

LEGISLATIVE COUNCIL BRIEF

Merchant Shipping (Local Vessels) (Safety and Survey) (Amendment) Regulation 2019

Merchant Shipping (Local Vessels) (General) (Amendment) (No. 3) Regulation 2019

Proposed Measures to Enhance Marine Safety

INTRODUCTION

To strengthen the existing requirement for the provision of lifejackets on local vessels and to enhance marine safety during major events at sea, the Secretary for Transport and Housing has made the following regulations under section 89 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) —

- (a) Merchant Shipping (Local Vessels) (Safety and Survey) (Amendment) Regulation 2019, at **Annex A**; and
- (b) Merchant Shipping (Local Vessels) (General) (Amendment) (No. 3) Regulation 2019, at **Annex B**.

BACKGROUND

(I) Provision of Lifejackets on Local Vessels

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

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.

carrying capacity of the vessel concerned. The existing legislation does not mandate the provision of infant lifejackets.

3. Considering that the passenger mix in terms of adults and children for each trip made by the same vessel may vary, there is 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 for them on board. We also propose to introduce a new requirement for the provision of infant lifejackets.

(II) Safety Measures During Major Events at Sea

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 Notice (“MDN”) to designate specific water areas to be a 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 arrangement 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.

5. To raise the safety awareness and ensure safety of passengers during major events at sea more effectively, we propose to give legislative backing to the existing administrative arrangements.

LEGISLATIVE PROPOSALS

(I) Provision of Lifejackets on Local Vessels

6. We propose to amend the Merchant Shipping (Local Vessels) (Safety and Survey) Regulation (Cap. 548 sub. leg. G) (“Principal Regulation (Cap. 548G)”) to strengthen the provision of lifejackets on board local vessels, with details as follows:

- (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 not less than the total number of persons the vessel is licensed to carry, including crew members, adult and children passengers. To meet the proposed requirement, vessels that carry only adult passengers will need to carry on board a sufficient number of adult lifejackets. For other vessels that may have a different number of children and adults on board each journey, they will have to carry on board different combinations of adult and child lifejackets for each journey as adults and children have their own standards of lifejackets. To ensure the practicability of the proposal, we have developed a lifejacket suitable for use by both adults and children (“the Common Lifejacket”)³ with the assistance of a local tertiary institution. The development process has been successfully completed with a prototype finalised and ready for production.
- (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 licensed Class I vessels, as well as Class IV vessels carrying more than 12 passengers and letting for hire or reward, on top of the proposed requirement in paragraph 6(a) above, they must have on

² 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 of 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 lifebuoys (for the remaining balance of the carrying capacity). At present, similar alternative provision 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).

³ Each Common Lifejacket is required to be inserted with a radio-frequency identification (“RFID”) tag with a unique serial number to facilitate vessel surveys and enforcement actions. The unique serial number also serves as the electronic marking of the Common Lifejacket for identification which can be traced in future. In conducting surveys and spot checks of a vessel, MD’s inspectors will scan the RFIDs of the Common Lifejackets on the vessel with a handheld reader to obtain the serial number of the lifejackets instantly to ensure that the same set of lifejackets is not used for the survey of another vessel. This could expedite surveys and enforcement actions.

board a number of infant lifejackets that equals to at least 2.5% of the number of passengers that the vessel is licensed to carry.

(II) Safety Measures during Major Events at Sea

7. We propose to amend the Merchant Shipping (Local Vessels) (General) Regulation (Cap. 548 sub. leg. F) (“Principal Regulation (Cap. 548F)”) to enhance safety measures during major events at sea, with details as follows:

- (a) ***Children Wearing Suitable Lifejackets at All Times*** — DM will specify a Viewing Area during major events at sea through a notice. 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 adults of the children concerned shall be responsible for ensuring the compliance of such requirement. Accompanying adults of persons under the age of two (i.e. infants) shall be responsible for ensuring the safety of the infants on board but they will have a discretion to decide whether those infants should wear suitable lifejackets, having regard to practicability and the actual circumstances. 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 board or to remain on board the vessel.

- (b) ***Producing a List of Passengers and Crew*** — We also propose to require the coxswain of the vessel concerned to produce a list of passengers and crew covering each person’s name and age (the particulars on age are for child passengers only) 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 must not allow any person

⁴ Not all vessels staying within the Viewing Area are spectator vessels for the major events. These may include vessels lying 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.

who fails to provide the particulars to board or to remain on board the vessel.

