

## LEGISLATIVE COUNCIL BRIEF

### **Merchant Shipping (Local Vessels) (Certification and Licensing) (Amendment) Regulation 2020**

### **Merchant Shipping (Local Vessels) (General) (Amendment) Regulation 2020**

### **Merchant Shipping (Local Vessels) (Safety and Survey) (Amendment) Regulation 2020**

### **Merchant Shipping (Local Vessels) (Fees) (Amendment) (No.2) Regulation 2020**

### **Merchant Shipping (Prevention of Oil Pollution)(Amendment) Regulation 2020**

### **Merchant Shipping (Prevention of Air Pollution)(Amendment) Regulation 2020**

### **Reform of the Regulatory Regime for Local Pleasure Vessels**

## INTRODUCTION

To enhance the regulatory regime for Class IV vessels (i.e. local pleasure vessels<sup>1</sup>) and to improve the survey regime in respect of prevention and control of pollution for certain local vessels, the Secretary for Transport and Housing has, under section 89 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) and section 3 of the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413) respectively, made the following regulations -

- (a) Merchant Shipping (Local Vessels) (Certification and Licensing) (Amendment) Regulation 2020, at **Annex A**;
- (b) Merchant Shipping (Local Vessels) (General) (Amendment) Regulation 2020, at **Annex B**;
- (c) Merchant Shipping (Local Vessels) (Safety and Survey) (Amendment) Regulation 2020, at **Annex C**;

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<sup>1</sup> Local vessels are classified into Classes I to IV under the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548D). Broadly speaking, Classes I to IV refer to the vessels with the following functions respectively –

- (a) Class I: passenger vessels;
- (b) Class II: cargo vessels;
- (c) Class III: fishing vessels; and
- (d) Class IV: pleasure vessels.

- (d) Merchant Shipping (Prevention of Oil Pollution) (Amendment) Regulation 2020, at **Annex D**; and
- (e) Merchant Shipping (Prevention of Air Pollution) (Amendment) Regulation 2020, at **Annex E**.

2. Meanwhile, the Secretary for Financial Services and Treasury has, under section 88 of Cap. 548, made the Merchant Shipping (Local Vessels) (Fees) (Amendment) (No.2) Regulation 2020, at **Annex F**.

## **REFORM OF REGULATORY REGIME FOR CLASS IV VESSELS**

### **Background**

3. Under the Merchant Shipping (Local Vessels) (Safety and Survey) Regulation (Cap. 548G), certain Class IV vessels are subject to plan approval, required to comply with specific survey requirements and obtain either a Certificate of Survey (“CoS”) from the Marine Department (“MD”) or a Certificate of Inspection (“CoI”) from a competent surveyor<sup>2</sup>. Generally speaking, Class IV vessels which are required to obtain a CoS (i.e. those licensed to carry more than 60 passengers or are of more than 150 gross tonnage or are of novel construction) are required to comply with more stringent plan approval and survey requirements.

4. A Class IV vessel to be let for hire or reward must have a valid CoS or a CoI, a written charter or a hire-purchase agreement, and third-party insurance coverage<sup>3</sup>. There is currently no requirement for the vessel concerned to seek MD’s prior approval before it is let for hire or reward.

### **Legislative Proposals**

5. In view of the rising safety requirements for Class IV vessels imposed by other jurisdictions in recent years, MD has carried out a comprehensive review of the existing regulatory regime of Class IV vessels from a safety angle and

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<sup>2</sup> Under Cap. 548G, Class IV vessels 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. Class IV vessels are required to obtain a CoI if they are licensed to carry not more than 60 passengers but are let for hire or reward, and they do not fall within (b) or (c) above (see sections 7(3), 15 and 16 of Cap. 548G).

<sup>3</sup> As required under sections 6(2) and (3) of the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548D).

proposed to tighten the regulation of Class IV vessels, in particular those that are let for hire or reward. The proposed enhancements, which will entail legislative amendments to the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548D), the Merchant Shipping (Local Vessels) (General) Regulation (Cap. 548F) and Cap. 548G, are summarised below.

**(I) Plan approval and survey requirements for New Class IV vessels of not less than 24 metres in length and Class IV vessels let for hire or reward**

6. Currently, Class IV vessels of more than 150 gross tonnage are subject to more stringent plan approval and survey requirements (i.e. a CoS is required) due to their large size. Noting that a more widely-adopted international parameter in measuring the size of pleasure vessels is by vessel length<sup>4</sup>, we propose to require Class IV vessels licensed on or after the commencement of the legislative proposal (hereafter referred to as “New Class IV vessels<sup>5</sup>”) that are of not less than 24 metres in length but are over 150 gross tonnages to obtain a CoS, whereas New Class IV vessels not less than 24 metres in length but of not more than 150 gross tonnages would be required to obtain a CoI upon completion of survey with satisfactory results. We propose to amend Cap. 548G to stipulate the new plan approval and survey regime for New Class IV vessels.

**(II) Life-saving apparatus for Existing Class IV Vessels**

7. New Class IV vessels of not less than 24 metres in length and that are let for hire or reward would have to meet more stringent structural requirements under the new regime. In line with the established practice, the specific structural requirements under the new regime (including water tightness, stability and structural fire protection) will be set out in the Code of Practice in consultation with the trade. For Class IV vessels licensed before the commencement date of the proposed legislation (hereafter referred to as “Existing Class IV vessels”), instead of requiring them to undergo extensive retrofitting to suit the structural requirements applicable to New Class IV vessels, we propose to require Existing Class IV vessels to provide adequate lifebuoys for use by passengers to facilitate speedy escape in case the vessels are in distress. The number of lifebuoys to be

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<sup>4</sup> 24 metres in length is a threshold adopted in the International Convention on Load Lines of the International Maritime Organization in defining vessels that should be subject to the load line requirements. Various jurisdictions including the United Kingdom, the Mainland, Australia and the Marshall Islands have also adopted the same threshold to define large pleasure vessels with more stringent safety requirements.

