

LEGISLATIVE COUNCIL BRIEF

Shipping and Port Control Ordinance (Chapter 313)

SHIPPING AND PORT CONTROL (AMENDMENT) (No. 3) REGULATION 2000

INTRODUCTION

At the meeting of the Executive Council on 9 May 2000, the Council ADVISED and the Chief Executive ORDERED that the Shipping and Port Control (Amendment) (No.3) Regulation at *Annex A* should be made under section 80 of the Shipping and Port Control Ordinance to provide for the creation of a Prohibited Anchorage Area (PAA) in the waters adjacent to Hong Kong Disneyland (HKD).

BACKGROUND AND AGRUMENT

Background

2. Under the Shipping and Port Control Ordinance, no vessel may anchor at any place in the waters of Hong Kong other than in a port or at a specified anchorage. Enforcement of this provision is not usually a problem. The Director of Marine has designated 19 locations as anchorage areas, including one to the east of Penny's Bay known as WA 1 Anchorage.

3. The Government has entered into a Master Project Agreement (MPA) with The Walt Disney Company (WD) in December 1999 to proceed with the development of a Disney-branded theme park and associated facilities, to be known as HKD at Penny's Bay. The HKD Phase 1 will come into operation in 2005. A public pier will be located on the HKD Phase 1 development to provide visitors with direct sea access to and from the theme park and the surrounding area.

4. The presence of HKD and the public pier is expected to attract

a large number of pleasure vessels throughout the day. Without the PAA, it is expected that idle vessels will tend to anchor in the area thereby impeding the safe approach of ferries/other vessels to and from the public pier as well as the safe passage of vessels transiting the proximity including kaitoes and fishing vessels operating in the area.

5. Indiscriminate anchoring of vessels also gives rise to other safety concerns. Anchor cables and especially anchor ropes used by small craft may easily foul propellers of passing vessels. In crowded situations, it may also lead to vessels fouling each other's anchor cables/ropes.

6. From a general safety point of view, vessels underway (i.e. not anchored or made fast to the shore) are more manoeuvrable. They will be able to take collision avoidance actions, follow directions and respond to emergency situations much more readily.

7. To ensure safety and for effective control of marine traffic in the area, bearing in mind the possible complications and safety concerns, it is necessary to establish the PAA to prohibit anchoring of vessels seaward of the Penny's Bay Reclamation. A drawing showing the location of the PAA is at **Annex B**. For the reasons explained above, creation of the PAA will not in effect introduce additional restrictions on vessels within the area. It simply reinforces the existing prohibition. Not only will formal designation help to publicise the prohibition to port users through identification on navigation charts and related publications, it will also help avoid unnecessary confusion to the public.

8. Bearing in mind the above considerations, the Government agreed with WD during negotiation of the MPA to designate a PAA at Penny's Bay. It is specified in the MPA that all vessels at all times will have the right of innocent passage into and through the PAA. Moreover the proposed restriction does not apply to Government or the Chinese People's Liberation Army vessels or privately owned vessels which are under contract with the Government, provided that these vessels are used in connection with the performance of official duties.

Concerns Expressed by Members of the Legislative Council

9. The proposal was submitted before the Legislative Council Panel on Economic Services on 28 February 2000. Some Members had the following concerns: -

- (a) whether the size of the PAA is excessive;
- (b) whether it is necessary to impose a 24-hour restriction; and
- (c) whether allowing vessels to anchor is a safer measure than keeping vessels underway in the area.

10. The size of the PAA is proposed in the light of experience gained from the fireworks displays in the Victoria Harbour and in the light of discussion with WD. In the case of Victoria Harbour, a restricted entry area is imposed while this current proposal is seeking to introduce a PAA without restricting entry of vessels to the area. The area of the proposed PAA is considered to be reasonable given the above safety considerations. The rationale for the 24-hour prohibition and the question of anchoring versus underway are set out in paragraphs 4-7. Consideration has been given to enforcing the PAA only for six or twelve hours a day. Such an arrangement is not considered advisable as considerable resources will be required to clear the area on a daily basis. It is acknowledged that some vessels may have a need to anchor in the vicinity. Such vessels may do so in the nearby specified anchorage.

11. In essence, the designation of the area as a PAA is considered a proactive measure for enhancing navigation safety and traffic control in the area.

THE AMENDMENT REGULATION

12. The main provisions of the Amendment Regulation are: -
- (a) To amend the Shipping and Port Control Regulations (SAPCR) (Chapter 313, sub. leg.) by adding a new regulation 41A to restrict anchoring in the proposed PAA.
 - (b) To establish the PAA by introducing a new Nineteenth Schedule in the SAPCR.

LEGISLATIVE TIMETABLE

13. The legislative timetable will be: -

Publication in the Gazette 19 May 2000

Tabling at Legislative Council 24 May 2000

HUMAN RIGHTS IMPLICATIONS

14. The Department of Justice advises that the Amendment Regulation is consistent with the human rights provisions of the Basic Law.

BASIC LAW IMPLICATIONS

15. The Department of Justice advises that the Amendment Regulation does not conflict with those provisions of the Basic Law carrying no human rights implications.

BINDING EFFECT

16. The proposed legislation will not affect the current binding effect of the principal Ordinance. However, specific exemptions will be provided under the proposed regulations to the effect that only vessels referred to in paragraph 8 above will be exempted from the proposed prohibition.

FINANCIAL AND STAFFING IMPLICATIONS

17. There are no financial or staffing implications for the government.

ECONOMIC IMPLICATIONS

18. Effective control of marine traffic in the area will minimise marine traffic accidents occurring in the area as well as facilitating the smooth operation of the HKD, and is conducive to enhancing Hong Kong's position as a major international tourism centre.

ENVIRONMENT IMPLICATIONS

19. There are no environmental implications.

PUBLICITY

20. A press release will be issued on 17 May 2000. A spokesperson will be available to answer media enquiries.

ENQUIRY

21. For any enquiry on this brief, please contact Mr Y K LEE, Assistant Director of Marine at 2852 4541 or Mr Peter KWOK, Assistant Secretary for Economic Services at 2537 2842.

Economic Services Bureau
Date : May 2000