THE REGULATIONS

Merchant Shipping (Local Vessels) (Safety and Survey) (Amendment) Regulation 2019

8. To amend the Principal Regulation (Cap. 548G) to:
- (a) provide for general requirements in relation to the provision of lifejackets on local vessels in Schedule 3 to the Principal Regulation (Cap. 548G);
 - (b) amend Schedules 2 and 3 to the Principal Regulation (Cap. 548G) consequentially upon the introduction of the general requirements; and
 - (c) amend Schedules 3 and 4 to the Principal Regulation (Cap. 548G) to reorganise the minimum requirements in relation to the provision of other life-saving appliances and fire-fighting apparatus on certain local vessels⁵.

Merchant Shipping (Local Vessels) (General) (Amendment) (No. 3) Regulation 2019

9. To amend the Principal Regulation (Cap. 548F) by adding Part 10A (i.e. requirements relating to passenger safety during major events at sea) to it to provide for:
- (a) the issue of a notice in which DM may specify an area of waters of Hong Kong as specified area and a period as specified period for the purposes of major events at sea; and
 - (b) the requirements relating to passenger safety on local vessels that should be followed in relation to major events at sea.

⁵ There is no change to the minimum requirement in relation to the provision of fire-fighting apparatus.

LEGISLATIVE TIMETABLE

10. The regulations will be published in the Gazette on 25 October 2019 and introduced into the Legislative Council on 30 October 2019 for negative vetting. The regulations will come into operation on 23 December 2019.

IMPLICATIONS OF THE PROPOSAL

11. The proposal is in conformity with the Basic Law, including provisions concerning human rights. It will not affect the current binding effect of the relevant Ordinances and the existing regulations. The proposal has no economic, financial, civil service, productivity, environmental, sustainability, gender or family implications.

PUBLIC CONSULTATION

12. We consulted the Local Vessels Advisory Committee and relevant trade associations on the proposals during the period from 2016 to 2018. All parties supported the legislative proposals.

13. We also consulted the Legislative Council Panel on Economic Development at its meeting on 19 December 2018. Members endorsed the proposals.

PUBLICITY

14. A press release will be issued on 25 October 2019. A spokesperson will be available to answer enquiries.

ENQUIRIES

15. Any enquiries on this brief can be addressed to Ms Louisa YAN, Principal Assistant Secretary for Transport and Housing (Transport) (Tel: 3509 8162), or Mr HO Wing Hong, Assistant Director (Special Duties), Marine Department (Tel: 2852 3192).

**Transport and Housing Bureau
Marine Department
October 2019**

Merchant Shipping (Local Vessels) (Safety and Survey) (Amendment) Regulation
2019

Section 1

1

**Merchant Shipping (Local Vessels) (Safety and Survey)
(Amendment) Regulation 2019**

(Made by the Secretary for Transport and Housing under section 89 of the
Merchant Shipping (Local Vessels) Ordinance (Cap. 548))

1. Commencement

This Regulation comes into operation on 23 December 2019.

**2. Merchant Shipping (Local Vessels) (Safety and Survey)
Regulation amended**

The Merchant Shipping (Local Vessels) (Safety and Survey)
Regulation (Cap. 548 sub. leg. G) is amended as set out in sections 3
to 8.

3. Section 2 amended (interpretation)

Section 2—

Add in alphabetical order

“*typhoon shelter* (避風塘) has the meaning given by section 2
of the Merchant Shipping (Local Vessels) (Typhoon
Shelters) Regulation (Cap. 548 sub. leg. E);”.

4. Section 78A amended (interpretation of Part 11)

Section 78A—

Repeal the definition of *typhoon shelter*.

5. Section 89 added

After section 88—

Add

Merchant Shipping (Local Vessels) (Safety and Survey) (Amendment) Regulation
2019

Section 6

2

**“89. Transitional provision relating to Merchant Shipping
(Local Vessels) (Safety and Survey) (Amendment)
Regulation 2019**

(1) During the transitional period, a local vessel that complies
with the former requirements is taken to be in compliance
with the new requirements.

