

**MERCHANT SHIPPING (LOCAL VESSELS AND MISCELLANEOUS
AMENDMENTS) BILL 2005**

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A BILL

To

- (a) amend the Merchant Shipping (Local Vessels) Ordinance and some of its subsidiary legislation to provide for their effective operation;
- (b) amend other relevant enactments to provide for the better regulation and control of vessels; and
- (c) make further consequential amendments upon the enactment of the Merchant Shipping (Local Vessels) Ordinance and its subsidiary legislation.

Enacted by the Legislative Council.

PART 1

GENERAL

1. Short title and commencement

(1) This Ordinance may be cited as the Merchant Shipping (Local Vessels and Miscellaneous Amendments) Ordinance 2005.

(2) Subject to subsection (3), this Ordinance shall come into operation on the day appointed for the commencement of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548).

(3) Section 9 (so far as it relates to the new section 23B(1)(c)) shall come into operation 6 months after the day appointed for the commencement of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548).

PART 2

AMENDMENTS TO THE MERCHANT SHIPPING (LOCAL VESSELS)
ORDINANCE AND ITS SUBSIDIARY LEGISLATION

Merchant Shipping (Local Vessels) Ordinance

2. Interpretation

Section 2 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) is amended—

(a) in the definition of “local vessel”—

(i) in paragraph (b), by repealing “前來香港或自香港前往他處” and substituting “用於前來香港或自香港前往其他地方進行貿易”;

(ii) by repealing paragraph (e) and substituting—

“(e) any vessel—

(i) registered in the Mainland of China or Macau;

(ii) employed in trading to or from Hong Kong; and

(iii) issued with any certificate by a government authority of the Mainland of China or Macau permitting its trading to Hong Kong other than any accepted convention certificate;”;

(b) in the definition of “vessel”, in paragraph (b), by repealing “navigation.” and substituting “navigation;”;

(c) by adding—

““accepted convention certificate” (獲認可的公約證明書) means a certificate in the form prescribed by the International Convention for the Safety of Life at Sea, 1974 as amended from time to time;

“approved insurer” (認可保險人) means a protection and indemnity association approved under any regulation made in relation to insurance under section 89;

“authorized insurer” (獲授權保險人) means—

(a) an insurer authorized under the Insurance Companies Ordinance (Cap. 41) to carry on insurance business of the nature specified in class 12 in Part 3 of the First Schedule to that Ordinance;

(b) an association of underwriters approved by the Insurance Authority under section 6 of that Ordinance to carry on insurance business of the nature specified in class 12 in Part 3 of the First Schedule to that Ordinance;

(c) the society of underwriters known in the United Kingdom as Lloyd's; or

(d) an approved insurer;

“crane” (起重機) means any appliance equipped with mechanical means of hoisting and lowering a load and for transporting the load while suspended; and also all chains, ropes, swivels, or other tackle (down to and including the hook), used in the operation of the appliance; but does not include—

(a) a hoist block running on a fixed rail or wire;

(b) a stacker or conveyer whereby a load is moved by means of a belt or platform; or

(c) an earth or mineral moving or excavating appliance not fitted with a grab;

“Insurance Authority” (保險業監督) has the meaning assigned to it by section 2(1) of the Insurance Companies Ordinance (Cap. 41);

“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;

“marine construction” (海上建造工程) means any construction or reclamation works, including dredging, drilling, pipe laying, buoy laying, cable laying and caisson construction, in which local vessels are used;

“person in charge of works” (工程負責人) means—

(a) the owner or coxswain of, or other person having control over, a local vessel on, to or by means of which any works are to be, or are being, carried out;

(b) a principal contractor or sub-contractor, if any, who contracts to carry out, or who carries out, any works; or

(c) any other person having for the time being the command or charge of any works being carried out on, to or by means of a local vessel;

“principal contractor” (總承判商) means a person who enters into a contract directly with the owner or coxswain of, or other person having control over, a local vessel to carry out any works;

“protection and indemnity association” (保障及彌償組織) means an association established by shipowners to provide mutual indemnity for its members against losses and liabilities incident to marine adventure;

“repairs” (修理), in relation to—

(a) any local vessel, means (except in section 74) any repairs, alterations or maintenance works on or to the vessel carried out by any person other than a member of the crew or the coxswain of the vessel or that involve or are likely to involve the safety of any person other than a member of the crew or the coxswain of the vessel; and

(b) any local vessel carrying dangerous goods, means (except in section 74) any repairs, alterations or maintenance works on or to the vessel capable of providing an ignition source, including those that involve welding, burning or the use of blow lamps, braziers or other devices using combustible materials;

“sub-contractor” (次承判商) means—

(a) any person who enters into a contract, express or implied, with a principal contractor to perform all or any part of the works which the principal contractor has contracted to perform; or

(b) any other person who enters into a contract, express or implied, to perform all or any part of the works which a sub-contractor within the meaning of paragraph (a) has contracted to perform;

“works” (工程) means—

(a) repairs to a local vessel;

(b) the breaking up of a local vessel;

(c) cargo handling; or

(d) marine construction.”

3. Application

Section 3 is amended—

- (a) in subsection (3), by repealing “and V” and substituting “, V and VA”;
- (b) in subsection (5), by repealing “Nothing” and substituting “Except where otherwise specially provided, nothing”.

4. Authorization of surveyors

Section 7 is amended—

- (a) by repealing subsection (4) and substituting—
 - “(4) The Director may carry out an audit check of any survey carried out or any plan approved by an authorized surveyor for the purposes of this Ordinance.”;
- (b) in subsection (6)—
 - (i) by repealing “Government surveyor, or”;
 - (ii) in paragraph (a), by adding “or” at the end.

5. Section added

The following is added immediately before Part III—

“7A. Recognition of government authority

(1) The Director may recognize in writing any government authority for the purposes of carrying out any survey and approving any plan of any local vessel for the purposes this Ordinance subject to such conditions, if any, as the Director thinks fit.

(2) Where the Director is satisfied that a recognized government authority has contravened any of the conditions imposed under subsection (1), he may serve a notice in writing on the authority withdrawing the recognition and setting out the reasons for such withdrawal.

(3) The Director may carry out an audit check of any survey carried out or any plan approved by a recognized government authority for the purposes of this Ordinance.”.

6. Application

Section 10(b) is repealed and the following substituted—

“(b) which is a vessel—

- (i) used exclusively for pleasure purposes;
 - (ii) not fitted with an engine; and
 - (iii) in the opinion of the Director, incapable of being fitted with an engine,
- including but not limited to a canoe, beach pleasure hire boat, windsurfer and dinghy;”.

7. Certificated local vessel must be licensed

Section 13(1) is amended by repealing “annually”.

8. Section added

The following is added in Part IV—

“15A. Additional fees

- (1) The Director may—
 - (a) in the case of a local vessel which was not licensed in accordance with any of the repealed regulations, require the owner of the vessel to pay a fee specified in subsection (2)(a); or
 - (b) in the case of a local vessel which was not renewed from the expiry date of the licence in accordance with any of the repealed regulations, require the owner of the vessel to pay a fee specified in subsection (2)(b).
- (2) The owner of a local vessel is required to pay—
 - (a) in the case described in subsection (1)(a), a fee which is equivalent to the prescribed licence fee for the issue of an operation licence for a period—
 - (i) commencing on the date the vessel had been without a licence in contravention of the repealed section; and
 - (ii) ending on the relevant day; and
 - (b) in the case described in subsection (1)(b), a fee which is equivalent to the prescribed licence fee for the renewal of an operating licence for a period—
 - (i) commencing on the expiry date of the licence; and
 - (ii) ending on the relevant day.
- (3) Subsection (1) is without prejudice to the liability for an offence under section 13(2) and the liability to pay the additional licence fees under section 15.