<sup>5</sup> “New Class IV vessels” means Class IV vessels which are licensed for the first time on or after the commencement of the proposed legislation, as well as Class IV vessels licensed before the commencement date but have undergone substantial alterations on or after the commencement date.

provided should be adequate for use by the maximum number of persons the vessel is licensed to carry<sup>6</sup>.

8. Having regard to the fact that open cruisers are usually less than 24 metres in length and commonly used for carrying passengers in relatively calm marine environment in sheltered waters, we propose to require open cruisers that are let for hire or reward to either provide adequate lifebuoys for use by the maximum number of persons the vessel is licensed to carry, or to require passengers on board to wear suitable lifejackets when the vessels are underway if they have space constraint in storing the required number of lifebuoys on board.

### **(III) Enhancing navigational and communications equipment on certain Class IV vessels**

9. We propose requiring certain Class IV vessels to install and operate on board the Very High Frequency radiotelephone (“VHF radio”), Automatic Identification System (“AIS”) and radar, and to ensure that the navigational and communications equipment are maintained in good working condition. Moreover, crew members who are competent or qualified to use the relevant navigational and communications equipment are required to be present on board. The proposals are similar to those introduced to Class I vessels in 2017. Specifically, we propose to –

- (a) in respect of VHF radio, require Class IV vessels permitted to carry more than 12 passengers and intended to be let for hire or reward, as well as all Class IV vessels permitted to carry more than 60 passengers (regardless of whether they are let for hire or reward) to be equipped with VHF radio. At least one crew member on board should have the certificate of competency issued by the Office of the Communications Authority for using the VHF radio. The coxswain will also be required to continuously listen to the VHF channel so that emergency messages can be received as they arise;
- (b) in respect of AIS, require Class IV vessels permitted to carry more than 100 passengers to install and use AIS at all times. The AIS on board should be maintained in good working condition and switched on at all times; and

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<sup>6</sup> For the purpose of assessing the adequacy of life-saving appliances on board a local vessel, each lifebuoy is taken to be for use by two persons on board the vessel.

- (c) in respect of radar, require Class IV vessels permitted to carry more than 100 passengers to be fitted with radar. The radar operator must hold a certificate of competency with an endorsement that he/she is competent in operating the radar equipment.

In this regard, appropriate amendments will be made to Cap. 548F and Cap. 548G.

**(IV) MD's prior approval must be obtained for Class IV vessels intended to be let for hire or reward**

10. To maintain a list of Class IV vessels which are let for hire or reward and to step up monitoring of these Class IV vessels, we propose to require such vessels to obtain MD's prior approval before they are let for hire or reward. To obtain such prior approval, vessel owners should indicate their intention to let the vessels for hire or reward when they submit the application for new operating licence or for renewal of existing licence<sup>7</sup> every year, and submit a copy of valid CoS or CoI, and a third party risks insurance policy for MD's verification and approval. MD may conduct audit survey checks for these vessels, which may be done in the form of document checks, audit of plans and drawings against the relevant rules and regulations, and on-site field surveys. This proposed new requirement to seek MD's prior approval will be applied to Class IV vessels which are intended to be let for hire or reward after the commencement of the proposed legislation. Existing Class IV vessels that are let for hire or reward will have to seek MD's approval for continuing to do so within 12 months after the commencement of the proposed legislation. Appropriate amendments will be made to Cap. 548D.

**(V) Miscellaneous amendments**

11. In taking forward the exercise to refine the regulatory regime of Class IV vessels, we have taken the opportunity to review some of the existing provisions in Cap. 548G. We propose to introduce miscellaneous amendments which seek to –

- (a) improve the structure of the legislation by moving the part concerning

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<sup>7</sup> The operating licence for a vessel is normally valid for 12 months. In case the vessel owner wishes to let the vessel for hire or reward before the expiry of the current operating licence period, the vessel owner shall apply to MD for endorsement on the existing operating licence.

requirements on the keeping of survey plans from Schedule 3 to Part 3 of Cap. 548G;

- (b) harmonise the requirements on the provision of life-saving appliances and fire-fighting apparatus<sup>8</sup> for Class II vessels;
- (c) harmonise the requirements on the provision of portable fire extinguishers for certain classes of vessels<sup>9</sup>;
- (d) harmonise the load line certificate requirement for certain Class II vessels below a certain length<sup>10</sup>; and
- (e) rectify textual and editorial errors<sup>11</sup>.

## **The Regulations**

### ***Merchant Shipping (Local Vessels) (Certification and Licensing) (Amendment) Regulation 2020***

12. To amend Cap. 548D to impose the requirement that the owner of a Class IV vessel must obtain the prior approval and endorsement of the Director of Marine (“DM”) on the vessel’s operating licence if the vessel is to be let for hire or reward.

