

For Discussion
on 19 December 2018

Legislative Council Panel on Economic Development

Proposed Measures to Enhance Marine Safety

PURPOSE

This paper seeks Members' comments on four legislative proposals aiming to enhance marine safety. The four proposals concern the provision of lifejackets on local vessels, safety measures onboard during major events at sea, the regulatory regime of Class IV vessels (i.e. pleasure vessels ("PVs")), and the setting up of additional speed restricted zones ("SRZs").

I. PROVISION OF LIFEJACKETS ON LOCAL VESSELS

Existing Requirements on the Provision of Lifejackets

2. At present, most local vessels are required to carry adult lifejackets for all persons on board. Such local vessels are also required to carry child lifejackets, the quantity of which is equal to 5% of the total number of persons on board¹. In conducting compliance check for this requirement during surveys, the Marine Department ("MD") makes reference to the licensed carrying capacity of the vessel concerned. The existing legislation does not mandate the provision of infant lifejackets.

¹ The law allows the provision of a mix of lifejackets and lifebuoys for all persons on board, as an alternative to full provision of lifejackets, for certain vessels with plying limits within the Specified Sheltered Waters which are relatively calm marine environment. Certain vessels (e.g. fishing vessels) where there should be no children on board are exempted from carrying child lifejackets. The International Maritime Organization and the International Organization for Standardization provide performance standards for lifejackets designed for intended wearers of different weight and/or height (e.g. adult, child and infant lifejackets). The accepted international standards of lifejackets have been set out in the Code of Practice issued by the Marine Department to provide guidance to the trade in providing lifejackets.

Proposed Improvement Measures

3. We reckon that the passenger mix in terms of number of adults and children for different trips made by the same vessel may vary. There is thus room to strengthen the existing requirement for the provision of lifejackets to ensure that each and every adult and child passenger will have a suitable lifejacket on board, and to require the provision of infant lifejackets. To this end, we propose to amend the Merchant Shipping (Local Vessels) (Safety and Survey) Regulation (Cap. 548G). Details of the proposals are set out below –

- (a) ***Lifejackets for adults and children*** – With the exception of certain vessels², we propose to require all local vessels to carry on board lifejackets, the quantity of which should be equal to the total number of persons the vessel is licensed to carry, including crew members, adult and children passengers. As the number of children and adults on board each journey may be different, a vessel will have to carry on board different combinations of adult and child lifejackets for each journey if adults and children have their own standards of lifejackets in order to meet the proposed requirement. To ensure the practicability of the proposal, we have developed a lifejacket suitable for use by both adults and children (hereafter referred to as “the Common Lifejacket”) with the assistance of a local tertiary institution. The development process has been successfully completed with a prototype finalised and ready for production. We will continue to monitor the situation to ensure the availability of the Common Lifejackets in the market before the new requirement comes into force. We also plan to introduce a subsidy scheme to facilitate the trade to replace their existing lifejackets with the Common Lifejackets.

² For example, as it may not be practicable for some small non-passenger-carrying vessels such as certain small power fishing sampans, non-mechanised fishing sampan and work boats to comply with the new requirement due to the lack of space to store lifejackets, we propose to require these vessels to provide either lifejackets or lifebuoys or a combination of both for the total number of persons on board (calculated on the basis each lifebuoy is for use by two persons). We also propose to allow vessels only plying within the Specified Sheltered Waters or typhoon shelters to provide either lifejackets for the carrying capacity or a combination of Common Lifejackets for at least 50% of the carrying capacity and the remaining balance in the form of lifebuoys. At present, similar alternative option is allowed for these vessels which operate in a relatively calm marine environment, i.e. the vessels could provide a mix of lifejackets and lifebuoys as an alternative to a full provision of lifejackets for all persons on board (see Footnote 1).

- (b) ***Infant lifejackets*** – While the Common Lifejacket is developed to fit both adults and children, it will not fit infants who need infant lifejackets. With reference to the International Convention for the Safety of Life at Sea, we propose that for all commercial passenger-carrying local vessels which are licensed to carry more than 12 passengers, on top of the proposed requirement in paragraph 3(a) above, they must have on board a number of infant lifejackets equal to at least 2.5% of the number of passengers that the vessel is licensed to carry³.