(4) The owner of a local vessel may be required to pay a fee payable under subsection (1) in respect of a period whether or not he was the owner of the vessel during that entire period.

(5) A fee under subsection (1) shall not be payable in respect of—

(a) any continuous period exceeding 6 months during which the vessel had not been in use if the owner of the vessel produces evidence to that effect to the satisfaction of the Director; or

(b) any period during which the licence of the vessel was terminated by notice to the Director.

(6) In this section—

“relevant day” (有關日期) means the day of the commencement of this section;

“repealed regulations” (已廢除規例) means the Merchant Shipping (Launches and Ferry Vessels) Regulations (Cap. 313 sub. leg. E), the Merchant Shipping (Miscellaneous Craft) Regulations (Cap. 313 sub. leg. F) and the Merchant Shipping (Pleasure Vessels) Regulations (Cap. 313 sub. leg. G) repealed by this Ordinance;

“repealed section” (已廢除條文) means section 26 of the Shipping and Port Control Ordinance (Cap. 313) repealed by this Ordinance.”.

9. Part VA added

The following is added—

“PART VA

COMPULSORY THIRD PARTY RISKS INSURANCE

23A. Interpretation of Part VA

In this Part—

“class” (類別), in relation to a local vessel, has the meaning assigned to it by section 2(1) of the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548 sub. leg. D);

“type” (類型), in relation to a local vessel, has the meaning assigned to it by section 2(1) of the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548 sub. leg. D).

23B. Application of Part VA

(1) Subject to subsection (2), this Part shall apply to the following local vessels—

- (a) local vessels which were subject to Part XIVA of the Merchant Shipping Ordinance (Cap. 281) immediately before the commencement of this paragraph;
 - (b) local vessels which are certificated under the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548 sub. leg. D) for the following classes and types—
 - (i) Class I: ferry vessel, launch and multi-purposes vessel;
 - (ii) Class II: transportation boat and tug; and
 - (iii) Class IV: all types; and
 - (c) all other local vessels which are required to be certificated under this Ordinance.
- (2) This Part shall not apply to—
- (a) any laid-up vessel which is the subject of a written permission under section 66; and
 - (b) non-mechanically propelled vessels which do not exceed 4 metres in length overall.

23C. Obligation on users of vessels to be insured against third party risks

(1) No owner, charterer or coxswain of a local vessel to which this Part applies may use, or cause or permit any other person to use, the vessel in the waters of Hong Kong unless there is in force in relation to the use of the vessel by such owner, charterer or coxswain or that other person, as the case may be, such policy of insurance as complies with section 23D.

(2) If an owner, charterer or coxswain contravenes subsection (1), he commits an offence and is liable—

- (a) where the offence relates to the use of a local vessel permitted to carry more than 12 passengers, to a fine at level 6 and to imprisonment for 2 years; or
- (b) where the offence relates to the use of a local vessel permitted to carry no more than 12 passengers, to a fine at level 4 and to imprisonment for 1 year.

(3) It shall be a defence to a charge under subsection (2) for the person charged to prove that he took all reasonable precautions and exercised all due diligence to prevent the contravention to which the charge relates.

**23D. Requirements in respect of policies
of insurance**

(1) For the purposes of section 23C(1), a policy of insurance shall be a policy which—

- (a) is issued by an authorized insurer;
- (b) is expressed to be—
 - (i) governed by the laws of Hong Kong; and
 - (ii) issued for the purposes of section 23C(1); and
- (c) insures such person, persons or classes of persons as may be specified in the policy in respect of any liability which may be incurred by him or them in respect of the death of or bodily injury to any person caused by or arising out of the use of local vessels in the waters of Hong Kong.

(2) The liability covered by a policy of insurance required by subsection (1) shall include the liability for—

- (a) interest, costs and expenses indemnified under the policy; and
- (b) other costs and expenses incurred by the insured and recoverable from the insurer under the policy.

(3) A policy of insurance required by subsection (1) shall not be required to cover—

- (a) liability in respect of the death of or bodily injury to any person in the employment of a person insured by the policy which arises out of and in the course of the first mentioned person's employment;
- (b) any contractual liability; or
- (c) any liability in respect of any one accident or series of accidents arising out of the same event exceeding such amount as shall be specified by the Director under any regulation made under section 89.

(4) Notwithstanding anything in any law, an authorized insurer issuing a policy of insurance for the purposes of section 23C(1) shall be liable to indemnify the persons or classes of persons specified in the policy in respect of any liability which the policy purports to cover in the case of those persons or classes of persons.

(5) A policy of insurance which is issued for the purposes of section 23C(1) shall be governed by the laws of Hong Kong.

23E. Certain conditions of policies to be of no effect

(1) If a condition in a policy of insurance issued for the purposes of section 23C(1) provides that—

- (a) no liability shall arise under the policy; or
- (b) any liability so arising shall cease,

in the event of some specified thing being done or omitted to be done after the happening of the event giving rise to a claim under the policy, the condition shall be of no effect in connection with the liability mentioned in section 23D(1)(c).

(2) Nothing in this section shall be taken to render void any provisions in a policy of insurance requiring the person insured to repay to the authorized insurer any sums which—

- (a) the authorized insurer may have become liable to pay under the policy; and
- (b) have been applied to the satisfaction of the claims of third parties.

23F. Duty of insurers to satisfy judgment against persons insured in respect of third party risks

(1) If—

- (a) a policy of insurance has come into operation;
- (b) the terms of the policy cover a liability which the policy is required under section 23D(1)(c) to cover (being a liability covered by the terms of the policy); and
- (c) judgment in respect of the liability is entered against any person insured by the policy,

the authorized insurer shall pay to the persons entitled to the benefit of the judgment any sum payable under the judgment in respect of the liability.

(2) A sum payable under subsection (1) shall include—

- (a) any amount payable in respect of costs; and
- (b) any amount payable under any law relating to interest on judgments in respect of interest on the sum.

(3) Subject to subsection (4), an authorized insurer shall make payment under subsection (1) notwithstanding that—

- (a) he may be entitled to avoid or cancel the policy of insurance concerned; or
- (b) he may have avoided or cancelled the policy.

(4) The amount required to be paid by an authorized insurer under subsection (3) shall not exceed the amount specified by the Director in respect of the policy of insurance under any regulation made under section 89.

(5) An authorized insurer shall be entitled to recover the excess from a person insured by a policy of insurance if the amount of the liability of the authorized insurer under this section exceeds the amount of the liability of the authorized insurer under the policy of insurance.

(6) The Court of First Instance has power to hear and determine a claim against an authorized insurer in respect of his liability under subsection (1) notwithstanding that the authorized insurer is not within the jurisdiction of the Court.

(7) In subsection (1), “liability covered by the terms of the policy” (保險單條款所承保的法律責任) means a liability which—

(a) is covered by the policy of insurance; or

(b) would be so covered but for the fact that the authorized insurer is entitled to avoid or cancel, or has avoided or cancelled, the policy.

(8) In subsection (5)—

“amount of the liability of the authorized insurer under the policy of insurance” (獲授權保險人根據某保險單須負的法律責任的款額) means the amount for which the authorized insurer would, apart from this section, be liable under the policy of insurance in respect of the liability of the person described in that subsection;

“amount of the liability of the authorized insurer under this section” (獲授權保險人根據本條須負的法律責任的款額) means the amount for which the authorized insurer becomes liable under this section to pay in respect of the liability of the person described in that subsection.

23G. Supplementary provisions relating to duty of insurers under section 23F

(1) No sum shall be payable by an authorized insurer under section 23F(1) in respect of any judgment—

(a) unless before or within 7 days after the commencement of the proceedings in which the judgment was given, the authorized insurer had notice of the bringing of the proceedings; or

(b) so long as execution on the judgment is stayed pending an appeal.