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<sup>8</sup> Currently, Schedule 4 to Cap. 548G only stipulates requirements on the provision of fire-fighting apparatus for Class II oil carriers operating within river trade limits. MD issued a Marine Department Notice in April 2015 to administratively require Class II oil carriers operating within the Hong Kong waters to comply with similar requirements on the provision of fire-fighting apparatus. Schedule 4 to Cap. 548G has to be amended to give legislative backing to the current administrative measure.

<sup>9</sup> Currently, certain specified types of local vessels (to which Table 1 in Part 2 of Schedule 4 to Cap. 548G applies) that are 15 metres in length or above but below 24 metres (i.e. with length  $15 \leq L < 24$ ) are required to carry at least four portable fire extinguishers in the engine room (see Table 1 in Part 2 of Schedule 4 to Cap. 548G). However, the same specified types of vessels that are 24 metres in length or above (i.e. with length  $L \geq 24$ m) are only required to provide at least three portable fire extinguishers in the engine room. Table 1 in Part 2 of Schedule 4 to Cap. 548G has to be amended such that all vessels that are 15 metres in length or above will be required to provide at least four fire extinguishers.

Separately, Class III Category A vessels of less than 45 metres in length are providing two or four portable fire extinguishers in the machinery space (see Table 7 in Schedule 4 to Cap. 548G). This provision is excessive after benchmarking with other class and requirements in other compartments of similar risk. We propose that only one portable fire extinguisher is to be provided in the machinery space of such vessels.

<sup>10</sup> The proposed requirement will do away with the need for a special purpose Class II vessel of less than 24 metres in length to obtain a Hong Kong Load Line Certificate because it is not practicable to require vessels of less than 24 metres in length to observe certain load line requirements. Schedule 5 to Cap. 548G has to be amended.

<sup>11</sup> We propose to rectify the textual and editorial errors found in Schedules 3, 4 & 5 to Cap. 548G.

***Merchant Shipping (Local Vessels) (General) (Amendment) Regulation 2020***

13. To amend Cap. 548F to:

- (a) subject Class IV vessels that are licensed to carry more than 100 passengers to the requirements under Division 1 and Division 2 of Part 5A of Cap. 548F as regards Automatic Identification System and radar equipment respectively; and
- (b) subject the following vessels to the requirements under Division 3 of Part 5A of Cap. 548F as regards radiotelephone equipment—
  - (i) a Class IV vessel that is licensed to carry 13 to 60 passengers and is let for hire or reward; and
  - (ii) a Class IV vessel that is licensed to carry more than 60 passengers.

***Merchant Shipping (Local Vessels) (Safety and Survey) (Amendment) Regulation 2020***

14. To amend Cap. 548G to:

- (a) subject certain Class IV vessels to plan approval requirements and survey requirements under Parts 3 and 4 respectively of Cap. 548G;
- (b) subject certain Class IV vessels to the requirements relating to radar equipment, Automatic Identification System and radiotelephone equipment under sections 80, 80A and 80B respectively of Cap. 548G;
- (c) add a new Table 8 in Part 2 of Schedule 3 to Cap. 548G to require certain Class IV vessels to provide lifebuoys;
- (d) add a new Table 6A in Part 2 of Schedule 4 to Cap. 548G to prescribe the fire-fighting apparatus requirements for Class II oil carriers operating solely within Hong Kong waters; and
- (e) make miscellaneous amendments to the requirements on life-saving appliances and fire-fighting apparatus set out in various Schedules to Cap. 548G.

## ***Merchant Shipping (Local Vessels) (Fees) (Amendment) (No.2) Regulation 2020***

15. To amend the Merchant Shipping (Local Vessels) (Fees) Regulation (Cap. 548J) to make amendments consequential to those made to Cap. 548G by the Merchant Shipping (Local Vessels) (Safety and Survey) (Amendment) Regulation 2020.

## **SURVEY REGIME IN RESPECT OF PREVENTION AND CONTROL OF POLLUTION FOR LOCAL VESSELS**

### **Background**

16. In taking forward the exercise to refine the regulatory regime of Class IV vessels, the Government has taken the opportunity to review some of the existing provisions relating to the survey requirements of local vessels. In gist, local vessels are required under different regulations of the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413) and the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) to conduct various surveys and, upon getting satisfactory survey results, obtain certificates to prove that they meet the necessary statutory requirements.

17. In respect of prevention of oil and air pollution, local oil tankers of 150 gross tonnage and above and other local ships of 400 gross tonnage or above are required to be surveyed and certificated in accordance with the Merchant Shipping (Prevention of Oil Pollution) Regulations (Cap. 413A) and the Merchant Shipping (Prevention of Air Pollution) Regulation (Cap. 413P). At present, DM will issue a Hong Kong Oil Pollution Prevention (“HKOPP”) Certificate under Cap. 413A and a Hong Kong Air Pollution Prevention (“HKAPP”) Certificate under Cap. 413P based on satisfactory results of the surveys conducted by a Government surveyor. While Cap. 413A and Cap. 413P provide for vessel owners to commission a Recognised Organisation (“RO”)<sup>12</sup> to conduct different surveys, the two regulations do not provide for DM to issue the two aforesaid certificates based on surveys conducted by an RO<sup>13</sup>.

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<sup>12</sup> ROs are professional bodies specialised in the technical areas of ships, such as ship construction, equipment, operation and surveys, etc. At present, MD entrusted ROs through contractual agreements to carry out certain services for local vessels including ships’ survey.

