

L.N. 193 of 2006**MERCHANT SHIPPING (LOCAL VESSELS) (GENERAL)
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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.

SCHEDULE 1

[s. 4]

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 $22^{\circ}17.835'$ north, longitude $114^{\circ}10.934'$ east) to the Causeway Bay Typhoon Shelter eastern breakwater light beacon (latitude $22^{\circ}17.283'$ north, longitude $114^{\circ}11.247'$ east);
 - (ii) on the west, by straight lines joining the following positions—
 - (A) latitude $22^{\circ}16.467'$ north, longitude $114^{\circ}07.004'$ 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;
 - (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 $22^{\circ}15.251'$ north, longitude $114^{\circ}07.921'$ east, thence along the western coastline of Hong Kong Island to a position at latitude $22^{\circ}16.467'$ north, longitude $114^{\circ}07.004'$ 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 $22^{\circ}21.313'$ north, longitude $114^{\circ}03.397'$ east;
 - (G) latitude $22^{\circ}21.908'$ north, longitude $114^{\circ}03.396'$ east;
- (iii) on the south, by straight lines joining the following positions—
 - (A) latitude $22^{\circ}15.251'$ north, longitude $114^{\circ}07.921'$ east;
 - (B) latitude $22^{\circ}14.075'$ north, longitude $114^{\circ}06.380'$ east;
 - (C) latitude $22^{\circ}14.075'$ north, longitude $114^{\circ}04.730'$ 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 $22^{\circ}15.008'$ north, longitude $114^{\circ}07.577'$ east;
 - (B) latitude $22^{\circ}14.638'$ north, longitude $114^{\circ}07.117'$ east;
 - (C) latitude $22^{\circ}16.138'$ north, longitude $114^{\circ}06.277'$ east;
 - (D) latitude $22^{\circ}16.378'$ north, longitude $114^{\circ}06.817'$ east;
 - (E) latitude $22^{\circ}15.008'$ north, longitude $114^{\circ}07.577'$ 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°14.743' north, longitude 114°08.653' east;
- (iv) latitude 22°14.779' north, longitude 114°08.248' east;
- (d) Outside Cheung Chau Typhoon Shelter
Area bounded by straight lines joining the following positions—
 - (i) latitude 22°12.520' north, longitude 114°00.960' east;
 - (ii) latitude 22°12.408' north, longitude 114°01.220' east;
 - (iii) latitude 22°12.137' north, longitude 114°01.078' east;
 - (iv) latitude 22°12.355' north, longitude 114°00.795' east;
- (e) Outside Tuen Mun Typhoon Shelter
Area bounded by straight lines joining the following positions—
 - (i) latitude 22°22.300' north, longitude 113°58.480' east;
 - (ii) latitude 22°22.340' north, longitude 113°58.640' east;
 - (iii) latitude 22°22.200' north, longitude 113°58.680' east;
 - (iv) latitude 22°22.160' north, longitude 113°58.520' east;
- (f) South of Tuen Mun Immigration Anchorage
Area bounded by straight lines joining the following positions—
 - (i) latitude 22°21.459' north, longitude 113°57.497' east;
 - (ii) latitude 22°21.459' north, longitude 113°58.547' east;
 - (iii) latitude 22°21.140' north, longitude 113°58.547' east;
 - (iv) latitude 22°21.140' north, longitude 113°57.497' east;
- (g) North of Yau Ma Tei Anchorage
Area bounded by straight lines joining the following positions—
 - (i) latitude 22°19.160' north, longitude 114°08.940' east;
 - (ii) latitude 22°19.160' north, longitude 114°09.000' east;
 - (iii) latitude 22°19.120' north, longitude 114°09.000' east;
 - (iv) latitude 22°19.120' north, longitude 114°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.

Stephen IP
Secretary for Economic Development
and Labour

3 October 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.