(2) No sum shall be payable by an authorized insurer under section 23F(1) in connection with any liability, if—

(a) before the happening of the event which was the cause of the death or bodily injury giving rise to the liability, the policy of insurance was cancelled by mutual consent or by virtue of any provision contained in the policy; and

(b) either—

- (i) before the happening of the event, the policy was surrendered to the authorized insurer or the person in whose favour the policy was issued made a statutory declaration stating that the policy had been lost or destroyed; or
- (ii) after the happening of the event, but before the expiration of a period of 14 days from the taking effect of the cancellation of the policy, the policy was surrendered to the authorized insurer or the person in whose favour the policy was issued made such a statutory declaration.

(3) Subject to subsection (4), no sum shall be payable by an authorized insurer under section 23F if in an action commenced before, or within 3 months after, the commencement of the proceedings in which the judgment was given, he has obtained a declaration that—

- (a) apart from any provision contained in the policy, he is entitled to avoid it on the ground that it was obtained by—
 - (i) the non-disclosure of a material fact; or
 - (ii) a representation of fact which was false in a material particular; or
- (b) if he has avoided the policy of insurance on the ground described in paragraph (a)(i) or (ii), he was entitled so to do apart from any provision contained in it.

(4) An authorized insurer who has obtained a declaration referred to in subsection (3) shall not thereby become entitled to the benefit of that subsection as respects any judgment obtained in proceedings commenced before the commencement of that action unless he complies with the requirement specified in subsection (5).

(5) The requirement referred to in subsection (4) is that before or within 7 days after the commencement of that action, the authorized insurer—

- (a) has given notice of the action to the person who is the plaintiff in the proceedings; and
- (b) has specified in the notice the non-disclosure or false representation on which he proposes to rely.

(6) Any person to whom notice of an action is given under subsection (5) shall be entitled, if he thinks fit, to be made a party to the action.

(7) In this section, “material” (具關鍵性) means of such a nature as to influence the judgment of a prudent insurer in determining whether he will take the risk, and, if so, at what premium and on what conditions.

**23H. Bankruptcy, etc. of insured persons not to
affect certain claims by third parties**

(1) Where—
(a) a policy of insurance has been issued for the purposes of section 23C(1) in favour of any person; and
(b) an event mentioned in section 2(1) or (2) of the Third Parties (Rights against Insurers) Ordinance (Cap. 273) happened in relation to any person insured by the policy, the happening of the event shall, notwithstanding anything in that Ordinance, not affect any such liability of that person as is required to be covered by a policy under section 23D(1)(c).

(2) Nothing in this section shall affect any rights against the authorized insurer conferred by the Third Parties (Rights against Insurers) Ordinance (Cap. 273) on the person to whom the liability was incurred.

(3) Where—
(a) an insured person has rights against an authorized insurer under a policy of insurance issued for the purposes of section 23C(1); and
(b) the rights are by virtue of section 2 of the Third Parties (Rights against Insurers) Ordinance (Cap. 273) transferred to and vested in a third party, the Court of First Instance has power to hear and determine a claim by the third party against the authorized insurer under the policy notwithstanding that the authorized insurer is not within the jurisdiction of the Court.

**23I. Avoidance of restrictions on scope of policies
covering third party risks**

(1) Where a policy of insurance has been issued for the purposes of section 23C(1) in favour of any person, so much of the policy as purports to restrict the insurance of the persons insured thereby by reference to any of the matters specified in subsection (2) shall be of no effect as respect such liabilities as are required to be covered by a policy under section 23D(1)(c).

(2) The matters referred to in subsection (1) are—

- (a) the age or physical or mental condition of persons in charge of the local vessel;
- (b) the condition of the vessel;
- (c) the number of persons that the vessel carries;
- (d) the times at which or the areas within which the vessel is used;

- (e) the propulsion power or value of the vessel's engine;
- (f) the carrying on the vessel of any particular apparatus;
- (g) the carrying on the vessel of any particular means of identification other than any means of identification required to be carried by or under any regulations made under section 89.

(3) Nothing in this section shall require an authorized insurer to pay any sum in respect of the liability of any person otherwise than in or towards the discharge of that liability.

(4) Any sum paid by an authorized insurer in or towards the discharge of any liability of any person which is covered by the policy of insurance by virtue only of this section shall be recoverable by the insurer from that person.

(5) Where—

- (a) a person uses, or causes or permits any person to use, a local vessel to which this Part applies in the waters of Hong Kong;
- (b) the person uses, or causes or permits any other person to use the local vessel in such circumstances that under section 23C there is required to be in force in relation to the use of the vessel by that person or that other person, as the case may be, such a policy of insurance as complies with section 23D; and
- (c) any other person is carried aboard the local vessel while the user is so using it,

any antecedent agreement or understanding between them (whether intended to be legally binding or not) shall be of no effect to the extent specified in subsection (6).

(6) Any antecedent agreement or understanding described in subsection (5) shall be of no effect to the extent that it purports or might be held—

- (a) to negative or restrict any such liability of the user in respect of persons carried in or upon the vessel as is required by section 23D(1)(c) to be covered by a policy of insurance; or
- (b) to impose any conditions with respect to the enforcement of any such liability of the user.

(7) The fact described in subsection (8) shall not be treated as negating any liability of the user in respect of persons carried in or upon the vessel as is required by section 23D(1)(c) to be covered by a policy of insurance.

(8) The fact referred to in subsection (7) is that a person carried aboard a local vessel as described in subsection (5)(c) has willingly accepted as his the risk of negligence on the part of the user of the vessel.

- (9) For the purposes of this section—
- (a) references to a person being carried aboard a vessel include references to a person embarking or disembarking from the vessel; and
 - (b) the reference to any antecedent agreement is to one made at any time before the liability arose.

23J. Duty of person against whom claims are made to give information as to insurance

(1) Any person against whom a claim is made in respect of any such liability as is required to be covered by a policy of insurance under section 23D(1)(c) shall—

- (a) on demand by or on behalf of the person making the claim, state—
 - (i) whether or not he was insured in respect of that liability by any policy of insurance having effect for the purposes of this Part; or
 - (ii) whether or not he would have been so insured if the authorized insurer had not avoided or cancelled the policy; and
- (b) if he was or would have been so insured, give particulars with respect to that policy.

(2) If, without reasonable excuse, any person fails to comply with subsection (1), or wilfully makes any false statement in reply to any such demand, he commits an offence and is liable to a fine at level 2 and to imprisonment for 3 months.

23K. Requirements as to production of policy of insurance

(1) Subject to subsection (2), the owner, charterer or coxswain of a local vessel to which this Part applies which is being used in the waters of Hong Kong shall, on being so required by an authorized officer, produce for inspection a policy of insurance complying with this Part.

(2) If the owner, charterer or coxswain contravenes subsection (1), he commits an offence and is liable to a fine at level 2 and to imprisonment for 3 months.

(3) The owner, charterer or coxswain of a local vessel shall not be convicted of an offence under subsection (2) if, within 5 days after the date on which a requirement was made under subsection (1), he complies with subsection (4).

(4) The owner, charterer or coxswain shall not be convicted of an offence under subsection (2) if he produces for inspection to an authorized officer in person at such place as may have been specified by the authorized officer at the time a requirement was made under subsection (1)—

- (a) the relevant policy of insurance; or
- (b) satisfactory evidence that such policy of insurance had been in effect on that date.”.

10. Interpretation

Section 37 is amended—

- (a) by repealing the definitions of “crane”, “marine construction”, “person in charge of works”, “principal contractor”, “repairs”, “sub-contractor” and “works”;
- (b) in the definition of “machinery, equipment or appliance”, by repealing the semicolon at the end and substituting a full stop.

11. Duty to report collisions, etc.

Section 57(2)(b) is amended by repealing “要項” where it twice appears and substituting “任何具關鍵性詳情”.