<sup>13</sup> The Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413) and its subsidiary legislation provide, amongst other things, that local vessel owners can commission ROs to conduct various



## **Legislative Proposals**

18. Given that it is a common practice for local vessel owners to commission an RO to conduct surveys, the Government, in consultation with the trade, considers that there is merit in empowering DM to issue a HKOPP Certificate and a HKAPP Certificate based on satisfactory survey results conducted not only by Government surveyors but also by an RO. Modelling on a similar practice under Cap. 548G<sup>14</sup>, it is proposed that the RO should submit a declaration of survey to DM upon completion of survey with satisfactory results. DM will then issue a HKOPP Certificate or a HKAPP Certificate on the strength of the declaration of survey. The proposal would provide the trade with greater flexibility in the means in complying with the survey requirements on the one hand, while safeguarding MD's power to monitor the performance of ROs on the other. Meanwhile, it is expected that with the survey work being taken up by ROs, MD could focus its efforts on vetting of the survey results.

## **The Regulations**

### ***Merchant Shipping (Prevention of Oil Pollution)(Amendment) Regulation 2020***

19. To amend Cap. 413A so that DM may issue an HKOPP Certificate in respect of a Hong Kong ship under regulation 7 of Cap. 413A on receipt of a declaration of survey in respect of the ship from an RO under regulation 3B of Cap. 413A.

### ***Merchant Shipping (Prevention of Air Pollution)(Amendment) Regulation 2020***

20. To amend Cap. 413P so that:

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surveys and provide for ROs to issue relevant certificates (including the HKOPP Certificate under Cap. 413A and HKAPP Certificate under Cap. 413P) for them. If, however, vessel owners would like to obtain the relevant certificates granted by DM, they would have to commission Government surveyors to conduct the relevant surveys as DM could only grant the relevant certificates based on surveys conducted by Government surveyors under the existing provisions.

<sup>14</sup> Under Cap. 548G, surveys for local vessels may be conducted by surveyors employed by an RO. Upon completion of a survey with satisfactory results and submission of the declaration of survey by the surveyors of the RO, DM may issue a certificate to the vessel concerned as a recognition that the vessel is fit for the service intended and in good condition.

- (a) DM may issue an HKAPP Certificate in respect of a Hong Kong ship under section 59 of Cap. 413P on receipt of a declaration of survey in respect of the ship from an RO under section 95 of Cap. 413P; and
- (b) an RO may make endorsements on HKAPP Certificates that are issued by DM.

## **LEGISLATIVE TIMETABLE**

21. The regulations will be published in the Gazette on 15 May 2020 and introduced into the Legislative Council on 20 May 2020 for negative vetting. The regulations will come into operation on 1 August 2020, except that the new Table 8 (i.e. regulation 17(3) of the Merchant Shipping (Local Vessels) (Safety and Survey) (Amendment) Regulation 2020) on additional lifebuoys will commence on 1 April 2021, and that the regulations related to the requirement of very-high frequency radiotelephone (i.e. regulation 6 of the Merchant Shipping (Local Vessels) (General) (Amendment) Regulation 2020 and regulation 16 of the Merchant Shipping (Local Vessels) (Safety and Survey) (Amendment) Regulation 2020) will commence on a later date to be appointed by the Secretary for Transport and Housing.

## **IMPLICATIONS OF THE PROPOSAL**

22. Under our proposed survey regime in respect of prevention and control of pollution for certain local vessels, ship owners may commission an RO instead of a Government surveyor to conduct survey. Hence, there will be potential financial implication to the general revenue of the Government, but the amount cannot be ascertained at this stage since it would depend on the decision of the ship owners. 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, civil service, productivity, environmental, sustainability, gender or family implications.

## **PUBLIC CONSULTATION**

23. We consulted the stakeholders concerned on the legislative proposals, including the Local Vessels Advisory Committee and relevant trade associations,

during the period from 2016 to 2018. All the parties concerned supported the legislative proposals.

24. We consulted the Legislative Council Panel on Economic Development (“LegCo ED Panel”) at its meeting on 23 April 2018. A revised proposal having incorporated Members’ comments was discussed and endorsed at the LegCo ED Panel on December 2018.

## **PUBLICITY**

25. A press release will be issued on 15 May 2020. A spokesperson will be available to answer enquiries.

## **ENQUIRIES**

26. 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  
May 2020**

Merchant Shipping (Local Vessels) (Certification and Licensing) (Amendment)  
Regulation 2020

Section 1

1

**Merchant Shipping (Local Vessels) (Certification and  
Licensing) (Amendment) Regulation 2020**

(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 1 August 2020.

**2. Merchant Shipping (Local Vessels) (Certification and Licensing)  
Regulation amended**

The Merchant Shipping (Local Vessels) (Certification and  
Licensing) Regulation (Cap. 548 sub. leg. D) is amended as set out  
in section 3.

**3. Section 6 amended (restrictions on Class IV vessels)**

After section 6(1)—

**Add**

“(1A) A Class IV vessel must not be let for hire or reward unless  
there is an endorsement on the vessel’s operating licence  
showing that approval for the vessel to be let for hire or  
reward has been given by the Director.

(1B) If an owner of a Class IV vessel intends to let the vessel  
for hire or reward for an intended service that involves the  
carriage of passengers, the owner must, when applying for  
or renewing an operating licence in respect of the vessel—

- (a) indicate that it is the owner’s intention to let the  
vessel for hire or reward;

Merchant Shipping (Local Vessels) (Certification and Licensing) (Amendment)  
Regulation 2020

Section 3

2

(b) submit to the Director copies of the certificate of  
inspection or certificate of survey referred to in  
subsection (3)(a) and the policy of insurance  
referred to in subsection (3)(b); and

(c) seek the Director’s approval for the vessel to be let  
for hire or reward.

