

立法會
Legislative Council

LC Paper No. LS91/07-08

**Paper for the House Committee Meeting
on 6 June 2008**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 30 May 2008**

Date of tabling in LegCo : 4 June 2008

Amendment to be made by : 2 July 2008 (or the 1st meeting of LegCo in the next session if extended by resolution)

PART I PORT CONTROL AND MERCHANT SHIPPING

Shipping and Port Control Ordinance (Cap. 313)
Shipping and Port Control (Amendment) Regulation 2008 (L.N. 148)
Merchant Shipping (Local Vessels) Ordinance (Cap. 548)
Merchant Shipping (Local Vessels) (General) (Amendment) Regulation 2008 (L.N. 150)

The Shipping and Port Control (Amendment) Regulation 2008 (L.N. 148) (the Amendment Regulation) is made by the Chief Executive in Council under section 80 of the Shipping and Port Control Ordinance (Cap. 313) (the principal Ordinance). The Amendment Regulation amends the Shipping and Port Control Regulations (Cap. 313 sub. leg. A) (the Regulations) by—

- (a) adding a new Regulation 23B(3A) to provide that except with the permission of the Director of Marine, no vessel exceeding 68.5 metres in height shall enter any area in the waters adjacent to the Stonecutters Bridge;
- (b) repealing Regulation 72(2) which provides for the amendment of the Twelfth and Thirteenth Schedules by the Chief Executive in Council by notice in the Gazette, and, according to the LegCo Brief, is a duplicate provision as section 80 of the principal Ordinance has already empowered the Chief Executive in Council to make regulations;
- (c) repealing the term “海拔” wherever it appears in the Chinese text of the Regulations and substituting therefor the phrase “(自海面起計)” to achieve consistency with other statutory provisions; and

- (d) repealing the Note at the end of the Fifth Schedule and substituting a new paragraph 21 which covers the Stonecutter Bridge Area and a new Note.

2. The Merchant Shipping (Local Vessels) (General) (Amendment) Regulation 2008 (L.N. 150) is made by the Secretary for Transport and Housing (the Secretary) under section 89(1) of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548). It amends the Merchant Shipping (Local Vessels) (General) Regulation (Cap. 548 sub. leg. F) by—

- (a) adding a new section 19(4) to provide that except with the permission of the Director of Marine, no local vessel exceeding 68.5 metres in height shall enter any area in the waters adjacent to the Stonecutters Bridge; and
- (b) making consequential amendments to section 20(1) and (3) with the effect that reference to the new section 19(4) is included.

3. Both L.N. 148 and L.N. 150 are to come into operation on a day to be appointed by the Secretary by notice published in the Gazette. Members may wish to refer to the two LegCo Briefs (File Ref: MA L/M 1/2008) both dated 28 May 2008 and issued by the Transport and Housing Bureau in respect of L.N. 148 and L.N. 150 respectively for background and further information.

4. According to the LegCo Briefs, the Port Operations Committee, the Local Vessels Advisory Committee, and the Modern Terminals Limited and the operator of the berth located within the proposed vessel height restriction area have been consulted and have expressed their support for the proposal. The Economic Development Panel was consulted at its meeting held on 28 April 2008 and members were supportive of the proposal.

PART II ADDITIONAL FARE

Road Traffic Ordinance (Cap. 374)

Road Traffic (Public Service Vehicles) (Amendment of Schedule 5) (No. 2) Regulation 2008 (L.N. 149)

5. By this Regulation made by the Chief Executive in Council under section 7(1C) of the Road Traffic Ordinance (Cap. 374), Schedule 5 to the Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg. D) is amended, in item 4, by adding paragraph (vic) to provide that an additional fare of \$30 is required to be paid for any hiring of a taxi that begins from Ma Wan and involves the use of the Lantau Link.

6. According to the LegCo Brief, the urban taxi trade has been consulted at the Urban Taxi Conference convened by the Transport Department on 11 December

2007. The Ma Wan residents have also been informed at the meetings of the Transport Department with the Park Island Owners' Committee and the Ma Wan Rural Committee. Members may wish to refer to the LegCo Brief (File Ref: THB(T)L 2/11/143) issued by the Transport and Housing Bureau in May 2008 for background and further information. The Panel on Transport has not been consulted.

7. The Regulation is to come into effect on 3 July 2008.

PART III RATE OF INTEREST ON LIMITATION FUNDS

Merchant Shipping (Limitation of Shipowners Liability) Ordinance (Cap. 434) Merchant Shipping (Limitation of Shipowners Liability) (Rate of Interest) (Amendment) (No. 2) Order 2008 (L.N. 151)

8. By this Order made by the Monetary Authority under section 19(1) of the Merchant Shipping (Limitation of Shipowners Liability) Ordinance (Cap. 434) (the Ordinance), section 1 of the Merchant Shipping (Limitation of Shipowners Liability) (Rate of Interest) Order (Cap. 434 sub. leg. D) is amended by prescribing a new rate of interest applicable to the limitation funds on or after 30 May 2008 at 5.88% as paragraph (r), and amending paragraph (q) to the effect that the rate therein prescribed only applies up to 29 May 2008.

9. The Ordinance provides that the Convention on Limitation of Liability for Maritime Claims, 1976 (the Convention) shall have the force of law in Hong Kong. Under paragraph 1 of Article 11 of the Convention, shipowners and salvors may limit their liability for maritime claims by constituting limitation funds. A limitation fund comprises of the amounts set out in the Convention and interest on those amounts. Section 19(1) of the Ordinance empowers the Monetary Authority to prescribe from time to time the rate of interest to be applied to limitation funds constituted under the Convention. Members may wish to refer to the LegCo Brief dated 30 May 2008 and issued by the Financial Services and the Treasury Bureau for background information.

10. Neither the public nor any Panel of the Legislative Council has been consulted on the Order.

Concluding observation

11. No difficulties have been identified in the legal or drafting aspects of the subsidiary legislation above reported.

Prepared by

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