12. Sections added

The following are added—

“63A. Director may perform services and surveys, etc.

(1) The Director may, upon request and payment of a prescribed fee or without request, perform services and surveys and grant facilities relating to local vessels.

(2) A certificate in the specified form issued by the Director for the purposes of this Ordinance in respect of a survey performed on a local vessel may have endorsed on it a statement to the effect that the vessel is not fit to operate safely—

- (a) beyond the waters of Hong Kong; or
- (b) in such other waters, if any, as are specified in the certificate.

63B. Director may charge fee

The Director may charge a prescribed fee in respect of the services and surveys performed and facilities granted upon request under section 63A.”.

13. Delegation by Director

Section 72(3) is amended—

- (a) in paragraph (b), by repealing “or”;
- (b) in paragraph (c), by repealing the full stop and substituting “; or”;
- (c) by adding—
 - “(d) to make or grant exemptions under any regulations made under section 89(1)(zh)(i) or (4)(c), except in respect of a provision specified in writing for the purposes of this section by the Secretary for Economic Development and Labour.”.

14. Section added

The following is added—

“76A. Proof of identity of agent in proceedings

If, in any proceedings for an offence under this Ordinance involving any person appointed as an agent for the owner of a local vessel, there is produced to the court or a magistrate a notice of appointment signed by the owner and the person so appointed, the court or magistrate shall admit the notice as prima facie evidence that the person was the agent for the owner at the time of the offence.”.

15. False information

Section 78 is amended by repealing “要項” and substituting “具關鍵性詳情”.

16. Regulations relating to fees

Section 88(1)(a) is amended by adding “or in connection with” before “this Ordinance”.

17. Regulations—general

Section 89 is amended—

(a) in subsection (1)—

(i) by repealing paragraph (i) and substituting—

“(i) the measures to be taken for the control and prevention of fire and protection of life and property, including general and specific requirements relating to the life-saving appliances and fire-fighting apparatuses to be provided on vessels, and the training of the crew in the use of such appliances or apparatuses;”;

(ii) in paragraph (j), by adding “, approval of plans” after “the survey”;

(iii) by adding—

“(va) empowering the Director to prohibit vessels from anchoring or lying at any place;”;

(iv) by repealing paragraph (zg) and substituting—

“(zg) matters incidental to or relating to the insurance that is required to be taken out under the Ordinance, including but not limited to the following—

(i) empowering the Director to—

(A) approve protection and indemnity associations as insurers for the purposes of this Ordinance;

(B) revoke or suspend such approval;

(C) specify the amount of insurance to be covered by any policy of insurance;

(ii) the conditions and requirements as to the issue or sale of such policies of insurance;”;

(b) by repealing subsection (2) and substituting—

“(2) The Secretary for Economic Development and Labour may make regulations providing for the grant by the Director of a permit in respect of a vessel referred to in paragraph (e) of the definition of “local vessel” in section 2 for the regulation, control or use of the vessel.”.

18. Section added

The following is added—

“90A. Saving of notices made under the pre-amended regulation 41(2)(f) of the Shipping and Port Control Regulations

- (1) A notice—
- (a) made under the pre-amended regulation 41(2)(f) of the Shipping and Port Control Regulations (Cap. 313 sub. leg. A); and
 - (b) in force immediately before the commencement of section 44 of the Merchant Shipping (Local Vessels and Miscellaneous Amendments) Ordinance 2005 (of 2005) in respect of a place,

shall be treated as a notice prohibiting any vessel from anchoring or lying at that place posted under any regulation made in relation to the prohibition under section 89.

(2) In this section, a reference to the pre-amended regulation 41(2)(f) of the Shipping and Port Control Regulations (Cap. 313 sub. leg. A) shall be construed as a reference to that section in force immediately before the commencement of section 44 of the Merchant Shipping (Local Vessels and Miscellaneous Amendments) Ordinance 2005 (of 2005).”.

19. Consequential Amendments

The Schedule is amended by repealing sections 32 and 40.

**Merchant Shipping (Local Vessels) (Dwelling Vessels)
Regulation**

20. Director may require information

Section 14(2) of the Merchant Shipping (Local Vessels) (Dwelling Vessels) Regulation (Cap. 548 sub. leg. A) is amended by repealing “要項” and substituting “具關鍵性詳情”.

**Merchant Shipping (Local Vessels) (Ferry Terminals)
Regulation**

21. Offences and penalties

Section 30(8)(c) of the Merchant Shipping (Local Vessels) (Ferry Terminals) Regulation (Cap. 548 sub. leg. B) is amended by repealing “要項” wherever it appears and substituting “具關鍵性詳情”.

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

22. Interpretation

Section 2(1) of the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548 sub. leg. D) is amended by repealing the definitions of “Insurance Regulation” and “length overall”.

23. Restrictions on Class IV vessels

Section 6 is amended—

(a) in subsection (3)—

(i) in paragraph (a), by adding “or certificate of survey” after “inspection”;

(ii) in paragraph (b), by repealing “the Insurance Regulation” and substituting “Part VA of the Ordinance”;

(b) in subsection (5)(a)(ii), by adding “or certificate of survey” after “inspection”.

24. Resignation, etc. of agent

Section 8(5) is repealed.

25. Application for full licence

Section 15(4)(b) is amended by repealing “the Insurance Regulation” and substituting “Part VA of the Ordinance”.

26. Certificate of ownership, full licence, etc. in favour of new owner after transfer of local vessel

Section 23(2)(d)(ii) is amended by repealing “the Insurance Regulation” and substituting “Part VA of the Ordinance”.

27. Person entitled to local vessel on owner’s death may be interim owner

Section 26(3)(b)(ii) is amended by repealing “the Insurance Regulation” and substituting “Part VA of the Ordinance”.

28. Offences for false statements or information

Section 52(a) is amended by repealing “要項” and substituting “具關鍵性詳情”.

Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation

29. Interpretation

Section 2 of the Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation (Cap. 548 sub. leg. E) is amended by repealing the definition of “length overall”.

30. Offences

Section 10(2) is amended by repealing “the offence was committed without his knowledge and that”.

PART 3

AMENDMENTS TO MARINE-RELATED LEGISLATION

Merchant Shipping Ordinance

31. Regulations applicable to trawlers

Section 94(1) of the Merchant Shipping Ordinance (Cap. 281) is amended—

- (a) in paragraph (i), by repealing “; and” and substituting a semicolon;
- (b) in paragraph (j), by repealing the full stop and substituting “; and”;
- (c) by adding—
 - “(k) the measures to be taken for the control and prevention of fire and protection of life and property, including general and specific requirements relating to the life-saving appliances and fire-fighting appliances to be provided on trawlers.”.

Merchant Shipping (Trawler Survey) Regulations

32. Instructions to surveyors

The First Schedule to the Merchant Shipping (Trawler Survey) Regulations (Cap. 281 sub. leg. L) is amended—

- (a) by repealing paragraph 2(*i*) and (*j*) and substituting—
 - “(i) that it complies with all the requirements specified in the Annex to this Schedule;”;
- (b) by adding at the end—

“ANNEX

PART 1—FIRE-FIGHTING APPLIANCES

1. Every trawler shall be provided with appliances whereby at least one jet of water can reach any part of the trawler normally accessible to the persons on the trawler while it is being navigated and any store room and any part of any cargo space when empty.
2. Every trawler shall be provided with at least one fire pump operated by power which shall be capable of delivering at least one jet of water from any fire hydrant, hose and nozzle provided on the trawler.
3. In every trawler fitted with oil-fired boilers or internal combustion type propelling machinery, if the pump required by paragraph 2 of this Annex and its source of power and sea connection are not situated outside spaces containing such boilers or machinery, there shall be provided in a position outside such spaces an additional fire pump and its source of power and sea connection. If the pump is operated by power, it shall comply with the requirements of paragraph 2 of this Annex and, if it is manually operated, it shall be provided with a hose and 9.5 mm diameter nozzle through which it shall be capable of producing a jet of water having a throw of not less than 6 m which can be directed onto any part of the trawler.
4. In every trawler there shall be provided a fire main, water service pipes and hydrants and at least 2 fire hoses.

