

LEGISLATIVE COUNCIL BRIEF

MERCHANT SHIPPING (LOCAL VESSELS) (GENERAL) REGULATION

MERCHANT SHIPPING (LOCAL VESSELS) (SAFETY AND SURVEY) REGULATION

MERCHANT SHIPPING (LOCAL VESSELS) (COMPULSORY THIRD PARTY RISKS INSURANCE) REGULATION

MERCHANT SHIPPING (LOCAL VESSELS) (WORKS) REGULATION

INTRODUCTION

This paper briefs Members on four pieces of subsidiary legislation made under the Merchant Shipping (Local Vessels) Ordinance, Cap. 548 (“LVO”). They are –

- A (a) Merchant Shipping (Local Vessels) (General) Regulation (“General Regulation”) at **Annex A**;
- B (b) Merchant Shipping (Local Vessels) (Safety and Survey) Regulation (“Safety and Survey Regulation”) at **Annex B**;
- C (c) Merchant Shipping (Local Vessels) (Compulsory Third Party Risks Insurance) Regulation (“Compulsory Third Party Risks Insurance Regulation”) at **Annex C**; and
- D (d) Merchant Shipping (Local Vessels) (Works) Regulation (“Works Regulation”) at **Annex D**;

The four pieces of subsidiary legislation will be tabled at the Legislative Council on 11 October 2006.

BACKGROUND

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

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

4. The LVO, enacted in July 1999, seeks to consolidate the provisions previously set out in different ordinances into one piece of legislation dedicated for local vessels. The implementation of LVO entails the introduction of 11 pieces of subsidiary legislation. The Legislative Council passed five of them in 2001 and 2004 already. The names of the passed subsidiary legislation are at **Annex E**.

E

5. By virtue of section 89 of the LVO, the Secretary for Economic Development and Labour is empowered to make the Regulations listed at paragraphs 1(a) to 1(d) for the general regulation of local vessels, the survey and inspection of vessels, the control of works and the insurance that is required under the LVO.

THE REGULATIONS

6. The major contents of the above subsidiary legislation are outlined in the ensuing paragraphs.

(a) General Regulation (Annex A)

7. The purpose of the General Regulation is to enact general

provisions applicable to local vessels, including the regulation of overboard cargo and bunkering activities and the issue of new permits for vessels registered in the Mainland and Macau. The Regulation consolidates various provisions related to the regulation of local vessels in the Shipping and Port Control Regulations (Cap. 313A), the effect of which will cease upon the enactment of the LVO. The main contents of the General Regulation are set out as follow –

- (i) **Part 1** provides for preliminary matters, such as the commencement of the General Regulation and definition of terms used in the General Regulation;
- (ii) **Part 2** prescribes the procedural requirements relating to the arrival and departure of local vessels, for example, the application for an arrival clearance and a port clearance (*ss. 4 and 6*);
- (iii) **Part 3** provides for specific matters relating to navigation of local vessels in the waters of Hong Kong, for example, except with the permission of the Director of Marine (“Director”), a local vessel with a height exceeding 17m shall not approach so near any bridge within Tsing Tsuen and Tsing Yi Bridges Area as to prejudice the safety of the bridges (*s. 17*);
- (iv) **Part 4** prescribes requirements relating to the berthing of local vessels and the use of buoys and piers by these vessels;
- (v) **Part 5** prescribes specific requirements to be complied with in relation to local passenger vessels, for example, except with the permission of the Director, embarkation and disembarkation of passengers have to take place at a pier, sea wall or landing place (*s. 32*);
- (vi) **Part 6** prescribes requirements for the handling of cargo on local vessels, for example, cargo should be properly loaded and secured to minimize the risk to the safety of people on board (*s. 34*);

- (vii) **Part 7** prescribes the requirements for the use and display of lights and signals on local vessels;
- (viii) **Part 8** provides for the regulation and control of certain vessels registered in the Mainland of China or Macau which ply to and from waters of Hong Kong frequently, for example, the requirement for them to apply for a permit to remain within 24 hours after their entry into Hong Kong waters (s. 40);
- (ix) **Part 9** provides for a vessel traffic service under which a report system for certain local vessels is administered;
- (x) **Part 10** provides for the control over a number of activities involving local vessels carried out in the waters of Hong Kong, for example, the control over bunkering activities (s. 91);
- (xi) **Part 11** prescribes miscellaneous requirements relating to navigation safety of local vessels, for example, to prohibit the improper use of signals (s. 92); and
- (xii) **Part 12** provides for transitional matters relating to certain requirements under the Shipping and Port Control Ordinance (Cap. 313) and its subsidiary legislation which apply to local vessels before the commencement of the General Regulation.

(b) Safety and Survey Regulation (Annex B)

8. The main purposes of the Safety and Survey Regulation are to provide for the approval of plans and survey in relation to local vessels and to prescribe the safety requirements applicable to local vessels with respect to the construction and maintenance, the life-saving appliances and fire-fighting apparatus to be provided, the carriage of passengers and the plying limits. Currently, matters related to safety and survey of a local vessels are provided in the Shipping and Port Control Ordinance (Cap. 313), the Merchant Shipping (Safety) Ordinance (Cap. 369), and the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413). These relevant provisions in respect of local vessels would cease to have effect after the coming into force of the

Regulation. The main contents of the Safety and Survey Regulation are set out below –

- (i) **Part 1** provides for preliminary matters, such as the commencement of the Safety and Survey Regulation and definition of terms used in the Safety and Survey Regulation;
- (ii) **Part 2** empowers owners of local vessels to appoint agents for the purposes of the Safety and Survey Regulation (s. 4);
- (iii) **Part 3** sets out the procedures and requirement for approval of plans applicable to specified local vessels, in particular new vessels (s. 8);
- (iv) **Part 4** provides for the application for, the issue, cancellation and suspension of certificates of inspection and certificates of survey;
- (v) **Part 5** provides for the requirements regarding the construction and maintenance of local vessels as well as the life-saving appliances and fire-fighting apparatus to be provided on board local vessels (ss. 31-33). It also provides for the application for and the issue of survey records of safety equipment (ss. 34-40);
- (vi) **Part 6** provides for the application for and the issue of the Hong Kong load line certificate and freeboard assignment certificate;
- (vii) **Part 7** sets out the requirements for the application and issue of declaration of fitness for carriage of dangerous goods;
- (viii) **Part 8** contains provisions regarding the application for and the issue, cancellation and suspension of the Hong Kong load line certificate, freeboard assignment certificate, survey record of safety equipment, or declaration of fitness in the Regulation;

- (ix) **Part 9** provides for the requirements related to the carriage of passengers in local vessels, for example, the Director may reduce the number of passengers that a local vessel may carry in certain circumstances (s. 72);
- (x) **Part 10** provides for the requirements to be followed in respect of the alteration of local vessels;
- (xi) **Part 11** sets out requirements concerning the plying limits, fitting of radar equipment and restriction on use of certain engines in certain local vessels (ss. 79-81); and
- (xii) **Part 12** sets out miscellaneous requirements, for example, the power of the Director to issue instructions or directions by way of Marine Department Notices (s. 84).

(c) Compulsory Third Party Risks Insurance Regulation (Annex C)

9. The main purpose of the Compulsory Third Party Risks Insurance Regulation is to prescribe matters relating to insurance required to be taken out under the LVO, like the requirements related to insurance policy, certificate of insurance, termination of policy and application for approval as approved insurer. It incorporates relevant provisions in the Merchant Shipping Ordinance (Cap. 281), and the Merchant Shipping (Compulsory Third Party Risks Insurance) Regulations (Cap. 281K) which would cease to have effect upon local vessels after the coming into force of the Regulation. The main contents of the Regulation are set out as follows –

- (i) **Part 1** provides for preliminary matters, such as the commencement of the Compulsory Third Party Risks Insurance Regulation and definition of terms used in that Regulation;
- (ii) **Part 2** empowers the Director to approve a protection and indemnity association to be an approved insurer for the purposes of the LVO (s. 5) and to suspend or revoke the approval of approved insurer in specified circumstances, for example when the approved insurer fails to comply with

conditions subject to which the approval has been granted (s. 8);

- (iii) **Part 2** also provides for matters arising from the suspension or revocation of approval. For example, an approved insurer shall notify its policy holders of the suspension or revocation of approval (s. 9);
- (iv) **Part 3** imposes duties on an authorized insurer to keep records of insurance, to issue certificates of insurance and to notify the Director if a policy of insurance ceases to be effective under certain specific circumstances (ss. 11-13);
- (v) **Part 4** sets out the effect on a policy of insurance if an approval given to an approved insurer is suspended or revoked (s. 17) and prescribes the liability of directors and managers if the offence in the Regulation is committed by a body of persons (s. 20);
- (vi) **Part 4** also empowers the Director to specify the amount of insurance cover for different local vessels (s. 21) and to amend the Schedule of Regulation (s. 23).

(d) Works Regulation¹ (Annex D)

10. The purpose of the Works Regulation is to provide for the safety of persons carrying out works in relation to a local vessel. It consolidates provisions in the Shipping and Port Control (Cargo Handling) Regulations (Cap. 313B). The main contents of the Works Regulation are set out as follows –

- (i) **Part 1** provides for preliminary matters, such as the commencement of the Works Regulation and definition of terms used in the Works Regulation;

¹ While the Works Regulation will provide for the safety of persons engaged in carrying out works in relation to a local vessel, an other piece of legislation, the Shipping and Port Control (Works) Regulation, will be introduced separately into the Legislation Council in tandem with the Works Regulation to deal with works related to ocean-going vessels on 11 October 2006. By and large, the contents of both Regulations mirror each other and we will issue a separate Legislative Council Brief to brief Members on the details of the Shipping and Port Control (Works) Regulation.

- (ii) **Part 2** provides for, amongst other things, safe means of access to or from local vessels and to workplaces on local vessels;
- (iii) **Part 3** provides for the duties of works supervisors, employers and persons in charge of works, for example, the duty to ensure that the person employed is provided with an appropriate safety helmet and other protective clothing and equipment (*s. 21*);
- (iv) **Part 4** provides for safety requirements with respect to lifting appliances and lifting gears;
- (v) **Part 5** provides for safety measures to be taken in respect of cargo handling amongst other things. Take for example, it is required that precautions should be taken to facilitate the escape of a person employed in dealing with bulk cargo in holds (*s. 55*);
- (vi) **Part 6** provides for miscellaneous prohibition, for example prohibition of the removal of any gear or ladder required by the Works Regulation (*s. 65*); and
- (vii) **Part 7** provides for other miscellaneous matters, for example, the requirement for the maintenance of records of persons employed (*s. 69*).

LEGISLATIVE TIMETABLE

11. The legislative timetable for the four Regulations is as follow:-

Publication in the Gazette	6 October 2006
Tabling at the Legislative Council	11 October 2006
Commencement	to be notified

IMPLICATIONS OF THE PROPOSAL

12. The consolidation of provisions previously set out in different ordinances into an ordinance dedicated for local vessels is conducive to a user-friendly environment for operation of vessels in Hong Kong.

13. The proposals are in conformity with the basic law, including the provisions concerning human rights. It will not affect the binding effect of the LVO. It does not have financial and staff implications for the Government. The Marine Department will enforce the new regulations using their existing staff and resources.

PUBLIC CONSULTATION

14. We have consulted the Provisional Local Vessel Advisory Committee and its relevant sub-committees/working groups, which comprise a wide cross-section of representatives from the local shipping industry, and secured their support. We have briefed the Panel on Economic Services of the Legislative Council on the above Regulations and obtained Members' support in 2003.

PUBLICITY

15. A press release will be issued on 4 October 2006.

ENQUIRY

16. Any enquiry on this Brief can be addressed to Mr W K LEE, Deputy Director of Marine (Tel: 2852 4402) or Mr Frederick Yu, Assistant Secretary for Economic Development and Labour (Tel: 2537 2842).

Economic Development and Labour Bureau
4 October 2006

MERCHANT SHIPPING (LOCAL VESSELS) (GENERAL) REGULATION

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MERCHANT SHIPPING (LOCAL VESSELS) (GENERAL) REGULATION

(Made by the Secretary for Economic Development and Labour under section 89 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548))

PART 1

PRELIMINARY

1. Commencement

(1) This Regulation (other than sections 4(4)(b), 49 and 50) shall come into operation on the day appointed for the commencement of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548).

(2) Sections 4(4)(b), 49 and 50 shall come into operation 6 months after the day appointed for the commencement of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548).

2. Interpretation

In this Regulation, unless the context otherwise requires –

“arrival” (到達), in relation to a vessel entering the waters of Hong Kong, means the first occasion on which the vessel is at anchor, or made fast to any other vessel, any mooring or the shore, or aground, after entering those waters, and “arrive” (到達) shall be construed accordingly;

“berth” (泊位) means any place in the waters of Hong Kong at which a vessel is not underway;

“cable reserve” (電纜留用區) means an area of the waters of Hong Kong specified as such in the Sixth Schedule to the SAPCR;

“Class I vessel” (第 I 類別船隻) has the same meaning as in the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548 sub. leg. D);

- “Class II vessel” (第 II 類別船隻) has the same meaning as in the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548 sub. leg. D);
- “dangerous goods anchorage” (危險品碇泊處) means an area of the waters of Hong Kong specified as such in the Seventh Schedule to the SAPCR;
- “departure” (駛離), in relation to a vessel leaving the waters of Hong Kong, means the departure of the vessel from any berth to waters outside Hong Kong, and “depart” (駛離) shall be construed accordingly;
- “immigration anchorage” (入境船隻碇泊處) means an approved immigration anchorage within the meaning of section 2(1) of the Immigration Ordinance (Cap. 115);
- “naval anchorage” (海軍碇泊處) means an area of the waters of Hong Kong specified as such in the Seventh Schedule to the SAPCR;
- “paragraph (e) vessel” ((e)段船隻) means a local vessel within the meaning of paragraph (e) of the definition of “local vessel” in section 2 of the Ordinance;
- “permit to remain” (停留許可證) means a permit granted under section 41(3);
- “port clearance” (出港證) means the port clearance referred to in section 28(1) of the Ordinance;
- “prescribed fee” (訂明費用), in relation to any matter, means the fee prescribed for that matter by regulation made under section 88 of the Ordinance;
- “principal fairway” (主要航道) means an area of the waters of Hong Kong specified as such in the Third Schedule to the SAPCR;
- “quarantine anchorage” (檢疫碇泊處) means an area of the waters of Hong Kong specified as such in the Seventh Schedule to the SAPCR;
- “SAPCR” (《管制規例》) means the Shipping and Port Control Regulations (Cap. 313 sub. leg. A);

- “seatrial” (試航) means a seatrial conducted or completed in the waters of Hong Kong for the purpose (whether the sole purpose or otherwise) of testing the performance of a vessel;
- “special anchorage” (專用碇泊處) means an area of the waters of Hong Kong specified as such in the Seventh Schedule to the SAPCR;
- “typhoon shelter” (避風塘) has the same meaning as in section 2 of the Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation (Cap. 548 sub. leg. E);
- “underway” (在航) has the same meaning as in Rule 3(i) of the Schedule to the Merchant Shipping (Safety) (Signals of Distress and Prevention of Collisions) Regulations (Cap. 369 sub. leg. N);
- “Yau Ma Tei Anchorage” (油麻地碇泊處) means the area of the waters of Hong Kong specified as such in the Seventh Schedule to the SAPCR.

PART 2

ARRIVALS AND DEPARTURES

3. Arrival clearance required upon arrival

(1) Where a local vessel arrives in the waters of Hong Kong, the owner of the vessel, his agent or the coxswain of the vessel shall, as soon as practicable and in any event not later than 24 hours after the arrival, apply for an arrival clearance in respect of the vessel in accordance with section 4.

(2) In the case of a paragraph (e) vessel, the reference to “agent” in subsection (1) is a reference to an agent whose appointment has been notified under section 51(1).

(3) This section does not apply to any local vessel for the time being used for any purpose by the Government.

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

4. Application for arrival clearance

(1) An application for an arrival clearance in respect of a local vessel shall be made to the Director in the specified form and accompanied by –

- (a) the prescribed fee; and
- (b) a declaration made in the specified form in respect of –
 - (i) the general condition of the vessel;
 - (ii) the cargo carried on board the vessel; and
 - (iii) the voyage it undertook immediately before its arrival.

(2) An application for an arrival clearance in respect of a local vessel which is neither a pleasure vessel from a place outside Hong Kong nor a paragraph (e) vessel shall also be accompanied by –

- (a) a copy of the vessel's operating licence; and
- (b) if required by the Director, any one or more of the documents specified in items 2, 4 and 5 of Schedule 1.

(3) An application for an arrival clearance in respect of a local vessel which is a pleasure vessel from a place outside Hong Kong shall also be accompanied by –

- (a) the certificate of registry granted in respect of the vessel; and
- (b) if required by the Director, any one or more of the documents specified in Schedule 1.

(4) An application for an arrival clearance in respect of a paragraph (e) vessel shall also be accompanied by –

- (a) the certificate referred to in paragraph (e)(iii) of the definition of “local vessel” in section 2 of the Ordinance;

- (b) documentary proof of an insurance required under section 49;
- (c) the certificate of registry granted in respect of the vessel; and
- (d) if required by the Director, any one or more of the documents specified in Schedule 1.

(5) In this section, “certificate of registry” (註冊證明書) means a certificate of registry or other document granted in a place outside Hong Kong and similar or equivalent in effect to a certificate of registry granted under the Merchant Shipping (Registration) Ordinance (Cap. 415).

5. Grant, etc. of arrival clearance

(1) Upon an application made for an arrival clearance, the Director may –

- (a) refuse to grant the arrival clearance on grounds of safety or public interest; or
- (b) grant the arrival clearance.

(2) If the Director refuses an application for the grant of an arrival clearance, he shall notify the applicant of the refusal and the reason for the refusal.

(3) Where a notice of refusal is served under subsection (2) in respect of a pleasure vessel from a place outside Hong Kong or a paragraph (e) vessel, the vessel shall depart from the waters of Hong Kong as soon as practicable after the service.

(4) Where a notice of refusal is served under subsection (2) in respect of a local vessel which is neither a pleasure vessel from a place outside Hong Kong nor a paragraph (e) vessel, the notice may be accompanied by a direction given under section 24 of the Ordinance.

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

6. Obtaining of port clearance

(1) For the purposes of section 28 of the Ordinance, an application for a port clearance in respect of a local vessel shall be –

- (a) made to the Director in the specified form;
- (b) made by the owner of the vessel, his agent or the coxswain of the vessel; and
- (c) accompanied by the prescribed fee.

(2) In the case of a paragraph (e) vessel, the reference to “agent” in subsection (1)(b) is a reference to an agent whose appointment has been notified under section 51(1).

(3) The Director may require the person who makes an application under subsection (1) to provide any or all of the following information –

- (a) the nature of the voyage to which the application relates;
- (b) the number of passengers and crew members to be carried on board the vessel at the time of the departure to which the application relates;
- (c) a general description of the cargo to be carried on board the vessel at the time of the departure;
- (d) such other information as the Director may reasonably require for the purpose of considering the application.

(4) Upon an application made for a port clearance, the Director may –

- (a) refuse to grant the port clearance on grounds of safety or public interest; or
- (b) grant the port clearance.

(5) A port clearance granted in respect of a vessel under subsection (4)(b) shall cease to be valid if the vessel does not depart within the specified period after the port clearance is granted.

(6) In subsection (5) and section 7(1), “specified period” (指明限期) means 72 hours or such other period as may be specified in the port clearance by the Director, whichever is shorter.

7. Report of failure to depart after obtaining port clearance

(1) If a local vessel does not depart within the specified period after a port clearance is granted in respect of the vessel under section 6, the owner of the vessel, his agent or the coxswain of the vessel shall, as soon as practicable after the specified period –

- (a) report to the Director the reason why the vessel does not so depart; and
- (b) return the port clearance to the Director.

(2) If without reasonable excuse subsection (1) is contravened, the owner of the vessel, 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.

PART 3

NAVIGATION IN WATERS OF HONG KONG

8. Restriction on navigation by certain pleasure vessels

- (1) Except with the permission of the Director, a local vessel –
- (a) which is a pleasure vessel from a place outside Hong Kong; and
 - (b) which does not remain in the waters of Hong Kong for more than 182 days out of 365 consecutive days,

shall not navigate in the waters of Hong Kong.

- (2) Subsection (1) does not apply where –
- (a) the vessel is on its way to its berth in the waters of Hong Kong immediately after it has entered those waters; or
 - (b) it is departing the waters of Hong Kong.

(3) If without reasonable excuse subsection (1) is contravened, the owner of the vessel, his agent and the coxswain of the vessel commit an offence

and each of them is liable on conviction to a fine at level 4 and to imprisonment for 1 year.

9. Speed of vessels

(1) Except with the permission of the Director, a local vessel shall not, when underway in the waters of Hong Kong, proceed at a speed exceeding the maximum permitted speed provided in Schedule 2.

(2) Except with the permission of the Director, a local vessel which is a high speed craft shall not, 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 15 knots.

(3) A local vessel shall not, when underway in any restricted zone specified in the Eighteenth Schedule to the SAPCR, proceed at a speed exceeding 5 knots, between the hours of 8 a.m. and 12 midnight –

- (a) on any Saturday or public holiday; or
- (b) on any day during the period from 1 July to 15 September (both dates inclusive) in any year.

(4) A local vessel shall not, when underway in the entrance to or within a typhoon shelter, proceed at a speed exceeding 5 knots.

(5) If without reasonable excuse subsection (1) or (2) is contravened, the coxswain of the vessel commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

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

(7) If without reasonable excuse subsection (4) is contravened, the coxswain of the vessel commits an offence and is liable on conviction to a fine at level 2.

(8) In subsection (2), “high speed craft” (高速船) has the same meaning as in section 2(1) of the Merchant Shipping (Safety) (High Speed Craft) Regulation (Cap. 369 sub. leg. AW).

10. Stopping of vessels

(1) A local vessel which is underway and to which the signal “L” as specified in the International Code of Signals published by the International Maritime Organization is made –

- (a) by flag, sound, flashing lamp or signal light from a launch used by the Marine Department, Hong Kong Police Force, Immigration Department or Customs and Excise Department of the Government; or
- (b) by signal light from a signal station,

shall stop until authorized to proceed by an authorized officer.

(2) A local vessel which is not underway and to which the signal referred to in subsection (1) is made in the manner specified in that subsection shall not move until authorized to do so by an authorized officer.

(3) If without reasonable excuse subsection (1) or (2) is contravened, the coxswain of the vessel commits an offence and is liable on conviction to a fine at level 2 and to imprisonment for 6 months.

11. Manning and equipment

(1) A local vessel –

- (a) shall have on board a sufficient number of crew members who are qualified and capable of carrying out all duties which may reasonably be required; and
- (b) shall be adequately equipped,

to ensure the safety of the vessel, having regard to the design, size, speed, total power, control mechanism, equipment and machinery of the vessel.

(2) The Director may, as regards a particular type of local vessel, issue for the purposes of subsection (1) a notice specifying –

- (a) the number of crew members on board, the qualification, training and experience of such crew members; or
- (b) the equipment on board,

which shall be regarded as adequate for ensuring the safety of a local vessel of that type.

(3) In relation to a local vessel of a type to which a notice issued under subsection (2)(a) relates, compliance with the notice is to be regarded as compliance with subsection (1)(a).

(4) In relation to a local vessel of a type to which a notice issued under subsection (2)(b) relates, compliance with the notice is to be regarded as compliance with subsection (1)(b).

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

12. Prohibition of entry into airport approach areas

(1) Except with the permission of the Director, a local vessel shall not enter the Hong Kong International Airport Approach Area No. 1, 2, 3 or 4 specified in paragraphs 5, 6, 7 and 8 respectively of the Fifth Schedule to the SAPCR.

(2) Except with the permission of the Director, a local vessel with a height exceeding 15 m above sea level shall not enter the Hong Kong International Airport Approach Area No. 5 or 6 specified in paragraphs 9 and 10 respectively of the Fifth Schedule to the SAPCR.

(3) Except with the permission of the Director, a local vessel with a height exceeding 30 m above sea level shall not enter the Hong Kong International Airport Approach Area No. 7 or 8 specified in paragraphs 11 and 12 respectively of the Fifth Schedule to the SAPCR.

13. Restriction on entry into cable reserve

(1) A local vessel shall not remain or navigate in a cable reserve except for the purpose of –

- (a) laying or repairing a submarine cable or pipeline; or
 - (b) berthing at any pier within the cable reserve.
- (2) Subsection (1) does not apply to a local vessel which is –
- (a) only passing through a cable reserve;
 - (b) stopped, anchored or berthed in the cable reserve for the purpose of avoiding immediate danger; or
 - (c) aground in the cable reserve.

14. Prohibition of entry into restricted areas

Except with the permission of the Director, a local vessel shall not enter –

- (a) any area within 100 m from the low water mark on Green Island;
- (b) the Ngong Shuen Chau Barracks Area specified in paragraph 16 of the Fifth Schedule to the SAPCR;
- (c) any area within 100 m from the low water mark on Waglan Island; or
- (d) the Shing Mun River Channel.

15. Prohibition of entry into Kap Shui Mun Special Area

Except with the permission of the Director, a local vessel exceeding 10 m in length overall shall not enter the Kap Shui Mun Special Area specified in paragraph 18 of the Fifth Schedule to the SAPCR –

- (a) by crossing over the south-eastern boundary of the Special Area specified in paragraph 19 of that Schedule; or
- (b) by crossing over the north-eastern boundary of the Special Area specified in paragraph 20 of that Schedule.

16. Prohibition of entry into Ngong Shuen Chau Naval Basin Area

Except with the permission of the Hong Kong Garrison, a local vessel shall not enter the Ngong Shuen Chau Naval Basin Area specified in paragraph 17 of the Fifth Schedule to the SAPCR.

17. Prohibition of entry into Tsing Tsuen and Tsing Yi Bridges Area

Except with the permission of the Director, a local vessel with a height exceeding 17 m above sea level shall not –

- (a) approach so near any bridge within the Tsing Tsuen and Tsing Yi Bridges Area specified in paragraph 3(b) of the Fifth Schedule to the SAPCR as to prejudice the safety of the bridge; or
- (b) if it is being towed, enter, berth or unberth within the Area referred to in paragraph (a) unless it is towed by such number of vessels as may reasonably be required to ensure its safety having regard to the circumstances pertaining to it.

18. Prohibition of entry into Ap Lei Chau Bridge Area

Except with the permission of the Director, a local vessel with a height exceeding 14 m above sea level shall not –

- (a) approach so near any bridge within the Ap Lei Chau Bridge Area specified in paragraph 4(b) of the Fifth Schedule to the SAPCR as to prejudice the safety of the bridge; or
- (b) if it is being towed, enter, berth or unberth within the Area referred to in paragraph (a) unless it is towed by such number of vessels as may reasonably be required to ensure its safety having regard to the circumstances pertaining to it.

19. Prohibition of entry into other bridge areas

(1) Except with the permission of the Director, a local vessel with a height exceeding 8 m above sea level shall not enter the Tung Chung Bridges Area specified in paragraph 13(b) of the Fifth Schedule to the SAPCR.

(2) Except with the permission of the Director, a local vessel with a height exceeding 41 m above sea level shall not enter the Kap Shui Mun Bridge Area specified in paragraph 14(b) of the Fifth Schedule to the SAPCR.

(3) Except with the permission of the Director, a local vessel with a height exceeding 53 m above sea level shall not enter the Tsing Ma Bridge Area specified in paragraph 15(b) of the Fifth Schedule to the SAPCR.

20. Offences relating to restricted areas, etc.

(1) If without reasonable excuse section 12(1), (2) or (3), 13(1), 14, 15, 17, 18 or 19(1), (2) or (3) is contravened –

- (a) in the case of a local vessel not being towed, the coxswain of the vessel commits an offence; or
- (b) in the case of a local vessel being towed, the coxswain of the vessel and the coxswain or person in charge or command of any other vessel towing the vessel commit an offence,

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

(2) If without reasonable excuse section 16 is contravened –

- (a) in the case of a local vessel not being towed, the coxswain of the vessel commits an offence; or
- (b) in the case of a local vessel being towed, the coxswain of the vessel and the coxswain or person in charge or command of any other vessel towing the vessel commit an offence,

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

(3) Without prejudice to sections 17(a), 18(a) and 19(1), (2) and (3), if a local vessel collides with any bridge within any of the Areas referred to in those sections –

- (a) in the case of a local vessel not being towed, the owner of the vessel, his agent and the coxswain of the vessel; or
- (b) in the case of a local vessel being towed –
 - (i) the owner of the vessel, his agent and the coxswain of the vessel; and
 - (ii) the owner of any other vessel towing the vessel, his agent and the coxswain or person in charge or command of that other vessel,

commit an offence and each of them is liable on conviction to a fine at level 5 and to imprisonment for 6 months.

(4) In proceedings for an offence under subsection (3), it is a defence for the defendant to show that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

PART 4

BERTHING

21. Anchorages

(1) The Director may set aside a place in the waters of Hong Kong for the anchorage of –

- (a) a particular type, class or description of local vessel; or
- (b) a particular local vessel in a particular case.

(2) The Director shall notify the setting aside of a place under subsection (1) by notice published in the Gazette.

(3) The Director may designate a place in the waters of Hong Kong at which no local vessel shall anchor or lie.

(4) The Director shall notify the designation of a place under subsection (3) by posting a notice at or near the place to which the designation relates.

22. Anchoring of local vessels

(1) Subject to subsection (2), a local vessel shall not anchor at any place in a port other than at –

- (a) a special anchorage;
- (b) a typhoon shelter in accordance with the Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation (Cap. 548 sub. leg. E); or
- (c) a place specified in a notice published under section 21(2) which applies to the vessel.

(2) A local vessel shall not anchor or lie at any place –

- (a) within any principal fairway;
- (b) in a direct approach to the Lei Yue Mun or Sulphur Channel;
- (c) in a position which obstructs an approach or entrance to any principal fairway, port, 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) within 500 m of any place or vessel designated as a Government Explosives Depot under section 13A of the Dangerous Goods Ordinance (Cap. 295), except with the permission of the Director;
- (f) at or near which a notice is posted under section 21(4), except with the permission of the Director;

- (g) (if the vessel exceeds 100 m in length overall) in 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); or
- (k) in a naval anchorage, except with the permission of the Hong Kong Garrison.

(3) If without reasonable excuse subsection (1) or (2) is contravened, the coxswain of the vessel commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

23. Prohibited anchorage area

(1) Without prejudice to section 22 and except with the permission of the Director, a local vessel shall not anchor within the prohibited anchorage area specified in the Nineteenth Schedule to the SAPCR.

(2) Subsection (1) does not apply to –

- (a) a local vessel used by the Government in connection with the performance of official duties;
- (b) a local vessel used by the Hong Kong Garrison in connection with the performance of official duties; or
- (c) a privately owned local vessel that is under contract with the Government and that is used in connection with the performance of the Government's official duties.

(3) If without reasonable excuse subsection (1) is contravened, the coxswain of the vessel commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

24. Mooring to buoys

(1) A local vessel shall not moor to a buoy unless the buoy is one laid for mooring purposes.

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

25. Mooring to Government mooring buoys

(1) Except with the permission of the Director, a local vessel shall not moor to a Government mooring buoy.

(2) An application for the permission referred to in subsection (1) shall not be made in respect of a local vessel at any time before 48 hours immediately preceding the estimated time of arrival of the vessel.

(3) In subsection (2), the reference to the estimated time of arrival of a local vessel is a reference to the estimated time of arrival of the vessel stated in the application for the permission referred to in subsection (1) in respect of the vessel.

(4) A local vessel which is moored to a Government mooring buoy shall not be swung for compass adjustment.

(5) No testing of the main propulsion machinery of a local vessel shall be conducted when it is moored to a Government mooring buoy.

(6) When a tropical cyclone warning signal is issued by the Hong Kong Observatory –

- (a) a local vessel (other than a dead vessel) which is moored to a Government mooring buoy shall clear anchor and cables;
- (b) the main propulsion machinery of the vessel shall be prepared to operate in full power conditions; and

(c) the vessel shall, if so directed by the Director, leave the mooring buoy.

(7) If without reasonable excuse subsection (1), (4), (5) or (6) is contravened, the coxswain of the vessel commits an offence and is liable on conviction to a fine at level 3.

26. Mooring to private moorings

(1) A local vessel shall not moor to a private mooring except –

- (a) with the permission of the owner of the private mooring; or
- (b) pursuant to a direction given by the Director under section 24(c) of the Ordinance.

(2) If without reasonable excuse subsection (1) is contravened, the owner of the vessel, his agent and the coxswain of the vessel commit an offence and each of them is liable on conviction to a fine of \$300 for each day or part of a day during which that subsection is contravened.

(3) In this section, “private mooring” (私人繫泊設備) means a mooring which is not a Government mooring buoy and was laid in a place specified in a permission referred to in section 6(1) of the Shipping and Port Control Ordinance (Cap. 313).

27. Local vessels alongside berthed vessels

(1) Except with the permission of the Director, a local vessel which is constructed or adapted for the carriage of petroleum product in bulk and exceeds 2 000 net tonnage shall not lie alongside any other vessel.

(2) Except with the permission of the Director, a paragraph (e) vessel shall not lie alongside any ship.

(3) Where 3 or more vessels lie abreast on any side of a ship which is at anchor or moored to a mooring buoy, a local vessel shall not lie alongside any of those 3 or more vessels.

(4) Where 2 or more vessels lie abreast on any side of a ship which is moored at any pier, a local vessel shall not lie alongside any of those 2 or more vessels.

(5) If without reasonable excuse subsection (1) is contravened, the coxswain of the local vessel commits an offence and is liable on conviction to a fine at level 2.

(6) If without reasonable excuse subsection (2) is contravened, the coxswain of the paragraph (e) vessel commits an offence and is liable on conviction to a fine at level 2.

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

(8) For the purposes of this section, a vessel lies alongside another vessel if the bow, stern or either side of the vessel lies against that other vessel.

(9) In this section, “ship” (船舶) means a ship to which the Merchant Shipping (Safety) Ordinance (Cap. 369) applies.

28. Berthing, etc. at Government piers

(1) Except with the permission of the Director, a local vessel shall not lie alongside a Government pier for any purpose other than to enable passengers of the vessel to embark or disembark (with their baggage, if any) and for any time longer than is reasonably necessary for the embarkation or disembarkation.

(2) Except with the permission of the Director, a local vessel exceeding 35 m in length overall shall not go alongside a Government pier.

(3) A local vessel shall not make fast to any part of a Government pier except to the mooring bollards and rings provided on the pier by the Government.

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

(5) For the purposes of subsection (1), a local vessel lies alongside a Government pier if the bow, stern or either side of the vessel lies against the pier.

(6) For the purposes of subsection (1), where 2 or more vessels lie alongside each other and one of the vessels lies alongside a Government pier, each of the vessels is to be regarded as lying alongside the pier.

(7) For the purposes of subsection (2), a local vessel goes alongside a Government pier if the vessel is being manoeuvred to lie alongside the pier.

(8) For the purposes of subsection (6), a vessel lies alongside another vessel if the bow, stern or either side of the vessel lies against that other vessel.

29. Making fast to another vessel

(1) A local vessel shall not make fast to any other vessel (whether or not a local vessel) which is underway except with the permission of the coxswain or person in charge or command of that other vessel.

(2) Subsection (1) does not apply where the local vessel carries a public officer who is to board the other vessel when performing his official duties in good faith.

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

PART 5

LOCAL PASSENGER VESSELS

30. Application and interpretation

(1) This Part applies to a Class I vessel or Class II vessel which is permitted under its operating licence to carry passengers.

(2) In this Part –
“local passenger vessel” (本地客船) means a vessel to which this Part applies;

“passenger service vessel” (客運船隻) means a vessel which is a Class I vessel for the purposes of Schedule 1 to the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548 sub. leg. D) and which is in use on or is reserved for a franchised service or licensed service under the Ferry Services Ordinance (Cap. 104).

31. Vessels to be kept clean

(1) A local passenger vessel shall be kept clean at all times for the safety and comfort of passengers on board the vessel.

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

(3) In proceedings for an offence under subsection (2), it is a defence for the defendant to show that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

32. Embarkation and disembarkation of passengers, etc.

(1) Except with the permission of the Director, no embarkation or disembarkation of passengers on or from a passenger service vessel shall take place otherwise than at a pier, seawall or landing place.

(2) Except with the permission of the Director, no embarkation or disembarkation of passengers on or from a passenger service vessel shall take place otherwise than by means of –

- (a) a gangway adequately secured to the vessel and the shore and fitted with a handrail; or
- (b) landing steps alongside which the vessel has made fast.

(3) Except with the permission of the Director, no cargo shall be loaded onto or unloaded from a passenger service vessel otherwise than at a pier, seawall or landing place.

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

33. Notice stating maximum number of passengers to be posted

(1) A notice complying with subsection (2) shall be posted at a prominent location at all places on a local passenger vessel where passengers embark on the vessel.

(2) The notice referred to in subsection (1) shall state in English words and Chinese characters, of no less than 70 mm in height, the maximum number of passengers the vessel is allowed to carry under its operating licence.

(3) If subsection (1) is contravened, the owner of the vessel, 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.

(4) In proceedings for an offence under subsection (3), it is a defence for the defendant to show that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

PART 6

CARGO ON LOCAL VESSELS

34. Stowage and securing of cargo

(1) Any cargo carried by a local vessel shall be so loaded, stowed and secured as to minimize the risk to the safety of the vessel and the health and safety of any person on board the vessel.

(2) Any cargo carried in a cargo unit on a local vessel shall be so packed and secured within the cargo unit as to minimize the risk to the safety of the vessel and the health and safety of any person on board the vessel.

(3) Any heavy cargo or cargo with abnormal physical dimensions shall be so loaded on and transported within a local vessel as to –

- (a) minimize the risk of damage to the structure of the vessel;
and
- (b) ensure that the vessel will retain sufficient stability and freeboard at all stages of a voyage in all probable sea conditions.

(4) Any cargo carried by a local vessel shall be so loaded, stowed and secured as to prevent loss of the cargo overboard.

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

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

(7) If subsection (3) is contravened, the coxswain of the vessel and any member of the crew of the vessel who is in charge of loading cargo onto the vessel commit an offence and each of them is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

(8) In proceedings for an offence under subsection (5), (6) or (7), it is a defence for the defendant to show that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

(9) In this section –
“cargo unit” (貨物單元) means a unit of a number of items of cargo consolidated as such by means of a form of containment other than the structural cargo space of a vessel;
“shipper” (付運人), in relation to any cargo carried by a vessel, means the person who, whether as principal or agent, consigns the cargo for carriage by the vessel.

35. Record of cargo on board

(1) Where any cargo is carried by a local vessel entering or leaving the waters of Hong Kong, a complete and accurate record in writing containing the information specified in subsection (2) shall be kept on board the vessel while the vessel is underway in the waters of Hong Kong.

(2) The information specified for the purposes of subsection (1) shall be –

- (a) a description of the cargo;
- (b) the quantity, volume and weight of the cargo;
- (c) the port at which the cargo was loaded onto the vessel;
- (d) the stowage location of the cargo on board the vessel;
- (e) the identification number of the container (if any) in which the cargo is contained;
- (f) the port at which the cargo is to be unloaded from the vessel; and
- (g) such other particulars as the Director may reasonably require.

(3) The coxswain of a local vessel shall, upon request by an authorized officer, produce any record kept under subsection (1) for inspection.

