

LEGISLATIVE COUNCIL BRIEF

Marine Parks Ordinance (Cap. 476)

Marine Parks and Marine Reserves (Amendment) Regulation 2006

INTRODUCTION

Annex

The Marine Parks and Marine Reserves (Amendment) Regulation 2006 (Regulation) at **Annex**, to be made by the Secretary for the Environment, Transport and Works under section 20 of the Marine Parks Ordinance (Cap. 476) (Ordinance), serves to strengthen the control of glass-bottomed pleasure vessels for coral viewing and streamline the application procedures for collecting marine specimen for scientific researches in marine parks and marine reserve. This paper briefs Members on the details of the Regulation.

JUSTIFICATIONS

Control of Glass-bottom Pleasure Vessels

2. At present, the Director of Agriculture, Fisheries and Conservation (DAFC) can prohibit or restrict any vessel entering into any part of a marine park or marine reserve. For example, three “Mechanised Vessels Prohibited Zones” have been established in three areas of the Hoi Ha Wan Marine Park to prohibit the entry of mechanised vessels for protecting safety of people in these areas. There is growing concern on the use of glass-bottomed pleasure vessels for coral viewing, which poses threats to the corals when these boats are manoeuvring in shallow waters. However, there is no provision in the existing Marine Parks and Marine Reserves Regulation (existing Regulation) which enables DAFC to regulate, the activities of a particular type of vessel navigating within marine parks.

3. To strike a balance between protecting the corals and allowing the public to appreciate these valuable marine resources, we propose to empower DAFC to regulate the navigation of glass-bottomed pleasure vessels for viewing marine life. We propose to amend the existing Regulation to empower DAFC to control navigation of such vessels through a permit system. Operating conditions, such as routing, speed and manoeuvring of the vessels, will be stipulated in

each permit to minimise the impacts of these vessels on the coral communities. An annual permit fee of \$510 per vessel will be charged to cover the administrative costs for the issue of permits.

Specimen Collection for Scientific Researches

4. Academics conducting scientific researches are currently required to apply for permits under section 22 of the Ordinance for the collection of specimen of marine life and resources in marine parks and marine reserve. Such applications would first be vetted by the Education and Scientific Studies Sub-committee (Sub-committee) of the Country and Marine Parks Board (CMPB). Before Agriculture, Fisheries and Conservation Department (AFCD) grants the permits, CMPB will consider these applications based on the recommendations of the Sub-committee. It normally takes six to eight weeks to complete the process. The time required for processing the applications is relatively long, especially for overseas scientists and researchers who need to work under tight schedules while they are in Hong Kong.

5. To facilitate such educational and scientific studies, we propose to amend the existing Regulation to empower DAFC to issue permits for collecting marine life and resources as specimen for educational or scientific studies. DAFC will continue to consult the Sub-committee before issuing a permit, but will no longer need to seek advice from CMPB. This streamlined procedure will reduce the time required for processing an application to two weeks. In line with the existing arrangement, no fee will be charged for the issue of such permits.

THE REGULATION

6. The Regulation will -
- (a) add a new section 15A empowering DAFC to control through a permit system the navigation of specified vessel (i.e. vessel which are so constructed or adapted as to allow passengers to view marine life through submerged transparent part of the vessel);
 - (b) add a new section 15B empowering DAFC to control through a permit system the collection of marine life and resources for educational or scientific studies;
 - (c) amend section 16 so that the permits for specified vessels and specimen collection will continue to be in force in accordance

with the permit conditions under circumstances other than closure of marine park or marine reserve; and

- (d) specify the penalty for a contravention of the new sections 15A and 15B;
- (e) specify the fee payable for the issue of the new permits.

LEGISLATIVE TIMETABLE

7. The legislative timetable is as follows –

Publication in the Gazette	9 June 2006
Tabling at Legislative Council	14 June 2006
Commencement of the Regulation	18 October 2006

IMPLICATIONS OF THE PROPOSAL

8. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. The Regulation will not affect the current binding effect of the Ordinance. There are no economic implications. Additional staffing requirements are expected to be minimal and will be absorbed within AFCD's existing manpower resources. The proposed fee for permits for specified vessels will have insignificant impact on vessel operators. The financial implications arising from the proposal is insignificant.

9. The proposal to control specified vessels in marine parks will help prevent damages to the corals and is beneficial to the marine environment.

PUBLIC CONSULTATION

10. We consulted the Marine Parks Committee of the CMPB on the proposals in November 2004 and the Committee supported the proposed amendments. We also consulted the Provisional Local Vessels Advisory Committee and the relevant fishermen associations in August and September 2005 respectively. They raised no objection to the proposed amendments, including the fee level for the permit for specified vessel. The Legislative Council Panel on Environmental

Affairs was also consulted on the relevant amendments on 25 April 2005. Members raised no objection to the proposals.

