

LEGISLATIVE COUNCIL BRIEF

Shipping and Port Control Ordinance (Chapter 313)
Merchant Shipping (Local Vessels) Ordinance (Chapter 548)

Revision of Air Draft Restriction at Tsing Ma Bridge

INTRODUCTION

At the meeting of the Executive Council on 24 November 2020, the Council ADVISED and the Chief Executive ORDERED that the Shipping and Port Control (Amendment) (No. 2) Regulation 2020 (“the A SAPCR Amendment Regulation”), at **Annex A**, should be made under section 80 of the Shipping and Port Control Ordinance (Cap. 313) to relax the air draft restriction at Tsing Ma Bridge (“TMB”) to provide a new, clear and lucid standard for the shipping trade, with a view to facilitating the shipping trade operation and maintaining the competitiveness of Hong Kong Port (“HKP”).

2. The Secretary for Transport and Housing has, under section 89 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548), made the Merchant Shipping (Local Vessels) (General) (Amendment) (No. 2) B Regulation 2020 (“the Local Vessels Amendment Regulation”), at **Annex B**, to apply the same relaxation to local vessels.

JUSTIFICATIONS

3. HKP is a key economic pillar of Hong Kong's economy. With supreme connectivity with both the Mainland of China and the rest of the world, HKP is one of the top ten busiest container ports around the globe and a major transshipment hub port within the Pearl River Delta ("PRD") region. In 2019, it handled around 18.3 million Twenty-foot Equivalent Units ("TEUs") (ranking 8th worldwide), with some 60% of the throughput being transshipment cargo.

TMB Air Draft Restriction

4. Ma Wan Channel, above which TMB spans over, is one of the key navigation channels that link up Hong Kong and ports in the PRD region. Since TMB has come into operation in 1997, an air draft restriction of 53m above sea level¹ has been set to specify the maximum height clearance for safe navigation below the bridge span. The restriction in respect of non-local and local vessels are stipulated in the Fifth Schedule to the Shipping and Port Control Regulations (Cap. 313A) ("SAPCR") and in section 19 of the Merchant Shipping (Local Vessels) (General) Regulation (Cap. 548F) ("the Local Vessels Regulation") respectively. Under the concerned statutes, vessels with a height exceeding the said limit of 53m are not allowed to pass through the TMB area unless they are granted permission by the Director of Marine ("DM") on a case-by-case basis.

5. In recent years, shipping liners are deploying larger ocean-going vessels with capacity of over 10 000 TEUs for international shipping. Their

¹ The 53m level is calculated on the basis of the design value of the bridge height at 60.3mPD at the lowest point of TMB at the edge of the navigation channel close to the point of fixity of the bridge deck at the Tsing Yi Tower, and deducting from it a number of factors (including the highest astronomical tide, storm surge of tide and a safety margin) totaling 7.3m.

air drafts sometimes exceed the current height clearance, meaning that they would have to seek the discretion of DM under every instance when they intend to pass through TMB, or else they will not be able to access to HKP through the Ma Wan Channel. The shipping industry expresses concerns that the existing height clearance has made passage of such mega vessels through the TMB area difficult. Relying on DM's power to permit passage of individual vessels on a case-by-case basis is also considered undesirable by the shipping sector having regard to the certainty and clarity required by liners in planning and deciding their routes. Some have indicated that if their vessels cannot route through HKP for transshipment cargo owing to the air draft restriction, they may skip HKP and choose other ports in the region for the transshipment activities. This is not conducive to the sustainable development of Hong Kong's shipping and port sector.

Legislative Proposal

6. To maintain the competitiveness of HKP under the trend of international shipping, the Government has solicited expert views from two independent advisers on the suitability of relaxing the air draft restriction at TMB. Upon thorough assessment, we consider that there is scope to relax the height clearance at TMB specified in the legislation while upholding the bridge integrity and ship navigation safety.

7. Specifically, we propose revising the air draft restriction at TMB from 53m to 57m above sea level. After the revision, vessels with heights not exceeding 54.6m would be allowed to enter and pass through the TMB at all time. As for those with a height exceeding 54.6m but not more than 57m, they would be allowed to enter and pass through the TMB only during the hours when the space for the travelling of the movable gantries underneath TMB is not to be occupied for inspection or maintenance of the

bridge, such as when all the movable gantries underneath TMB are to be docked at the Tsing Yi and Ma Wan bridge towers. The Highways Department (“HyD”) will publish bi-weekly on its website the specified hours for passage so that vessels with an air draft within the said range can check the information and plan for their entry into Hong Kong in advance. Vessels with a height of over 57m would not be allowed for passage except with the permission of DM.