(4) If subsection (1) is contravened, the owner of the vessel, 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.

(5) In proceedings for an offence under subsection (4), it is a defence for the defendant to show that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

(6) The coxswain of a local vessel who contravenes subsection (3) commits an offence and is liable on conviction to a fine at level 2.

(7) In this section, “cargo” (貨物) does not include passengers’ baggage.

36. Retrieval of overboard cargo

(1) Where any cargo on a local vessel is overboard, the owner of the vessel, his agent and the coxswain of the vessel shall ensure that the cargo is retrieved from the sea as soon as practicable after any one of them becomes aware that the cargo has been overboard.

(2) Where the Director is aware that any cargo on a local vessel has been overboard, he may give a direction to the owner of the vessel, his agent or the coxswain of the vessel for the retrieval of the cargo from the sea within such reasonable time as may be specified in the direction.

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

(4) In proceedings for an offence under subsection (3), it is a defence for the defendant to show that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

(5) A person who contravenes a direction given under subsection (2) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 1 year.

PART 7

DISPLAY OF LIGHTS AND SIGNALS

37. Vessels handling explosives or flammable liquids

(1) Without prejudice to anything contained in the Dangerous Goods (Shipping) Regulations (Cap. 295 sub. leg. C), a local vessel on which explosives are being handled shall –

- (a) where they are being handled between sunrise and sunset, fly signal “B” as specified in the International Code of Signals published by the International Maritime Organization at the fore masthead; and

- (b) where they are being handled between sunset and sunrise, exhibit an all-round red light at a height of not less than 6 m above the uppermost deck, and such light shall be of such intensity as to be visible in clear atmosphere on a dark night at a distance of at least one nautical mile.

(2) Without prejudice to anything contained in the Dangerous Goods (Shipping) Regulations (Cap. 295 sub. leg. C), a local vessel on which flammable liquid having a flash point of less than 61°C (Closed Cup Test) is being handled shall –

- (a) where it is being handled between sunrise and sunset, fly a red flag of not less than one metre square with a white circular centre 150 mm in diameter at the fore masthead; and
- (b) where it is being handled between sunset and sunrise, exhibit an all-round red light at a height of not less than 6 m above the uppermost deck, and such light shall be of such intensity as to be visible in clear atmosphere on a dark night at a distance of at least one nautical mile.

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

(4) In this section –

“all-round red light” (環照紅燈) means a red light showing an unbroken red light over an arc of the horizon of 360°;

“handle” (處理) means the carrying out of any operation connected with loading, unloading, stacking, stowing or restowing.

38. Use of lights

(1) Subject to subsection (2), no person may use a light on or from a local vessel in the waters of Hong Kong in a manner which is likely to interfere with the safe operation of any other vessel or any aircraft.

(2) Subsection (1) does not apply to a public officer who is performing his official duties in good faith.

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

39. Control of bright light fishing

(1) No person may within the waters of Hong Kong use a bright light on or from any local vessel for the purpose of fishing or attracting fish except in the areas specified in Part II of the Eleventh Schedule to the SAPCR and in accordance with subsections (2) and (3).

(2) A bright light shall be exhibited not less than 2 m below any light exhibited in accordance with the collision regulations.

(3) A bright light shall be so constructed, shaded, installed and used that no light emitted from it shall be visible, whether directly or by reflection from any source other than sea surface, above a horizontal plane passing through the lowest edge of the light source.

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

PART 8**REGULATION, CONTROL AND USE OF PARAGRAPH (e)
VESSELS****40. Permit to remain to be obtained for
paragraph (e) vessels**

(1) Where a paragraph (e) vessel enters the waters of Hong Kong, the owner of the vessel, his agent or the coxswain of the vessel shall, as soon as

practicable and in any event not later than 24 hours after it has entered those waters, apply for a permit to remain in respect of the vessel in accordance with section 41, unless a permit to remain has been granted in respect of the vessel and is valid for the period during which the vessel is expected to remain in those waters.

(2) A paragraph (e) vessel which has entered the waters of Hong Kong shall not remain in those waters unless a permit to remain has been granted in respect of the vessel and is valid for the period during which the vessel remains in those waters.

(3) Where an application has been made in accordance with subsection (1) in respect of a paragraph (e) vessel, subsection (2) does not apply to the vessel until a permit to remain is granted in respect of the vessel or the applicant is notified of the refusal of the application.

(4) Subsection (2) does not apply to a paragraph (e) vessel which is departing the waters of Hong Kong.

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

41. Application for permit to remain

(1) An application for a permit to remain in respect of a paragraph (e) vessel shall be made –

- (a) to the Director in the specified form; and
- (b) by the owner of the vessel, his agent or the coxswain of the vessel.

(2) The reference to “agent” in subsection (1)(b) is a reference to an agent whose appointment has been notified under section 51(1).

(3) The Director may grant a permit to remain in respect of a paragraph (e) vessel if he is satisfied that it is appropriate to grant the permit having regard to -

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

(4) If the Director refuses an application for the grant of a permit to remain, he shall notify the applicant of the refusal and the reason for the refusal.

(5) The Director may, having regard to the matters referred to in subsection (3)(a), (b), (c) and (d), attach any condition to a permit to remain as he sees fit.

(6) A permit to remain granted in respect of a paragraph (e) vessel may specify -

- (a) its validity period;
- (b) the maximum number of occasions the permit may be used during the validity period;
- (c) the maximum number of hours the vessel may remain in the waters of Hong Kong on each such occasion; and
- (d) the minimum interval of time that must lapse between any 2 such occasions.

42. Application for renewal of permit to remain

(1) A permit to remain granted in respect of a paragraph (e) vessel may be renewed upon an application made -

- (a) to the Director in writing; and

(b) by the owner of the vessel, his agent or the coxswain of the vessel.

(2) The reference to “agent” in subsection (1)(b) is a reference to an agent whose appointment has been notified under section 51(1).

(3) The Director may renew a permit to remain granted in respect of a paragraph (e) vessel if he is satisfied that it is appropriate to renew the permit having regard to the matters referred to in section 41(3)(a), (b), (c) and (d).

(4) If the Director refuses an application for the renewal of a permit to remain, he shall notify the applicant of the refusal and the reason for the refusal.

43. Duplicate copy of permit to remain

(1) The Director may, upon an application made to him in writing, grant a duplicate copy of a permit to remain if he is satisfied that the permit has been accidentally destroyed, defaced or lost.

(2) A duplicate copy of a permit to remain granted under subsection (1) shall be endorsed in a conspicuous place with the English word “DUPLICATE” and the Chinese characters “複本”.

(3) A duplicate copy of a permit to remain granted under subsection (1) is to be regarded as a permit granted under section 41(3).

44. Prescribed fees payable for grant, etc. of permit to remain

A person who applies for –

- (a) a permit to remain;
- (b) the renewal of a permit to remain; or
- (c) a duplicate copy of a permit to remain,

shall pay to the Director the prescribed fee upon demand from the Director.

45. Contravention of permit conditions

If without reasonable excuse any condition attached to a permit to remain is contravened, the owner of a paragraph (e) vessel in respect of which the permit is

granted, his agent and the coxswain of the vessel commit an offence and each of them is liable on conviction to a fine at level 3.

46. Revocation of permit to remain

(1) If, in relation to a paragraph (e) vessel in respect of which a permit to remain has been granted, the Director believes on reasonable grounds that –

- (a) any condition attached to the permit has been contravened;
or
- (b) any provision of the Ordinance or of any regulation made under the Ordinance has been contravened,

the Director may, without prejudice to section 45, by notice in writing given to the owner of the vessel, his agent or the coxswain of the vessel, revoke the permit.

(2) The notice referred to in subsection (1) shall specify –

- (a) the reason for revoking the permit to remain; and
- (b) the date on which the revocation is to take effect.

47. Appeal against refusal to grant permit to remain, etc.

(1) Where the Director has made a decision to –

- (a) refuse an application under section 41(4);
- (b) refuse an application under section 42(4); or
- (c) revoke a permit to remain under section 46(1),

the aggrieved person may appeal against the decision to the Administrative Appeals Board.

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

(3) A decision which is appealed against under subsection (1) shall cease to take effect until the appeal is disposed of, withdrawn or abandoned unless –

- (a) the Director is of the opinion that the decision shall continue to take effect on grounds of safety or public interest; and
 - (b) the notice of the decision –
 - (i) contains a statement of the opinion referred to in paragraph (a); and
 - (ii) states the ground on which that opinion is based.
- (4) In this section, “aggrieved person” (感到受屈的人) –
- (a) in the case of the refusal of an application under section 41(4) or 42(4), means the owner of the vessel in respect of which the application was made, his agent or the coxswain of the vessel; or
 - (b) in the case of the revocation of a permit to remain under section 46(1), means the owner of the vessel in respect of which the permit to remain was granted, his agent or the coxswain of the vessel.

48. Duty to keep permit to remain on board, etc.

(1) A permit to remain granted in respect of a paragraph (e) vessel shall be kept on board the vessel at all times when the vessel is in the waters of Hong Kong.

(2) If without reasonable excuse subsection (1) is contravened, the owner of the vessel, 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.

(3) The coxswain of a paragraph (e) vessel in respect of which a permit to remain has been granted shall, upon request by an authorized officer, produce the permit for inspection.

(4) The coxswain of a paragraph (e) vessel who without reasonable excuse contravenes subsection (3) commits an offence and is liable on conviction to a fine at level 2.

49. Prohibition of entry without insurance

(1) A paragraph (e) vessel shall not enter the waters of Hong Kong unless there is in force in relation to the use of the vessel in those waters such insurance as complies with section 50(1).

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

50. Requirements in respect of insurance

(1) For the purposes of section 49, an insurance shall be a policy of insurance or an indemnity arrangement under which the owner of a paragraph (e) vessel is insured or is provided with a right of indemnity in respect of such liability as is required to be covered by a policy of insurance under section 23D(1)(c) and (2) of the Ordinance as read together with section 23D(3) of the Ordinance.

(2) For the purposes of subsection (1), in section 23D(1)(c), (2) and (3) of the Ordinance –

- (a) the reference to local vessels is to be regarded as a reference to paragraph (e) vessels;
- (b) a reference to policy or policy of insurance includes a reference to indemnity arrangement;
- (c) the reference to the insured or a person insured includes a reference to a person who is provided with a right of indemnity under an indemnity arrangement; and
- (d) the reference to the insurer includes a reference to a person who provides a right of indemnity under an indemnity arrangement.

(3) The Director may issue instructions or directions with respect to the requirement for insurance under section 49(1).

51. Notice of appointment of agent

(1) Where the owner of a paragraph (e) vessel has appointed a person to be his agent, the owner or the agent may, for the purpose of an application under section 3(1) (application for arrival clearance), 6(1) (application for port clearance), 41(1) (application for permit to remain) or 42(1) (application for renewal of permit to remain), notify the Director of the appointment by giving the Director a notice in writing which complies with subsection (2), together with sufficient means of identification of the agent.

(2) A notice given under subsection (1) shall contain –

- (a) the name of the vessel;
- (b) the name of the owner;
- (c) the name, telephone number and address in Hong Kong of the person appointed to be the agent;
- (d) a statement by the owner that he has appointed the person to be his agent;
- (e) a statement by the person that he has accepted the appointment to be the agent of the owner;
- (f) the date of the appointment; and
- (g) the signature or (if applicable) the company seal of the owner and the signature or (if applicable) the company seal of the agent.

(3) If there is any change in a particular referred to in subsection (2)(a), (b) or (c) contained in a notice given under subsection (1), the person who gave the notice shall, within 7 days after the change, give written notice of the change to the Director.

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

(5) In this section, “sufficient means of identification” (足以識別身分的資料) includes –

- (a) in relation to an individual holding a valid identity card, the identity card;
- (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 oversea company within the meaning of the Companies Ordinance (Cap. 32), the certificate of registration issued under that Ordinance in respect of the company.

52. Termination of appointment of agent

(1) Where the owner of a paragraph (e) vessel has appointed a person as his agent and the appointment is subsequently terminated for any reason, the owner and the person shall each forthwith give notice of the termination which complies with subsection (2) to the Director.

(2) A notice given under subsection (1) shall be in writing and signed by, or (if applicable) stamped with the company seal of, the person who gives the notice.

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

(4) The Director shall, as soon as practicable after receipt of notice of termination given under subsection (1), give an acknowledgement of receipt in writing to the person who gave him the notice.

53. Change of ownership

(1) This section applies to a paragraph (e) vessel in respect of which a permit to remain is in force.

(2) If the owner of a paragraph (e) vessel to which this section applies ceases to be such owner, he shall notify the Director of such fact in writing within 7 days of so ceasing.

(3) If a person becomes the owner of a paragraph (e) vessel to which this section applies, he shall notify the Director of such fact in writing within 7 days of so becoming.

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

54. Embarkation and loading, etc.

(1) Except with the written permission of the Director, no embarkation or disembarkation of any person on or from a paragraph (e) vessel shall take place within the waters of Hong Kong.

(2) Except with the written permission of the Director, no cargo shall be loaded onto or unloaded from a paragraph (e) vessel within the waters of Hong Kong.

(3) Subsection (1) or (2) does not apply where the embarkation, disembarkation, loading or unloading (as the case may be) takes place at –

- (a) a pier;
- (b) a port; or
- (c) a special anchorage.

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

55. Display of name of vessel

(1) The name of a paragraph (e) vessel shall at all times be painted on or permanently affixed to the vessel at a prominent location at each side of the deck housing or the hull of the vessel.

(2) The name of a paragraph (e) vessel painted on or affixed to the vessel in accordance with subsection (1) shall not be obscured at any time.

(3) If subsection (1) or (2) is contravened, the owner of the vessel, 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.

(4) In proceedings for an offence under subsection (3), it is a defence for the defendant to show that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

PART 9

VESSEL TRAFFIC SERVICE

56. Interpretation

In this Part, unless the context otherwise requires –

“advice” (報知) means advice communicated to a local vessel from an authorized officer at the vessel traffic centre, and identified by the call sign “MARDEP” or “MARDEP, HONG KONG”;

“call sign” (呼叫信號) has the same meaning as in the Radio Regulations;

“calling-in point” (召集站) means an identifiable position (whether so identifiable by reference to a lighthouse, light, buoy, pilot boarding station, island, headland or otherwise) within the waters of Hong Kong, and specified as such in the Tenth Schedule to the SAPCR;

“MARDEP” or “MARDEP, HONG KONG” means the call sign of the Marine Department of the Government transmitted as such for the purpose of commencing VHF radiotelephone communication between a vessel and an authorized officer at the vessel traffic centre;

“movement” (移動), in relation to a local vessel in the waters of Hong Kong, means the movement of that vessel away from a berth, and “move” (移動) shall be construed accordingly;

“notification” (知會) means a written document addressed to the Director, and “notify” (知會) shall be construed accordingly;

“pilot boarding station” (領港員登船區) has the same meaning as in section 10A of the Pilotage Ordinance (Cap. 84);

“Radio Regulations” (《無線電規則》) means the Radio Regulations annexed to the Constitution and Convention of the International Telecommunication Union and currently in force;

“report” (報告) means a report made to the vessel traffic centre by means of VHF radiotelephone communication in accordance with section 59(1), (2) and (3), or the making of such report;

“seaward limits of the vessel traffic service coverage” (船隻航行監察服務範圍的朝海界限) means the limits delineated in the Fifteenth Schedule to the SAPCR specifying the extent of the coverage of the vessel traffic service;

“special condition” (特殊狀況), in relation to a specified local vessel, means –

- (a) any abnormal stability;
- (b) any abnormal trimming, heeling or listing;
- (c) any deficiency in its propulsion, steering gear, anchor or windlass;
- (d) any breach of, or damage to, its hull which may affect its water-tight integrity;
- (e) any abnormal state of any cargo on it; or
- (f) the breakdown of its radar or other navigational equipment of a major nature;

“specified local vessel” (指明本地船隻) means a local vessel specified in section 57(a), (b) or (c);

“standard marine navigation vocabulary” (標準航海詞匯) means the Standard Marine Navigation Vocabulary adopted by the International Maritime Organization Assembly and currently in force;

“vessel not under command” (失控船隻) has the same meaning as in Rule 3(f) of the Schedule to the Merchant Shipping (Safety) (Signals of Distress and Prevention of Collisions) Regulations (Cap. 369 sub. leg. N);

“vessel traffic centre” (船隻航行監察中心) means the vessel traffic centre (identified by the call sign “MARDEP” or “MARDEP, HONG KONG”)

from which the vessel traffic service of Hong Kong is operated and to which reports are made;

“vessel traffic service” (船隻航行監察服務) means the vessel traffic service of Hong Kong operated by the Director in respect of vessels within the seaward limits of the vessel traffic service coverage;

“VHF” (甚高頻) means very high frequency;

“VHF channel” (甚高頻頻道), in relation to VHF radiotelephone communication, means any radiotelephone channel in the VHF band provided for in the Radio Regulations and specified as such in column 1 of the First Schedule to the SAPCR;

“VHF sector” (甚高頻區段) means any VHF sector the boundaries of which are delineated in the Second Schedule to the SAPCR.

57. Application

Unless expressly provided otherwise, this Part applies to –

- (a) a paragraph (e) vessel of over 300 gross tonnage;
- (b) a local vessel (other than one specified in paragraph (a)) required to participate in the vessel traffic service under a direction given under section 24 of the Ordinance; and
- (c) a local vessel (other than one specified in paragraph (a) or (b)) required to participate in the vessel traffic service under a condition attached to any licence or permit granted in respect of the vessel under the Ordinance or any regulation made under the Ordinance.

58. Possession of radiotelephone equipment

(1) A specified local vessel shall have on board radiotelephone equipment for VHF radiotelephone communication which is capable of operation on any VHF channel.

(2) The radiotelephone equipment shall at all times be maintained in good working condition and shall be available for operation on the navigational bridge of a vessel.

59. VHF radiotelephone communication

(1) Any VHF radiotelephone communication required to be made by any person on a specified local vessel under this Part shall, so far as practicable, be communicated in accordance with the Radio Regulations.

(2) Any VHF radiotelephone communication required to be made by any person on a specified local vessel under this Part shall be communicated to the vessel traffic centre and identified by the call sign “MARDEP” or “MARDEP, HONG KONG” and the name or call sign of the vessel.

(3) Except with the permission of the Director, any VHF radiotelephone communication made under this Part by any person on a specified local vessel –

- (a) which is within any VHF sector described in column 2 of the First Schedule to the SAPCR; or
- (b) which is about to enter from any waters outside Hong Kong into the sector,

shall not be communicated otherwise than on the VHF channel specified in column 1 of that Schedule opposite to the sector.

(4) No intership VHF radiotelephone communication shall be made by any person on a local vessel in the waters of Hong Kong except in accordance with section 10 of the Telecommunications Ordinance (Cap. 106).

60. Permission to enter waters of Hong Kong

(1) Before a specified local vessel or a paragraph (e) vessel of 300 gross tonnage or less enters the waters of Hong Kong, the owner of the vessel, his agent or the coxswain of the vessel shall –

- (a) apply to the Director by notification for permission for the vessel to enter those waters in accordance with subsection (2); and
 - (b) provide in the notification the information specified in Schedule 3.
- (2) The application referred to in subsection (1) shall be made –
 - (a) not less than 24 hours before the intended entry of the vessel into the waters of Hong Kong; or
 - (b) where the vessel leaves its last port of call less than 24 hours before the intended entry, immediately after the vessel so leaves.
- (3) Where it is not possible to comply with subsection (1) by means of notification because of the proximity of the vessel's last port of call to the waters of Hong Kong, the coxswain of the vessel shall, immediately after the vessel leaves that port on a course to enter those waters –
 - (a) apply to the Director for permission for the vessel to enter those waters by a report; and
 - (b) provide in the report the information specified in Schedule 3.
- (4) Upon an application made under this section for permission for a vessel to enter the waters of Hong Kong, the Director may –
 - (a) give a direction under section 64(1)(a) of the Ordinance refusing the permission; or
 - (b) grant the permission and, if necessary, provide the applicant with such information, or give him such direction (including any direction given under section 24 of the Ordinance), as the Director sees fit.

61. Initial report

Where a specified local vessel is about to enter the waters of Hong Kong, the coxswain of the vessel shall, when the vessel is in the vicinity of the seaward limits of the vessel traffic service coverage, report the following information –

- (a) the name of the vessel;
- (b) the call sign of the vessel (if any);
- (c) the national colours of the vessel;
- (d) any material change to the information provided in respect of the vessel in accordance with section 60;
- (e) the present location of the vessel; and
- (f) such other information relating to navigational safety as the vessel traffic centre may reasonably require.

62. Pilot report

When a pilot embarks on or disembarks from a specified local vessel, the coxswain of the vessel shall as soon as practicable report the embarkation or disembarkation and provide in the report the time of the embarkation or disembarkation and the present location of the vessel.

63. Arrival report

When a specified local vessel arrives in the waters of Hong Kong, the coxswain of the vessel shall as soon as practicable report that arrival and provide in the report the time of that arrival and the present location of the vessel.

64. Pre-movement report

When the coxswain of a specified local vessel intends to move the vessel within the waters of Hong Kong, he shall, not less than 15 minutes, nor more than 30 minutes, prior to the commencement of the movement, report the intended movement and provide in the report the following information –

- (a) the name of the vessel;
- (b) the call sign of the vessel (if any);

- (c) the present location of the vessel;
- (d) the intended destination of the vessel;
- (e) the expected time of commencement of the movement of the vessel from the location reported under paragraph (c);
- (f) any special condition of the vessel; and
- (g) such other information, including the intention of the coxswain of the vessel to undertake a seatrial during the movement, as the vessel traffic centre may reasonably require.

65. Ready to move report

When a specified local vessel which is the subject of a report made under section 64 is ready in all respects for the intended movement of the vessel, the coxswain of the vessel shall, prior to the vessel getting underway –

- (a) report the vessel's readiness for the movement; and
- (b) request permission from the vessel traffic centre to commence the movement.

66. Move underway report

When a specified local vessel which is the subject of a report made under section 65 gets underway in respect of a movement of the vessel with permission from the vessel traffic centre, the coxswain of the vessel shall as soon as practicable report the commencement of the movement.

67. Move finished report

When a specified local vessel which is the subject of a report made under section 66 ceases to be underway at the intended destination reported under section 64(d), the coxswain of the vessel shall as soon as practicable –

- (a) report the cessation of the movement of the vessel;
- (b) provide in the report the time of that cessation; and
- (c) report the present location of the vessel.

68. Pre-departure report

When a specified local vessel is to depart from the waters of Hong Kong, the coxswain of the vessel shall, not less than 15 minutes, nor more than 30 minutes, prior to the commencement of the departure, report the intended departure and provide in the report the following information –

- (a) the name of the vessel;
- (b) the call sign of the vessel (if any);
- (c) the present location of the vessel;
- (d) the reference number of the port clearance obtained under section 6 in respect of the vessel;
- (e) the expected time of commencement of the departure of the vessel from the location reported under paragraph (c);
- (f) any special condition of the vessel; and
- (g) such other information, including the intention of the coxswain of the vessel to undertake a seatrial prior to the departure, as the vessel traffic centre may reasonably require.

69. Ready to depart report

When a specified local vessel which is the subject of a report made under section 68 is ready in all respects for the intended departure of the vessel, the coxswain of the vessel shall, prior to the vessel getting underway –

- (a) report the vessel's readiness for the departure; and
- (b) request permission from the vessel traffic centre to commence the departure.

70. Departure underway report

When a specified local vessel which is the subject of a report made under section 69 gets underway in respect of a departure of the vessel with permission from the vessel traffic centre, the coxswain of the vessel shall as soon as practicable report the commencement of the departure.

71. Delay report

If for any reason, at any time subsequent to the making of a report under section 64 or 68, the movement or departure (as the case may be) to which that report relates is delayed, the coxswain of the vessel shall as soon as practicable report the delay.

72. Special report

(1) Where a specified local vessel is involved in an occurrence specified in section 57(1)(a), (b), (c), (d), (e) or (f) of the Ordinance, the coxswain of the vessel shall as soon as practicable report that occurrence, unless an oral report of the occurrence has already been made to the Director under section 57(1) of the Ordinance.

(2) When a specified local vessel which is underway in the waters of Hong Kong becomes a vessel not under command, the coxswain of the vessel shall as soon as practicable report that condition.

(3) When a specified local vessel which is the subject of a report made under subsection (2) ceases to be a vessel not under command, the coxswain of the vessel shall as soon as practicable report that condition.

(4) When a specified local vessel which is underway in the waters of Hong Kong encounters any incident involving dangerous goods, the coxswain of the vessel shall as soon as practicable report the incident.

73. Language of reports and vocabulary of communications

(1) A report made under this Part shall be made in English or Chinese.

(2) A report made under this Part shall, so far as practicable, make use of the terms, phrases and expressions contained in the standard marine navigation vocabulary.

74. Reference to time

Where reference to time is made in any report made under this Part, or in any communication made to the vessel traffic centre, the time shall be specified –

- (a) in Hong Kong Time; and
- (b) according to the 24-hour clock system.

75. Listening watch on radiotelephone

(1) The coxswain of a specified local vessel which is within any VHF sector described in column 2 of the First Schedule to the SAPCR shall maintain continuous listening watch on the radiotelephone carried on board the vessel on the VHF channel specified in column 1 of that Schedule opposite to the sector.

(2) Subsection (1) does not apply when –

- (a) a VHF radiotelephone communication to or from the vessel on that channel is in progress;
- (b) a permission is given by the Director in respect of the vessel to communicate by radiotelephone on another channel, in which event the listening watch shall be maintained continuously on that other channel, except when a VHF radiotelephone communication to or from the vessel on that other channel is in progress; or
- (c) an exemption is granted by the Director under section 79(1) to exempt the coxswain from maintaining continuous listening watch on the radiotelephone carried on board the vessel.

76. Directions from vessel traffic centre

(1) Where the vessel traffic centre has, in view of the existence in the waters of Hong Kong of any of the matters specified in subsection (2), given a direction to the coxswain of any specified local vessel specifying the time when and the place where the vessel shall enter, move within or through, or depart from, those waters, the direction shall be complied with.

(2) The matters specified for the purposes of subsection (1) are –

- (a) vessel traffic congestion;
- (b) danger to navigation;

- (c) adverse weather;
- (d) reduced visibility;
- (e) serious pollution; and
- (f) other hazardous conditions.

77. Observations report

(1) If the coxswain of a specified local vessel within the waters of Hong Kong observes any circumstances adversely affecting, or likely to adversely affect, any other vessel or aid to navigation within those waters, he shall as soon as practicable report those circumstances.

(2) If the coxswain of a specified local vessel within the waters of Hong Kong becomes aware of the existence within those waters of any of the matters specified in subsection (3), he shall as soon as practicable report the matter.

- (3) The matters specified for the purposes of subsection (2) are –
- (a) danger to navigation;
 - (b) adverse weather;
 - (c) reduced visibility;
 - (d) serious pollution; and
 - (e) other hazardous conditions.

78. Calling-in point report

When a specified local vessel is in the vicinity of any calling-in point, the coxswain of the vessel shall as soon as practicable report the identity of the calling-in point and the position of the vessel in relation to the calling-in point.

79. Exemption from complying with this Part

(1) The Director may upon request grant an exemption from compliance with any provision of or direction given under this Part in relation to a local vessel.

(2) Where a request for the grant of an exemption under subsection (1) is made to the Director, the request shall include the reasons for making the request and a proposed alternative course of action to be taken in lieu of compliance with the provision or direction to which the request relates.

(3) The Director shall only grant an exemption under subsection (1) if he is satisfied, having regard to the circumstances pertaining to the vessel, that the exemption will not affect the safety of any person or property, or the environment.

80. Application of this Part in emergencies

(1) In any emergency affecting the safety of any person, property or the environment, compliance with any provision of or direction given under this Part, or any condition attached to an exemption granted under section 79(1), shall be excused to the extent necessary to avoid endangering any person, property or the environment.

(2) Where the coxswain of a local vessel acts in reliance on subsection (1), he shall as soon as practicable report such act and the emergency which necessitates the carrying out of such act.

81. Advice from vessel traffic centre

If at any time an authorized officer at the vessel traffic centre communicates any advice to the coxswain of a specified local vessel within the waters of Hong Kong in respect of circumstances or conditions relating to, or likely to relate to, the vessel, the coxswain of the vessel shall as soon as practicable report his intention in respect of that advice.

82. Failure of radiotelephone equipment

(1) If for any reason it is not possible to operate the radiotelephone equipment for VHF radiotelephone communication carried on board a specified local vessel, the coxswain of the vessel shall as soon as practicable restore it or cause it to be restored to effective operating condition.

(2) During the time it is not possible to operate the radiotelephone equipment for VHF radiotelephone communication carried on board a specified local vessel –

- (a) compliance with section 75(1) shall not be required in relation to the vessel; and
- (b) compliance with sections 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 77, 78, 80(2) and 81 shall not be required in relation to the vessel, but if it is possible to make a report under any of those sections by telephone or any other means, the report shall be so made.

(3) The coxswain of a specified local vessel shall as soon as practicable inform the Director or the vessel traffic centre –

- (a) when it is not possible to operate the radiotelephone equipment carried on board the vessel; and
- (b) when such radiotelephone equipment is restored to effective operating condition.

83. Offences under this Part

(1) If without reasonable excuse section 58(1) or (2) or 60(1) or (3) is contravened, the owner of the vessel, his agent and the coxswain of the vessel commit an offence and each of them is liable on conviction to a fine at level 5.

(2) If without reasonable excuse section 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 78, 81 or 82(1), (2)(b) or (3) is contravened, the coxswain of the vessel commits an offence and is liable on conviction to a fine at level 3.

(3) If without reasonable excuse section 59(1), (2), (3) or (4), 61, 72(1), (2), (3) or (4), 75(1), 77(1) or (2) or 80(2) is contravened, the coxswain of the vessel commits an offence and is liable on conviction to a fine at level 4.

(4) If without reasonable excuse a direction given under section 76 or a condition attached to an exemption granted under section 79(1) is contravened,

the coxswain of the vessel commits an offence and is liable on conviction to a fine at level 3.

(5) If without reasonable excuse section 73(1) or (2) or 74 is contravened, the coxswain of the vessel to which the report relates commits an offence and is liable on conviction to a fine at level 3.

(6) Where a specified local vessel which is the subject of a report made under section 65 commences the intended movement without permission from the vessel traffic centre, the coxswain of the vessel commits an offence and is liable on conviction to a fine at level 3.

(7) Where a specified local vessel which is the subject of a report made under section 69 commences the intended departure without permission from the vessel traffic centre, the coxswain of the vessel commits an offence and is liable on conviction to a fine at level 3.

PART 10

CONTROL OF ACTIVITIES IN WATERS OF HONG KONG

84. Not to use drags, etc.

(1) Except with the written permission of the Director, no drag, grappling or other device shall be used by any person on a local vessel for the purpose of lifting any article or thing other than fish or shellfish from the seabed.

(2) No drag, grappling or other similar device shall be used by any person on a local vessel for any purpose within any cable reserve.

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

(4) In proceedings for an offence under subsection (3), it is a defence for the defendant to show that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

(5) Where a conviction is entered in respect of an offence under subsection (3), the court or magistrate may, in addition to any penalty that may be

imposed, order that any article or thing lifted from the seabed in contravention of subsection (1) or (2) be forfeited to the Government.

85. Unloading and storage of logs and timber

(1) Except with the permission of the Director, no log or other timber (other than sawn timber) shall be loaded onto or unloaded from a local vessel from or onto any waterfront or seawall within the waters of Hong Kong, other than within the limits of a privately owned or leased waterfront or seawall.

(2) Except with the permission of the Director, no log or other timber shall be unloaded from a local vessel into the waters of Hong Kong other than in a timber storage pound.

(3) Except with the permission of the Director, no log or other timber (other than sawn timber) shall be unloaded from a local vessel onto another vessel (whether or not a local vessel) in the waters of Hong Kong.

(4) A local vessel shall not be used to tow any log in the waters of Hong Kong other than in a timber storage pound.

(5) If subsection (1), (2) or (4) is contravened, the owner of the vessel, his agent and the coxswain of the vessel commit an offence and each of them is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

(6) If subsection (3) is contravened –

(a) the owner of the local vessel from which any log or other timber is unloaded, his agent and the coxswain of the vessel; and

(b) the owner of the vessel onto which the log or timber is unloaded, his agent and the coxswain or person in charge or command of the vessel,

commit an offence and each of them is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

(7) In proceedings for an offence under subsection (5) or (6), it is a defence for the defendant to show that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

(8) In this section, “timber storage pound” (貯木所) means an area of the waters of Hong Kong approved under regulation 58 of the SAPCR for the storage of logs and other timber.

86. Conducting seatrials

(1) This section applies to –

- (a) a paragraph (e) vessel; and
- (b) any other local vessel required under the Ordinance or any regulation made under the Ordinance to participate in the vessel traffic service within the meaning of Part 9.

(2) Except with the permission of the Director, no seatrial for a vessel to which this section applies shall be conducted in the waters of Hong Kong.

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

87. Control over racing events

(1) Except with the permission of the Director, no person may hold or organize in the waters of Hong Kong a specified racing event which interferes with, or is likely to interfere with, the navigation of any vessel or the safety of any person in those waters.

(2) Where a specified racing event is held in any part of the waters of Hong Kong, the Director may, for the safety of persons –

- (a) prohibit or regulate all traffic in the vicinity of or upon that part of the waters; and
- (b) give the organizer of, and any person taking part in, the event such direction as he sees fit.

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

- (4) In this section, “specified racing event” (指明競賽活動) means –
- (a) a boat race or any other similar event; or
 - (b) a swimming race or any other similar event.

88. Control over gathering of vessels in waters of Hong Kong

(1) Any person who intends to hold a gathering of vessels including local vessels in or upon any part of the waters of Hong Kong shall give notice of the gathering in writing to the Director.

(2) A notice given under subsection (1) in respect of a gathering of vessels shall be given not less than 7 days (excluding Sundays and general holidays) before the date on which the gathering is intended to be held.

(3) A notice given under subsection (1) in respect of a gathering of vessels shall include the following information –

- (a) the name, address and telephone number of the person organizing the gathering;
- (b) the purpose and subject matter of the gathering;
- (c) the date, time of commencement, and duration, of the gathering;
- (d) the route to be taken by the vessels comprising the gathering;
- (e) a detailed programme of the activities to be carried out in connection with the gathering; and
- (f) such other information as the Director may reasonably require for the purpose of regulating all traffic in the vicinity of or upon that part of the waters of Hong Kong where the gathering is intended to be held.

(4) Where a person has given a notice of a gathering of vessels under subsection (1), the Director may, by notice in writing served on the person, for the avoidance of accidents and the safety of persons, impose such conditions in respect of the gathering as the Director sees fit.

(5) A condition imposed under subsection (4) in respect of a gathering of vessels shall be related to either or both of –

- (a) the time of commencement and duration of the gathering;
- (b) the route to be taken by the vessels comprising the gathering.

(6) A person who has been served with a notice in respect of a gathering of vessels by the Director under subsection (4) shall, before the commencement of the gathering, cause any condition imposed under that subsection to be made known to each of the coxswains or persons in charge or command of the vessels comprising the gathering.

(7) The coxswain of a local vessel shall not participate in a gathering of vessels including local vessels if he knows, or ought reasonably to know, that no notice under subsection (1) has been given in respect of the gathering.

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

(9) In this section, “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 unloading cargo;
- (c) for any social or recreational purpose; or
- (d) for engaging in civil works.

89. Control over water-skiing, etc.

(1) The Director may prohibit within any area of the waters of Hong Kong any local vessel from towing any person (whether or not he is riding on any planing device).

(2) The Director shall notify the imposition of a prohibition under subsection (1) by notice published in the Gazette and in any other manner as he sees fit.

(3) The coxswain of a local vessel being used for towing any person (whether or not he is riding on any planing device) shall be accompanied, on the vessel, by another person who is –

- (a) not below 18 years of age; and
- (b) assigned by the coxswain with the duty of informing the coxswain of any accident occurring to the person being towed.

(4) If subsection (3) or a prohibition imposed under subsection (1) is contravened, the coxswain of the vessel commits an offence and is liable on conviction to a fine at level 1.

(5) In this section, “planing device” (水面滑行裝置) means a water-ski, a wakeboard, an aquaplane or any other similar object.

90. Control over fishing

(1) No person on a local vessel may fish by purse net, seine net, drift net, trawl, cage trap, hand line or long line in any prohibited fishing area specified in Part I of the Eleventh Schedule to the SAPCR.

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

(3) In proceedings for an offence under subsection (2), it is a defence for the defendant to show that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

91. Control over bunkering activities

(1) Except with the permission of the Director, no bunker shall be delivered from a local vessel to another vessel (whether or not a local vessel).

(2) Subsection (1) does not apply if –

- (a) the local vessel from which bunker is delivered is a vessel constructed or adapted for the carriage of petroleum product in bulk (“local oil carrier”); and
- (b) either of the following conditions is satisfied –
 - (i) the local oil carrier is anchored or moored to a mooring buoy in a designated bunkering area;
 - (ii) the vessel to which bunker is delivered is berthed alongside a pier or anchored or moored within a special anchorage or the Victoria port.

(3) If subsection (1) is contravened –

- (a) the owner of the vessel from which bunker is delivered, his agent and the coxswain of the vessel; and
- (b) the owner of the vessel to which bunker is delivered, his agent and the coxswain or person in charge or command of the vessel,

commit an offence and each of them is liable on conviction to a fine at level 5 and to imprisonment for 6 months.

(4) In this section –

“designated bunkering area” (指定供給燃料區) means an area specified in Schedule 4;

“Victoria port” (維多利亞港口) means the area of the waters of Hong Kong declared under section 56 of the Shipping and Port Control Ordinance (Cap. 313) as Victoria port.

PART 11

MISCELLANEOUS PROVISIONS

92. Improper use of signals

(1) Except with the permission of the Director, no person may sound a whistle, siren, bell, gong or foghorn on board any local vessel in a port otherwise than in accordance with this Regulation or the collision regulations.

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

93. Local vessels not to be used for towing

(1) Except with the permission of the Director, a local vessel shall not be used for towing another vessel (whether or not a local vessel) unless such towing is undertaken in order to save that other vessel, its crew or its passengers from danger.

(2) If without reasonable excuse subsection (1) is contravened, the coxswain of the local vessel towing another vessel commits an offence and is liable on conviction to a fine at level 2.

94. Submersion of summer load line or freeboard mark

(1) A local vessel having an assigned summer load line shall not be so loaded that its condition at any time is such that –

- (a) if the vessel is in salt water and has no list, the assigned summer load line on each side of the vessel is submerged;
or
- (b) in any other case, the assigned summer load line on each side of the vessel would be submerged if the vessel were in salt water and had no list.

(2) A local vessel having an assigned freeboard mark shall not be so loaded that its condition at any time is such that –

- (a) if the vessel has no list, the assigned freeboard mark on each side of the vessel is submerged; or
- (b) in any other case, the assigned freeboard mark on each side of the vessel would be submerged if the vessel had no list.

