

立法會
Legislative Council

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**Paper for the House Committee meeting on
25 June 1999**

**Report of the Bills Committee on
Merchant Shipping (Local Vessels) Bill**

Purpose

This paper reports on the deliberations of the Bills Committee on Merchant Shipping (Local Vessels) Bill.

The Bill

2. The Bill seeks to consolidate and amend the law relating to local vessels, in particular to improve their safety, control and regulation. Major proposals include simplifying the vessel classification system, extending the requirement of compulsory third party risk insurance to all local vessels, increasing transparency of safety survey standards of local vessels, streamlining the system of Local Certificates of Competency and establishing a Local Vessels Advisory Committee. Many of the provisions of the Bill are taken from the Shipping and Port Control Ordinance (Cap. 313).

The Bills Committee

3. At the House Committee meeting held on 16 April 1999, Members decided to form a Bills Committee to study the Bill. The membership list of the Bills Committee is in **Appendix I**.

4. Under the chairmanship of Hon CHAN Kam-lam, the Bills Committee held four meetings with the Administration. The Bills Committee has also met representatives from the Hong Kong & Kowloon Motor Boats & Tug Boats Association Limited, the Sai Kung Yacht Association, the Marine Excursion Association Limited and the Hong Kong & Kowloon Floating Fisherman Welfare Promotion Association. In addition, the Committee has considered three written submissions.

Deliberations of the Bills Committee

5. The main deliberations of the Bills Committee are summarized below.

Application of the Bill

6. The Administration has clarified that the Bill applies to all local vessels, including local licensed vessels and Mainland coastal and river-trade vessels that are permitted to enter and remain in the Hong Kong waters. About 20 000 local vessels and 3 500 river-trade vessels will be regulated under the Bill.

Classification of vessels

7. The Administration proposes to consolidate the present 11 classes of local vessels defined under three sets of regulations into four new classes under one set of regulation. The new classification of local vessels, in accordance with their use, is as follows -

- (a) Class I - Passenger vessels (which are further subdivided into three types of vessels)
- (b) Class II - Cargo vessels
- (c) Class III - Fishing vessels
- (d) Class IV - Pleasure vessels

Class I - Passenger vessels

8. Members question the rationale for subdividing Class I vessels into three types of passenger vessels.

9. The Administration has explained that it is an international practice that commercial vessels used for carriage of more than 12 persons are required to meet more stringent safety standards and operating conditions. Given that most local passenger vessels carry more than 12 persons, it is considered too stringent to require these vessels to meet the same survey standard equivalent to the one presently used for ferry vessels. Thus, these vessels would be subject to a survey standard slightly less than the one used for launches and ferry vessels. On the three types of vessels, Type A vessels are allowed to carry more than 60 persons plus crew whilst Type B vessels are allowed to carry more than 12 persons but not more than 60 persons plus crew. Type C vessels are those presently known as “Kaito operating with ferry licences” and will be licensed to carry more than 12 persons plus crew. They will be subject to a survey standard appropriate for the licensed service. The Administration points out that should “Kaito” be subject to the same survey standard equivalent to the one used for launches and ferries, it would definitely result in a much higher fares. In order to limit the fares of “Kaito” within an affordable range for residents living in the remote areas, the Administration, therefore, proposes to classify “Kaito” under a specific category.

Class III - Fishing vessels

10. On the regulation of fishing vessels, the Administration has explained that at present, fishing boats are subject to more relaxed safety requirements than other types of vessels because they are not used for commercial purpose, but as a working platform. Any persons on board fishing boats should be engaged in fishing only. After the coming into effect of the Bill, should any fishing boats be used for carriage of fare-paying passengers, they would be subject to the same conditions and requirements of the appropriate class of vessel.

11. Members point that it is not uncommon that P4 vessels are overloaded with passengers. They have sought clarification on the purpose of these vessels and the enforcement measures in place to ensure that these vessels are used for their specific purpose.

12. The Administration has explained that P4 vessels are unique vessels used for fish pond culturing within specified areas. Owners of these vessels are subject to prosecution if they use these vessels for other non-specified purposes, such as letting for commercial purposes. Members point out the loophole that P4 vessels could be used for commercial purposes without violating the law simply by making use of other payment methods. The Administration has responded that the Marine Department would work closely with the Marine Police in stepping up prosecutions. The Administration would discuss with the trade as to whether a separate licence should be issued to P4 vessels.