(1C) If the Director approves a Class IV vessel to be let for hire  
or reward, the Director must make an endorsement to that  
effect on the vessel’s operating licence.

(1D) If subsection (1A) is contravened in respect of a vessel,  
the owner of the vessel, the owner’s agent and the  
coxswain of the vessel each commits an offence and is  
liable on conviction to a fine at level 3.

(1E) During the transitional period, a contravention of  
subsection (1A) does not constitute an offence under  
subsection (1D).

(1F) For subsection (1E), transitional period means the 12-  
month period beginning on 1 August 2020.”.

  
Secretary for Transport and Housing

12 May 2020

Merchant Shipping (Local Vessels) (Certification and Licensing) (Amendment)  
Regulation 2020

Explanatory Note  
Paragraph 1

3

**Explanatory Note**

The main purpose of this Regulation is to amend the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548 sub. leg. D) to impose the requirement that the owner of a Class IV vessel must obtain the Director of Marine's prior approval and endorsement on the vessel's operating licence if the vessel is to be let for hire or reward.

## Merchant Shipping (Local Vessels) (General) (Amendment) Regulation 2020

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

### 1. Commencement

- (1) Subject to subsection (2), this Regulation comes into operation on 1 August 2020.
- (2) Section 6 comes into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette.

### 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 sections 3 to 6.

### 3. Part 5A heading amended (Class I vessels and Class II vessels)

Part 5A, heading—

#### Repeal

“and Class II Vessels”

#### Substitute

“, Class II Vessels and Class IV Vessels”.

### 4. Section 33A amended (application of Division 1)

After section 33A(3)—

#### Add

“(4) This Division also applies to a Class IV vessel that is licensed to carry more than 100 passengers.”.

### 5. Section 33C amended (application of Division 2)

After section 33C(2)—

#### Add

“(2A) This Division also applies to a Class IV vessel that is licensed to carry more than 100 passengers.”.

### 6. Section 33E amended (application of Division 3)

After section 33E(1)—

#### Add

“(1A) This Division also applies to—

- (a) a Class IV vessel that is licensed to carry 13 to 60 passengers and is let for hire or reward; and
- (b) a Class IV vessel that is licensed to carry more than 60 passengers.”.



Secretary for Transport and Housing

12 May 2020

### Explanatory Note

This Regulation amends the Merchant Shipping (Local Vessels) (General) Regulation (Cap. 548 sub. leg. F) (*principal Regulation*) to—

- (a) subject Class IV vessels that are licensed to carry more than 100 passengers to the requirements under Divisions 1 and 2 of Part 5A of the principal Regulation as regards automatic identification system and radar equipment respectively; and
- (b) subject the following vessels to the requirements under Division 3 of Part 5A of the principal Regulation as regards radiotelephone equipment—
  - (i) a Class IV vessel that is licensed to carry 13 to 60 passengers and is let for hire or reward; and
  - (ii) a Class IV vessel that is licensed to carry more than 60 passengers.

## Merchant Shipping (Local Vessels) (Safety and Survey) (Amendment) Regulation 2020

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## Merchant Shipping (Local Vessels) (Safety and Survey) (Amendment) Regulation 2020

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

### 1. Commencement

- (1) Subject to subsections (2) and (3), this Regulation comes into operation on 1 August 2020.
- (2) Section 16 comes into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette.
- (3) Section 17(3) comes into operation on 1 April 2021.

### 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 19.

### 3. Section 2 amended (interpretation)

Section 2—

#### Add in alphabetical order

“*plan* (圖則) includes drawings, diagrams and calculations;”

### 4. Section 7 amended (application of Part 3)

- (1) Section 7(3)(b)—

#### Repeal

“(c) or (d)”

#### Substitute

“(ba), (bb), (c) or (d)”.

- (2) After section 7(3)(b)—

#### Add

“(ba) not less than 24 metres in length, of not more than 150 gross tonnage and licensed for the first time on or after 1 August 2020, except a vessel that also falls within paragraph (d);

(bb) not less than 24 metres in length, of more than 150 gross tonnage and licensed for the first time on or after 1 August 2020;”.

- (3) Section 7(3)(c), after “tonnage”—

#### Add

“and licensed before 1 August 2020”.

- (4) Section 7—

#### Repeal subsection (4).

### 5. Section 8 amended (approval of plans upon application)

Section 8(2)—

#### Repeal

“7(3)(b)”

#### Substitute

“7(3)(b) or (ba)”.

### 6. Section 13 amended (preparation of declaration of plan approval under Part 3)

Section 13(1)—

#### Repeal

“7(3)(b)”

**Substitute**

“7(3)(b) or (ba)”.

**7. Section 14A added**

Part 3, after section 14—

**Add**

**“14A. Plans to be kept on board**

- (1) One set of the plans of a local vessel that are approved under this Part must at all times be kept on board the vessel.
- (2) If a local vessel is—
  - (a) a Class I vessel that is licensed to carry more than 100 passengers; or
  - (b) a Class IV vessel that is licensed to carry more than 100 passengers,the vessel’s plans referred to in subsection (1) (except plans containing information on the vessel’s stability) must at all times be displayed in a conspicuous place on the vessel.
- (3) If, without reasonable excuse, subsection (1) or (2) is contravened, the owner of the local vessel, the owner’s agent and the coxswain of the vessel each commits an offence and is liable on conviction to a fine at level 2.
- (4) For the purposes of subsection (1), the plans of a local vessel include plans that contain the following information in so far as such information is applicable to the vessel—

- (a) the general arrangements of the vessel;
- (b) if the vessel is involved in the carriage of passengers, the seating arrangements and escape routes;
- (c) the types and dispositions of life-saving appliances, fire-fighting apparatus, lights and sound signals;
- (d) the stability information of the vessel;
- (e) instructions to be followed in the case of an emergency.”.