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

(4) In this section –

“assigned freeboard mark” (勘定乾舷標記) means the freeboard mark assigned to a certificated vessel in accordance with a valid freeboard assignment certificate issued under the regulation made under section 89 of the Ordinance providing for, among other things, the issue of certificates of survey and inspection of local vessels;

“assigned summer load line” (勘定夏季載重線) –

- (a) in relation to a certificated vessel, means the summer load line assigned to the vessel in accordance with a Hong Kong load line certificate issued under the regulation made under section 89 of the Ordinance providing for, among other things, the issue of certificates of survey and inspection of local vessels, or in accordance with a load line certificate issued under the International Convention on Load Lines (1966), whichever is applicable; or
- (b) in relation to a paragraph (e) vessel, means the summer load line assigned to the vessel in accordance with a load line certificate issued by an authority in the Mainland of China or Macau (as the case may be) which is competent to issue such certificate, or in accordance with a load line certificate issued under the International Convention on Load Lines (1966), whichever is applicable.

95. Unlawful use of local vessels

Without prejudice to any other law, a person who uses a local vessel without the permission of the owner of the vessel commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 1 year.

PART 12**TRANSITIONAL AND SAVINGS PROVISIONS****96. Interpretation**

In this Part –

“Commencement” (生效日期) means the commencement of this Regulation;

“pre-Commencement local vessel” (早於生效日期本地船隻) means a vessel which falls within the meaning assigned to “local vessel” in section 2 of the Ordinance and was in existence immediately before the Commencement;

“pre-Commencement paragraph (e) vessel” (早於生效日期(e)段船隻) means a vessel which falls within the meaning assigned to “paragraph (e) vessel” in section 2 and was in existence immediately before the Commencement.

97. Report of arrival of vessel

Where –

- (a) a pre-Commencement local vessel arrived in the waters of Hong Kong before the Commencement;
- (b) regulation 22 of the SAPCR applied to the vessel immediately before the Commencement; and
- (c) that regulation has not been complied with in relation to the vessel before the Commencement,

section 3 shall apply to the vessel as if it were a local vessel arriving in those waters on the Commencement.

98. Permit to remain to be obtained for certain pre-Commencement paragraph (e) vessels

Where a pre-Commencement paragraph (e) vessel entered the waters of Hong Kong before the Commencement and no temporary permit under regulation 7 of the Merchant Shipping (Launches and Ferry Vessels) Regulations (Cap. 313 sub. leg. E) or anchorage permit under regulation 3(6)(a) of the Merchant Shipping (Miscellaneous Craft) Regulations (Cap. 313 sub. leg. F) has been issued in respect of the vessel before the Commencement, section 40 shall apply to the vessel as if it were a paragraph (e) vessel entering those waters on the Commencement.

99. Temporary permit

Notwithstanding the repeal of the Merchant Shipping (Launches and Ferry Vessels) Regulations (Cap. 313 sub. leg. E) by section 91(1) of the Ordinance, where –

- (a) a temporary permit was issued under regulation 7 of those regulations in respect of a pre-Commencement paragraph (e) vessel; and
- (b) the temporary permit has a validity period ending after the Commencement,

the temporary permit shall, as from the Commencement, remain in force until the expiry of that validity period, as if it were a permit to remain granted for use on one occasion within that validity period under section 41(3).

100. Anchorage permit

Notwithstanding the repeal of the Merchant Shipping (Miscellaneous Craft) Regulations (Cap. 313 sub. leg. F) by section 91(1) of the Ordinance, where –

- (a) an anchorage permit was issued under regulation 3(6)(a) of those regulations in respect of a pre-Commencement paragraph (e) vessel; and

- (b) the anchorage permit has a validity period ending after the Commencement,

the anchorage permit shall, as from the Commencement, remain in force until the expiry of that validity period, as if it were a permit to remain granted for use on one occasion within that validity period under section 41(3).

101. Port clearance under SAPCR

A port clearance granted under regulation 27(2) of the SAPCR in respect of a pre-Commencement local vessel within a period of less than 72 hours before the Commencement shall, if the vessel has not departed the waters of Hong Kong before the Commencement, remain in force until the expiry of a period of 72 hours after the grant of the port clearance, as if it were a port clearance granted under section 6.

102. Permission to conduct seatrials

Where –

- (a) the Director has granted a permission under section 64 of the Shipping and Port Control Ordinance (Cap. 313) to permit, for the purposes of regulation 25A of the SAPCR, the conduct of a seatrial for a pre-Commencement local vessel; and
- (b) the permission has a validity period ending after the Commencement,

the permission shall, as from the Commencement, remain in force until the expiry of that validity period, as if it were a permission granted under section 70 of the Ordinance to permit, for the purposes of section 86, the conduct of a seatrial for the vessel.

DOCUMENTS WHICH MAY BE REQUIRED FOR APPLICATION
FOR ARRIVAL CLEARANCE

1. List of crew containing the personal particulars of all crew members of vessel.
2. Port clearance granted in respect of the departure of vessel from its last port of call before its arrival.
3. Any certificate granted in respect of vessel indicating compliance with requirements relating to safety, load line, seaworthiness and pollution prevention.
4. A general description in writing of any cargo carried on board at the time of vessel's arrival.
5. Such other document as the Director may reasonably require for the purposes of granting an arrival clearance.

SCHEDULE 2

[s. 9]

SPEED OF LOCAL VESSELS

1. In this Schedule, a reference to the co-ordinates of a point is a reference to the co-ordinates of that point based on the World Geodetic System 1984 (WGS 84).
2. For the purposes of section 9(1) of this Regulation –
 - (a) the maximum permitted speed for a local vessel not exceeding 60 m in length overall is 15 knots, and for a local vessel exceeding 60 m in length overall is 10 knots, within the area bounded –
 - (i) on the east, by a straight line drawn from the southern extremity of Tit Cham Chau (latitude

- 22°15.748' north, longitude 114°16.607' east) to the Hak Kok Tau (Cape Collinson) light beacon (latitude 22°15.681' north, longitude 114°15.446' east);
- (ii) on the west, by a straight line drawn from the southern extremity of the Hung Hom finger jetty (latitude 22°17.835' north, longitude 114°10.934' east) to the Causeway Bay Typhoon Shelter eastern breakwater light beacon (latitude 22°17.283' north, longitude 114°11.247' east);
- (iii) on the south, by the northern coastline of Hong Kong Island joining the extremities of the eastern and western boundaries; and
- (iv) on the north, by the southern coastline of the mainland joining the extremities of the eastern and western boundaries;
- (b) the maximum permitted speed for a local vessel not exceeding 60 m in length overall is 10 knots, and for a local vessel exceeding 60 m in length overall is 8 knots, within the area bounded –
- (i) on the east, by a straight line drawn from the southern extremity of the Hung Hom finger jetty (latitude 22°17.835' north, longitude 114°10.934' east) to the Causeway Bay Typhoon Shelter eastern breakwater light beacon (latitude 22°17.283' north, longitude 114°11.247' east);
- (ii) on the west, by straight lines joining the following positions –
- (A) latitude 22°16.467' north, longitude 114°07.004' east;

- (B) latitude 22°16.378' north, longitude 114°06.817' east;
 - (C) latitude 22°17.825' north, longitude 114°05.964' east;
 - (D) latitude 22°18.325' north, longitude 114°05.914' east;
 - (E) latitude 22°18.858' north, longitude 114°05.964' east;
 - (F) latitude 22°19.058' north, longitude 114°06.131' east;
 - (G) latitude 22°19.432' north, longitude 114°07.357' east;
- (iii) on the south, by the northern coastline of Hong Kong Island joining the extremities of the eastern and western boundaries; and
- (iv) on the north, by the southern coastline of the mainland joining the extremities of the eastern and western boundaries;
- (c) subject to paragraph (d), the maximum permitted speed for a local vessel not exceeding 60 m in length overall is 15 knots, and for a local vessel exceeding 60 m in length overall is 10 knots, within the area bounded –
- (i) on the east, by straight lines joining the following positions –
 - (A) latitude 22°15.251' north, longitude 114°07.921' east, thence along the western coastline of Hong Kong Island to a position at latitude 22°16.467' north, longitude 114°07.004' east;

- (B) latitude $22^{\circ}16.378'$ north, longitude $114^{\circ}06.817'$ east;
 - (C) latitude $22^{\circ}17.825'$ north, longitude $114^{\circ}05.964'$ east;
 - (D) latitude $22^{\circ}18.325'$ north, longitude $114^{\circ}05.914'$ east;
 - (E) latitude $22^{\circ}18.858'$ north, longitude $114^{\circ}05.964'$ east;
 - (F) latitude $22^{\circ}19.058'$ north, longitude $114^{\circ}06.131'$ east;
 - (G) latitude $22^{\circ}19.432'$ north, longitude $114^{\circ}07.357'$ east;
- (ii) on the west, by straight lines joining the following positions –
- (A) latitude $22^{\circ}14.075'$ north, longitude $114^{\circ}04.730'$ east;
 - (B) latitude $22^{\circ}15.775'$ north, longitude $114^{\circ}03.385'$ east;
 - (C) latitude $22^{\circ}17.022'$ north, longitude $114^{\circ}02.939'$ east;
 - (D) latitude $22^{\circ}17.457'$ north, longitude $114^{\circ}02.732'$ east;
 - (E) latitude $22^{\circ}18.658'$ north, longitude $114^{\circ}02.195'$ east, thence along the north-eastern coastline of Lantau Island to a position at latitude $22^{\circ}20.757'$ north, longitude $114^{\circ}03.007'$ east;
 - (F) latitude $22^{\circ}20.920'$ north, longitude $114^{\circ}03.249'$ east, thence along the western coastline of Ma Wan to a position at

- latitude 22°21.313' north, longitude 114°03.397' east;
- (G) latitude 22°21.908' north, longitude 114°03.396' east;
- (iii) on the south, by straight lines joining the following positions –
- (A) latitude 22°15.251' north, longitude 114°07.921' east;
- (B) latitude 22°14.075' north, longitude 114°06.380' east;
- (C) latitude 22°14.075' north, longitude 114°04.730' east; and
- (iv) on the north, by the southern coastline of the mainland joining the extremities of the eastern and western boundaries;
- (d) the maximum permitted speed is 15 knots –
- (i) within the part of the following principal fairways located inside the area specified in paragraph (c) –
- (A) the Western Fairway;
- (B) the Ma Wan Fairway; and
- (C) the Kap Shui Mun Fairway;
- (ii) within the area bounded by straight lines joining the following positions –
- (A) latitude 22°15.008' north, longitude 114°07.577' east;
- (B) latitude 22°14.638' north, longitude 114°07.117' east;
- (C) latitude 22°16.138' north, longitude 114°06.277' east;

(D) latitude 22°16.378' north, longitude 114°06.817' east;

(E) latitude 22°15.008' north, longitude 114°07.577' east.

SCHEDULE 3

[s. 60]

INFORMATION REQUIRED FOR APPLICATION FOR PERMISSION TO ENTER WATERS OF HONG KONG UNDER SECTION 60 OF THIS REGULATION

1. In this Schedule –

“certificate of ownership number” (擁有權證明書號碼) has the same meaning as in the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548 sub. leg. D);

“MD reference number” (海事處參考編號), in relation to a vessel which arrives in the waters of Hong Kong for the first time, means a reference number assigned by the Director to facilitate the reporting of the vessel’s arrival in or departure from those waters;

“pilot boarding station” (領港員登船區) has the same meaning as in the Pilotage Ordinance (Cap. 84).

2. The information required under section 60(1) or (3) of this Regulation is –

- (a) name of vessel;
- (b) call sign or MD reference number or certificate of ownership number of vessel;
- (c) national colours of vessel;
- (d) type of vessel;
- (e) gross tonnage of vessel;
- (f) length overall of vessel in metres;
- (g) number of crew including coxswain;
- (h) purpose of call and intended berth on arrival;

- (i) estimated maximum draught of vessel in metres on arrival;
- (j)
 - (i) any defect affecting manoeuvrability or seaworthiness of vessel;
 - (ii) any special condition of vessel;
- (k) quantities and class of dangerous goods carried on board including radioactive materials (if applicable);
- (l)
 - (i) name of agent of owner of vessel in Hong Kong (if applicable);
 - (ii) whether agent is to be appointed to act for owner of vessel (if applicable);
 - (iii) whether coxswain of vessel is to act as agent for owner of vessel (if applicable);
 - (iv) name of coxswain of vessel;
- (m) where a pilot is required, the intended pilot boarding station;
- (n) estimated time of arrival at berth or intended pilot boarding station (expressed in year, month, day, hour and minute, and in this order) immediately after vessel's entering the waters of Hong Kong;
- (o) last port of call (name of port and name of country or territory in which the port is situated);
- (p) height to highest point of vessel in metres above waterline on arrival;
- (q) name of person providing policy of insurance or indemnity arrangement required under the Ordinance or any regulation made under the Ordinance;
- (r) such other information as the Director may reasonably require for the purposes of section 60 of this Regulation.

SCHEDULE 4

[s. 91]

DESIGNATED BUNKERING AREAS

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

2. The following areas are specified for the purposes of section 91(4) of this Regulation –

(a) Yau Tong

Area bounded by straight lines joining the following positions –

- (i) latitude $22^{\circ}17.702'$ north, longitude $114^{\circ}13.798'$ east;
- (ii) latitude $22^{\circ}17.480'$ north, longitude $114^{\circ}14.032'$ east;
- (iii) latitude $22^{\circ}17.433'$ north, longitude $114^{\circ}14.001'$ east;
- (iv) latitude $22^{\circ}17.581'$ north, longitude $114^{\circ}13.630'$ east;

(b) Cheung Sha Wan

Area bounded by straight lines joining the following positions –

- (i) latitude $22^{\circ}19.603'$ north, longitude $114^{\circ}08.826'$ east;
- (ii) latitude $22^{\circ}19.558'$ north, longitude $114^{\circ}08.900'$ east;
- (iii) latitude $22^{\circ}19.518'$ north, longitude $114^{\circ}08.870'$ east;

(iv) latitude $22^{\circ}19.580'$ north, longitude $114^{\circ}08.772'$ east;

(c) Outside Aberdeen West Typhoon Shelter

Area bounded by straight lines joining the following positions –

(i) latitude $22^{\circ}14.885'$ north, longitude $114^{\circ}08.248'$ east;

(ii) latitude $22^{\circ}14.852'$ north, longitude $114^{\circ}08.607'$ east;

(iii) latitude $22^{\circ}14.743'$ north, longitude $114^{\circ}08.653'$ east;

(iv) latitude $22^{\circ}14.779'$ north, longitude $114^{\circ}08.248'$ east;

(d) Outside Cheung Chau Typhoon Shelter

Area bounded by straight lines joining the following positions –

(i) latitude $22^{\circ}12.520'$ north, longitude $114^{\circ}00.960'$ east;

(ii) latitude $22^{\circ}12.408'$ north, longitude $114^{\circ}01.220'$ east;

(iii) latitude $22^{\circ}12.137'$ north, longitude $114^{\circ}01.078'$ east;

(iv) latitude $22^{\circ}12.355'$ north, longitude $114^{\circ}00.795'$ east;

(e) Outside Tuen Mun Typhoon Shelter

Area bounded by straight lines joining the following positions –

(i) latitude $22^{\circ}22.300'$ north, longitude $113^{\circ}58.480'$ east;

- (ii) latitude $22^{\circ}22.340'$ north, longitude $113^{\circ}58.640'$ east;
 - (iii) latitude $22^{\circ}22.200'$ north, longitude $113^{\circ}58.680'$ east;
 - (iv) latitude $22^{\circ}22.160'$ north, longitude $113^{\circ}58.520'$ east;
- (f) South of Tuen Mun Immigration Anchorage
Area bounded by straight lines joining the following positions –
- (i) latitude $22^{\circ}21.459'$ north, longitude $113^{\circ}57.497'$ east;
 - (ii) latitude $22^{\circ}21.459'$ north, longitude $113^{\circ}58.547'$ east;
 - (iii) latitude $22^{\circ}21.140'$ north, longitude $113^{\circ}58.547'$ east;
 - (iv) latitude $22^{\circ}21.140'$ north, longitude $113^{\circ}57.497'$ east;
- (g) North of Yau Ma Tei Anchorage
Area bounded by straight lines joining the following positions –
- (i) latitude $22^{\circ}19.160'$ north, longitude $114^{\circ}08.940'$ east;
 - (ii) latitude $22^{\circ}19.160'$ north, longitude $114^{\circ}09.000'$ east;
 - (iii) latitude $22^{\circ}19.120'$ north, longitude $114^{\circ}09.000'$ east;
 - (iv) latitude $22^{\circ}19.120'$ north, longitude $114^{\circ}08.940'$ east;
- (h) Sai Kung Harbour

Area bounded by straight lines joining the following positions –

- (i) latitude 22°22.772' north, longitude 114°16.522' east;
- (ii) latitude 22°22.733' north, longitude 114°16.563' east;
- (iii) latitude 22°22.674' north, longitude 114°16.499' east;
- (iv) latitude 22°22.713' north, longitude 114°16.458' east.

Secretary for Economic Development
and Labour

2006

Explanatory Note

The purpose of this Regulation is to enact general provisions applicable to local vessels within the meaning of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) (“the principal Ordinance”).

2. Part 2 prescribes the procedural requirements relating to the arrival and departure of local vessels. These requirements are mainly concerned with the application for an arrival clearance or a port clearance.

3. Part 3 provides for specific matters relating to navigation of local vessels in the waters of Hong Kong. These matters include restrictions on navigation and requirements for manning and equipment for local vessels.

4. Part 4 prescribes requirements relating to the berthing of local vessels and the use of buoys and piers by these vessels.
5. Part 5 prescribes specific requirements to be complied with in relation to local passenger vessels.
6. Part 6 prescribes requirements for the handling of cargo on local vessels.
7. Part 7 prescribes requirements for the use and display of lights and signals on local vessels.
8. Part 8 provides for the regulation and control of certain vessels registered in the Mainland of China or Macau which ply to and from the waters of Hong Kong frequently (“paragraph (e) vessels”). It provides for a scheme under which a paragraph (e) vessel is required to obtain a permit if it remains in the waters of Hong Kong, so that regulation and control can be exercised through conditions attached to the permit. This Part also prescribes a compulsory third party insurance requirement in respect of paragraph (e) vessels and imposes certain duties on owners of paragraph (e) vessels and their agents.
9. Part 9 provides for a vessel traffic service under which a report system for certain local vessels is administered. This Part sets out detailed requirements for the local vessels which participate in the vessel traffic service to make reports on their arrival in, departure from, and movement within, the waters of Hong Kong by means of very high frequency radiotelephone communication through specified radiotelephone channels.
10. Part 10 provides for the control over a number of activities involving local vessels carried out or intended to be carried out in the waters of Hong Kong.
11. Part 11 prescribes miscellaneous requirements relating to navigation safety of local vessels.
12. Part 12 provides for transitional matters relating to certain requirements under the Shipping and Port Control Ordinance (Cap. 313) and certain subsidiary legislation made under that Ordinance which apply to local vessels before the commencement of this Regulation.

MERCHANT SHIPPING (LOCAL VESSELS) (SAFETY AND SURVEY) REGULATION

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MERCHANT SHIPPING (LOCAL VESSELS)(SAFETY AND SURVEY) REGULATION

(Made by the Secretary for Economic Development and Labour
under section 89 of the Merchant Shipping
(Local Vessels) Ordinance (Cap. 548))

PART 1

PRELIMINARY

1. Commencement

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

2. Interpretation

In this Regulation, unless the context otherwise requires -
"agent" (代理人), in relation to the owner of a local vessel, means

a person appointed by the owner as his agent under section 4;

"category" (分類), in relation to a local vessel, means a category

of local vessel specified in column 3 of Schedule 1;

"Category A vessel" (A類船隻) means a local vessel that is -

(a) of a class and type specified in columns 1 and 2 of
Schedule 1; and

(b) categorized as a Category A vessel in column 3 of
Schedule 1;

"Category B vessel" (B類船隻) means a local vessel that is -

(a) of a class and type specified in columns 1 and 2 of Schedule 1; and

(b) categorized as a Category B vessel in column 3 of Schedule 1;

"certificate of inspection" (檢查證明書) means a certificate of inspection issued under section 19(2);

"certificate of survey" (驗船證明書) means a certificate of survey issued under section 24(1);

"Certification and Licensing Regulation" (《證明書及牌照規例》) means the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548 sub. leg. D);

"class" (類別), in relation to a local vessel, means a class of local vessel specified in column 1 of Schedule 1 to the Certification and Licensing Regulation;

"Class I vessel" (第 I 類別船隻) means a local vessel that is certificated for Class I under the Certification and Licensing Regulation;

"Class II vessel" (第 II 類別船隻) means a local vessel that is certificated for Class II under the Certification and Licensing Regulation;

"Class III vessel" (第 III 類別船隻) means a local vessel that is certificated for Class III under the Certification and Licensing Regulation;

"Class IV vessel" (第 IV 類別船隻) means a local vessel that is certificated for Class IV under the Certification and Licensing Regulation;

"competent surveyor" (合資格驗船師), in relation to the carrying out of any survey or the approval of any plan of any local vessel, means -

- (a) an authorized surveyor; or
- (b) a recognized authority;

"conditions of assignment" (勘定條件) means the provisions of -

- (a) Schedule 4 to the Merchant Shipping (Safety) (Load Line) Regulations (Cap. 369 sub. leg. AD); and
- (b) the Load Lines Convention,

that relate to the assignment of freeboard;

"declaration of fitness" (適合運載危險品聲明) means a declaration of fitness for the carriage of dangerous goods issued under section 54 or 65(4);

"FA certificate" (乾舷勘定證明書) means a freeboard assignment certificate issued under section 46 or 65(4);

"HKLL certificate" (香港載重線證明書) means a Hong Kong load line certificate issued under section 46 or 65(4);

"length" (長度) or the symbol "(L)", in relation to a local vessel, means the greater of the following -

- (a) the distance between the foreside of the stem and the axis of the rudder stock;
- (b) 96% of the distance between the foreside of the stem and the aftside of the stern,

measured on a waterline at 85% of the least moulded depth, except that -

- (c) if the vessel has a rake of keel, the waterline on

which the distance is measured shall be parallel to the designed waterline; and

- (d) if the vessel is not fitted with a rudder stock, the length shall be determined in accordance with paragraph (b);

"Load Lines Convention" (《載重線公約》) means -

- (a) the International Convention on Load Lines (including its annexes) which constitutes Attachment 1 to the Final Act of the International Conference on Load Lines signed in London on 5 April 1966;
- (b) the Protocol of 1988 (including its annexes) relating to the International Convention on Load Lines adopted by the International Conference on the Harmonized System of Survey and Certification in London on 11 November 1988; and
- (c) any amendment to the Convention and Protocol referred to in paragraphs (a) and (b) which is specified in a Marine Department Notice;

"Marine Department Notice" (海事處佈告) means a notice issued by the

Director which is described as such, and any reference to a particular Marine Department Notice includes a reference to that Notice as amended from time to time by a subsequent Marine Department Notice;

"moulded depth" (型深), in relation to a local vessel, means the vertical distance measured from the top of the keel to the top of the freeboard deck beam at side, except that -

- (a) if the vessel is a wood or composite vessel, it shall be measured from the lower edge of the keel rabbet;
- (b) if the form at the lower part of the midship section of the vessel is of a hollow character, or if thick garboards are fitted, it shall be measured from the point where the line of the flat of the bottom continued inwards cuts the side of the keel;
- (c) if the vessel has rounded gunwales, it shall be measured to the point of intersection of the moulded lines of the deck and side shell plating, the lines extending as though the gunwales were of angular design;
- (d) if the freeboard deck of the vessel is stepped and the raised part of the deck extends over the point at which the moulded depth is to be determined, it shall be measured to a line of reference extending from the lower part of the deck along a line parallel to the raised part of the deck;

"new vessel" (新船隻) means -

- (a) a local vessel -
 - (i) that has never been licensed under Part IV of the Shipping and Port Control Ordinance (Cap. 313) before the commencement date of this Regulation; and
 - (ii) in respect of which an application for an operating licence is made for the first

time on or after the commencement date of this Regulation, but does not include a vessel the keel of which is laid, or which is at a similar stage of construction, within 12 months immediately before that date and is still under construction on that date;

(b) a local vessel that does not fall within paragraph (a) and undergoes, on or after the commencement date of this Regulation, alteration -

(i) of -

(A) its length, breadth or depth as recorded in the certificate of ownership issued or endorsed under the Certification and Licensing Regulation;

(B) the output of its main propulsion engine so that -

(I) the output is increased by 10% or more than what is recorded in its certificate of inspection or certificate of survey;
or

(II) particulars relating to the materials, scantlings or design of the

propulsion shafting or stern tube, as shown in the plans approved under Part 3, are no longer accurate; or

(C) its passenger capacity so that it increases from not more than 60 to more than 60, or from not more than 100 to more than 100; or

(ii) to an extent that it is no longer suitable -

(A) to remain certificated for the particular class or type that it is certificated for under the Certification and Licensing Regulation; or

(B) to be categorized as a Category A vessel or a Category B vessel;

"prescribed fee" (訂明費用), in relation to any matter, means the fee prescribed for that matter in the regulation made under section 88 of the Ordinance;

"recognized authority" (獲承認的當局) means a government authority recognized under section 7A of the Ordinance;

"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° 30' East;

- (ii) to the South, parallel 22° 09' North; and
 - (iii) to the West, meridian 113° 31' East; and
- (b) all inland waterways in the Guangdong Province and Guangxi Zhuang Autonomous Region which have navigational access to the waters referred to in paragraph (a);

"SOLAS Convention" (《人命安全公約》) means -

- (a) the International Convention for the Safety of Life at Sea (including its annexes) signed in London on 1 November 1974;
- (b) the Protocol of 1988 (including its annexes) relating to the International Convention for the Safety of Life at Sea adopted by the International Conference on the Harmonized System of Survey and Certification in London on 11 November 1988; and
- (c) any amendment to the Convention and Protocol referred to in paragraphs (a) and (b) which is specified in a Marine Department Notice;

"specified sheltered waters" (指明遮蔽水域) means the waters specified in Schedule 2 of the Certification and Licensing Regulation;

"survey record of safety equipment" (安全設備檢驗紀錄) means the survey record of safety equipment issued under section 39 or 65(4);

"type" (類型), in relation to a local vessel, means a type of local vessel specified in column 2 of Schedule 1 to the

Certification and Licensing Regulation;

"Victoria port" (維多利亞港口) means the area of the waters of Hong Kong declared under section 56 of the Shipping and Port Control Ordinance (Cap. 313) as Victoria port.

3. Application

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

PART 2

APPOINTMENT AND TERMINATION OF APPOINTMENT OF AGENT

4. Appointment of agent

(1) The owner of a local vessel may appoint another person as his agent for the purposes of this Regulation.

(2) Where the owner of a local vessel has appointed an agent, he shall, within 14 days after the appointment, deliver to the Director -

(a) a notice of appointment that complies with subsection (3); and

(b) a certified copy of the document of identification of the agent.

(3) A notice of appointment shall contain the following particulars -

(a) the name of the local vessel concerned, if any;

(b) if a certificate of ownership is in force in respect of the vessel, the number of the

certificate;

- (c) the name, telephone number and address in Hong Kong of the owner of the vessel;
- (d) the name, telephone number and address in Hong Kong of the agent;
- (e) a statement by the owner that he has appointed the agent for the purposes of this Regulation;
- (f) a statement by the agent that he has accepted the appointment to be the agent of the owner for the purposes of this Regulation;
- (g) the date of appointment;
- (h) the signature or, if applicable, the company seal of the owner; and
- (i) the signature or, if applicable, the company seal of the agent.

(4) In this section, "document of identification" (身分證明文件) means -

- (a) in relation to an individual who holds a valid identity card, the identity card;
- (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 company; or
- (c) in relation to an oversea company within the meaning of the Companies Ordinance (Cap. 32), the certificate of registration issued under that Ordinance in respect of the company.

5. Owner of local vessel or his agent to notify change in particulars

(1) If there is any change in a particular given under section 4(3), the owner of the local vessel concerned or his agent shall, within 14 days after the change, give a written notice of it to the Director.

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

6. Termination of appointment of agent

(1) Where the appointment of an agent is terminated for any reason, both the owner of the local vessel concerned and the agent shall immediately give a written notice of the termination to the Director.

(2) A notice given under subsection (1) shall be signed by or stamped with the company seal of (as may be appropriate) the person who gives the notice.

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

PART 3

APPROVAL OF PLANS

7. Application of Part 3

(1) Subject to subsection (2), this Part applies to a local vessel -

- (a) that is a new vessel; or
 - (b) in respect of which an application is made for the first time for approval of plans with a view to apply for any of the following items -
 - (i) a certificate of inspection;
 - (ii) a certificate of survey;
 - (iii) a survey record of safety equipment;
 - (iv) a HKLL certificate;
 - (v) a FA certificate; or
 - (vi) a declaration of fitness.
- (2) This Part does not apply to -
- (a) a Class II vessel that falls within Schedule 2;
 - (b) a Class III vessel (including a Class III vessel that falls within Schedule 2) unless it is -
 - (i) a fish carrier that is a Category A vessel;
 - (ii) a fishing sampan made of glass reinforced plastic; or
 - (iii) a fishing vessel that is a Category A vessel; and
 - (c) subject to subsection (3), a Class IV vessel.
- (3) This Part applies to a Class IV vessel that is -
- (a) licensed to carry more than 60 passengers;
 - (b) licensed to carry not more than 60 passengers but is let for hire or reward, except a vessel that also falls within paragraph (c) or (d);
 - (c) of more than 150 gross tonnage; or

(d) of novel construction.

(4) In this Part, unless the context otherwise requires, "plan" (圖則) includes drawings, details, diagrams and calculations.

8. Approval of plans upon application

(1) Subject to subsection (2), the Director or a competent surveyor may, upon application, approve plans relating to a local vessel in accordance with this Part.

(2) Plans relating to a Class IV vessel that falls within section 7(3)(b) shall be approved -

- (a) by a competent surveyor; or
- (b) where the Director so directs in any particular case, by the Director.

(3) Where the Director directs under subsection (2)(b) that the plans shall be approved by him, an application shall be made to the Director under subsection (1).

(4) The following provisions apply in relation to an application made to the Director under subsection (1) -

- (a) the application shall be in the specified form;
- (b) plans that have to be approved under section 9(1), (2), (3) or (4) may be submitted separately;
- (c) approval of plans under more than one subsection of section 9 may be applied for in a single application;
- (d) 3 copies of each of the plans to be approved shall be submitted; and
- (e) the applicant shall, at the request of the

Director, pay the prescribed fee for -

- (i) considering the plans; and
- (ii) if the plans are approved, the approval of the plans.

(5) The Director may -

- (a) by a written notice to an applicant, require the applicant to provide such information that the Director considers necessary for determining the application; and
- (b) refuse to proceed with the application if the applicant fails to comply with the notice.

(6) Where an application is made to a competent surveyor under subsection (1), the applicant shall, as soon as practicable after engaging the surveyor and in any event before any plans are submitted to the surveyor, notify the Director of the engagement in the specified form.

9. Plans shall be approved before issue of certificates, etc.

(1) No certificate of inspection or certificate of survey shall be issued in respect of a local vessel that falls within section 7(1)(a) or (b)(i) or (ii) unless plans relating to the following parts or aspects of the vessel, in so far as they are applicable, have been approved under this Part -

- (a) general arrangements;
- (b) tonnage measurements and calculations;
- (c) structures and scantlings;
- (d) freeboard calculations;

- (e) arrangements relating to watertightness, weathertightness, bulkheads, hatchways, coamings, side scuttles, air vents, freeing ports, scuppers, inlets and discharges;
- (f) stability;
- (g) accommodation layouts;
- (h) passenger space, seating arrangements, number of passengers and escape routes;
- (i) fuel, machinery, shafting and electrical systems;
- (j) safety equipment including life-saving appliances, fire-fighting apparatus and emergency controls;
- (k) structural fire protection;
- (l) navigational and communication equipment including lights, shapes and sound signals;
- (m) lifting appliances;
- (n) prevention and control of pollution; and
- (o) measures against potential hazards to the safety of the vessel and any person or property on board the vessel.

(2) No survey record of safety equipment shall be issued in respect of a local vessel that falls within section 7(1)(a) or (b)(iii) unless plans relating to the following parts or aspects of the vessel, in so far as they are applicable, have been approved under this Part -

- (a) general arrangements;
- (b) stability;
- (c) safety equipment including life-saving appliances,

fire-fighting apparatus and emergency controls;

- (d) navigational and communication equipment including lights, shapes and sound signals; and
- (e) emergency electrical systems.

(3) No HKLL certificate or FA certificate shall be issued in respect of a local vessel that falls within section 7(1)(a) or (b)(iv) or (v) unless plans relating to the following parts or aspects of the vessel, in so far as they are applicable, have been approved under this Part -

- (a) general arrangements;
- (b) structures and scantlings;
- (c) conditions of assignment;
- (d) freeboard calculations; and
- (e) stability.

(4) No declaration of fitness shall be issued in respect of a local vessel that falls within section 7(1)(a) or (b)(vi) unless plans relating to the following parts or aspects of the vessel, in so far as they are applicable, have been approved under this Part -

- (a) general arrangements;
- (b) electrical systems, installations and equipment;
- (c) safety equipment including life-saving appliances, fire-fighting apparatus and emergency controls;
- (d) structural fire protection; and
- (e) measures against potential hazards to the safety of the vessel and any person or property on board the vessel.

10. Determination of applications made to Director

(1) After considering an application made under section 8(1) for approval of any plan, the Director may -

- (a) approve the plan;
- (b) approve the plan subject to any reasonable conditions or alterations that he may endorse on the plan;
- (c) refuse to approve the plan; or
- (d) temporarily withhold the approval of the plan.

(2) The Director shall only approve a plan if he is satisfied that the local vessel concerned or any part of it, if built or arranged in accordance with the plan, will comply with the requirements under this Regulation for the issue of the certificate, record or declaration in respect of which approval of such plan is required under section 9.

(3) Upon approving a plan, the Director shall, in respect of each copy of the plan submitted to him, endorse and sign on -

- (a) every page of the plan; and
- (b) where the plan includes any booklet, a conspicuous part of the booklet.

(4) The following particulars shall be entered in the plan and booklet referred to in subsection (3) -

- (a) the name of the public officer to whom the power to approve the plan is delegated under section 72 of the Ordinance;
- (b) the rank of the public officer; and

(c) the date of approval.

(5) The Director shall retain one copy of each plan approved by him and forward the other 2 copies to the applicant.

(6) Within 7 days after refusing to approve a plan under subsection (1)(c), the Director shall -

(a) give a written notice of the refusal to the applicant; and

(b) state in such notice the reasons for the refusal.

11. Approval of re-submitted plans

(1) Within 7 days after deciding to temporarily withhold the approval of a plan under section 10(1)(d), the Director shall -

(a) give a written notice of the decision to the applicant; and

(b) state in such notice -

(i) the reasons for the decision; and

(ii) the requirements as regards rendering the plan fit for re-submission for approval.

(2) An applicant to whom a notice is given under subsection (1) may, when he considers the requirements stated in the notice have been complied with, apply to the Director for approval of the re-submitted plan.

(3) An application made under subsection (2) shall be in the specified form and the applicant shall, at the request of the Director, pay the prescribed fee for -

(a) considering the re-submitted plan; and

(b) if the re-submitted plan is approved, the approval

of the plan.

(4) If the Director is satisfied that the requirements stated in a notice given under subsection (1) have been complied with, he shall -

- (a) approve the re-submitted plan; or
- (b) approve the re-submitted plan subject to any reasonable conditions or alterations that he may endorse on the plan.

12. Determination of applications made to competent surveyor

(1) Where an application is made to a competent surveyor under section 8(1), he shall only approve the plan if he is satisfied that the local vessel concerned or any part of it, if built or arranged in accordance with the plan, will comply with the requirements under this Regulation for the issue of the certificate, record or declaration in respect of which approval of such plan is required under section 9.

(2) Upon approving a plan, a competent surveyor shall, in respect of each copy of the plan submitted to him, endorse and sign on -

- (a) every page of the plan; and
- (b) where the plan includes any booklet, a conspicuous part of the booklet.

(3) The following particulars shall be entered in the plan and booklet referred to in subsection (2) -

- (a) the name of the competent surveyor;
- (b) if the plan is approved by a recognized authority,

the name of the individual who is authorized to approve the plan for and on behalf of the authority;

(c) the post title of the individual referred to in paragraph (b); and

(d) the date of approval.

(4) The competent surveyor shall retain at least one copy of each plan approved by him and forward the other copies to the applicant.

13. Preparation of declaration of plan approval under Part 3

(1) This section applies to any plan relating to a local vessel that has been approved by a competent surveyor under this Part, except plans relating to a Class IV vessel that falls within section 7(3)(b).

(2) A competent surveyor who has approved a plan shall submit a declaration of plan approval to the Director within 14 days after the date of approval.

(3) A declaration of plan approval shall be in the specified form.

(4) If a plan approved by a competent surveyor relates to any of the following parts or aspects of a local vessel, he shall submit a copy of the plan together with the declaration of plan approval to the Director -

(a) general arrangements;

(b) tonnage measurements and calculations;

(c) freeboard calculations;

- (d) stability;
- (e) passenger space, seating arrangements, number of passengers and escape routes;
- (f) fuel systems;
- (g) safety equipment including life-saving appliances, fire-fighting apparatus and emergency controls;
- (h) structural fire protection;
- (i) navigational and communication equipment including lights, shapes and sound signals;
- (j) prevention and control of pollution; and
- (k) measures against potential hazards to the safety of the vessel and any person or property on board the vessel.

14. Director may require approved plans be amended

(1) This section applies to any plan relating to a local vessel that has been approved by the Director or a competent surveyor under this Part.

(2) The Director may, at any time before he issues the certificate, record or declaration in respect of which any plan is approved under this Part, require -

- (a) the plan be amended in such manner as he considers appropriate; and
- (b) the amended plan be submitted for further approval by the Director, or the competent surveyor who is initially engaged to approve the plan.

(3) Where the Director requires an amended plan be submitted

to him for further approval, the applicant who made the initial application for approval of plan under section 8(1) shall, at the request of the Director, pay the prescribed fee for -

- (a) considering the amended plan; and
- (b) if the amended plan is approved, the approval of the plan.

(4) The owner of the local vessel concerned or his agent shall ensure that the vessel is built or arranged in accordance with the amended plan.

PART 4

CERTIFICATE OF INSPECTION AND CERTIFICATE OF SURVEY

15. Application of Part 4

- (1) This Part does not apply to -
 - (a) a Class II vessel or a Class III vessel that falls within Schedule 2; and
 - (b) subject to subsection (2), a Class IV vessel.
- (2) This Part applies to a Class IV vessel that is -
 - (a) licensed to carry more than 60 passengers;
 - (b) licensed to carry not more than 60 passengers but is let for hire or reward, except a vessel that also falls within paragraph (c) or (d);
 - (c) of more than 150 gross tonnage; or
 - (d) of novel construction.

16. Offence for operating local vessel without certificate of inspection or certificate of survey

(1) A local vessel shall not be operated unless -

- (a) in the case of a Class IV vessel that falls within section 15(2)(b), a certificate of inspection; or
- (b) in the case of any other local vessel, a certificate of survey,

is in force in respect of the vessel.

(2) If, without reasonable excuse, subsection (1) is contravened, the owner of the local vessel concerned, his agent and the coxswain each commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

17. Application for survey under Part 4

(1) Subject to subsection (2), the Director or a competent surveyor may, upon an application by the owner of a local vessel or his agent, carry out a survey of the vessel in order that a certificate of inspection or certificate of survey may be issued in respect of the vessel.

