

**立法會**  
**Legislative Council**

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**Paper for the House Committee meeting  
on 16 April 2004**

**Report of the Subcommittee on  
Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation and  
Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation**

**Purpose**

This paper reports on the deliberations of the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (LV(C&L) Regulation) and Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation (LV(TS) Regulation).

**Background**

2. The port of Hong Kong is served by vessels operating within Hong Kong waters for various purposes, including the carrying of passengers and cargoes. These are termed local vessels which are distinguished from ocean-going vessels engaged in international voyages. Local vessels have been governed by requirements set out in various ordinances and their subsidiary legislation. This was not user-friendly to owners and operators of local vessels as they often need to refer to different pieces of law. The Merchant Shipping (Local Vessels) Ordinance (Cap 548) (“the Ordinance”), enacted in 1999, seeks to consolidate the provisions previously set out in different ordinances into one piece of legislation dedicated for local vessels. The implementation of the Ordinance entails the introduction of ten pieces of subsidiary legislation. The Legislative Council passed three of them in 2001, namely the Merchant Shipping (Local Vessels) (Dwelling Vessels) Regulation (Cap. 548 sub. leg. A), Merchant Shipping (Local Vessels) (Ferry Terminals) Regulation (Cap. 548 sub. leg. B) and Merchant Shipping (Local Vessels) (Conduct of Inquiries) Rules (Cap. 548 sub. leg. C). The LV(C&L) Regulation and LV(TS) Regulation are among the ten pieces of subsidiary legislation required to be made for the implementation of the Ordinance.

## **The Regulations**

### Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation

3. LV(C&L) Regulation provides for the certification and licensing of local vessels and other related matters, such as restrictions on the maximum number of passengers, restrictions on the use of pleasure vessels and the requirement for vessels to carry competent coxswain and engine operator. Most of the requirements are modelled on the provisions of the Merchant Shipping (Launches and Ferry Vessels) Regulations (Cap. 313 sub. leg. E) ("the Launches and Ferry Vessels Regulations"), Merchant Shipping (Miscellaneous Craft) Regulations (Cap. 313 sub. leg. F) ("the Miscellaneous Craft Regulations") and Merchant Shipping (Pleasure Vessels) Regulations (Cap. 313 sub. leg. G) ("the Pleasure Vessels Regulations"). According to the Administration, these Regulations will be repealed upon commencement of the Ordinance and its subsidiary legislation. Apart from adopting the existing provisions of the Launches and Ferry Vessels Regulations, the Miscellaneous Craft Regulations and the Pleasure Vessels Regulations, the LV(C&L) Regulation also introduces the following major changes:

- (a) Instead of classifying local vessels into 11 classes, the classes of local vessels are to be reduced to four with a view to streamlining the classification system for local vessels.
- (b) A new documentation system for local vessels similar to that applicable to motor vehicles is to be introduced. Under this system, each local vessel is required to have both a certificate of ownership and an operating licence. The purpose is to facilitate the tracing of vessel owners in case of prosecution for breach of law.
- (c) A local vessel may be granted permission to be laid up without the need for an operating licence if it is not in use for operation for an extended period of time.
- (d) A pleasure vessel is required to be used by its owner or person to whom it is let exclusively for pleasure purposes. The LV(C&L) Regulation imposes on the owner of a pleasure vessel, his agent and the coxswain certain requirements when the vessel is let for hire or reward, and provides that contravention of these requirements is an offence.
- (e) There is a new arrangement to allow a person, on the death of the owner of a local vessel, to act as the interim owner and operate the vessel pending disposal of the vessel according to the deceased's will or letters of administration.
- (f) Any person who is aggrieved by certain decisions of the Director of Marine made under the Regulation may appeal to the Administrative

Appeals Board established under the Administrative Appeals Board Ordinance (Cap. 442).