II. SAFETY MEASURES DURING MAJOR EVENTS AT SEA

Existing Administrative Practices

4. Major events at sea such as firework displays attract a large number of spectator vessels to congregate in a small area of waters, thus posing a higher risk of marine accident. For every major event at sea, the Director of Marine (“DM”) will issue a Marine Department Notices (“MDN”) to designate specific water areas to be the Restricted Area at specific times on the day of the event. Vessels are not allowed to enter the Restricted Area except with the permission of DM. Since 2013, MD has implemented an administrative measure to carry out vigorous inspection of spectator vessels gathered near the Restricted Area (hereafter referred to as “Viewing Area”) to ensure that children on board wear lifejackets at all times and that a list of passengers and crew is kept by the coxswain of the vessel for emergency purposes in compliance with the instructions given in the MDN.

Proposed Improvement Measures

5. To enhance marine safety during major events at sea, we propose to make the existing administrative measures mandatory by amending the Merchant Shipping (Local Vessels) (General) Regulation (Cap. 548F). The proposed improvement measures are summarised below –

- (a) ***Children Wearing Suitable Lifejackets at All Times*** – DM will declare both Restricted Area and Viewing Area during major

³ Commercial passenger-carrying local vessels include Class I vessels and Class IV vessels that carry more than 12 passengers which are let for hire or reward.

events at sea through MDNs. With the exception of certain vessels⁴, children between the age of two and 11 on board local vessels licensed to carry passengers gathered in the Viewing Area during major events at sea will be required to wear suitable lifejackets at all times. The accompanying adult of the children concerned will be responsible for ensuring the compliance of such requirement. Accompanying adults of persons under the age of two will, subject to practicability and the actual circumstances, have discretion to decide whether those infants should wear suitable lifejackets. The coxswain will be required to provide the accompanying adults with suitable lifejackets for persons under the age of 12. The coxswain will have the right to refuse any person under the age of 12 who is unaccompanied by an adult to get on board the vessel.

- (b) ***Keeping a List of Passengers and Crew*** – We also propose to require the coxswain of the vessel concerned to keep and maintain a list of passengers and crew covering the name and age of each person to facilitate rescue and investigation work in case of distress. To facilitate the compilation of such list, passengers and crew members are required to provide the specified particulars to the coxswain or other crew members. The coxswain may refuse any person who fails to provide the particulars to board the vessel.

III. REGULATORY REGIME FOR LOCAL PLEASURE VESSELS

Existing Regulatory Regime for Local Pleasure Vessels

6. Under the existing regulatory regime, certain PVs are required to comply with specific survey requirements for proving that they are fit for the service intended and in good condition and to obtain a Certificate of Survey (“CoS”) issued by MD or a Certificate of Inspection (“CoI”)

⁴ Some vessels staying within the Viewing Area are not spectator vessels for the major events, such as vessels lie alongside a berth, or which are berthed, moored, anchored or secured in a typhoon shelter falling within the Viewing Area and ferry vessels that run a franchised service or a licensed service which are permitted to sail through the Viewing Area. As it may not be practicable for these vessels to comply with the proposed requirements due to their mode of operation, we propose to exempt these vessels from the proposed requirement.

issued by MD or a competent surveyor⁵. Generally speaking, PVs which are licensed to carry more than 60 passengers or are of more than 150 gross tonnage are required to comply with more stringent plan approval and survey requirements.

7. A PV may be let for hire or reward so long as it has a valid CoS or a CoI, a written charter or a hire-purchase agreement and third-party insurance coverage. There is no requirement for the vessel concerned to seek MD's prior approval before it is let for hire or reward.