(2) A survey of a Class IV vessel that falls within section 15(2)(b) shall be carried out -

- (a) by a competent surveyor; or
- (b) where the Director so directs in any particular case, by the Director.

(3) Where the Director directs under subsection (2)(b) that a survey shall be carried out by him, the owner of the vessel or

his agent shall make an application to the Director under subsection (1).

(4) The following provisions apply in relation to an application made to the Director under subsection (1) -

(a) the application shall be in the specified form; and

(b) the applicant shall, at the request of the Director, pay the prescribed fee for -

(i) the survey; and

(ii) if a certificate of inspection or certificate of survey is issued, the issue of the certificate.

(5) Where an application is made to a competent surveyor under subsection (1), the applicant shall, as soon as practicable after engaging the surveyor and in any event before the survey is carried out, notify the Director of the engagement in the specified form.

(6) Subsection (5) does not apply to a survey of a Class IV vessel that falls within section 15(2)(b).

18. Matters to be surveyed under Part 4

(1) A certificate of inspection or certificate of survey shall only be issued in respect of a local vessel if the vessel is fit for the service intended and in good condition.

(2) In determining whether a local vessel is fit for the service intended and in good condition, the Director or the competent surveyor who carries out the survey shall, in addition to any other matters that he considers relevant, have regard to -

- (a) the vessel's compliance with requirements stated in the following provisions or regulations in so far as they are applicable -
 - (i) section 31;
 - (ii) section 32(1) and (2);
 - (iii) section 33(1) and (2);
 - (iv) section 69 or 70;
 - (v) section 76 or 77;
 - (vi) section 80;
 - (vii) section 81;
 - (viii) the collision regulations;
 - (ix) the use of signals of distress regulations;
- (b) in the case of a local vessel to which Part 3 applies, whether the vessel is built or arranged in accordance with the plans approved under section 9(1) and the plans amended under section 14, if any; and
- (c) without limiting the generality of paragraph (a)(v), if the Director has issued a notice under section 78(2) in respect of the vessel, whether the notice has been complied with.

19. Issue of certificate of inspection

(1) This section applies to a Class IV vessel that falls within section 15(2)(b).

(2) If, upon completion of a survey of a Class IV vessel,

the Director or competent surveyor who carries out the survey is satisfied that the vessel is fit for the service intended and in good condition, he shall issue a certificate of inspection in respect of the vessel.

(3) A certificate of inspection may be subject to such reasonable conditions or restrictions as the Director or competent surveyor (as may be appropriate) may impose.

(4) The Director or competent surveyor (as may be appropriate) may, by giving a written notice to the owner of a Class IV vessel or his agent -

(a) amend or revoke any conditions or restrictions imposed by him; or

(b) impose such new conditions or restrictions as may be reasonable in the circumstances.

(5) The Director or competent surveyor (as may be appropriate) may, for the purposes of subsection (4), direct the owner of a Class IV vessel or his agent to deliver to him the certificate of inspection issued in respect of the vessel.

(6) A certificate of inspection shall be in the specified form.

20. Director may refuse or temporarily withhold issue of certificate of inspection

(1) This section applies to a survey carried out by the Director on a Class IV vessel that falls within section 15(2)(b).

(2) If, having regard to the findings in a survey of a Class IV vessel, the Director is not satisfied that the vessel is fit for the service intended and in good condition, the Director may

either -

- (a) refuse to issue a certificate of inspection in respect of the vessel; or
- (b) temporarily withhold the issue of the certificate of inspection.

(3) Within 14 days after refusing to issue a certificate of inspection under subsection (2)(a), the Director shall -

- (a) give a written notice of the refusal to the applicant; and
- (b) state in such notice the reasons for the refusal.

21. Provisions applicable where issue of certificate of inspection is temporarily withheld

(1) Within 14 days after deciding to temporarily withhold the issue of a certificate of inspection in respect of a Class IV vessel under section 20(2)(b), the Director shall -

- (a) give a written notice of the decision to the applicant; and
- (b) state in such notice -
 - (i) the reasons for the decision;
 - (ii) the requirements as regards rendering the vessel fit for the issue of the certificate; and
 - (iii) if the Director sees fit, a requirement that the vessel be re-inspected by him.

(2) If, in a notice given under subsection (1), the Director requires a re-inspection of the Class IV vessel concerned, the owner of the vessel or his agent may, when he considers the

requirements stated under subsection (1)(b) have been complied with, apply to the Director for the re-inspection.

(3) An application made under subsection (2) shall be in the specified form and the applicant shall, at the request of the Director, pay the prescribed fee for the re-inspection.

(4) If the Director is satisfied that the requirements stated under subsection (1)(b) have been complied with, he shall issue a certificate of inspection in respect of the Class IV vessel concerned under section 19.

22. Preparation of declaration of survey under Part 4

(1) This section applies to a survey carried out by a competent surveyor under this Part, except a survey of a Class IV vessel that falls within section 15(2)(b).

(2) A competent surveyor who has carried out a survey of a local vessel shall, if he considers appropriate to do so, submit a declaration of survey to the Director within 14 days after the date of completion of the survey.

(3) A declaration of survey submitted under subsection (2) shall state -

(a) whether, in the opinion of the competent surveyor, the vessel is fit for the service intended and in good condition;

(b) in the case of a local vessel to which Part 3 applies, whether the vessel is built or arranged in accordance with the plans approved under section 9(1) and the plans amended under section 14, if any;

- (c) any conditions or restrictions that the operation of the vessel should be made subject to; and
- (d) any other observations, elaborations, qualifications or explanations that are relevant to the issue of the certificate of survey.

(4) A declaration of survey shall be in the specified form.

(5) Upon the receipt of a declaration of survey, the

Director may -

(a) by a written notice require -

(i) the competent surveyor who submitted the declaration; or

(ii) the owner of the local vessel concerned or his agent,

to provide any information that the Director considers relevant to the issue of the certificate of survey; and

(b) refuse to proceed with the application if the information required under paragraph (a) is not provided.

(6) Where a declaration of survey is submitted to the Director in respect of a local vessel, the owner of the vessel or his agent shall, at the request of the Director, pay the prescribed fee for -

(a) considering the declaration of survey; and

(b) if a certificate of survey is issued, the issue of the certificate.

23. Director may recognize another document as equivalent to declaration of survey

(1) Notwithstanding section 22, where a survey is carried out by a recognized authority, the Director may recognize another document submitted by the authority as equivalent to a declaration of survey.

(2) Where a document is recognized under subsection (1), references to "declaration of survey" in this Part shall be construed as references to that document.

24. Issue of certificate of survey

(1) The Director shall issue a certificate of survey in respect of a local vessel if -

(a) in a case where the survey is carried out by the Director, he is satisfied that; or

(b) in a case where the survey is carried out by a competent surveyor, the matters stated in the declaration of survey submitted under section 22(2) and any information provided pursuant to section 22(5)(a) show that,

the vessel is fit for the service intended and in good condition.

(2) A certificate of survey may be subject to such reasonable conditions or restrictions as the Director may impose.

(3) The Director may, by giving a written notice to the owner of a local vessel or his agent -

(a) amend or revoke any conditions or restrictions imposed by him; or

(b) impose such new conditions or restrictions as may

be reasonable in the circumstances.

(4) The Director may, for the purposes of subsection (3), direct the owner of a local vessel or his agent to deliver to him the certificate of survey issued in respect of the vessel.

(5) A certificate of survey shall be in the specified form.

25. Director may refuse or temporarily withhold issue of certificate of survey

(1) If, having regard to the findings in a survey of a local vessel carried out by the Director, or to the matters stated in the declaration of survey submitted under section 22(2) and any information provided pursuant to section 22(5)(a), the Director is not satisfied that the vessel is fit for the service intended and in good condition, the Director may either -

- (a) refuse to issue a certificate of survey in respect of the vessel; or
- (b) temporarily withhold the issue of the certificate of survey.

(2) Within 14 days after refusing to issue a certificate of survey under subsection (1)(a), the Director shall -

- (a) give a written notice of the refusal to the applicant; and
- (b) state in such notice the reasons for the refusal.

26. Provisions applicable where issue of certificate of survey is temporarily withheld

(1) Within 14 days after deciding to temporarily withhold the issue of a certificate of survey in respect of a local vessel

under section 25(1)(b), the Director shall -

- (a) give a written notice of the decision to the applicant; and
- (b) state in such notice -
 - (i) the reasons for the decision;
 - (ii) the requirements as regards rendering the vessel fit for the issue of the certificate; and
 - (iii) if the Director sees fit, a requirement that the vessel be re-inspected by him or the competent surveyor who submitted the declaration of survey in respect of the vessel under section 22(2).

(2) If, in a notice given under subsection (1), the Director requires a re-inspection of the local vessel concerned and such re-inspection is to be carried out by the Director, the owner of the vessel or his agent may, when he considers the requirements stated under subsection (1)(b) have been complied with, apply to the Director for the re-inspection.

(3) An application made under subsection (2) shall be in the specified form and the applicant shall, at the request of the Director, pay the prescribed fee for the re-inspection.

(4) If the Director is satisfied that the requirements stated under subsection (1)(b) have been complied with, he shall issue a certificate of survey in respect of the local vessel concerned under section 24.

(5) If the issue of a certificate of survey in respect of a

local vessel is temporarily withheld under section 25(1)(b), any full licence or temporary licence issued under Part 2 of the Certification and Licensing Regulation in respect of the vessel is regarded as having been suspended pending the issue of the certificate of survey.

27. Validity of certificate of inspection and certificate of survey

(1) A certificate of inspection is valid for the period specified in the certificate, which shall not exceed 12 months from -

- (a) the date of completion of the survey; or
- (b) if a certificate of inspection is in force in respect of the local vessel concerned, the expiry date of such certificate,

whichever is the later.

(2) Notwithstanding subsection (1), in no circumstances shall the validity of a certificate of inspection exceed 14 months.

(3) A certificate of survey is valid for -

- (a) 12 months from the date of completion of the survey; or
- (b) such longer or shorter period as the Director may specify in the certificate.

28. Cancellation or suspension of certificate of inspection and certificate of survey

(1) The Director may, for any of the reasons prescribed in subsection (2), cancel or suspend a certificate of inspection or

certificate of survey.

(2) The reasons prescribed for the purposes of subsection (1) are -

(a) the Director reasonably believes that -

- (i) in a case where Part 3 applies, any information provided in the application for approval of any plan leading to the issue of the certificate of inspection or certificate of survey is erroneous, false or misleading in a material particular;
- (ii) any information provided in the application for the issue of the certificate of inspection or certificate of survey is erroneous, false or misleading in a material particular;
- (iii) the survey leading to the issue of the certificate of inspection or certificate of survey is founded on information that is erroneous, false or misleading in a material particular;
- (iv) in a case where the survey leading to the issue of the certificate of survey is carried out by a competent surveyor, any matters stated in the declaration of survey submitted under section 22(2), or any information provided pursuant to section 22(5)(a), is erroneous, false or

misleading in a material particular;

(v) any material change occurs after the survey leading to the issue of the certificate of inspection or certificate of survey;

(vi) any condition or restriction imposed under section 19(3) or (4)(b) or 24(2) or (3)(b) is contravened;

(vii) any provision of the Ordinance or any regulation made under it is contravened in relation to the local vessel concerned;
or

(viii) the local vessel concerned is no longer -
(A) fit for the service intended; or
(B) in good condition;

(b) the local vessel concerned is arrested, detained, removed or seized pursuant to any provision of any Ordinance.

(3) Within 14 days after deciding to cancel or suspend a certificate of inspection or certificate of survey under subsection (1), the Director shall -

(a) give a written notice of the decision to the owner of the local vessel concerned or his agent; and

(b) state in such notice -

(i) the reasons for the decision;

(ii) the date on which the cancellation or suspension takes effect; and

(iii) if applicable, the time within which and the manner in which the owner or agent shall return the certificate to the Director.

(4) Where a certificate of inspection or certificate of survey is suspended under this section, the Director may, upon application made to him or on his own initiative, lift the suspension either conditionally or unconditionally.

(5) A person who, without reasonable excuse, fails to return in accordance with a notice given under subsection (3) a certificate of inspection or certificate of survey that is cancelled or suspended commits an offence and is liable on conviction to a fine at level 3.

29. Certificate of survey to be kept on board the vessel

(1) A certificate of survey in force in respect of a local vessel shall -

- (a) be kept at all times on board the vessel; and
- (b) be produced for inspection on request by an authorized officer.

(2) If a certificate of survey issued in respect of a local vessel is returned to or deposited with the Director for any reason other than cancellation or suspension, the Director shall issue an official receipt as proof of the return or deposit of the certificate.

(3) An official receipt issued under subsection (2) shall -

- (a) be kept at all times on board the vessel to which

it relates; and

- (b) be produced for inspection on request by an authorized officer,

in lieu of the certificate of survey.

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

30. Display of certificate of inspection or certificate of survey in respect of certain local vessels

(1) The -

- (a) certificate of inspection in force in respect of a Class IV vessel; or
- (b) certificate of survey in force in respect of -

- (i) a Class I vessel;

- (ii) a Class II vessel that is -

- (A) a pilot boat;

- (B) a transportation boat; or

- (C) a tug;

- (iii) a Class IV vessel that is licensed to carry more than 60 passengers,

shall be displayed at all times in a conspicuous place on the vessel.

(2) If, without reasonable excuse, subsection (1) is contravened, the owner of the local vessel concerned, his agent and the coxswain each commits an offence and is liable on

conviction to a fine at level 2.

PART 5

CONSTRUCTION AND MAINTENANCE OF LOCAL VESSELS, REQUIREMENTS
RELATING TO LIFE-SAVING APPLIANCES, FIRE-FIGHTING
APPARATUS AND FIRE PROTECTION MEASURES, ETC.

Division 1 - General and specific requirements

31. Construction and maintenance of local vessels

A local vessel shall be -

- (a) of good design and construction;
- (b) of adequate stability;
- (c) of sufficient freeboard;
- (d) made of sound materials;
- (e) properly assembled;
- (f) properly maintained;
- (g) regularly inspected;
- (h) fit for the service intended; and
- (i) in good and serviceable condition.

32. Provision of life-saving appliances on board the local vessels

(1) All life-saving appliances provided on board a local vessel shall be -

- (a) sufficient to ensure the safety of persons on board the vessel;
- (b) properly maintained;

- (c) regularly inspected;
- (d) fit for the function intended; and
- (e) in good and serviceable condition.

(2) Without limiting the generality of subsection (1) -

- (a) every local vessel shall comply with the general requirements as regards the provision of life-saving appliances set out in Part 1 of Schedule 3; and
- (b) every local vessel belonging to any class, type, category or description of vessel specified in any Table in Part 2 of Schedule 3 shall comply with the specific requirements as regards the provision of life-saving appliances set out in that Table.

(3) If, without reasonable excuse, subsection (1) or (2) is contravened, the owner of the local vessel concerned, his agent and the coxswain each commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

33. Fire protection and provision of fire-fighting apparatus on board the local vessels

(1) The measures to be taken to prevent, detect and deal with outbreaks of fire on board a local vessel, including the fire-fighting apparatus provided on board the vessel, shall be -

- (a) sufficient to protect the persons and property on board the vessel;
- (b) properly maintained;
- (c) regularly inspected;

- (d) fit for the function intended; and
 - (e) in good and serviceable condition.
- (2) Without limiting the generality of subsection (1) -
- (a) every local vessel shall comply with the general requirements as regards fire protection and the provision of fire-fighting apparatus set out in Part 1 of Schedule 4; and
 - (b) every local vessel belonging to any class, type, category or description of vessel specified in any Table in Part 2 of Schedule 4 shall comply with the specific requirements as regards fire protection and the provision of fire-fighting apparatus set out in that Table.

(3) If, without reasonable excuse, subsection (1) or (2) is contravened, the owner of the local vessel concerned, his agent and the coxswain each commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

**Division 2 - Survey records of safety equipment for
Class II vessels**

**34. Application of Division 2
of Part 5**

- (1) Subject to subsection (2), this Division applies to a Class II vessel that is fitted with a propulsion engine and is -
- (a) a dry cargo vessel -
 - (i) of 24 m or more in length; and
 - (ii) that operates within the river trade

limits; or

(b) a dangerous goods carrier, a noxious liquid substance carrier, an oil carrier or a special purpose vessel -

(i) of 24 m or more in length; and

(ii) that operates within the waters of Hong Kong or the river trade limits.

(2) This Division does not apply to a Class II vessel if a cargo ship safety equipment certificate issued by -

(a) a recognized authority; or

(b) an organization approved under section 8(1) of the Merchant Shipping (Safety) Ordinance (Cap. 369) for the purposes of issuing such a certificate,

is in force in respect of the vessel.

(3) In this section, "cargo ship safety equipment certificate" (貨船設備安全證明書) means -

(a) a cargo ship safety equipment certificate issued in accordance with Chapter I of the SOLAS Convention;
or

(b) any certificate that is recognized under that Chapter as the equivalent of or alternative to a certificate specified in paragraph (a).

35. Offence for operating Class II vessel without survey record of safety equipment

(1) A Class II vessel to which this Division applies shall not be operated unless a survey record of safety equipment is in force in respect of the vessel.

(2) If, without reasonable excuse, subsection (1) is contravened, the owner of the Class II vessel concerned, his agent and the coxswain each commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

36. Survey leading to issue of survey record of safety equipment

(1) The Director or a competent surveyor may, upon an application by the owner of a Class II vessel that falls within section 34(1)(a) or his agent, carry out a survey of the vessel in order that a survey record of safety equipment may be issued in respect of the vessel.

(2) The Director may, upon an application by the owner of a Class II vessel that falls within section 34(1)(b) or his agent, carry out a survey of the vessel in order that a survey record of safety equipment may be issued in respect of the vessel.

37. Matters to be surveyed under Division 2 of Part 5

A survey record of safety equipment shall only be issued in respect of a Class II vessel if sections 31, 32(1) and (2), 33(1) and (2) and 81, in so far as they are applicable, have been complied with in relation to the vessel.

**38. Preparation of declaration of survey
under Division 2 of Part 5**

(1) A competent surveyor who has carried out a survey under section 36(1) shall, if he considers appropriate to do so, submit a declaration of survey to the Director within 14 days after the date of completion of the survey.

(2) A declaration of survey submitted under subsection (1) shall state -

- (a) whether, in the opinion of the competent surveyor, sections 31, 32(1) and (2), 33(1) and (2) and 81, in so far as they are applicable, have been complied with in relation to the Class II vessel concerned;
- (b) in the case of a Class II vessel to which Part 3 applies, whether the vessel is built or arranged in accordance with the plans approved under section 9(2) and the plans amended under section 14, if any;
and
- (c) the matters stated in section 58.

39. Issue of survey record of safety equipment

The Director shall issue a survey record of safety equipment in respect of a Class II vessel to which this Division applies if -

- (a) in a case where the survey is carried out by the Director, he is satisfied that; or
- (b) in a case where the survey is carried out by a

competent surveyor, the matters stated in the declaration of survey submitted under section 38(1) and any information provided pursuant to section 60(a) show that,

sections 31, 32(1) and (2), 33(1) and (2) and 81, in so far as they are applicable, have been complied with in relation to the vessel.

40. Validity of survey record of safety equipment

A survey record of safety equipment is valid for -

- (a) 12 months from the date of completion of the survey; or
- (b) such longer or shorter period as the Director may specify in the record.

PART 6

HKLL CERTIFICATES AND FA CERTIFICATES
FOR CLASS II VESSELS

41. Application of Part 6

(1) Subject to subsection (2), this Part applies to a Class II vessel -

- (a) which belongs to a type, category or description of vessel specified in Part 1 of Schedule 5; and
- (b) in respect of which it is specified in that Part that a HKLL certificate or FA certificate is required.

(2) This Part does not apply to a Class II vessel if an international load line certificate issued by -

(a) a recognized authority; or

(b) an organization approved under section 8(1) of the Merchant Shipping (Safety) Ordinance (Cap. 369) for the purposes of issuing such a certificate,

in accordance with the Load Lines Convention is in force in respect of the vessel.

42. Offence for operating Class II vessel without HKLL certificate or FA certificate

(1) A Class II vessel to which this Part applies shall not be operated unless a HKLL certificate or FA certificate is in force in respect of the vessel.

(2) If, without reasonable excuse, subsection (1) is contravened, the owner of the Class II vessel concerned, his agent and the coxswain each commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

43. Survey leading to issue of HKLL certificate or FA certificate

The Director or a competent surveyor may, upon an application by the owner of a Class II vessel to which this Part applies or his agent, carry out a survey of the vessel in order that a HKLL certificate or FA certificate may be issued in respect of the vessel.

44. Matters to be surveyed under Part 6

A HKLL certificate or FA certificate shall only be issued in respect of a Class II vessel if -

(a) in a case where the vessel has to be issued with a HKLL certificate for the first time -

(i) the conditions of assignment are complied with; and

(ii) its load lines are calculated and marked in accordance with the Load Lines Convention;

(b) in a case where the vessel has to be issued with a FA certificate for the first time -

(i) its freeboard is calculated in accordance with Part 2 of Schedule 5; and

(ii) its freeboard marks are marked in accordance with Part 3 of Schedule 5;

(c) in a case where the vessel has been issued with a HKLL certificate or FA certificate (whether or not such certificate has expired) -

(i) the conditions of assignment are complied with;

(ii) no alteration that would affect the accuracy of the data based on which freeboard was assigned to the vessel has been made to the vessel; and

(iii) the load line marks or freeboard marks are correctly and permanently marked on

the vessel.

45. Preparation of declaration of survey under Part 6

(1) A competent surveyor who has carried out a survey under section 43 shall, if he considers appropriate to do so, submit a declaration of survey to the Director within 14 days after the date of completion of the survey.

(2) A declaration of survey submitted under subsection (1) shall state -

- (a) whether, in the opinion of the competent surveyor, section 44, in so far as it is applicable, has been complied with in relation to the Class II vessel concerned;
- (b) in the case of a Class II vessel to which Part 3 applies, whether the vessel is built or arranged in accordance with the plans approved under section 9(3) and the plans amended under section 14, if any; and
- (c) the matters stated in section 58.

46. Issue of HKLL certificate or FA certificate

The Director shall issue a Hong Kong load line certificate or freeboard assignment certificate in respect of a Class II vessel to which this Part applies if -

- (a) in a case where the survey is carried out by the Director, he is satisfied that; or

- (b) in a case where the survey is carried out by a competent surveyor, the matters stated in the declaration of survey submitted under section 45(1) and any information provided pursuant to section 60(a) show that,

section 44, in so far as it is applicable, has been complied with in relation to the vessel.

47. Validity of HKLL certificate or FA certificate

A HKLL certificate or FA certificate is valid for -

- (a) 12 months from the date of completion of the survey;
or
(b) such longer or shorter period as the Director may specify in the certificate.

48. Alteration of load line marks or freeboard marks prohibited

A person who, without reasonable excuse, obliterates or alters any load line marks or freeboard marks marked on a Class II vessel commits an offence and is liable on conviction to a fine at level 3.

PART 7

DECLARATIONS OF FITNESS FOR CARRIAGE OF
DANGEROUS GOODS

49. Application of Part 7

(1) Subject to subsections (2) and (3), this Part applies to a local vessel that is used or to be used for carrying any dangerous goods.

(2) In relation to the carrying of any dangerous goods to which, pursuant to regulation 12(4), (5) or (6) of the Dangerous Goods (Shipping) Regulations (Cap. 295 sub. leg. C), the Regulations do not apply, this Part does not apply to the carrying of such dangerous goods in a local vessel.

(3) This Part does not apply to a local vessel if a document of compliance issued by -

(a) a recognized authority; or

(b) an organization approved under section 8(1) of the Merchant Shipping (Safety) Ordinance (Cap. 369) for the purposes of issuing such a document,

is in force in respect of the vessel.

(4) In this Part -

"dangerous goods" (危險品) has the same meaning as in regulation 2 of the Dangerous Goods (Shipping) Regulations (Cap. 295 sub. leg. C);

"document of compliance" (符合證明) means a document evidencing compliance with the special requirements for ships carrying dangerous goods issued in accordance with Chapter II-2 of the SOLAS Convention.

50. Offence for operating local vessel without declaration of fitness

(1) A local vessel to which this Part applies shall not be operated unless a declaration of fitness is in force in respect of the vessel.

(2) If, without reasonable excuse, subsection (1) is contravened, the owner of the local vessel concerned, his agent and the coxswain each commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

51. Survey leading to issue of declaration of fitness

The Director or a competent surveyor may, upon an application by the owner of a local vessel to which this Part applies or his agent, carry out a survey of the vessel in order that a declaration of fitness may be issued in respect of the vessel.

52. Matters to be surveyed under Part 7

A declaration of fitness for the purposes of carrying any type of dangerous goods on a local vessel shall only be issued in respect of the vessel if, having regard to the structures, equipments, signals, flags and arrangements of the vessel, the Director is satisfied that the vessel is suitable and fit to carry that type of dangerous goods.

53. Preparation of declaration of survey under Part 7

(1) A competent surveyor who has carried out a survey under section 51 shall, if he considers appropriate to do so, submit a

declaration of survey to the Director within 14 days after the date of completion of the survey.

(2) A declaration of survey submitted under subsection (1) shall state -

- (a) whether, in the opinion of the competent surveyor, the local vessel concerned is suitable and fit to carry the type of dangerous goods concerned;
- (b) in the case of a local vessel to which Part 3 applies, whether the vessel is built or arranged in accordance with the plans approved under section 9(4) and the plans amended under section 14, if any; and
- (c) the matters stated in section 58.

54. Issue of declaration of fitness

The Director shall issue a declaration of fitness for the carriage of dangerous goods in respect of a local vessel to which this Part applies if -

- (a) in a case where the survey is carried out by the Director, he is satisfied that; or
- (b) in a case where the survey is carried out by a competent surveyor, the matters stated in the declaration of survey submitted under section 53(1) and any information provided pursuant to section 60(a) show that,

the vessel is suitable and fit to carry the type of dangerous goods concerned.

55. Validity of declaration of fitness

A declaration of fitness is valid for -

- (a) 12 months from the date of completion of the survey;
or
- (b) such longer or shorter period as the Director may specify in the declaration.

PART 8

GENERAL PROVISIONS THAT APPLY TO LOCAL VESSELS TO WHICH
PARTS 5, 6 and 7 APPLY

56. Interpretation of Part 8

In this Part -

"declaration of survey" (檢驗聲明) means a declaration of survey submitted under section 38(1), 45(1) or 53(1), as may be appropriate;

"statutory instrument" (法定文書) means -

- (a) a survey record of safety equipment;
- (b) a HKLL certificate;
- (c) a FA certificate; or
- (d) a declaration of fitness,

as may be appropriate depending on the provision under which a survey is applied for;

"survey" (檢驗) means a survey carried out under section 36(1) or (2), 43 or 51, as may be appropriate.

57. Application for survey

(1) An application to the Director for survey of a local vessel shall be in the specified form and the applicant shall, at the request of the Director, pay the prescribed fee for -

- (a) the survey; and
- (b) if a statutory instrument is issued, the issue of the instrument.

(2) Where a survey of a local vessel is to be carried out by a competent surveyor, the owner of the vessel or his agent shall, as soon as practicable after engaging the surveyor and in any event before the survey is carried out, notify the Director of the engagement in the specified form.

58. Matters to be stated in declaration of survey

A declaration of survey shall state -

- (a) any conditions or restrictions that the operation of the local vessel concerned should be made subject to; and
- (b) any other observations, elaborations, qualifications or explanations that are relevant to the issue of the statutory instrument.

59. Specified form and prescribed fee

(1) A declaration of survey shall be in the specified form.

(2) Where a declaration of survey is submitted to the Director in respect of a local vessel, the owner of the vessel or his agent shall, at the request of the Director, pay the prescribed fee for -

- (a) considering the declaration of survey; and
- (b) if a statutory instrument is issued, the issue of the instrument.

60. Provision of further information

Upon the receipt of a declaration of survey, the Director may -

- (a) by a written notice require -
 - (i) the competent surveyor who submitted the declaration; or
 - (ii) the owner of the local vessel concerned or his agent,to provide any information that the Director considers relevant to the issue of the statutory instrument; and
- (b) refuse to proceed with the application if the information required under paragraph (a) is not provided.

61. Director may recognize another document as equivalent to declaration of survey

(1) Where a survey is carried out by a recognized authority, the Director may recognize another document submitted by the authority as equivalent to a declaration of survey.

(2) Where a document is recognized under subsection (1), references to "declaration of survey" in this Part and Part 5, 6 or 7 (as may be appropriate) shall be construed as references to that document.

62. Conditions and restrictions attached to statutory instrument

(1) A statutory instrument may be subject to such reasonable conditions or restrictions as the Director may impose.

(2) The Director may, by giving a written notice to the owner of a local vessel or his agent -

(a) amend or revoke any conditions or restrictions imposed by him; or

(b) impose such new conditions or restrictions as may be reasonable in the circumstances.

(3) The Director may, for the purposes of subsection (2), direct the owner of a local vessel or his agent to deliver to him the statutory instrument issued in respect of the vessel.

63. Statutory instrument to be in specified form

A statutory instrument shall be in the specified form.

64. Director may refuse or temporarily withhold issue of statutory instrument

(1) If, having regard to the findings in a survey of a local vessel carried out by the Director, or to the matters stated in a declaration of survey and any information provided pursuant to section 60(a), the Director is not satisfied that a statutory instrument should be issued in respect of the vessel, the Director may either -

(a) refuse to issue the instrument; or

(b) temporarily withhold the issue of the instrument.

(2) Within 14 days after refusing to issue a statutory instrument under subsection (1)(a), the Director shall -

- (a) give a written notice of the refusal to the applicant; and
- (b) state in such notice the reasons for the refusal.

65. Provisions applicable where issue of statutory instrument is temporarily withheld

(1) Within 14 days after deciding to temporarily withhold the issue of a statutory instrument in respect of a local vessel under section 64(1)(b), the Director shall -

- (a) give a written notice of the decision to the applicant; and
- (b) state in such notice -
 - (i) the reasons for the decision;
 - (ii) the requirements as regards rendering the vessel fit for the issue of the instrument; and
 - (iii) if the Director sees fit, a requirement that the vessel be re-inspected by him or the competent surveyor who submitted the declaration of survey in respect of the vessel.

(2) If, in a notice given under subsection (1), the Director requires for a re-inspection of the local vessel concerned and such re-inspection is to be carried out by the Director, the owner of the vessel or his agent may, when he considers the requirements stated under subsection (1)(b) have been complied with, apply to

the Director for the re-inspection.

(3) An application made under subsection (2) shall be in the specified form and the applicant shall, at the request of the Director, pay the prescribed fee for the re-inspection.

(4) If the Director is satisfied that the requirements stated under subsection (1)(b) have been complied with, he shall issue a statutory instrument in respect of the local vessel concerned.

(5) For the avoidance of doubt, sections 62 and 63 applies to a statutory instrument issued under subsection (4).

66. Cancellation or suspension of statutory instrument

(1) The Director may, for any of the reasons prescribed in subsection (2), cancel or suspend a statutory instrument.

(2) The reasons prescribed for the purposes of subsection (1) are -

(a) the Director reasonably believes that -

(i) in a case where Part 3 applies, any information provided in the application for approval of any plan leading to the issue of the statutory instrument is erroneous, false or misleading in a material particular;

(ii) any information provided in the application for the issue of the statutory instrument is erroneous, false or misleading in a material particular;

- (iii) the survey leading to the issue of the statutory instrument is founded on information that is erroneous, false or misleading in a material particular;
 - (iv) in a case where the survey leading to the issue of a statutory instrument is carried out by a competent surveyor, any matters stated in the declaration of survey or any information provided pursuant to section 60(a), is erroneous, false or misleading in a material particular;
 - (v) any material change occurs after the survey leading to the issue of the statutory instrument;
 - (vi) any condition or restriction imposed under section 62(1) or (2)(b) is contravened;
 - (vii) any provision of the Ordinance or any regulation made under it is contravened in relation to the local vessel concerned;
or
 - (viii) the local vessel concerned is no longer -
 - (A) fit for the service intended; or
 - (B) in good condition;
- (b) the local vessel concerned is arrested, detained, removed or seized pursuant to any provision of any

Ordinance.

(3) Within 14 days after deciding to cancel or suspend a statutory instrument under subsection (1), the Director shall -

(a) give a written notice of the decision to the owner of the vessel or his agent; and

(b) state in such notice -

(i) the reasons for the decision;

(ii) the date on which the cancellation or suspension takes effect; and

(iii) if applicable, the time within which and the manner in which the owner or agent shall return the statutory instrument to the Director.

(4) Where a statutory instrument is suspended under this section, the Director may, upon application made to him or on his own initiative, lift the suspension either conditionally or unconditionally.

(5) A person who, without reasonable excuse, fails to return in accordance with a notice given under subsection (3) a statutory instrument that is cancelled or suspended commits an offence and is liable on conviction to a fine at level 3.

67. Statutory instrument to be kept on board the vessel

(1) A statutory instrument in force in respect of a local vessel shall -

(a) be kept at all times on board the vessel; and

(b) be produced for inspection on request by an

authorized officer.

(2) If a statutory instrument issued in respect of a local vessel is returned to or deposited with the Director for any reason other than cancellation or suspension, the Director shall issue an official receipt as proof of the return or deposit of the statutory instrument.

(3) An official receipt issued under subsection (2) shall -

(a) be kept at all times on board the vessel to which it relates; and

(b) be produced for inspection on request by an authorized officer,

in lieu of the statutory instrument.

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

PART 9

REQUIREMENTS RELATING TO CARRIAGE OF PASSENGERS

68. Meaning of "material considerations"

In sections 69(3), 70(3) and 72(1), "material considerations" (考慮因素), in relation to a local vessel, means, in so far as they apply to the vessel -

(a) its class, type and category;

(b) its mode of operation;

(c) its intended service;

- (d) its stability;
- (e) the clear space available;
- (f) the number of seats available;
- (g) the space occupied by cargo or baggage; and
- (h) any other matter of public interest.

**69. Carriage of passengers in local vessels
other than certain Class IV vessels**

(1) This section applies to any local vessel other than a Class IV vessel in respect of which a certificate of inspection is required.

(2) The Director shall determine the number of passengers that -

- (a) a local vessel may carry; or
- (b) local vessels belonging to a class, type, category or description of vessel may carry.

(3) When making a determination under subsection (2), the Director shall, in addition to any other matter that he considers relevant, have regard to -

- (a) the material considerations defined in section 68; and
- (b) in a case where a certificate of survey is issued in respect of the local vessel concerned and the survey concerned is carried out by a competent surveyor, any information regarding the carriage of passengers contained in the declaration of survey submitted under section 22(2).

(4) The number of passengers that a local vessel may carry as determined under subsection (2) shall be specified in -

- (a) its operating licence; and
- (b) if a certificate of survey is issued in respect of the vessel, the certificate.

70. Carriage of passengers in Class IV vessels in respect of which certificates of inspection are required

(1) This section applies to a Class IV vessel in respect of which a certificate of inspection is required.

(2) The number of passengers that a Class IV vessel to which this section applies may carry shall be determined by -

- (a) if the survey leading to the issue of the certificate of inspection in respect of the vessel is carried out by the Director, the Director; or
- (b) if the survey is carried out by a competent surveyor, the competent surveyor.

(3) When making a determination under subsection (2), the Director or competent surveyor shall, in addition to any other matter that he considers relevant, have regard to the material considerations defined in section 68.

(4) The number of passengers that a Class IV vessel to which this section applies may carry as determined under subsection (2) shall be specified in -

- (a) its operating licence; and
- (b) the certificate of inspection issued in respect of the vessel.

71. Amendment to number of passengers shown in operating licence

(1) This section applies when the number of passengers that a local vessel may carry as shown in its existing operating licence is different from the number of passengers specified in the certificate of inspection or certificate of survey issued in respect of the vessel.

(2) The owner of the local vessel concerned or his agent shall, within 7 days after the date of issue of the certificate of inspection or certificate of survey, return the existing operating licence to the Director, and the Director shall, subject to subsection (3), issue a new operating licence in respect of the vessel in which the same number of passengers as that specified in the certificate shall be shown.

(3) If -

- (a) the number of passengers as shown in the existing operating licence of the local vessel concerned is less than the number of passengers specified in its certificate of inspection or certificate of survey, the issue of a new operating licence is subject to payment of the prescribed fee; and
- (b) the number of passengers as shown in the existing operating licence of the local vessel concerned is more than the number of passengers specified in its certificate of inspection or certificate of survey, the issue of a new operating licence shall be free of charge.

(4) A new operating licence issued under subsection (2) is valid for the remainder of the period of validity of the existing operating licence.

72. Director may reduce number of passengers that local vessel may carry

(1) If, having regard to the material considerations defined in section 68 and any special circumstances of the case, the Director considers a local vessel -

(a) should no longer carry the number of passengers that it is allowed to carry; or

(b) should not be allowed to carry the number of passengers that local vessels of the same class, type, category or description of vessel may carry, the Director may, by a written notice given to the owner of the vessel or his agent, direct that the vessel shall only carry such lesser number of passengers as he may determine.

(2) The Director shall state in a notice given under subsection (1) -

(a) the reasons for making the direction; and

(b) the time within which and the manner in which the owner of the local vessel concerned or his agent shall return to the Director -

(i) the operating licence; and

(ii) the certificate of inspection or certificate of survey, if any, issued in respect of the vessel.

(3) Where an operating licence, certificate of inspection or

certificate of survey is returned to the Director pursuant to subsection (2), the Director shall, upon payment of the prescribed fee, issue a new operating licence, certificate of inspection or certificate of survey, as the case may be, in respect of the local vessel concerned in which the lesser number of passengers shall be specified.

(4) A new operating licence, certificate of inspection or certificate of survey issued under subsection (3) is valid for the remainder of the period of validity of the existing operating licence, certificate of inspection or certificate of survey.

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

73. Spaces below main deck not to be used as passenger spaces

(1) Unless the Director directs otherwise, no space below the main deck of a local vessel shall be used as a passenger space.

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

74. Additional requirement relating to passenger spaces in Class I vessels

(1) Any space in a Class I vessel that is a Category A vessel at which the noise level exceeds 85 dB(A) when measured at the maximum operating speed of the propulsion engine shall not be

used as a passenger space.

(2) In this section -

"maximum operating speed" (最高運作速度) means the greatest speed

that the propulsion shafting of a local vessel can achieve;

"noise level" (噪音聲級) means "A" weighted sound pressure level in

decibels dB(A) as defined and tabulated in -

- (a) the British Standards specification number BS 5969:1981; or
- (b) any other equivalent standard.

PART 10

ALTERATION TO LOCAL VESSELS

75. Application of Part 10

This Part applies to a local vessel -

(a) in respect of which one or more of the following instruments is in force -

- (i) a certificate of inspection;
- (ii) a certificate of survey;
- (iii) a survey record of safety equipment;
- (iv) a HKLL certificate;
- (v) a FA certificate;
- (vi) a declaration of fitness; and

(b) that is to be altered -

- (i) to an extent that will render the particulars stated in any certificate, record or declaration referred to in

paragraph (a) inaccurate; but

- (ii) not to the extent that will render the vessel a new vessel.

76. Alteration of local vessels other than certain Class IV vessels

(1) Subject to section 77(5), this section applies to a local vessel other than a Class IV vessel in respect of which a certificate of inspection is issued by a competent surveyor.

(2) The owner of a local vessel to which this section applies or his agent shall apply for a written permission of the Director before making any alteration to the vessel.