- (g) Immunity from civil action is granted to the Government and officers in respect of any loss or damage suffered by any person as a result of any error or omission that was made in good faith and in the ordinary course of performing the functions under the LV(C&L) Regulation.

#### Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation

4. The LV(TS) Regulation provides for the regulation and control of local vessels in typhoon shelters. The Regulation adopts from the existing Shipping and Port Control (Typhoon Shelters) Regulations (Cap. 313 sub. leg. D) ("the Typhoon Shelters Regulations") the necessary provisions for the management of typhoon shelters, including the setting aside of passage areas in typhoon shelters, use of typhoon shelters, entry and anchoring of local vessels, removal of local vessels unlawfully remaining in typhoon shelters, etc. According to the Administration, the Typhoon Shelters Regulations will be repealed upon the commencement of the Ordinance and its subsidiary legislation. Apart from adopting the existing provisions of the Typhoon Shelters Regulations, the LV(TS) Regulation also introduces some new provisions to improve the control by the Director of Marine over the use of typhoon shelters.

#### **The Subcommittee**

5. The House Committee agreed at its meeting on 5 March 2004 to form a Subcommittee to study the LV(C&L) Regulation and LV(TS) Regulation. Chaired by Hon Miriam LAU, the Subcommittee held two meetings on 15 and 25 March 2004 to discuss the two Regulations with the Administration. The membership list of the Subcommittee is in **Appendix I**.

6. The Subcommittee received written views from two organizations, namely, the Hong Kong & Kowloon Motor Boats & Tug Boats Association Ltd, and New World First Ferry Services Limited.

7. To allow sufficient time for members' deliberation, the scrutiny period of the two Regulations was extended to 21 April 2004. A relevant resolution was passed by the Legislative Council on 24 March 2004. The deadline for giving notice to amend the two Regulations is 14 April 2004.

## **Deliberations of the Subcommittee**

### Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation

8. The Subcommittee notes the introduction of a new and streamlined classification system for local vessels, thus reducing the classes of local vessels from 11 to four. Section 4 of LV(C&L) Regulation provides that a local vessel, where certificated under the Regulation, shall be so certified for Class I, II, III or IV and for a type specified opposite the relevant class in Schedule 1.

#### *Section 5 - Restrictions on vessels of Class II*

9. Section 5(1) of LV(C&L) Regulation provides that no full licence or temporary licence for a Class II vessel shall permit the vessel to carry more than 12 passengers. One of the concerns raised by the trade and the Subcommittee is that the provision, as presently drafted, is unclear as it may create the misconception that every type of Class II vessel can carry 12 passengers.

10. The Administration advises that under section 14 of the Ordinance, no licensed vessels shall carry any passenger unless the conditions of its operating licence permit the carriage of passengers. In considering whether a vessel under Class II should be permitted to carry passengers, the Administration would take into account a number of factors, including the size and type of vessel as well as other safety considerations. As there are some 22 types of vessels in Class II, it is impossible to set out the conditions of every type of vessel in this section. The Regulation therefore maintain a certain degree of flexibility by allowing the Director of Marine to grant permission to vessel owners/operators to carry passengers as and when appropriate. For example, some cargo owners might wish to travel on board a dry cargo vessel as passengers to look after their cargoes during shipment.

11. The Administration further advises that a Code of Practice laying down the technical and safety standards in the design, construction, maintenance and inspection for the local vessels would be issued under section 8 of the Ordinance. Unless the Director of Marine is satisfied that a local vessel is built and maintained in accordance with the relevant regulations and the standards adopted in the Code, the vessel would not be allowed to carry passengers.

12. The Subcommittee considers that there is a need to enhance transparency in the determination of both crew and passenger carrying capacity. The trade should also be kept duly informed and consulted before implementation. The Administration advises that the detailed requirements will be set out in the Merchant Shipping (Local Vessels) (Safety Survey) Regulation and relevant Codes of Practice. The Administration has consulted the Provisional Local Vessel Advisory Committee ("PLVAC") on the draft "Code of Practice – Safety Standard for Class I, II, and III Vessels". The Administration is also preparing the "Code of Practice – Safety Standard for Class IV Vessels" and will consult the PLVAC later.

