

**For discussion
on 7 December 2004**

Legislative Council Panel on Economic Services

**Subsidiary Legislation relating to the
Merchant Shipping (Local Vessels) Ordinance**

Introduction

We previously briefed Members on two pieces of subsidiary legislation under the Merchant Shipping (Local Vessels) Ordinance (LVO) (Cap. 548). This paper updates Members on adjustments we propose to make, which have incorporated Members' comments.

Background

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

3. Over the years, local vessels have been governed by legal provisions scattered in various ordinances and subsidiary legislation. This is not user-friendly to owners and operators of local vessels. In July 1999, the Legislative Council enacted the LVO, which consolidated the scattered provisions into a single piece of legislation dedicated to local vessels. The LVO also updated marine legislation to meet the local shipping industry's need as well as enhance the safety standards of local vessels.

4. The implementation of the LVO entails the making of ten pieces of subsidiary legislation. The Legislative Council passed five of them in the 2001-04 legislative sessions. We are now finalising the remaining five pieces of subsidiary legislation and plan to table them at the Legislative Council in 2005. These include the Merchant Shipping (Local Vessels) (Works) Regulation, the Merchant Shipping (Local Vessels) (Safety Survey) Regulation, the Merchant Shipping (Local Vessels) (Compulsory Third Party Risks Insurance) Regulation, the Merchant Shipping (Local Vessels) (General) Regulation, and the Merchant Shipping (Local Vessels) (Fees) Regulation.

5. In addition to the subsidiary legislation, we are also preparing the Local Vessels (Miscellaneous Provisions) Bill (MP Bill) (formerly referred to as the Miscellaneous Amendment (Local Vessels) Bill). The MP Bill seeks to introduce consequential amendments to legislation affected by the LVO and its subsidiary legislation (whether those that have been made or are still under preparation). We plan to introduce it into the Legislative Council in the current session.

6. The MP Bill and the remaining five pieces of subsidiary legislation were discussed at previous Panel meetings and received Members' support. Thereafter, no major change has been made to the scope and approach of the MP Bill (LC Paper No. CB(1)764/02-03(04)), the Merchant Shipping (Local Vessels) (Works) Regulation and Merchant Shipping (Local Vessels) (Fees) Regulation (Fees Regulation) (LC Paper No. CB(1)764/02-03(03)), and the Merchant Shipping (Local Vessels) (Safety Survey) Regulation (LC Paper No. CB(1)1310/01-02(06)).

7. Taking into account the latest development and views expressed by Members earlier, we propose to modify two draft Regulations as set out in paragraphs 8 to 12 below.

(a) Merchant Shipping (Local Vessels) (Compulsory Third Part Risks Insurance) Regulation (Insurance Regulation)

8. The Insurance Regulation prescribes requirements for compulsory third party risks insurance for local vessels. When we briefed the Panel on the Insurance Regulation in January 2003, Members raised concern about the potential increase in insurance premium due to the upward adjustment of the minimum insurance cover. At a follow-up meeting in February 2003, we proposed and Members agreed to the minimum liability cover as set out in the following table -

Types of Local Vessels	Minimum liability cover
(i) Vessels with no fare-paying passengers	\$1 million
(ii) Vessels with up to 12 fare-paying passengers	
(iii) Kaitos and shuttle passenger sampans in typhoon shelters	
(iv) Vessels with more than 12 fare-paying passengers, except those in (iii) above	\$5 million

9. At the January and February 2003 meetings, Members also raised concern about our ability to apply the compulsory third party risks insurance requirements to river trade vessels as these vessels could also cause injury to third parties. We undertook to revert back to the Panel on how to address this concern.

10. From a policy perspective, we consider it necessary to extend the compulsory requirements to locally certificated and river trade vessels alike eventually so as to enhance protection for third parties. At the same time, we are mindful that the operation of river trade vessels in the waters of Hong Kong is conducive to the economic interest of Hong Kong, and that these vessels are subject to the regulatory regimes of the places from where they come (mostly from the Mainland but also some from Macau). Therefore, the Marine Department has informed the Guangdong Shipowners' Association (GDSOA), the Guangdong Maritime Safety Administration and the Maritime Administration of the Macau Special Administrative Region Government (Macau MA) of our plan to impose compulsory insurance requirements, and ascertained through them the readiness of their river trade vessels to comply with the insurance requirements when they are in the waters of Hong Kong. GDSOA has requested a grace period of six months from the effective date of the Insurance Regulation to allow time for GD river trade vessels to gear up for compliance. Macau MA has not raised any particular concern.

11. In view of the feedback, we propose to implement the Insurance Regulation in two phases –

- First Phase - The existing compulsory third party risks insurance requirements (applicable only to pleasure vessels, launches and ferry vessels) will be retained. This was the original proposal. This phase will commence as soon as the LVO and the Insurance Regulation become effective.
- Second Phase - The compulsory third party risks insurance requirements will be extended to locally certificated vessels (except laid-up vessels and small non-mechanically propelled vessels), and new statutory levels of insurance cover as shown in paragraph 8 will apply. This phase will come into effect six months after the commencement of LVO and the Insurance Regulation. At the same time, river trade vessels in the waters of Hong Kong will also be subject to compulsory third party risks insurance requirements. Since river trade vessels are not certificated in Hong Kong, the insurance requirements will be imposed on them at their point of entry into Hong Kong waters. The detailed arrangements will be prescribed in the Merchant Shipping (Local Vessels) (General) Regulation (see paragraph 12 below).

(b) Merchant Shipping (Local Vessels) (General) Regulation (General Regulation)

12. The General Regulation provides for the general administration of local vessels and port control matters to enhance the safe operation of local vessels within Hong Kong waters. To address Members' concern in paragraph 9 above, we have expanded the scope of the General Regulation so that it will also seek to apply the compulsory third party risks insurance requirements on river trade vessels. It will require river trade vessels to obtain a policy of insurance that insures the owners in respect of third party risks and the cover shall be at least \$1 million. Before river trade vessels enter into Hong Kong waters, they will be required to notify D of M, amongst other things, that they have taken out third party risks insurance. D of M may refuse entry of such vessels if they fail to comply with the above requirement.

Consultation

13. We have consulted the Provisional Local Vessels Advisory Committee (PLVAC) and its relevant sub-committees / working groups on the above proposals, and kept PLVAC updated of the progress through periodic meetings. At the PLVAC Meeting held on 8 October 2004, members noted the progress of all the five pieces of Regulations under preparation and lent support to them.

Advice sought

14. Members' views are sought on the proposed changes set out in paragraphs 8 to 12 above.