8. We are mindful that there may be need for ad hoc deployment of the movable gantries or other urgent inspection and maintenance of TMB, such as after the occurrence of the Tropical Cyclone Warning Signal No.8 or above or when serious traffic accidents happen on TMB. Under those unforeseen circumstances when the gantries have to be deployed or other inspection and maintenance work is required to be carried out underneath the TMB, the Marine Department (“MD”) may, pursuant to section 16(b) of the Shipping and Port Control Ordinance (Cap. 313), give direction to any vessels or class of vessels not to enter or pass underneath TMB during the period concerned. MD and HyD have come up with a communication mechanism for smooth implementation of the new arrangement.

THE AMENDMENT REGULATIONS

Shipping and Port Control (Amendment) (No. 2) Regulation 2020

9. To effect the proposed new arrangement, we will amend Regulation 23B and paragraph 15 of the Fifth Schedule of the SAPCR by way of the SAPCR Amendment Regulation.

10. Regulation 23B(3) will be amended to prohibit —

- (a) vessels with heights exceeding 57m from entering or passing through the TMB area; or
- (b) vessels with heights exceeding 54.6m but not over 57m from entering or passing through the TMB area except during the specified hours.

11. A new paragraph (3AA) will be added to empower the Director of Highways or an officer authorized by the Director of Highways to specify by notice published on the HyD's website the hours (*specified hours*) during which the space for the travelling of the gantries will not be occupied for inspection or maintenance of the TMB or related purposes.

12. Paragraph 15(a) of the Fifth Schedule will be amended to revise the air draft restriction from 53m to 57m above sea level for the purposes of Regulation 23B(3)(a). A new paragraph 15(ab) will be added to specify the height range exceeding 54.6m but not over 57m for the purposes of Regulation 23B(3)(b).

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

13. To apply the same relaxation to local vessels, we will also amend section 19 of the Local Vessels Regulation by way of the Local Vessels Amendment Regulation. In particular, subsection (3) will be amended to prohibit —

- (a) vessels with heights exceeding 57m from entering or passing through the TMB area; or

- (b) vessels with heights exceeding 54.6m but not over 57m from entering or passing through the TMB area except during the specified hours.

14. A new paragraph (3A) will be added to empower the Director of Highways or an officer authorized by the Director of Highways to specify by notice published on the HyD's website the hours (*specified hours*) during which the space for the travelling of the gantries will not be occupied for inspection or maintenance of the TMB or related purposes.

LEGISLATIVE TIMETABLE

15. The legislative timetable is as follows –

Publication in Gazette	4 December 2020
Introduction to the Legislative Council for negative vetting	9 December 2020
Commencement	28 January 2021

IMPLICATIONS OF THE PROPOSAL

16. The economic and sustainability implications of the proposal are set out at **Annex C**. It is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the current binding effect of the relevant ordinances or their subsidiary legislation. It has no

financial, civil service, productivity, environmental, gender or family implications.

PUBLIC CONSULTATION

17. We consulted the Hong Kong Maritime and Port Board in September 2019 and briefed the LegCo Panel on Economic Development on the proposed revision on 26 November 2019. Parties concerned supported the proposal.

PUBLICITY

18. A press release will be issued on the day the Amendment Regulations are published in the Gazette. A spokesman will be available to answer media enquiries.

ENQUIRIES

19. Any enquiries on this brief can be addressed to Miss Vicky CHEUNG, Principal Assistant Secretary for Transport and Housing (Transport)(Special Assignment) (Tel: 3509 8154), Mr LAI Chi Tung, Assistant Director of Marine (Port Control) (Tel: 2852 4541) or Mr NG Chin Hung, Assistant Director of Highways (Development) (Tel: 2762 4960).

Transport and Housing Bureau
Marine Department
Highways Department
December 2020

Shipping and Port Control (Amendment) (No. 2) Regulation 2020

(Made by the Chief Executive in Council under section 80 of the Shipping and Port Control Ordinance (Cap. 313))

1. Commencement

This Regulation comes into operation on 28 January 2021.

2. Shipping and Port Control Regulations amended

The Shipping and Port Control Regulations (Cap. 313 sub. leg. A) are amended as set out in sections 3 and 4.

3. Regulation 23B amended (additional supplementary provisions on entry into restricted areas, etc.)

Regulation 23B—

Repeal paragraph (3)

Substitute

“(3) Except with the permission of the Director—

- (a) a vessel which has a height specified in paragraph 15(a) of the Fifth Schedule must not enter or pass through the Tsing Ma Bridge Area; or
- (b) a vessel which has a height specified in paragraph 15(ab) of the Fifth Schedule must not enter or pass through the Tsing Ma Bridge Area other than during the specified hours of a day within the meaning of paragraph (3AA).