(2) In this section—

amending Regulation (《修訂規例》) means the Merchant
Shipping (Local Vessels) (Safety and Survey)
(Amendment) Regulation 2019;

former requirements (原有規定) means the requirements for
life-saving appliances and fire-fighting apparatus in this
Regulation as in force immediately before it was amended
by the amending Regulation;

new requirements (新規定) means the requirements for life-
saving appliances and fire-fighting apparatus in this
Regulation as amended by the amending Regulation;

transitional period (過渡期) means the period of 2 years
beginning on 23 December 2019.”.

**6. Schedule 2 amended (local vessels to which Parts 3 and 4 of this
Regulation do not apply)**

(1) Schedule 2, after “apply to”—

Add

“a Class II vessel or Class III vessel that complies with the
requirements in Schedules 3 and 4 (as applicable) and meets the
following descriptions”.

(2) Schedule 2, paragraph (a)—

Repeal

“a Class III vessel that”

Substitute

“for a Class III vessel, the vessel”.

- (3) Schedule 2, paragraph (a)(vi)—

Repeal the semicolon

Substitute

“; and”.

- (4) Schedule 2, paragraph (a)(vii)—

Repeal

“; and”

Substitute

“; or”.

- (5) Schedule 2, paragraph (a)—

Repeal subparagraph (viii).

- (6) Schedule 2, paragraph (b)—

Repeal

“a Class II vessel or Class III vessel that”

Substitute

“for a Class II vessel or Class III vessel, the vessel”.

- (7) Schedule 2, paragraph (b)(ii)—

Repeal the semicolon

Substitute

“; and”.

- (8) Schedule 2, paragraph (b)—

Repeal subparagraph (iii).

- (9) Schedule 2, paragraph (b)(iv)—

Repeal

Class	Types	Material of construction	Length overall × extreme breadth ^(note)	Minimum requirements for life-saving appliances and fire-fighting apparatus
II	transportation sampan	any material	not exceeding 25 m ²	(a) 1 lifejacket for every person on board; (b) 1 lifebuoy; and (c) 1 fire bucket with lanyard
II	work boat	other than metal	not exceeding 25 m ²	(a) 1 lifebuoy; and (b) 1 fire bucket with lanyard
III	fishing sampan	other than metal	not exceeding 25 m ²	(a) 1 lifebuoy; and (b) 1 fire bucket with lanyard

Substitute

“

Class	Types	Material of construction	Length overall × extreme breadth ^(note)
II	transportation sampan	any material	not exceeding 25 m ²
II	work boat	other than metal	not exceeding 25 m ²
III	fishing sampan	other than metal	not exceeding 25 m ² ”

7. **Schedule 3 amended (provision of life-saving appliances)**

(1) Schedule 3, Part 1, after section 4—

Add

“5. **Provision of lifejackets**

- (1) A local vessel must carry on board the required quantity of lifejackets.
- (2) If there are any persons on board the vessel, the lifejackets carried on board (excluding infant lifejackets) must include at least 1 suitable lifejacket for each person on board, excluding a person for whom the suitable lifejacket is an infant lifejacket.
- (3) This section does not apply to—
 - (a) a Class II vessel or Class III vessel that falls within paragraph (a) or (b) of Schedule 2, except a transportation sampan;
 - (b) a Class II vessel that is licensed as—
 - (i) a landing platform;
 - (ii) a landing pontoon; or
 - (iii) a stationary vessel that is a separation barge; or

(c) a floating restaurant to which section 7 of this Schedule applies.

(4) This section also does not apply to a local vessel if—

- (a) the operating licence of the vessel restricts it to plying within specified sheltered waters or a typhoon shelter;
- (b) the vessel carries on board a combination of lifejackets and lifebuoys that is adequate for the permitted number of persons;
- (c) each of the lifejackets is suitable for all persons, except a person for whom the suitable lifejacket is an infant lifejacket; and
- (d) the quantity of the lifejackets is not less than 50% of the permitted number of persons.

(5) In this section—

permitted number of persons (獲允許人數), in relation to a local vessel, means the total number of persons the vessel is permitted to carry under the conditions of its operating licence;

required quantity of lifejackets (規定數量的救生衣), in relation to a local vessel, means a quantity of lifejackets (excluding infant lifejackets) that is not less than the permitted number of persons.