**8. Section 15 amended (application of Part 4)**

- (1) Section 15(2)(b)—

**Repeal**

“(c) or (d)”

**Substitute**

“(ba), (bb), (c) or (d)”.

- (2) After section 15(2)(b)—

**Add**

- “(ba) not less than 24 metres in length, of not more than 150 gross tonnage and licensed for the first time on or after 1 August 2020, except a vessel that also falls within paragraph (d);
- (bb) not less than 24 metres in length, of more than 150 gross tonnage and licensed for the first time on or after 1 August 2020;”.

- (3) Section 15(2)(c), after “tonnage”—

**Add**

“and licensed before 1 August 2020”.

9. **Section 16 amended (offence for operating local vessel without certificate of inspection or certificate of survey)**

Section 16(1)(a)—

**Repeal**

“15(2)(b)”

**Substitute**

“15(2)(b) or (ba)”.

10. **Section 17 amended (application for survey under Part 4)**

(1) Section 17(2)—

**Repeal**

“15(2)(b)”

**Substitute**

“15(2)(b) or (ba)”.

(2) Section 17(6)—

**Repeal**

“15(2)(b)”

**Substitute**

“15(2)(b) or (ba)”.

11. **Section 19 amended (issue of certificate of inspection)**

Section 19(1)—

**Repeal**

“15(2)(b)”

**Substitute**

“15(2)(b) or (ba)”.

12. **Section 20 amended (Director may refuse or temporarily withhold issue of certificate of inspection)**

Section 20(1)—

**Repeal**

“15(2)(b)”

**Substitute**

“15(2)(b) or (ba)”.

13. **Section 22 amended (preparation of declaration of survey under Part 4)**

Section 22(1)—

**Repeal**

“15(2)(b)”

**Substitute**

“15(2)(b) or (ba)”.

14. **Section 80 amended (radar)**

(1) After section 80(1A)—

**Add**

“(1B) This section also applies to a Class IV vessel that is licensed to carry more than 100 passengers.”.

(2) Section 80(2), after “Class I vessel”—

**Add**

“or Class IV vessel”.

(3) Section 80(3), after “Class I vessel”—

**Add**

“or Class IV vessel”.

**15. Section 80A amended (automatic identification system)**

After section 80A(2)—

**Add**

“(2A) This section also applies to a Class IV vessel that is licensed to carry more than 100 passengers.”.

**16. Section 80B amended (radiotelephone equipment)**

After section 80B(1)—

**Add**

“(1A) This section also applies to—

- (a) a Class IV vessel that is licensed to carry 13 to 60 passengers and is let for hire or reward; and
- (b) a Class IV vessel that is licensed to carry more than 60 passengers.”.

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

(1) Schedule 3, Part 1—

**Repeal section 3.**

(2) Schedule 3, Part 2, Table 4—

**Repeal**

“100%<sup>(1)</sup> and (3)”

**Substitute**

“100%<sup>(1), (3) and (4)”</sup>

(3) Schedule 3, Part 2, after Table 7—

**Add**

“Table 8

- (i) A Class IV vessel that is licensed before 1 August 2020 to carry not more than 60 passengers and is let for hire or reward (except a Class IV vessel that is an open cruiser)
- (ii) A Class IV vessel that is an open cruiser licensed to carry not more than 60 passengers and is let for hire or reward
- (iii) A Class IV vessel of more than 150 gross tonnage and is licensed before 1 August 2020

Life-saving appliances	Number
Lifebuoy	sufficient for use by the maximum number of persons that the vessel is licensed to carry <sup>(1)</sup>

Note:

- (1) For a Class IV vessel that is an open cruiser licensed to carry not more than 60 passengers and is let for hire or reward, this requirement is exempted if the passengers on board the vessel wear suitable lifejackets while the vessel is underway.”.

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

(1) Schedule 4, Part 2, Table 1—

**Repeal**

“at least 3”

**Substitute**

“at least 4”.

(2) Schedule 4, Part 2, Table 1—

**Repeal**

“fire main + hose + hydrant + jet nozzle”	1 set	1 set to be provided for each pump <sup>(6)</sup> ”
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**Substitute**

“fire main + hose + hydrant + jet nozzle”	—	1 set to be provided for each pump <sup>(6)</sup> ”
---	---	---

- (3) Schedule 4, Chinese text, Part 2, Table 1—

**Repeal**

“		”
	手提式滅火器	”

**Substitute**

“		”
	手提式滅火器	”

- (4) Schedule 4, Part 2, Table 3—

**Repeal**

“For both Category A vessels and Category B vessels<sup>(3)</sup>”

**Substitute**

“For Class II Category A or B vessels<sup>(3)</sup> and Class IV vessels”.

- (5) Schedule 4, Part 2, Table 3—

**Repeal**

“For Category A vessels only”

**Substitute**

“For Class II Category A vessels only”.

- (6) Schedule 4, Part 2, Table 3, Note (4)—

**Repeal**

“Applicable to Category B vessels only. If”

**Substitute**

“For Class II Category B vessels and Class IV vessels, if”.