5. In every trawler fitted with oil-fired boilers or internal combustion type propelling machinery, there shall be provided a spray nozzle suitable for use with the fire hoses required by paragraph 4 of this Annex.
6. Every trawler shall be provided with at least 2 portable fire extinguishers so situated as to be readily available for use in the accommodation and service spaces.
7. In every trawler there shall be provided for the protection of any space containing any oil-fired boiler, oil fuel settling tank or oil fuel unit a fire smothering gas installation. If the engine and boiler rooms are not entirely separated from each other by a bulkhead, or if fuel oil can drain from the boiler room into the engine room, the combined engine room and boiler room shall, for the purpose of this paragraph, be regarded as a single space.
8. In addition to the requirements in paragraph 7 of this Annex, there shall be provided—
 - (a) in each boiler room and in each space which contains any part of any oil fuel installation, at least 2 portable fire extinguishers suitable for extinguishing oil fires; and
 - (b) in each firing space, a receptacle containing at least 0.14 m³ of sand or other dry material suitable for quenching oil fires together with a scoop for its distribution, or alternatively an additional portable fire extinguisher suitable for extinguishing oil fires.
9. In every trawler there shall be provided in any space containing internal combustion type machinery one portable fire extinguisher suitable for extinguishing oil fires for each 100 b.h.p. or part thereof of such machinery, except that no more than 7 such fire extinguishers shall be required in any one space and that alternatively there may be provided 2 such extinguishers together with either—
 - (a) one foam fire extinguisher of at least 45 litres capacity; or
 - (b) one carbon dioxide fire extinguisher of at least 16 kg capacity.
10. Every trawler shall be provided with at least one fireman's axe.

PART 2—LIFE SAVING APPLIANCES

1. Subject to paragraph 2 of this Annex, every trawler shall carry—
 - (a) not less than one lifeboat—
 - (i) attached to davits; and
 - (ii) the capacity of which, or if more than one such boat is carried the aggregate capacity of which, shall be sufficient to accommodate the total number of persons on board the trawler; and
 - (b) not less than 2 inflatable liferafts—
 - (i) the aggregate capacity of which shall be sufficient to accommodate the total number of persons on board the trawler; and
 - (ii) so stowed that they can readily be placed in the water on either side of the trawler.
2. In the case of any trawler less than 36.6 m in length, if the aggregate capacity of the inflatable liferafts carried is sufficient to accommodate twice the total number of persons on board the trawler, no such lifeboat need be carried.
3. Every trawler shall carry not less than 4 lifebuoys, 2 of which shall be provided with a self-igniting light which cannot be extinguished in water.
4. Every trawler shall carry one lifejacket for each person on board the trawler.
5. Every trawler shall be provided with a line-throwing appliance.
6. Every trawler shall be provided with not less than 12 rocket parachute flares.”.

33. Forms

Form 1 of the Second Schedule is amended—

- (a) in paragraph 4, by repealing “the Merchant Shipping (Life Saving Appliances) Regulations (Cap. 281 sub. leg.)” and substituting “Part 2 of the Annex to the First Schedule to the Merchant Shipping (Trawler Survey) Regulations (Cap. 281 sub. leg. L)”;

- (b) in paragraph 5, by repealing “the Merchant Shipping (Fire Appliances) Regulations (Cap. 281 sub. leg.)” and substituting “Part 1 of the Annex to the First Schedule to the Merchant Shipping (Trawler Survey) Regulations (Cap. 281 sub. leg. L)”.

Dangerous Goods (Shipping) Regulations

34. Permits required for carriage of dangerous goods in type III vessels

Regulation 12 of the Dangerous Goods (Shipping) Regulations (Cap. 295 sub. leg. C) is amended—

- (a) by repealing paragraph (1);
- (b) in paragraph (2), by repealing “Without prejudice to the provisions of paragraph (1), no” and substituting “No”;
- (c) by repealing paragraph (3) and substituting—
- “(3) Any permission in writing granted for the purpose of paragraph (2) may be granted subject to such conditions or restrictions as the Director may think fit.”.

35. Special restrictions relating to type III vessels conveying explosives and certain inflammables

Regulation 17(1)(b) is repealed.

36. Regulation added

The following is added immediately before regulation 21—

“20A. Fees for grant of permission under regulation 12(2)

The fees to be paid for the grant of permission under regulation 12(2) shall be \$160.”.

Shipping and Port Control Ordinance

37. Interpretation

Section 2 of the Shipping and Port Control Ordinance (Cap. 313) is amended—

- (a) in the definition of “waters of Hong Kong”, by repealing “(Cap. 1).” and substituting “(Cap. 1);”;
- (b) by adding—
- ““crane” (起重機) means any appliance equipped with mechanical means of hoisting and lowering a load and for transporting the load while suspended; and also all chains, ropes, swivels, or other tackle (down to and including the hook), used in the operation of the appliance; but does not include—
 - (a) a hoist block running on a fixed rail or wire;
 - (b) a stacker or conveyer whereby a load is moved by means of a belt or platform; or
 - (c) an earth or mineral moving or excavating appliance not fitted with a grab;
 - “lifting appliance” (起重裝置) means a crane, winch, hoist, derrick boom, sheer legs, excavator, pile driver, pile extractor, fork lift truck or other self-propelled machine, and any other description of lifting appliance, derrick and mast bands, goose-necks, eyebolts, and all other permanent attachments to a derrick, mast or deck, used on a vessel for the purposes of hoisting or lowering in connection with works;
 - “lifting gear” (起重工具) includes a chain sling, rope sling, canvas sling, net, tray, board, box, bull rope, snorter, can hook or other means of supporting cargo and attachments thereto including a ring, link, hook, plate, clamp, shackle, swivel, eyebolt, bridle, beam, spreader, rope and wire, used on a vessel in connection with works;
 - “marine construction” (海上建造工程) means any construction or reclamation works, including dredging, drilling, pipe laying, buoy laying, cable laying and caisson construction, in which vessels are used;
 - “person in charge of works” (工程負責人) means—
 - (a) the owner or master of, or other person having control over, a vessel on, to or by means of which any works are to be, or are being, carried out;
 - (b) a principal contractor or sub-contractor, if any, who contracts to carry out, or who carries out, any works; or

- (c) any other person having for the time being the command or charge of any works being carried out on, to or by means of a vessel;

“principal contractor” (總承判商) means a person who enters into a contract directly with the owner or master of, or other person having control over, a vessel to carry out any works;

“repairs” (修理), in relation to—

- (a) any vessel, means any repairs, alterations or maintenance works on or to the vessel carried out by any person other than a member of the crew or the master of the vessel or that involve or are likely to involve the safety of any person other than a member of the crew or the master of the vessel; and

- (b) any vessel carrying dangerous goods, means any repairs, alterations or maintenance works on or to the vessel capable of providing an ignition source, including those that involve welding, burning or the use of blow lamps, braziers or other devices using combustible materials;

“sub-contractor” (次承判商) means—

- (a) any person who enters into a contract, express or implied, with a principal contractor to perform all or any part of the works which the principal contractor has contracted to perform; or
- (b) any other person who enters into a contract, express or implied, to perform all or any part of the works which a sub-contractor within the meaning of paragraph (a) has contracted to perform;

“works” (工程) means—

- (a) repairs to a vessel;
- (b) the breaking up of a vessel;
- (c) cargo handling; or
- (d) marine construction.”.