13. On members' concern about the criteria for determining the manning scales for different types of vessels, the Administration advises that a safe manning scale for local vessels will be worked out for vessel owners/operators for the safe operation of their vessels. The Administration also notes the suggestion put forward by Hong Kong & Kowloon Motor Boats & Tug Boats Association that for vessels not exceeding 24 metres in length, the maximum number of crew allowed should not exceed six.

*Section 6 - Restriction on Class IV vessels (pleasure vessels)*

14. The Subcommittee is of the view that pleasure vessels should not be used for commercial purpose to ensure safety. At present, the general public may buy tickets, through travel agents, for boarding pleasure vessels to engage in cuttlefish fishing and other leisure activities, such as viewing firework displays.

15. The Administration advises that section 6 is a new provision which requires pleasure vessels to be used by its owner or the person to whom it is let, exclusively for pleasure purposes. When a pleasure vessel is let for hire or reward, a written charter agreement shall be kept on board for inspection. In addition, if the chartered pleasure vessel carries passengers, a valid certificate of inspection and relevant insurance policy shall also be kept on board for inspection. The Administration advises that enforcement will be stepped up following the commencement of the new regulation. Plainclothes officers will conduct spot checks and offenders will be prosecuted. Members of the public would also be encouraged to use vessels with launch/ferry licences for launching activities.

*Section 21 - Permission for a laid-up vessel*

16. The Subcommittee notes that section 21 provides for matters relating to application for grant of a new permission for a laid-up vessel to enable a local vessel to be laid up without the need for an operating licence if it is not in use for operation for an extended period of time. The Subcommittee is concerned that this will in effect reduce the available spaces in typhoon shelters.

17. The Administration advises that under section 66 of the Ordinance, no laid-up vessel shall, except with the written permission of the Director of Marine, be berthed, moored or anchored at any place in the waters of Hong Kong. The permission for a laid-up vessel in respect of a local vessel will need to be renewed on an annual basis on payment of a fee equivalent in amount for obtaining an operating licence. Laid-up vessels will be subject to safety inspections again before new operating licences are granted to them for operation.

*Section 55 - Immunity; no warranty as to correctness of information*

18. Section 55 of the LV(C&L) Regulation grants immunity from civil action to the Government and officers in respect of any loss or damage suffered by any person as a result of any error or omission that was made in good faith and in the ordinary course of the performance of any function under the Regulation. The Subcommittee has examined the legal basis of section 55 as the immunity provision does not appear to fall within the scope of the regulation making power under section 89 of the Ordinance. The Subcommittee is also concerned about the immunity provision and enquired about the reasons for applying this provision in the certification and licensing of local vessels. In this respect, the Subcommittee notes that there is no similar immunity for performing functions relating to the registration and licensing of motor vehicles under the Road Traffic Ordinance (Cap. 374) and its subsidiary legislation.

19. The Administration advises that section 89 of the Ordinance empowers the Secretary for Economic Development and Labour to make regulations to provide for the certification and licensing of vessels and the renewal of licences. The scheme of certification and licensing is provided for under the LV(C&L) Regulation. The implications of certification and licensing (and the need for immunity) are incidental to the scheme and should be provided for as part of the same Regulation. Instead of providing an immunity clause in the Ordinance, which may cover functions performed under more than one Regulation, the Administration chooses to do so in the LV(C&L) Regulation.

