.0600" north,  
longitude 114° 08' 36.6610" east;
- (n) latitude 22° 18' 59.7980" north,  
longitude 114° 08' 40.7230" east;
- (o) latitude 22° 19' 03.9930" north,  
longitude 114° 08' 42.7310" east;
- (p) latitude 22° 19' 09.7310" north,  
longitude 114° 08' 43.5140" east;
- (q) latitude 22° 19' 15.0000" north,  
longitude 114° 08' 53.4910" east;
- (r) latitude 22° 19' 19.3570" north,  
longitude 114° 08' 52.9500" east;
- (s) latitude 22° 19' 24.9670" north,  
longitude 114° 08' 49.8190" east;
- (t) latitude 22° 19' 27.8000" north,  
longitude 114° 08' 45.2000" east;
- (u) latitude 22° 19' 26.2000" north,  
longitude 114° 08' 43.6000" east.

(L.N. 140 of 2000)

#### 17. NGONG SHUEN CHAU NAVAL BASIN AREA

The area of the waters of Hong Kong bounded by the shore and straight lines joining the following positions-

- (a) latitude 22° 19' 05.4000" north,  
longitude 114° 07' 52.8000" east;
- (b) latitude 22° 19' 02.5000" north,  
longitude 114° 07' 51.2000" east;
- (c) latitude 22° 18' 59.7130" north,  
longitude 114° 07' 57.6390" east;
- (d) latitude 22° 18' 48.2090" north,  
longitude 114° 07' 59.5210" east;
- (e) latitude 22° 18' 45.7060" north,  
longitude 114° 08' 03.9010" east;
- (f) latitude 22° 18' 48.9450" north,  
longitude 114° 08' 08.7410" east;
- (g) latitude 22° 18' 50.9190" north,  
longitude 114° 08' 19.6010" east;
- (h) latitude 22° 18' 54.5320" north,  
longitude 114° 08' 22.0750" east;
- (i) latitude 22° 19' 00.6000" north,  
longitude 114° 08' 20.5000" east;
- (j) latitude 22° 18' 56.9000" north,

- longitude 114° 08' 23.5000" east;  
(k) latitude 22° 18' 50.4000" north,  
longitude 114° 08' 33.3000" east;  
(l) latitude 22° 18' 53.6000" north,  
longitude 114° 08' 33.1000" east.

(L.N. 140 of 2000)

#### 18. KAP SHUI MUN SPECIAL AREA

The area of the waters of Hong Kong bounded-

- (a) on the north-west, by a straight line drawn from the north-eastern shore of Lantau Island at position latitude 22° 20.750' north, longitude 114° 03.017' east to the West Ma Wan light at position latitude 22° 20.925' north, longitude 114° 03.241' east;  
(b) on the north-east, by a straight line drawn from the West Ma Wan light at position latitude 22° 20.925' north, longitude 114° 03.241' east to the Tang Lung Chau light at position latitude 22° 20.373' north, longitude 114° 03.787' east;  
(c) on the south-east, by a straight line drawn from the Tang Lung Chau light at position latitude 22° 20.373' north, longitude 114° 03.787' east to the headland at position latitude 22° 20.126' north, longitude 114° 03.455' east;  
(d) on the south-west, by a straight line drawn from the headland at position latitude 22° 20.126' north, longitude 114° 03.455' east to the north-eastern shore of Lantau Island at position latitude 22° 20.750' north, longitude 114° 03.017' east.

(L.N. 117 of 2002)

#### 19. SOUTH-EASTERN BOUNDARY OF THE KAP SHUI MUN SPECIAL AREA

The boundary of the waters of Hong Kong indicated by a straight line joining the Tang Lung Chau light at position latitude 22° 20.373' north, longitude 114° 03.787' east to the headland at position latitude 22° 20.126' north, longitude 114° 03.455' east.

(L.N. 117 of 2002)

#### 20. NORTH-EASTERN BOUNDARY OF THE KAP SHUI MUN SPECIAL AREA

The boundary of the waters of Hong Kong indicated by a straight line joining the Tang Lung Chau light at position latitude 22° 20.373' north, longitude 114° 03.787' east to the southern shore of Ma Wan at position latitude 22° 20.554' north, longitude 114° 03.608' east.

(L.N. 117 of 2002)

Note: The geographical co-ordinates of paragraphs 16 to 20 are represented by the WGS 84.  
(L.N. 117 of 2002)

Chapter:	369F	HYDROFOIL SHIPS (EXEMPTION) NOTICE	Gazette Number	Version Date
		Empowering section		30/06/1997

(Cap 369 section 114)

[25 November 1981]

(L.N. 10 of 1982)

I, Secretary for Economic Services, hereby grant the following exemption-

1. All passenger carrying hydrofoil ships registered in Hong Kong, the construction of which commenced before 25 May 1980, operating on short international voyages within River Trade Limits shall be exempted from the requirements of the particular rules and regulations enumerated below-

(i) The Merchant Shipping (Passenger Ship Construction) Regulations 1980 (S.I. 1980/535 U.K.) Regulations 7(3), 10(1)(c), 13(1), 15(2), 17(3), 19, 24, 30, 35(2), 43, 45, 86(3), 87, 88, 89, 90, 91, 94, 95, 98, 113(1), 114(6), 114(11), 117(3) and 122(2):

Provided that the exemption under regulation 10(1)(c) shall not apply to hydrofoil ships with surface piercing foils.

(ii) The Merchant Shipping (Life Saving Appliances) Regulations (Cap 369 sub. leg.) Regulations 10(2), 10(3), 10(4) and 10(5).

(iii) The Merchant Shipping (Fire Appliances) Rules 1965 (S.I. 1965/1106 U.K.) as amended Rules 3(1), 3(2), 3(4), 3(5), 3(6)(i), 4(1), 4(2), 4(3)(b), 4(4)(a), 4(6), 8(2)(a), 8(2)(b), 10, 11 and 65.

(iv) The Merchant Shipping (Radio Installations) Regulations 1980 (S.I. 1980/529 U.K.) Regulation 3(2).

2. This exemption is granted having regard to the size and construction of these special types of craft, the restricted nature of the service in which full compliance with the rules and regulations is considered to be unreasonable, impracticable or unnecessary in that other arrangements have been substituted to my satisfaction.

3. The exemption shall be subject to full compliance with the provisions of the Passenger and Safety Certificate and of the Conditions of Exemption specified by the Director of Marine. The exemption shall be deemed to have taken effect from 25 November 1981 and shall remain in operation until revoked either generally or specifically in respect of a particular requirement.

Chapter:	369G	SIDEWALL HOVERCRAFT (EXEMPTION) (CONSOLIDATION) NOTICE	Gazette Number	Version Date
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		Empowering section		30/06/1997
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(Cap 369, section 114)

[25 November 1981]

(L.N. 279 of 1984, L.N.280 of 1984, L.N. 281 of 1984, L.N. 154 of 1988, L.N. 155 of 1988, R. Ed. 1988, R. Ed. 1989, L.N. (C) 136 of 1997 (Chinese authentic version))

Chapter:	369G	SIDEWALL HOVERCRAFT (EXEMPTION) (CONSOLIDATION) NOTICE	Gazette Number	Version Date
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Paragraph:	1	Citation		30/06/1997
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This notice may be cited as the Sidewall Hovercraft (Exemption) (Consolidation) Notice.

Chapter:	369G	SIDEWALL HOVERCRAFT (EXEMPTION) (CONSOLIDATION) NOTICE	Gazette Number	Version Date
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Paragraph:	2	Exemption		30/06/1997
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A ship which complies with any conditions of exemption attached to a Passenger and Safety Certificate issued in respect of it by the Director of Marine under the provisions of the Ordinance and is of the type specified in-

- (a) Part I of Schedule 1 is hereby exempted from the requirements of the regulations listed in Part I of Schedule 2;
- (b) Part II of Schedule 1 is hereby exempted from the requirements of the regulations listed in Part II of Schedule 2;
- (c) Part III of Schedule 1 is hereby exempted from the requirements of the regulations listed in Part III of Schedule 2.

Chapter:	369G	SIDEWALL HOVERCRAFT (EXEMPTION) (CONSOLIDATION) NOTICE	Gazette Number	Version Date
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Schedule:	1	TYPE OF SHIP TO WHICH EXEMPTION APPLIES		30/06/1997
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[paragraph 2]

#### PART I

Passenger carrying sidewall hovercraft ships of types HM 214 and HM 218-

- (a) which were built by Vosper Hovermarine Ltd.;
  - (b) which have been registered in Hong Kong;
  - (c) the construction of which commenced before 25 May 1980; and
  - (d) which operate on short international voyages within river trade limits between Hong Kong and Canton and neighbouring ports in China and between Hong Kong and Macau.
- (L.N. 279 of 1984)

#### PART II

Passenger carrying sidewall hovercraft ships of type HM 527-

- (a) which were built by Vosper Hovermarine Ltd.;
  - (b) which have been registered in Hong Kong;
  - (c) the construction of which commenced on or after 25 May 1980; and
  - (d) which operate on short international voyages within river trade limits between Hong Kong, Canton and neighbouring ports in China and between Hong Kong and Macau.
- (L.N. 280 of 1984)

#### PART III

Passenger carrying sidewall hovercraft ships of Types HM 214 and HM 218-

- (a) which were built by Vosper Hovermarine Ltd;
- (b) which have been registered in Hong Kong;
- (c) the construction of which commenced on or after 25 May 1980; and
- (d) which operate on short international voyages within river trade limits between Hong Kong, Canton and neighbouring ports in China and between Hong Kong and Macau.

(L.N. 281 of 1984)

Chapter:	369G	SIDEWALL HOVERCRAFT (EXEMPTION) (CONSOLIDATION) NOTICE	Gazette Number	Version Date
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Schedule:	2	REQUIREMENTS FROM WHICH EXEMPTION IS GRANTED		30/06/1997
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[paragraph 2]

#### PART I

- (i) The Merchant Shipping (Passenger Ship Construction) Regulations 1980 (S.I. 1980/535 U.K.)  
Regulations 6, 7(3), 9(1), 9(3), 10(1), 11(1), 13(1), 18(1), 18(7), 19(5), 20(2), 21, 23, 24, 30, 33(3), 33(5), 35, 37(1), 43, 45, 86, 113(1), 117, 118, 124(2), 125 and 129.
- (ii) The Merchant Shipping (Life Saving Appliances) Regulations (Cap 369 sub. leg.)  
Regulations 10(2), 10(4) and 10(5).
- (iii) The Merchant Shipping (Fire Appliances) Rules 1965 (S.I. 1965/1106 U.K.)  
Rules 3(1), 4(1), 4(3)(b), 4(4), 4(5), 4(6), 4(7), 8(2), 10 and 65.
- (iv) The Merchant Shipping (Radio Installations) Regulations 1980 (S.I. 1980/529 U.K.)  
Regulation 3(2).

(L.N. 279 of 1984)

#### PART II

- (i) The Merchant Shipping (Passenger Ship Construction) Regulations 1980 (S.I. 1980/535 U.K.)  
Regulations 7(3), 9(1), 9(3), 10(1), 11(1), 13(1), 19(5), 20(2), 21, 23, 24, 30, 33(3), 33(5), 35, 45, 52, 54, 55, 61, 62, 63, 113, 117, 118, 124(2), 125 and 129.
- (ii) The Merchant Shipping (Life Saving Appliances) Regulations (Cap 369 sub. leg.)  
Regulations 10(2) and 10(4).
- (iii) The Merchant Shipping (Fire Appliances) Regulations 1980 (S.I. 1980/544 U.K.)  
Regulations 3(1), 3(3)(b), 3(4)(a), 3(5), 3(7), 3(8), 3(9), 7(3), 11(1), 11(6), 11(8), 12 and 73.
- (iv) The Merchant Shipping (Radio Installations) Regulations 1980 (S.I. 1980/529 U.K.)  
Regulation 3(2).

(L.N. 280 of 1984)

#### PART III

- (i) The Merchant Shipping (Passenger Ships Construction) Regulations 1980 (S.I. 1980/535 U.K.)

Regulations 6, 7(3), 9(1), 9(3), 10(1), 11(1), 13(1), 18(1), 18(7), 19(5), 20(2), 21, 23, 24, 30, 33(3), 33(5), 35, 37(1), 43, 45, 52, 53, 54, 55, 61, 62, 63, 113(1), 117, 118, 124(2), 125 and 129.

- (ii) The Merchant Shipping (Life Saving Appliances) Regulations (Cap 369 sub. leg.) Regulations 10(2), 10(4) and 10(5).
- (iii) The Merchant Shipping (Fire Appliances) Regulations 1980 (S.I. 1980/544 U.K.) Regulations 3(1), 3(3)(b), 3(4)(a), 3(5), 3(7), 3(8), 3(9), 7(3), 11(1), 11(6), 11(8), 12 and 73.
- (iv) The Merchant Shipping (Radio Installations) Regulations 1980 (S.I. 1980/529 U.K.) Regulation 3(2).

(L.N. 281 of 1984)

Chapter:	369H	JETCAT CATAMARANS (EXEMPTION) NOTICE	Gazette Number	Version Date
		Empowering section		30/06/1997

(Cap 369 section 114)

[5 February 1982]

(L.N. 31 of 1982)

I, Secretary for Economic Services, hereby grant the following exemption-

1. All passenger carrying Jetcat Catamarans registered in Hong Kong operating on short international voyages within River Trade Limits shall be exempted from the requirements of the particulars rules and regulations enumerated below-

- (i) The Merchant Shipping (Passenger Ship Construction) Regulations 1980 (S.I. 1980/535 U.K.)  
Regulations 7(2), 7(3), 13(1), 14(8)(b), 15(2), 30(1), 30(2)(b), 37, 43, 46(3), 52, 55, 60(2)(b), 63, 117, 119(2)(b), 124.
- (ii) The Merchant Shipping (Life Saving Appliances) Regulations (Cap. 369 sub. leg.) Regulation 10(2).
- (iii) The Merchant Shipping (Fire Appliances) Regulations 1980 (S.I. 1980/544 U.K.) Regulations 3(6), 7(3)(b), 12, 13, 66(2).
- (iv) The Merchant Shipping (Radio Installations) Regulations 1980 (S.I. 1980/529 U.K.) Regulation 3(2).

2. This exemption is granted having regard to the size and novel construction of this special type of craft, the restricted nature of the service in which full compliance with the rules and regulations is considered to be unreasonable, impracticable or unnecessary in that other arrangements have been substituted to my satisfaction.

3. This exemption shall be subject to full compliance with the provisions of the Passenger and Safety Certificate and of the Conditions of Exemption specified by the Director of Marine.

4. This exemption shall have effect from the date of this notice and remain in operation until revoked either generally or specifically in respect of a particular requirement.

Chapter:	369K	LIFE SAVING APPLIANCES (EXEMPTION) NOTICE	Gazette Number	Version Date
		Empowering section		30/06/1997

(Cap 369 section 114)

[12 September 1986]

(L.N. 222 of 1986)

Chapter:	369K	LIFE SAVING APPLIANCES (EXEMPTION) NOTICE	Gazette Number	Version Date
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Paragraph:	1	Citation		30/06/1997
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This notice may be cited as the Life Saving Appliances (Exemption) Notice.

(Enacted 1986)

Chapter:	369K	LIFE SAVING APPLIANCES (EXEMPTION) NOTICE	Gazette Number	Version Date
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Paragraph:	2	Exemption		30/06/1997
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A ship of the type specified in Schedule 1 is hereby exempted from the requirements of regulation 10(6) of the Merchant Shipping (Life Saving Appliances) Regulations (Cap 369 sub. leg.) subject to the conditions specified in Schedule 2.

(Enacted 1986)

Chapter:	369K	LIFE SAVING APPLIANCES (EXEMPTION) NOTICE	Gazette Number	Version Date
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Schedule:	1	TYPE OF SHIP TO WHICH EXEMPTION APPLIES		30/06/1997
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[paragraph 2]

Any dynamically supported craft within the meaning of section 2 of the Shipping and Port Control Ordinance (Cap 313)-

- (a) which has been registered in Hong Kong;
- (b) which is a passenger ship engaged on voyages within River Trade Limits within the meaning of regulation 2 of the Merchant Shipping (Life Saving Appliances) Regulations (Cap 369 sub. leg.); and
- (c) in respect of which a passenger certificate under section 14, and a general safety certificate under section 15, of the Ordinance are in force.

(Enacted 1986)

Chapter:	369K	LIFE SAVING APPLIANCES (EXEMPTION) NOTICE	Gazette Number	Version Date
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Schedule:	2	CONDITION TO WHICH EXEMPTION IS SUBJECT		30/06/1997
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[paragraph 2]

This exemption shall not apply to a ship unless the ship carries not less than 2 self-contained line throwing appliances complying with the requirements of Schedule 14 to the Merchant Shipping (Life Saving Appliances) Regulations 1980 (S.I. 1980/538 U.K.) as the same may from time to time be amended.

(L.N. 354 of 1987)

Chapter:	4	HIGH COURT ORDINANCE	Gazette Number	Version Date
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Section:	12A	Admiralty jurisdiction of Court of First Instance	25 of 1998	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 25 of 1998 s. 2

(1) The Admiralty jurisdiction of the Court of First Instance shall consist of- (Amended 25 of 1998 s. 2)

- (a) jurisdiction to hear and determine any of the questions and claims mentioned in subsection (2);
- (b) jurisdiction in relation to any of the proceedings mentioned in subsection (3);
- (c) any other Admiralty jurisdiction which it had immediately before the commencement of the Supreme Court (Amendment) Ordinance 1989 (3 of 1989).