(3AA) For the purposes of paragraph (3)(b), the Director of Highways, or an officer authorized by the Director of Highways—

(a) may by notice specify—

- (i) any period; and
- (ii) in relation to each day in the period, the hours (*specified hours*) during which the space for the travelling of the movable gantries underneath the Tsing Ma Bridge between the Tsing Yi Tower and the Ma Wan Tower will not be occupied for inspection or maintenance of the Tsing Ma Bridge or related purposes; and

(b) must publish the notice on the website of the Highways Department or in any other way that the Director of Highways, or the officer authorized by the Director of Highways, considers appropriate.

(3AAB) In paragraphs (3) and (3AA)—

Ma Wan Tower (馬灣橋塔) means the bridge tower on the Ma Wan side of the Tsing Ma Bridge;

Tsing Ma Bridge Area (青馬大橋區域) means the area specified in paragraph 15(b) of the Fifth Schedule;

Tsing Yi Tower (青衣橋塔) means the bridge tower on the Tsing Yi side of the Tsing Ma Bridge.”.

4. Fifth Schedule amended (restricted areas, etc.)

Fifth Schedule—

Repeal paragraph 15(a)

Substitute

- “(a) a height exceeding 57 metres above sea level;
- (ab) a height exceeding 54.6 metres, but not exceeding 57 metres, above sea level;”.

COUNCIL CHAMBER

2020

Clerk to the Executive Council

Explanatory Note

This Regulation amends the Shipping and Port Control Regulations (Cap. 313 sub. leg. A) so that, except with the permission of the Director of Marine, the following vessels are prohibited from entering or passing through the Tsing Ma Bridge Area—

- (a) vessels with heights exceeding 57 metres above sea level;
- (b) vessels with heights exceeding 54.6 metres, but not exceeding 57 metres, above sea level except for those entering or passing through the Area during the hours of a day specified in a notice as the hours during which the space for the travelling of the movable gantries underneath the Tsing Ma Bridge between the Tsing Yi Tower and the Ma Wan Tower will not be occupied for inspection or maintenance of the Tsing Ma Bridge or related purposes.

Merchant Shipping (Local Vessels) (General) (Amendment) (No. 2) 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 28 January 2021.

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. Section 19 amended (prohibition of entry into other bridge areas)

Section 19—

Repeal subsection (3)

Substitute

“(3) Except with the permission of the Director—

- (a) a local vessel with a height exceeding 57 m above sea level must not enter the Tsing Ma Bridge Area; or
- (b) a local vessel with a height exceeding 54.6 m, but not exceeding 57 m, above sea level must not enter the Tsing Ma Bridge Area other than during the specified hours of a day within the meaning of subsection (3A).

(3A) For the purposes of subsection (3)(b), the Director of Highways, or an officer authorized by the Director of Highways—

- (a) may by notice specify—
 - (i) any period; and
 - (ii) in relation to each day in the period, the hours (*specified hours*) during which the space for the travelling of the movable gantries underneath the Tsing Ma Bridge between the Tsing Yi Tower and the Ma Wan Tower will not be occupied for inspection or maintenance of the Tsing Ma Bridge or related purposes; and
- (b) must publish the notice on the website of the Highways Department or in any other way that the Director of Highways, or the officer authorized by the Director of Highways, considers appropriate.

(3B) In subsections (3) and (3A)—

Ma Wan Tower (馬灣橋塔) means the bridge tower on the Ma Wan side of the Tsing Ma Bridge;

Tsing Ma Bridge Area (青馬大橋區域) means the area specified in paragraph 15(b) of the Fifth Schedule to the SAPCR;

Tsing Yi Tower (青衣橋塔) means the bridge tower on the Tsing Yi side of the Tsing Ma Bridge.”

Secretary for Transport and Housing

2020

Explanatory Note

This Regulation amends the Merchant Shipping (Local Vessels) (General) Regulation (Cap. 548 sub. leg. F) so that, except with the permission of the Director of Marine, the following vessels are prohibited from entering the Tsing Ma Bridge Area—

- (a) local vessels with heights exceeding 57 metres above sea level;
- (b) local vessels with heights exceeding 54.6 metres, but not exceeding 57 metres, above sea level except for those entering the Area during the hours of a day specified in a notice as the hours during which the space for the travelling of the movable gantries underneath the Tsing Ma Bridge between the Tsing Yi Tower and the Ma Wan Tower will not be occupied for inspection or maintenance of the Tsing Ma Bridge or related purposes.

ECONOMIC AND SUSTAINABILITY IMPLICATIONS

Economic Implications

The proposed revision of air draft restriction at TMB would facilitate the access of mega vessels, in particular ocean-going container vessels, to HKP. This would incentivize more shipping liners to use the HKP, thereby helping to generate demand for port-related and ancillary maritime services. This would be conducive to enhancing the status of Hong Kong as an international maritime centre and a transshipment hub in the PRD region.

Sustainability Implications

2. The proposed new arrangement would be conducive to the sustainable development of Hong Kong's shipping and port business as set out in the economic implications above.