(3) An application made under subsection (2) shall be -

- (a) in the specified form; and
- (b) accompanied by information that the applicant considers necessary to enable the Director to determine the application.

(4) Upon considering an application made under subsection (2), the Director may -

- (a) either unconditionally or subject to any reasonable conditions or restrictions, give the applicant a written permission to make the alteration concerned; or
- (b) temporarily withhold the giving of the written permission and state, by a written notice to the applicant, the requirements to be complied with before a permission may be given.

(5) Without limiting the generality of subsection (4)(b),

the Director may require -

- (a) the approval of plans relating to the alteration;
- (b) the survey of the local vessel concerned after the alteration;
- (c) the re-issue of any certificate, record or declaration referred to in section 75(a);
- (d) the payment of -
 - (i) the prescribed fee for -
 - (A) considering the plans; and
 - (B) if the plans are approved, the approval of the plans;
 - (ii) the prescribed fee for surveying the local vessel concerned; and
 - (iii) the prescribed fee for re-issuing any certificate, record or declaration referred to in section 75(a).

(6) If the Director is satisfied that the requirements stated in a notice given under subsection (4)(b) have been complied with, he may either unconditionally or subject to any reasonable conditions or restrictions, give the applicant a written permission to make the alteration concerned.

77. Alteration of Class IV vessels that are issued with certificates of inspection

(1) This section applies to a Class IV vessel in respect of which a certificate of inspection is issued by a competent surveyor.

(2) The owner of a Class IV vessel to which this section

applies or his agent shall apply for a written permission of the competent surveyor who issued the certificate of inspection in respect of the vessel before making any alteration to the vessel.

(3) Upon considering an application made under subsection (2), a competent surveyor may -

- (a) either unconditionally or subject to any reasonable conditions or restrictions, give the applicant a written permission to make the alteration concerned; or
- (b) temporarily withhold the giving of the written permission and state, by a written notice to the applicant, the requirements to be complied with before a permission may be given.

(4) If a competent surveyor is satisfied that the requirements stated in a notice given under subsection (3)(b) have been complied with, he may either unconditionally or subject to any reasonable conditions or restrictions, give the applicant a written permission to make the alteration concerned.

(5) If for any reason the competent surveyor who issued the certificate of inspection in respect of the Class IV vessel concerned is unable to give a written permission under this section, the owner of the vessel or his agent may refer the matter to the Director and section 76 applies to the vessel accordingly.

78. Consequences for alteration without permission

(1) If a written permission given under section 76(4)(a) or (6) or 77(3)(a) or (4) is required under this Part for the

alteration of a local vessel but the alteration is made, without reasonable excuse, in the absence of such permission, the person who makes or causes the making of the alteration commits an offence and is liable on conviction to a fine at level 3.

(2) If a local vessel has been altered as described in subsection (1), the Director may, by a written notice given to the owner of the vessel or his agent, require that the vessel be restored to the condition the vessel was in immediately before the alteration.

(3) The Director may suspend any certificate, record or declaration referred to in section 75(a) until he is satisfied that a requirement under subsection (2) has been complied with in relation to the local vessel concerned.

PART 11

SPECIFIC REQUIREMENTS RELATING TO PLYING LIMITS, RADARS AND ENGINES

79. Class II vessels not permitted to ply beyond waters of Hong Kong

(1) A Class II vessel of 24 m or more in length that -

(a) is -

- (i) a flat-top work barge;
- (ii) a floating workshop;
- (iii) a pilot boat;
- (iv) a transportation boat; or
- (v) a work boat,

fitted with any propulsion engine; or

(b) is -

- (i) a crane barge;
- (ii) a flat-top work barge;
- (iii) a floating workshop;
- (iv) a landing platform;
- (v) a landing pontoon;
- (vi) a stationary vessel; or
- (vii) a work boat,

not fitted with any propulsion engine,

shall not ply beyond the waters of Hong Kong.

(2) A Class II vessel of less than 24 m in length that -

(a) is -

- (i) a dangerous goods carrier;
- (ii) a dredger;
- (iii) a dry cargo vessel;
- (iv) an edible oil carrier;
- (v) a flat-top work barge;
- (vi) a floating workshop;
- (vii) a noxious liquid substance carrier;
- (viii) an oil carrier;
- (ix) a pilot boat;
- (x) a transportation boat;
- (xi) a transportation sampan;
- (xii) a water boat; or
- (xiii) a work boat,

fitted with any propulsion engine; or

(b) is -

- (i) a crane barge;

- (ii) a dangerous goods carrier;
- (iii) a dumb lighter;
- (iv) an edible oil carrier;
- (v) a flat-top work barge;
- (vi) a floating workshop;
- (vii) a hopper barge;
- (viii) a landing platform;
- (ix) a landing pontoon;
- (x) a noxious liquid substance carrier;
- (xi) an oil carrier;
- (xii) a stationary vessel;
- (xiii) a transportation sampan; or
- (xiv) a work boat,

not fitted with any propulsion engine,

shall not ply beyond the waters of Hong Kong.

(3) If, without reasonable excuse, subsection (1) or (2) is contravened, the owner of the Class II vessel concerned, his agent and the coxswain each commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

80. Radar

- (1) This section applies to a Class I vessel -
- (a) that is a ferry vessel or launch;
 - (b) that operates a franchised service or a licensed service as defined in the Ferry Services Ordinance (Cap. 104); and
 - (c) that plies outside the boundaries of the Victoria

port.

(2) A Class I vessel to which this section applies shall be fitted with radar equipment that is capable of determining whether any risk of collision exists, including equipment that can, by long-range scanning, give early warning of any risk of collision.

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

81. Restriction on use of certain engines

(1) Subject to subsection (2), a Class I vessel, Class II vessel or Class III vessel shall not be fitted with an engine that uses fuel oil with a flash point not exceeding 61°C (closed cup test).

(2) Subsection (1) does not apply to a Class III vessel that falls within Schedule 6.

(3) A person who, without reasonable excuse -

- (a) uses or operates;
- (b) permits to be used or operated; or
- (c) is in charge of,

a local vessel in respect of which subsection (1) is contravened commits an offence and is liable on conviction to a fine at level 2.

PART 12

MISCELLANEOUS

82. Compliance with requirements of Merchant Shipping (Prevention of Oil Pollution) Regulations

A local vessel belonging to any class, type, category or description of vessel specified in Schedule 7 shall comply with the requirements of the Merchant Shipping (Prevention of Oil Pollution) Regulations (Cap. 413 sub. leg. A).

83. Director may permit alternative fitting, etc.

- (1) This section applies where this Regulation requires -
 - (a) a local vessel to be fitted with, or to carry on board, any fitting, material, appliance or apparatus of a particular description or type; or
 - (b) any particular provision be made for a local vessel.

- (2) The Director may permit -

- (a) a local vessel to be fitted with, or to carry on board, any other fitting, material, appliance or apparatus; or
- (b) any other provision be made for a local vessel,

as an alternative to that required by this Regulation if the Director is satisfied by trial or otherwise that such fitting, material, appliance, apparatus or provision is at least as effective as that required under this Regulation.

84. Director may issue instructions or directions by way of Marine Department Notices

For the purposes of providing practical guidance with respect

to specifications, standards or requirements relating to local vessels, the Director may from time to time issue instructions or directions by way of a Marine Department Notice.

85. Duplicate certificate of survey, etc.

(1) This section applies where -

(a) any of the following instruments is in force in respect of a local vessel -

- (i) a certificate of inspection;
- (ii) a certificate of survey;
- (iii) a survey record of safety equipment;
- (iv) a HKLL certificate;
- (v) a FA certificate;
- (vi) a declaration of fitness; and

(b) such instrument is, for any reason, destructed, defaced or lost.

(2) The Director may, upon an application by the owner of a local vessel or his agent and upon being satisfied of the destruction, defacement or loss of an instrument referred to in subsection (1), issue to the owner or his agent a duplicate of the instrument.

(3) A duplicate issued under subsection (2) in respect of an instrument referred to in subsection (1) shall be regarded for the purposes of this Regulation as the instrument.

(4) An application made under subsection (2) shall be -

- (a) in the specified form; and
- (b) accompanied by the prescribed fee.

(5) Every duplicate issued under subsection (2) shall be clearly endorsed in a conspicuous place with the English word "DUPLICATE" and the Chinese characters "複本".

(6) A duplicate issued under subsection (2) shall supersede the original concerned which shall cease to have effect and shall be returned to the Director -

(a) if the original is not totally destructed or is only defaced, on the making of an application under subsection (2); or

(b) if the original is lost, as soon as it is found.

(7) Where, without reasonable excuse, the original of an instrument referred to in subsection (1) is not returned as required by subsection (6), the owner of the local vessel concerned and his agent each commits an offence and is liable to a fine at level 3.

86. Appeals against decisions of Director

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

(a) section 10(1)(c) and (d) (refusing to approve or withholding the approval of any plan temporarily);

(b) section 19(3) (imposing conditions or restrictions on a certificate of inspection);

(c) section 19(4) (amending or revoking conditions or restrictions imposed on a certificate of inspection, or imposing new conditions or restrictions on it);

- (d) section 20(2) (refusing to issue or withholding the issue of a certificate of inspection temporarily);
- (e) section 24(2) (imposing conditions or restrictions on a certificate of survey);
- (f) section 24(3) (amending or revoking conditions or restrictions imposed on a certificate of survey, or imposing new conditions or restrictions on it);
- (g) section 25(1) (refusing to issue or withholding the issue of a certificate of survey temporarily);
- (h) section 28(1) (cancelling or suspending a certificate of inspection or certificate of survey);
- (i) section 62(1) (imposing conditions or restrictions on a survey record of safety equipment, HKLL certificate, FA certificate or declaration of fitness);
- (j) section 62(2) (amending or revoking conditions or restrictions imposed on a survey record of safety equipment, HKLL certificate, FA certificate or declaration of fitness, or imposing new conditions or restrictions on it);
- (k) section 64(1) (refusing to issue or withholding the issue of a survey record of safety equipment, HKLL certificate, FA certificate or declaration of fitness temporarily);
- (l) section 66(1) (cancelling or suspending a survey record of safety equipment, HKLL certificate, FA certificate or declaration of fitness).

(2) An appeal under subsection (1) shall not be made after 14 days after the date on which the person aggrieved has received notice of the decision or he otherwise comes to know of it.

(3) Unless it is in the opinion of the Director inappropriate to do so, an appeal under subsection (1) shall not render a decision that is appealed against ineffective.

87. Amendment of Schedules

The Director may, by notice in the Gazette, amend any of the Schedules.

88. Transitional arrangements

The transitional provisions specified in Schedule 8 have effect.

SCHEDULE 1

[ss. 2 & 87]

CATEGORY OF LOCAL VESSELS

Class	Types	Category	
		A	B
I	ferry vessel	*	
	floating restaurant	*	
	launch	*	
	multi-purposes vessel	*	
	primitive vessel		*
	stationary vessel	*(1)	*(2)
II	crane barge	*(1)	*(2)
	dangerous goods carrier	*(1)	*(2)
	dredger	*	
	dry cargo vessel	*(3)	*
	dumb lighter		*
	edible oil carrier	*	
	flat-top work barge	*(4)	*
	floating dock	*	
	floating workshop	*(1)	*(2)
	hopper barge		*
	landing platform		*
	landing pontoon		*
	noxious liquid substance carrier	*	
	oil carrier	*	
	pilot boat	*(1)	*(2)
	special purpose vessel	*	
	stationary vessel	*(5)	*
	transportation boat	*	
	transportation sampan		*
	tug	*	
water boat	*(4)	*(2)	
work boat	*(1)	*(2)	
III	fish carrier	*(4)	*
	fishing sampan		*(6) and (7)
	fishing vessel	*(4)	*(8)
	outboard open sampan		*

Notes:

"*" means applicable.

- (1) Applicable only to new vessels.
- (2) Applicable only to local vessels that are not new vessels.
- (3) Dry cargo vessels that are of wooden construction and operate solely within the waters of Hong Kong are categorized as Category B vessels. In any other case, they are categorized as Category A vessels.
- (4) Flat-top work barges, water boats, fish carriers and fishing vessels that are of wooden construction are categorized as Category B vessels. In any other case, they are categorized as Category A vessels.
- (5) New vessels that are kitchen boats only.
- (6) Fishing sampans made of glass reinforced plastic and less than 15 m in length.
- (7) Fishing sampans that are of wooden construction and less than 8 m in length.
- (8) Fishing vessels that are of wooden construction and 8 m or more in length.

SCHEDULE 2

[ss. 7(2)(a) & (b),
15(1)(a) & 87 &
Schs. 3, 4 & 6]

LOCAL VESSELS TO WHICH PARTS 3 AND 4 OF THIS REGULATION
DO NOT APPLY

Parts 3 and 4 of this Regulation do not apply to -

(a) a Class III vessel that -

- (i) is a Category B vessel;
- (ii) is an outboard open sampan;
- (iii) is of less than 10 m in length overall;
- (iv) is fitted with a petrol outboard engine of a power not exceeding 12 kW;
- (v) carries no fare-paying passengers;
- (vi) carries not more than 4 persons (including the crew);
- (vii) carries no fuel other than in a portable tank fitted with a fuel pipe line all of a type approved by the manufacturer of the engine; and
- (viii) is equipped with the following life-saving appliances and fire-fighting apparatus, all of which are in good and serviceable condition -
 - (A) at least 1 lifejacket for every person on board, or 1 lifebuoy for every 2 persons on board, or 1 lifebuoy for the first 2 persons on board plus 1 lifejacket for every

additional person;

(B) at least 1 portable dry powder fire extinguisher that has a capacity of not less than 1.25 kg of dry powder;

and

(C) at least 1 fire bucket that is fitted with a lanyard; or

(b) a Class II vessel or Class III vessel that -

(i) is not fitted with any propulsion engine;

(ii) is not fitted with any internal combustion engine;

(iii) complies with the requirements in Schedules 3 and 4 in so far as they are applicable; and

(iv) is of the type and description of vessel shown in the following table -

Class	Types	Material of construction	Length overall x extreme breadth ^(note)	Minimum requirements for life-saving appliances and fire-fighting apparatus
II	transportation sampan	any material	not exceeding 25 m ²	(a) 1 lifejacket for every person on board; (b) 1 lifebuoy; and (c) 1 fire bucket with lanyard
II	work boat	other than metal	not exceeding 25 m ²	(a) 1 lifebuoy; and (b) 1 fire bucket with lanyard
III	fishing sampan	other than metal	not exceeding 25 m ²	(a) 1 lifebuoy; and (b) 1 fire bucket with lanyard

Note:

"extreme breadth" (最大寬度), in relation to a local vessel, means the athwartship distance between the extremity of the outermost permanent structure on the port side and the extremity of the outermost permanent structure on the starboard side of the vessel.

PROVISION OF LIFE-SAVING APPLIANCES

PART 1

GENERAL REQUIREMENTS

1. Replacement of life-saving appliances

Where a life-saving appliance on a local vessel is marked with an expiry date, the appliance shall be replaced on or before that date.

2. Operational readiness and maintenance of life-saving appliances

Whenever a local vessel is being used or operated, every life-saving appliance carried on board the vessel shall be -

- (a) in working order;
- (b) ready for immediate use; and
- (c) placed in a position easily accessible.

3. Plans to be kept on board the vessel

(1) There shall be kept at all times on board a local vessel to which Part 3 of this Regulation applies one set of plans that contain the following information in so far as such information is applicable to the vessel -

- (a) the general arrangements of the vessel;
- (b) if the vessel is involved in the carriage of passengers, the seating arrangements and escape

routes;

(c) the types and dispositions of life-saving appliances, fire-fighting apparatus and lights and sound signals; and

(d) its stability information.

(2) Without prejudice to subsection (1) -

(a) the set of plans containing information referred to in subsection (1)(a), (b) and (c); and

(b) instructions to be followed in the case of an emergency,

shall be displayed at all times in conspicuous places throughout every Class I vessel or Class IV vessel that is licensed to carry more than 100 passengers.

4. Provision of lifebuoys

(1) For the purposes of assessing the adequacy of life-saving appliances on board a local vessel, each lifebuoy is taken to be for use by 2 persons on board the vessel.

(2) A lifebuoy may be fitted with a buoyant lifeline or self-igniting light, but not both.

PART 2
SPECIFIC REQUIREMENTS

Table 1

- (i) Class I vessels
(ii) Class IV vessels that are licensed to carry more than 60 passengers
(iii) Class IV vessels that are licensed to carry 13 to 60 passengers but are let for hire or reward

Operation area	Specified sheltered waters	Anywhere within waters of Hong Kong
Life-saving appliances		
lifejacket	any number)	100% adult lifejacket + 5% children lifejacket
lifebuoy	minimum number per Table 2) Total 100% ⁽¹⁾ and ⁽²⁾	
buoyant lifeline ⁽³⁾	1 for vessel (L)<12 m 2 for vessel (L)≥12 m	
self-igniting light ⁽⁴⁾	2	
VHF (very high frequency) radio installation ⁽⁵⁾	1	

Notes:

- (1) Where the required quantity of life-saving appliances is expressed as a percentage, it means the percentage of the total number of persons on board.
- (2) The scale for a floating restaurant may be reduced by 50% if it is -
- (a) attached to the shore and provided with adequate gangways; or
 - (b) not attached to the shore, but provided with -
 - (i) above-water flotation in the form of a steel embarkation pontoon moored alongside; or
 - (ii) steel tenders at both ends capable of being towed to a safe place away from the floating restaurant.

- (3) The minimum length of buoyant lifeline for a Class I vessel or Class IV vessel that is licensed to carry more than 60 passengers is 30 m.

The minimum length of buoyant lifeline for a Class IV vessel that is licensed to carry not more than 60 passengers is -

For $(L) < 21$ m 18 m

For $(L) \geq 21$ m 27.3 m.

- (4) Required for a Class I vessel or Class IV vessel that carries more than 100 passengers.
- (5) Required for a ferry vessel that plies outside the Victoria port.

Table 2

Minimum number of lifebuoys as required in Table 1

Vessel length (L)(m)	Number of lifebuoys
(L)<12	2
12≤(L)<15	4
15≤(L)<18	6
18≤(L)<21	8
21≤(L)<24	10
(L)≥24	12

Table 3

- (i) Class II vessels that operate within waters of Hong Kong
(ii) Class IV vessels that are licensed to carry not more than 12 passengers but are let for hire or reward

Operation area	Specified sheltered waters	Anywhere within waters of Hong Kong
Life-saving appliances		
lifejacket ⁽¹⁾	any number ⁽²⁾	100% adult lifejacket + <5% children lifejacket ^{(3), (4) and (5)}
lifebuoy ⁽¹⁾	any number	minimum number per Table 5
buoyant lifeline ^{(4) and (6)}	1 for vessel (L)<12 m 2 for vessel (L)≥12 m	
<self-igniting light (for vessel (L)≥37 m)> ⁽⁵⁾		2

Notes:

- (1) (a) For a transportation sampan that falls within paragraph (b) of Schedule 2, at least 1 lifejacket for every person on board and 1 lifebuoy are required.
(b) For a work boat that falls within paragraph (b) of Schedule 2, at least 1 lifebuoy is required.

- (2) Lifejacket is not required for -
 - (a) a landing platform;
 - (b) a landing pontoon; and
 - (c) a stationary vessel that is a separation barge.
- (3) Where the required quantity of life-saving appliances is expressed as a percentage, it means the percentage of the total number of persons on board.
- (4) Special requirements for a floating dock -
 - (a) 100% lifejacket is required only when any of the tropical cyclone warning signals commonly referred to as No. 8NW, 8SW, 8NE, 8SE, 9 or 10 is in force and any person is staying on board;
 - (b) the total number of lifebuoy provided shall not be less than that required in Table 5, or 1 lifebuoy for every 26 m or part thereof of each of the side wall, whichever is the greater;
 - (c) 4 buoyant lifelines shall be provided and placed at each corner of the dock; and
 - (d) if the dock is not attached to the shore, 1 or more launches shall be provided to carry the workmen to shore.
- (5) Requirements in angle brackets (" $<$ $>$ ") are for new vessels only.
- (6) The minimum length of buoyant lifeline is 30 m.

Table 4

Class II vessels that operate within river trade limits

Life-saving appliances \ Type of vessel	Oil carrier having cargoes with flash point not exceeding 61°C (closed cup test)	Other vessels
lifejacket	100% ⁽¹⁾	
lifebuoy	minimum number per Table 5	
line throwing appliance	1 ⁽²⁾	
buoyant apparatus		100% ^{(1), (3) and (4)}
inflatable liferaft	100% ⁽¹⁾	100% ^{(1) and (3)}
<motor lifeboat> ⁽⁵⁾	100% ^{(1) and (6)}	
VHF (very high frequency) radio installation	1	1 ⁽⁴⁾
buoyant lifeline ⁽⁷⁾	2	
self-igniting light	2	
rocket parachute flare ⁽⁴⁾	6	

Notes:

- (1) Where the required quantity of life-saving appliances is expressed as a percentage, it means the percentage of the total number of persons on board.
- (2) This only applies to -
- (a) a dangerous goods carrier, dry cargo vessel, edible oil carrier, noxious liquid substance carrier, oil carrier, special purpose vessel or water boat that -
 - (i) is of 500 gross tonnage or above;
 - (ii) is fitted with any propulsion engine; and
 - (iii) operates within the river trade limits; or
 - (b) a tug that operates within the river trade limits.
- (3) Buoyant apparatus is not required if the inflatable liferaft is transferable to either side of the vessel.
- (4) For a dumb lighter or hopper barge, the prescribed appliances may be waived if it is at all times accompanied by another local vessel (e.g. a tug) equipped with appliances sufficient for complements of both vessels.

- (5) Requirements in angle brackets (" $<$ $>$ ") are for new vessels only.
- (6) (a) An oil carrier of 37 m or more in length shall be provided with a motor lifeboat which may be of rigid top open type.
(b) For an oil carrier of less than 37 m in length, such motor lifeboat may be substituted by an additional 100% inflatable liferaft.
- (7) The minimum length of buoyant lifeline is 30 m.

Table 5

Minimum number of lifebuoys as required in Tables 3 and 4

Vessel length (L)(m)	Number of lifebuoys
$(L) < 12$	1
$12 \leq (L) < 24$	2
$24 \leq (L) < 37$	4
$(L) \geq 37$	6

Table 6
Class III vessels

Life-saving appliances	Category of vessel	A		B	
	Vessel length (L) (m)	(L) < 24	24 ≤ (L) < 45 ⁽¹⁾	(L) < 24	24 ≤ (L) < 45 ⁽¹⁾
lifejacket		100% ⁽²⁾		100% ⁽²⁾	
lifebuoy		2	4	2 ⁽³⁾ and (4)	2 or <4> ⁽⁵⁾
buoyant apparatus (for vessel (L) > 30 m)		-	100% ⁽²⁾	-	
inflatable liferaft		100% ⁽²⁾ (type, equipment, location and arrangement of liferaft shall be in accordance with the relevant plans approved under Part 3 of this Regulation)		-	
buoyant lifeline ⁽⁶⁾		2		2 ⁽³⁾	
<self-activating smoke> ⁽⁵⁾		1 ⁽⁷⁾		1 ⁽⁷⁾	
self-igniting light		1 ⁽⁷⁾	2 ⁽⁷⁾	1 ⁽⁷⁾	2 ⁽⁷⁾
<rocket parachute flare> ⁽⁵⁾		4 ⁽⁷⁾		4 ⁽⁷⁾	
<radar transponder> ⁽⁵⁾		1 ⁽⁷⁾		1 ⁽⁷⁾	
radiocommunications equipment		description, quantity, type, function and location of equipment shall be in accordance with the relevant plans approved under Part 3 of this Regulation		-	

Notes:

- (1) The requirement for a Class III vessel of 45 m or more in length shall be specified by the Director on a case-by-case

basis.

- (2) Where the required quantity of life-saving appliances is expressed as a percentage, it means the percentage of the total number of persons on board.
- (3) 1 lifebuoy with 30 m buoyant lifeline is sufficient for -
 - (a) a fishing sampan -
 - (i) made of glass reinforced plastic; and
 - (ii) of less than 15 m in length;
 - (b) a fishing sampan -
 - (i) of wooden construction; and
 - (ii) of less than 8 m in length; and
 - (c) a fishing vessel -
 - (i) of wooden construction; and
 - (ii) of less than 12 m in length.
- (4) For a fishing sampan that falls within paragraph (b) of Schedule 2, the minimum requirement for life-saving appliance is 1 lifebuoy.
- (5) Requirements in angle brackets (" $<$ $>$ ") are for new vessels only.
- (6) The minimum length of buoyant lifeline is 30 m.
- (7) Applicable to a Class III vessel that -
 - (a) holds a valid port clearance; or
 - (b) is exempted under section 69(1) of the Ordinance from complying with section 28(1) of the Ordinance.

Table 7

Class IV vessels that are licensed to carry not more than 60 passengers and are not let for hire or reward and operate within waters of Hong Kong

Life-saving appliances	Quantity	
lifejacket	100% ⁽¹⁾	
lifebuoy	Vessel length (L)(m)	Number
	(L) < 12	1
	12 ≤ (L) < 21	2
	21 ≤ (L) < 37	4
	(L) ≥ 37	6
buoyant lifeline ⁽²⁾	1	

Notes:

- (1) Where the required quantity of life-saving appliances is expressed as a percentage, it means the percentage of the total number of persons on board.
- (2) The minimum length of buoyant lifeline is -
- | | |
|----------------|---------|
| For (L) < 21 m | 18 m |
| For (L) ≥ 21 m | 27.3 m. |

SCHEDULE 4

[ss. 33(2) & 87
& Schs. 2 & 8]

FIRE PROTECTION AND PROVISION OF FIRE-FIGHTING APPARATUS

PART 1

GENERAL REQUIREMENTS

1. **Interpretation**

In this Schedule, unless the context otherwise requires -

"cargo pump room" (貨泵房) means a room in which any pump used for loading, discharging or transferring cargoes is located;

"engine room" (輪機室) means a space which contains propulsion machinery and generators;

"machinery space" (機艙) means a space which contains internal combustion engines, electrical machinery, ventilation and air conditioning machinery and any similar space;

"service space" (服務艙) include galleys, pantries containing cooking appliances, lockers and store rooms, workshops (other than those forming part of machinery spaces) and any similar space and any trunk to such space.

2. **Operation and installation requirement**

(1) Where a local vessel is required by this Schedule to be provided with fire pumps operated by power -

(a) such fire pumps shall be -

(i) driven by means other than the vessel's

main engines; and

- (ii) capable of delivering at least one jet of water from any hydrant provided in the vessel while simultaneously maintaining sufficient pressure; and

- (b) arrangements shall be made to ensure immediate availability of a water supply from the fire main at the appropriate pressure by suitably placed remote starting of the fire pumps, unless the machinery space is continually manned.

(2) The following pumps are fire pumps that comply with this Schedule -

- (a) sanitary pumps;
- (b) ballast pumps;
- (c) bilge pumps; or
- (d) general service pumps.

(3) Where a local vessel is required by this Schedule to be provided with apparatus capable of delivering one jet of water, sufficient number of hydrants shall be so positioned on the vessel as to deliver one jet of water from a single length of hose to reach any part of the vessel.

(4) Whenever a local vessel is being used or operated, every fire-fighting apparatus carried on board the vessel shall be -

- (a) in working order;
- (b) ready for immediate use; and
- (c) placed in a position easily accessible.

(5) All portable fire-fighting apparatus (other than the

firemen's outfits) carried on board a local vessel shall be -

- (a) arranged in accordance with the relevant plans approved under Part 3 of this Regulation; and
- (b) placed in a position where they will be easily accessible from the spaces in which they are intended to be used and, in particular, one of the portable fire extinguishers intended to be used in any space shall be placed near the entrance to that space.

PART 2

SPECIFIC REQUIREMENTS

Table 1

- (i) Class I vessels (excluding floating restaurants, and stationary vessels that are ceremonial boats)
- (ii) Class IV vessels that are licensed to carry more than 60 passengers
- (iii) Class IV vessels that are licensed to carry 13 to 60 passengers but are let for hire or reward

Fire-fighting apparatus		Vessel length (L) (m)			
		$(L) < 15$	$15 \leq (L) < 24$	$24 \leq (L) < 60$	$60 \leq (L) < 75^{(1)}$
portable fire extinguisher	passenger accommodation space	1 on each deck (minimum 2)		1 within not more than 10 m walking distance, but at least 2 on each deck	
	wheel house	1			
	galley	1			
	engine control room	1			
	engine room	3	4	1 for each 750 kW or part thereof of the power output of the engine and electric motor, but at least 3 and not more than 6 in each room	
	machinery space	1 within each space			

<fixed CO ₂ fire extinguishing system> ⁽²⁾ and ⁽³⁾	engine room	-		gas quantity, storage, piping, nozzle, alarm, location and arrangement shall be in accordance with the relevant plans approved under Part 3 of this Regulation	
		-		quantity, type, location and arrangement shall be in accordance with the relevant plans approved under Part 3 of this Regulation	
<fire detection and alarm system> ⁽³⁾		-			
main fire pump	power	-	1 ⁽⁴⁾	1 ⁽⁵⁾	1
	manual			-	-
emergency fire pump	power	-		1 ⁽⁴⁾	1 ⁽⁴⁾
	manual				
fire main + hose + hydrant + jet nozzle		1 set		1 set to be provided for each pump ⁽⁶⁾	
fireman's axe		-		1	

Notes:

- (1) The requirement for a local vessel of 75 m or more in length shall be specified by the Director on a case-by-case basis.
- (2) (a) Required for any local vessel that is licensed to carry more than 12 passengers and installed with internal combustion engines of aggregate propulsion power of 375 kW or over.
- (b) The fixed CO₂ fire extinguishing system may be substituted by a non-portable fire extinguisher (45 L foam or equivalent CO₂ type) if it can be satisfactorily demonstrated that the jet of the fire extinguishing media can reach any part of the engine room.
- (c) For local vessels of 24 m or more in length and that are not new vessels, one 45 L foam or 16 kg CO₂ fire extinguisher shall be provided in the engine room.
- (3) Requirements in angle brackets (" $<$ " " $>$ ") are for new vessels only.

- (4) The fire pump and its sea suction shall be situated outside the engine room.
- (5) The fire pump may be propulsion engine driven, provided it can be readily engaged to the engine.
- (6) A Class I vessel or Class IV vessel of 24 m or more in length shall be provided with the following additional appliances -
 - (a) 1 hydrant in each engine room; and
 - (b) 1 spray nozzle on each deck and in each engine room.

Table 2

Class I vessels - floating restaurants, and stationary vessels that are ceremonial boats

Fire-fighting apparatus		Floating restaurant and <ceremonial boat> ^{(1) and (2)}
portable fire extinguisher	dining space	1 within not more than 10 m walking distance, but at least 2 within the space
	service space	1
	machinery space	1 for each 750 kW or part thereof of the power output of the engine and electric motor, but at least 2 and not more than 6 within each space
<fixed CO ₂ fire extinguishing system> ⁽²⁾	machinery space	gas quantity, storage, piping, nozzle, alarm, location and arrangement shall be in accordance with the relevant plans approved under Part 3 of this Regulation
<fire detection and alarm system> ⁽²⁾	service space	quantity, type, location and arrangement shall be in accordance with the relevant plans approved under Part 3 of this Regulation
	machinery space	
main fire pump	power ⁽¹⁾	2
emergency fire pump	power ⁽¹⁾	1
fire main + hose		quantity, size, length, type, location and arrangement shall be in accordance with the relevant plans approved under Part 3 of this Regulation

hydrant ⁽¹⁾	deck	quantity, size, location and arrangement shall be in accordance with the relevant plans approved under Part 3 of this Regulation
	machinery space	1
nozzle	jet	quantity, size, location and arrangement shall be in accordance with the relevant plans approved under Part 3 of this Regulation
	spray	1 on each deck 1 in each machinery space
<automatic sprinkler system> ⁽²⁾	dining space	quantity, type, size, location and arrangement shall be in accordance with the relevant plans approved under Part 3 of this Regulation
	service space	
<fire station> ⁽²⁾ and ⁽³⁾		2 on each deck
<fire control plan> ⁽²⁾		2 on each deck
<fire roster> ⁽²⁾		1 on each deck

Notes:

- (1) If no independent fire pump is installed on a stationary vessel that is a kitchen boat, the fire pump available shall be capable of delivering at least one jet of water from one hydrant to the kitchen boat.
- (2) Requirements in angle brackets (" $<$ " " $>$ ") are for new vessels only.
- (3) Each fire station shall be provided with the following appliances -

portable fire extinguisher	2	
water bucket with lanyard (on main deck only)	1	
fire hose (20 mm diameter)	1 on each deck	
starting button for fire pump	1 on each deck	
nozzle	jet	1
	spray	1
fireman's axe	1 on each deck	
fire blanket	1 on each deck	

Table 3

- (i) Class II vessels (excluding floating docks, floating workshops, oil carriers and stationary vessels that are kitchen boats) that operate within waters of Hong Kong⁽¹⁾
- (ii) Class IV vessels that are licensed to carry not more than 12 passengers but are let for hire or reward

Fire-fighting apparatus		Vessel length (L)(m)		
		(L)<12	12≤(L)<24	24≤(L)<75 ⁽²⁾
For both Category A vessels and Category B vessels				
portable fire extinguisher ⁽³⁾	accommodation space	1 on each deck		2 on each deck
	wheel house	1		
	galley	1		
	engine control room	1		
	engine room	2	3	4
	machinery space	1 within each space		
fire bucket with lanyard ⁽⁴⁾		1	2	3
For Category A vessels only				
main fire pump	power	1 ⁽⁵⁾	1 ⁽⁵⁾	1 ⁽⁶⁾
	manual			-
emergency fire pump	power	-	-	1 ⁽⁵⁾ and ⁽⁷⁾
	manual			
fire main + hose + hydrant + jet nozzle		quantity, size, length, type, location and arrangement shall be in accordance with the relevant plans approved under Part 3 of this Regulation		quantity, size, length, type, location and arrangement shall be in accordance with the relevant plans approved under Part 3 of this Regulation ⁽⁸⁾

Notes:

- (1) (a) A flat-top work barge, a landing pontoon and any other type of local vessel having no engine, oil fuel tank, electrical switchboard and combustible materials on board is not required to be provided with any fire-fighting apparatus.
- (b) A local vessel that is used or to be used for carrying any dangerous goods other than oil shall be provided with such additional fire-fighting apparatus as the Director may specify in writing.
- (2) The requirement for a local vessel of 75 m or more in length shall be specified by the Director on a case-by-case basis.
- (3) A Class II vessel that falls within paragraph (b) of Schedule 2 is not required to be provided with any portable fire extinguisher. Instead, such a vessel shall be provided with 1 fire bucket with lanyard.
- (4) Applicable to Category B vessels only. If a fire main is provided, then no fire bucket is required.
- (5) The fire pump and its sea suction shall be situated outside the engine room.
- (6) The fire pump may be propulsion engine driven, provided it can be readily engaged to the engine.
- (7) Only for a Class II vessel that is fitted with any propulsion engine.
- (8) A Class II vessel of 24 m or more in length shall be provided with the following additional appliances -
 - (a) 1 hydrant in each engine room; and
 - (b) 1 spray nozzle on each deck and in each engine room.

Table 4

Class II vessels - floating docks, floating workshops and stationary vessels that are kitchen boats and operate within waters of Hong Kong

Type of vessel		Floating dock	Floating workshop (including welding barge)	Kitchen boat
Fire-fighting apparatus	service space	1 within each space		
	workshop	1 within not more than 10 m walking distance, but at least 2 on each deck, and not less than half shall be foam/CO ₂ fire extinguishers		
	engine control room	at least 2 and not more than 6 in each room		
	machinery space	1 for each 750 kW or part thereof of the power output of the engine and electric motor, but at least 2 and not more than 6 within each space		
<non-portable fire extinguisher> ⁽¹⁾		1 for each wing	-	-
fixed CO ₂ fire extinguishing system	machinery space	gas quantity, storage, piping, nozzle, alarm, location and arrangement shall be in accordance with the relevant plans approved under Part 3 of this Regulation	-	-

main fire pump	power	1 for each wing	(L) < 24 m	(L) ≥ 24 m	1 ⁽²⁾
	manual	-	1	1	
emergency fire pump	power	1 ⁽³⁾	-	1	-
	manual	-			
fire main + hose + hydrant + jet nozzle		quantity, size, length, type, location and arrangement shall be in accordance with the relevant plans approved under Part 3 of this Regulation			
spray nozzle		1 on each deck 2 within each machinery space	1 on each deck 1 within each machinery space		
foam applicator + 2 x 20 L mobile foam	machinery space	1 for each wing	-	-	-
fireman's axe		1 for each wing	1	1	1
fire blanket		-	-	-	1 within not more than 10 m walking distance on deck fitted with stoves
fireman's outfit		1 for each wing	-	-	-
fire control plan		1 for each wing	-	-	1
international shore connection device		1 for each wing	-	-	-

Notes:

- (1) Requirements in angle brackets (" $<$ $>$ ") are for new vessels only.
- (2) The requirement for fire pump may be waived if the fire main installed on the floating restaurant is extended to the kitchen boat.
- (3) Not required if each main fire pump is independently driven.

Table 5

Class II vessels⁽¹⁾ that are not oil carriers and operate within river trade limits

Fire-fighting apparatus		Vessel length (L)(m)				
		(L) < 24	24 ≤ (L) < 37	37 ≤ (L) < 50	50 ≤ (L) < 60	60 ≤ (L) < 75 ⁽²⁾
portable fire extinguisher	accommodation space	1 on each deck		2 on each deck		
	wheel house	1				
	galley	1				
	engine control room	1				
	engine room	3	4	1 within not more than 10 m walking distance, but at least 4 in each room		
	machinery space	1 within each space				
non-portable fire extinguisher	engine room	-	-	1 ⁽³⁾	1 ⁽³⁾	1
fixed CO ₂ fire extinguishing system	engine room ⁽⁵⁾	-	-	-	-	gas quantity, storage, piping, nozzle, alarm, location and arrangement shall be in accordance with the relevant plans approved under Part 3 of this Regulation
main fire pump	power	1 ⁽⁴⁾	1	1	1	2
	manual		-	-	-	-

emergency fire pump	power	-	1 ⁽⁴⁾	1 ⁽⁴⁾	1 ⁽⁴⁾	1 ⁽⁴⁾
	manual	-			-	-
fire main + hose + hydrant + jet nozzle		quantity, size, length, type, location and arrangement shall be in accordance with the relevant plans approved under Part 3 of this Regulation				
hydrant	engine room	-	1	1	1	2
spray nozzle		-	1 on each deck 1 in each engine room	1 on each deck 1 in each engine room	2 on each deck 1 in each engine room	2 on each deck 2 in each engine room
foam applicator + 2 x 20 L mobile foam		-	-	-	-	1
fireman's outfit		-	-	1	1	1
international shore connection device		-	-	-	1	1

Notes:

- (1) If a dumb lighter and hopper barge is at all times accompanied by another local vessel (e.g. a tug), fire-fighting apparatus may be provided according to the scale at Table 3.
- (2) The requirement for a Class II vessel of 75 m or more in length shall be specified by the Director on a case-by-case basis.
- (3) Non-portable fire extinguisher is not required if a fixed fire extinguishing system is provided in each engine room.
- (4) The fire pump and its sea suction shall be situated outside the engine room.
- (5) For engine room that contains internal combustion type machinery having in aggregate a total power output of not less than 375 kW.