6. **Provision of infant lifejackets**

(1) This section applies to—

- (a) a Class I vessel, except a floating restaurant to which section 7 of this Schedule applies; or
- (b) a Class IV vessel that—

- (i) is let for hire or reward; and
 - (ii) is permitted to carry more than 12 passengers under the conditions of its operating licence.
- (2) The vessel must carry on board a quantity of infant lifejackets that is not less than 2.5% of the permitted number of passengers.
- (3) In subsection (2)—
- permitted number of passengers* (獲允許乘客人數), in relation to a Class I vessel or Class IV vessel, means the total number of passengers the vessel is permitted to carry under the conditions of its operating licence.

7. Provision of lifejackets and infant lifejackets on floating restaurants

- (1) This section applies to a floating restaurant—
- (a) the operating licence of which restricts the floating restaurant to plying or operating within specified sheltered waters or a typhoon shelter; and
 - (b) that—
 - (i) is attached to the shore and is provided with adequate gangways; or
 - (ii) is not attached to the shore but is provided with—
 - (A) above-water flotation in the form of a steel embarkation pontoon moored alongside; or
 - (B) steel tenders at both ends capable of being towed to a safe place away from the floating restaurant.

- (2) The floating restaurant must carry on board a quantity of lifejackets (excluding infant lifejackets) that is not less than 50% of the permitted number of persons.
 - (3) However, the floating restaurant may, instead of complying with subsection (2), carry on board a combination of lifejackets and lifebuoys that is adequate for 50% of the permitted number of persons but only if—
 - (a) each of the lifejackets is suitable for all persons, except a person for whom the suitable lifejacket is an infant lifejacket; and
 - (b) the quantity of the lifejackets is not less than 25% of the permitted number of persons.
 - (4) In addition to complying with subsection (2) or (3), the floating restaurant must also carry on board a quantity of infant lifejackets that is not less than 1.25% of the permitted number of passengers.
 - (5) In this section—

permitted number of passengers (獲允許乘客人數) has the meaning given by section 6(3) of this Schedule;

permitted number of persons (獲允許人數) has the meaning given by section 5(5) of this Schedule.”.
- (2) Schedule 3, Part 2, Table 1—

Repeal

“	Operation area	Specified sheltered waters	Anywhere within waters of Hong Kong	”
	Life-saving appliances			
	lifejacket	any number	Total 100% ⁽¹⁾ and (2)	100% adult lifejacket + 5% children lifejacket
	lifebuoy	minimum number per Table 2		minimum number per Table 2

Substitute

“	Operation area	Specified sheltered waters, a typhoon shelter or anywhere within waters of Hong Kong	”
	Life-saving appliances		
	lifebuoy	minimum number per Table 2	

(3) Schedule 3, Part 2, Table 1—

Repeal Notes (1) and (2).

(4) Schedule 3, Part 2, Table 3—

Repeal

“	Operation area	Specified sheltered waters	Anywhere within waters of Hong Kong	”
	Life-saving appliances			
	lifejacket ⁽¹⁾	any number ⁽²⁾	Total 100% ⁽³⁾ and (4)	100% adult lifejacket + <5% children lifejacket ^{>(3), (4) and (5)}
	lifebuoy ⁽¹⁾	any number		minimum number per Table 5
	buoyant lifeline ^{(4) and (6)}	1 for vessel (L)<12 m 2 for vessel (L)≥12 m		

Substitute

“	Operation area	Specified sheltered waters, a typhoon shelter or anywhere within waters of Hong Kong	”
	Life-saving appliances		
	lifebuoy ^{(1) and (4)}	minimum number per Table 5	
	buoyant lifeline ^{(4), (6) and (7)}	1 for vessel (L)<12 m 2 for vessel (L)≥12 m	

(5) Schedule 3, Part 2, Table 3, Note (1)(a)—

Repeal

“at least 1 lifejacket for every person on board and 1 lifebuoy are required”

Substitute

“instead of the life-saving appliances stated in the Table, at least 1 lifebuoy is required”.

- (6) Schedule 3, Part 2, Table 3, Note (1)(b)—

Repeal

“at least 1 lifebuoy is required”

Substitute

“instead of the life-saving appliances stated in the Table, a quantity of suitable lifejackets or lifebuoys, or a combination of both, that is adequate for the total number of persons on board is required”.

- (7) Schedule 3, Part 2, Table 3—

Repeal Notes (2), (3) and (4)(a).

- (8) Schedule 3, Part 2, Table 3, after Note (6)—

Add

“(7) Buoyant lifeline is not required for a Class II vessel that falls within paragraph (b) of Schedule 2.”.