(2) The questions and claims referred to in subsection (1)(a) are-

- (a) any claim to the possession or ownership of a ship or to the ownership of any share therein;
- (b) any question arising between the co-owners of a ship as to possession, employment or earnings of that ship;
- (c) any claim in respect of a mortgage of or charge on a ship or any share therein;
- (d) any claim for damage received by a ship;
- (e) any claim for damage done by a ship;
- (f) any claim for loss of life or personal injury sustained in consequence of any defect in a ship or in her apparel or equipment, or in consequence of the wrongful act, neglect or default of-
  - (i) the owners, charterers or persons in possession or control of a ship; or
  - (ii) the master or crew of a ship, or any other person for whose wrongful acts, neglects or defaults the owners, charterers or persons in possession or control of a ship are responsible,
 being an act, neglect or default in the navigation or management of the ship, in the loading, carriage or discharge of goods on, in or from the ship, or in the embarkation, carriage or disembarkation of persons on, in or from the ship;
- (g) any claim for loss of or damage to goods carried in a ship;
- (h) any claim arising out of any agreement relating to the carriage of goods in a ship or to the use or hire of a ship;
- (i) any claim-
  - (i) under the Salvage Convention 1989;
  - (ii) under any contract for or in relation to salvage services; or
  - (iii) in the nature of salvage not falling within subparagraph (i) or (ii);
 or any corresponding claim in connection with an aircraft; (Replaced 35 of 1997

- s. 9)
- (j) any claim in the nature of towage in respect of a ship or an aircraft;
  - (k) any claim in the nature of pilotage in respect of a ship or an aircraft;
  - (l) any claim in respect of goods or materials supplied to a ship for her operation or maintenance;
  - (m) any claim in respect of the construction, repair or equipment of a ship or in respect of dock charges or dues;
  - (n) any claim by a master or member of the crew of a ship for wages (including any sum allotted out of wages or adjudged by a superintendent to be due by way of wages);
  - (o) any claim by a master, shipper, charterer or agent in respect of disbursements made on account of a ship;
  - (p) any claim arising out of an act which is or is claimed to be a general average act;
  - (q) any claim arising out of bottomry;
  - (r) any claim for the forfeiture or condemnation of a ship or of goods which are being or have been carried, or have been attempted to be carried, in a ship, or for the restoration of a ship or any such goods after seizure, or for droits of Admiralty;
  - (s) any claim arising under section 7 of the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap 413). (Replaced 37 of 1990 s. 12(2))
- (3) The proceedings referred to in subsection (1)(b) are-
- (a) any application to the Court of First Instance under- (Amended 25 of 1998 s. 2)
    - (i) the Merchant Shipping Acts 1894 to 1979\* in their application to Hong Kong;
    - (ii) the Merchant Shipping Ordinance (Cap 281);
    - (iii) the Merchant Shipping (Safety) Ordinance (Cap 369);
    - (iv) the Merchant Shipping (Liability and Compensation for Oil Pollution) Ordinance (Cap 414); (Amended 55 of 1993 s. 30)
    - (v) the Merchant Shipping (Registration) Ordinance (Cap 415); or (Replaced 74 of 1990 s. 104(3). Amended 55 of 1993 s. 30)
    - (vi) the Merchant Shipping (Limitation of Shipowners Liability) Ordinance (Cap 434); (Added 55 of 1993 s. 30)
  - (b) any action to enforce a claim for damage, loss of life or personal injury arising out of-
    - (i) a collision between ships;
    - (ii) the carrying out of or omission to carry out a manoeuvre in the case of 1 or more of 2 or more ships; or
    - (iii) non-compliance, on the part of 1 or more of 2 or more ships, with the collision regulations;
  - (c) any action by shipowners or other persons under-
    - (i) the Merchant Shipping Acts 1894 to 1979\* in their application to Hong Kong;
    - (ii) the Merchant Shipping Ordinance (Cap 281);
    - (iii) the Merchant Shipping (Safety) Ordinance (Cap 369); (Amended 55 of 1993 s. 30)
    - (iv) the Merchant Shipping (Liability and Compensation for Oil Pollution) Ordinance (Cap 414); or (Amended 55 of 1993 s. 30)
    - (v) the Merchant Shipping (Limitation of Shipowners Liability) Ordinance (Cap 434), (Added 55 of 1993 s. 30)for the limitation of the amount of their liability in connection with a ship or other property. (Replaced 38 of 1990 Sch. 2)
- (4) The jurisdiction of the Court of First Instance under subsection (2)(b) includes power to settle any account outstanding and unsettled between the parties in relation to the ship, and to direct that the ship, or any share thereof, shall be sold, and to make such other order as the court thinks fit. (Amended 25 of 1998 s. 2)
- (5) Subsection (2)(e) extends to-
- (a) any claim in respect of a liability incurred under Part II of the Merchant Shipping (Liability and Compensation for Oil Pollution) Ordinance (Cap 414); and

- (b) any claim in respect of a liability incurred by the International Oil Pollution Compensation Fund under Part III of that Ordinance. (Replaced 38 of 1990 Sch. 2)
- (6) In subsection (2)(i)-
- (a) the "Salvage Convention 1989" (1989年救助公約) means the International Convention on Salvage 1989 as it has effect under section 9 of the Merchant Shipping (Collision Damage Liability and Salvage) Ordinance (Cap 508);
- (b) the reference to salvage services includes services rendered in saving life from a ship and the reference to any claim under any contract for or in relation to salvage services includes any claim arising out of such a contract whether or not arising during the provision of the services;
- (c) the reference to a corresponding claim in connection with an aircraft is a reference to any claim corresponding to any claim mentioned in subsection (2)(i)(i) or (ii) which is available under section 9 of the Civil Aviation Ordinance (Cap 448). (Replaced 35 of 1997 s. 9)
- (7) Subsections (1) to (6) apply-
- (a) in relation to all ships or aircraft, whether British or not and whether registered or not and wherever the residence or domicile of their owners may be;
- (b) in relation to all claims, wherever arising (including, in the case of cargo or wreck salvage, claims in respect of cargo or wreck found on land); and
- (c) so far as they relate to mortgages and charges, to all mortgages or charges, whether registered or not and whether legal or equitable, including mortgages and charges created under foreign law.
- (8) Nothing in subsection (7) shall be construed as extending to the cases in which money or property is recoverable under any of the provisions of-
- (a) the Merchant Shipping Acts 1894 to 1979\* in their application to Hong Kong;
- (b) the Merchant Shipping Ordinance (Cap 281);
- (ba)the Merchant Shipping (Seafarers) Ordinance (Cap 478); (Added 44 of 1995 s. 143)
- (c) the Merchant Shipping (Safety) Ordinance (Cap 369);
- (d) the Merchant Shipping (Liability and Compensation for Oil Pollution) Ordinance (Cap 414); (Replaced 38 of 1990 Sch 2. Amended 55 of 1993 s. 30)
- (e) the Merchant Shipping (Registration) Ordinance (Cap 415); or (Added 74 of 1990 s. 104(3). Amended 55 of 1993 s. 30)
- (f) the Merchant Shipping (Limitation of Shipowners Liability) Ordinance (Cap 434). (Added 55 of 1993 s. 30)
- (Added 3 of 1989 s. 2)  
[cf. 1981 c. 54 s. 20 U.K.]

**Note:**

\* Please also see following-

- (a) in relation to the Merchant Shipping Act 1894, Part 3 of Schedule 5 to Cap 415 and s. 1 of Schedule 2 to Cap 508;
- (b) in relation to the Merchant Shipping Acts 1894 to 1979, s. 117 of Cap 281, s. 103 of Cap 415 and s. 142 of Cap 478.

Chapter:	4A	THE RULES OF THE HIGH COURT	Gazette Number	Version Date
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Order:	18	PLEADINGS	25 of 1998	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 25 of 1998 s. 2

**1. Service of statement of claim (O. 18, r. 1)**

Unless the Court gives leave to the contrary or a statement of claim is indorsed on the writ, the plaintiff must serve a statement of claim on the defendant or, if there are two or more defendants, on each defendant, and must do so either when the writ is served on that defendant or at any time after service of the writ but before the expiration of 14 days after that defendant gives notice of intention to defend.

**2. Service of defence (O. 18, r. 2)**

(1) Subject to paragraphs (2) and (3), a defendant who gives notice of intention to defend an action must, unless the Court gives leave to the contrary, serve a defence on every other party to the action who may be affected thereby before the expiration of 14 days after the time limited for acknowledging service of the writ or after the statement of claim is served on him, whichever is the later. (L.N. 383 of 1996)

(2) If a summons under Order 14, rule 1, or under Order 86, rule 1, is served on a defendant before he serves his defence, paragraph (1) shall not have effect in relation to him unless by the order made on the summons he is given leave to defend the action and, in that case, shall have effect as if it required him to serve his defence within 14 days after the making of the order or within such other period as may be specified therein.

(3) Where an application is made by a defendant under Order 12, rule 8(1), paragraph (1) shall not have effect in relation to him unless the application is dismissed or no order is made on the application and, in that case, shall have effect as if it required him to serve his defence within 14 days after the final determination of the application or within such other period as may be specified by the Court. (L.N. 383 of 1996)

**3. Service of reply and defence to counterclaim (O. 18, r. 3)**

(1) A plaintiff on whom a defendant serves a defence must serve a reply on that defendant if it is needed for compliance with rule 8; and if no reply is served, rule 14(1) will apply.

(2) A plaintiff on whom a defendant serves a counterclaim must, if he intends to defend it, serve on that defendant a defence to counterclaim.

(3) Where a plaintiff serves both a reply and a defence to counterclaim on any defendant, he must include them in the same document.

(4) A reply to any defence must be served by the plaintiff before the expiration of 14 days after the service on him of that defence, and a defence to counterclaim must be served by the plaintiff before the expiration of 14 days after the service on him of the counterclaim to which it relates.

**4. Pleadings subsequent to reply (O. 18, r. 4)**

No pleading subsequent to a reply or a defence to counter-claim shall be served except with the leave of the Court.

**5. Service of pleadings in Summer Vacation (O. 18, r. 5)**

Pleadings or amended pleadings shall not be served during the Summer Vacation, except with the leave of the Court or with the consent of all the parties to the action.

**(HK)5A. Filing of pleadings and originating process (O. 18, r. 5A)**

(1) Subject to Order 3, rule 5(3) and subject to the provisions of this rule, every pleading and originating process shall be filed in the Registry within the time during which that pleading or originating process may be served by him on any other party.

(2) A party may apply to the court for further time to file a pleading or originating process on a summons stating the further time required.

(3) If a party fails to file a pleading or originating process within the time allowed under paragraph (1) or further time allowed under paragraph (2), he shall not be at liberty to file that pleading or originating process without the leave of the Court.

**6. Pleadings: formal requirements (O. 18, r. 6)**

- (1) Every pleading in an action must bear on its face-
- (a) the year in which the writ in the action was issued and the number of the action,
  - (b) the title of the action,
  - (d) the description of the pleading, and
  - (e) the date on which it was served.

(2) Every pleading must, if necessary, be divided into paragraphs numbered consecutively, each allegation being so far as convenient contained in a separate paragraph.

(3) Dates, sums and other numbers must be expressed in a pleading in figures and not in words.

- (4) Every pleading must be indorsed-
- (a) where the party sues or defends in person, with his name and address;
  - (b) in any other case, with the name or firm and business address of the solicitor by whom it was served, and also (if the solicitor is the agent of another) the name or firm and business address of his principal.

(5) Every pleading must be signed by counsel, if settled by him, and, if not, by the party's solicitor or by the party, if he sues or defends in person.

**7. Facts, not evidence, to be pleaded (O. 18, r. 7)**

(1) Subject to the provisions of this rule and rules 7A, 10, 11 and 12, every pleading must contain, and contain only, a statement in a summary form of the material facts on which the party pleading relies for his claim or defence, as the case may be, but not the evidence by which those facts are to be proved, and the statement must be as brief as the nature of the case admits.

(2) Without prejudice to paragraph (1), the effect of any document or the purport of any conversation referred to in the pleading must, if material, be briefly stated, and the precise words of the document or conversation must not be stated, except in so far as those words are themselves material.

(3) A party need not plead any fact if it is presumed by law to be true or the burden of disproving it lies on the other party, unless the other party has specifically denied it in his pleading.

(4) A statement that a thing has been done or that an event has occurred, being a thing or event the doing or occurrence of which, as the case may be, constitutes a condition precedent necessary for the case of a party is to be implied in his pleading.

**7A. Conviction, etc. to be adduced in evidence:  
matter to be pleaded (O. 18, r. 7A)**

(1) If in any action which is to be tried with pleadings any party intends, in reliance on section 62 of the Evidence Ordinance (Cap 8) (convictions as evidence in civil proceedings) to adduce evidence that a person was convicted of an offence by or before a court in Hong Kong, he must include in his pleading a statement of his intention with particulars of-

- (a) the conviction and the date thereof,
- (b) the court which made the conviction, and
- (c) the issue in the proceedings to which the conviction is relevant.

(2) If in any action which is to be tried with pleadings any party intends, in reliance on section 63 of the Evidence Ordinance (Cap 8) (findings of adultery as evidence in civil proceedings) to adduce evidence that a person was found guilty of adultery in matrimonial proceedings, he must include in his pleading a statement of his intention with particulars of-

- (a) the finding and the date thereof,
  - (b) the court which made the finding and the proceedings in which it was made, and
  - (c) the issue in the proceedings to which the finding is relevant.
- (3) Where a party's pleading includes such a statement as is mentioned in paragraph (1) or (2), then if the opposite party-
- (a) denies the conviction or finding of adultery to which the statement relates, or
  - (b) alleges that the conviction or finding was erroneous, or
  - (c) denies that the conviction or finding is relevant to any issue in the proceedings,
- he must make the denial or allegation in his pleading.

**8. Matters which must be specifically pleaded (O. 18, r. 8)**

- (1) A party must in any pleading subsequent to a statement of claim plead specifically any matter, for example, performance, release, any relevant statute of limitation, fraud or any fact showing illegality-
- (a) which he alleges makes any claim or defence of the opposite party not maintainable; or
  - (b) which, if not specifically pleaded, might take the opposite party by surprise; or
  - (c) which raises issues of fact not arising out of the preceding pleading.
- (2) Without prejudice to paragraph (1), a defendant to an action for recovery of land must plead specifically every ground of defence on which he relies, and a plea that he is in possession of the land by himself or his tenant is not sufficient.
- (3) A claim for exemplary damages or for provisional damages must be specifically pleaded together with the facts on which the party pleading relies.
- (4) A party must plead specifically any claim for interest under section 48 of the Ordinance or otherwise.

**9. Matter may be pleaded whenever arising**  
(O. 18, r. 9)

Subject to rules 7(1), 10 and 15(2), a party may in any pleading plead any matter which has arisen at any time, whether before or since the issue of the writ.

**10. Departure (O. 18, r. 10)**

- (1) A party shall not in any pleading make any allegation of fact, or raise any new ground of claim, inconsistent with a previous pleading of his.
- (2) Paragraph (1) shall not be taken as prejudicing the right of a party to amend, or apply for leave to amend, his previous pleading so as to plead the allegations or claims in the alternative.

**11. Points of law may be pleaded (O. 18, r. 11)**

A party may by his pleading raise any point of law.

**12. Particulars of pleading (O. 18, r. 12)**

- (1) Subject to paragraph (2), every pleading must contain the necessary particulars of any claim, defence or other matter pleaded including, without prejudice to the generality of the foregoing-
- (a) particulars of any misrepresentation, fraud, breach of trust, wilful default or undue influence on which the party pleading relies;
  - (b) where a party pleading alleges any condition of the mind of any person, whether any disorder or disability of mind or any malice, fraudulent intention or other condition of mind except knowledge, particulars of the facts on which the party relies; and (L.N. 404 of 1991)

- (c) where a claim for damages is made against a party pleading, particulars of any facts on which the party relies in mitigation of, or otherwise in relation to, the amount of damages. (L.N. 404 of 1991)

(1A) Subject to paragraph (1B), a plaintiff in an action for personal injuries shall serve with his statement of claim-

- (a) a medical report; and
- (b) a statement of the special damages claimed. (L.N. 404 of 1991)

(1B) Where the documents to which paragraph (1A) applies are not served with the statement of claim, the Court may-

- (a) specify the period of time within which they are to be provided; or
- (b) make such other order as it thinks fit (including an order dispensing with the requirement of paragraph (1A) or staying the proceedings.) (L.N. 404 of 1991)

(1C) For the purposes of this rule-

"medical report" (醫學報告) means a report substantiating all the personal injuries alleged in the statement of claim which the plaintiff proposes to adduce in evidence as part of his case at the trial;

"a statement of the special damages claimed" (關於所申索的專項損害賠償的陳述書) means a statement giving full particulars of the special damages claimed for expenses and losses already incurred and an estimate of any future expenses and losses (including loss of earnings and of pension rights). (L.N. 404 of 1991)

(2) Where it is necessary to give particulars of debt, expenses or damages and those particulars exceed 3 folios, they must be set out in a separate document referred to in the pleading and the pleading must state whether the document has already been served, and, if so, when, or is to be served with the pleading.

(3) The Court may order a party to serve on any other party particulars of any claim, defence or other matter stated in his pleading, or in any affidavit of his ordered to stand as a pleading, or a statement of the nature of the case on which he relies, and the order may be made on such terms as the Court thinks just.

(4) Where a party alleges as a fact that a person had knowledge or notice of some fact, matter or thing, then, without prejudice to the generality of paragraph (3), the Court may, on such terms as it thinks just, order that party to serve on any other party-

- (a) where he alleges knowledge, particulars of the facts on which he relies, and
- (b) where he alleges notice, particulars of the notice.

(5) An order under this rule shall not be made before service of the defence unless, in the opinion of the Court, the order is necessary or desirable to enable the defendant to plead or for some other special reason.

(6) Where the applicant for an order under this rule did not apply by letter for the particulars he requires, the Court may refuse to make the order unless of opinion that there were sufficient reasons for an application by letter not having been made.

(7) Where particulars are given pursuant to a request, or order of the Court, the request or order shall be incorporated with the particulars, each item of the particulars following immediately after the corresponding item of the request or order.

### **13. Admissions and denials (O. 18, r. 13)**

(1) Any allegation of fact made by a party in his pleading is deemed to be admitted by the opposite party unless it is traversed by that party in his pleading or a joinder of issue under rule 14 operates as a denial of it. (L.N. 403 of 1992)

(2) A traverse may be made either by a denial or by a statement of non-admission and either expressly or by necessary implication.

(3) Every allegation of fact made in a statement of claim or counterclaim which the party on whom it is served does not intend to admit must be specifically traversed by him in his defence or defence to counterclaim, as the case may be; and a general denial of such allegations, or a general statement of non-admission of them, is not a sufficient traverse of them. (L.N. 403 of 1992)

1992)

(4) (Repealed L.N. 403 of 1992)

**14. Denial by joinder of issue** (O. 18, r. 14)

(1) If there is no reply to a defence, there is an implied joinder of issue on that defence.