Class IV - Pleasure vessels

13. Members express concern about the regulatory control for pleasure vessels. They question whether the current practice of pleasure vessels being used for commercial purposes would be permitted.

14. The Administration has pointed out that under the Bill, pleasure vessels will be more clearly defined as vessels used solely for pleasure purpose and are not let for hire or reward other than under the terms of a charter agreement or hire-purchase agreement. The letting of pleasure vessels to a party or organization, other than the family or relatives, will only be allowed under a charter agreement. Under the proposed arrangement, the charter agreement must be entered before the owner executes the service and it must be kept on board together with a valid third party risk insurance policy for ready inspection by law enforcement officers. Failure to meet these requirements will be subject to prosecution. The implementation details of this proposal would be worked out by the Local Vessels Advisory Committee in consultation with the trade. The Administration has advised that the activities permitted, including under a charter agreement, will be restricted to pleasure purpose.

15. The Administration stresses that the primary objective of the legislative proposal in respect of pleasure vessels is to ensure proper protection to passengers by being covered under a third party risks insurance when an accident occurs. Should

owners of these vessels wish to use their vessels for commercial purposes, such as carrying fare-paying passengers, they should apply for an appropriate licence, comply with the safety standards on par with those adopted for launches and ferry vessels, as well as take out a third party risks insurance policy. It is an offence to use a licensed pleasure vessel for purposes other than pleasure purpose.

16. On members' concern about whether there are any measures to ensure that pleasure vessels are not used for commercial purposes which involve the sale of tickets, the Administration has responded that enforcement actions and prosecutions would be stepped up.

17. The Administration has informed members that pleasure vessels would not be subject to mandatory periodic inspection nor any survey standard as they are for private pleasure purpose. They are, however, required to comply with the requirement on life-saving appliances and fire-fighting apparatus, and they have to be operated by holders of Local Certificates of Competency.

18. As pleasure vessels are not subject to mandatory periodic inspection, members express concern about the monitoring of the safety requirements of these vessels particularly those let for hire under a charter agreement. The Administration has advised that the safety standards for each of the four new classes of vessels would be published in the form of regulations and codes of practice for guidance of the industry and the public of the safety requirements. The Administration has assured members that in formulating these regulations and codes of practice, the trade and the Local Vessels Advisory Committee would be consulted.

Compulsory third party risks insurance

19. To ensure the provision of proper protection to passengers and operators sustaining injuries in marine accidents, the Administration proposes to extend the requirement of compulsory third party risks insurance currently applicable to local ferries, launches and pleasure vessels to all local vessels permitted to operate in Hong Kong waters.

20. On the amount of third party risks insurance cover for the respective classes of local vessels under the Bill, the Administration has explained that these would be laid down in the regulations. The minimum insurance cover for third party risks for passenger vessels and non-passenger vessels is proposed to be \$10 million and \$5 million respectively.

21. Members question whether the amount of insurance cover is sufficient and the reasons for setting the limit. The Administration has advised that under the existing legislation, the minimum amount of third party risks insurance for ferries and pleasure vessels is \$3 million and \$0.6 million respectively. The insurance cover is taken out per event. The trade has expressed the view that there should be unlimited cover in respect of the third party risks insurance. However, the insurance sector has reservations about an unlimited insurance cover given that most of the insurance companies do not have operational experience in third party risks insurance in respect

of local vessels. In the light of the concerns of the insurance sector, the Administration therefore proposes to set a minimum amount. The Administration has assured members that the level of insurance cover would be kept under review.

Local Certificates of Competency

22. Members have noted that the present 13 types of Local Certificates of Competency for Master and Engineer would be streamlined to eight. As the syllabus for Local Certificates of Competency is outdated, the examination would be simplified by placing emphasis on the practical operations and knowledge. Members have also noted that as the licensing systems in the Mainland and Macau adopt international standards, holders of certificates of competency issued by the relevant authorities in the Mainland and Macau are allowed to operate vessels within Hong Kong waters.

Establishment of a Local Vessels Advisory Committee

23. Members have noted that to enhance transparency and to solicit views of the local shipping industry on the general regulation and control of local vessels, a Local Vessels Advisory Committee would be set up. The Committee, comprising ex-official members and relevant experts from the shipping industry, would be tasked to advise the Director of Marine on matters related to the performance or exercise of his functions or powers under the Bill.

Committee Stage amendments

24. The Administration has agreed to move Committee Stage amendments (CSAs), which are technical in nature, to the Bill. A copy of the draft CSAs is in **Appendix II**.