20. The Administration further advises that in the LV(C&L) Regulation, the Director of Marine is empowered to issue certificates of ownership (COO). Question may arise as to whether a certificate should be an exhaustive and accurate record of interest in the vessel or should reflect every detail of the vessel. For example, a person is eligible to be certificated as the owner if a vessel is let to him under a hire-purchase agreement, it is possible that he makes use of the COO to wilfully mislead someone to believe that he is the property owner of the vessel, and the person so misled suffers loss or damage as a result. Under the immunity clause, the Government will be immune from liability in respect of the loss or damage provided that the COO was issued in good faith and in accordance with the law. The provision of an immunity clause is not uncommon in Hong Kong legislation. For example, section 23A of the Land Registration Ordinance (Cap. 128) excludes liability of the Land Registrar or any of his officer for registering in good faith, any deed, conveyance or other instrument in writing, or judgement, notwithstanding any error, omission or defect therein.

21. Notwithstanding the Administration's explanation, the Subcommittee is of the view that the general public may not be aware that a COO issued under the Regulation is not intended to be an evidence of title. The Administration agrees to move a motion to amend section 55 to address members' concerns. The Subcommittee notes that the scope of immunity as provided in the amended section 55 will be confined to the performance of any function relating to the document(s) only instead of the

performance of any function under the Regulation.

*Section 38 - Certificate of ownership number to be marked*

22. The Subcommittee notes that under the Ordinance, the classification of local vessels will be rationalized, and the number of classes will be streamlined from 11 to four, namely Class I: passenger vessels, Class II: cargo vessels, Class III: fishing vessels, and Class IV: pleasure vessels. Making use of this opportunity, a new numbering system will be introduced to standardize the format of licence numbers and to make licence numbers easily understood by the public and the trade.

23. In future, under the Ordinance, every certificated local vessel will be assigned with a unique certificate of ownership number (COO number), which is also used as the operating licence number (equivalent to the existing licence number). The COO number comprises a single letter prefix - except for the number of a Class IV vessel, which has no prefix at all - and five digits. The prefixes denote the classes of vessel: 'A' for Class I, 'B' for Class II and 'C' for Class III. However, to distinguish a Class III open sampan fitted with petrol outboard engine (existing P4 sampan) from other Class III vessels so as to remove any doubt on its usage, a prefix 'P' will be assigned to this type of vessels instead of 'C'.

24. The Subcommittee notes the Administration's view that assigning a new number to existing vessels may cause confusion for the trade, especially if the existing numbers have been referred to in various business or legal documents. Hence, existing vessel owners can choose to use the original number or a new one under the new numbering system. To minimize confusion, the COO number of an existing vessel will consist of a prefix applicable under the new numbering system followed by its existing licence number.

*Section 40 - Display of vessel's name and other mark*

25. Section 40(2) provides that a local vessel shall not have displayed on it any name or mark that gives a false impression that the vessel belongs to, is operated by or on behalf of, or is otherwise connected with, the Government. Apart from this, vessel owners are free to choose their own names. The Subcommittee notes that display of indecent matter falls outside the scope of LV(C&L) Regulation.

*Appeal against decisions made by the Director of Marine*

26. To assist a person who is aggrieved by a decision made by the Director of Marine under section 19, 23, 26, 33, 34 or 44 in lodging an appeal against the decision to the Administrative Appeals Board, the Subcommittee has examined whether there is a need to provide for an express provision requiring the Director to give reasons for his decision.

27 The Administration accepts that it is good practice to give reasons for important decisions, whether or not the law expressly requires it. The Administration therefore agrees to add an express requirement for the Director to give reasons for his actions under sections 19, 23 and 26. However, the Director's decision/actions under section 33, 34 and 44 are self-explanatory and should require no explanation. Relevant amendments would be moved by the Administration accordingly.

#### Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation

28. The Subcommittee notes that the existing typhoon shelters in Hong Kong are designed and constructed for use by local vessels with length overall up to 30.4 metres or 50 metres (depending on the design of different typhoon shelters). The permitted length of each typhoon shelter is determined having regard to the width of its entrance, water depth, fairway alignment, positioning of mooring areas and mooring dolphins, etc.