(2) Subject to paragraph (3)-

(a) there is at the close of pleadings an implied joinder of issue on the pleading last served, and

(b) a party may in his pleading expressly join issue on the next preceding pleading.

(3) There can be no joinder of issue, implied or expressed, on a statement of claim or counterclaim.

(4) A joinder of issue operates as a denial of every material allegation of fact made in the pleading on which there is an implied or expressed joinder of issue unless, in the case of an expressed joinder of issue, any such allegation is excepted from the joinder and is stated to be admitted, in which case the expressed joinder of issue operates as a denial of every other such allegation.

**15. Statement of claim** (O. 18, r. 15)

(1) A statement of claim must state specifically the relief or remedy which the plaintiff claims; but costs need not be specifically claimed.

(2) A statement of claim must not contain any allegation or claim in respect of a cause of action unless that cause of action is mentioned in the writ or arises from facts which are the same as, or include or form part of, facts giving rise to a cause of action so mentioned; but subject to that, a plaintiff may in his statement of claim alter, modify or extend any claim made by him in the endorsement of the writ without amending the endorsement.

(3) Every statement of claim must bear on its face a statement of the date on which the writ in the action was issued.

**16. Defence of tender** (O. 18, r. 16)

Where in any action a defence of tender before action is pleaded, the defendant must pay into court in accordance with Order 22 the amount alleged to have been tendered, and the tender shall not be available as a defence unless and until payment into court has been made.

**17. Defence of set-off** (O. 18, r. 17)

Where a claim by a defendant to a sum of money (whether of an ascertained amount or not) is relied on as a defence to the whole or part of a claim made by the plaintiff, it may be included in the defence and set-off against the plaintiff's claim, whether or not it is also added as a counterclaim.

**18. Counterclaim and defence to counterclaim** (O. 18, r. 18)

Without prejudice to the general application of this Order to a counterclaim and a defence to counterclaim, or to any provision thereof which applies to either of those pleadings specifically-

(a) rules 12(1A), (1B) and (1C) and 15(1) shall apply to a counterclaim as if the counterclaim were a statement of claim and the defendant making it a plaintiff; (L.N. 404 of 1991)

(b) rules 8(2), 16 and 17 shall, with the necessary modifications, apply to a defence to counterclaim as they apply to a defence.

**19. Striking out pleadings and indorsements** (O. 18, r. 19)

(1) The Court may at any stage of the proceedings order to be struck out or amended any pleading or the indorsement of any writ in the action, or anything in any pleading or in the indorsement, on the ground that-

- (a) it discloses no reasonable cause of action or defence, as the case may be; or
- (b) it is scandalous, frivolous or vexatious; or
- (c) it may prejudice, embarrass or delay the fair trial of the action; or
- (d) it is otherwise an abuse of the process of the court;

and may order the action to be stayed or dismissed or judgment to be entered accordingly, as the case may be.

(2) No evidence shall be admissible on an application under paragraph (1)(a).

(3) This rule shall, so far as applicable, apply to an originating summons and a petition as if the summons or petition, as the case may be, were a pleading.

**20. Close of pleadings (O. 18, r. 20)**

(1) The pleadings in an action are deemed to be closed-

- (a) at the expiration of 14 days after service of the reply or, if there is no reply but only a defence to counterclaim, after service of the defence to counterclaim, or
- (b) if neither a reply nor a defence to counterclaim is served, at the expiration of 14 days after service of the defence.

(2) The pleadings in an action are deemed to be closed at the time provided by paragraph (1) notwithstanding that any request or order for particulars has been made but has not been complied with at that time.

**21. Trial without pleadings (O. 18, r. 21)**

(1) Where in an action to which this rule applies any defendant has given notice of intention to defend in the action, the plaintiff or that defendant may apply to the Court by summons for an order that the action shall be tried without pleadings or further pleadings, as the case may be.

(2) If, on the hearing of an application under this rule, the Court is satisfied that the issues in dispute between the parties can be defined without pleadings or further pleadings, or that for any other reason the action can properly be tried without pleadings or further pleadings, as the case may be, the Court shall order the action to be so tried, and may direct the parties to prepare a statement of the issues in dispute or, if the parties are unable to agree such a statement, may settle the statement itself.

(3) Where the Court makes an order under paragraph (2), it shall, and where it dismisses an application for such an order, it may, give such directions as to the further conduct of the action as may be appropriate, and Order 25, rules 2 to 7 shall, with the omission of so much of rule 7(1) as requires parties to serve a notice specifying the orders and directions which they desire and with any other necessary modifications, apply as if the application under this rule were a summons for directions.

(4) This rule applies to every action begun by writ other than one which includes-

- (a) a claim by the plaintiff for libel, slander, malicious prosecution or false imprisonment; or (L.N. 363 of 1990)
- (b) a claim by the plaintiff based on an allegation of fraud.

**22. Saving for defence under Merchant Shipping Acts etc. (O. 18, r. 22)**

Nothing in Order 75, rules 37 to 40, shall be taken as limiting the right of any shipowner or other person to rely by way of defence on any provision of the Merchant Shipping Acts 1894 to 1979<sup>#</sup> in their application to Hong Kong or the Merchant Shipping Ordinance (Cap 281), the

Merchant Shipping (Seafarers) Ordinance (Cap 478) or the Merchant Shipping (Safety) Ordinance (Cap 369), which limits the amount of his liability in connection with a ship or other property.

(L.N. 356 of 1988; 44 of 1995 s. 143)

**Note:**

# Please also see following-

(a) in relation to the Merchant Shipping Act 1894, Part 3 of Schedule 5 to Cap 415 and s. 1 of Schedule 2 to Cap 508;

(b) in relation to the Merchant Shipping Acts 1894 to 1979, s. 117 of Cap 281, s. 103 of Cap 415 and s. 142 of Cap 478.

Chapter:	41	INSURANCE COMPANIES ORDINANCE	Gazette Number	Version Date
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Schedule:	3	ACCOUNTS AND STATEMENTS	L.N. 2 of 2003; L.N. 3 of 2003	03/04/2003
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(Note: Only Part 1 and Form 5 of Part 8 are included.)

[sections 17, 18, 22 & 50]  
(Amended 32 of 2000 s. 48)

PART 1: INTERPRETATION AND PRELIMINARY

1. (1) In this Schedule, unless the context otherwise requires- (Amended L.N. 391 of 1990) "accounting class of general business" (一般業務會計類別) and "accounting class" (會計類別) mean respectively insurance business falling under any of the headings given below, against which are shown the corresponding classes of insurance business as defined in Part 3 of the First Schedule,-

	Accounting class	Corresponding classes of insurance business
1.	Accident and health	1, 2
2.	Motor vehicle (including damage to other land vehicles), damage and liability	3, 10
3.	Aircraft, damage and liability	5, 11
4.	Ships, damage and liability	6, 12
5.	Goods in transit	7
6.	Property damage	4, 8, 9
7.	General liability	13
8.	Pecuniary loss	14, 15, 16, 17
9.	Non-proportional treaty reinsurance	—
10.	Proportional treaty reinsurance	— ;

"additional amount for unexpired risks" (未過期風險的額外款額) means the amount set aside by an insurer at the end of its financial year, in addition to any unearned premiums, which is considered necessary to meet the cost of claims and expenses of settlement arising from risks to be borne by the insurer after the end of the financial year under contracts of insurance entered into before the end of that year; "appointed actuary" means the person appointed as actuary to an insurer under section 15 of this Ordinance;

"appointed actuary" (委任精算師) means the person appointed as actuary to an insurer under

- section 15 of this Ordinance;
- "appointed auditor" (委任核數師) means the person appointed as auditor to an insurer under section 15 of this Ordinance;
- "claim" (申索) means a claim against an insurer under a contract of insurance;
- "claims equalization" (申索平衡基金) means the amount set aside by an insurer as at the end of its financial year for the purpose of being used to prevent exceptional fluctuations in the amounts charged to revenue in subsequent financial years in respect of claims arising due to the occurrence of events of an exceptional nature, that is to say, events not normally occurring every year;
- "claims outstanding" (未決申索) means, unless otherwise specified, the amount set aside by an insurer as at the beginning or end of its financial year as being an amount likely to be sufficient to meet-
- (a) claims in respect of incidents occurring-
    - (i) in the case of an amount set aside as at the beginning of the financial year, before the beginning of that year; and
    - (ii) in the case of an amount set aside as at the end of the financial year, before the end of that year,  
being claims which have not been treated as claims paid and including claims relating to business accounted for over a longer period than a financial year, claims the amounts of which have not been determined and claims arising out of incidents that have not been notified to the insurer; and
  - (b) expenses (such as, for example, legal, medical, surveying or engineering costs) which have been incurred but not yet recorded as paid or which are likely to be incurred by the insurer, whether through the employment of its own staff or otherwise, and are directly attributable to the settlement of individual claims which relate to incidents occurring before the beginning or the end of the financial year (as the case may be), whether or not the individual claims in question are those mentioned above;
- "claims paid" (已償付申索), in relation to general business, means unless otherwise specified the amount that is paid by an insurer in full or partial settlement of-
- (a) claims, including claims relating to business accounted for over a longer period than a financial year; and
  - (b) expenses (such as, for example, legal, medical, surveying or engineering costs) which are incurred by the insurer, whether through the employment of its own staff or otherwise, and are directly attributable to the settlement of individual claims, whether or not the individual claims in question are those mentioned above;
- "claims paid and outstanding" (已償付及未決申索) means the amount obtained by taking the sum of the claims paid during a financial year and the claims outstanding as at the end of that year and deducting therefrom the claims outstanding as at the beginning of the year;
- "commission payable" (須付的佣金), in relation to a financial year of an insurer, means the amounts, whether or not paid during that year, which are recorded during that year as due to intermediaries and cedants in respect of the inception, amendment or renewal of contracts of insurance;
- "contract of insurance" (保險合約) includes a contract of reinsurance;
- "direct business" (直接業務) means contracts of insurance, other than contracts of reinsurance, entered into by an insurer; (Added L.N. 391 of 1990)
- "expenses for settling claims outstanding" (了結未決申索的開支) means the amount set aside by an insurer at the end of its financial year as being an amount likely to be sufficient to meet that part of the insurer's expenses which is likely to be incurred in respect of general business in the settlement of claims in respect of incidents occurring before the end of that year other than expenses which fall to be included under claims outstanding;
- "expenses of settling claims" (了結申索的開支) means that part of an insurer's expenses which

has been incurred in respect of general business in the settlement of claims;  
"fund" (基金), in relation to-

- (a) general business recorded as commencing in any financial year of an insurer but accounted for over a period longer than that financial year, means, during such period, an amount not less than the aggregate amount of the premiums receivable during that period (net of reinsurance premiums payable) reduced by the aggregate amount of the claims paid (net of reinsurance recoveries), expenses for settling claims, commission (net of reinsurance commission receivable) and premium taxes in respect of that business and any management expenses attributable to the management of the fund and, after the end of such period, means such amount as is considered necessary to discharge the remaining obligations (net of reinsurance) in respect of that business;
- (b) long term business, means the amount standing to the credit of an account maintained in respect of that business in accordance with section 22 of this Ordinance;

"gross premiums" (毛保費), in relation to a financial year-

- (a) means premiums after deduction of discounts specified in policies or refunds of premiums made in respect of any termination or reduction of risks but before deduction of premiums for reinsurance ceded and of commission payable by the insurer; and
- (b) includes premiums receivable by the insurer under reinsurance contracts accepted by the insurer;

"Hong Kong insurance business" (香港保險業務) means-

- (a) any direct business or facultative reinsurance business, being general business, in relation to which the risk is underwritten in Hong Kong, that is to say-
  - (i) the policy is issued in Hong Kong;
  - (ii) the proposal form, application form or any other form of a similar nature is prepared or signed in Hong Kong;
  - (iii) the proposal form, application form or any other form of a similar nature is submitted or received in Hong Kong;
  - (iv) the proposal form, application form or any other form of a similar nature is accepted in Hong Kong; or
  - (v) the risk is accepted in Hong Kong; or (Replaced L.N. 2 of 2003)
- (b) any treaty reinsurance business, being general business, in relation to which the risk is underwritten in Hong Kong, that is to say-
  - (i) the treaty is signed;
  - (ii) the treaty is accepted; or
  - (iii) the treaty negotiation is concluded,in Hong Kong, other than treaty reinsurance business in respect of which less than 25% of the total risk (calculated in terms of the gross premiums receivable under the treaty) arises in Hong Kong within the meaning of subparagraph (2); (Added L.N. 391 of 1990)

"Hong Kong long term insurance business" (香港長期保險業務) means-

- (a) any direct business or facultative reinsurance business, being long term business, in relation to which the risk is underwritten in Hong Kong, that is to say-
  - (i) the policy is issued in Hong Kong;
  - (ii) the proposal form, application form or any other form of a similar nature is signed in Hong Kong;
  - (iii) the proposal form, application form or any other form of a similar nature is submitted or received in Hong Kong;
  - (iv) the proposal form, application form or any other form of a similar nature is accepted in Hong Kong; or
  - (v) the risk is accepted in Hong Kong; or
- (b) any treaty reinsurance business, being long term business, in relation to which the

risk is underwritten in Hong Kong, that is to say-

- (i) the treaty is signed in Hong Kong;
- (ii) the treaty is accepted in Hong Kong; or
- (iii) the treaty negotiation is concluded in Hong Kong,

but does not include any treaty reinsurance business in respect of which less than 25% of the total risk (calculated in terms of the gross premiums receivable under the treaty) arises in Hong Kong within the meaning of subparagraph (3); (Added L.N. 2 of 2003)

"intermediary" (中介人) means a person who in the course of any business or profession invites other persons to make offers or proposals or to take other step with a view to entering into contracts of insurance with an insurer, other than a person who only publishes such invitations on behalf of, or to the order of, some other person;

"management expenses"(管理開支) means expenses incurred in the administration of an insurer or its business which are not commission payable and, in the case of general business, are not included in claims paid, claims outstanding, expenses for settling claims and expenses for settling claims outstanding;

"premiums" (保費) includes the consideration for the granting of an annuity;

"profit and loss account" (損益帳), in relation to an insurer not trading for profit, means an income and expenditure account;

"provision" (準備金) means any amount written off or retained by way of providing for depreciation, amortization, renewals or diminution in value of assets or retained by way of providing for any known liability, including liabilities in respect of expenditure contracted for and all disputed or contingent liabilities, the amount of which cannot be determined with substantial accuracy;

"receivable" (可收取), in relation to income during a financial year, means, unless otherwise specified, such amounts as become due to the insurer, whether or not received by the insurer during that year, including (where appropriate) income which has accrued;

"reinsurance" (再保險) and "reinsurer"(再保險人) include retrocession and retrocessionaire, respectively;

"reinsurance premiums payable" (須付的再保險保費)-

- (a) means the premiums recorded in an insurer's books during a financial year as due by it to reinsurers in respect of reinsurance contracts commencing in that year or reinsurance contracts commencing in earlier financial years but not accounted for in the insurer's revenue account prior to that financial year, whether or not paid by the insurer during that financial year, after deducting discounts, refunds and rebates of premiums as recorded in the same period, and for the purpose of determining whether a premium is due no account shall be taken of any credit arrangements made in respect thereof; and
- (b) in the case of general business, includes, unless otherwise specified, unearned premium portfolios and outstanding claims portfolios payable by the insurer under reinsurance contracts ceded by the insurer, after deduction of any premium portfolios or loss portfolios refunded to the insurer by reinsurers;

"reserve" (儲備金) includes any amount written off or retained other than by way of provision;

"statutory business" (法定業務) means-

- (a) the business of insurance against liability described in section 6 of the Motor Vehicles Insurance (Third Party Risks) Ordinance (Cap 272);
- (b) the business of insurance against liability described in section 107D of the Merchant Shipping Ordinance (Cap 281); or
- (c) the business of insurance against liability described in section 40 of the Employees' Compensation Ordinance (Cap 282); (Added L.N. 391 of 1990)

"unearned premiums" (未滿期保費) means the amount set aside by an insurer at the end of its financial year out of premiums in respect of risks to be borne by the insurer after the end of

the financial year under contracts of insurance entered into before the end of that year.