PUBLICITY

11. A press release will be issued on 7 June 2006. A spokesman will be available to answer public and media enquiries.

BACKGROUND

12. Marine parks and marine reserve are established under the Marine Parks Ordinance (Cap. 476) for the purpose of protecting the marine environment, and for facilitating recreational and educational activities and scientific researches in the areas. The existing Regulation of the Ordinance regulates certain activities in the marine parks and marine reserve to ensure the proper management of the areas. AFCD, the authority responsible for the management of marine parks and marine reserve, reviews from time to time the effectiveness of the existing Regulation in consultation with the CMPB.

ENQUIRY

13. For any enquiries on the brief, please contact Ms Florence Chan, Senior Administrative Officer (Conservation Division) of the Environmental Protection Department at telephone 2594 6229.

Environmental Protection Department
7 June 2006

Annex

MARINE PARKS AND MARINE RESERVES (AMENDMENT) REGULATION 2006

(Made by the Secretary for the Environment, Transport and Works under
section 20 of the Marine Parks Ordinance (Cap. 476))

1. Commencement

This Regulation shall come into operation on 18 October 2006.

2. Interpretation

Section 2 of the Marine Parks and Marine Reserves Regulation (Cap. 476 sub. leg. A) is amended by adding –

““specified vessel” (指明船隻) means a vessel which is so constructed or adapted as to allow passengers on board to view marine life through a submerged transparent part of the hull of the vessel;”.

3. Sections added

The following are added –

“15A. Control of specified vessels

No person shall, except under and in accordance with a permit, navigate or cause to be navigated within a marine park any specified vessel.

15B. Control of collection of marine life and resources

(1) Subject to subsection (2), no person shall collect any marine life and resources in or from a marine park or marine reserve.

(2) A person may, under and in accordance with a permit, collect marine life and resources in or from a marine park or marine reserve for the purpose of conducting educational or scientific studies.”.

4. Prohibition or restriction of entry into or movement within marine parks and marine reserves

(1) Section 16(1) is amended by adding “or part thereof” after “reserve”.

(2) Section 16(4)(b) is amended, in the Chinese text, by adding “在該等海岸公園或海岸保護區或其部分內” before “被人駕駛”.

(3) Section 16(4)(c) is amended, in the Chinese text, by adding “在該等海岸公園或海岸保護區或其部分內” before “被人駕駛”.

(4) Section 16 is amended by adding –

“(4A) Subsection (4) does not prohibit a person from bringing into a marine park, or navigating or causing to be navigated within a marine park, any specified vessel if there is in force in respect of the vessel a permit granted for the purpose of section 15A.”.

(5) Section 16(5) is repealed and the following substituted –

“(5) Notwithstanding subsection (4A), where under subsection (1) the Authority prohibits the entry into, or movement within, a marine park or marine reserve or part thereof of all persons, vehicles and vessels during a period specified in the notice displayed under subsection (2) or published under subsection (3), any permit relating to such marine park or marine reserve or part thereof shall be suspended during that period.”.

5. Permit

Section 17(2) is amended by repealing “or 15” and substituting “, 15, 15A or 15B(2)”.

6. Penalties

Section 21(1) is amended by adding “, 15A, 15B(1)” after “15”.

7. Fees

Schedule 4 is amended by adding after the entry relating to section 15(*d*) –

“15A	Permit to navigate or cause to be navigated any specified vessel	510 (per year)
15B(2)	Permit to collect marine life and resources	Nil”.

Secretary for the Environment,
Transport and Works

5 June 2006

Explanatory Note

The object of this Regulation is to amend the Marine Parks and Marine Reserves Regulation (Cap. 476 sub. leg. A) (“principal Regulation”).

2. Section 2 adds a new definition of “specified vessel” to the principal Regulation.

3. Section 3 adds the new sections 15A and 15B to the principal Regulation. The new section 15A provides that no person shall, except under and in accordance with a permit, navigate or cause to be navigated within a marine park any specified vessel.

4. The new section 15B provides for the control of collection of marine life and resources in or from a marine park or marine reserve, except that a person

may, under and in accordance with a permit, collect marine life and resources for the purpose of educational or scientific studies.

5. Section 4(1) makes a minor amendment to section 16(1) of the principal Regulation to achieve consistency between the use of words in section 16(1) and that in section 16(4) and (5) of the principal Regulation.

6. Section 4(2) and (3) make minor amendments to the Chinese text of section 16(4)(b) and (c) of the principal Regulation to achieve consistency between the use of words in section 16(4)(b) and (c) and that in the new section 15A.

7. Section 4(4) adds a new subsection (4A) to section 16 of the principal Regulation to provide that section 16(4) of the principal Regulation does not prohibit a person from bringing into, or navigating or causing to be navigated within, a marine park any specified vessel if there is in force in respect of the vessel a permit granted for the purpose of the new section 15A.

8. Section 4(5) amends section 16(5) of the principal Regulation to provide that any permit relating to a marine park or marine reserve or part thereof will be suspended only if all persons, vehicles and vessels are prohibited from entering into, or moving within, the marine park or marine reserve or part thereof during certain specified period.

9. Section 6 amends section 21(1) of the principal Regulation to provide that a contravention of the new section 15A or 15B(1) is an offence.

10. Section 7 amends Schedule 4 to the principal Regulation to prescribe the appropriate fees for the application for a permit referred to in the new sections 15A and 15B(2).