Table 6

Class II vessels - oil carriers that operate within river trade limits

Fire-fighting apparatus		Vessel length (L)(m)				
		(L) < 24	24 ≤ (L) < 37	37 ≤ (L) < 50	50 ≤ (L) < 60	60 ≤ (L) < 75 ⁽¹⁾
portable fire extinguisher	accommodation space	1 on each deck		2 on each deck		
	wheel house	1				
	galley	1				
	engine control room	1				
	engine room	3	4	1 within not more than 10 m walking distance, but at least 4 in each room		
	machinery space	1 within each space				
non-portable fire extinguisher	engine room	-	-	1	1	1
fixed CO ₂ fire extinguishing system ⁽²⁾	engine room	gas quantity, storage, piping, nozzle, alarm, location and arrangement shall be in accordance with the relevant plans approved under Part 3 of this Regulation				
	cargo pump room					
main fire pump	power	1 ⁽³⁾	1	1	1	2
emergency fire pump	power	1 ⁽⁴⁾	1 ⁽⁴⁾	1 ⁽⁴⁾	1 ⁽⁴⁾	1 ⁽⁴⁾
	manual				-	-
fire main + hose + hydrant + jet nozzle		quantity, size, length, type, location and arrangement shall be in accordance with the relevant plans approved under Part 3 of this Regulation				
hydrant	engine room	-	1	1	1	2

spray nozzle		1 on each deck	1 on each deck 2 in each engine room	1 on each deck 2 in each engine room	2 on each deck 2 in each engine room	3 on each deck 2 in each engine room
foam applicator + 2 x 20 L mobile foam	engine room	-	1	1	1	1
	cargo manifold area	-	1	1	1	1
fireman's outfit		-	1	1	2	3
fire control plan		1	1	1	1	1
international shore connection device		-	-	1	1	1

Notes:

- (1) The requirement for a Class II vessel of 75 m or more in length shall be specified by the Director on a case-by-case basis.
- (2) In vessels having cargoes with flash point exceeding 61°C (closed cup test), such system may be substituted by a non-portable fire extinguisher if it can be satisfactorily demonstrated that the jet of the fire extinguishing media can reach any part of the engine room and cargo pump room.
- (3) The fire pump may be propulsion engine driven, provided it can be readily engaged to the engine.
- (4) The fire pump and its sea suction shall be situated outside the engine room.

Table 7

Class III vessels

Fire-fighting apparatus	Category of vessel	A		B ⁽¹⁾	
		Vessel length (L) (m)	(L) < 30	$30 \leq (L) < 45$ ⁽²⁾	(L) < 10
portable fire extinguisher ⁽³⁾	accommodation space	1	2	1	1 within not more than 10 m walking distance, but at least 2 and not more than 4 within each space
	wheel house	1	1		
	engine room	2	4		
	machinery space	2	4		
non-portable fire extinguisher	engine room	-	1	-	-
main fire pump	power	1 ⁽⁴⁾	1	-	-
emergency fire pump	power	1	1	-	<1> ^{(5) and (6)}
	manual				
fire main + hose + hydrant + jet nozzle		quantity, size, length, type, location and arrangement shall be in accordance with the relevant plans approved under Part 3 of this Regulation		-	<1 set> ^{(5) and (6)}
hydrant	engine room	1	1	-	-
spray nozzle ⁽⁷⁾		1 on each deck 1 in each engine room	1 on each deck 1 in each engine room	-	-
fire bucket with lanyard		2	2	1	2
additional requirements for a Class III vessel with any engine room that may be periodically unattended when the vessel is being used or operated					

<fire detection and alarm system> ⁽⁶⁾	engine room	quantity, type, location and arrangement shall be in accordance with the relevant plans approved under Part 3 of this Regulation ⁽⁸⁾	quantity, type, location and arrangement shall be in accordance with the relevant plans approved under Part 3 of this Regulation ⁽⁸⁾	-	-
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Notes:

- (1) For a fishing sampan made of glass reinforced plastic, only the following fire-fighting apparatus are required -
 - (a) if the sampan is less than 8 m in length, 1 portable dry powder fire extinguisher that has a capacity of not less than 2.7 kg of dry powder and 1 fire bucket with lanyard; and
 - (b) if the sampan is 8 m or more in length, 2 portable dry powder fire extinguishers each of a capacity of not less than 2.7 kg of dry powder and 2 fire buckets with lanyard.
- (2) The requirement for a Class III vessel of 45 m or more in length shall be specified by the Director on a case-by-case basis.
- (3) A Class III vessel that falls within paragraph (b) of Schedule 2 is not required to be provided with any portable fire extinguisher. Instead, such a vessel shall be provided with 1 fire bucket with lanyard.
- (4) The fire pump may be propulsion engine driven, provided it can be readily engaged to the engine.
- (5) Applicable to a Class III vessel that -
 - (a) holds a valid port clearance; or
 - (b) is exempted under section 69(1) of the Ordinance from complying with section 28(1) of the Ordinance.
- (6) Requirements in angle brackets (" $<$ $>$ ") are for new vessels only.
- (7) An engine room that contains internal combustion type machinery having in aggregate a total power output of not less than 375 kW shall be provided with at least one dual purpose nozzle.
- (8) The fire detection and alarm system may be waived, provided the location of the machinery space facilitates the detection of fire by persons on board.

Table 8

Class IV vessels that are licensed to carry not more than 60 passengers and are not let for hire or reward and operate within waters of Hong Kong

Vessel length (L) (m)		(L) < 5.5	5.5 ≤ (L) ≤ 9	9 < (L) < 15	15 ≤ (L) < 24	(L) ≥ 24
		Fire-fighting apparatus				
portable fire extinguisher ⁽²⁾	1.4 kg	1 ⁽¹⁾	2	-	-	-
	2.3 kg	-	-	2	-	-
	4.5 kg	-	-	-	2	2
	engine room	-	-	2 ⁽³⁾	2 ⁽³⁾	2 ⁽³⁾
fire bucket with lanyard ⁽⁴⁾		1 (or 1 bailer)	2	2	2	3
main fire pump	power	-	-	-	1 ⁽⁵⁾	1
	manual	-	-	-		-
emergency fire pump	power	-	-	-	-	1 ⁽⁵⁾
	manual	-	-	-		
hydrant		-	-	-	capable of delivering one jet of water having a throw of not less than 6 m which can be directed on to any part of the vessel through a hose with a 10 mm diameter nozzle	
hose		-	-	-	1	2
nozzle	jet	-	-	-	1	2
	spray	-	-	-	-	1
fireman's axe		-	-	-	-	1

Notes:

- (1) (a) Portable dry powder fire extinguisher or equivalent.
(b) No fire extinguisher is required for a jetski.
- (2) Two extinguishers should be provided if there is a galley on board.
- (3) For engine room that contains internal combustion type machinery having in aggregate a total power output of not less than 375 kW.
- (4) Fire buckets may be substituted by an equal number of portable dry powder fire extinguishers each of a capacity of not less than 4.5 kg of dry powder or equivalent.
- (5) The fire pump and its sea suction shall be situated outside the engine room.

SCHEDULE 5

[ss. 41(1), 44(b)
& 87]

FREEBOARD ASSIGNMENT

PART 1

TABLE SHOWING CLASS II VESSELS IN RESPECT OF WHICH
HKLL CERTIFICATES OR FA CERTIFICATES ARE REQUIRED

Type of vessel	Vessel length (L) (m)	(L) ≥ 24		(L) < 24	
	Propulsion Plying limits	Fitted with propulsion engine	Not fitted with propulsion engine	Fitted with propulsion engine	Not fitted with propulsion engine
Category A dry cargo vessel	HKW	HKLLC	-	FAC ⁽¹⁾	-
	RTL	HKLLC	-	not permitted	-
Category B dry cargo vessel	HKW	FAC ⁽¹⁾	-	FAC ⁽¹⁾	-
	RTL	HKLLC ⁽¹⁾	-	not permitted	-
crane barge	HKW	-	(2)	-	(2)
	RTL	-	not permitted	-	not permitted
dangerous goods carrier	HKW	HKLLC	FAC	FAC	FAC
	RTL ⁽³⁾	HKLLC	FAC	not permitted	not permitted
dredger	HKW	HKLLC	-	FAC ⁽¹⁾	-
	RTL	HKLLC	-	not permitted	-
dumb lighter	HKW	-	FAC	-	FAC
	RTL ⁽³⁾	-	FAC	-	not permitted
edible oil carrier	HKW	HKLLC	FAC	FAC ⁽¹⁾	FAC
	RTL ⁽³⁾	HKLLC	FAC	not permitted	not permitted
flat-top work barge	HKW	(2)	(2)	(2)	(2)
	RTL	not permitted	not permitted	not permitted	not permitted

floating dock	HKW	-	HKLLC	-	-
	RTL	-	-	-	-
floating workshop	HKW	(2)	(2)	(2)	(2)
	RTL	not permitted	not permitted	not permitted	not permitted
hopper barge	HKW	-	FAC	-	FAC
	RTL ⁽³⁾	-	FAC	-	not permitted
landing platform	HKW	-	(2)	-	(2)
	RTL	-	not permitted	-	not permitted
landing pontoon	HKW	-	(2)	-	(2)
	RTL	-	not permitted	-	not permitted
noxious liquid substance carrier	HKW	HKLLC	FAC	FAC	FAC
	RTL ⁽³⁾	HKLLC	FAC	not permitted	not permitted
oil carrier	HKW	HKLLC	FAC	FAC	FAC
	RTL ⁽³⁾	HKLLC	FAC	not permitted	not permitted
pilot boat	HKW	(2)	-	(2)	-
	RTL	not permitted	-	not permitted	-
special purpose vessel	HKW	HKLLC	HKLLC	HKLLC	HKLLC
	RTL	HKLLC	HKLLC	HKLLC	HKLLC
stationary vessel	HKW	-	(2)	-	(2)
	RTL	-	not permitted	-	not permitted
transportation boat	HKW	(2)	-	(2)	-
	RTL	not permitted	-	not permitted	-
transportation sampan	HKW	-	-	(2)	(2)
	RTL	-	-	not permitted	not permitted

tug	HKW	(2)	-	(2)	-
	RTL	(2)	-	(2)	-
water boat	HKW	HKLLC	-	FAC ⁽¹⁾	-
	RTL	HKLLC	-	not permitted	-
work boat	HKW	(2)	(2)	(2)	(2)
	RTL	not permitted	not permitted	not permitted	not permitted

Abbreviations:

HKW = waters of Hong Kong
 RTL = river trade limits
 HKLLC = HKLL certificate
 FAC = FA certificate

Notes:

"-" Such vessel does not exist.

(1) Applicable only to new vessels.

(2) Subject to any conditions or restrictions specified in their certificates of survey, such vessels can ply in the waters of Hong Kong or to the river trade limits without a HKLL certificate or FA certificate.

(3) Operate under favourable weather only.

PART 2

BASIC MINIMUM FREEBOARD

Assignment of the following freeboard, appropriate to the length of a Class II vessel is as follows -

Vessel length (L)(m)	Freeboard (mm) ⁽¹⁾	
	Hopper barge ⁽²⁾ and oil carrier ⁽³⁾	Other vessels
(L)≤30	380	530
(L)≤40	500	650
(L)≤50	660	710
(L)≤60	850	1 000
(L)≤70	1 080	1 230
(L)≤80	1 330	1 480
(L)≤90	1 600	1 750

Freeboard of intermediate lengths shall be obtained by interpolation.

Notes:

- (1) Where the height of coaming for openings leading to below deck space is less than 600 mm, the above freeboard shall be increased by 12.5 mm for each 25 mm that is below 600 mm in height. The coaming height shall in no case be less than 300 mm.
- (2) Vessels with bottom door which can be opened to the sea.
- (3) This includes vessels having cargo tanks with small openings closed by steel watertight cover.

PART 3

FREEBOARD MARKS

1. Position of marks

On receiving particulars of the assigned freeboard, the owner of the Class II vessel concerned or his agent shall cause to be marked on each side of the vessel, to the satisfaction of the

- (a) The deck line shall be a horizontal line of 300 mm in length and 25 mm in breadth marked amidships with its upper edge passing through the point where the continuation outwards of the upper surface of the freeboard deck intersects the outer surface of the shell. Where the deck is partly sheathed amidships, the upper edge of the deck line shall pass through the point where the continuation outwards of the upper surface of the actual sheathing at amidships intersects the outer surface of the shell.
- (b) The horizontal freeboard line shall be 380 mm in length and 25 mm in breadth, and 2 additional lines each 75 mm in length and 25 mm in breadth, shall be located with their upper edges at distances of 150 mm, one above, and one below, the upper edge of the horizontal freeboard line. All horizontal lines shall be at right angles to a vertical line 325 mm in depth and 25 mm in width which bisects the horizontal lines.
- (c) The assigned freeboard shall be measured from the upper edge of the deck line to the upper edge of the horizontal freeboard line.

SCHEDULE 6

[ss. 81(2) & 87]

LOCAL VESSELS TO WHICH SECTION 81(1) OF THIS REGULATION
DOES NOT APPLY

Section 81(1) of this Regulation does not apply to -

- (a) a Class III vessel that falls within paragraph (a) of Schedule 2; or
- (b) a Class III vessel that -
 - (i) is made of glass reinforced plastic;
 - (ii) is of less than 15 m in length;
 - (iii) has a total engine power not exceeding -
 - (A) 30 kW in the case of a vessel of 5 m or more but less than 6 m in length;
 - (B) 56 kW in the case of a vessel of 6 m or more but less than 8 m in length;
 - or
 - (C) 67 kW in the case of a vessel of 8 m or more but less than 15 m in length;
 - (iv) is equipped with the following life-saving appliances and fire-fighting apparatus, all of which are in good and serviceable condition -
 - (A) 1 lifejacket for every person on board;
 - (B) 1 lifebuoy;
 - (C) in the case of a Class III vessel of less than 8 m in length, at least 1 portable dry powder fire

extinguisher that has a capacity of not less than 2.7 kg of dry powder and 1 fire bucket that is fitted with a lanyard; and

- (D) in the case of a Class III vessel of 8 m or more in length, at least 2 portable dry powder fire extinguishers, each of capacity of not less than 2.7 kg of dry powder and 2 fire buckets, each fitted with a lanyard.

SCHEDULE 7

[ss. 82 & 87]

LOCAL VESSELS REQUIRED TO COMPLY WITH REQUIREMENTS OF
MERCHANT SHIPPING (PREVENTION OF OIL POLLUTION)
REGULATIONS (CAP. 413 SUB. LEG. A)

Type of vessel	Category of vessel	A		B	
	Propulsion	Fitted with propulsion engine	Not fitted with propulsion engine	Fitted with propulsion engine	Not fitted with propulsion engine
		Gross tonnage	Gross tonnage	Gross tonnage	Gross tonnage
Class I vessel					
ferry vessel		≥80	-	-	-
floating restaurant		-	≥80	-	-
launch		≥80	-	-	-
multi-purposes vessel		≥80	-	-	-
primitive vessel (kaito)		≥80	-	≥400	-
Class II vessel					
dangerous goods carrier		≥80	-	≥400	-
dredger		≥80	-	-	-
dry cargo vessel		≥80	-	≥400	-
edible oil carrier		≥80	-	-	-
floating dock		-	≥80	-	-
floating workshop (including repair pontoon, welding barge)		≥80	≥80	≥80	≥80
noxious liquid substance carrier		≥80	-	-	-
oil carrier		of any tonnage	of any tonnage	-	-
pilot boat		≥80	-	≥400	-
special purpose vessel		≥80	-	-	-
transportation boat		≥80	-	-	-
transportation sampan		-	-	≥400	-
tug		≥80	-	-	-
water boat		≥80	-	≥400	-
work boat		≥80	≥80	≥80	≥80

Class III vessel				
fish carrier	≥80	-	≥400	-
fishing sampan	-	-	≥400	-
fishing vessel	≥80	-	≥400	-
Class IV vessel				
auxiliary powered yacht of 400 gross tonnage or above				
cruiser of 400 gross tonnage or above				
open cruiser of 400 gross tonnage or above				

TRANSITIONAL PROVISIONS

1. Interpretation

In this Schedule -

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

"repealed Launches and Ferry Vessels Regulations" (已廢除的《小輪及渡輪船隻規例》) means the Merchant Shipping (Launches and Ferry Vessels) Regulations (Cap. 313 sub. leg. E) repealed under section 91(1) of the Ordinance;

"repealed Miscellaneous Craft Regulations" (已廢除的《雜類航行器規例》) means the Merchant Shipping (Miscellaneous Craft) Regulations (Cap. 313 sub. leg. F) repealed under section 91(1) of the Ordinance.

2. Arrangement in respect of previously issued certificates of inspection and certificates of survey

(1) This section applies to -

(a) a certificate of inspection referred to in regulation 10 or 47H(2) of the repealed Miscellaneous Craft Regulations; or

(b) a certificate of survey issued under any of the provisions of the repealed Launches and Ferry Vessels Regulations,

that was in force immediately before the relevant day.

(2) A certificate to which this section applies shall be regarded as a certificate of survey issued under section 24(1) of this Regulation in respect of the local vessel to which it relates during the remainder of its period of validity, and the provisions of this Regulation shall apply accordingly.

3. Deferred application of section 16 of this Regulation on certain Class IV vessels

(1) Section 16(1)(a) of this Regulation shall not apply to a Class IV vessel that falls within section 15(2)(b) of this Regulation in the 12 months after the relevant day.

(2) Section 16(1)(b) of this Regulation shall not apply to a Class IV vessel -

(a) that is not a new vessel; and

(b) that falls within section 15(2)(a), (c) or (d) of this Regulation,

in the 12 months after the relevant day.

4. Arrangement in respect of previously issued survey records of safety equipment

(1) This section applies to a written document titled "Survey Record - Safety Equipment" -

(a) issued by the Director in respect of a Class II vessel to which Division 2 of Part 5 of this Regulation applies; and

(b) that was in force immediately before the relevant day.

(2) A document to which this section applies shall be regarded as a survey record of safety equipment issued under section 39 of this Regulation in respect of the Class II vessel to which it relates during the remainder of its period of validity, and the provisions of this Regulation shall apply accordingly.

5. Deferred application of Division 2 of Part 5 of this Regulation on certain Class II vessels

Section 35(1) of this Regulation shall not apply to a Class II vessel -

(a) to which Division 2 of Part 5 of this Regulation applies; and

(b) that does not have a document that falls within section 4 in force in respect of it on the relevant day,

in the 12 months after the relevant day.

6. Arrangement in respect of previously issued assignment of freeboard certificates

(1) This section applies to an assignment of freeboard certificate -

(a) issued under regulation 45B(2)(b) of the repealed Miscellaneous Craft Regulations; and

(b) that was in force immediately before the relevant day.

(2) Subject to subsection (3), a certificate to which this section applies shall be regarded as a FA certificate issued under

section 46 of this Regulation in respect of the Class II vessel to which it relates during the remainder of its period of validity, and the provisions of this Regulation shall apply accordingly.

(3) Regulation 45C of the repealed Miscellaneous Craft Regulations that was in force immediately before the relevant day shall continue to apply to a Class II vessel that falls within subsection (2), and the owner of such vessel or his agent shall, at the request of the Director, pay the appropriate fee prescribed in the relevant fee regulation in respect of any periodical inspection under that regulation 45C.

(4) In subsection (3), "relevant fee regulation" (有關費用規例) means the Merchant Shipping (Fees) Regulations (Cap. 281 sub. leg. F) that were in force immediately before the relevant day.

7. Deferred application of section 42(1) of this Regulation on certain Class II vessels

Section 42(1) of this Regulation shall not apply to a Class II vessel -

- (a) to which Part 6 of this Regulation applies; and
- (b) that is not a new vessel or dumb lighter,

in the 12 months after the relevant day.

8. Arrangement in respect of previously issued declarations or granted permissions for carriage of dangerous goods

(1) This section applies to -

- (a) a declaration issued under regulation 34(1)(a) of the repealed Miscellaneous Craft Regulations; or

- (b) a permission granted under regulation 12(1) of the Dangerous Goods (Shipping) Regulations (Cap. 295 sub. leg. C),

that was in force immediately before the relevant day.

(2) A declaration or permission to which this section applies shall be regarded as a declaration of fitness issued under section 54 of this Regulation in respect of the local vessel to which it relates during the remainder of its period of validity, and the provisions of this Regulation shall apply accordingly.

9. Deferred application of certain requirements in Schedules 3 and 4 to this Regulation

(1) During the 12 months after the relevant day, section 32(2)(b) of this Regulation shall not apply to a local vessel to which Table 1 in Part 2 of Schedule 3 to this Regulation applies in so far as the provision of lifejacket on board the vessel in accordance with the Table is concerned.

(2) During the 12 months after the relevant day, section 33(2)(b) of this Regulation shall not apply to a local vessel to which Table 1 in Part 2 of Schedule 4 to this Regulation applies in so far as the provision of emergency fire pump on board the vessel in accordance with the Table is concerned.

(3) During the 12 months after the relevant day, section 33(2)(b) of this Regulation shall not apply to an oil carrier to which Table 6 in Part 2 of Schedule 4 to this Regulation applies in so far as the provision of main fire pump and emergency fire pump on board the oil carrier in accordance with the Table is concerned.

Secretary for Economic Development
and Labour

2006

Explanatory Note

This Regulation is made under the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) ("the Ordinance"). Its main purposes are -

- (a) to provide for the approval of plans in relation to local vessels and the survey of local vessels. Such approval and survey are required in order that any of the following certificates, record or declaration may be issued -
 - (i) certificate of inspection;
 - (ii) certificate of survey;
 - (iii) survey record of safety equipment;
 - (iv) Hong Kong load line certificate ("HKLL certificate");
 - (v) freeboard assignment certificate ("FA certificate");
 - (vi) declaration of fitness for the carriage of dangerous goods ("declaration of fitness"); and

- (b) to set out safety requirements applicable to local vessels, in particular, with respect to -
 - (i) the construction and maintenance of the vessels;
 - (ii) the life-saving appliances and fire-fighting apparatus to be provided on the vessels;
 - (iii) the carriage of passengers;
 - (iv) the alteration of the vessels; and
 - (v) the plying limits of the vessels.

2. The Regulation contains 12 Parts and 8 Schedules.

Part 1 - Preliminary

3. Part 1 provides for preliminary matters (commencement, interpretation and application). In section 2 -

- (a) "category", "Category A vessel" and "Category B vessel" are defined. In addition to being classified into different classes and types under the Merchant Shipping (Local Vessels)(Certification and Licensing) Regulation (Cap. 548 sub. leg. D), local vessels are further categorized into Category A and Category B which are subject to different requirements in certain cases;
- (b) "competent surveyor", who is authorized to approve plans and carry out surveys under the Regulation, is defined to mean an authorized surveyor defined in section 2 of the Ordinance or a government

authority recognized under section 7A of the Ordinance; and

- (c) "new vessel" is defined in order to distinguish new local vessels from existing ones as some of the provisions only apply to one of them.

Part 2 - Appointment and termination of appointment of agent

4. Part 2 empowers owners of local vessels to appoint agents for the purposes of the Regulation. Both the owners of local vessels and their agents are required to notify the Director of such appointments, any subsequent changes in the particulars provided to the Director as well as the termination of such appointments.

Part 3 - Approval of plans

5. Part 3 applies to new vessels and local vessels in respect of which first time applications for the approval of plans are made with a view to apply for any of the certificates, record or declaration set out in paragraph 1(a) of this Note. The Director of Marine ("Director") and competent surveyors are empowered to approve plans. Among the provisions -

- (a) section 9 sets out the parts or aspects of local vessels in relation to which plan approvals shall be obtained before the issue of the certificate, record or declaration concerned;
- (b) sections 10 and 11 provide for the approval of plans by the Director; and
- (c) section 12 provides for the approval of plans by competent surveyors.

Part 4 - Certificate of inspection and certificate of survey

6. Part 4 provides for the application for, and the issue, cancellation and suspension of, certificates of inspection and certificates of survey. Among the provisions -

- (a) section 16 provides that a Class IV vessel of specified description shall not be operated without a certificate of inspection, while any other local vessel shall not be operated without a certificate of survey;
- (b) section 17 provides that the Director and competent surveyors may carry out surveys leading to the issue of certificates of inspection and certificates of survey;
- (c) section 18 sets out the matters to be surveyed and that a certificate of inspection or certificate of survey shall only be issued if the local vessel concerned is fit for the service intended and in good condition;
- (d) section 19 provides that the Director and competent surveyors may issue certificates of inspection and the issue of such certificates may be subject to conditions or restrictions;
- (e) sections 20 and 21 provide for situations where the Director refuses or temporarily withholds the issue of certificates of inspection;
- (f) section 22 requires competent surveyors to submit to the Director declarations of survey relating to

- surveys carried out by them under this Part;
- (g) section 24 deals with the issue of certificates of survey by the Director;
 - (h) sections 25 and 26 provide for situations where the Director refuses or temporarily withholds the issue of certificates of survey;
 - (i) section 27 provides for the validity of certificates of inspection and certificates of survey; and
 - (j) section 28 sets out the reasons for which the Director may cancel or suspend certificates of inspection and certificates of survey.

Part 5 - Construction and maintenance of local vessels, requirements relating to life-saving appliances, fire-fighting apparatus and fire protection measures, etc.

7. Part 5 is divided into 2 Divisions. Division 1 provides for

-

- (a) the standards regarding the construction and maintenance of local vessels as well as the life-saving appliances and fire-fighting apparatus to be provided on board local vessels;
- (b) the general and specific requirements regarding the provision of life-saving appliances and fire-fighting apparatus on board local vessels. Details of such requirements are set out in Schedules 3 and 4.

8. Division 2 provides for the application for and the issue of

survey records of safety equipment in respect of certain Class II vessels. Among the provisions -

- (a) section 36 provides that both the Director and competent surveyors may carry out surveys leading to the issue of survey records of safety equipment;
- (b) section 37 sets out the matters to be surveyed and that a survey record of safety equipment shall only be issued if the Director is satisfied that certain provisions in the Regulation, in so far as they are applicable, have been complied with in relation to the Class II vessel concerned;
- (c) section 38 requires competent surveyors to submit to the Director declarations of survey relating to surveys carried out by them under this Division;
- (d) section 39 deals with the issue of survey records of safety equipment by the Director; and
- (e) section 40 provides for the validity of survey records of safety equipment.

Part 6 - HKLL certificate and FA certificate for Class II vessels

9. Part 6 provides for the application for and the issue of the HKLL certificates and FA certificates in respect of certain Class II vessels. The vessels that are subject to this Part are listed in Part 1 of Schedule 5. Among the provisions -

- (a) section 43 provides that both the Director and competent surveyors may carry out surveys leading to the issue of HKLL certificates and FA certificates;

- (b) section 44 sets out the matters to be surveyed and that a HKLL certificate or FA certificate shall only be issued if the Director is satisfied that the section, in so far as it is applicable, has been complied with in relation to the Class II vessel concerned;
- (c) section 45 requires competent surveyors to submit to the Director declarations of survey relating to surveys carried out by them under this Part;
- (d) section 46 deals with the issue of HKLL certificates and FA certificates by the Director;
- (e) section 47 provides for the validity of HKLL certificates and FA certificates; and
- (f) section 48 prohibits unauthorized alteration of load line marks and freeboard marks.

Part 7 - Declaration of fitness for carriage of dangerous goods

10. Part 7 applies to local vessels that are used or to be used for carrying dangerous goods defined in section 49. Such local vessels are required to be issued with declarations of fitness.

Among the provisions -

- (a) section 51 provides that both the Director and competent surveyors may carry out surveys leading to the issue of declarations of fitness;
- (b) section 52 sets out the matters to be surveyed and that a declaration of fitness shall only be issued if the Director is satisfied that the local vessel concerned is suitable and fit to carry the type of

dangerous goods that the vessel is used or to be used to carry;

- (c) section 53 requires competent surveyors to submit to the Director declarations of survey relating to surveys carried out by them under this Part;
- (d) section 54 deals with the issue of declarations of fitness by the Director; and
- (e) section 55 provides for the validity of declarations of fitness.

Part 8 - General provisions that apply to local vessels to which Parts 5, 6 and 7 apply

11. Part 8 contains provisions that are commonly applicable to the application for, and the issue, cancellation and suspension of, certificates, records or declarations under Part 5, 6 or 7. Among the provisions -

- (a) section 62 provides that the issue of such certificates, records or declarations may be subject to conditions or restrictions;
- (b) sections 64 and 65 provide for situations where the Director refuses or temporarily withholds the issue of such certificates, records or declarations; and
- (c) section 66 sets out the reasons for which the Director may cancel or suspend such certificates, records or declarations.

Part 9 - Requirements relating to carriage of passengers

12. Part 9 provides for the carriage of passengers in local

vessels. Among the provisions -

- (a) sections 68, 69 and 70 provide for the determination of the number of passengers a local vessel may carry;
- (b) section 71 deals with cases where the number of passengers specified in the certificate of inspection or certificate of survey issued in respect of a local vessel is different from the number shown in the operating licence of the vessel; and
- (c) section 72 empowers the Director to reduce the number of passengers that a local vessel may carry in certain circumstances.

Part 10 - Alteration to local vessels

13. Part 10 provides for the alteration of local vessels. Among the provisions -

- (a) section 76 provides for the alteration of local vessels other than Class IV vessels that fall under section 77;
- (b) section 77 provides for the alteration of Class IV vessels that are issued with certificates of inspection; and
- (c) section 78 provides for the consequences of making unauthorized alteration to local vessels.

Part 11 - Specific requirements relating to plying limits, radars and engines

14. Part 11 (sections 79, 80 and 81) deals with the plying limits of certain types of Class II vessels, the fitting of radar equipment in certain types of Class I vessels and the restriction on use of certain engines in Class I vessels, Class II vessels and Class III vessels.

Part 12 - Miscellaneous

15. Part 12 contains miscellaneous provisions concerning -

- (a) the compliance with requirements of the Merchant Shipping (Prevention of Oil Pollution) Regulations (Cap. 413 sub. leg. A) of local vessels that fall within Schedule 7;
- (b) the Director's power to permit the use of alternative fitting, material, appliance or apparatus;
- (c) the Director's power to provide practical guidance by way of Marine Department Notices;
- (d) the issue of duplicate instruments;
- (e) appeals against the decisions of the Director;
- (f) amendments of the Schedules; and
- (g) transitional arrangements.

**MERCHANT SHIPPING (LOCAL VESSELS) (COMPULSORY
THIRD PARTY RISKS INSURANCE) REGULATION**

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MERCHANT SHIPPING (LOCAL VESSELS) (COMPULSORY THIRD PARTY RISKS INSURANCE) REGULATION

(Made by the Secretary for Economic Development and Labour under section 89 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548))

PART 1

PRELIMINARY

1. Commencement

This Regulation shall come into operation on the day appointed for the commencement of section 9 (except in so far as it relates to the new section 23B(1)(c)) of the Merchant Shipping (Local Vessels and Miscellaneous Amendments) Ordinance 2005 (24 of 2005).

2. Interpretation

In this Regulation –

"certificate of insurance" (保險證書) means a certificate of insurance issued for the purposes of section 13(1);

"certificate of ownership number" (擁有權證明書號碼), "class" (類別) and "type" (類型) have the respective meanings assigned to them by section 2(1) of the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548 sub. leg. D).

3. Application

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

PART 2

APPROVAL OF, SUSPENSION AND REVOCATION OF APPROVAL OF, APPROVED INSURER

4. Application for approval as approved insurer

(1) Any protection and indemnity association may make an application in writing to the Director for approval to be an insurer for the purposes of the Ordinance.

(2) A protection and indemnity association that makes an application under this section shall furnish the Director with such information in such form as the Director may require for the purpose of determining the application.

(3) A protection and indemnity association shall notify the Director in writing of any change in the information furnished by it under subsection (2) within 14 days after the date of the change.

(4) A protection and indemnity association that contravenes subsection (3) commits an offence and is liable on conviction to a fine at level 2.

(5) Any person who by virtue of section 20 is guilty of an offence under subsection (4) is liable on conviction to a fine at level 2 and to imprisonment for 3 months.

5. Approval

(1) Upon application made by a protection and indemnity association under section 4, the Director may approve the protection and indemnity association as an insurer for the purposes of the Ordinance, subject to such conditions as he thinks fit.

(2) The Director shall not approve an application unless he is satisfied that the protection and indemnity association is a fit and proper body to be an insurer for the purposes of the Ordinance.

(3) If the Director approves a protection and indemnity association as an insurer for the purposes of the Ordinance, he shall notify in writing the protection and indemnity association and the Insurance Authority.

(4) If the Director refuses an application, he shall notify the applicant in writing of the refusal and the reasons for the refusal.

(5) For the avoidance of doubt, an approval granted under subsection (1) does not signify that an approved insurer is authorized to carry on any class or classes of insurance business under the Insurance Companies Ordinance (Cap. 41).

6. Change in information after approval

(1) An approved insurer shall notify the Director in writing of any change in the information furnished by it under section 4(2) within 14 days after the date of the change.

(2) An approved insurer who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 2.

(3) Any person who by virtue of section 20 is guilty of an offence under subsection (2) is liable on conviction to a fine at level 2 and to imprisonment for 3 months.

7. Amendment of conditions

(1) Where the Director approves a protection and indemnity association as an insurer for the purposes of the Ordinance, he may, at any time thereafter, amend or revoke any condition subject to which the approval has been granted or impose new conditions.

(2) Where the Director amends or revokes any condition or imposes any new condition, he shall, by registered post addressed to the last known address of the approved insurer, give written notice of the amendment, revocation or imposition to the approved insurer and shall include in the notice a statement setting out the reasons for the amendment, revocation or imposition.

(3) The amendment, revocation or imposition shall take effect on the date of receipt by the approved insurer of the notice given under subsection (2) or on such later date, if any, as is specified in the notice.

8. Suspension or revocation of approval

(1) The Director may suspend or revoke the approval granted under section 5(1) of an approved insurer if he reasonably suspects that the approved insurer has failed to comply with –

(a) any condition subject to which the approval has been granted; or

(b) any provision of this Regulation or the Ordinance.

(2) The Director shall not, unless it appears to him that the interests of policy holders would otherwise be detrimentally affected, suspend or revoke the approval of an approved insurer without giving the approved insurer an opportunity to make representations (either orally or in writing or both) as to why the approval should not be suspended or revoked.

(3) If the Director suspends or revokes the approval of an approved insurer, he shall, by registered post addressed to the last known address of the approved insurer, give written notice of the suspension or revocation to the approved insurer and shall include in the notice a statement setting out the reasons for the suspension or revocation.

(4) If the Director suspends or revokes the approval of an approved insurer, he shall give written notice of the suspension or revocation to the Insurance Authority as soon as practicable thereafter.

(5) The suspension or revocation of the approval of an approved insurer shall take effect on the date of receipt by the approved insurer of the notice given under subsection (3) or on such later date, if any, as is specified in the notice.

(6) Subject to section 17, the suspension or revocation of the approval of an approved insurer –

- (a) shall not affect the validity of any policy of insurance or certificate of insurance issued by the approved insurer and which is still in force at the time the suspension or revocation takes effect under subsection (5); and
- (b) shall not affect the rights, liabilities or obligations of the approved insurer under sections 6, 10, 11, 12 and 16 and sections 23D, 23E, 23F, 23G, 23H and 23I of the Ordinance.

(7) The Director may rescind a suspension if it appears to him that it is no longer necessary for the suspension to continue.

9. Obligation of approved insurer on suspension or revocation of approval

(1) Upon receipt of a notice given under section 8(3), the approved insurer shall –

- (a) cease to issue new policies of insurance for the purposes of the Ordinance; and
- (b) cease to renew existing policies of insurance issued for the purposes of the Ordinance.

(2) As soon as practicable after receipt of a notice given under section 8(3), the approved insurer shall notify its policy holders insured for the purposes of the Ordinance of the suspension or revocation of the approval.

(3) An approved insurer who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 6.

(4) Any person who by virtue of section 20 is guilty of an offence under subsection (3) is liable on conviction to a fine at level 6 and to imprisonment for 2 years.

(5) An approved insurer who contravenes subsection (2) commits an offence and is liable on conviction to a fine at level 2.

(6) Any person who by virtue of section 20 is guilty of an offence under subsection (5) is liable on conviction to a fine at level 2 and to imprisonment for 3 months.

10. Appeal

(1) Any person who is aggrieved by a decision made in respect of him by the Director under section 5(1), 7(1) or 8(1) may, within 14 days after the day on which he is informed of the decision, appeal to the Administrative Appeals Board against that decision.

(2) An appeal made under subsection (1) shall not affect the operation of the decision that is appealed against.

PART 3

RECORDS AND CERTIFICATE OF INSURANCE

11. Records of insurance

(1) Every authorized insurer by whom a policy of insurance is issued for the purposes of the Ordinance shall keep a record of the following particulars relating to that policy –

- (a) the full name and address of the person to whom the policy is issued;
- (b) the description of the class and type of the local vessel to which the policy relates and, where known, the name and certificate of ownership number of the vessel;
- (c) the date on which the policy comes into force and the date on which it expires or ceases to have effect; and
- (d) the conditions subject to which the persons or classes of persons specified in the policy will be indemnified.

(2) The record mentioned in subsection (1) shall be preserved for 1 year from the date of expiry of the policy of insurance or the date it ceases to have effect.

(3) Every authorized insurer by whom records are required to be kept under subsection (1) shall, free of charge, furnish to the Director or the Commissioner of Police on request any particulars of the records.

(4) An authorized insurer who contravenes subsection (1), (2) or (3) commits an offence and is liable on conviction to a fine at level 2.

(5) Any person who by virtue of section 20 is guilty of an offence under subsection (4) is liable on conviction to a fine at level 2 and to imprisonment for 3 months.

12. Termination of policy

(1) Where to the knowledge of an authorized insurer a policy of insurance issued by him for the purposes of the Ordinance ceases to be effective without the consent of the person to whom it was issued otherwise than by effluxion of time or by reason of his death, the authorized insurer shall forthwith notify the Director and the Commissioner of Police of the date on which the policy ceased to be effective.

(2) Any authorized insurer who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 2.

(3) Any person who by virtue of section 20 is guilty of an offence under subsection (2) is liable on conviction to a fine at level 2 and to imprisonment for 3 months.

13. Certificate of insurance

(1) When an authorized insurer issues a policy of insurance for the purposes of the Ordinance, he shall at the same time issue with it a certificate of insurance.

(2) A certificate of insurance shall be in the form set out in the Schedule and shall contain particulars of any conditions subject to which the policy of insurance is issued.

(3) A certificate of insurance shall specify in relation to the policy of insurance to which it relates –

- (a) the full name of the person to whom the policy is issued;
- (b) the class and type of the local vessel;
- (c) the name of the vessel insured, if any;
- (d) the certificate of ownership number of the vessel insured or, where the certificate of ownership number is not known, the description of the vessel;
- (e) the dates of commencement and expiry of the period of insurance;
- (f) the date of issue of the policy;
- (g) the name of the authorized insurer;
- (h) the policy number;
- (i) the number of the certificate of insurance;
- (j) the amount of the liability insured;
- (k) the persons or classes of persons specified in the policy as being entitled to have charge of the vessel; and
- (l) the circumstances in which the persons or classes of persons so specified in the policy will be indemnified.

(4) An authorized insurer who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 2.