(2) For the purposes of paragraph (b) of the definition of "Hong Kong insurance business", a risk is deemed to arise in Hong Kong- (Amended L.N. 2 of 2003)

- (a) in the case of insurance business of "accident and health" or "pecuniary loss", if-
  - (i) the policy holder being an individual is resident in Hong Kong; or
  - (ii) the policy holder is a company within the meaning of section 2 of the Companies Ordinance (Cap 32);
- (b) in the case of insurance business of "aircraft, damage and liability", "ships, damage and liability" and "goods in transit", if the risk is underwritten in Hong Kong as described in the definition of Hong Kong insurance business;
- (c) in all other cases of insurance business, if the risk is located in Hong Kong. (Added L.N. 391 of 1990)

(3) For the purposes of paragraph (b) of the definition of "Hong Kong long term insurance business", a risk is deemed to arise in Hong Kong, if-

- (a) the policy holder being an individual is resident in Hong Kong; or
- (b) the policy holder is a company within the meaning of section 2 of the Companies Ordinance (Cap 32). (Added L.N. 2 of 2003)

2. All accounts and statements shall be produced in the Chinese or the English language or, if not so produced, be accompanied by a complete Chinese or English translation. (Replaced L.N. 599 of 1995)

3. Subject to the provisions of Part 8, the information to be submitted under this Schedule shall be submitted in respect of the total business of the insurer. (Amended L.N. 391 of 1990)

4. (1) The accounts and statements of an insurer carrying on long term business only to be submitted under Parts 3, 4 and 5 of this Schedule shall be audited by the appointed auditor who shall annex to the accounts and statements a report stating-

- (a) the greater of the following-
  - (i) the relevant amount (within the meaning of section 10 of this Ordinance) in the case of the insurer; or
  - (ii) the amount as may be prescribed by or determined in accordance with regulations made under section 59(1)(aa) of this Ordinance for the purpose of section 8(3)(a)(ii)(B) and (iii)(B) of this Ordinance in the case of the insurer; (Amended 29 of 1997 s. 13)
- (b) whether in the auditor's opinion the value of the assets of the insurer exceeds the amount of its liabilities by the amount stated under sub-paragraph (a);
- (c) whether in the auditor's opinion proper records have been maintained in accordance with section 16 of this Ordinance;
- (d) whether in the auditor's opinion the insurer's balance sheet, revenue account and profit and loss account and (if it is a holding company submitting group accounts) the group accounts have been properly prepared in accordance with the provisions of this Ordinance; and
- (e) whether in the auditor's opinion a true and fair view is given-
  - (i) in the case of the balance sheet, of the state of the insurer's affairs as at the end of its financial year;
  - (ii) in the case of the revenue account and profit and loss account (if it is not framed as a consolidated revenue account and profit and loss account), of the insurer's profit and loss for its financial year; and
  - (iii) in the case of group accounts submitted by an insurer which is a holding company, of the insurer's interest therein. (Replaced L.N. 599 of 1995 s. 2(1)(c))

(1AA) Notwithstanding subparagraph (1)(e), the appointed auditor's opinion given under that subparagraph as to whether a true and fair view is so given may, where the valuation of any asset or liability or the treatment of any income or expenditure of the insurer is in accordance with

any statutory provision which, in the case of that insurer, applied to the preparation of the accounts and statements so submitted, be qualified in such respects as he may specify, indicating the items affected by such valuation or treatment and the statutory provisions in question. (Added L.N. 599 of 1995 s. 2(1)(c))

(1AB) The accounts and statements of an insurer carrying on general business only, other than a captive insurer, to be submitted under Parts 4 and 5 of this Schedule shall be audited by the appointed auditor who shall annex to the accounts and statements a report stating- (Amended 29 of 1997 s. 13)

- (a) the relevant premium income of the insurer;
- (aa) the relevant claims outstanding of the insurer; (Added 35 of 1996 s. 33)
- (b) the relevant amount (within the meaning of section 10 of this Ordinance) in the case of the insurer;
- (c) whether in the auditor's opinion the value of the assets of the insurer exceeds its liabilities by that relevant amount;
- (d) whether in the auditor's opinion proper records have been maintained in accordance with section 16 of this Ordinance; and
- (e) whether in the auditor's opinion the insurer's balance sheet, revenue account and profit and loss account have been properly prepared in accordance with the provisions of this Ordinance (Added L.N. 599 of 1995 s. 2(1)(c))

(1AC) The accounts and statements of an insurer carrying on both general business and long term business to be submitted under Parts 4 and 5 of this Schedule shall be audited by the appointed auditor who shall annex to the accounts and statements a report stating-

- (a) the relevant premium income of the insurer attributable to its general business;
- (aa) the relevant claims outstanding of the insurer attributable to its general business; (Added 35 of 1996 s. 33)
- (b) the relevant amount (within the meaning of section 10 of this Ordinance) in the case of the insurer having regard to its general business;
- (c) the greater of the following-
  - (i) the relevant amount (within the meaning of section 10 of this Ordinance) in the case of the insurer having regard to its long term business; or
  - (ii) the amount as may be prescribed by or determined in accordance with regulations made under section 59(1)(aa) of this Ordinance for the purpose of section 8(3)(a)(ii)(B) and (iii)(B) of this Ordinance in the case of the insurer having regard to its long term business; (Amended 29 of 1997 s. 13)
- (d) whether in the auditor's opinion the value of the assets of the insurer exceeds its liabilities by the aggregate of the amounts stated under sub-subparagraphs (b) and (c);
- (e) whether in the auditor's opinion proper records have been maintained in accordance with section 16 of this Ordinance;
- (f) whether in the auditor's opinion the insurer's balance sheet, revenue account and profit and loss account have been properly prepared in accordance with the provisions of this Ordinance; and
- (g) whether in the auditor's opinion the balance sheet gives a true and fair view of the financial position, as at the end of its financial year, of the business of the insurer for which an account is maintained pursuant to section 22 or 22A of this Ordinance, but his opinion as to whether a true and fair view is so given may, where the valuation of any asset or liability of the insurer is in accordance with any statutory provision which, in the case of that insurer, applied to the preparation of the balance sheet so submitted, be qualified in such respects as he may specify, indicating the items affected by such valuation and the statutory provisions in question. (Added L.N. 599 of 1995 s. 2(1)(c))

(1AD) The accounts and statements of a captive insurer to be submitted under Parts 3, 4 and 5 of this Schedule shall be audited by the appointed auditor who shall annex to the accounts and statements a report stating-

- (a) the net premium income of the captive insurer;

- (b) the net claims outstanding of the captive insurer;
- (c) the relevant amount (within the meaning of section 10 of this Ordinance) in the case of the captive insurer;
- (d) whether in the auditor's opinion the value of the assets of the captive insurer exceeds its liabilities by that relevant amount;
- (e) whether in the auditor's opinion proper records have been maintained in accordance with section 16 of this Ordinance;
- (f) whether in the auditor's opinion the captive insurer's balance sheet, revenue account and profit and loss account and (if it is a holding company submitting group accounts) the group accounts have been properly prepared in accordance with the provisions of this Ordinance; and
- (g) whether in the auditor's opinion a true and fair view is given-
  - (i) in the case of the balance sheet, of the state of the captive insurer's affairs as at the end of its financial year;
  - (ii) in the case of the revenue account and profit and loss account (if it is not framed as a consolidated revenue account and profit and loss account), of the captive insurer's profit and loss for its financial year; and
  - (iii) in the case of group accounts submitted by a captive insurer which is a holding company, of the captive insurer's interest therein. (Added 29 of 1997 s. 13)

(1AE) Notwithstanding subparagraph (1AD)(g), the appointed auditor's opinion given under that subparagraph as to whether a true and fair view is so given may, where the valuation of any asset or liability or the treatment of any income or expenditure of the captive insurer is in accordance with any statutory provision which, in the case of that captive insurer, applied to the preparation of the accounts and statements so submitted, be qualified in such respects as he may specify, indicating the items affected by such valuation or treatment and the statutory provisions in question. (Added 29 of 1997 s. 13)

(1A) The forms and statements to be submitted under Parts 8 and 9 of this Schedule (except the forms to be submitted in Form HKL2 and Form HKL3 under Part 8) shall be audited by a person who is qualified for appointment as auditor of a company under the Professional Accountants Ordinance (Cap 50) and is not disqualified under section 140 of the Companies Ordinance (Cap 32), and the auditor shall- (Amended L.N. 2 of 2003)

- (a) with respect to the forms (except Form HKL1) under Part 8, annex a report thereto stating whether or not in his opinion- (Amended L.N. 2 of 2003)
  - (i) the insurer maintains proper records in accordance with section 16 of this Ordinance for the purposes of preparing the forms;
  - (ii) the forms have been properly prepared in accordance with those records; and
  - (iii) the information supplied in the forms presents fairly in all material respects the underwriting results pertaining to the Hong Kong insurance business; (Amended L.N. 2 of 2003)
- (aa) with respect to Form HKL1 under Part 8, annex a report to the form stating whether or not in his opinion-
  - (i) the insurer maintains proper records in accordance with section 16 of this Ordinance for the purposes of preparing the form; and
  - (ii) the form has been properly prepared in accordance with those records; and (Added L.N. 2 of 2003)
- (b) with respect to the statement under Part 9, annex a report thereto stating whether or not in his opinion-
  - (i) the insurer maintains proper records in accordance with section 16 of this Ordinance for the purposes of preparing the statement;
  - (ii) the statement has been properly prepared in accordance with those records;
  - (iii) the values of the assets and liabilities have been determined in accordance with any applicable valuation regulations;
  - (iv) the relevant amount has been determined in accordance with section 25A(1) of this Ordinance; and

- (v) where the statement is submitted pursuant to-
  - (A) section 25A(9) of this Ordinance, the assets held by the insurer, as shown in the statement, enable it to comply with the requirement stipulated in section 25A of this Ordinance as at the last day of the financial year and 2 such other dates in the financial year as the auditor preparing the report may elect, provided that the intervening period between those 2 dates shall not be shorter than 3 months; or
  - (B) section 25B(3)(b) of this Ordinance, the assets held by the insurer, as shown in the statement, enable it to comply with the requirement stipulated in section 25B of this Ordinance as at the date specified in the notice issued under that section. (Added 26 of 1994 s. 7)

(2) If he considers it necessary the appointed auditor shall add to the report such qualification, amplification or explanation as is appropriate. (Amended 26 of 1994 s. 7)

(3) Subject to the provisions of Part 8, any information required to be submitted under this Schedule may be submitted in the form of notes if, but only if, the information submitted can readily be interpreted as a whole and the appointed auditor's report is attached. (Amended L.N. 391 of 1990; 26 of 1994 s. 7)

5. (1) The information to be submitted in respect of long term business under Part 7 of this Schedule shall be accompanied by a certificate by the appointed actuary- (Amended 59 of 1993 s. 18; 4 of 1998 s. 3)

- (a) stating whether in his opinion, proper records have been kept by the insurer adequate for the purpose of the valuation of the liabilities of the long term business;
- (b) stating whether he is satisfied that, as at the date to which the valuation relates, the value of the assets identified as representing the fund or funds maintained by the insurer in respect of its long term business was not less than the greater of the following-
  - (i) the aggregate of-
    - (A) the amount of the liabilities attributable to that business; and
    - (B) if any part of the long term business is of a nature other than that specified in class G or H in Part 2 of the First Schedule, \$2000000 or its equivalent; or (Replaced 4 of 1998 s. 3)
  - (ii) the aggregate of the amount of the liabilities attributable to that business and such amount as may be required to be held in such fund or funds in accordance with regulations made under section 59(1)(ab) of this Ordinance; (Replaced 25 of 1994 s. 19)
- (c) stating whether in his opinion there is a prudent and satisfactory relationship between the nature and term of the assets and the nature and term of the liabilities; (Amended 25 of 1994 s. 19)
- (d) stating whether he is satisfied that, as at the date to which the valuation relates, the value of the assets of the insurer was not less than-
  - (i) in the case of an insurer carrying on long term business only, the aggregate of the amount of its liabilities and such amount as may be prescribed by or determined in accordance with regulations made under section 59(1)(aa) of this Ordinance;
  - (ii) in the case of an insurer carrying on both general business and long term business, the aggregate of-
    - (A) the amount which, if section 10(1) of this Ordinance applied, would be the relevant amount in the case of the insurer having regard only to its general business;
    - (B) the amount of its liabilities; and
    - (C) such amount as may be prescribed by or determined in accordance with regulations made under section 59(1)(aa) of this Ordinance; (Added 25 of 1994 s. 19. Amended 29 of 1997 s. 13)
- (e) confirming that he has complied with the prescribed standards or other standards as

the Insurance Authority accepts as being comparable to the prescribed standards under section 15C of this Ordinance, which are applicable to him; and (Added 29 of 1997 s. 13. Amended 31 of 2000 s. 4)

- (f) specifying such of those standards applicable to him with which he has complied. (Added 29 of 1997 s. 13)

(1A)(Repealed 4 of 1998 s. 3)

(2) If he considers it necessary, the appointed actuary shall add to the certificate such qualification, amplification or explanation as is appropriate.

6. Except to the extent that any statutory provisions have been followed in the preparation thereof, there shall be annexed to the accounts and statements a supplementary statement or statements describing in full and sufficient detail the accounting policies used in arriving at the values of each and every asset and liability and in making any estimate, apportionment, reserve or provision.

**PART 8: ACCOUNTS AND INFORMATION IN RESPECT OF THE  
HONG KONG INSURANCE BUSINESS AND HONG KONG LONG  
TERM INSURANCE BUSINESS OF AN INSURER**

(Amended L.N. 3 of 2003)

**FORM 5**

**HONG KONG INSURANCE BUSINESS-STATISTICS OF STATUTORY BUSINESS**

(BEING DIRECT BUSINESS) OF ..... (Name of insurer)

for the period commencing on ..... and ending on .....

- A. Motor Vehicle Insurance Business under section 6 of the Motor Vehicles Insurance (Third Party Risks) Ordinance (Cap 272)

No. of vehicles covered at end of period

THIRD PARTY RISKS				COMPREHENSIVE			TOTAL	No. of outstanding claims at end of period (All types)
Private Cars	Public Hire Vehicles	Other Commercial Vehicles	Motor Cycle s	Private Cars	Public Hire Vehicle s	Other Commerical Vehicles	Motor Cycles	

- B. Employees' Compensation Insurance Business under section 40 of the Employees' Compensation Ordinance (Cap 282)

No. of policies in force at end of period

No. of outstanding claims at end of a period

C. Launch, Ferry Vessel and Pleasure Vessel Insurance Business under section 107D of the Merchant Shipping Ordinance (Cap 281)

THIRD PARTY RISKS	No. of policies in force at end of period		No. of launches, ferry vessels and pleasure vessels covered by such policies	No. of outstanding claims at end of period
	COMPREHENSIVE	TOTAL		

We certify that the above information is true and correct.

( \_\_\_\_\_ ) ( \_\_\_\_\_ ) ( \_\_\_\_\_ )  
 Director \*Chief Executive/Secretary

Director

Note: This form is to be completed by an insurer authorized to carry on statutory business (being direct business) in Hong Kong.

\* Delete as necessary.

Chapter:	49	TRANSFER OF BUSINESSES (PROTECTION OF CREDITORS) ORDINANCE	Gazette Number	Version Date
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Section:	2	Interpretation		30/06/1997
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(1) In this Ordinance, unless the context otherwise requires-  
 "appeal" (上訴) includes a motion for a new trial or to set aside a verdict, finding or judgment;  
 "business" (業務) means a business, or any part thereof, consisting of a trade or occupation (other than a profession) whether or not it is carried on with a view to profit;  
 "charge" (押記) means-  
 (a) a debenture within the meaning of the Companies Ordinance (Cap 32);  
 (b) a mortgage;  
 (c) a bill of sale;  
 (d) a lien; or  
 (e) any document,  
 under or pursuant to which a business or any assets thereof are charged as security for the payment of money or the performance of an obligation, and includes an equitable charge;  
 "charge-holder" (受押人) means a person who, under or pursuant to a charge, and for the purpose

of enforcing payment of any money or for the performance of any obligation, may sell any business;

"date of transfer" (轉讓當日、轉讓日期) means the date on which a transfer takes effect or is intended to take effect;

"notice of transfer" (轉讓通告) means a notice of transfer in accordance with section 5;

"registered charge" (已登記押記) means a charge which is registered under-

- (a) the Land Registration Ordinance (Cap 128);
- (b) the Companies Ordinance (Cap 32);
- (c) the Bills of Sale Ordinance (Cap 20); or
- (d) any other enactment;

"transfer" (轉讓) means the transfer or sale of a business, but does not include-

- (a) the sale of the stock-in-trade of a business in the ordinary course of its trade;
- (b) the creation of a charge;
- (c) the transfer of land or any share or interest therein; or
- (d) the transfer of a vessel (or the transfer of any interest or share therein), other than-
  - (i) a vessel to which Part IV of the Shipping and Port Control Ordinance (Cap 313) applies; or
  - (ii) a trawler to which Part XII of the Merchant Shipping Ordinance (Cap 281) applies;

"transferee" (承讓人) means the person to whom a business is transferred by a transferor;

"transferor" (出讓人) means-

- (a) in the case of the sale of a business under or pursuant to a charge, the person whose business has been or is intended to be sold;
- (b) in every other case, the person by whom or on whose behalf the transfer has been or is intended to be made.

(2) For the purposes of this Ordinance "transferor" and "transferee" respectively include a sub-transferor and a sub-transferee.

Chapter:	60	IMPORT AND EXPORT ORDINANCE	Gazette Number	Version Date
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Section:	6E	Restriction on carriage, etc. of prescribed articles in Hong Kong waters	64 of 1999	05/11/1999
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Remarks:

Adaptation amendments retroactively made - see 66 of 2000 s. 3

(1) A person shall not, without lawful excuse, place on board, or cause to be placed on board, or possess on board, a vessel within the waters of Hong Kong a prescribed article.

(2) The owner of a vessel within the waters of Hong Kong shall not permit a prescribed article to be placed on board, or carried on, his vessel without lawful excuse.

(3) A person shall not, without lawful excuse, use a vessel to carry on board the vessel, or use a vessel to tow on board another vessel, a prescribed article within the waters of Hong Kong.

(4) A person shall not, without lawful excuse, use a vessel to tow otherwise than on board another vessel a prescribed article within the waters of Hong Kong.

(5) For the purposes of subsections (1), (2) and (3), "lawful excuse" (合法辯解) means the article is placed on board, or carried on, or carried or towed by use of, a vessel-

- (a) which vessel is of or more than 250 gross tons and the article is for bona fide import or export;
- (b) for delivery to a vessel of or more than 250 gross tons within Hong Kong and the article is for bona fide import or export purposes and is accompanied by a shipping document;

- (c) from another vessel within Hong Kong which is of or more than 250 gross tons and the article is for bona fide import or export purposes and is accompanied by a shipping document;
- (d) which is a passenger vessel of or more than 250 gross tons other than a ferry vessel;
- (e) which is a ferry vessel as defined in regulation 2 of the Shipping and Port Control (Ferry Terminals) Regulations (Cap 313 sub. leg. H) operating between-
  - (i) a terminal in Hong Kong and a place in Macau; or
  - (ii) a terminal in Hong Kong and another place in China; (Amended 64 of 1999 s. 3; 66 of 2000 s. 3)
- (f) which is a ferry vessel-
  - (i) licensed by the Director of Marine under the Merchant Shipping (Launches and Ferry Vessels) Regulations (Cap 313 sub. leg. E) for the conveyance of passengers and articles;
  - (ii) permitted by the Commissioner for Transport under the Ferry Services Ordinance (Cap 104) to ply between 2 or more points within the waters of Hong Kong; and
  - (iii) travelling on a permitted route except a route which includes a stopping point on an island other than Hong Kong Island;
- (g) by a passenger, or as part of his baggage, for his own use other than for trade or business, which vessel is a ferry vessel-
  - (i) licensed by the Director of Marine under the Merchant Shipping (Launches and Ferry Vessels) Regulations (Cap 313 sub. leg. E) for the conveyance of passengers and articles;
  - (ii) permitted by the Commissioner for Transport under the Ferry Services Ordinance (Cap 104) to ply between 2 or more points within the waters of Hong Kong; and
  - (iii) travelling on a permitted route;
- (h) by a passenger, or as part of his baggage, for his own use other than for trade or business, which vessel is licensed by the Director of Marine for the carriage of passengers within the waters of Hong Kong-
  - (i) as a Class IV trading boat or a Class V trading junk under the Merchant Shipping (Miscellaneous Craft) Regulations (Cap 313 sub. leg. F); or
  - (ii) as a launch under the Merchant Shipping (Launches and Ferry Vessels) Regulations (Cap 313 sub. leg. E);
- (i) under an export licence issued for the purposes of section 6D(2);
- (j) for the personal use of a crew member or a passenger while he is on board the vessel;
- (k) under a carriage licence issued by the Commissioner under the Import and Export (Carriage of Articles) Regulations (Cap 60 sub. leg. I),

and includes possessing a prescribed article on board the vessel in any of the circumstances set out in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), (j) or (k).