- (7) Schedule 4, Part 2, Table 4—

**Repeal**

“workshop”	1 within not more than 10 m walking distance, but at least 2 on each deck, and not less than half shall be foam/CO <sub>2</sub> fire extinguishers”
------------	---

**Substitute**

“galley”	1 within not more than 10 m walking distance, but at least 2 on each deck, and not less than half must be foam/CO <sub>2</sub> fire extinguishers”
workshop”	

- (8) Schedule 4, Part 2, after Table 6—

**Add**

“Table 6A

Class II vessels—oil carriers that operate within waters of Hong Kong

Fire-fighting Apparatus		Vessel length (L) (m)				
		(L) <24	24≤(L) <37	37≤(L) <50	50≤(L) <60	60≤(L) <75 <sup>(1)</sup>
portable fire extinguisher	accommodation space	1 on each deck		2 on each deck		
	wheel house	1				
	galley	1				
	engine control rooms	1				
	engine room	3	4	1 within not more than 10 m walking distance, but at least 4 in each room		
	machinery space	1 within each space				
non-portable fire extinguisher	engine room	—	—	1	1	1
fixed CO <sub>2</sub> fire extinguishing system <sup>(2)</sup>	engine room	gas quantity, storage, piping, nozzle, alarm, location and arrangement must be in accordance with the relevant plans approved under Part 3 of this Regulation				
	cargo pump room					
main fire pump	power	1 <sup>(3)</sup>	1	1	1	2

emergency fire pump	power	1 <sup>(4)</sup>	1 <sup>(4)</sup>	1 <sup>(4)</sup>	1 <sup>(4)</sup>	1 <sup>(4)</sup>
	manual	—	—	—	—	—
fire main + hose + hydrant + jet nozzle	quantity, size, length, type, location and arrangement must be in accordance with the relevant plans approved under Part 3 of this Regulation					
hydrant	engine room	—	1	1	1	2
spray nozzle	1 on each deck	1 on each deck	1 on each deck	2 on each deck	3 on each deck	
		2 in each engine room	2 in each engine room	2 in each engine room	2 in each engine room	
foam applicator + 2 × 20 L mobile foam	engine room	—	1	1	1	1
	cargo manifold area	—	1	1	1	1
fire control plan	<1> <sup>(5)</sup> 1					

Notes:

- (1) The requirement for a Class II vessel of 75 m or more in length is to be specified by the Director on a case-by-case basis.
- (2) In vessels having cargoes with flash point exceeding 60°C (closed cup test), such system may be substituted by a non-portable fire extinguisher if it can be satisfactorily demonstrated that the jet of the fire extinguishing media can reach any part of the engine room and cargo pump room.
- (3) The fire pump may be propulsion engine driven, provided that it can be readily engaged to the engine.

- (4) The emergency fire pump and its sea suction must be situated outside the engine room.
- (5) Requirement in pair of angle brackets (“< >”) is applicable to new vessels only.”.

(9) Schedule 4, Part 2, Table 7—

**Repeal**

“(L)≥10”

**Substitute**

“(L)≥10<sup>(2)</sup>”.

(10) Schedule 4, Part 2, Table 7—

**Repeal**

“	machinery space	2	4	”
---	-----------------	---	---	---

**Substitute**

“	machinery space	1	1	”
---	-----------------	---	---	---

**19. Schedule 5 amended (freeboard assignment)**

(1) Schedule 5, Part 1—

**Repeal**

“	special purpose vessel	HKW	HKLLC	HKLLC	HKLLC	HKLLC	”
		RTL	HKLLC	HKLLC	HKLLC	HKLLC	

**Substitute**

“	special purpose vessel	HKW	HKLLC	HKLLC	FAC	FAC	”
		RTL	HKLLC	HKLLC	not permitted	not permitted	

(2) Schedule 5, Part 2—

**Repeal**

“(L)≤40	500	650
(L)≤50	660	710
(L)≤60	850	1 000
(L)≤70	1 080	1 230
(L)≤80	1 330	1 480
(L)≤90	1 600	1 750

**Substitute**

“(L)=40	500	650
(L)=50	660	810
(L)=60	850	1 000
(L)=70	1 080	1 230
(L)=80	1 330	1 480
(L)=90	1 600	1 750

  
Secretary for Transport and Housing

12 May 2020

### Explanatory Note

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

- (a) subject certain Class IV vessels to plan approval requirements and survey requirements under Parts 3 and 4 respectively of the principal Regulation;
- (b) subject certain Class IV vessels to the requirements relating to radar equipment, automatic identification system and radiotelephone equipment under sections 80, 80A and 80B respectively of the principal Regulation;
- (c) add a new Table 8 in Part 2 of Schedule 3 to the principal Regulation to require certain Class IV vessels to provide lifebuoys;
- (d) add a new Table 6A in Part 2 of Schedule 4 to the principal Regulation to prescribe the fire-fighting apparatus requirements for Class II oil carriers operating solely within Hong Kong waters; and
- (e) make miscellaneous amendments to the requirements on life-saving appliances and fire-fighting apparatus set out in various Schedules to the principal Regulation.



## Merchant Shipping (Prevention of Oil Pollution) (Amendment) Regulation 2020

(Made by the Secretary for Transport and Housing under section 3 of the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413))

### 1. Commencement

This Regulation comes into operation on 1 August 2020.