(5) Any person who by virtue of section 20 is guilty of an offence under subsection (4) is liable on conviction to a fine at level 2 and to imprisonment for 3 months.

14. Display of certificate of insurance

(1) The owner, charterer (if any) and coxswain of a Class I vessel shall ensure that whenever the vessel is in use, the original of the current certificate of insurance relating to the vessel, or a copy thereof certified by the Director to be a true copy, is displayed on the vessel in a place where it is conspicuous and is easily legible.

(2) Any person who in compliance or purported compliance with subsection (1) displays on any local vessel –

(a) any document which is not the original of the current certificate of insurance of the vessel or not a copy thereof certified by the Director to be a true copy; or

(b) the original of the current certificate of insurance of the vessel or a copy thereof certified by the Director to be a true copy that has been falsified in any material particular,

commits an offence and is liable on conviction to a fine at level 2 and to imprisonment for 6 months.

(3) The owner, charterer (if any) or coxswain of a Class I vessel who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 2 and to imprisonment for 1 month.

(4) Where a certificate of insurance ceases to be current during the period for which it is expressed to be valid, no prosecution shall be brought under subsection (3) in respect of anything done or omitted to be done within 7 days of such cesser.

(5) For the purposes of subsection (4), a certificate of insurance ceases to be current if the policy of insurance to which it relates ceases to be in force in relation to the vessel concerned.

15. Authentication of certificate

A certificate of insurance shall be duly authenticated prior to issue by or on behalf of the authorized insurer by whom it is issued.

16. Loss or destruction of certificates

Where an authorized insurer by whom a certificate of insurance has been issued is satisfied that the certificate has become defaced or has been lost or destroyed, the authorized insurer shall, if requested so to do by the person to whom the certificate was issued, issue to him a fresh certificate.

PART 4**MISCELLANEOUS****17. Policy of insurance issued before approval is suspended or revoked**

(1) Where the approval of an approved insurer is suspended or revoked under section 8, the policy holder of any policy of insurance issued by that approved insurer for the purposes of the Ordinance before the approval is suspended or revoked, may opt to –

(a) enforce the policy notwithstanding the suspension or revocation; or

(b) void the policy by reason of the suspension or revocation.

(2) A policy holder who opts to void a policy of insurance pursuant to subsection (1) shall, before the expiration of the policy, by registered post addressed to the last known address of the approved insurer, give written notice of his decision to the approved insurer and the policy shall cease to have effect on the date of the receipt of the notice by the approved insurer or on such later date, if any, as is specified in the notice.

(3) A policy holder who opts to void a policy of insurance pursuant to subsection (1) shall be entitled to recover any consideration paid by him under the policy on a pro-rata basis by reference to the number of days of the remaining part of the validity period of the policy.

18. Policy of insurance issued in contravention of section 9(1)

(1) Where a policy of insurance is issued by any person in contravention of section 9(1), the policy holder may opt to –

- (a) enforce the policy notwithstanding the contravention; or
- (b) void the policy by reason of the contravention.

(2) A policy holder who opts to void a policy of insurance pursuant to subsection (1) shall, before the expiration of the policy, by registered post addressed to the last known address of the person referred to in subsection (1), give written notice of his decision to the person.

(3) A policy holder who opts to void a policy of insurance pursuant to subsection (1) shall be entitled to recover any consideration paid by him under the policy.

19. Register of approved insurer

(1) The Director shall establish and maintain a register of approved insurers and keep the register in his office.

(2) The register referred to in subsection (1) shall be in such form and shall contain such information as the Director may determine.

(3) The register referred to in subsection (1) shall be made available for inspection by the public free of charge during office hours at the office of the Director.

20. Liability of directors, managers, etc.

Where an offence under this Regulation is committed by a body of persons, whether corporate or unincorporate, and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, partner, member, manager, secretary or other officer concerned in the management of such body, or any person who was purporting to act in any such capacity, the director, partner, member, manager, secretary, other officer or person shall be guilty of the like offence.

21. Amount of insurance cover

(1) The Director may, by notice published in the Gazette, specify the amount of insurance cover for the purposes of section 23D(3)(c) of the Ordinance.

(2) A notice under subsection (1) may specify different amounts for different classes, types or descriptions of local vessels and for different circumstances.

22. Transitional

(1) A protection and indemnity association that was an authorized insurer approved under section 107B(2) of the Merchant Shipping Ordinance (Cap. 281) immediately before the commencement of this section shall be deemed to be an insurer approved under section 5.

(2) A policy of insurance that is in compliance with section 107C(1) of the Merchant Shipping Ordinance (Cap. 281) immediately before the commencement of this section shall be deemed to be a policy of insurance in compliance with section 23C(1) of the Ordinance until –

- (a) the date of expiry of the policy;
- (b) the expiry of 1 year from the date of the commencement of this section; or
- (c) the terms or conditions of the policy are altered in any way which would, if section 107C(1) of the Merchant Shipping Ordinance (Cap. 281) was still in force, cause the policy to cease to be in compliance with that section,

whichever is the earliest.

23. Amendment of Schedule

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

SCHEDULE

[ss. 13 & 23]

CERTIFICATE OF INSURANCE

(Issued pursuant to section 13 of the Merchant Shipping (Local Vessels)(Compulsory Third Party Risks Insurance) Regulation (Cap. 548 sub. leg.))

Certificate No. : Policy No.:

Issued on :

1. Name of policy holder(s)
2. Class and type of local vessel
 Name of local vessel (if any)
 Certificate of ownership number or description of local vessel
3. Period of Insurance from to
4. Amount of liability insured
5. Name of authorized insurer
6. Persons or classes of persons entitled to have charge of the local vessel

7. The circumstances in which that person (or persons) will be indemnified

I hereby certify the above particulars in respect of a policy of insurance issued by me.

And I further certify that the policy is issued in accordance with the provisions of the Merchant Shipping (Local Vessels) (Compulsory Third Party Risks Insurance) Regulation (Cap. 548 sub. leg.).

.....
 Authorized Insurer

Date:

Secretary for Economic Development
 and Labour

2006

Explanatory Note

The object of this Regulation is to prescribe for matters incidental to or relating to insurance that is required to be taken out for the purposes of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548).

2. Part 1 provides for preliminary matters (commencement, interpretation and application).
3. Part 2 –
 - (a) empowers the Director of Marine ("Director") to approve a protection and indemnity association for the purposes of the Ordinance;
 - (b) empowers the Director to suspend or revoke the approval in specified circumstances; and

- (c) provides for matters arising from the suspension or revocation of such approval.

4. Part 3 imposes duties on an authorized insurer to keep records of insurance, to issue certificates of insurance and to notify the Director if a policy of insurance ceases to be effective otherwise than by effluxion of time or by reason of death.

5. Part 4 –

- (a) sets out the effect on a policy of insurance if an approval given to an approved insurer is suspended or revoked or if a policy of insurance is issued by a person in contravention of section 9(1);
- (b) prescribes the liability of directors and managers if the offence in the Regulation is committed by a body of persons, whether corporate or unincorporated;
- (c) empowers the Director to specify the amount of insurance cover for different classes, types or descriptions of local vessels and for different circumstances;
- (d) sets out the transitional arrangements; and
- (e) empowers the Director to amend the Schedule.

**MERCHANT SHIPPING (LOCAL VESSELS)(WORKS)
REGULATION**

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MERCHANT SHIPPING (LOCAL VESSELS)(WORKS) REGULATION

(Made by the Secretary for Economic Development and Labour under section 89 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548))

PART 1

PRELIMINARY

1. Commencement

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

2. Interpretation

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

“certificate of test and examination” (測試及檢驗證明書), in relation to a lifting appliance or lifting gear, means a certificate of test and examination, in the form specified by the Director, issued by the competent examiner who tests and examines the lifting appliance or lifting gear, and containing all the particulars required to be entered in the certificate with regard to the test and examination;

“competent examiner” (合資格檢驗員) means a person who –

- (a) is registered under the Engineers Registration Ordinance (Cap. 409) within a discipline specified in Schedule 3; or
- (b) is appointed as a competent examiner for the purposes of this Regulation by an organization specified under subsection (2);

“competent person” (合資格的人) means a person who is competent to perform an inspection or any other particular task permitted or required to be

performed by a competent person under the relevant provision of this Regulation;

“employer” (僱主), in relation to a person employed, means that person’s employer;

“hatch” (艙口) means an opening in a deck of a vessel used for –

- (a) loading or unloading the vessel;
- (b) trimming; or
- (c) ventilation;

“hatchway” (艙口間) means the whole space within the square of the hatches, from the top deck to the bottom of the hold;

“inspector” (督察) means a person appointed under section 39 of the Ordinance;

“person employed” (受僱人) means a person employed to carry out works;

“pulley block” (滑輪組) means a pulley, block, gin or similar gear, other than a crane block specially constructed for use with a crane to which it is permanently attached;

“register of lifting appliances and lifting gear” (起重裝置及起重工具登記冊) means a register of lifting appliances and lifting gear required to be kept under section 40(1);

“relevant safety training course” (有關安全訓練課程) means any of the following training courses provided by a person approved under section 70 –

- (a) (in relation to a works supervisor) the safety training course called “Works supervisor safety training course”;
- (b) (in relation to a person who operates or is in charge of a crane) the safety training course called “Shipboard crane operator safety training course”; or
- (c) (in relation to a person who carries out cargo handling) the safety training course called “Shipboard cargo handling basic safety training course”;

“safe working load” (安全操作負荷) –

- (a) in relation to a lifting appliance or lifting gear which is tested and examined by a competent examiner in the manner prescribed in Schedule 1, means the appropriate safe working load of the lifting appliance or lifting gear specified in the current certificate of test and examination;
- (b) in relation to a lifting appliance or lifting gear which by virtue of section 71(1) is not required to be tested and examined under this Regulation, means the appropriate safe working load of the lifting appliance or lifting gear specified in the current certificate or record referred to in that section;
- (c) in relation to lifting gear which is a pulley block and which by virtue of section 71(2) is not required to be tested and examined under this Regulation, means the safe working load stamped on the pulley block as required under section 43;
- (d) in relation to lifting gear which is a chain and which by virtue of section 71(2) is not required to be tested and examined under this Regulation, means the safe working load marked on the chain or on a tablet or ring attached to the chain as required under section 44(2);
- (e) in relation to lifting gear which is a wire rope sling and which by virtue of section 71(2) is not required to be tested and examined under this Regulation, means –
 - (i) the safe working load marked on the wire rope sling or on a tablet or ring attached to the wire rope sling as required under section 44(3)(a); or
 - (ii) the safe working load of the wire rope sling stated in a notice required under section 44(3)(b); or

- (f) in relation to a lifting appliance or lifting gear not covered by paragraphs (a), (b), (c), (d) and (e), means the appropriate safe working load of the lifting appliance or lifting gear;

“valid certificate” (有效證明書), in relation to a relevant safety training course, means a certificate which –

- (a) is issued by a person approved under section 70 to another person in respect of the attendance of that other person at the relevant safety training course; and
- (b) has not reached its date of expiry;

“workplace” (工作地方) means any place on a local vessel in which a person employed carries out works;

“works supervisor” (工程督導員) means a person appointed under section 19.

(2) The Director may specify an organization which is a full member of the International Association of Classification Societies for the purposes of the definition of “competent examiner” in subsection (1).

(3) The Director shall from time to time publish in the Gazette a notice setting out the organizations specified under subsection (2).

(4) For the purposes of sections 20, 23, 24, 37, 51 and 54, a person is at work throughout the time he is in the course of employment.

(5) For the purposes of this Regulation, a lifting appliance or lifting gear is thoroughly examined if –

- (a) it is examined by means of a visual examination that is carried out as carefully as the circumstances permit; and
- (b) the examination is supplemented, if necessary, by other means like a hammer test or by the dismantling of the parts of the lifting appliance or lifting gear, in order to arrive at a reliable conclusion as to the safety of the parts examined.

(6) For the purposes of this Regulation, regard shall be had to the relevant code of practice issued under section 45A of the Ordinance in determining -

- (a) whether an examination required to be carried out under this Regulation has been or is carried out carefully;
- (b) whether a person is competent, reliable or trained for the purposes of performing a particular task; or
- (c) whether any means of access to a workplace is safe.

3. Application

(1) Subject to subsection (2), this Regulation applies to a local vessel that is within the waters of Hong Kong.

(2) This Regulation does not apply to any repairs to, or the breaking up of, a local vessel that is –

- (a) in a dock, other than a floating dock; or
- (b) on a slip or mechanical lift.

PART 2

SAFE MEANS OF ACCESS AND SAFE WORKPLACES

4. Safe means of access to vessels from land, etc.

(1) If a local vessel is lying at a wharf, quay or mid-stream for the purposes of any works, there shall be provided safe means of access for use by a person employed when that person has to pass –

- (a) from the vessel to the shore or a place on land; or
- (b) from the shore or a place on land to the vessel.

(2) Safe means of access is taken to have been provided –

- (a) if the vessel is equipped with an accommodation ladder or a similar construction, of which one side is properly

protected by the vessel's side, and the ladder or the construction is –

- (i) not less than 550 mm wide;
 - (ii) properly secured to prevent its displacement;
 - (iii) constructed of materials of good quality and in good condition;
 - (iv) securely fenced, throughout on the other side that is not so protected, to a clear height of not less than 820 mm, either by means of upper and lower rails, taut ropes or chains or by other equally safe means; and
 - (v) of adequate length;
- (b) if the vessel is equipped with an accommodation ladder or a similar construction, of which neither side is properly protected by the vessel's side, and the ladder or the construction is –
- (i) not less than 550 mm wide;
 - (ii) properly secured to prevent its displacement;
 - (iii) constructed of materials of good quality and in good condition;
 - (iv) securely fenced, throughout on each side, to a clear height of not less than 820 mm, either by means of upper and lower rails, taut ropes or chains or by other equally safe means; and
 - (v) of adequate length; or
- (c) if the vessel is equipped with a gangway or a similar construction, and the gangway or the construction is –
- (i) not less than 550 mm wide;
 - (ii) properly secured to prevent its displacement;

- (iii) constructed of materials of good quality and in good condition;
- (iv) securely fenced, throughout on each side, to a clear height of not less than 820 mm, either by means of upper and lower rails, taut ropes or chains or by other equally safe means; and
- (v) of adequate length.

(3) Where it is not reasonably practicable for a vessel to be equipped with an accommodation ladder or gangway, or any other construction similar to an accommodation ladder or gangway, safe means of access is taken to have been provided under subsection (1) if the vessel is equipped with a ladder which is -

- (a) of sound material and adequate length; and
- (b) properly secured to prevent its displacement.

(4) If there is a contravention of subsection (1), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

(5) Where the employer is not the person in charge of works, if there is a contravention of subsection (1), the employer shall provide safe means of access required by that subsection as soon as reasonably practicable after the contravention occurs.

(6) An employer who fails to comply with subsection (5) commits an offence and is liable on conviction to a fine at level 3.

(7) Subsection (1) does not apply if, having regard to the condition of the sea, the gap between the shore or place on land and the vessel, and the difference in landing level between the shore or place and the deck of the vessel, it is safe for a person employed to pass from the vessel to the shore or place, and from the shore or place to the vessel, without the aid of a ladder, gangway or similar construction as required under subsection (2) or (3).

5. Safe means of access to workplaces, etc.

(1) There shall be provided safe means of access to a workplace.

(2) All breaks, dangerous corners and other dangerous parts of a workplace shall, in so far as reasonably practicable having regard to the works concerned, be securely fenced, and the fence shall be maintained in good condition ready for use and in no place be less than 1 m in height.

(3) If there is a contravention of subsection (1) or (2), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

(4) Where the employer of the person employed to carry out works in the workplace is not the person in charge of works, if there is a contravention of subsection (1) or (2), the employer shall provide safe means of access required by subsection (1), or take the measures required by subsection (2), as the case may be, as soon as reasonably practicable after the contravention occurs.

(5) An employer who fails to comply with subsection (4) commits an offence and is liable on conviction to a fine at level 3.

6. Safe means of access when vessels alongside each other, etc.

(1) If a person employed has to pass from a vessel to another vessel, there shall be provided safe means of access for use by that person.

(2) Safe means of access is taken to have been provided –

(a) where the vessels are alongside each other and one of them has a freeboard lower than that of the other vessel, if the vessel having the higher freeboard satisfies the conditions set out in subsection (3)(a), (b), (c) or (d); or

(b) in any other case, if either of the vessels satisfies the conditions set out in subsection (3)(a), (b), (c) or (d).

(3) The conditions referred to in subsection (2) are as follows –

- (a) the vessel is equipped with an accommodation ladder or a similar construction, of which one side is properly protected by the vessel's side, and the ladder or the construction is –
- (i) not less than 550 mm wide;
 - (ii) properly secured to prevent its displacement;
 - (iii) constructed of materials of good quality and in good condition;
 - (iv) securely fenced, throughout on the other side that is not so protected, to a clear height of not less than 820 mm, either by means of upper and lower rails, taut ropes or chains or by other equally safe means; and
 - (v) of adequate length;
- (b) the vessel is equipped with an accommodation ladder or a similar construction, of which neither side is properly protected by the vessel's side, and the ladder or the construction is –
- (i) not less than 550 mm wide;
 - (ii) properly secured to prevent its displacement;
 - (iii) constructed of materials of good quality and in good condition;
 - (iv) securely fenced, throughout on each side, to a clear height of not less than 820 mm, either by means of upper and lower rails, taut ropes or chains or by other equally safe means; and
 - (v) of adequate length;
- (c) the vessel is equipped with a gangway or a similar construction, and the gangway or the construction is –
- (i) not less than 550 mm wide;

- (ii) properly secured to prevent its displacement;
 - (iii) constructed of materials of good quality and in good condition;
 - (iv) securely fenced, throughout on each side, to a clear height of not less than 820 mm, either by means of upper and lower rails, taut ropes or chains or by other equally safe means; and
 - (v) of adequate length;
- (d) if it is not reasonably practicable for the vessel to be equipped with an accommodation ladder or gangway, or any other construction similar to an accommodation ladder or gangway, the vessel is equipped with a ladder which is –
- (i) of sound material and adequate length; and
 - (ii) properly secured to prevent its displacement.

(4) If there is a contravention of subsection (1), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

(5) Where the employer is not the person in charge of works, if there is a contravention of subsection (1), the employer shall provide safe means of access required by that subsection as soon as reasonably practicable after the contravention occurs.

(6) An employer who fails to comply with subsection (5) commits an offence and is liable on conviction to a fine at level 3.

(7) Subsection (1) does not apply if, having regard to the condition of the sea, the gap between the vessels, and the deck levels of the vessels, it is safe for a person employed to pass from one vessel to the other without the aid of a ladder, gangway or similar construction as required under subsections (2) and (3).

7. Safe means of access to holds

(1) If a person employed has to carry out works in a hold of a local vessel the depth of which, when measured from the level of the deck to the bottom of the hold, exceeds 1.5 m, there shall be provided safe means of access from the deck to the hold for use by that person.

(2) Subject to subsection (3), the means of access shall be afforded by ladders or steps that are separate from any hatchway and sloping from deck to deck unless the Director otherwise permits.

(3) The means of access may be afforded –

- (a) by ladder cleats or cups on the coamings;
- (b) by ladder cleats or cups on a bulkhead or in a trunk hatchway, if it can be shown that it is not reasonably practicable to provide any ladder on the bulkhead or in the trunk hatchway; or
- (c) by shaft tunnels.

(4) For the purposes of this section, any means of access afforded by ladder is not taken to be safe –

- (a) unless –
 - (i) at each rung of the ladder there is a foothold of a depth, including any space behind the ladder, of not less than 115 mm and a width of not less than 250 mm and there is a sufficient number of firm handholds along each side of the ladder;
 - (ii) the cargo, if any, is stowed sufficiently far from the ladder, having regard to the requirements under subparagraph (i);
 - (iii) there is room to pass between a winch (or any other obstruction) and the coamings at the place where the ladder leaves the deck; and

(iv) (where ladders are afforded from the top deck to the lower decks) the ladders between the lower decks are in the same line as the ladder from the top deck, if that is reasonably practicable having regard to the position of the lower hatch or hatches;
or

(b) if the ladder is recessed under the deck more than is reasonably necessary to keep the ladder clear of the hatchway.

(5) For the purposes of this section, any means of access afforded by cleats or cups is not taken to be safe unless –

(a) the cleats or cups provide a foothold of a depth, including any space behind the cleats or cups, of not less than 115 mm and a width of not less than 250 mm and there is a sufficient number of firm handholds along each side of the means of access;

(b) the cleats or cups are so constructed as to prevent a person's foot slipping off the side; and

(c) the cleats or cups are placed vertically one above the other and, if they give access to ladders, in the same line as the ladders to which they give access.

(6) For the purposes of this section, any means of access afforded by steps is not taken to be safe unless –

(a) every step provides a foothold of a depth, including any space behind the step, of not less than 115 mm and a width of not less than 250 mm and there is a sufficient number of firm handholds along each side of the means of access;

(b) the cargo, if any, is stowed sufficiently far from the steps, having regard to the requirements under paragraph (a);

- (c) there is room to pass between a winch (or any other obstruction) and the coamings at the place where the steps leave the deck.

(7) For the purposes of this section, any means of access afforded by a shaft tunnel is not taken to be safe unless the tunnel is equipped on each side with adequate footholds, each of a depth of not less than 115 mm and a width of not less than 250 mm, and firm handholds.

(8) If there is a contravention of subsection (1), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

(9) Where the employer is not the person in charge of works, if there is a contravention of subsection (1), the employer shall provide safe means of access required by that subsection as soon as reasonably practicable after the contravention occurs.

(10) An employer who fails to comply with subsection (9) commits an offence and is liable on conviction to a fine at level 3.

8. Free passage to means of access at coamings

(1) Where works are to be, or are being, carried out in a hold of a local vessel, free passage to the means of access from the deck to the hold shall be left at the coamings of the vessel.

(2) If there is a contravention of subsection (1), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

(3) Where the employer of the person employed to carry out the works is not the person in charge of works, if there is a contravention of subsection (1), the employer shall take the measures required by that subsection as soon as reasonably practicable after the contravention occurs.

(4) An employer who fails to comply with subsection (3) commits an offence and is liable on conviction to a fine at level 3.

9. Lighting of workplaces, etc.

- (1) Where works are being carried out on a local vessel –
 - (a) every workplace of the vessel;
 - (b) every other part of the vessel to which a person employed may be required to proceed in the course of his employment; and
 - (c) every means of access provided under sections 4, 5, 6 and 7,

shall be efficiently lighted, having regard to the safety of the vessel and cargo concerned, the person employed and the navigation of any other vessel.

(2) If there is a contravention of subsection (1), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

(3) Where the employer is not the person in charge of works, if there is a contravention of subsection (1), the employer shall take the measures required by that subsection as soon as reasonably practicable after the contravention occurs.

(4) An employer who fails to comply with subsection (3) commits an offence and is liable on conviction to a fine at level 3.

10. Ventilation and protection against fumes, etc.

(1) Effective and suitable arrangements shall be made for the adequate ventilation of every workplace and every other part of a local vessel to which a person employed is permitted or required to proceed in the course of his employment.

(2) Without limiting the generality of subsection (1), the ventilation of a place mentioned in that subsection is not adequate if –

- (a) the proportion of oxygen in the air in that place is, or may have been, substantially reduced below the normal proportion; or

(b) there exists, or is likely to exist, any fume, gas, vapour, dust or other impurity in the air that may be injurious to health.

(3) All practicable measures shall be taken to protect a person who is in a place mentioned in subsection (1) against inhalation of any fume, gas, vapour, dust and other impurity in the air that may be injurious to health.

(4) If there is a contravention of subsection (1) or (3), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

(5) Where the employer is not the person in charge of works, if there is a contravention of subsection (1) or (3), the employer shall make the arrangements required by subsection (1), or take the measures required by subsection (3), as the case may be, as soon as reasonably practicable after the contravention occurs.

(6) An employer who fails to comply with subsection (5) commits an offence and is liable on conviction to a fine at level 3.

11. Gear for lifting beams

(1) Where works are to be, or are being, carried out on, to or by means of a local vessel, each beam used for hatch covering in respect of the vessel shall have suitable gear for lifting it on and off so that it is not necessary for a person to go on the beam to adjust the gear.

(2) If there is a contravention of subsection (1), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

12. Marking on hatch coverings and beams

(1) Where works are to be, or are being, carried out on, to or by means of a local vessel, each hatch covering of the vessel shall be plainly marked to indicate –

(a) the deck to which it belongs;

- (b) the hatch to which it belongs; and
- (c) its position in the hatch.

(2) Where works are to be, or are being, carried out on, to or by means of a local vessel, each beam used for hatch covering in respect of the vessel shall be plainly marked to indicate –

- (a) the deck to which it belongs;
- (b) the hatch to which it belongs; and
- (c) its position in the hatch.

(3) If there is a contravention of subsection (1) or (2), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

(4) Subsection (1)(a) does not apply if –

- (a) the vessel has only one deck; or
- (b) all hatch coverings of the vessel are interchangeable.

(5) Subsection (1)(b) does not apply if –

- (a) the vessel has only one hatch; or
- (b) all hatch coverings of the vessel are interchangeable.

(6) Subsection (1)(c) does not apply if –

- (a) the vessel has only one hatch covering; or
- (b) all hatch coverings of the vessel are interchangeable.

(7) Notwithstanding subsection (6), subsection (1)(c) does not apply to any hatch covering in respect of a particular hatch of the vessel if –

- (a) there is only one hatch covering in respect of that particular hatch; or
- (b) all hatch coverings in respect of that particular hatch are interchangeable.

(8) Subsection (2)(a) does not apply if –

- (a) the vessel has only one deck; or
- (b) all beams used for hatch coverings in respect of the vessel are interchangeable.

- (9) Subsection (2)(b) does not apply if –
- (a) the vessel has only one hatch; or
 - (b) all beams used for hatch coverings in respect of the vessel are interchangeable.
- (10) Subsection (2)(c) does not apply if –
- (a) the vessel has only one beam used for hatch covering; or
 - (b) all beams used for hatch coverings in respect of the vessel are interchangeable.

(11) Notwithstanding subsection (10), subsection (2)(c) does not apply to any beam used for hatch covering in respect of a particular hatch of the vessel if –

- (a) there is only one beam used for hatch covering in respect of that particular hatch; or
- (b) all beams used for hatch coverings in respect of that particular hatch are interchangeable.

13. Maintenance of hatch coverings and beams

(1) Where works are to be, or are being, carried out on, to or by means of a local vessel, all hatch coverings, and all beams used for hatch coverings, of the vessel shall be maintained in good condition.

(2) If there is a contravention of subsection (1), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

14. Hand grips on hatch coverings

(1) Where works are to be, or are being, carried out on, to or by means of a local vessel, all hatch coverings of the vessel shall be provided with adequate hand grips.

(2) For the purposes of subsection (1), in determining whether adequate hand grips are provided, regard shall be had to the size and weight of the hatch coverings.

(3) If there is a contravention of subsection (1), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

(4) This section does not apply to a hatch covering if the construction of the hatch or the hatch covering is such that provision of hand grips is unnecessary.

15. Locking devices on hatch coverings and beams

(1) Where works are to be, or are being, carried out on, to or by means of a local vessel -

(a) all hatch coverings of the vessel which are of a type that does not require beams for support; and

(b) all beams used for hatch coverings in respect of the vessel, shall be fitted with adequate locking devices to prevent their displacement by a passing load or in any other circumstances.

(2) If there is a contravention of subsection (1), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

16. Safety in removing and replacing hatch coverings and beams

(1) If the working space around a hatch of a local vessel is less than 600 mm wide, such arrangements shall be made as to enable a person employed to remove and replace in safety any hatch covering and beam used for hatch covering.

(2) If there is a contravention of subsection (1), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

17. Power operated hatch coverings and hull doors, etc.

(1) Where works are to be, or are being, carried out on, to or by means of a local vessel, no power operated hatch covering of the vessel shall be opened, closed or otherwise operated –

- (a) by a person other than a competent person; or
- (b) in a manner that may cause injury to any person.

(2) Where works are to be, or are being, carried out on, to or by means of a local vessel, no power operated door in the hull, ramp, retractable deck or similar ship's equipment of the vessel shall be opened, closed or otherwise operated –

- (a) by a person other than a competent person; or
- (b) in a manner that may cause injury to any person.

(3) If there is a contravention of subsection (1) or (2), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

PART 3

OCCUPATIONAL SAFETY

18. Works to be supervised by works supervisors

(1) No works shall be carried out on, to or by means of a local vessel unless the works are carried out under the supervision of at least one works supervisor.

(2) If there is a contravention of subsection (1), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

19. Appointment of works supervisors

(1) For the purposes of supervising works carried out on, to or by means of a local vessel, a person in charge of works may, subject to subsection (2), appoint a person as a works supervisor.

(2) An appointment made under subsection (1) is not valid unless -

- (a) it is in writing; and
- (b) the person appointed is a person who –
 - (i) has attained the age of 18 years;
 - (ii) has at least 2 years practical experience in relevant works on any vessel; and
 - (iii) holds -
 - (A) a valid certificate in respect of the relevant safety training course; or
 - (B) such other certificate relating to safety training recognized by the Director.

20. Duties of works supervisors

(1) A works supervisor shall –

- (a) supervise works carried out on, to or by means of a local vessel in accordance with the safety instructions given by a person in charge of works;
- (b) assist a person in charge of works in performing any duties imposed on that person under this Regulation;
- (c) carry with him while at work a certificate referred to in section 19(2)(b)(iii); and
- (d) produce the certificate to an inspector for inspection on demand.

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

(3) A person who, without reasonable excuse, fails to comply with subsection (1)(c) or (d) commits an offence and is liable on conviction to a fine at level 2.

21. Safety helmets, etc.

(1) A person employed shall be provided with an appropriate safety helmet and, so far as reasonably practicable, other protective clothing and equipment that are appropriate to prevent bodily injury to that person.

(2) Reasonable measures shall be taken to ensure that a person employed does not remain on the local vessel when works are being carried out unless he is –

- (a) wearing an appropriate safety helmet; and
- (b) if any other protective clothing and equipment are provided under subsection (1), using those other clothing and equipment.

(3) If there is a contravention of subsection (1) or (2), the person in charge of works and the employer commit an offence and each is liable on conviction to a fine at level 3.

(4) In this section, “protective clothing and equipment” (防護衣物及裝備) includes safety goggles, ear protectors (which include ear-muffs and ear plugs), safety shoes, safety harness, respirators, buoyancy aids and other body protection.

22. Provision of first aid box

(1) Where works are to be, or are being, carried out on, to or by means of a local vessel, there shall be a first aid box that –

- (a) is of adequate capacity;
- (b) is plainly marked in a conspicuous place on it “FIRST AID” in English and “急救” in Chinese; and
- (c) contains such items as are specified in Schedule 2.

(2) The items required to be contained in a first aid box under subsection (1)(c) shall be maintained in good condition at all times.

(3) The first aid box shall be kept in such place and maintained in such a way as to be readily accessible.

(4) If there is a contravention of subsection (1), (2) or (3), the person in charge of works and the employer of a person employed to carry out the works commit an offence and each is liable on conviction to a fine at level 3.

23. General duties of persons in charge of works and employers

(1) Any machinery, equipment or appliance provided for use by a person employed in relation to works shall be in a safe working condition.

(2) Measures shall, in so far as reasonably practicable, be taken to ensure the safety of a person employed at work.

(3) There shall be provided such information, instruction, training or supervision as may be necessary to ensure, in so far as reasonably practicable, the safety of a person employed at work.

(4) If there is a contravention of subsection (1), (2) or (3), the person in charge of works and the employer commit an offence and each is liable on conviction to a fine at level 4.

(5) In this section, “machinery, equipment or appliance” (機械、裝備或裝置) has the same meaning as in section 37 of the Ordinance.

24. Persons employed to take care of others while at work and to cooperate with works supervisors

(1) A person employed at work shall -

- (a) take reasonable care for the safety of himself and of other persons who may be affected by his act or omission; and

(b) wear an appropriate safety helmet and use other appropriate protective clothing and equipment provided to him under section 21.

(2) A person employed at work shall cooperate with or assist a works supervisor to the extent necessary for enabling the works supervisor to perform the duty imposed on him under section 20(1)(a) or (b).

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

PART 4

LIFTING APPLIANCES AND LIFTING GEAR

25. Interpretation of Part 4

(1) In this Part, “owner” (擁有人), in relation to a lifting appliance or lifting gear, includes -

- (a) the lessee or hirer of the lifting appliance or lifting gear;
and
- (b) a foreman, an overseer or any other person in charge or having the control or management of the lifting appliance or lifting gear.

(2) A reference in any provision of this Part to a regulation of the Shipping and Port Control (Cargo Handling) Regulations (Cap. 313 sub. leg. B) is a reference to that regulation in the Shipping and Port Control (Cargo Handling) Regulations (Cap. 313 sub. leg. B) which was in force before the commencement of that provision (“old regulation”).

(3) A reference in any provision of this Part to any new regulation made under section 80 of the Shipping and Port Control Ordinance (Cap. 313) is a reference to any regulation (other than the old regulation) made under that

section providing for, amongst other things, the control and use of lifting appliances and lifting gear.

26. General safety requirements regarding lifting appliances

- (1) No lifting appliance shall be used unless –
 - (a) the lifting appliance is of good mechanical construction and design, made of strong and sound materials and free from any patent defect;
 - (b) the lifting appliance is properly maintained in a safe working condition and properly installed and rigged for use in a safe and proper manner;
 - (c) the arrangements for fixing and anchoring the lifting appliance are adequate to secure its safety; and
 - (d) (if the lifting appliance is a derrick) adequate measures are taken to prevent the foot of the derrick being accidentally lifted out of its socket or support.

(2) If there is a contravention of subsection (1), the owner of the lifting appliance and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

27. General safety requirements regarding lifting gear

- (1) No lifting gear shall be used unless –
 - (a) the lifting gear is of good mechanical construction and design, made of strong and sound materials and free from any patent defect; and
 - (b) the lifting gear is properly maintained in a safe working condition and properly installed and rigged for use in a safe and proper manner.

(2) If there is a contravention of subsection (1), the owner of the lifting gear and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

28. Safety requirements regarding certain lifting gear - ropes in general

(1) No rope shall be used as lifting gear unless it is of suitable quality and free from any patent defect.

(2) If there is a contravention of subsection (1), the owner of the lifting gear and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

29. Restrictions on using certain lifting gear

(1) No lifting gear made of wrought iron or having any part made of wrought iron shall be used.

(2) No heat treatment shall be applied to lifting gear made of steel or having any part made of steel unless the treatment is carried out under the supervision of a competent person and as required by him.

(3) If there is a contravention of subsection (1) or (2), the owner of the lifting gear and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

30. Testing and examination of lifting appliances

(1) A lifting appliance shall not be taken into use if it has not been duly tested and examined.

(2) A lifting appliance that has been taken into use shall not be used again if it has not been duly tested and examined, within the preceding 4 years.

(3) A lifting appliance of which any stress-bearing part has been substantially altered or repaired shall not be used if the lifting appliance has not been duly tested and examined after the alteration or repair.

(4) If there is a contravention of subsection (1), (2) or (3), the owner of the lifting appliance and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

(5) For the purposes of subsections (1), (2) and (3), a lifting appliance has been duly tested and examined if –

- (a) it has been tested and examined by a competent examiner in the manner prescribed in Schedule 1;
- (b) it has been tested and examined in accordance with any new regulation made under section 80 of the Shipping and Port Control Ordinance (Cap. 313); or
- (c) it has been tested and examined in compliance with regulation 20(1) of the Shipping and Port Control (Cargo Handling) Regulations (Cap. 313 sub. leg. B).

31. Thorough examination of lifting appliances

(1) A lifting appliance that has been taken into use shall not be used again if it has not been thoroughly examined by a competent examiner, within the preceding 12 months.

(2) If there is a contravention of subsection (1), the owner of the lifting appliance and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

(3) Subsection (1) does not apply if –

- (a) the lifting appliance has been duly tested and examined in compliance with section 30, within the preceding 12 months;
- (b) the lifting appliance has been thoroughly examined in compliance with any new regulation made under section 80 of the Shipping and Port Control Ordinance (Cap. 313), within the preceding 12 months; or

- (c) the lifting appliance has been inspected or examined in compliance with regulation 20(2)(a) or (b) of the Shipping and Port Control (Cargo Handling) Regulations (Cap. 313 sub. leg. B), within the preceding 12 months.

32. Testing and examination of certain lifting gear

(1) A chain, wire rope sling, ring, hook, shackle, swivel or pulley block shall not be used as lifting gear if it has not been duly tested and examined.

(2) A chain, ring, hook, shackle or swivel, which has been lengthened, altered or repaired by welding, shall not be used as lifting gear if it has not been duly tested and examined after it has been so lengthened, altered or repaired, as the case may be.

(3) If there is a contravention of subsection (1) or (2), the owner of the lifting gear and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

(4) For the purposes of subsection (1), a chain, wire rope sling, ring, hook, shackle, swivel or pulley block has been duly tested and examined if –

- (a) it has been tested and examined by a competent examiner in the manner prescribed in Schedule 1;
- (b) it has been tested and examined in accordance with any new regulation made under section 80 of the Shipping and Port Control Ordinance (Cap. 313); or
- (c) it has been tested and examined in compliance with regulation 21(1) of the Shipping and Port Control (Cargo Handling) Regulations (Cap. 313 sub. leg. B).

33. Thorough examination of certain lifting gear

(1) A chain, wire rope sling, ring, hook, shackle, swivel or pulley block shall not be used as lifting gear if it has not been thoroughly examined by a competent examiner, within the preceding 12 months.

(2) If there is a contravention of subsection (1), the owner of the lifting gear and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

(3) Subsection (1) does not apply if –

- (a) the chain, wire rope sling, ring, hook, shackle, swivel or pulley block has been duly tested and examined in compliance with section 32, within the preceding 12 months;
- (b) the chain, wire rope sling, ring, hook, shackle, swivel or pulley block has been thoroughly examined in compliance with any new regulation made under section 80 of the Shipping and Port Control Ordinance (Cap. 313), within the preceding 12 months; or
- (c) the chain, wire rope sling, ring, hook, shackle, swivel or pulley block has been examined in compliance with regulation 21(3) of the Shipping and Port Control (Cargo Handling) Regulations (Cap. 313 sub. leg. B), within the preceding 12 months.

34. Inspection of certain lifting gear

(1) A chain, wire rope sling, ring, hook, shackle, swivel or pulley block shall not be used as lifting gear if it has not been inspected by a competent person, within the preceding 3 months.

(2) If there is a contravention of subsection (1), the owner of the lifting gear and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

(3) Subsection (1) does not apply if –

- (a) the chain, wire rope sling, ring, hook, shackle, swivel or pulley block has been duly tested and examined in

- compliance with section 32, or examined in compliance with section 33, within the preceding 3 months;
- (b) the chain, wire rope sling, ring, hook, shackle, swivel or pulley block has been thoroughly examined or inspected in compliance with any new regulation made under section 80 of the Shipping and Port Control Ordinance (Cap. 313), within the preceding 3 months; or
 - (c) the chain, wire rope sling, ring, hook, shackle, swivel or pulley block has been examined or inspected in compliance with regulation 21(3) of the Shipping and Port Control (Cargo Handling) Regulations (Cap. 313 sub. leg. B), within the preceding 3 months.

**35. Testing and examination of other lifting gear
- wire ropes**

(1) A wire rope shall not be used as lifting gear if it has not been duly tested and examined.