(6) For the purposes of subsection (4), "lawful excuse" means the article is towed by use of a vessel, under a carriage licence issued by the Commissioner under the Import and Export (Carriage of Articles) Regulations (Cap 60 sub. leg. I).

(7) Any person who contravenes subsection (1), (2), (3) or (4) shall be guilty of an offence and shall be liable-

- (a) on summary conviction to a fine of \$500000 and to imprisonment for 2 years;
- (b) on conviction on indictment to a fine of \$2000000 and to imprisonment for 7 years.

(8) In this section, unless the context otherwise requires-

"ferry vessel" (渡輪船隻) means a vessel which plies regularly for the carriage of passengers and articles between 2 or more points within the waters of Hong Kong;

"prescribed article" (訂明物品) means an article prescribed in the Schedule to the Import and Export (Carriage of Articles) Regulations (Cap 60 sub. leg. I);

"shipping company" (航運公司) means a company that carries on the business of transporting

articles or arranging transport of articles for import or export purposes;  
 "shipping document" (裝運單據) means a document issued by a shipping company or its agent in  
 Hong Kong-

- (a) authorizing the delivery in Hong Kong of imported articles; or
- (b) instructing the master of a vessel in Hong Kong to accept and export articles out of Hong Kong.

(Added 1 of 1994 s. 5)

Chapter:	60D	EXPORT (PRESCRIBED ARTICLES) REGULATIONS	Gazette Number	Version Date
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Regulation:	4	Exemption for certain ferry passengers	64 of 1999	05/11/1999
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Remarks:

Adaptation amendments retroactively made - see 66 of 2000 s. 3

Section 6D(2) of the Ordinance shall not apply to a passenger carrying an article prescribed in the Schedule as part of his baggage, for his own use other than for trade or business, on a ferry vessel as defined in regulation 2 of the Shipping and Port Control (Ferry Terminals) Regulations (Cap 313 sub. leg. H) operating between-

- (a) a terminal in Hong Kong and a place in Macau; or
- (b) a terminal in Hong Kong and another place in China.

(L.N. 41 of 1991; L.N. 134 of 1994; 64 of 1999 s. 3; 66 of 2000 s. 3)

Chapter:	102A	WATERWORKS REGULATIONS	Gazette Number	Version Date
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Regulation:	2	Interpretation		30/06/1997
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In these regulations, unless the context otherwise requires-

"BS" means the latest revised edition of a specification issued by the British Standards Institution; (L.N. 252 of 1977)

"Building Authority" (建築事務監督) means the Building Authority under the Buildings Ordinance (Cap 123);

"construction purpose" (建造用途), in relation to a supply, means water supplied for use for any purpose connected with the construction of a building or substantial repairs or alterations to a building;

"Director" (署長) means the Director of Water Supplies;

"plumber's licence" (水喉匠牌照) means a plumber's licence issued under regulation 34;

"shipping purpose" (船舶用途), in relation to supply, means water supplied-

- (a) (i) to or for use on any vessel other than a vessel to which paragraph (b)(i) of this definition applies;
- (ii) to any pier for use on any vessel to which subparagraph (i) applies; or
- (iii) to or for use on any vessel employed for the conveyance of water to any vessel to which subparagraph (i) applies;
- (b) (i) to or for use on any vessel to which Part IV of the Shipping and Port Control Ordinance (Cap 313) applies, including any launches, ferry vessels, miscellaneous craft and pleasure vessels to which the regulations specified in section 35(1) of that Ordinance apply; or
- (ii) to any pier for use on such pier; (L.N. 219 of 1983)

"trade purpose" (工商業用途), in relation to a supply, means water supplied for use-

- (a) for any purpose connected with a trade, manufacture or business, other than a construction purpose or shipping purpose; or
- (b) for any purpose other than a domestic purpose, construction purpose or shipping purpose.

Chapter:	106A	TELECOMMUNICATIONS REGULATIONS	Gazette Number	Version Date
Schedule:	3	FORM OF LICENCES	L.N. 326 of 2000	01/01/2001

*(Note: Only the form of Hong Kong Ship Station Licence is included.)*

SCHEDULE

(L.N. 43 of 1966; L.N. 4 of 1984; 36 of 2000 s. 28)

TELECOMMUNICATIONS ORDINANCE  
(Chapter 106)

HONG KONG

SHIP STATION LICENCE  
LICENCE DE STATION DE NAVIRE  
LICENCIA DE ESTACION DE BARCO

No. ....  
Period of validity: 1 year

In accordance with the Telecommunications Ordinance (Cap 106) and with the Radio Regulations annexed to the Constitution and Convention of the International Telecommunication Union now in force, this licence is herewith issued, subject to conditions herein contained, to ..... of ..... (hereinafter referred to as "the Licensee") for the installation and use of the radio equipment described below (hereinafter referred to as "the Station")-

1	2	3
Name of ship (the "Ship")	Call sign or other identification (the "Call Sign")	Public correspondence category



possessing the written authority of the Telecommunications Authority to fill the position of operator of a ship's station for radiocommunications of the type of the Station, but these requirements-

- (a) shall not prevent the use or operation of the Station in time of distress in whatever manner and by any persons for the purpose of attracting attention, making known their position and obtaining help; and
  - (b) shall not apply when used for receiving messages from radio-determination stations or authorized broadcasting stations.
6. If any message, the receipt of which is not authorized by this licence, is received, neither the Licensee nor any person using the Station shall make known the contents of any such message, its origin or destination, its existence or the fact of its receipt to any person except a duly authorized officer of the Telecommunications Authority or a competent legal tribunal, and shall not retain any copy or make any use of any such message, or allow it to be reproduced in writing, copied or made use of.
7. If the Station is used within the territorial limits of a state or territory outside Hong Kong, such use shall be in accordance with any regulations which may have been made by the relevant administration of such state or territory.

#### Inspection and closure

8. (a) The Station shall be closed down at any time on the demand in writing of an officer of the Telecommunications Authority.
- (b) The Station shall be open to inspection at all reasonable times by duly authorized officers of the Telecommunications Authority and shall cease to be used at any time on demand in writing of any such officer.
- (c) This licence together with any notices of variation served on the Licensee in writing by virtue of the provisions of clause 9(c) of this licence shall be available for inspection, when required, by any person acting in the course of his duty on behalf of the Telecommunications Authority or the Director of Marine and by competent authorities of the countries where the Ship calls.

#### General

9. (a) Subject as hereinafter provided, this licence may be renewed from year to year until revoked by the Telecommunications Authority.
- (b) The Licensee shall pay to the Telecommunications Authority-
- (i) on the issue of this licence the sum prescribed by or under regulations for the time being in force under the Telecommunications Ordinance (Cap 106); and
  - (ii) in advance in each year on or before the anniversary of the date of issue the renewal fee prescribed by or under the said regulations, and on payment of such fee the Telecommunications Authority shall issue to the Licensee a document in the form of the front page of this licence which shall indicate the date which this licence will be next due for renewal.
- (c) The Telecommunications Authority may at any time after the date of issue revoke this licence or vary the terms, provisions or limitations thereof by a notice in writing served on the Licensee, or by a general notice published in the Gazette addressed to all holders of Ship Station Licences. Any notice given under this clause may take effect forthwith or on such subsequent date as may be specified in the notice.
- (d) The Licensee shall make application promptly in writing to the Telecommunications Authority for a new licence whenever there is any change-
- (i) of his address;
  - (ii) of the name of the Ship; or
  - (iii) of the radio equipment fitted.

- (e) This licence shall be revoked with effect from the date upon which a new licence is granted. The Licensee shall upon receipt by him of the new licence return this licence to the Telecommunications Authority. No refund shall be made in respect of fees paid for a licence that is revoked.
  - (f) The Licensee shall pay to the Telecommunications Authority in respect of the new licence the fee prescribed by or under the regulations for the time being in force under the Telecommunications Ordinance (Cap 106).
10. This licence is not transferable and shall be returned forthwith to the Telecommunications Authority-
- (a) if it has been cancelled;
  - (b) if it has expired by effluxion of time;
  - (c) if the Licensee has ceased to be the owner of the Ship;
  - (d) if, in case of the Ship registered in Hong Kong, the Ship has ceased to be so registered; or
  - (e) if, in case of the Ship licensed under Part IV of the Shipping and Port Control Ordinance (Cap 313), the Ship has ceased to be so licensed.
11. Nothing in this licence shall be deemed to waive any requirement imposed on the Licensee by or under any Ordinance.
12. In this licence, "the Telecommunication Convention" (電信公約) means any Constitution and Convention of the International Telecommunication Union and the Radio Regulations annexed thereto, which for the time being applies to Hong Kong.

SPECIAL CONDITIONS

.....  
For the Telecommunications Authority.

SCHEDULE

Equipment Particulars	Maximum Power (dBW)	Frequencies (in MHz)	Classes of Emission
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Chapter:	109C	DUTIABLE COMMODITIES (MARKING AND COLOURING OF HYDROCARBON OIL) REGULATIONS	Gazette Number	Version Date
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Regulation:	2	Interpretation		30/06/1997
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In these regulations, unless the context otherwise requires-

"colouring substance" (染色物質) means the colouring substance specified in regulation 4;

"marker" (標記) means the marker specified in regulation 4; (L.N. 8 of 1987; 35 of 1992 s. 12)

"pleasure vessel" (遊樂船隻) means-

- (a) a vessel in respect of which there is a valid licence issued under the Merchant Shipping (Pleasure Vessels) Regulations (Cap 313 sub. leg.); or

- (b) a vessel that is primarily possessed or used for pleasure purposes. (35 of 1992 s. 12)  
(L.N. 8 of 1987)

Chapter:	109C	DUTIABLE COMMODITIES (MARKING AND COLOURING OF HYDROCARBON OIL) REGULATIONS	Gazette Number	Version Date
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Regulation:	12A	Marking of fuel inlet of pleasure vessel		30/06/1997
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No person shall possess, or use in the waters of Hong Kong, a pleasure vessel-

- (a) in respect of which there is a valid licence issued under the Merchant Shipping (Pleasure Vessels) Regulations (Cap 313 sub. leg.); and  
(b) which has a diesel engine for its propulsion,

unless the following statement is conspicuously marked immediately next to each inlet to the fuel tank of that vessel: "NO KEROSENE OR MARKED OIL IS TO BE PLACED IN THIS FUEL TANK" and "此油缸不得注入火水或有標記油類".

(35 of 1992 s. 19; L.N. 454 of 1996)

Chapter:	141A	BOATS AND WHARVES (SUPPLY OF WATER) REGULATIONS	Gazette Number	Version Date
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Regulation:	2			30/06/1997
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(1) Notwithstanding anything contained in any regulations made under the Merchant Shipping Ordinance (Cap 281), or any licence granted in pursuance of such regulations, no vessel shall ply as a water boat unless the vessel and all the tanks, pipes, hoses, pumps and other fittings, appliances and utensils for the storage of water therein, for the supply of water therefrom or used in connection therewith have been approved by the Director of Health and are maintained in good repair and in a sanitary condition to his satisfaction.

(2) No person shall supply any water to any water boat or any drinking water from any wharf unless all the tanks, pipes, hoses, pumps and other fittings, appliances and utensils used for or in connection with the supply of such water have been approved by the Director of Health and are maintained in good repair and in a sanitary condition to his satisfaction.

(3) For the purposes of this regulation "in a sanitary condition" (? 生狀況) shall be deemed to include such limewashing, cement washing, disinfection and cleansing as the Director of Health may from time to time direct.

(L.N. 76 of 1989)

Chapter:	200	CRIMES ORDINANCE	Gazette Number	Version Date
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Section:	153N	Registration of notices and orders relating to vessels		30/06/1997
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Where the Director of Marine receives a notice sent to him under section 145A or 153H(5) or a copy of an order sent to him under section 153D(2) and the notice or order relates to a vessel licensed in accordance with regulations made or deemed to have been made under Part IV of the Shipping and Port Control Ordinance (Cap 313), he shall as soon as reasonably practicable register the notice or copy of an order in a register maintained by him.

(Added 69 of 1990 s. 7)

Chapter:	228	SUMMARY OFFENCES ORDINANCE	Gazette Number	Version Date
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Section:	2	Interpretation	L.N. 193 of 2000	26/05/2000
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- (1) In this Ordinance, unless the context otherwise requires-
- "air gun" (氣槍) includes any gun, rifle or pistol which uses a compressed gas or compressed gases as a propellant and from which any shot, bullet or missile can be discharged with a muzzle energy not greater than 2 joules; (Added 14 of 2000 s. 30)
- "depositing" (棄置) in relation to litter, includes casting, throwing, sweeping, placing or dropping litter; (Added 38 of 1981 s. 2)
- "dwelling vessel" (住家船隻) means a dwelling vessel as defined in section 24(1) of the Shipping and Port Control Ordinance (Cap 313); (Added 33 of 1989 s. 2)
- "lawful authority" (合法權限) extends to and denotes any permission which may be lawfully given by a public officer or department or by a private person;
- "litter" (廢物) means any refuse, rubbish, earth, dirt, filth, dust, sawdust, paper, timber off-cuts, ashes, excreta, and any other matter of a like nature; (Added 38 of 1981 s. 2)
- "owner" (船東) in relation to a vessel, means-
- (a) the person or persons registered or licensed as the owner of the vessel, or in the absence of registration or licensing, the person or persons owning the vessel, except that in relation to a vessel owned by a State which is operated by a person registered as the vessel's operator, it means the person registered as its operator; or
  - (b) a demise charterer of the vessel; (Added 38 of 1981 s. 2)
- "public meeting" (公眾聚會) includes any meeting in a public place and any meeting which the public or a section thereof are permitted to attend, whether on payment or otherwise; (Added 11 of 1949 s. 2)
- "public officer," (公職人員) or "public department," (公共機關) extends to and includes the Chief Executive and every officer or department invested with or performing duties of a public nature, whether under the immediate control of the Chief Executive or not; (Amended 13 of 1999 s. 3)
- "public place" (公眾地方) includes all piers, thoroughfares, streets, roads, lanes, alleys, courts, squares, archways, waterways, passages, paths, ways and places to which the public have access either continuously or periodically, whether the same are the property of the Government or of private persons. (Amended 29 of 1998 s. 105)
- (2) Where no specific description is given of the ownership of any property, the word "property" (財產) shall be taken to apply to all such property of the kinds specified, whether owned by the Government, by a public department or by a private person. (Amended 29 of 1998 s. 105)

Chapter:	313A	SHIPPING AND PORT CONTROL REGULATIONS	Gazette Number	Version Date
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Regulation:	4	Application	L.N. 156 of 2002	01/11/2002
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- (1) This Part, other than regulation 6A, applies to-
- (a) a vessel of over 300 tons gross other than a vessel to which Part IV of the

- Ordinance applies;
- (b) a vessel-
    - (i) of 300 tons gross or less; or
    - (ii) to which Part IV of the Ordinance applies, and which is the subject of a direction given by the Director under section 16 of the Ordinance;
  - (c) a vessel-
    - (i) of 300 tons gross or less; or
    - (ii) to which Part IV of the Ordinance applies, and which is the subject of a requirement made by the Director or an authorized officer at the vessel traffic centre to participate in the vessel traffic service.
- (2) Subject to paragraph (3), regulation 6A applies to any vessel (including a vessel to which Part IV of the Ordinance applies), whatever its tonnage, other than the following vessels-
- (a) a vessel licensed in accordance with the regulations made under Part IV of the Ordinance; and
  - (b) a ferry vessel within the meaning of regulation 2 of the Shipping and Port Control (Ferry Terminals) Regulations (Cap 313 sub. leg.).
- (3) Regulation 6A applies to a vessel referred to in paragraph (2)(a) or (b) if it is the subject of a direction given by the Director under section 16 of the Ordinance.

(L.N. 117 of 2002)

Regulation:	19	Speed of vessels	L.N. 195 of 2000	01/07/2000
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(1) Without prejudice to paragraph (2), no high speed craft shall, when underway in the waters of Hong Kong between half an hour after sunset and half an hour before sunrise, proceed at a speed exceeding the maximum permitted speed provided in paragraph 1 of the Fourth Schedule, except with the permission in writing from the Director. (L.N. 51 of 1992)

(2) Every vessel underway in the waters of Hong Kong shall proceed with caution and, unless the Director otherwise permits, at a speed not exceeding the maximum permitted speed provided in paragraph 2 of the Fourth Schedule.