Panel Consultation in April 2018

8. We consulted Members, vide LC Paper No. CB(4)928/17-18(03), on the proposals to reform the regulatory regime for PVs on 23 April 2018. In gist, at that time we proposed the following improvement measures –

- (a) to require New PVs⁶ of not less than 24 metres in length to obtain a CoS issued by MD upon completion of survey by MD or competent surveyors with satisfactory results;
- (b) to impose new structural requirements on New PVs of not less than 24 metres in length and those let for hire or reward;
- (c) to require Existing PVs⁷ of more than 150 gross tonnages and those let for hire or reward to provide lifebuoys adequate for use by the maximum number of persons the PV is licensed to carry;

⁵ Under the Merchant Shipping (Local Vessels) (Safety and Survey) Regulation (Cap. 548G), PVs are required to obtain a CoS if they (a) are licensed to carry more than 60 passengers; (b) are of more than 150 gross tonnage; or (c) are of novel construction. PVs are required to obtain a CoI if they do not carry more than 60 passengers and are let for hire or reward.

⁶ New PVs are referred to PVs that are licensed for the first time after the commencement of the legislative proposal as well as PVs licensed before the commencement date but have undergone substantial alterations on or after the commencement date.

⁷ Existing PVs are referred to PVs that are licensed before the commencement of the legislative proposal.

- (d) to enhance the navigational and communications equipment on certain PVs⁸; and
 - (e) to require PVs to obtain MD's prior approval before being let for hire or reward.
9. At the April Panel meeting, Members relayed the views of three deputations which raised concerns on some of the proposals.

Proposed Revised Measures

10. In the light of the comments from Members and the trade, we have fine-tuned the proposals in paragraphs 8(a), 8(b) and 8(c) after further consultation with relevant stakeholders to address the trade's concern without compromising marine safety –

- (a) ***Survey and Certification Arrangements for New PVs*** – In respect of the proposed improvement measure in paragraph 8(a), to address the trade's concern on timeliness in obtaining the relevant survey certificate, we propose to provide greater flexibility for the trade in conducting survey by allowing New PVs not less than 24 metres in length but of not more than 150 gross tonnages to obtain a CoI issued by either MD or competent surveyors upon completion of survey with satisfactory results. New PVs that are not less than 24 metres in length but are over 150 gross tonnages will have to obtain a CoS issued by MD as originally proposed. The survey requirements for the vessels concerned (e.g. construction requirements) are the same, irrespective of whether CoI or CoS are issued⁹. CoS and CoI are valid for not more than 12 months.

⁸ PVs permitted to carry more than 12 passengers and intended to be let for hire or reward, as well as all PVs permitted to carry more than 60 passengers are required to be equipped with Very High Frequency Radiotelephone and comply with relevant operational requirement. PVs permitted to carry more than 100 passengers are required to install and operate the Automatic Identification System and radar.

⁹ CoS and CoI are in specified forms. Both shall only be issued in respect of a vessel if the survey requirements for proving that the vessel is fit for the service intended and in good condition are duly met. While CoI can be issued by either MD or competent surveyors, CoS can only be issued by MD upon satisfactory results of surveys conducted by MD or competent surveyors. In general, both CoS and CoI are valid for not more than 12 months from the date of completion of survey. DM is however empowered to specify a longer or shorter period in the CoS.

- (b) ***New Structural Requirements for New PVs*** – In respect of the proposed improvement measure in paragraph 8(b), we propose to exempt open cruisers from having to follow the new structural requirements relating to fire protection and damage stability having regard to their actual mode of operation. Open cruisers is a type of PVs which are usually less than 24 metres in length and commonly used for carrying passengers in relatively calm marine environment in sheltered waters. Due to their simple construction and design, it is not practicable to require them to follow the same new structural requirements for larger PVs. To protect passenger safety, we propose to require new open cruisers that are let for hire or reward to provide adequate lifebuoys for the total carrying capacity of the vessel, so as to facilitate speedy escape of passengers in case of distress. As an alternative option for those open cruisers which have space constraint in storing the sufficient number of lifebuoys on board, they may require passengers onboard to wear suitable lifejackets when the vessels are underway (please see paragraph 10 (c) below).
- (c) ***Provision of Additional Lifebuoys for Existing PVs and New Open Cruisers*** – In respect of the proposed improvement measure in paragraph 8(c), the trade has commented that some Existing PVs concerned would not have enough space to store the required number of additional lifebuoys on board. In view of the genuine difficulties in meeting the original proposed requirement by some PVs due to physical constraints, we propose to allow the Existing PVs concerned the alternative option of requiring passengers onboard to wear suitable lifejackets when the vessels are underway, in lieu of providing additional lifebuoys on board.