(2) If there is a contravention of subsection (1), the owner of the lifting gear and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

(3) For the purposes of subsection (1), a wire rope has been duly tested and examined if –

- (a) it has been tested and examined by a competent examiner in the manner prescribed in Schedule 1;
- (b) it has been tested and examined in accordance with any new regulation made under section 80 of the Shipping and Port Control Ordinance (Cap. 313); or
- (c) it has been tested and examined in compliance with regulation 22(1)(b) of the Shipping and Port Control (Cargo Handling) Regulations (Cap. 313 sub. leg. B).

36. Inspection of other lifting gear - wire ropes

(1) A wire rope in which any wire has broken shall not be used as lifting gear if it has not been inspected by a competent person, within the preceding month.

(2) Any other wire rope shall not be used as lifting gear if it has not been inspected by a competent person, within the preceding 3 months.

(3) If there is a contravention of subsection (1) or (2), the owner of the lifting gear and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

(4) Subsection (1) does not apply if –

- (a) the wire rope has been duly tested and examined in compliance with section 35, within the preceding month;
- (b) the wire rope has been inspected in compliance with any new regulation made under section 80 of the Shipping and Port Control Ordinance (Cap. 313), within the preceding month; or
- (c) the wire rope has been inspected in compliance with regulation 22(2) of the Shipping and Port Control (Cargo Handling) Regulations (Cap. 313 sub. leg. B), within the preceding month.

(5) Subsection (2) does not apply if –

- (a) the wire rope has been duly tested and examined in compliance with section 35, within the preceding 3 months;
- (b) the wire rope has been inspected in compliance with any new regulation made under section 80 of the Shipping and Port Control Ordinance (Cap. 313), within the preceding 3 months; or
- (c) the wire rope has been inspected in compliance with regulation 22(2) of the Shipping and Port Control (Cargo

Handling) Regulations (Cap. 313 sub. leg. B), within the preceding 3 months.

37. Powers of Director and inspector to request lifting appliances or lifting gear to be tested and examined, thoroughly examined or inspected

(1) The Director or an inspector may, if it appears to him to be desirable in the interest of safety of persons employed at work, request a lifting appliance –

- (a) to be tested and examined by a competent examiner in the manner prescribed in Schedule 1 before it is used; or
- (b) to be thoroughly examined by a competent examiner before it is used.

(2) The Director or an inspector may, if it appears to him to be desirable in the interest of safety of persons employed at work, request a chain, wire rope sling, ring, hook, shackle, swivel or pulley block used as lifting gear –

- (a) to be tested and examined by a competent examiner in the manner prescribed in Schedule 1 before it is used;
- (b) to be thoroughly examined by a competent examiner before it is used; or
- (c) to be inspected by a competent person before it is used.

(3) The Director or an inspector may, if it appears to him to be desirable in the interest of safety of persons employed at work, request a wire rope used as lifting gear –

- (a) to be tested and examined by a competent examiner in the manner prescribed in Schedule 1 before it is used; or
- (b) to be inspected by a competent person before it is used.

(4) A request may be made to –

- (a) the owner of the lifting appliance or lifting gear;
- (b) the person in charge of works; or

(c) both of them.

(5) If the owner of the lifting appliance or lifting gear or the person in charge of works does not comply with a request made to him, he commits an offence and is liable on conviction to a fine at level 3.

38. Other restrictions on use of wire ropes

(1) A wire rope shall not be used as lifting gear if –

- (a) in any length of 8 diameters the total number of visible broken wires exceeds 10% of the total number of wires; or
- (b) the rope shows signs of excessive wear, corrosion or other defect which, in the opinion of the person who inspects it, renders it unfit for use.

(2) Any thimble or loop splice made in a wire rope used as lifting gear shall have at least 3 tucks with a whole strand of the rope and 2 tucks with one half of the wires cut out of each strand, with the strands being tucked against the lay of the rope.

(3) No other form of splice shall be used unless it can be shown that the splice is as efficient as that described in subsection (2).

(4) If there is a contravention of subsection (1), (2) or (3), the owner of the lifting gear and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

39. Certificates to be obtained from competent examiners or competent persons

(1) Where a lifting appliance or lifting gear is tested and examined by a competent examiner in the manner prescribed in Schedule 1, the owner of the lifting appliance or lifting gear and the person in charge of works shall ensure that, before the lifting appliance or lifting gear is used –

- (a) there is obtained, from the competent examiner, a certificate of test and examination in respect of the lifting appliance or lifting gear; and

- (b) the certificate is attached to the register of lifting appliances and lifting gear.

(2) Where a lifting appliance or lifting gear is thoroughly examined by a competent examiner, the owner of the lifting appliance or lifting gear and the person in charge of works shall ensure that, before the lifting appliance or lifting gear is used, there is entered, by the competent examiner, in the register of lifting appliances and lifting gear –

- (a) a certificate of thorough examination in respect of the lifting appliance or lifting gear; and
- (b) all the particulars required to be entered in the register with regard to the examination.

(3) Where any lifting gear is inspected by a competent person, the owner of the lifting gear and the person in charge of works shall ensure that, before the lifting gear is used, there is entered, by the competent person, in the register of lifting appliances and lifting gear –

- (a) a certificate of inspection in respect of the lifting gear; and
- (b) all the particulars required to be entered in the register with regard to the inspection.

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

40. Keeping of register of lifting appliances and lifting gear

(1) The owner of a lifting appliance or lifting gear and the coxswain of the local vessel on which the lifting appliance or lifting gear is used shall ensure that there is kept on the local vessel, a register of lifting appliances and lifting gear in the form specified by the Director, in respect of the lifting appliance or lifting gear.

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

41. Markings on certain lifting gear

(1) Subject to subsection (2), every grab, lifting beam, lifting frame, vacuum lifting device or magnetic lifting device, that does not form an integral part of a lifting appliance but is used as lifting gear shall be clearly marked with its own weight.

(2) The markings required to be made under subsection (1) shall be readily legible and done in such a manner that they shall not affect the strength of the lifting appliance or lifting gear.

(3) If there is a contravention of subsection (1) or (2), the owner of the lifting gear and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

42. Safe working load not to be exceeded

(1) No lifting appliance or lifting gear shall be loaded beyond the safe working load applicable to the lifting appliance or lifting gear.

(2) If there is a contravention of subsection (1), the person in charge of works and the operator of the lifting appliance or lifting gear commit an offence and each is liable on conviction to a fine at level 3.

(3) For the purposes of this section, where any lifting gear is loaded by means of a lifting appliance, the person who operates the lifting appliance is the operator of the lifting gear.

(4) This section does not apply where a lifting appliance or lifting gear is being tested and examined.

43. Safe working loads of pulley blocks

(1) No pulley block shall be used as lifting gear unless the safe working load is clearly stamped on it.

(2) If there is a contravention of subsection (1), the owner of the lifting gear and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

44. Safe working loads of cranes and slings, etc.

(1) Every crane or derrick used as a lifting appliance shall have the safe working load prominently marked on it.

(2) Every chain used as lifting gear shall be marked with the safe working load in plain figures or letters on it or on a tablet or ring of durable material attached securely to it.

(3) Where a wire rope sling of any size is used as lifting gear –

(a) the wire rope sling shall be marked with the safe working load in plain figures or letters on it or on a tablet or ring of durable material attached securely to it; or

(b) there shall be a notice which –

(i) states clearly the safe working load of a wire rope sling of that size when used as lifting gear; and

(ii) is exhibited in such a manner as to be easily read by a person employed.

(4) Means shall be provided to enable a person using a chain or wire rope sling as lifting gear to ascertain the safe working load of the chain or sling under such conditions as it may be used.

(5) If there is a contravention of subsection (1), the owner of the lifting appliance and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

(6) If there is a contravention of subsection (2), (3) or (4), the owner of the lifting gear and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

45. Strength calculation, etc. in respect of cranes

(1) There shall be kept on a local vessel on which a crane is used as a lifting appliance the following documents in respect of the crane –

(a) a document showing its strength calculation;

(b) a rigging diagram; and

(c) a drawing known as an “as fitted drawing”.

(2) The document, diagram and drawing referred to in subsection (1) shall be certified by a competent examiner.

(3) The document, diagram or drawing referred to in subsection (1) shall, if required by the Director or an inspector under section 40 of the Ordinance, be so produced, on board the vessel on which the crane is carried, by –

- (a) the owner of the lifting appliance; or
- (b) the person in charge of works.

(4) If there is a contravention of subsection (1) or (2), the owner of the lifting appliance and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

(5) This section does not apply to a crane installed on a local vessel before the commencement of this section and which has not been substantially altered after that commencement.

46. Qualified persons to be in charge of lifting appliances

(1) No load shall be left suspended from a lifting appliance unless there is a qualified person in charge of the lifting appliance while the load is so left.

(2) In relation to a lifting appliance which is a crane, a qualified person is a person who –

- (a) has attained the age of 18 years;
- (b) holds –
 - (i) a valid certificate in respect of the relevant safety training course; or
 - (ii) such other certificate relating to safety training recognized by the Director; and
- (c) by virtue of his experience, is competent to operate a crane.

(3) In relation to any other lifting appliance, a qualified person is a person who –

- (a) has attained the age of 18 years; and
- (b) is trained and competent to operate the lifting appliance.

(4) If there is a contravention of subsection (1), the owner of the lifting appliance and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

47. Shortening of chains and their protection

(1) Chains used as lifting gear shall not be shortened by tying knots in them.

(2) Suitable packing shall be provided to prevent the links of such chains coming into contact with sharp edges of loads of hard material.

(3) If there is a contravention of subsection (1) or (2), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

48. Fencing of motors, etc.

(1) Any motor, cog-wheel, chain gearing, friction gearing, shafting, live electric conductor or steam pipe, when used as a component of a lifting appliance, shall, in so far as reasonably practicable, be securely fenced without impeding the safe working of the local vessel.

(2) If there is a contravention of subsection (1), the owner of the lifting appliance and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

(3) This section does not apply to any motor, cog-wheel, chain gearing, friction gearing, shafting, live electric conductor or steam pipe if it can be shown that by its position and construction, it is equally safe to a person employed as it would be if securely fenced.

49. Safeguards on cranes, etc.

(1) Any crane or winch used as a lifting appliance shall be provided with such means as will reduce to a minimum the risk of the accidental descent of a load while being hoisted or lowered.

(2) If there is a contravention of subsection (1), the owner of the lifting appliance and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

50. Operator's platform on cranes

(1) The operator's platform on every crane used as a lifting appliance and driven by mechanical power shall be securely fenced and provided with safe means of access, and where access is afforded by ladder –

- (a) the sides of the ladder shall extend to a reasonable distance beyond the platform or some other suitable handholds shall be provided;
- (b) the landing place on the platform shall be maintained free from obstruction; and
- (c) if the ladder is vertical and exceeds 9 m in height, a resting place shall be provided approximately midway between the platform and the foot of the ladder.

(2) If there is a contravention of subsection (1), the owner of the lifting appliance and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

51. Operators of cranes and other lifting appliances, etc.

(1) No crane shall be used as a lifting appliance unless the crane is operated by a person who –

- (a) has attained the age of 18 years;
- (b) holds –

- (i) a valid certificate in respect of the relevant safety training course; or
 - (ii) such other certificate relating to safety training recognized by the Director; and
 - (c) by virtue of his experience, is competent to operate a crane.
- (2) A person who operates a crane for the purposes mentioned in subsection (1) shall –
- (a) carry with him while at work a certificate referred to in subsection (1)(b); and
 - (b) produce the certificate to an inspector for inspection on demand.
- (3) No other lifting appliance shall be used unless the lifting appliance is operated by a person who –
- (a) has attained the age of 18 years; and
 - (b) is trained and competent to operate the lifting appliance.
- (4) A person shall not be permitted or required to attend to falls on winch ends or winch drums unless the person –
- (a) has attained the age of 18 years; and
 - (b) is competent and reliable.
- (5) If there is a contravention of subsection (1) or (3), the owner of the lifting appliance and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.
- (6) A person who, without reasonable excuse, fails to comply with subsection (2)(a) or (b) commits an offence and is liable on conviction to a fine at level 2.
- (7) If any permission is given or requirement is made in contravention of subsection (4), the person in charge of works or, if the winch concerned is used as a lifting appliance, the owner of the lifting appliance, who gives the permission or makes the requirement commits an offence and is liable on conviction to a fine at level 3.

(8) Subsection (1)(b) and (c) does not apply if a person undergoing training as an operator of a crane operates the crane under the supervision of another person who meets the requirements in subsection (1)(a), (b) and (c).

(9) Subsection (3)(b) does not apply if a person undergoing training as an operator of the lifting appliance operates the lifting appliance under the supervision of another person who meets the requirements in subsection (3)(a) and (b).

(10) Subsection (4)(b) does not apply if the person attends to falls on winch ends or winch drums under the supervision of another person who meets the requirements in subsection (4)(a) and (b).

52. Measures regarding steam

(1) Adequate measures shall be taken to prevent exhaust steam, from a crane or winch used as a lifting appliance, from obscuring any part of a workplace.

(2) Adequate measures shall be taken to prevent, to the extent that it is reasonably practicable, live steam supplied to a crane or winch used as a lifting appliance from obscuring any part of a workplace.

(3) If there is a contravention of subsection (1) or (2), the owner of the lifting appliance and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

53. Prohibition on use of lifting appliances or lifting gear which does not comply with this Part

(1) An employer shall not permit or require a person employed to use a lifting appliance or lifting gear which does not comply with this Part.

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

PART 5
CARGO HANDLING

54. Persons carrying out cargo handling are to hold certificates

(1) No cargo handling shall be carried out by a person unless the person holds a valid certificate in respect of the relevant safety training course or such other certificate relating to safety training recognized by the Director.

(2) A person who carries out cargo handling shall –

- (a) carry with him while at work a certificate referred to in subsection (1); and
- (b) produce the certificate to an inspector for inspection on demand.

(3) If there is a contravention of subsection (1), the person in charge of works and, if the person who carries out the cargo handling is a person employed, the employer commit an offence and each is liable on conviction to a fine at level 3.

(4) A person who, without reasonable excuse, fails to comply with subsection (2)(a) or (b) commits an offence and is liable on conviction to a fine at level 2.

55. Means of escape of persons employed

(1) Necessary and effective precautions shall be taken to facilitate the escape of a person employed dealing with bulk cargo in a hold or on 'tween decks of a local vessel.

(2) If there is a contravention of subsection (1), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

56. Deck stages or cargo stages

(1) No deck stage or cargo stage shall be used in cargo handling unless it is substantially and firmly constructed, adequately supported and, where necessary, securely fastened.

(2) No truck shall be used for carrying cargo between a local vessel and the shore on a stage so steep as to be unsafe.

(3) A deck stage or cargo stage that is slippery shall be made safe by the use of sand or otherwise.

(4) If there is a contravention of subsection (1), (2) or (3), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

57. Requirements relating to fencing of hatches and hatch coverings

(1) Where a person employed is on a local vessel for the purposes of cargo handling, every hatchway of a cargo hold accessible to such a person shall, when not in use for the passage of goods or other material, or for trimming, be securely fenced to a height of 900 mm or be securely covered unless the hatchway –

- (a) is 1.5 m or less in depth from the level of the deck to the bottom of the hold; or
- (b) is protected to a clear height of 750 mm by the coamings.

(2) Fencing as required under subsection (1) shall be provided when necessary to protect all other openings in a deck which might be dangerous to the person employed.

(3) Hatch coverings shall not be used on a local vessel in the construction of deck stages or cargo stages, or for any other purpose which may expose the hatch coverings to damage.

(4) Hatch coverings shall be replaced on the hatches of a local vessel in the positions indicated by the markings made on them pursuant to section 12.

(5) If there is a contravention of subsection (1), (2), (3) or (4), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

58. Loading or unloading by falls or slings

(1) No cargo shall be loaded or unloaded by a fall or sling at any intermediate deck of a local vessel unless –

- (a) the hatch at that deck is securely covered; or
- (b) a secure landing platform of a width not less than that of one section of hatch coverings has been placed across it, and the hatch has been safely fenced or protected by a safety net.

(2) If there is a contravention of subsection (1), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

(3) This section does not apply to a process of unloading that is completed within half an hour.

59. Use of hooks

(1) No hook shall be made fast in the bands or fastenings of bales of cotton, wool, cork, gunny bags, or other similar goods for the purposes of cargo handling.

(2) No can-hook shall be used for hoisting or lowering a barrel that is a cargo when, owing to the construction or condition of the hook or of the barrel, its use is likely to be unsafe.

(3) If there is a contravention of subsection (1) or (2), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

(4) This section does not apply to breaking out or making up slings.

60. Provision of staging

(1) When cargo handling work is proceeding on any skeleton deck of a local vessel, adequate staging shall be provided unless the space beneath the deck is filled with cargo to within a distance of 600 mm of such deck.

(2) If there is a contravention of subsection (1) –

(a) the person in charge of works commits an offence; and

(b) if a person employed is involved in the work, both the person in charge of works and the employer commit an offence.

(3) A person in charge of works or an employer who commits an offence under subsection (2) is liable on conviction to a fine at level 3.

61. Safe means of access to and safe working on container top, etc.

(1) If a person employed has to carry out cargo handling on the top of a stack of containers on a local vessel, there shall be provided safe means of access to and from the top of the stack for use by that person.

(2) Reasonable measures shall be taken to ensure that a person employed does not work on the top of a container unless adequate precautions have been taken to prevent such a person from falling from the container.

(3) If there is a contravention of subsection (1) or (2), the person in charge of works and the employer commit an offence and each is liable on conviction to a fine at level 3.

62. Securing of beams

(1) A beam of any hatch of a local vessel in use for cargo handling shall not be left in place unless the hatch opening is of such a size as to permit loading or unloading to be carried out without danger to a person in the hold or space because of the load striking against the beam.

(2) A beam of any hatch of a local vessel in use for cargo handling shall, if not removed, be properly secured to prevent its displacement.

(3) If there is a contravention of subsection (1) or (2), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

63. Employment of signallers

(1) Where any cargo is being loaded or unloaded by a fall at a hatchway of a local vessel, the person in charge of works shall employ a signaller to attend the fall, and where more than one fall is being worked at the hatchway, he shall employ a separate signaller to attend each fall.

(2) For the purposes of this section, a person is not eligible to be employed as a signaller unless he –

- (a) has attained the age of 18 years; and
- (b) is competent and reliable.

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

(4) This section does not apply in cases where a barge, lighter or other similar vessel is being loaded or unloaded, if the operator of the lifting appliance working the fall has a clear and unrestricted view of both of the holds where work is being carried out.

64. Shoring

(1) Where stacking, unstacking, stowing or unstowing of cargo or handling in connection with such cannot be safely carried out unaided, reasonable measures to guard against accident shall be taken by shoring or otherwise.

(2) If there is a contravention of subsection (1), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

PART 6

MISCELLANEOUS PROHIBITIONS

65. Unauthorized removal of fencing, etc.

(1) No person shall, unless in the case of necessity or with reasonable excuse, remove or interfere with any fencing, gangway, gear, ladder, hatch covering, mark, stage or other thing required by this Regulation to be provided.

(2) If any thing specified in subsection (1) is removed because of necessity or with reasonable excuse, it shall be restored, as soon as practicable after its removal, by the person last engaged in the work that necessitated or led to the removal.

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

66. Safe means of access to be used

(1) No person employed shall use means of access other than those provided in accordance with sections 4, 5, 6, 7, 50 and 61.

(2) No person shall permit or require any other person to use means of access other than those provided in accordance with sections 4, 5, 6, 7, 50 and 61.

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

67. Prohibition on going on beams

(1) No person shall, on a local vessel, go on a beam used for hatch covering for the purposes of adjusting the gear for lifting it on and off, or for any other purposes of cargo handling.

(2) No person shall permit or require any other person to do the act prohibited under subsection (1).

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

PART 7

GENERAL AND MISCELLANEOUS PROVISIONS

68. Duty to report certain incidents by person in charge of works

- (1) Where –
- (a) a person is seriously injured or killed in the course of works or in an incident arising out of works;
 - (b) a crane, winch, hoist, derrick or other appliance collapses or fails (other than breakage of a chain or rope sling) in the course of works or in an incident arising out of works; or
 - (c) a person, cargo or equipment is lost overboard from a local vessel in the course of works or in an incident arising out of works,

the person in charge of works shall take the action described in subsection (2).

- (2) The person in charge of works shall –
- (a) immediately report the occurrence to the Director orally, by means of signals, or in writing; and
 - (b) furnish to the Director in writing with full particulars of the occurrence within 24 hours after the occurrence.

(3) For the purposes of subsection (1)(a), a person is regarded as being seriously injured if the nature of the injury is such that it requires admission to a hospital for observation or treatment immediately after the injury is sustained.

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

69. Duty to maintain records of persons employed

(1) A person in charge of works and the employer shall ensure that there is maintained a record that contains -

- (a) the name and address of every person employed;
- (b) the number of the identity card of each such person, or, where a person employed does not hold an identity card, the number of any other proof of identity of the person;
- (c) if the proof of identity held by the person employed is issued in a place outside Hong Kong, the name of the issuing country; and
- (d) the particulars of the certificate held by the person employed in respect of the relevant safety training course.

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

(3) In this section, “proof of identity” (身分證明文件) has the meaning assigned to it by section 17B(1) of the Immigration Ordinance (Cap. 115).

70. Director to approve provision of safety training courses

(1) For the purposes of this Regulation, the Director may, on written application being made to him, by notice in writing approve any person to provide a safety training course and issue a certificate to any person who attends the course.

(2) If the Director decides to refuse an application for approval under subsection (1), he shall notify the applicant in writing of his decision and state the reasons for his decision.

71. Director’s power to grant exemptions

(1) If, in relation to a particular lifting appliance or lifting gear, the Director is satisfied that –

- (a) a test, examination or inspection of the lifting appliance or lifting gear has been carried out in accordance with the law of a place outside Hong Kong;
- (b) there is a certificate or record relating to the test, examination or inspection; and
- (c) the test, examination or inspection and the certificate or record are substantially in compliance with the provisions of this Regulation in that respect,

he may, on written application being made to him or on his own initiative, by notice in writing grant an exemption in respect of those provisions.

(2) If, having considered the particular circumstances of a case, the Director is satisfied that the requirement as to testing and examination under subsection (1) or (2) of section 32 is not necessary for the protection of persons employed owing to the size, design, material or infrequency of use of any gear or particular class of gear specified in the subsection, he may, on written application being made to him or on his own initiative, by notice in writing grant an exemption in respect of the subsection.

(3) If, having considered the particular circumstances of a case, the Director is satisfied that the arrangement made or measure taken to ensure the safety of persons employed is substantially in compliance with the provisions of this Regulation in that respect, he may, on written application being made to him or on his own initiative, by notice in writing grant an exemption in respect of those provisions.

(4) If the Director decides to refuse an application for exemption under subsection (1), (2) or (3), he shall notify the applicant in writing of his decision and state the reasons for his decision.

72. Appeals to Administrative Appeals Board

(1) A person may appeal to the Administrative Appeals Board if he is aggrieved by a decision of the Director –

- (a) to refuse an application for approval under section 70; or
 - (b) to refuse an application for exemption under section 71.
- (2) An appeal shall be made within 14 days after the person aggrieved has received the notice of the decision of the Director.
- (3) An appeal made under this section does not affect the exercise of any power of the Director under this Regulation prior to the determination of the appeal.

73. Director's power to amend Schedules

The Director may, by notice published in the Gazette, amend Schedules 1, 2 and 3.

SCHEDULE 1 [ss. 2, 30, 32, 35, 37, 39 & 73]

PROCEDURE FOR TESTING AND EXAMINING LIFTING APPLIANCES AND LIFTING GEAR

1. (1) Every winch, together with its accessories (including any derrick, gooseneck, eye-plate, eyebolt or other attachments), shall be tested with a proof load which shall exceed the safe working load as follows –
- (a) if the safe working load is less than 20 t, the proof load shall exceed the safe working load by at least 25%;
 - (b) if the safe working load is 20 t or more but not more than 50 t, the proof load shall exceed the safe working load by at least 5 t;
 - (c) if the safe working load is more than 50 t, the proof load shall exceed the safe working load by at least 10%.
- (2) The proof load shall be applied by hoisting movable weights, or by means of a spring or hydraulic balance or a similar appliance, with the derrick at an angle to the horizontal which shall be specified in the certificate of the test.

(3) If the proof load is applied by hoisting movable weights, after the weights have been hoisted, the derrick shall be swung to the extremity of its working arc.

(4) If the proof load is applied by means of a spring or hydraulic balance or a similar appliance –

(a) the derrick shall be swung, first in one direction and then in the other direction, to the extremity of its working arc; and

(b) the proof load shall be applied each time after the derrick has been swung.

2. (1) Every crane and every other lifting appliance, together with its accessories, other than a lifting appliance referred to in section 1, shall be tested with a proof load which shall exceed the safe working load as follows –

(a) if the safe working load is less than 20 t, the proof load shall exceed the safe working load by at least 25%;

(b) if the safe working load is 20 t or more but not more than 50 t, the proof load shall exceed the safe working load by at least 5 t;

(c) if the safe working load is more than 50 t, the proof load shall exceed the safe working load by at least 10%.

(2) The proof load shall be hoisted and then swung in so far as practicable first in one direction and then in the other direction.

(3) Where a crane with a jib which has a variable vertical operating radius is to be tested, the test shall be carried out by applying a proof load in accordance with subsection (1) at both the maximum radius and the minimum radius of the jib.

(4) Where in testing a hydraulic crane or hoist it is, because of the limitation of pressure, impossible to hoist a load which exceeds the safe working

load by 25%, it is sufficient compliance with this section if the crane or hoist has the greatest possible load applied to it.

3. Every item of lifting gear (whether an accessory to any lifting appliance or not) shall be tested with a proof load in accordance with the following provisions –

- (a) if the item is a chain, wire rope sling, ring, hook, shackle or swivel, the proof load shall be at least twice the safe working load;
- (b) if the item is a single sheave pulley block or if a shackle is attached thereto, the proof load shall be at least 4 times the safe working load;
- (c) if the item is a multiple sheave pulley block with a safe working load of not more than 20 t, the proof load shall be at least twice the safe working load;
- (d) if the item is a multiple sheave pulley block with a safe working load of more than 20 t but not more than 40 t, the proof load shall exceed the safe working load by at least 20 t;
- (e) if the item is a multiple sheave pulley block with a safe working load of more than 40 t, the proof load shall be at least 1½ times the safe working load.

4. After being tested in accordance with section 1, 2 or 3, the lifting appliance (including its accessories) or lifting gear shall be examined so as to ensure that no part of it has been damaged during the test.

5. For the purposes of carrying out the examinations of a pulley block, the sheaves and pins of the block shall be removed.

6. Where any wire rope is tested, a sample of the rope shall be tested to destruction, and the safe working load shall not exceed 20% of the breaking load of the sample tested.

SCHEDULE 2

[ss. 22 & 73]

FIRST AID ITEMS TO BE CONTAINED IN FIRST AID BOX

1. A sufficient number (not less than 12) of small-sized sterilized unmedicated dressings for injured fingers.
2. A sufficient number (not less than 6) of medium-sized sterilized unmedicated dressings for injured hands or feet.
3. A sufficient number (not less than 24) of adhesive wound dressings of assorted sizes.
4. A sufficient number (not less than 4) of triangular bandages of unbleached calico, the longest side of which measures not less than 1.3 m and each of the other sides not less than 900 mm.
5. A sufficient supply (not less than 1 roll of 25 mm by 4.5 m zinc oxide plaster) of adhesive plaster.
6. A sufficient number (not less than 6) of 30 g packets of absorbent cotton wool.
7. A pressure bandage.

8. Safety pins.

SCHEDULE 3

[ss. 2 & 73]

DISCIPLINES OF REGISTERED PROFESSIONAL ENGINEERS FOR COMPETENT EXAMINERS

1. Marine and naval architecture.
2. Mechanical.

Secretary for Economic Development
and Labour

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Explanatory Note

The main purpose of this Regulation is to provide for the safety of persons engaged in carrying out works in relation to a local vessel. *[Note: The expression “works” is defined in the Merchant Shipping (Local Vessels) Ordinance (Cap. 548).]*

2. Part 1 contains preliminary provisions -
 - (a) section 1 provides for the commencement of the Regulation;
 - (b) section 2 defines certain terms used in the Regulation;
 - (c) section 3 deals with the application of the Regulation.
3. Part 2 provides for, amongst other things, safe means of access to or from

local vessels, and to workplaces on local vessels as follows -

- (a) sections 4 and 6 require that safe means of access to or from a vessel be provided for use by a person employed to carry out works (“person employed”);
- (b) section 5 requires that safe means of access to a workplace be provided and that all breaks, dangerous corners and other dangerous parts of a workplace be securely fenced;
- (c) section 7 requires that where a person employed has to carry out works in a hold of a local vessel the depth of which exceeds 1.5 m, safe means of access be provided for use by that person;
- (d) section 8 provides that where works are to be or being carried out in a hold of a local vessel, free passage to the means of access from the deck to the hold should be left at the coamings of the vessel;
- (e) sections 9 and 10 require that every workplace and every other part of a local vessel used for the purposes of access to the workplace be efficiently lighted and adequately ventilated to protect persons employed against inhalation of fume, gas, vapour, dust or other impurity in the air;
- (f) sections 11 to 17 impose, amongst other things, duties on the person in charge of works to ensure that hatch coverings and beams used for hatch coverings are maintained in good condition and are so constructed that they can be removed and replaced safely. The person in charge of works is also required to take appropriate measures to ensure the safe use of such coverings and beams.

4. Part 3 mainly provides for the duties of works supervisors, employers and persons in charge of works -

- (a) section 18 imposes a duty on the person in charge of works to ensure that no works are to be carried out on, to or by means of a local vessel unless the works are carried out under the supervision of at least one works supervisor;
- (b) section 19 provides for the appointment of a works supervisor;
- (c) section 20 imposes duties on a works supervisor to -
 - (i) supervise works carried out on, to or by means of a local vessel;
 - (ii) assist a person in charge of works in performing his duties under the Regulation;
 - (iii) carry with him, while at work, a valid certificate in respect of the relevant safety training course issued by a person approved by the Director of Marine (“the Director”) or such other certificate relating to safety training recognized by the Director; and
 - (iv) produce the certificate to an inspector for inspection on demand;
- (d) section 21 imposes duties on the person in charge of works and the employer of a person employed (“employer”) to ensure that the person employed is provided with an appropriate safety helmet and other protective clothing and equipment. Further, the person in charge of works and the employer are required to take reasonable measures to ensure that the person employed does not remain on the local vessel unless he is wearing an appropriate safety helmet and using other protective clothing and equipment;
- (e) section 22 imposes duties on the person in charge of

works and the employer to ensure that a first aid box is kept and maintained in accordance with that section and Schedule 2;

- (f) section 23 requires the person in charge of works and the employer to ensure that every machinery, equipment and appliance provided for use by a person employed is in a safe working condition, and that necessary information, instruction, training and supervision are provided for the safety of the person employed at work;
- (g) section 24 imposes duties on a person employed at work -
 - (i) to take reasonable care for his safety and the safety of other persons who may be affected by his act or omission;
 - (ii) to wear an appropriate safety helmet and use other appropriate protective clothing and equipment provided to him under section 21; and
 - (iii) to cooperate with or assist a works supervisor to the extent necessary for enabling the works supervisor to perform the duty imposed on him under section 20(1)(a) or (b).

5. Part 4 makes provisions in respect of lifting appliances and lifting gear as follows -

- (a) section 25 defines the term “owner” used in that Part;
- (b) sections 26 and 27 set out general safety requirements for lifting appliances and lifting gear;
- (c) section 28 prohibits the use of any rope as lifting gear unless it is of suitable quality and free from any patent defect;
- (d) section 29 prohibits the use of lifting gear made of wrought iron or having any part made of wrought iron.

The provision also prohibits the application of heat treatment to lifting gear which is made of steel or having any part made of steel unless the treatment is carried out under the supervision of a competent person;

- (e) sections 30 to 36 and Schedule 1 provide for the test and examination, thorough examination and inspection of lifting appliances and lifting gear;
- (f) section 37 confers powers on the Director and an inspector to request that a lifting appliance or lifting gear be tested, examined or inspected;
- (g) section 38 imposes restrictions on the use of wire ropes as lifting gear;
- (h) section 39 provides for the obtaining of a certificate of test and examination, a certificate of thorough examination, and a certificate of inspection from competent examiners and competent persons;
- (i) section 40 provides for the keeping of a register of lifting appliances and lifting gear;
- (j) section 41 requires every grab, lifting beam, lifting frame, vacuum lifting device or magnetic lifting device used as lifting gear to be clearly marked with its own weight;
- (k) section 42 prohibits the loading of a lifting appliance or lifting gear beyond the safe working load applicable to that appliance or gear;
- (l) sections 43 and 44 require a crane, derrick, pulley block, chain or wire rope sling used as a lifting appliance or lifting gear to have its safe working load stamped or marked on it in accordance with those provisions;
- (m) section 45 requires the provision, on a local vessel on which a crane is used as a lifting appliance, of a document

showing the strength calculation of the crane, a rigging diagram and an “as fitted drawing” in respect of the crane. Such documents are to be certified by a competent examiner;

- (n) section 46 provides that no load shall be left suspended from a lifting appliance unless there is a qualified person in charge of the lifting appliance while the load is so left;
- (o) section 47 provides for the prohibition against shortening of chains used as lifting gear by tying knots in them. That section also requires the provision of suitable packing to prevent the links of such chains coming into contact with sharp edges of loads of hard material;
- (p) section 48 requires that all motors, cog-wheels, chain gearing, friction gearing, shaftings, live electric conductors and steam pipes, when used as components of lifting appliances, be securely fenced;
- (q) section 49 requires that a crane or winch used as a lifting appliance be provided with means that will reduce to a minimum the risk of the accidental descent of a load while being hoisted or lowered;
- (r) section 50 requires the operator’s platform on a crane used as a lifting appliance and driven by mechanical power to be securely fenced and provided with safe means of access;
- (s) section 51 prohibits, amongst other things, the use of a crane or other lifting appliance unless it is operated by a person who satisfies the requirements mentioned in that section. (See subsections (1) and (3) of that section.) The provision, however, does not apply in respect of a person who has attained the age of 18 years and satisfies the

following criteria -

- (i) in so far as a crane is concerned, that person, while undergoing training as an operator of a crane, is operating the crane under the supervision of another person who meets the requirements in subsection (1) of that section; and
- (ii) in so far as any other lifting appliance is concerned, that person, while undergoing training as an operator of the lifting appliance, is operating the lifting appliance under the supervision of another person who meets the requirements in subsection (3) of that section.

Subsection (4) of that section prohibits the giving of permission to or requiring any person, other than a person who satisfies the requirements mentioned in subsection (4)(a) and (b), to attend to falls on winch ends or winch drums. The requirement in subsection (4)(b) (the requirement that the person must be competent and reliable), however, does not apply if a person who has attained the age of 18 years attends to falls on winch ends or winch drums under the supervision of another person who meets the requirements in subsection (4)(a) and (b);

- (t) section 52 requires adequate measures to be taken to prevent exhaust steam from and live steam supplied to a crane or winch used as a lifting appliance from obscuring any part of a place in which a person employed carries out works;
- (u) section 53 prohibits an employer from permitting or requiring a person employed to use a lifting appliance or lifting gear which does not comply with that Part.

6. Part 5 provides for safety measures to be taken in respect of cargo handling -

- (a) section 54 prohibits a person from carrying out cargo handling unless the person holds a valid certificate in respect of the relevant safety training course issued by a person approved by the Director or such other certificate relating to safety training recognized by the Director. A person is also required under that section to carry with him while at work, the above-mentioned certificate and produce it to an inspector for inspection on demand;
- (b) section 55 requires necessary and effective precautions to be taken to facilitate the escape of persons employed, dealing with bulk cargo in holds or on 'tween decks of a local vessel;
- (c) section 56 prohibits the use of any deck stage or cargo stage in cargo handling unless it is substantially and firmly constructed, adequately supported and, where necessary, securely fastened, and that any deck stage or cargo stage that is slippery shall be made safe by the use of sand or otherwise. That section also prohibits the use of any truck for carrying cargo between a local vessel and the shore on a stage so steep as to be unsafe;
- (d) section 57 requires, amongst other things, that every hatchway of a cargo hold accessible to a person employed and all other openings in a deck which might be dangerous to such a person be securely fenced;
- (e) section 58 prohibits the loading or unloading by a fall or sling of any cargo at any intermediate deck of a local vessel unless the hatch at that deck is securely covered or a secure landing platform of a width not less than that of

- one section of hatch coverings has been placed across it and the hatch has been safely fenced or protected by a safety net. That section, however, does not apply to a process of unloading that is completed within half an hour;
- (f) section 59 prohibits the use of hooks in such manner or in such circumstances as specified in that section;
 - (g) section 60 provides that when cargo handling work is proceeding on a skeleton deck of a local vessel, adequate staging shall be provided unless the space beneath the deck is filled with cargo to within a distance of 600 mm of such deck;
 - (h) section 61 requires safe means of access to and from the top of a stack of containers on a local vessel to be provided for use by a person employed, and reasonable measures to be taken to ensure that the person does not work on the top of a container unless adequate precautions have been taken to prevent the person from falling from the container;
 - (i) section 62 provides that a beam of any hatch of a local vessel in use for cargo handling shall not be left in place unless the hatch opening is of such a size as to permit loading or unloading to be carried out without danger to a person in the hold or space because of the load striking against the beam, and that a beam of any hatch in use for cargo handling shall, if not removed, be properly secured to prevent its displacement;
 - (j) section 63 provides for the employment of a signaller if any cargo is to be loaded or unloaded by a fall at a hatchway of a local vessel;
 - (k) section 64 provides that where stacking, unstacking,

stowing or unstowing of cargo or handling in connection with such cannot be safely carried out unaided, reasonable measures to guard against accident shall be taken by shoring or otherwise.

7. Part 6 provides for miscellaneous prohibitions. For example -
 - (a) section 65 prohibits the removal of or interference with any fencing, gangway, gear, ladder, hatch covering, mark, stage or other thing required by the Regulation to be provided;
 - (b) section 66 prohibits the use by a person employed of any means of access other than those provided in accordance with sections 4, 5, 6, 7, 50 and 61;
 - (c) section 67 prohibits a person from going on a beam used for hatch covering for the purposes of adjusting the gear for lifting it on and off. It also prohibits a person from permitting or requiring any other person to do such an act.
8. Part 7 provides for other miscellaneous matters like, reporting of the occurrence of certain incidents (section 68), maintenance of records of persons employed (section 69) and empowering the Director to approve any person to provide safety training courses and issue certificates, to exempt a lifting appliance or lifting gear from complying with certain requirements in the Regulation and to amend Schedules 1, 2 and 3 (sections 70, 71 and 73). That Part also provides for appeals to the Administrative Appeals Board in respect of certain decisions of the Director (section 72).

**Subsidiary Legislation passed by Legislative Council
under Merchant Shipping (Local Vessels) Ordinance, Cap. 548**

1. Merchant Shipping (Local Vessels) (Dwelling Vessels) Regulation (Cap. 548A)
2. Merchant Shipping (Local Vessels) (Ferry Terminals) Regulation (Cap. 548B)
3. Merchant Shipping (Local Vessels) (Conduct of Inquiries) Regulation (Cap. 548C)
4. Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548D)
5. Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation (Cap. 548E)