29. The Subcommittee is concerned about the safety implications if suitable typhoon facilities are not available for use by vessels with the length overall exceeding the permitted length overall specified for a typhoon shelter. The Subcommittee requests the Administration to look into the matter and provide suitable mooring facilities for longer vessels. Consideration should also be given to granting permission to vessel owners/operators of this type to enter or stay in typhoon shelters to ensure the safety of crew members during typhoon. In designing future typhoon shelters, this factor has to be taken into account.

30. The Administration advises that if the restriction of permitted length of typhoon shelter is relaxed, modification of the existing typhoon shelters will be required or the presence of over-length vessels may endanger the safety of other users of typhoon shelters. The Administration has considered modifying the structure of existing typhoon shelters, such as widening the entrances and fairways or repositioning the mooring areas and dolphins. However, such modifications would reduce the usable shelter space by 10% to 20%.

31. The Administration further advises that no vessel with length overall exceeding 50 metres or permitted to carry dangerous goods will be issued an operating licence unless their proposed typhoon mooring arrangements have been approved by the Director of Marine (such mooring arrangements usually involve the use of private mooring or anchorage). In other words, all local vessels with a valid licence should have suitable typhoon/mooring arrangements in place irrespective of their length.

32. The Administration advises that since the number of over-length vessels has been on the rise, new mooring areas will be actively explored, so as to offer more choices of typhoon mooring arrangements for the operators of such vessels. The Administration undertakes to report on the progress of the work within this legislative session to the Panel on Economic Services.



*Appeal provision*

33. The Subcommittee notes that no provision is made in the LV(TS) Regulation to allow a person aggrieved by a decision made by the Director of Marine under section 4(6), (7) or (8) to appeal against the decision. However, there is an appeal provision (i.e. section 13) in the existing Shipping and Port Control (Typhoon Shelters) Regulations (Cap. 313 sub. leg. D).

34. The Administration explains that the powers vested in the Director under sections 4(6) to (8) may only be invoked under specific conditions which are clearly defined in law (e.g. when the presence of a vessel is likely to cause hazard in the typhoon shelter owing to its size or design, or because of the number of vessels in the typhoon shelters). The powers are fairly restrictive and are unlikely to be subject to abuse or excessive use. The decisions to be made by the Director under these subsections do not amount to determination of civil rights and obligations. These provisions, as drafted, also conform with human rights principles. Indeed, section 4(8) is modelled on section 5(3) of the existing Shipping and Port Control (Typhoon Shelters) Regulations (Cap. 313D), but has been improved with clearly spelt out conditions under which the Director's power can be invoked. Under existing Cap. 313D, provisions which mirror sections 4(7) and (8) in the Regulation do not provide for any appeal mechanism.

35. Notwithstanding the Administration's explanation, the Subcommittee is of the view that any decision of the Director which involves a personal judgement should be subject to appeal. Having considered members' view, the Administration agrees to move an amendment to section 4 of the LV(TS) Regulation to provide for a suitable appeal mechanism.

36. The Subcommittee has made various suggestions to improve the drafting of the two Regulations. A motion to this effect (**Appendix II**) will be moved by the Administration.

**Advice sought**

37. The Subcommittee supports the proposed Regulations and invites the House Committee to note its deliberations.

**Subcommittee on  
Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation and  
Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation**

**Membership list**

**Chairman** Hon Miriam LAU Kin-ye, JP

**Members** Hon SIN Chung-kai  
Hon WONG Yung-kan

(Total: 3 members)

**Clerk** Mr Andy LAU

**Legal Adviser** Ms Connie FUNG

**Date** 15 March 2004

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

**RESOLUTION OF THE LEGISLATIVE COUNCIL**

MERCHANT SHIPPING (LOCAL VESSELS) (CERTIFICATION AND  
LICENSING) REGULATION

MERCHANT SHIPPING (LOCAL VESSELS)(TYPHOON  
SHELTERS) REGULATION

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

**RESOLUTION OF THE LEGISLATIVE COUNCIL**

MERCHANT SHIPPING (LOCAL VESSELS) (CERTIFICATION  
AND LICENSING) REGULATION  
MERCHANT SHIPPING (LOCAL VESSELS) (TYPHOON SHELTERS) REGULATION

Resolution made and passed by the Legislative Council  
under section 34(2) of the Interpretation and General Clauses  
Ordinance (Cap. 1) on 2004.