38. Interpretation

Section 36 is amended—

- (a) by repealing the definitions of “crane”, “lifting appliance”, “lifting gear”, “marine construction”, “person in charge of works”, “principal contractor”, “repairs”, “sub-contractor” and “works”;
- (b) in the definition of “machinery, equipment or appliance”, by repealing the semicolon at the end and substituting a full stop.

39. Delegation by Director

Section 58(3) is amended—

- (a) in paragraph (b), by repealing “or”;
- (b) in paragraph (c), by repealing the full stop and substituting “; or”;
- (c) by adding—
 - “(d) to make exemptions under any regulation made under section 80(1)(i)(i), except in respect of a provision specified for the purposes of this section in the Schedule.”.

40. Regulations

Section 80(1)(e) is amended by adding “marine” before “works”.

Shipping and Port Control Regulations

41. Pre-arrival notification or report for permission to enter the waters of Hong Kong

Regulation 6A(1) of the Shipping and Port Control Regulations (Cap. 313 sub. leg. A) is amended by repealing “Part” and substituting “regulation”.

42. Entry into restricted areas, etc.

Regulation 23(6A), (6B) and (6C) is amended by repealing “Chek Lap Kok Airport” and substituting “Hong Kong International Airport”.

43. Navigation near the Ngong Shuen Chau Naval Basin

Regulation 24 is amended—

- (a) in paragraph (1), by repealing “a naval authority” and substituting “the Hong Kong Garrison”;

- (b) by repealing paragraph (4) and substituting—
- “(4) If without reasonable excuse this regulation is contravened—
- (a) in the case of a vessel not being towed, the master of the vessel commits an offence; or
- (b) in the case of a vessel being towed, the master of the vessel and the master of any other vessel towing the vessel commit an offence, and is or each of them is (as the case may be) liable to a fine at level 1.”.

44. Anchoring of vessels

Regulation 41(2) is amended—

- (a) by repealing paragraph (f) and substituting—
- “(f) except with the permission of the Director, at any place at which anchoring or lying is prohibited by notice posted under any regulation made in relation to the prohibition under section 89 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548);”;
- (b) in paragraph (k), by repealing “naval authorities” and substituting “Hong Kong Garrison”.

45. Part VIA added

The following is added—

“PART VIA

TYPHOON SHELTER

55A. Interpretation of Part VIA

In this Part, “typhoon shelter” (避風塘) means a typhoon shelter specified in the Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation (Cap. 548 sub. leg. E).

55B. Permit to enter and remain in typhoon shelters

(1) The Director may, subject to such conditions as he thinks fit, grant a permit in writing permitting any vessel to enter and remain in a typhoon shelter specified in the permit.

(2) The Director may, add to, delete or vary the conditions of a permit if he is satisfied that the vessel is so situated or in such a condition that it—

- (a) endangers the safety of persons, other vessels or property;
or
- (b) poses a hazard to the environment.

55C. Use of typhoon shelters

Except with the permission of the Director granted under section 55B(1), no vessel shall enter or remain in a typhoon shelter.

55D. Power to remove vessels unlawfully in typhoon shelters

(1) If any vessel enters or remains in a typhoon shelter in contravention of regulation 55C, the Director may, subject to paragraphs (2) and (3), take possession of the vessel and remove it from the typhoon shelter or move it from the position in which it is lying.

(2) Subject to paragraph (3), the Director shall give to the owner or his agent or master of a vessel not less than 7 days' notice in writing of any proposed exercise of his power under paragraph (1) and the notice shall state the reason therefor.

(3) The Director may exercise his power under paragraph (1)—

- (a) at any time after notice of the proposed exercise of power is given under paragraph (2), notwithstanding that the period of notice has not expired, if a strong monsoon signal or tropical cyclone warning signal is issued by the Hong Kong Observatory; or
- (b) without giving notice, if the owner or his agent or master of the vessel cannot be found or if, in the opinion of the Director, the vessel is abandoned.

(4) If any person on board a vessel obstructs the Director in the exercise of his power under paragraph (1), the Director may evict such person from the vessel.

(5) The Director may use such force as may be reasonably necessary for the exercise of his power under paragraph (1) or for the purposes of paragraph (4).

55E. Production of permit

The Director may require the owner or his agent or master of a vessel to produce any permit granted under regulation 55B in respect of the vessel—

- (a) for inspection for the purpose of ensuring compliance with these regulations; or
- (b) for amendment of the conditions subject to which the permit is granted.

55F. Offences

- (1) Subject to paragraph (2), in the event of—
 - (a) a contravention of a condition of a permit granted under regulation 55B;
 - (b) a contravention of regulation 55C; or
 - (c) a failure to comply with a requirement under regulation 55E,

the owner, his agent and the master of the vessel commit an offence and each of them is liable to a fine at level 2.

(2) In a charge for an offence under paragraph (1), it shall be a defence for the person charged to show that he had taken all practicable steps to prevent the commission of the offence.

(3) Any person who obstructs the Director in the exercise of his power under regulation 55D(1) or (4) commits an offence and is liable to a fine at level 2 and to imprisonment for 6 months.

55G. Saving

(1) Where a permit granted under regulation 4(1) of the Shipping and Port Control (Typhoon Shelters) Regulations (Cap. 313 sub. leg. D) is in force immediately before the commencement of this regulation in respect of a vessel, the permit shall have effect from such commencement as if it were a permit granted under regulation 55B, and the other provisions of this Part shall apply accordingly.

(2) Where a permit that has effect by virtue of paragraph (1) has been granted in respect of a specified period, the permit shall remain in force for so much of the period as remains unexpired from the commencement of this regulation.”.

46. Restricted Areas, etc.

The Fifth Schedule is amended, in the headings of paragraphs 5, 6, 7, 8, 9, 10, 11 and 12, by repealing “CHEK LAP KOK AIRPORT” and substituting “HONG KONG INTERNATIONAL AIRPORT”.

Hydrofoil Ships (Exemption) Notice

47. Repeal

The Hydrofoil Ships (Exemption) Notice (Cap. 369 sub. leg. F) is repealed.

Sidewall Hovercraft (Exemption) (Consolidation) Notice

48. Repeal

The Sidewall Hovercraft (Exemption) (Consolidation) Notice (Cap. 369 sub. leg. G) is repealed.

Jetcat Catamarans (Exemption) Notice

49. Repeal

The Jetcat Catamarans (Exemption) Notice (Cap. 369 sub. leg. H) is repealed.

Life Saving Appliances (Exemption) Notice

50. Repeal

The Life Saving Appliances (Exemption) Notice (Cap. 369 sub. leg. K) is repealed.

PART 4

AMENDMENTS CONSEQUENTIAL UPON THE ENACTMENT OF THE MERCHANT SHIPPING (LOCAL VESSELS) ORDINANCE AND ITS SUBSIDIARY LEGISLATION

51. Amendment to enactments

The enactments specified in the Schedule are amended as set out in that Schedule.

SCHEDULE

[s. 51]

AMENDMENT TO ENACTMENTS

High Court Ordinance

1. Admiralty jurisdiction of Court of First Instance

Section 12A of the High Court Ordinance (Cap. 4) is amended—

(a) in subsection (3)—

(i) in paragraph (a)—

(A) in subparagraph (v), by repealing “or”;

(B) in subparagraph (vi), by adding “or” at the end;

(C) by adding—

“(vii) the Merchant Shipping (Local Vessels)
Ordinance (Cap. 548);”;

(ii) in paragraph (c)—

(A) by repealing subparagraph (ii);

(B) in subparagraph (iv), by repealing “or”;

(C) in subparagraph (v), by repealing the comma and
substituting “; or”;

(D) by adding—

“(vi) the Merchant Shipping (Local Vessels)
Ordinance (Cap. 548);”;

(b) in subsection (8)—

(i) in paragraph (e), by repealing “or”;

(ii) in paragraph (f), by repealing the full stop and substituting
“; or”;

(iii) by adding—

“(g) the Merchant Shipping (Local Vessels) Ordinance
(Cap. 548).”.