### 2. Merchant Shipping (Prevention of Oil Pollution) Regulations amended

The Merchant Shipping (Prevention of Oil Pollution) Regulations (Cap. 413 sub. leg. A) are amended as set out in sections 3 and 4.

### 3. Regulation 1 amended (citation and interpretation)

Regulation 1(2), definition of *HKOPP Certificate*—

#### Repeal

“7(1)(b)”

#### Substitute

“7(1A)”.

### 4. Regulation 7 amended (issue and duration of IOPP and HKOPP Certificate)

(1) Regulation 7(1)(a)—

#### Repeal

“; or”

#### Substitute a fullstop.

(2) Regulation 7(1)—

### Repeal subparagraph (b).

(3) After regulation 7(1)—

#### Add

“(1A) The Director must, on receipt of a declaration of survey for a survey referred to in regulation 4 which relates to a Hong Kong ship that—

(a) is an oil tanker of 150 GT and above or any other ship of 400 GT and above; and

(b) is not engaged in voyages referred to in paragraph (1)(a),

issue to the ship a HKOPP Certificate.”.



Secretary for Transport and Housing

12 May 2020

### **Explanatory Note**

This Regulation amends the Merchant Shipping (Prevention of Oil Pollution) Regulations (Cap. 413 sub. leg. A) (*principal Regulations*) so that the Director of Marine must issue a HKOPP Certificate in respect of a Hong Kong ship under regulation 7 of the principal Regulations on receipt of a declaration of survey in respect of the ship from an organization recognized under regulation 3B of the principal Regulations.

## Merchant Shipping (Prevention of Air Pollution) (Amendment) Regulation 2020

(Made by the Secretary for Transport and Housing under section 3 of the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413))

### 1. Commencement

This Regulation comes into operation on 1 August 2020.

### 2. Merchant Shipping (Prevention of Air Pollution) Regulation amended

The Merchant Shipping (Prevention of Air Pollution) Regulation (Cap. 413 sub. leg. P) is amended as set out in sections 3 and 4.

### 3. Section 59 amended (issue of HKAPP Certificates)

(1) Section 59(3)(a)(i)—

#### Repeal

“has been carried out in accordance with section 75”

#### Substitute

“for the issue of the Certificate has been carried out”.

(2) Section 59(3)(a)(ii)—

#### Repeal

“has been carried out in accordance with section 76”

#### Substitute

“for the renewal of the Certificate has been carried out”.

(3) Section 59(3)(b)—

#### Repeal

“under section 75 or 76”

#### Substitute

“in relation to the initial survey or renewal survey”.

### 4. Section 95 amended (Director may recognize organizations to survey ships and issue certificates etc.)

(1) Section 95(c)—

#### Repeal

“(b)”

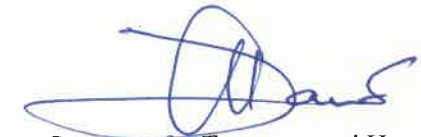
#### Substitute

“(b)(i), (iii) and (iv)”.

(2) After section 95(c)—

#### Add

“(ca) making endorsements on Hong Kong Air Pollution Prevention Certificates in conformity with Part 5;”.



Secretary for Transport and Housing

12 May 2020

### Explanatory Note

This Regulation amends the Merchant Shipping (Prevention of Air Pollution) Regulation (Cap. 413 sub. leg. P) (*principal Regulation*) so that—

- (a) the Director of Marine (*Director*) may issue a HKAPP Certificate in respect of a Hong Kong ship under section 59 of the principal Regulation on receipt of a declaration of survey in respect of the ship from an organization recognized under section 95 of the principal Regulation (*recognized organization*); and
- (b) a recognized organization may make endorsements on HKAPP Certificates that are issued by the Director.

## Merchant Shipping (Local Vessels) (Fees) (Amendment) (No. 2) Regulation 2020

(Made by the Secretary for Financial Services and the Treasury under section 88 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548))

### 1. Commencement

This Regulation comes into operation on 1 August 2020.

### 2. Merchant Shipping (Local Vessels) (Fees) Regulation amended

The Merchant Shipping (Local Vessels) (Fees) Regulation (Cap. 548 sub. leg. J) is amended as set out in sections 3, 4 and 5.

### 3. Section 10 amended (fees for consideration of plans under Part 3 of Survey Regulation)

Section 10(3), definition of *specified vessel*—

#### Repeal

“7(3)(b)”

#### Substitute

“7(3)(b) or (ba)”.

### 4. Section 12 amended (fees for surveys for issue of certificates of survey and certificates of inspection)

Section 12(1)(d)—

#### Repeal

“15(2)(b)”

#### Substitute

“15(2)(b) or (ba)”.

### 5. Schedule 3 amended (fees prescribed for purposes of Merchant Shipping (Local Vessels) (Safety and Survey) Regulation)

(1) Schedule 3, Part 2, item 8—

#### Repeal

“7(3)(b)”

#### Substitute

“7(3)(b) or (ba)”.

(2) Schedule 3, Part 3, item 13—

#### Repeal

“15(2)(b)”

#### Substitute

“15(2)(b) or (ba)”.



Secretary for Financial Services and  
the Treasury

12 May 2020

### **Explanatory Note**

This Regulation amends the Merchant Shipping (Local Vessels) (Fees) Regulation (Cap. 548 sub. leg. J) to make amendments consequential to those made to the Merchant Shipping (Local Vessels) (Safety and Survey) Regulation (Cap. 548 sub. leg. G) by the Merchant Shipping (Local Vessels) (Safety and Survey) (Amendment) Regulation 2020.