- (9) Schedule 3, Part 2, Table 4—

Repeal

“lifejacket	100% ⁽¹⁾ ”.
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- (10) Schedule 3, Part 2, Table 6—

Repeal

Life-saving appliances	Category of vessel	A		B	
		(L)<24	24≤(L)<45 ⁽¹⁾	(L)<24	24≤(L)<45 ⁽¹⁾
lifejacket		100% ⁽²⁾		100% ⁽²⁾	
lifebuoy		2	4	2 ⁽³⁾ and (4)	2 or <4> ⁽⁵⁾

Substitute

Life-saving appliances	Category of vessel	A		B ^(1A)	
		(L)<24	24≤(L)<45 ⁽¹⁾	(L)<24	24≤(L)<45 ⁽¹⁾
lifebuoy		2	4	2 ⁽³⁾	2 or <4> ⁽⁵⁾

- (11) Schedule 3, Part 2, Table 6, before Note (1)—

Add

“(1A) For a Class III vessel that falls within paragraph (a) or (b) of Schedule 2, instead of the life-saving appliances stated in the Table, a quantity of suitable lifejackets or lifebuoys, or a combination of both, that is adequate for the total number of persons on board is required.”.

- (12) Schedule 3, Part 2, Table 6—

Repeal Note (4).

- (13) Schedule 3, Part 2, Table 7—

Repeal

“lifejacket	100% ⁽¹⁾ ”.
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- (14) Schedule 3, Part 2, Table 7—

Repeal Note (1).

8. Schedule 4 amended (fire protection and provision of fire-fighting apparatus)

- (1) Schedule 4, Part 2, Table 3—

Repeal

“For both Category A vessels and Category B vessels”

Substitute

“For both Category A vessels and Category B vessels⁽³⁾”.

- (2) Schedule 4, Part 2, Table 3—

Repeal

“portable fire extinguisher⁽³⁾”

Substitute

“portable fire extinguisher”.

- (3) Schedule 4, Part 2, Table 3—

Repeal Note (3)

Substitute

“(3) For a Class II vessel that falls within paragraph (b) of Schedule 2, instead of the fire-fighting apparatus stated in the Table, at least 1 fire bucket with lanyard is required.”.

- (4) Schedule 4, Part 2, Table 7—

Repeal

“B⁽¹⁾”

Substitute

“B⁽¹⁾, (1A) and (1B)”.

- (5) Schedule 4, Part 2, Table 7—

Repeal

“portable fire extinguisher⁽³⁾”

Substitute

“portable fire extinguisher”.

- (6) Schedule 4, Part 2, Table 7, after Note (1)—

Add

“(1A) For a Class III vessel that falls within paragraph (a) of Schedule 2, instead of the fire-fighting apparatus stated in the Table, the following apparatus is required—

- (a) at least 1 portable dry powder fire extinguisher that has a capacity of not less than 1.25 kg of dry powder;
- (b) at least 1 fire bucket with lanyard.

(1B) For a Class III vessel that falls within paragraph (b) of Schedule 2, instead of the fire-fighting apparatus stated in the Table, at least 1 fire bucket with lanyard is required.”.

- (7) Schedule 4, Part 2, Table 7—

Repeal Note (3).



Secretary for Transport and Housing

22 October 2019

Explanatory Note

This Regulation amends the Merchant Shipping (Local Vessels) (Safety and Survey) Regulation (Cap. 548 sub. leg. G) (*principal Regulation*) to—

- (a) provide for general requirements in Schedule 3 to the principal Regulation as regards the provision of lifejackets on certain local vessels;
- (b) amend Schedules 2 and 3 to the principal Regulation consequentially on the introduction of the general requirements; and
- (c) amend Schedules 3 and 4 to the principal Regulation to reorganize the minimum requirements as regards the provisions of life-saving appliances and fire-fighting apparatus on certain local vessels.

Merchant Shipping (Local Vessels) (General) (Amendment) (No. 3) Regulation 2019

(Made by the Secretary for Transport and Housing under section 89 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548))

1. Commencement

This Regulation comes into operation on 23 December 2019.

2. Merchant Shipping (Local Vessels) (General) Regulation amended

The Merchant Shipping (Local Vessels) (General) Regulation (Cap. 548 sub. leg. F) is amended as set out in section 3.