(3) Without prejudice to paragraphs (1) and (2), no vessel shall, when underway in any restricted zone specified in the Eighteenth Schedule, between the hours of 8 a.m. and 12 midnight, on any Saturday or public holiday or on any day during the period from 1 July to 15 September (both dates inclusive) in any year, proceed at a speed exceeding the maximum permitted speed provided in paragraph 3 of the Fourth Schedule. (L.N. 107 of 2000)

(4) Without prejudice to paragraphs (1) and (2), no vessel shall, when underway in the entrance to or within a typhoon shelter specified in the Shipping and Port Control (Typhoon Shelters) Regulations (Cap 313 sub. leg.), proceed at a speed exceeding the maximum permitted speed provided in paragraph 4 of the Fourth Schedule. (L.N. 107 of 2000)

(5) If without reasonable excuse, paragraph (1), (2), (3) or (4) is contravened, the master of the vessel commits an offence and is liable in the case of a contravention of-

- (a) paragraph (1) or (2), to a fine at level 3 and to imprisonment for 6 months;
- (b) paragraph (3), to a fine at level 1;
- (c) paragraph (4), to a fine at level 2. (L.N. 107 of 2000)

(6) In this regulation, "high speed craft" (高速船) has the meaning assigned to it by the Merchant Shipping (Safety) (High Speed Craft) Regulation (Cap 369 sub. leg.). (L.N. 107 of 2000)

(L.N. 107 of 2000)

Chapter:	313A	SHIPPING AND PORT CONTROL REGULATIONS	Gazette Number	Version Date
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Regulation:	45	Vessels alongside berthed vessels		30/06/1997
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(1) Save as provided in this regulation or as permitted by the Director, no vessel shall lie alongside any other vessel which is berthed anywhere in a port, other than in a typhoon shelter specified in the Shipping and Port Control (Typhoon Shelters) Regulations (Cap 313 sub. leg.).

(2) An oil bunkering vessel not exceeding 2000 tons net register may lie alongside another vessel for the purpose of bunkering.

(3) Vessels to which Part IV of the Ordinance applies may lie alongside a ship-

- (a) not more than 3 abreast at the gangway of the ship;
- (b) not more than 5 abreast at other parts on either side of the ship;
- (c) not more than 4 abreast alongside if the ship is moored at any wharf;
- (d) not more than 2 abreast alongside if the ship is moored at No. 5 North Berth of the Hong Kong and Kowloon Wharf and Godown Company.

(4) If without reasonable excuse this regulation is contravened, the master of the vessel commits an offence and is liable to a fine of \$5000.

Chapter:	313A	SHIPPING AND PORT CONTROL REGULATIONS	Gazette Number	Version Date
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Regulation:	66B	Control over gathering of vessels in the waters of Hong Kong		30/06/1997
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(1) Any person who intends to hold a gathering of vessels in or upon any part of the waters of Hong Kong shall give notice in writing to the Director-

- (a) not less than 7 days (excluding Sundays and general holidays) prior to the date on which the gathering is intended to be held; and
- (b) of the following information-
  - (i) the name, address and telephone number of the person organizing the gathering;
  - (ii) the purpose and subject-matter of the gathering;
  - (iii) the date, time of commencement and duration of the gathering;
  - (iv) the route to be taken by the vessels comprising the gathering;
  - (v) the manner of conducting the gathering; and
  - (vi) such other information as the Director may reasonably require for the purpose of regulating all traffic upon or in the vicinity of such waters throughout the duration of the gathering.

(2) Where a person has given a notice under paragraph (1) to the Director, the Director may, by notice in writing served on the person, for the avoidance of accidents and the safety of person, impose such conditions as he thinks fit in respect of either or both of-

- (a) the time of commencement and duration of;
- (b) the route to be taken by the vessels comprising,

the gathering of vessels the subject of that first-mentioned notice.

(3) A person who has been served with a notice under paragraph (2) shall cause the conditions specified in the notice to be made known-

- (a) to the persons in charge of the vessels comprising the gathering of vessels the subject of the notice; and
- (b) before the commencement of the gathering.

(4) The person in charge of a vessel shall not participate in a gathering which he knows, or ought reasonably to know, is not the subject of a notice under paragraph (1) given to the Director.

(5) Any person who, without reasonable excuse, fails to comply with paragraph (1) or (2) commits an offence and is liable to a fine at level 1.

- (6) Any person in charge of a vessel who, without reasonable excuse, fails to comply with-
- (a) a condition specified in a notice under paragraph (2); or
  - (b) paragraph (4),

commits an offence and is liable to a fine at level 1.

(7) In this regulation-

"gathering of vessels" (船隻聚集活動) means any gathering of 3 or more vessels for a purpose other than routine navigation, but does not include any such gathering-

- (a) for the purpose of embarking or disembarking passengers;
- (b) for the purpose of loading or discharging cargoes;
- (c) for any social or recreational purpose; or
- (d) for engaging in civil works.

(L.N. 672 of 1994)

Chapter:	313A	SHIPPING AND PORT CONTROL REGULATIONS	Gazette Number	Version Date
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Schedule:	13	PORT DUES AND FEES		30/06/1997
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[regulations 48, 49, 50, 51, 52 & 68]

Item	Purpose or service	Fee \$
1.	Anchorage dues- For a ship lying at anchor, per 100 tons or part thereof, per day or part of a day-	69
	(a) Whilst lying in the limits of Victoria port .....	47
	(b) Whilst lying elsewhere in the waters of Hong Kong .....	
2.	Buoy dues- For each day or part of a day that a buoy is occupied or reserved-	3685
	(a) A Class A buoy .....	2455
	(b) A Class B buoy .....	
	Note: (1) A buoy may be reserved up to a maximum of 2 days in advance of a vessel's estimated time of arrival. (2) Where in the opinion of the Director it is essential because of the length or draft of a particular ship that adjacent buoys be left vacant, the owner or master of the ship may be charged the hire rate appropriate for each buoy so left vacant. (3) In this item, "day" (天) means a period of 24 hours beginning at midnight.	
3.	Port facilities and light dues- For the use of the port facilities-	
	(a) All vessels plying exclusively within the river	

	trade limits-				
	Per 100 tons or part thereof on each occasion of entry to				23
	the waters of Hong				
	Kong .....				
	(b) Mechanized fishing vessels-				74
	For each vessel per annum-				the fee under (i)
	(i) over 20 tons but not exceeding 40				above plus \$74 for
	tons .....				every 20 tons or
	(ii) over 40				part thereof by
	tons .....				which the tonnage
					exceeds 40 tons
					57
	(c) All other vessels-				
	Per 100 tons or part thereof on each occasion of entry to				
	the waters of Hong				
	Kong .....				
4.	Private mooring fee-				
	For the keeping of private moorings, per month or part				
	thereof, per mooring-				
	(a) In Causeway Bay Typhoon Shelter, Aberdeen				
	West Typhoon Shelter and Aberdeen South Typhoon				
	Shelter-				270
	(i) length 5 metres and				475
	under .....				670
	(ii) length 8 metres and				670 plus \$210 for
	under .....				every 3 metres or
	(iii) length 11 metres and				part thereof by
	under .....				which the length
	(iv) length over 11				exceeds 11 metres
	metres .....				
					140
					270
					405
	(b) In all other typhoon shelters and elsewhere within				405 plus \$140 for
	the limits of Victoria port-				every 3 metres or
	(i) length 5 metres and				part thereof by
	under .....				which the length
	(ii) length 8 metres and				exceeds 11 metres
	under .....				
	(iii) length 11 metres and				73
	under .....				140
	(iv) length over 11				210
	metres .....				210 plus \$140 for
					every 3 metres or
					part thereof by
					which the length
					exceeds 11 metres
	(c) Elsewhere in the waters of Hong Kong-				
	(i) length 5 metres and				
	under .....				1335
	(ii) length 8 metres and				670

under .....  
 (iii) length 11 metres and  
 under .....  
 (iv) length over 11  
 metres .....

(d) For ferry vessels used on a franchised service within the meaning of the Ferry Services Ordinance (Cap 104)-

(i) Within the limits of Victoria port .....

(ii) Elsewhere in the waters of Hong Kong .....

Note: In this item, "length" (長度) means the size of vessel, in terms of length overall, which the mooring is able to accommodate.

5. Transfer of private moorings-  
 Upon the transfer of ownership of a private mooring (whether by sale and purchase or otherwise) ..... 140

6. Miscellaneous permits and certificates- 175

(a) To certify that a vessel has been broken up ..... 175

(b) To certify a list of weather non-working days for a period of 1 calendar month (per list) ..... 160

(c) To certify a list of dates of arrival and departure of vessels for a period of 1 calendar month (per list) ..... 160

(d) Any other certificate or permit not otherwise specified ..... 875 plus \$79 per day or part thereof for every 100 gross tons or part thereof of one half of the ship's gross tonnage, up to and including the date of completion of the break up

(e) Fee for a Marine Department permit to break up a ship-

(i) Within the limits of Victoria port ..... 875 plus \$52 per day or part thereof for every 100 gross tons or part thereof of one half of the ship's gross tonnage, up to and including the date of completion of the break up

(ii) Elsewhere in the waters of Hong Kong ..... 875 plus \$52 per day or part thereof for every 100 gross tons or part thereof of one half of the ship's gross tonnage, up to and including the date of completion of the break up

(iii) Elsewhere in the waters of Hong Kong ..... 875 plus \$52 per day or part thereof for every 100 gross tons or part thereof of one half of the ship's gross tonnage, up to and including the date of completion of the break up

(iv) Elsewhere in the waters of Hong Kong ..... 875 plus \$52 per day or part thereof for every 100 gross tons or part thereof of one half of the ship's gross tonnage, up to and including the date of completion of the break up

(v) Elsewhere in the waters of Hong Kong ..... 875 plus \$52 per day or part thereof for every 100 gross tons or part thereof of one half of the ship's gross tonnage, up to and including the date of completion of the break up

(vi) Elsewhere in the waters of Hong Kong ..... 875 plus \$52 per day or part thereof for every 100 gross tons or part thereof of one half of the ship's gross tonnage, up to and including the date of completion of the break up

Note: In this sub-item, "the date of completion" (完工日期) means

the date of completion specified in the certificate referred to in sub-item (a).

	(f) Fee for a port clearance permit .....	97 Nil
	(g) Fee for a permit to undertake ship repairs .....	
7.	Registers and records-	
	(a) For a search in the registers and records on behalf of an applicant .....	125 160
	(b) For any certified extract or copy of a document .....	9
	(c) For each uncertified sheet of a Rank Xerox (or similar) copy of a document .....	
8.	Charges for service outside office hours- Where any officer of the Marine Department is required to perform any service referred to in this Schedule either at the Marine Department, or at any other place at Hong Kong outside office hours, there shall be payable, in addition to the fee prescribed for the service required, the following charges-	
	(a) On week-days from 7 a.m. to 9 a.m. or 5 p.m. to 7 p.m. (per hour per officer) .....	625 1235
	(b) On week-days before 7 a.m. or after 7 p.m. and on Saturday afternoons (per hour per officer) .....	1850
	(c) On Sundays and public holidays (per hour per officer) .....	
	Note: A service occupying less than an hour will be charged for as 1 hour, according to the scale. Where a service occupies more than 1 hour but not an exact number of hours, the charge will be-	
	(a) if the period in excess of an exact number of hours is 30 minutes or less, half the appropriate fee for 1 hour;	
	(b) if the period in excess is more than 30 minutes, the appropriate fee for 1 hour.	
9.	Fishing licence fees-	
	(a) For the erection and maintenance of each inshore or offshore stake net .....	210 210
	(b) For the operation of each beach seine net .....	

(L.N. 253 of 1992; L.N. 339 of 1993; L.N. 338 of 1994; L.N. 276 of 1995)

Chapter:	353	MARINE FISH CULTURE ORDINANCE	Gazette Number	Version Date
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Section:	17	Power of search, seizure, etc.	13 of 2002	07/06/2002
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(1) Where a magistrate is satisfied by information on oath that there are reasonable grounds

for suspecting that any vessel, raft or impoundment within the waters of Hong Kong is being or has been used in connection with any offence under this Ordinance, he may issue a warrant authorizing the Director or any authorized officer to-

- (a) board and search any such vessel or raft, or enter any such impoundment; and
- (b) seize and detain any such raft or any thing which the Director or an authorized officer reasonably suspects to be, or to contain, evidence of the commission of such an offence.

(2) The Director or an authorized officer may exercise any of the powers referred to in subsection (1)(a) or (b) without a warrant issued under this section if-

- (a) he has reasonable grounds for suspecting that any vessel, raft or impoundment is being or has been used in connection with any offence under this Ordinance; and
- (b) it would not be reasonably practicable to obtain such a warrant in respect of the vessel, raft or impoundment before exercising those powers.

(3) Subsections (1) and (2) shall not apply to-

- (a) any ship required to be provided with a certificate referred to in section 3(1) of the Merchant Shipping Ordinance (Cap 281); and
- (b) any vessel for the time being used for any purpose by the Central People's Government, the Government or any state.

(4) If any raft or impoundment is found sunken, stranded, abandoned or adrift within or outside a fish culture zone, the Director or an authorized officer may seize and detain such raft or any thing found on or in such raft or within or forming part of such impoundment.

(5) The Director or an authorized officer may exercise any of the powers under this section with the assistance of any other persons as he thinks fit.

(6) Within 14 days of the seizure and detention under this section of any raft or any other thing, the Director or an authorized officer shall-

- (a) subject to paragraph (b), serve a notice on the person whom he believes to be the owner thereof; or
- (b) if the identity and address of the owner thereof is not known to him, publish a notice in the Gazette,

in which he shall specify-

- (c) his intention to apply for forfeiture of the raft or thing, or the proceeds thereof if the same has been sold under section 18(2); and
- (d) the owner may, within 30 days from the date of service or publication, as the case may be, of the notice, submit a claim in writing to the Director for the return of the raft or thing, or the proceeds thereof, as the case may be.

(7) In this section-  
"thing" (物件) includes-

- (a) any fish, equipment or other thing found on board the vessel or on or in the raft or within the impoundment, as the case may be; and
- (b) any net or structure forming part of the impoundment,

upon which the Director or an authorized officer has exercised his power under subsection (1) or (2).

(Replaced 13 of 2002 s. 5)

Chapter:	354J	WASTE DISPOSAL (CHARGES FOR DISPOSAL OF CHEMICAL WASTE) REGULATION	Gazette Number	Version Date
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Section:	4	Exemption		30/06/1997
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Any chemical waste which is-

- (a) discharged, or otherwise disposed of, from any vessel other than a vessel to which Part IV of the Shipping and Port Control Ordinance (Cap 313) applies; or

- (b) both-
- (i) delivered to the Centre for disposal at the request of the Director; and
  - (ii) the subject of a notice in writing by the Director stating that he is satisfied that the waste producer of that waste is unknown,
- is exempt as chemical waste for the purpose of this Regulation.

(Enacted 1995)

Chapter:	369	MERCHANT SHIPPING (SAFETY) ORDINANCE	Gazette Number	Version Date
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Section:	123	Saving		30/06/1997
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(1) Any certificate referred to in subsection (2) which is in force in respect of any ship on the commencement of this Ordinance shall continue in force and have effect as if it were a certificate issued under this Ordinance.

- (2) For the purposes of subsection (1) the certificates are-
- (a) a passenger certificate issued under section 28 of the Merchant Shipping Ordinance (Cap 281);
  - (b) the following certificates issued under the Merchant Shipping (Safety Convention) Act 1949 as extended to Hong Kong by the Merchant Shipping Safety Convention (Hong Kong) No. 1 Order 1953 (S.I. 1953/592 U.K.)-
    - (i) a general safety certificate;
    - (ii) a short voyage safety certificate;
    - (iii) a qualified safety certificate;
    - (iv) a qualified short voyage safety certificate;
    - (v) a safety equipment certificate;
    - (vi) a qualified safety equipment certificate;
    - (vii) a radio certificate;
    - (viii) a qualified radio certificate;
    - (ix) any exemption certificate; and
    - (x) any other certificate which the Governor has issued pursuant to powers conferred on him by the Act as so extended;
  - (c) the following certificates issued under the Merchant Shipping Act 1964+ as extended to Hong Kong by the Merchant Shipping (Safety Convention) (Hong Kong) Order 1965 (S.I. 1965/2011 U.K.)-
    - (i) a cargo ship safety construction certificate;
    - (ii) a qualified cargo ship safety construction certificate;
    - (iii) any exemption certificate;
  - (d) the following certificates issued under the Merchant Shipping (Load Lines) Act 1967 (1967 c. 27 U.K.) as extended to Hong Kong by the Merchant Shipping (Load Lines)(Hong Kong) Order 1970 (S.I. 1970/285 U.K.)-
    - (i) an International Load Line Certificate (1966);
    - (ii) an International Load Line Exemption Certificate;
    - (iii) any other certificate which the Governor has issued pursuant to powers conferred on him by the Act as so extended.

(3) For the avoidance of doubt, it is hereby declared that notwithstanding the repeal of sections 59 and 60 and Parts VI and VII of the Merchant Shipping Ordinance (Cap 281), the following regulations (hereinafter referred to as the specified regulations)-

- (a) the Merchant Shipping (Court of Survey) Regulations (Cap 369 sub. leg.);
- (b) the Merchant Shipping (Fire Appliances) Regulations (Cap 369 sub. leg.);
- (c) the Merchant Shipping (Instructions to Surveyors) (Passenger Ships) Regulations (Cap 369 sub. leg.);
- (d) the Merchant Shipping (Life Saving Appliances) Regulations (Cap 369 sub. leg.);

- and  
(e) the Merchant Shipping (Minimum Passenger Space) Regulations (Cap 369 sub. leg.),

shall, save in so far as they are inconsistent with any of the provisions of this Ordinance or any regulations made thereunder, continue in operation until such time as they are replaced by regulations made under this Ordinance which are expressed to be in substitution of the specified regulations, and shall be deemed for all purposes to have been made under the Ordinance and to be liable to amendment thereby or thereunder.

**Note:**

+ Please also see following-

- (a) in relation to the Merchant Shipping Act 1894, Part 3 of Schedule 5 to Cap 415 and s. 1 of Schedule 2 to Cap 508;  
(b) in relation to the Merchant Shipping Acts 1894 to 1979, s. 117 of Cap 281, s. 103 of Cap 415 and s. 142 of Cap 478.

Chapter:	369C	MERCHANT SHIPPING (INSTRUCTIONS TO SURVEYORS) (PASSENGER SHIPS) REGULATIONS	Gazette Number	Version Date
		Preamble		30/06/1997

PRELIMINARY

I. Object of instructions and responsibility of surveyors

The object of these instructions is to secure uniformity of action by Government surveyors of ships in the performance of their duties in regard to the survey of passenger ships under the provisions of the Merchant Shipping Ordinance (Cap 281) and also to indicate to shipowners, shipbuilders and others concerned the conditions under which the Governor is prepared to issue safety certificates or passenger certificates.