Recommendation

25. Subject to the CSAs to be moved by the Administration, the Bills Committee recommends that the Second Reading debate of the Bill be resumed at the LegCo meeting on 7 July 1999.

Advice Sought

26. Members are invited to support the recommendation of the Bills Committee in paragraph 25 above.

Legislative Council Secretariat
23 June 1999

《商船(本地船隻)條例草案》委員會

**Bills Committee on
Merchant Shipping (Local Vessels) Bill**

Membership List

陳鑑林議員(主席)	Hon CHAN Kam-lam (Chairman)
李啟明議員	Hon LEE Kai-ming, JP
單仲偕議員	Hon SIN Chung-kai
黃容根議員	Hon WONG Yung-kan
楊孝華議員	Hon Howard YOUNG, JP
劉健儀議員	Hon Mrs Miriam LAU Kin-ye, JP
譚耀宗議員	Hon TAM Yiu-chung, JP
馮志堅議員	Hon FUNG Chi-kin

合共 : 8 位議員
Total : 8 Members

日期 : 1999 年 5 月 5 日
Date : 5 May 1999

GFOX : DMA#9359v3

1st draft: 8.6.99

2nd draft: 16.6.99

3rd draft: 16.6.99

MERCHANT SHIPPING (LOCAL VESSELS) BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for Economic Services

<u>Clause</u>	<u>Proposed Amendment</u>
2	<p>(a) In the definition of "起重工具" –</p> <p>(i) by deleting "吊桶鉤" and substituting "吊桶鉤"; and</p> <p>(ii) by deleting "鉤環" and substituting "鉤環".</p> <p>(b) In the definition of "起重裝置", by deleting "吊杆" and substituting "吊桿".</p> <p>(c) In the definition of "pleasure vessel", in paragraph (c), by adding "in writing" after "agreement" where it twice occurs.</p> <p>(d) In the definition of "《遇險訊號規例》", by deleting "《遇險訊號規例》" and substituting "《使用遇險訊號規例》".</p>
4	<p>(a) In subclause 2(d)(vi), by deleting "welfare".</p>

(b) In subclause (5), by deleting "5 members" and substituting "Not less than half the members".

6

(a) In subclause (3), by deleting "and vote as a member".

(b) By deleting subclause (5) and substituting -

"(5) Not less than 1/4 of the members of a subcommittee shall form a quorum at any meeting of the subcommittee but, in any case, a quorum of the subcommittee shall not be less than 2 members."

8(3)

By deleting " (b) 段 " and substituting "本款".

10

By deleting paragraph (e).

21

By deleting "of the opinion the justice of the case requires it, may re-issue the certificate or, as the case may be, reduce the period of suspension and return the certificate, or may" and substituting "required to do so by the Court of First Instance or the persons holding the inquiry concerned, shall re-issue the certificate or, as the case may be, reduce the period of suspension and return the certificate, or shall".

- 27 In subclauses (1) and (4)(a), by deleting "《遇險訊號規例》" where it twice appears and substituting "《使用遇險訊號規例》".
- 40(1)(f) and (g) By deleting "this Part" and substituting "regulations made under section 89".
- 48(1) By deleting "was not necessary for that purpose or".
- 51(3) By deleting "a second or" and substituting "any".
- Heading to Part X By adding "LOCAL" after "OF".
- 52(5)(h) By deleting "(being, in any case, not less than 3 months from the date on which the vessel was seized)".
- 60 (a) In subclause (1)(c), by deleting "or any other enactment".
(b) In subclause (2)(a), by deleting "who" and substituting "whom".
- 70(3) By deleting "某船隻上" and substituting "某本地船隻上".

- 77(2) By deleting paragraph (c).
- 85(1)(e) (ii) By deleting "registered" and substituting "certificated".
- 86 By adding "in good faith" after "68".
- 90(b) By deleting "《遇險訊號規例》" and substituting "《使用遇險訊號規例》".
- Schedule
- (a) By deleting section 7(d).
 - (b) By adding -
 - "7A. Application**
 - Section 3(1) is amended by adding "(except local vessels)" after "all vessels".
 - (c) By adding -
 - "26A. Power to restore certificate, etc.**
 - Section 118 is amended by repealing "of the opinion the justice of the case requires it, may re-issue the certificate or, as the case may be, reduce the period of suspension and return the certificate, or may" and substituting "required to do so by the Court of First Instance or the

persons holding the inquiry concerned, shall re-issue the certificate or, as the case may be, reduce the period of suspension and return the certificate, or shall".