RESOLVED that -

- (a) the Merchant Shipping (Local Vessels)  
(Certification and Licensing) Regulation,  
published in the Gazette as Legal Notice No. 27  
of 2004 and laid on the table of the Legislative  
Council on 3 March 2004, be amended -

(i) in section 2(1), by adding -

"length overall" (總長度), in

relation to a local vessel,  
means the distance between  
the foreside of the foremost  
fixed permanent structure and  
the aftside of the aftermost  
fixed permanent structure of  
the vessel;"

- (ii) in section 6(3)(a), by repealing  
"有效";
- (iii) in section 10(4)(a)(v), by adding "of  
the vessel" after "construction";
- (iv) in section 19, by adding -
  - "(8) If the Director refuses  
to issue or renew a temporary  
licence, he shall notify the  
applicant of the refusal and the  
reasons therefor.";
- (v) in section 21, by adding -
  - "(4) A permission for a  
laid-up vessel shall be in such  
form as the Director may  
determine.";
- (vi) in section 23 -
  - (A) by renumbering subsections (5)  
and (6) as subsections (6) and (7)  
respectively;
  - (B) by adding -
    - "(5) If the Director  
refuses an application under  
subsection (2), he shall  
notify the applicant of the  
refusal and the reasons  
therefor.";

- (C) in subsection (7), by repealing  
"(5)" and substituting "(6)";
- (vii) in section 26, by adding -  
"(5) If the Director refuses  
an application under subsection  
(2), he shall notify the  
applicant of the refusal and the  
reasons therefor.";
- (viii) in section 49(2), by adding "有關"  
before "船隻";
- (ix) in section 54(1)(a), by adding "書面"  
after "作出的";
- (x) by repealing section 55 and  
substituting -

**"55. Certificate of ownership,  
etc. not to be relied on  
for other purposes**

(1) A certificate of  
ownership, full licence,  
temporary licence, permission for  
a laid-up vessel or any other  
document issued, granted, renewed  
or endorsed under the provisions  
of this Regulation or section 66  
of the Ordinance is issued,  
granted, renewed or endorsed for

the purposes of the Ordinance only.

(2) Despite any information as to ownership of or interest in a local vessel contained in a document referred to in subsection (1) in respect of the vessel, the document shall not be taken as making, for any purpose otherwise than of the Ordinance, a representation as to who owns, or has any interest in, the vessel.

(3) No action shall lie against the Government, the Director or any other officer in respect of any loss or damage suffered by any person as a result of any error or omission in the information as to ownership of or interest in a local vessel contained in a document referred to in subsection (1) in respect of the vessel, if the error or omission was made in good faith and in the

ordinary course of the  
performance of any function  
relating to the document.";

(b) the Merchant Shipping (Local Vessels)(Typhoon Shelters) Regulation, published in the Gazette as Legal Notice No. 28 of 2004 and laid on the table of the Legislative Council on 3 March 2004, be amended -

(i) by renumbering sections 11 and 12 as sections 12 and 13 respectively;

(ii) by adding -

**"11. Appeals**

(1) Any person aggrieved by the exercise of the power conferred on the Director under section 4(6), (7) or (8) may appeal to the Administrative Appeals Board.

(2) An appeal under subsection (1) shall be made within 14 days after an endorsement is made or a direction is given by virtue of the exercise of the power under section 4(6), (7) or (8).

(3) An appeal made under



subsection (1) shall not affect  
the operation of the endorsement  
or the direction prior to the  
determination of the appeal.";

- (iii) in the Schedule, within the square brackets, by repealing "11" and substituting "12".