The Rules of the High Court

**2. Saving for defence under Merchant Shipping
Acts etc.**

Order 18, rule 22 of the Rules of the High Court (Cap. 4 sub. leg. A) is amended by repealing “Ordinance (Cap. 281)” and substituting “(Local Vessels) Ordinance (Cap. 548)”.

Insurance Companies Ordinance

3. Accounts and Statements

The Third Schedule to the Insurance Companies Ordinance (Cap. 41) is amended—

- (a) in Part 1, in paragraph 1(1), in the definition of “statutory business”, by repealing paragraph (b) and substituting—
 - “(b) the business of insurance against liability described in section 23D of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548); or”;
- (b) in Part 8, in Form 5, by repealing item C and substituting—
 - “C. *Local Vessels Insurance Business under section 23D of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548)*

No. of policies in force at end of period			No. of local vessels covered by such policies	No. of outstanding claims at end of period
THIRD PARTY RISKS	COMPREHENSIVE	TOTAL		

”.

Transfer of Businesses (Protection of Creditors) Ordinance

4. Interpretation

Section 2(1) of the Transfer of Businesses (Protection of Creditors) Ordinance (Cap. 49) is amended, in the definition of “transfer”, in paragraph (d)(i), by repealing “Part IV of the Shipping and Port Control Ordinance (Cap. 313)” and substituting “the Merchant Shipping (Local Vessels) Ordinance (Cap. 548)”.

Import and Export Ordinance

5. Restriction on carriage, etc. of prescribed articles in Hong Kong waters

Section 6E(5) of the Import and Export Ordinance (Cap. 60) is amended—

- (a) in paragraph (e), by adding “, or as defined in section 2 of the Merchant Shipping (Local Vessels) (Ferry Terminals) Regulation (Cap. 548 sub. leg. B),” before “operating”;
- (b) by repealing paragraph (f)(i);
- (c) by repealing paragraph (g)(i);
- (d) by repealing paragraph (h) and substituting—
 - “(h) by a passenger, or as part of his baggage, for his own use other than for trade or business, which vessel is certificated by the Director of Marine for—
 - (i) Class I vessel under the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548 sub. leg. D); or
 - (ii) Class II vessel under that Regulation and is permitted to carry passengers under a licence issued under section 15 or 19 of that Regulation;”.

Export (Prescribed Articles) Regulations

6. Exemption for certain ferry passengers

Regulation 4 of the Export (Prescribed Articles) Regulations (Cap. 60 sub. leg. D) is amended by adding “, or as defined in section 2 of the Merchant Shipping (Local Vessels) (Ferry Terminals) Regulation (Cap. 548 sub. leg. B),” before “operating”.

Waterworks Regulations

7. Interpretation

Regulation 2 of the Waterworks Regulations (Cap. 102 sub. leg. A) is amended, in the definition of “shipping purpose”, by repealing paragraph (b)(i) and substituting—

- “(i) to or for use on any vessel to which the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) applies; or”.

Telecommunications Regulations

8. Form of Licences

Schedule 3 to the Telecommunications Regulations (Cap. 106 sub. leg. A) is amended, in the form of Hong Kong Ship Station Licence—

- (a) by repealing—
“Name of ship
(the “Ship”)”
and substituting—
“Name of ship or vessel
(“the Ship”)”;
- (b) in the General Conditions—
 - (i) in General Condition 2(b)(i), by repealing “ships licensed under Part IV of the Shipping and Port Control Ordinance (Cap. 313)” and substituting “vessels certificated under the Merchant Shipping (Local Vessels) Ordinance (Cap. 548)”;
 - (ii) in General Condition 9(d)(ii), by repealing “船舶” and substituting “該船”;
 - (iii) in General Condition 10(c), by repealing “船”;
 - (iv) in General Condition 10(d), by repealing “船舶” where it twice appears and substituting “該船”;
 - (v) by repealing General Condition 10(e) and substituting—
“(e) if, in case of a vessel certificated under the Merchant Shipping (Local Vessels) Ordinance (Cap. 548), the vessel has ceased to be so certificated.”.

Dutiable Commodities (Marking and Colouring of Hydrocarbon Oil) Regulations

9. Interpretation

Regulation 2 of the Dutiable Commodities (Marking and Colouring of Hydrocarbon Oil) Regulations (Cap. 109 sub. leg. C) is amended, in the definition of “pleasure vessel”, by repealing paragraph (a) and substituting—

- “(a) a vessel which is certificated for Class IV vessel under the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548 sub. leg. D); or”.

10. Marking of fuel inlet of pleasure vessel

Regulation 12A(a) is repealed and the following substituted—

“(a) which is certificated as a Class IV vessel under the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548 sub. leg. D); and”.

Boats and Wharves (Supply of Water) Regulations

11. Regulation amended

Regulation 2(1) of the Boats and Wharves (Supply of Water) Regulations (Cap. 141 sub. leg. A) is amended by repealing “Merchant Shipping Ordinance (Cap. 281), or any licence” and substituting “Merchant Shipping (Local Vessels) Ordinance (Cap. 548), or any certificate or licence”.

Crimes Ordinance

12. Registration of notices and orders relating to vessels

Section 153N of the Crimes Ordinance (Cap. 200) is amended by repealing “licensed in accordance with regulations made or deemed to have been made under Part IV of the Shipping and Port Control Ordinance (Cap. 313)” and substituting “certificated in accordance with regulations made or deemed to have been made under the Merchant Shipping (Local Vessels) Ordinance (Cap. 548)”.

Summary Offences Ordinance

13. Interpretation

Section 2(1) of the Summary Offences Ordinance (Cap. 228) is amended, in the definition of “dwelling vessel”, by repealing “section 24(1) of the Shipping and Port Control Ordinance (Cap. 313)” and substituting “section 2 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548)”.

Shipping and Port Control Regulations

14. Application

Regulation 4 of the Shipping and Port Control Regulations (Cap. 313 sub. leg. A) is amended—

(a) in paragraph (1)—

(i) in subparagraph (a), by repealing “tons gross other than a vessel to which Part IV of the Ordinance applies” and substituting “gross tonnage”;

(ii) by repealing subparagraph (b) and substituting—

“(b) a vessel of 300 gross tonnage or less and which is the subject of a direction given by the Director under section 16 of the Ordinance;”;

(iii) by repealing subparagraph (c) and substituting—

“(c) a vessel of 300 gross tonnage or less and which is the subject of a requirement made by the Director or an authorized officer at the vessel traffic centre to participate in the vessel traffic service.”;

(b) in paragraph (2)—

(i) by repealing “(including a vessel to which Part IV of the Ordinance applies)”;

(ii) by repealing subparagraph (a);

(c) in paragraph (3), by repealing “(2)(a) or (b)” and substituting “(2)(b)”.

15. Speed of vessels

Regulation 19(4) is amended by repealing “Shipping and Port Control (Typhoon Shelters) Regulations (Cap. 313 sub. leg.)” and substituting “Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation (Cap. 548 sub. leg. E)”.

16. Vessels alongside berthed vessels

Regulation 45(1) is amended by repealing “Shipping and Port Control (Typhoon Shelters) Regulations (Cap. 313 sub. leg.)” and substituting “Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation (Cap. 548 sub. leg. E)”.

**17. Control over gathering of vessels
in the waters of Hong Kong**

Regulation 66B is repealed.

18. Port Dues and Fees

Item 3(*b*) of the Thirteenth Schedule is repealed.

Marine Fish Culture Ordinance

19. Power of search, seizure, etc.

Section 17(3)(*a*) of the Marine Fish Culture Ordinance (Cap. 353) is amended by repealing “section 3(1)” and substituting “section 3(1)(*a*) or (*b*)”.