Government surveyors are in no case to give a declaration either for the hull, boilers, machinery or equipment or any other matter unless they are fully satisfied that all the requirements of the Merchant Shipping Ordinance (Cap 281) and of the Merchant Shipping Acts 1894 to 1958+, relating to these matters have been complied with.

It is the duty of the Government surveyors of ships to satisfy themselves personally regarding every detail of the survey of a passenger ship and not, without the authority of the Principal Surveyor of Ships, to trust to any certificate or other document given by any person not responsible to the Governor. This instruction does not apply to certificates of compass adjustment.

II. Definitions

(1) So far as the same are not inconsistent with the provisions of these instructions the definitions contained in regulation 2 of the Merchant Shipping (Life Saving Appliances) Regulations 1935, notwithstanding their revocation by the Merchant Shipping (Life Saving Appliances) Regulations (Cap 369 sub. leg.), shall apply in the interpretation of these instructions.

(2) In these instructions-

"Principal Surveyor of Ships" (首席驗船師) means the Assistant Director of Marine (Ship Surveys);

"Declaration of Survey" (檢驗聲明書) means a declaration made under Part VI of the Merchant Shipping Ordinance (Cap 281);

"Safety convention ship" (安全公約船舶) means a ship belonging to a country to which the Safety Convention applies and the expression "Safety Convention passenger steamer" (安全公約客輪) shall be construed accordingly;

"Special passenger trade" (特別客運業) or "Simla Special Trade" (西姆拉特別業務) means any passenger trade in which passenger steamers are employed in the carriage of large numbers of unberthed passengers, and "special passenger trade voyage" (特別客運業航程) shall be construed accordingly.

### III. Application for survey

Every passenger steamer must be surveyed at least once every year. The survey will be arranged on the application of the owners whose duty it is to cause such survey to be made. Application for survey should be made on the form Surveys 6 which can be obtained at the Principal Surveyor of Ship's Office.

### IV. Notice of survey

In order that the survey may be taken in hand without delay, at least three days' notice should be given to the Principal Surveyor of Ships.

### V. Fees to be paid before survey is commenced

Except by the express direction of the Principal Surveyor of Ships, no survey shall be commenced until the appropriate fee is paid.

### VI. Presence of owner & c. at survey

Government surveyors of ships should, if possible, make their inspections when the owner, agent, master or chief mate and chief engineer of the vessel are present. Defects can then be pointed out to the proper persons without incurring the uncertainty and delay attendant upon messages delivered to subordinate officers.

If the owners do not instruct a responsible representative to be present, the Government surveyor of ships will proceed with the survey in his absence.

### VII. Written statement of repairs

In order to prevent mistakes as to the nature and extent of repairs required by the Government surveyors whenever they cannot give a declaration until repairs are effected or alterations made, they will, on request, give to the owner or agent a written statement of the nature and extent of the defects to be remedied or alterations required.

If any difference of opinion should arise or any questions be raised between the Government surveyor of ships and the owner, or other persons interested in the survey, the case should be reported to the Principal Surveyor of Ships.

### VIII. Alterations made subsequent to survey

After the completion of the survey no change is to be made in the approved structural arrangements, watertight subdivision arrangements, passenger accommodation, equipments or

machinery without the sanction of the Principal Surveyor of Ships.

Surveyors should therefore make it generally known to owners and their technical representatives that where it is proposed to make any alterations or additions affecting the ship or its machinery or equipments, or the passengers' or crew's accommodation, prior information should be given to the Principal Surveyor of Ships so that appropriate action can be taken before such alterations or additions are made.

In all cases the Principal Surveyor of Ships will decide whether or not it will be necessary to issue fresh declarations or certificates.

#### IX. Accidents and damage

When from any cause a passenger steamship has sustained damage affecting her seaworthiness or efficiency in any part of her hull, equipments or machinery a Government surveyor of ships is to go on board and ascertain the extent of the damage.

The surveyor should at once report to the Principal Surveyor of Ships the result of his examination, and whether in his opinion the vessel is rendered inefficient or unseaworthy in hull, machinery or equipment, and whether or not he has detained the ship.

On completion of any repairs a full report is to be filed in the office of the Principal Surveyor of Ships.

#### X. Survey for issue of a certifying letter

For the convenience of ship-builders and shipowners, the Government allows the surveyors to undertake the survey, or partial survey, during construction, of ships which will not qualify for a passenger certificate owing to the absence of passenger accommodation, or to non-compliance with the regulations having reference to hull, life-saving appliances, or other part of the equipment, machinery or boilers, and after such a survey, or partial survey (which may include the steam trial), the Government will, if desired, issue a letter certifying that the hull, machinery, boilers, or other parts specified, have been constructed to the satisfaction of the surveyor, and that, had the regulations been fully complied with in all other respects, the ship would have been entitled to a passenger certificate under the provisions of the Merchant Shipping Ordinance (Cap 281).

In the survey for a certifying letter the procedure should be identical with that followed in the survey for passenger certificate.

A letter similar in character to the above will be issued by the Government in respect of new engines, boilers, or auxiliary machinery which have been constructed under survey in the usual way, but do not comply with the highest legal requirements, and are therefore not entitled to a certificate.

When for any reason, a ship is not to be surveyed during construction for a passenger certificate or certifying letter the Principal Surveyor of Ships will undertake to examine and advise upon any plans showing the hull scantlings, watertight subdivision and other arrangements and details proposed for the ship, and, where the final proposals comply with the legal requirements for passenger ships, to issue a certifying letter to that effect.

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#### Note:

**+ Please also see following-**

- (a) in relation to the Merchant Shipping Act 1894, Part 3 of Schedule 5 to Cap 415 and s. 1 of Schedule 2 to Cap 508;**
- (b) in relation to the Merchant Shipping Acts 1894 to 1979, s. 117 of Cap 281, s. 103 of Cap 415 and s. 142 of Cap 478.**

Chapter:	369AH	MERCHANT SHIPPING (SAFETY) (MEANS OF ACCESS) REGULATIONS	Gazette Number	Version Date
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Regulation:	2	Interpretation		30/06/1997
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In these regulations, unless the context otherwise requires-

"assess" (上落) means embarking on or disembarking from a ship;

"Code" (守則) means Chapter 8 of the Code of Safe Working Practices for Merchant Seamen published in the United Kingdom in 1978 by Her Majesty's Stationery Office and any document amending or replacing it which is considered by the Director to be relevant from time to time and is specified in a Merchant Shipping Notice;

"Director" (處長) means the Director of Marine;

"employer" (僱主) means a person for the time being employing the master;

"fishing vessel" (捕魚船隻) means a fishing vessel licensed under Part IV of the Shipping and Port Control Ordinance (Cap 313);

"Hong Kong ship" (香港船舶) has the same meaning as in section 107(4) of the Merchant Shipping (Safety) Ordinance (Cap 369);

"master" (船長) includes any person in charge of a ship during the absence of the master but excludes a watchman;

"Merchant Shipping Notice" (商船公告) means a Notice described as such and issued by the Department of Transport of the United Kingdom;

"offshore installation" (離岸裝設) means any installation which is or has been maintained, or is intended to be established, for the carrying on of any activity to which the Oil and Gas (Enterprise) Act 1982 (1982 c. 23 U.K.) applies;

"pleasure craft" (遊樂航行器) means a vessel primarily used for sport or recreation;

"portable ladder" (活動扶梯) does not include a rope ladder.

(Enacted 1991)

Chapter:	369AY	MERCHANT SHIPPING (SAFETY) (LIFE-SAVING	Gazette Number	Version Date
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Section:	3	Application	L.N. 226 of 2001	26/10/2001
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- (1) Save as otherwise provided in this section, this Regulation applies to all Hong Kong ships wherever they may be and non-Hong Kong ships while they are within Hong Kong waters.
- (2) This Regulation shall not apply to-
  - (a) warships and naval auxiliary;
  - (b) fishing vessels;
  - (c) pleasure crafts;
  - (d) vessels required to be licensed under Part IV of the Shipping and Port Control Ordinance (Cap 313); and
  - (e) non-Hong Kong ships which are cargo ships of less than 500 tons, except to the extent that is necessary for giving effect to paragraphs 1 and 2 of Regulation 6 of 1996 Chapter III which are in force in Hong Kong by virtue of section 4 and apply to ships of 300 tons and upwards.
- (3) This Regulation shall not apply to a non-Hong Kong ship flying the flag of a state which is not a party to the Convention by reason of its being within Hong Kong waters if it would

not have been there but for stress of weather or any other circumstances which could not have been prevented or forestalled by the master or the owner.

Chapter:	376C	CLUBS (SAFETY OF PREMISES) (EXCLUSION) ORDER	Gazette Number	Version Date
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Schedule:		SCHEDULE	L.N. 216 of 2003	10/10/2003
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[section 1]

1. Premises of any corporation which is registered under the Building Management Ordinance (Cap 344). (27 of 1993 s. 55)
2. Premises of any mutual aid committee approved for the purposes of the Societies Ordinance (Cap 151) by the Secretary for Home Affairs by notice in writing.
3. The vessel known as "Chuen Kee" (Hong Kong licence No. 30150A) which is licensed under the Shipping and Port Control Ordinance (Cap 313). (L.N. 56 of 1994; L.N. 45 of 1999)
4. The vessel known as "Chuen Kee Kitchen Boat" (Hong Kong licence No. 30117P) which is licensed under the Shipping and Port Control Ordinance (Cap 313). (L.N. 56 of 1994; L.N. 45 of 1999)
5. The following club-houses situated in Government premises-

	Name of club	Location of club-house
(1)	Auxiliary Medical Service Officers' Club	81, Princess Margaret Road, 4/F, Ho Man Tin, Kowloon
(2)	Border District Police Officers' Mess	3/F, Border District Police Headquarters, Man Kam To Road, Sha Ling, New Territories
(3)	Chek Lap Kok Police Officers' Mess	Room 304, 3/F, Barrack Block, Catering Road West, Chek Lap Kok, Lantau Island, New Territories
(4)	Civil Aid Service Officers' Mess (Hong Kong)	1/F, 100 Caroline Hill Road, Hong Kong
(5)	Civil Aid Service Officers' Mess (Kowloon)	Civil Aid Service Kowloon Training Centre, 204, Argyle Street, Kowloon
(6)	Correctional Services Department Staff Club	5, Butterfly Valley Road, Lai Chi Kok, Kowloon
(7)	Customs & Excise Service Senior Officers' Mess	9/F, Rumsey Street Carpark Building, Central, Hong Kong
(8)	Department of Justice Staff Club	Room 4737, 47/F, Queensway Government Offices, High Block, Hong Kong
(9)	Disciplined Services Sports and Recreation Club	9, Cotton Path, Hong Kong
(10)	Eastern District Police Officers' Mess	13/F, 343, Java Road, Hong Kong (L.N. 216 of 2003)
(11)	Government Flying Service Officers' Mess	Room 223, Government Flying Service Building, 18, South Perimeter Road,

- |      |                                                                             |                                                                                                                      |
|------|-----------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|
|      |                                                                             | Chek Lap Kok, Lantau Island, New Territories                                                                         |
| (12) | Government Flying Service Senior Officers' Mess                             | Room 224, Government Flying Service Building, 18, South Perimeter Road, Chek Lap Kok, Lantau Island, New Territories |
| (13) | Government Secretariat Staff Club                                           | 3/F & 4/F, Main Wing, New Annex, Central Government Offices, 18, Lower Albert Road, Hong Kong                        |
| (14) | Hong Kong Auxiliary Police Officers' Mess                                   | 4/F, 12, Wang Chiu Road, Kowloon Bay, Kowloon                                                                        |
| (15) | Hong Kong Fire Services Club                                                | 3 Wang Chiu Road, East Kai Tak, Kowloon                                                                              |
| (16) | Hong Kong Fire Services Officers' Club                                      | Room 306, Tsimshatsui Fire Station Complex, 333, Canton Road, Tsimshatsui, Kowloon                                   |
| (17) | The Hong Kong Fire Services Retired Members' Mutual Aid Association Limited | Room 307, Tsimshatsui Fire Station Complex, 333, Canton Road, Tsimshatsui, Kowloon                                   |
| (18) | Hong Kong Fire Services Officers' Mess                                      | 4/F, Tsimshatsui Fire Station Complex, 333, Canton Road, Tsimshatsui, Kowloon (L.N. 216 of 2003)                     |
| (19) | Hong Kong Island Region and Central District Police Officers' Mess          | Room 322, 3/F, Headquarters Block, Central Police Station Complex, 10 Hollywood Road, Hong Kong (L.N. 216 of 2003)   |
| (20) | The Hong Kong Police Senior Officers' Mess                                  | East Wing, 6/F, Caine House Police Headquarters, Arsenal Street, Wanchai, Hong Kong (L.N. 216 of 2003)               |
| (21) | HKPF Tai Mei Tuk Activities Training Centre                                 | Mei Wu Road, Tai Po, New Territories                                                                                 |
| (22) | HKPF-Tso Wo Hang Recreation Centre                                          | Tso Wo Hang, Tai Mong Tsai Road, Sai Kung, New Territories (L.N. 216 of 2003)                                        |
| (23) | (Repealed L.N. 216 of 2003)                                                 |                                                                                                                      |
| (24) | Housing Authority Staff Club                                                | L3 & L5, Block 4, Housing Authority Headquarters, 33 Fat Kwong Street, Homantin, Kowloon (L.N. 181 of 2001)          |
| (25) | ICAC Staff Club                                                             | G/F, Murray Road Carpark Building, 2 Murray Road, Central, Hong Kong                                                 |
| (26) | Immigration Officers' Mess                                                  | 20/F, Immigration Tower, 7, Gloucester Road, Wanchai, Hong Kong                                                      |
| (27) | Information Services Department Staff Club                                  | Room 507, Murray Building, Garden Road, Central, Hong Kong                                                           |
| (28) | Kai Tak Police Officers' Mess                                               | 9/F, 105, Concord Road, Kowloon                                                                                      |
| (29) | Kowloon City District Officers' Mess                                        | 13/F, 99, Princess Margaret Road, Kowloon                                                                            |
| (30) | Kowloon East Operational Base Officers' Mess                                | Room 706, 7/F, 2, Siu Yip Street, Kowloon Bay, Kowloon                                                               |
| (31) | Kowloon East Regional Police Officers' Mess                                 | 15/F, Tseung Kwan O Police Station, 110 Po Lam Road North, Tseung Kwan O, Kowloon (L.N. 216 of 2003)                 |
| (32) | Kowloon West Regional Police Officers' Mess                                 | East Wing, 1/F, 190, Argyle Street, Kowloon                                                                          |

- (33) Kwai Tsing Police District Officers' Mess 13/F, 999, Kwai Chung Road, Kwai Chung, New Territories (L.N. 94 of 2002)
- (34) Kwun Tong Police Officers' Mess G/F, 1, Lei Yue Mun Road, Kwun Tong, Kowloon
- (35) The Land Registry Staff Recreation Club Room 1714, 17/F, Queensway Government Offices, High Block, Hong Kong
- (36) Lantau District Police Officers' Mess Room 601, 6/F, 1 Shun Tung Road, Lantau Island, New Territories (L.N. 94 of 2002)
- (37) Local Inspectors' Association-Hong Kong Police Room 6, 1 Arbuthnot Road, Hong Kong
- (38) Marine Outer Waters District Officers' Mess Room 303, 3/F, 1, Wa Yung Road, Tui Min Hoi, Sai Kung, New Territories (L.N. 181 of 2001)
- (39) Marine Police Officers' Mess Room 301-302, 3/F, Tai Hong Street, Sai Wan Ho, Hong Kong
- (40) (Repealed L.N. 216 of 2003)
- (41) Marine Port District Officers' Mess 7/F, 28, Shum Wan Road, Aberdeen, Hong Kong
- (42) The Mess Room 655, 6/F, Queensway Government Offices, High Block, Hong Kong
- (43) Mongkok Police Officers' Mess West Wing, 2/F, 142, Prince Edward Road West, Kowloon
- (44) New Territories Regional Police Officers' Mess Room 901, 9/F, 6, On Po Lane, Tai Po, New Territories (L.N. 94 of 2002)
- (45) New Territories South Regional Police Officers' Mess 15/F, 200, Ma On Shan Road, Shatin, New Territories
- (46) Officers' Club, Correctional Services Department 51, Tung Tau Wan Road, Stanley, Hong Kong
- (47) Officers' Mess, Police Training School 18, Ocean Park Road, Wong Chuk Hang, Aberdeen, Hong Kong
- (48) Police Civilian Staff Club Room 4, G/F, Old Central Magistracy, Hong Kong
- (49) Police Officers' Club 28 Hung Hing Road, Causeway Bay, Hong Kong (L.N. 216 of 2003)
- (50) Police Sports and Recreation Club 430, Sai Yeung Choi Street, Kowloon
- (51) Police Tactical Unit Officers' Mess G/F, Block G, 1 Pak Fuk Tsuen, Fanling, New Territories (L.N. 216 of 2003)
- (52) Prince Philip Dental Hospital Senior Staff Association Club Room 7A11, 7/F, Common Room, Prince Philip Dental Hospital, 34, Hospital Road, Hong Kong
- (53) Radio Television Hong Kong Club Room 02, Lower G/F, Broadcasting House, 30 Broadcast Drive, Kowloon
- (54) Sau Mau Ping Police District Officers' Mess 13/F, 200, Hong Ning Road, Kwun Tong, Kowloon
- (55) Shamshuipo Police Officers' Mess 9/F, 880, Lai Chi Kok Road, Kowloon
- (56) Shatin District Police Officers' Mess 13/F, 1, Wo Che Street, Shatin, New Territories
- (57) Tai Po District Police Officers' Mess 15/F, 4, On Po Lane, Tai Po, New Territories
- (58) Tsuen Wan District Officers' Mess 15/F, 23-27, Tsuen King Circuit, Tsuen Wan, New Territories