Clerk to the Legislative Council

2004

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

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**RESOLUTION**

(Under section 34(2) of the Interpretation and General  
Clauses Ordinance (Cap. 1))

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MERCHANT SHIPPING (LOCAL VESSELS)(CERTIFICATION  
AND LICENSING) REGULATION  
MERCHANT SHIPPING (LOCAL VESSELS)(TYPHOON SHELTERS) REGULATION

RESOLVED that -

(a) the Merchant Shipping (Local Vessels)  
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in the Gazette as Legal Notice No. 27 of 2004 and  
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March 2004, be amended -

(i) in section 2(1), by adding -

"length overall" (總長度), in

relation to a local vessel,

means the distance between the

foreside of the foremost fixed

permanent structure and the  
aftside of the aftermost fixed  
permanent structure of the  
vessel;"

(ii) in section 6(3)(a), by repealing "有效";

(iii) in section 10(4)(a)(v), by adding "of the  
vessel" after "construction";

(iv) in section 19, by adding -

"(8) If the Director refuses to  
issue or renew a temporary licence,  
he shall notify the applicant of the  
refusal and the reasons therefor.";

(v) in section 21, by adding -

"(4) A permission for a laid-  
up vessel shall be in such form as  
the Director may determine.";

(vi) in section 23 -

(A) by renumbering subsections (5) and  
(6) as subsections (6) and (7)  
respectively;

(B) by adding -

"(5) If the Director  
refuses an application under  
subsection (2), he shall notify  
the applicant of the refusal  
and the reasons therefor.";

- (C) in subsection (7), by repealing  
"(5)" and substituting "(6)";
- (vii) in section 26, by adding -  
"(5) If the Director refuses an  
application under subsection (2), he  
shall notify the applicant of the  
refusal and the reasons therefor.";
- (viii) in section 49(2), by adding "有關" before  
"船隻";
- (ix) in section 54(1)(a), by adding "書面"  
after "作出的";
- (x) by repealing section 55 and  
substituting -

**"55. Certificate of ownership, etc.  
not to be relied on for other  
purposes**

(1) A certificate of ownership,  
full licence, temporary licence,  
permission for a laid-up vessel or  
any other document issued, granted,  
renewed or endorsed under the  
provisions of this Regulation or  
section 66 of the Ordinance is  
issued, granted, renewed or endorsed  
for the purposes of the Ordinance  
only.

(2) Despite any information as to ownership of or interest in a local vessel contained in a document referred to in subsection (1) in respect of the vessel, the document shall not be taken as making, for any purpose otherwise than of the Ordinance, a representation as to who owns, or has any interest in, the vessel.

(3) No action shall lie against the Government, the Director or any other officer in respect of any loss or damage suffered by any person as a result of any error or omission in the information as to ownership of or interest in a local vessel contained in a document referred to in subsection (1) in respect of the vessel, if the error or omission was made in good faith and in the ordinary course of the performance of any function relating to the document." ;

(b) the Merchant Shipping (Local Vessels)(Typhoon Shelters) Regulation, published in the Gazette as

Legal Notice No. 28 of 2004 and laid on the table of the Legislative Council on 3 March 2004, be amended -

- (i) by renumbering sections 11 and 12 as sections 12 and 13 respectively;
- (ii) by adding -

**"11. Appeals**

(1) Any person aggrieved by the exercise of the power conferred on the Director under section 4(6), (7) or (8) may appeal to the Administrative Appeals Board.

(2) An appeal under subsection (1) shall be made within 14 days after an endorsement is made or a direction is given by virtue of the exercise of the power under section 4(6), (7) or (8).

(3) An appeal made under subsection (1) shall not affect the operation of the endorsement or the direction prior to the determination of the appeal.";

- (iii) in the Schedule, within the square brackets, by repealing "11" and substituting "12".