3. Part 10A added

After Part 10—

Add

“Part 10A

Requirements Relating to Passenger Safety during Major Events at Sea

91A. Interpretation

In this Part—

adult (成人), in relation to a child on board a local vessel, does not include the coxswain or a crew member of the vessel;

child (兒童) means a person under the age of 12 years;

infant (嬰兒) means a child under the age of 2 years;

specified area (指明範圍) means an area of the waters of Hong Kong specified by the Director in a notice under section 91C(2)(a);

specified period (指明期間), in relation to a specified area, means the period specified by the Director in a notice under section 91C(2)(b) for that area.

91B. Application of Part 10A

- (1) This Part applies in relation to a local vessel that is licensed to carry passengers.
- (2) However, this Part does not apply in relation to a local vessel that—
 - (a) is made fast to the shore;
 - (b) is in use for a franchised service or licensed service under the Ferry Services Ordinance (Cap. 104); or
 - (c) is berthed, moored, anchored or secured in a typhoon shelter.

91C. Director may issue instructions or directions by way of notice

- (1) The Director may issue instructions or directions by way of a notice for the purposes of a major event at sea.
- (2) The Director may specify in the notice for the purposes of the event—
 - (a) an area of the waters of Hong Kong; and
 - (b) a period in relation to the specified area.
- (3) The Director must publish the notice on the website of the Marine Department or in any other way appropriate to bring it to the notice of the persons affected by it.

- (4) A notice issued under subsection (1) is not subsidiary legislation.
- (5) In this section—
major event at sea (大型海上活動) means a presence of local vessels in an area of the waters of Hong Kong that, in the opinion of the Director, may substantially increase the risk of a marine accident.

91D. Child to be accompanied by adult to be on board

- (1) This section applies in relation to a local vessel that is present in a specified area during the specified period.
- (2) The coxswain of the vessel must not allow a child to be on board the vessel unless the child is accompanied by an adult.
- (3) The coxswain of a local vessel who contravenes subsection (2) commits an offence and is liable on conviction to a fine at level 2.
- (4) It is a defence for a person charged with an offence under subsection (3) to establish that at the time of the alleged offence the person had a reasonable excuse for the contravention.

91E. Distribution of suitable lifejacket etc.

- (1) This section applies if—
- (a) a child is on board a local vessel that has been present in a specified area before the specified period and remains in the area when the period begins;
- (b) a child is on board a local vessel that is to enter a specified area during the specified period; or

- (c) a child boards a local vessel that is present in a specified area during the specified period.
- (2) The coxswain of the vessel must take the actions specified in subsection (3) in the circumstances referred to in—
- (a) subsection (1)(a)—as soon as practicable after the period begins;
- (b) subsection (1)(b)—before the vessel enters the area; and
- (c) subsection (1)(c)—as soon as practicable after the child boards the vessel.
- (3) The actions are—
- (a) in relation to the child on board the vessel—
- (i) to distribute a lifejacket suitable for the child to an adult accompanying the child; and
- (ii) to take reasonable steps to demonstrate to the adult how the lifejacket should be worn by the child; and
- (b) to take reasonable steps to remind the adult of the requirements under section 91F(2) and (3).
- (4) The coxswain of a local vessel who contravenes subsection (2) commits an offence and is liable on conviction to a fine at level 2.
- (5) It is a defence for a person charged with an offence under subsection (4) to establish that at the time of the alleged offence the person had a reasonable excuse for the contravention.

91F. Requirements to be complied with by adult accompanying child on board

- (1) This section applies in relation to a local vessel that is present in a specified area during the specified period.
- (2) If an adult accompanies a child (other than an infant) on board the vessel, the adult must ensure that the child wears a suitable lifejacket on board the vessel at all times.
- (3) If an adult accompanies an infant on board the vessel, the adult must ensure that the safety of the infant would not be prejudiced by not wearing a suitable lifejacket on board the vessel.
- (4) An adult who contravenes subsection (2) or (3) commits an offence and is liable on conviction to a fine at level 2.
- (5) It is a defence for a person charged with an offence under subsection (4) to establish that at the time of the alleged offence the person had a reasonable excuse for the contravention.