**Waste Disposal (Charges for Disposal
of Chemical Waste) Regulation**

20. Exemption

Section 4(*a*) of the Waste Disposal (Charges for Disposal of Chemical Waste) Regulation (Cap. 354 sub. leg. J) is amended by repealing “to which Part IV of the Shipping and Port Control Ordinance (Cap. 313) applies” and substituting “which is required to be certificated under the Merchant Shipping (Local Vessels) Ordinance (Cap. 548)”.

**Waste Disposal (Designated Waste Disposal Facility)
(Amendment) Regulation 2004**

21. Powers of Director

Section 4(3) of the Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2004 (L.N. 165 of 2004) is amended, in the new section 4(2)(*b*)(*ia*)(*A*), by repealing “regulation 3 of the Merchant Shipping (Miscellaneous Craft) Regulations (Cap. 313 sub. leg. F)” and substituting “section 15 or 19 of the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548 sub. leg. D)”.

Merchant Shipping (Safety) Ordinance

22. Saving

Section 123(3) of the Merchant Shipping (Safety) Ordinance (Cap. 369) is amended—

- (a) by repealing paragraphs (b) and (d);
- (b) in paragraph (c), by adding “and” at the end.

Merchant Shipping (Instructions to Surveyors) (Passenger Ships) Regulations

23. Preliminary

Section II(1) of the Preliminary to the Merchant Shipping (Instructions to Surveyors) (Passenger Ships) Regulations (Cap. 369 sub. leg. C) is amended by repealing “, notwithstanding their revocation by the Merchant Shipping (Life Saving Appliances) Regulations (Cap. 369 sub. leg.),”.

Merchant Shipping (Safety) (Means of Access) Regulations

24. Interpretation

Regulation 2 of the Merchant Shipping (Safety) (Means of Access) Regulations (Cap. 369 sub. leg. AH) is amended, in the definition of “fishing vessel”, by repealing “licensed under Part IV of the Shipping and Port Control Ordinance (Cap. 313)” and substituting “certificated as such under the Merchant Shipping (Local Vessels) Ordinance (Cap. 548)”.

Merchant Shipping (Safety) (Life-Saving Appliances) Regulation

25. Application

Section 3(2)(d) of the Merchant Shipping (Safety) (Life-Saving Appliances) Regulation (Cap. 369 sub. leg. AY) is repealed.

Clubs (Safety of Premises) (Exclusion) Order

26. Schedule amended

The Schedule to the Clubs (Safety of Premises) (Exclusion) Order (Cap. 376 sub. leg. C) is amended, in items 3 and 4, by repealing “licensed under the Shipping and Port Control Ordinance (Cap. 313)” and substituting “certificated under the Merchant Shipping (Local Vessels) Ordinance (Cap. 548)”.

Environmental Impact Assessment Ordinance

27. Interpretation

Schedule 1 to the Environmental Impact Assessment Ordinance (Cap. 499) is amended, in the definition of “typhoon shelter”, by repealing “Shipping and Port Control (Typhoon Shelters) Regulations (Cap. 313 sub. leg.)” and substituting “Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation (Cap. 548 sub. leg. E)”.

Explanatory Memorandum

This Bill contains miscellaneous amendments to various Ordinances.

2. Part 2 amends the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) (“the Ordinance”), the Merchant Shipping (Local Vessels) (Dwelling Vessels) Regulation (Cap. 548 sub. leg. A), the Merchant Shipping (Local Vessels) (Ferry Terminals) Regulation (Cap. 548 sub. leg. B), the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548 sub. leg. D) and the Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation (Cap. 548 sub. leg. E) (clauses 2 to 30).

3. Clause 2 clarifies paragraph (e) of the definition of “local vessel” in the Ordinance. It also moves the definitions of “crane”, “marine construction”, “person in charge of works”, “principal contractor”, “repairs”, “sub-contractor” and “works” from section 37 to section 2 of the Ordinance and adds the definitions of “accepted convention certificate”, “approved insurer”, “authorized insurer”, “Insurance Authority”, “length overall” and “protection and indemnity association”. Clause 5 adds a new section to provide for the recognition of government authority for the purposes of carrying out any survey and approving any plan for the purposes of the Ordinance. It also empowers the Director of Marine (“the Director”) to carry out audit check of

surveys and plans. Clause 6 clarifies and elaborates the provision on application. Clause 7 dispenses with the requirement to license a certificated local vessel annually. Clause 8 adds a new section to empower the Director to require owners of local vessels to pay fees for vessels which were not licensed or the licence of which were not renewed in accordance with the Shipping and Port Control Ordinance (Cap. 313). Clause 9 adds a new Part VA to prescribe the insurance that is required to be taken out for or in relation to local vessels, the conditions and requirements in respect of such insurance, the conditions to such policies of insurance which are to be void or of no effect; the rights, duties and liabilities of insurers and insured persons in respect of third party risks; the effect of insolvency, bankruptcy and winding up of insured person in respect of claims by third parties and the avoidance of the imposition by insurers of restrictions relating to third party risks. Clause 12 empowers the Director to perform survey and services and grant facilities relating to local vessels and to charge fee in relation thereto. Clause 13 provides that the Director shall not delegate his power to make or grant exemptions under certain regulations except with the permission of the Secretary for Economic Development and Labour. Clause 14 provides for the proof of the identity of the agent in legal proceedings. Clause 17 amends and clarifies the existing regulation making powers. Clause 18 saves notices made under section 41(2)(f) of the Shipping and Port Control Regulations (Cap. 313 sub. leg. A).

4. Part 3 amends the Merchant Shipping Ordinance (Cap. 281) (clause 31), the Merchant Shipping (Trawler Survey) Regulations (Cap. 281 sub. leg. L) (clauses 32 and 33), the Dangerous Goods (Shipping) Regulations (Cap. 295 sub. leg. C) (clauses 34 to 36), the Shipping and Port Control Ordinance (Cap. 313) (clauses 37 to 40) and the Shipping and Port Control Regulations (Cap. 313 sub. leg. A) (clauses 41 to 46) and repeals some subsidiary legislation (clauses 47 to 50) made under the Merchant Shipping (Safety) Ordinance (Cap. 369).

5. Clause 31 empowers the Chief Executive in Council to make regulation to provide for the measures to be taken for the control and prevention of fire and protection of life and property. Clause 37 moves the definitions of “crane”, “lifting appliance”, “lifting gear”, “marine construction”, “person in charge of works”, “principal contractor”, “repairs”, “sub-contractor” and “works” from section 36 of the Shipping and Port Control Ordinance (Cap. 313) to section 2 of that Ordinance.

6. Clause 39 provides that the Director shall not delegate his power to make exemptions under certain regulations unless it is specified in the Schedule to the Shipping and Port Control Ordinance (Cap. 313).

7. Clause 43 amends the penal provision for entering or navigating within the Ngong Shuen Chau Naval Basin.

8. Clause 44 prohibits vessels from anchoring or lying at any place at which anchoring or lying is prohibited by notice posted under any regulation made under the Merchant Shipping (Local Vessels) Ordinance (Cap. 548).
9. Clause 45 adds a new Part VIA to the Shipping and Port Control Regulations (Cap. 313 sub. leg. A) to provide for the regulation and control of vessels in typhoon shelters following the repeal of the Shipping and Port Control (Typhoon Shelters) Regulations (Cap. 313 sub. leg. D) (“the repealed Regulations”). The provisions in that Part empower the Director to grant permit to vessels to enter and remain in a typhoon shelter specified in the permit, to remove vessels in typhoon shelters, to require the owner or his agent or master of a vessel to produce permits for inspection and save permit granted under the repealed Regulations.
10. Part 4 provides for miscellaneous amendments to various Ordinances as set out in the Schedule. The amendments are consequential upon the enactment of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) and its subsidiary legislation.