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|------|------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| (59) | Tuen Mun Police Officers' Mess                                                                       | 13/F, 100, Pui To Road, Tuen Mun, New Territories                                                                                       |
| (60) | Wanchai District Police Officers' Mess                                                               | Room 214, 2/F, 123, Gloucester Road, Hong Kong                                                                                          |
| (61) | Western District Police Officers' Mess                                                               | Room 406, 4/F, 280, Des Voeux Road West, Hong Kong                                                                                      |
| (62) | Wong Tai Sin District Officers' Mess                                                                 | G/F, Lower Block, 2, Shatin Pass Road, Wong Tai Sin, Kowloon                                                                            |
| (63) | Yau Tsim Police Officers' Mess                                                                       | 9/F, 213, Nathan Road, Kowloon                                                                                                          |
| (64) | Yuen Long Police Officers' Mess                                                                      | G/F, Ex-single Quarters, Yuen Long Police Station, 246 Castle Peak Road, Yuen Long, New Territories (L.N. 94 of 2002)                   |
| (65) | Cape Collinson Correctional Institution Staff Mess                                                   | Mess Hall, Block E, G/F, Cape Collinson Correctional Institution, 123 Cape Collinson Road, Chai Wan, Hong Kong (L.N. 87 of 2001)        |
| (66) | Chi Ma Wan Officers' Mess, Correctional Services Department                                          | G/F, Staff Dining Hall Block, Chi Ma Wan Correctional Institution, 44 Chi Ma Wan Road, Lantau Island, New Territories (L.N. 87 of 2001) |
| (67) | Chi Ma Wan Staff Mess, Correctional Services Department                                              | Staff Mess Block, Chi Ma Wan Correctional Institution, Chi Ma Wan Road, Lantau Island, New Territories (L.N. 87 of 2001)                |
| (68) | Chi Ma Wan Staff Mess Extension (Staff Common Room), Correctional Services Department                | Barrack B6, G/F, Chi Ma Wan Correctional Institution, Chi Ma Wan Road, Lantau Island, New Territories (L.N. 87 of 2001)                 |
| (69) | Correctional Services Department Headquarters Staff Mess                                             | 23/F, Wanchai Tower, 12 Harbour Road, Wanchai, Hong Kong (L.N. 87 of 2001)                                                              |
| (70) | Hei Ling Chau Officers' Mess, Correctional Services Department                                       | Officers' Mess Block, Hei Ling Chau Addiction Treatment Centre, Hei Ling Chau, New Territories (L.N. 87 of 2001)                        |
| (71) | Hei Ling Chau Staff Mess, Correctional Services Department                                           | Mess Block, Hei Ling Chau Addiction Treatment Centre, Hei Ling Chau, New Territories (L.N. 87 of 2001)                                  |
| (72) | Lai Chi Kok Reception Centre & Escort and Support Group Staff Mess, Correctional Services Department | Block B, G/F, 5 Butterfly Valley Road, Kowloon (L.N. 87 of 2001)                                                                        |
| (73) | Lai King Training Centre Staff Mess, Correctional Services Department                                | Mess Block, Lai King Training Centre, 16 Wah Tai Road, 6 1/2 Milestone, Castle Peak Road, Kwai Chung, New Territories (L.N. 87 of 2001) |
| (74) | Lo Wu Correctional Institution Staff Mess                                                            | Mess Block, Lo Wu Correctional Institution, 163 Ho Sheung Heung Road, Sheung Shui, New Territories (L.N. 87 of 2001)                    |
| (75) | Ma Hang Staff Mess, Correctional Services Department                                                 | 40 Stanley Village Road, Stanley, Hong Kong (L.N. 87 of 2001)                                                                           |
| (76) | Ma Po Ping Staff Mess, Correctional Services Department                                              | 3/F, Block 4, 39 Ma Po Ping Road, Lantau Island, New Territories (L.N.                                                                  |

- (77) Phoenix House Staff Mess, Correctional Services Department 87 of 2001)  
1/F, SMQ, Phoenix House, Lung Cheung Road, Tai Wo Ping, Kowloon (L.N. 87 of 2001)
- (78) Pik Uk Staff Mess, Correctional Services Department G/F, Block E, Pik Uk Prison, Clear Water Bay Road, New Territories (L.N. 87 of 2001)
- (79) Post Office Recreation Club 8 Caroline Hill Road, Causeway Bay, Hong Kong (L.N. 87 of 2001)
- (80) Shek Pik Prison and Sha Tsui Detention Centre Officers' Mess Block R, G/F, 46 Shek Pik Reservoir Road, Shek Pik, Lantau Island, New Territories (L.N. 87 of 2001)
- (81) Shek Pik Prison and Sha Tsui Detention Centre Staff Mess 42 Shek Pik Reservoir Road, Shek Pik, Lantau Island, New Territories (L.N. 87 of 2001)
- (82) Siu Lam Psychiatric Centre Staff Mess, Correctional Services Department 2/F, Mess Block, Siu Lam Psychiatric Centre, 21 Hong Fai Road, 16 1/2 Milestone, Castle Peak Road, New Territories (L.N. 87 of 2001)
- (83) Staff Training Institute Officers' Mess, Correctional Services Department Room 102, 1/F, East Wing, Staff Training Institute, 47 Tung Tau Wan Road, Stanley, Hong Kong (L.N. 87 of 2001)
- (84) Staff Training Institute Staff Mess, Correctional Services Department Room 101, 1/F, East Wing, Staff Training Institute, 47 Tung Tau Wan Road, Stanley, Hong Kong (L.N. 87 of 2001)
- (85) Stanley Staff Mess, Correctional Services Department Block A, G/F, 91 Tung Tau Wan Road, Stanley, Hong Kong (L.N. 87 of 2001)
- (86) Tai Lam Centre for Women Staff Mess, Correctional Services Department Mess Block, Tai Lam Centre for Women, 110 Tai Lam Chung Road, Tai Lam, New Territories (L.N. 87 of 2001)
- (87) Tai Lam Correctional Institution Staff Mess Mess Block, Tai Lam Correctional Institution, 108 Tai Lam Chung Road, Tai Lam, New Territories (L.N. 87 of 2001)
- (88) Tai Tam Gap Correctional Institution Staff Mess Block 1, 1/F, 110 Shek O Road, Hong Kong (L.N. 87 of 2001)
- (89) Tung Tau Correctional Institution Staff Mess G/F, Block 3, 68 Tung Tau Wan Road, Stanley, Hong Kong (L.N. 87 of 2001)
- (90) Fire Safety Ambassadors Club Flat 1, Additional Quarters, Kwun Tong Fire Station, 426 Kwun Tong Road, Kowloon (L.N. 181 of 2001)

(L.N. 308 of 1999)

Chapter:	499	ENVIRONMENTAL IMPACT ASSESSMENT ORDINANCE	Gazette Number	Version Date
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Schedule:	1	INTERPRETATION	L.N. 106 of 2002	01/07/2002
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[section 2]

- In this Ordinance, unless the context otherwise requires-
- "abattoir" (屠場) means premises or a place habitually used for the slaughter of animals for human consumption;
- "aircraft maintenance and repair plant" (飛機維修與修理廠) means a place, building or structure where aircraft or its parts are stored, repaired, washed or greased;
- "Appeal Board" (上訴委員會) means the appeal board constituted under section 19;
- "associated person" (相聯繫的人) means-
- (a) the spouse or minor child or minor step-child of the person;
  - (b) a corporation of which the person is a director;
  - (c) an employee or partner of the person;
  - (d) the trustee of a trust of which the person, his spouse, minor child or minor step-child, is a beneficiary or a discretionary object;
  - (e) another person who has agreed or arranged to act together with the person to acquire, hold or dispose of shares or other interests in a corporation or to act together in voting in the corporation;
  - (f) another person in accordance with whose directions the person is accustomed or obliged to act;
  - (g) another person accustomed or obliged to act in accordance with the directions of the person;
  - (h) a corporation in accordance with whose directions or the directions of its directors the person is accustomed or obliged to act;
  - (i) a corporation accustomed or obliged to act, or whose directors are accustomed or obliged to act, in accordance with the directions of the person;
  - (j) a corporation of which the person, either alone or together with his spouse, minor child or minor step-child, is directly or indirectly entitled to exercise or control the exercise of 35% or more of the voting power;
  - (k) a corporation of which the person, either alone or together with another, including a corporation in which the person is entitled to exercise or control the exercise of 35% or more of its voting power, is directly or indirectly entitled to exercise or control the exercise of 35% or more of the voting power;
  - (l) a corporation of which the person controls the composition of the board of directors of the corporation;
  - (m) if the person is a corporation-
    - (i) a director of the corporation;
    - (ii) a corporation which is a holding company of the corporation or a subsidiary of the holding company;
    - (iii) a subsidiary of the corporation;
    - (iv) a director or employee of the subsidiary;
    - (v) a pension fund, provident fund or employee share scheme of the corporation or of a subsidiary of the corporation;
- "bathing beach" (泳灘) means any bathing beach which is specified in the Fourth Schedule to the Public Health and Municipal Services (Cap 132);
- "bulk chemical storage facility" (散裝化學物品貯存設施) means a facility that is or may be used for storing materials of a hazardous nature for delivery to or by seagoing bulk chemical carriers and includes related product blending, drum and bottle storage and dispatch facilities;
- "Chairman" (主席) means the Chairman of the Appeal Board panel appointed under section 18(2);
- "chemical waste" (化學廢物) means waste which is chemical waste within the meaning of Waste Disposal (Chemical Waste) (General) Regulation (Cap 354 sub. leg.);
- "coastal protection area" (海濱保護區) means a coastal protection area shown in a draft or approved plan prepared under section 3 of the Town Planning Ordinance (Cap 131);
- "conservation area" (自然保育區) means a conservation area shown in a draft or approved plan

- prepared under section 3 of the Town Planning Ordinance (Cap 131);
- "container backup facilities" (貨櫃支援設施) means facilities essential to the handling of containers which do not require (but may have) a waterfront location and includes container yards, empty container storage and repair depots, container freight stations and container vehicle parks;
- "controls the composition of the board of directors of the corporation" (控制法團董事局的組成) means to be able, either alone or with the consent or concurrence of another person, to appoint or remove a majority of the directors and a person is taken as having the power to appoint or remove a director if-
- (a) a director cannot be appointed without the person exercising a power in favour of the prospective director; or
  - (b) a person's appointment as a director follows necessarily from his being a director or other officer of the person;
- "corporation" (法團) means any company or other body corporate incorporated in Hong Kong or elsewhere, but does not include-
- (a) any body corporate that is incorporated in Hong Kong and is a public authority or an organ or agency of the Government;
  - (b) any corporation sole;
  - (c) any credit union registered under the Credit Unions Ordinance (Cap 119); or
  - (d) any corporation registered under the Building Management Ordinance (Cap 344);
- "country park" (郊野公園) means a country park within the meaning of section 2 of the Country Parks Ordinance (Cap 208);
- "crematorium" (火葬場) means a crematorium within the meaning of the Public Health and Municipal Services Ordinance (Cap 132);
- "decommissioning" (解除運作) means ceasing production and demolishing an existing plant for the development or redevelopment of the site;
- "Deputy Chairman" (副主席) means a Deputy Chairman of the Appeal Board panel appointed under section 18(3);
- "designated project" (指定工程項目) means a project listed in Schedule 2 or 3 or specified by the Secretary under section 4(4) as a designated project;
- "Director" (署長) means the Director of Environmental Protection;
- "education institution" (教育機構) means an institution, organization or place which provides, or where there is provided, for 10 or more persons during any one day, whether or not at the same time, kindergarten, primary, secondary or post secondary education or any other educational course;
- "environment" (環境)-
- (a) means the components of the earth; and
  - (b) includes-
    - (i) land, water, air and all layers of the atmosphere;
    - (ii) all organic and inorganic matter and living organisms; and
    - (iii) the interacting natural systems that include any of the things referred to in subparagraph (i) or (ii);
- "environmental impact" (環境影響), for a designated project, means-
- (a) an on-site or off-site change that the project may cause in the environment;
  - (b) an effect of the change on-
    - (i) the well being of people, flora, fauna and ecosystems;
    - (ii) physical and cultural heritage;
    - (iii) a structure, site or other thing that is of historical or archaeological significance;
  - (c) an on-site or off-site effect on any of the things referred to in paragraph (b) from activities carried on for the project;
  - (d) a change to the project that the environment may cause,

- whether the change or effect occurs within or outside the site of the project;
- "environmental impact assessment report" (環境影響評估報告) means a report prepared under section 6;
- "environmental impact assessment study brief" (環境影響評估研究概要) means a study brief issued under section 5(7)(a);
- "environmental permit" (環境許可證) means an environmental permit issued under section 10(5);
- "existing uses" (現有用途) means those uses existed at the time when the application under sections 9 and 13 are made;
- "expressway" (快速公路) means an expressway within the meaning of section 122 of the Road Traffic Ordinance (Cap 374);
- "fish culture zone" (魚類養殖區) means a fish culture zone within the meaning of section 2 of the Marine Fish Culture Ordinance (Cap 353);
- "health care institution" (健康護理機構) means hospitals, polyclinics and clinics;
- "heavy railway" (重型鐵路) means railway for freight transport or for a passenger transit system with a capacity exceeding 40000 passengers per hour per direction;
- "industrial estate" (工業?) means any industrial estate referred to in Schedule 1 to the Hong Kong Science and Technology Parks Corporation Ordinance (Cap 565); (Replaced 5 of 2001 s. 40)
- "light railway" (輕型鐵路) means railway for a passenger transit system with a capacity not exceeding 40000 passengers per hour per direction;
- "major extensions or improvements to existing roads" (對現有道路作重大擴建或改善) means a physical addition, alteration or re-alignment to existing roads which results in an adverse environmental impact as defined in the technical memorandum;
- "marine park" (海岸公園) means a park within the meaning of the Marine Parks Ordinance (Cap 467);
- "marine reserve" (海岸保護區) means a reserve area that falls within the meaning of the Marine Parks Ordinance (Cap 476);
- "material change" (實質改變) means a physical addition or alteration to a designated project which results in an adverse environmental impact as defined in the technical memorandum;
- "mid-stream operations" (中流作業) means the working of cargo by a ship while moored at a buoy or while at anchor;
- "mitigation" (緩解), for a designated project-
- (a) means the elimination, reduction or control of the adverse environmental impact of the project;
  - (b) includes restitution by replacement, restoration, compensation or other means for damage to the environment caused by the impact;
- "pier" (碼頭) means a structure built out over the water and supported by pillars or piles, used as a landing place for ferries, boats, ships and other vessels including structures accommodating hydrofoil and jetfoil vessels;
- "planned use" (計劃用途) means the land use proposed in the draft or approved plans prepared under the Town Planning Ordinance (Cap 131) or any other land use plans published by the Government;
- "primary distributor" (主要幹路) means roads forming the major network of the urban area including roads having high capacity junctions, although they may be at grade or grade separated, with segregated pedestrian facilities wherever possible and frontage access limited if not entirely restricted, and with a 24 hour stopping restriction;
- "project profile" (工程項目簡介) means the description of the project that complies with the requirements of the technical memorandum;
- "public cargo working area" (公眾貨物裝卸區) means an area set out in the Port Control (Cargo Working Areas) Ordinance (Cap 81) as a public cargo working area;

- "quarantine station or segregation place for animals" (動物檢疫站或隔離處) means a place used for the quarantine of animals when they are imported into Hong Kong and detained there for such period as the veterinary officer may require;
- "railway depot" (鐵路車廠) means a facility for the storage, maintenance or repair of light or heavy railway rolling stock or equipment used for track maintenance, including areas where shunting facilities are used for operational purposes;
- "railway marshalling yard" (鐵路調車場) means a facility in a railway system mainly for sorting train wagons into different formations according to an order for operation purposes;
- "religious institution" (宗教機構) means a place or building, or a place of worship where in accordance with the practice of religious principles services are held or prayers said by congregations loyal to a belief and includes Chinese temples as set out in paragraph (b) of the definition of "Chinese temple" in section 2 of the Chinese Temples Ordinance (Cap 153) and ancillary offices car parks and quarters that are essential to the operation of the particular organization;
- "river trade limits" (內河航限) means the river trade limits defined in the Shipping and Port Control Ordinance (Cap 313);
- "river trade terminal" (內河碼頭) means a terminal for handling or storing cargo by vessels routinely operating within waters within river trade limits;
- "road tunnel" (行車隧道) means a private or public tunnel and its portal area within the meaning of the Road Tunnels (Government) Ordinance (Cap 368);
- "Secretary" (局長) means the Secretary for the Environment, Transport and Works; (Replaced 78 of 1999 s. 7. Amended L.N. 106 of 2002)
- "service reservoir" (配水庫) means a place or structure where water from a water treatment works is stored for delivery to other service reservoirs for distribution to the consumers of a water supply district;
- "ship building or ship repairing yard" (船舶建造或修理場) means any place, structure or building in which ships, boats and other sailing vessels are constructed, repaired, renewed or broken down into parts;
- "site of cultural heritage" (文化遺產地點) means an antiquity or monument, whether being a place, building, site or structure or a relic, as defined in the Antiquities and Monuments Ordinance (Cap 53) and any place, building, site, or structure or a relic identified by the Antiquities and Monuments Office to be of archaeological, historical or palaeontological significance;
- "site of special scientific interest" (具有特別科學價值的地點) means an area of land or water of special scientific interest by reason of its flora, fauna or geographical features identified by the Agriculture, Fisheries and Conservation Department and listed in the register of sites of special scientific interest maintained by the Planning Department; (Amended L.N. 331 of 1999)
- "special area" (特別地區) means a special area as defined in the Country Parks Ordinance (Cap 208);
- "special wastes" (特殊廢物) includes clinical waste, animal carcasses and security waste, including Government documents including those to be treated by centralised incineration facility;
- "technical memorandum" (技術備忘錄) means a technical memorandum issued under section 16;
- "tramway" (電車軌道) means the roadway over which a tram passes and the roadway of any bridge forming part of or leading to the roadway as defined in the Tramway Ordinance (Cap 107);
- "transport depot" (運輸車廠) means a facility for the construction, repair or maintenance of transport vehicles and their parking when not in operation;
- "trunk road" (幹道) means a road connecting the main centres of population being a high capacity road with no frontage access or development, pedestrians segregation, widely spaced grade-

separated junctions, and a 24 hour stopping restriction;  
"typhoon shelter" (避風塘) means a typhoon shelter within the meaning of the Shipping and Port Control (Typhoon Shelters) Regulations (Cap 313 sub. leg.);  
"wild animal protection area" (野生動物保護區) means an area designated as a restricted area under the Sixth Schedule to the Wild Animals Protection Ordinance (Cap 170).