91G. List of all persons on board

- (1) For a local vessel that is present in a specified area during the specified period, the coxswain of the vessel must—
 - (a) keep a list that contains, in respect of all persons on board the vessel during the period, the particulars specified in subsection (2); and
 - (b) produce the list for inspection on request by an authorized officer.
- (2) The particulars are—
 - (a) for a person who is not a child—the full name of the person; and
 - (b) for a child—the full name and age of the child and—

- (i) if the child is accompanied by only one adult on board the vessel—the full name of the adult; or
 - (ii) if the child is accompanied by more than one adult on board the vessel—the full name of any one of the adults.
- (3) The coxswain of a local vessel who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 2.
 - (4) It is a defence for a person charged with an offence under subsection (3) to establish that at the time of the alleged offence the person had a reasonable excuse for the contravention.

91H. Giving of particular to coxswain or other crew members

- (1) This section applies to a person (other than a child) who—
 - (a) boards or remains on board a local vessel that is present in a specified area during the specified period; or
 - (b) seeks to board or remains on board a local vessel that is to be present in a specified area during the specified period.
- (2) The person must give the particular specified in section 91G(2)(a) to the coxswain or a crew member of the vessel if so requested by the coxswain or the crew member.
- (3) A person commits an offence if the person—
 - (a) fails to give the particular in accordance with subsection (2); or
 - (b) in purported compliance with subsection (2), gives any false particular.

- (4) A person who commits an offence under subsection (3) is liable on conviction to a fine at level 2.
- (5) It is a defence for a person charged with an offence under subsection (3)(a) to establish that at the time of the alleged offence the person had a reasonable excuse for failing to give the particular.
- (6) It is a defence for a person charged with an offence under subsection (3)(b) to establish that at the time of the alleged offence the person had a reasonable excuse for giving the false particular.

91I. Giving of particulars to coxswain or other crew members by adult who accompanies child

- (1) This section applies to an adult who—
 - (a) accompanies a child who boards or remains on board a local vessel that is present in a specified area during the specified period; or
 - (b) seeks to accompany a child who is to board or remains on board a local vessel that is to be present in a specified area during the specified period.
- (2) The adult must, for the child, give the particulars specified in section 91G(2)(b) to the coxswain or a crew member of the vessel if so requested by the coxswain or the crew member.
- (3) An adult commits an offence if the adult—
 - (a) fails to give the particulars in accordance with subsection (2); or
 - (b) in purported compliance with subsection (2), gives any false particulars.
- (4) A person who commits an offence under subsection (3) is liable on conviction to a fine at level 2.

- (5) It is a defence for a person charged with an offence under subsection (3)(a) to establish that at the time of the alleged offence the person had a reasonable excuse for failing to give the particulars.
- (6) It is a defence for a person charged with an offence under subsection (3)(b) to establish that at the time of the alleged offence the person had a reasonable excuse for giving the false particulars.

91J. Not to allow persons to board or to remain on board when particulars are not given


- (1) If a person referred to in section 91H(1) fails to give the particular in accordance with section 91H(2), the coxswain of the vessel must not allow the person—
 - (a) to board the vessel if the person has not boarded the vessel; or
 - (b) to remain on board the vessel if the person has already boarded the vessel.
- (2) If an adult referred to in section 91I(1) fails to give the particulars in accordance with section 91I(2), the coxswain of the vessel must not allow the adult and the child—
 - (a) to board the vessel if they have not boarded the vessel; or
 - (b) to remain on board the vessel if they have already boarded the vessel.
- (3) The coxswain of a local vessel who contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine at level 2.
- (4) It is a defence for a person charged with an offence under subsection (3) to establish that at the time of the alleged

offence the person had a reasonable excuse for the contravention.

91K. Burden of proof for defence

A person charged with an offence under this Part is taken to have established a matter that needs to be established for a defence under this Part if—

- (a) there is sufficient evidence to raise an issue with respect to the matter; and
- (b) the contrary is not proved by the prosecution beyond reasonable doubt.”.



Secretary for Transport and Housing

22 October 2019

Explanatory Note

This Regulation amends the Merchant Shipping (Local Vessels) (General) Regulation (Cap. 548 sub. leg. F) (*principal Regulation*) to add a new Part 10A to the principal Regulation to provide for—

- (a) the issue of a notice in which the Director of Marine may specify an area of the waters of Hong Kong (*specified area*) and a period in relation to the specified area (*specified period*) for the purposes of a major event at sea; and
- (b) requirements relating to passenger safety on local vessels that should be followed in the specified area during the specified period.