IV. SPEED RESTRICTED ZONES

Speed Restricted Zones

11. At present, there are 22 SRZs in the Hong Kong waters where water sports activities frequently take place. Vessels plying within the SRZs during the specified time and period should operate at a speed not exceeding five knots. The arrangement aims to protect the safety of swimmers and persons engaged in water sports.

Proposed Improvement Measures

12. In recent years, there have been suggestions for MD to set up additional SRZs and extend the restricted time and period for the existing ones due to increasing water sports activities, as well as possible damage that wake wash generated by large PVs may cause to the facilities inside the Fish Culture Zones (“FCZs”). In light of the above, we propose to strengthen regulation by amending the Shipping and Port Control Regulations (Cap. 313A) and the Merchant Shipping (Local Vessels) (General) Regulation (Cap. 548F).

13. To offer better protection to the public and FCZ facilities, we propose to establish eight additional SRZs, with four in the Sai Kung and another four Tai Po Districts. We also propose to extend the boundaries the restricted time or period of 14 existing SRZs taking into account the operation mode of water sports activities at different locations (e.g. summer swimming seasons of the public beaches). The list of the proposed additional and existing SRZs, and their locations are shown at **Annex A** and **Annex B** respectively.

CONSULTATION

14. During the period of 2016 to 2018, MD consulted the stakeholders concerned on the respective legislative proposals, including Local Vessels Advisory Committee, the Traffic and Transport Committee of Tai Po District Council, Tai Po Rural Committee, Sai Kung Area Committee, the Southern and Islands District, relevant trade and fishery associations as well as marinas. Parties concerned supported the legislative proposals.

LEGISLATIVE TIMETABLE

15. We aim at introducing the legislative amendments into the Legislative Council for negative vetting in 2019.

ADVICE SOUGHT

16. Members are invited to comment on the legislative proposals set out in this paper.

**Transport and Housing Bureau
Marine Department
December 2018**

Additional Speed Restricted Zones Proposed

TAI PO

1. T3 - Ko Tong Hau
2. T4 - Three Fathoms Cove
3. T5 - Wu Kai Sha
4. T6 - Sam Mun Tsai

SAI KUNG

5. K9 - Sor Sze Mun
6. K10 - Ma Tau Wan
7. K11 - High Island
8. K12 - Yeung Chau

Existing Speed Restricted Zones

TOLO HARBOUR

1. T1 - Plover Cove
2. T2 - Sha Tin Hoi

PORT SHELTER AND ROCKY HARBOUR

3. K1 - Tai She Wan
4. K2 - Tsam Chuk Wan
5. K3 - Hebe Haven (Pak Sha Wan) #
6. K4 - East Kiu Tsui Chau @
7. K5 - West Kau Sai Chau
8. K6 - South Kau Sai Chau
9. K7 - Bluff Island
10. K8 - Clear Water Bay

HONG KONG ISLAND, SOUTH

11. A1 - To Tei Wan *
12. A2 - Tai Tam Harbour *
13. A3 - Stanley Bay *
14. A4 - Chung Hom Wan *
15. A5 - South Bay *
16. A6 - Deep Water Bay *
17. A10 - Tai Tam Bay *
18. A11 - Repulse Bay *

LAMMA ISLAND

19. A7 - Luk Chau Wan *
20. A8 - Sham Wan *

CHEUNG CHAU

21. A9 - Tung Wan *

LANTAU ISLAND

22. L1 - Discovery Bay *

* *We propose to extend the restricted period of SRZs in Hong Kong Island South, Lamma Island, Cheung Chau and Lantau Island from any Saturday or public holiday or on any day during the period of 1 July to 15 September to any Saturday or public holiday or on any day during the period of 1 April to 30 October.*

Annex A

- # *We propose extend the restricted time of the Hebe Haven (Pak Sha Wan) SRZ from any Saturday or public holiday or on any day during the period of 1 July to 15 September to all year round.*
- @ *We propose to extend the boundary of the East Kiu Tsui Chau SRZ to cover the waterways at Kai Lung Wan Fish Culture Zone.*

Location Map of the Existing and Eight Additional Speed Restricted Zones

