

Amendments to COP- Safety Standards for Class IV vessels (August 2004) **Annex B**

- Notes : MD suggestion in response to comments arisen from Yacht operators/Clubs (COMBAY)
 MD suggestion in response to comments arisen Technical Sub-committee (TSC)
 MD suggestion in response to comments arisen PV let and hiring operators PV Assoc (PVA)
 Suggestions / clarifications from MD as found necessary (MD)

Comments by TSC/PVA/COMBAY from the consultation were reviewed by MD and responded in the following revised paragraphs for the COP.

Remark : Minor and typo changes in COP are rectified and will not be mentioned below.					Questioned/ Commented / reviewed By																												
To amend the Cover title as required					MD																												
Forward					MD																												
Amendments to paras 1 to 4 regarding the status of COP indicated in LVO and necessary changes (see amended sheet attached).					MD																												
<u>Chapter I</u>																																	
3. Definition																																	
"length overall (L)", in relation to a Class IV vessel, means the distance between the foreside of the foremost fixed permanent structure and the aft side of the aftermost fixed permanent structure of the vessel and it also usually means the same figure as the "length overall (LOA)";					TSC																												
"gross tonnage", a measurement figure for a Class IV vessel of which the details and calculation can be referred to Chapter IX of the "Code of Practice – Safety Standards for Class I, II and III Vessels";					TSC																												
4.1 Subject to the following paragraphs 4.2 to 4.7 this Code applies to all pleasure vessels which are required to be licensed as Class IV Vessels; with the applicable Chapters and Annexes indicated in the following table:					MD																												
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th rowspan="2" style="width: 15%;">Vessel Status</th> <th colspan="2" style="width: 35%;">Existing Vessel</th> <th colspan="2" style="width: 35%;">New Vessel</th> <th rowspan="2"></th> </tr> <tr> <th style="width: 17.5%;">not engaged in chartering</th> <th style="width: 17.5%;">engaged in chartering</th> <th style="width: 17.5%;">not engaged in chartering</th> <th style="width: 17.5%;">engaged in chartering</th> </tr> </thead> <tbody> <tr> <td style="width: 15%;">(a) More than 60</td> <td style="width: 17.5%;">Ch. I, III-A (para 1.2 applicable), Annex 1A, 1B</td> <td style="width: 17.5%;">Ch. I, III-A (para 1.2 applicable), Annex 1, 1A, 1B</td> <td style="width: 17.5%;">Ch. I, III-A Annex 1A, 1B</td> <td style="width: 17.5%;">Ch. I, III-A, Annex 1, 1A, 1B</td> <td style="width: 15%; vertical-align: top;">MD</td> </tr> <tr> <td>(b) 13 to 60</td> <td>Ch. I, IV~VIII Annex 1A, 1B, 2, 4A</td> <td>Ch. I, II, III, IV~VIII, Annex 1, 1A, 1B, 2, 3, 4, 4A</td> <td>Ch. I, IV~VIII Annex 1A, 1B, 2, 4A,</td> <td>Ch. I, II, III, IV~VIII, Annex 1, 1A, 1B, 2, 3, 4, 4A</td> <td></td> </tr> <tr> <td>(c) Not more than 12</td> <td>Ch. I, IV~VIII Annex 1A, 1B, 2, 4A</td> <td>Ch. I, II, III, IV~VIII, Annex 1, 1A, 1B, 2, 3, 4, 4A</td> <td>Ch. I, IV~VIII Annex 1A, 1B, 2, 4A</td> <td>Ch. I, II, III, IV~VIII, Annex 1, 1A, 1B, 2, 3, 4, 4A</td> <td></td> </tr> </tbody> </table>						Vessel Status	Existing Vessel		New Vessel			not engaged in chartering	engaged in chartering	not engaged in chartering	engaged in chartering	(a) More than 60	Ch. I, III-A (para 1.2 applicable), Annex 1A, 1B	Ch. I, III-A (para 1.2 applicable), Annex 1, 1A, 1B	Ch. I, III-A Annex 1A, 1B	Ch. I, III-A, Annex 1, 1A, 1B	MD	(b) 13 to 60	Ch. I, IV~VIII Annex 1A, 1B, 2, 4A	Ch. I, II, III, IV~VIII, Annex 1, 1A, 1B, 2, 3, 4, 4A	Ch. I, IV~VIII Annex 1A, 1B, 2, 4A,	Ch. I, II, III, IV~VIII, Annex 1, 1A, 1B, 2, 3, 4, 4A		(c) Not more than 12	Ch. I, IV~VIII Annex 1A, 1B, 2, 4A	Ch. I, II, III, IV~VIII, Annex 1, 1A, 1B, 2, 3, 4, 4A	Ch. I, IV~VIII Annex 1A, 1B, 2, 4A	Ch. I, II, III, IV~VIII, Annex 1, 1A, 1B, 2, 3, 4, 4A	
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<p>4.3 Any Class IV vessel carrying not more than 60 passengers and engaging in chartering or not, which is -</p> <p>(i) of novel type (which is not of conventional construction); or</p> <p>(ii) GT exceeding 150;</p> <p>should be subject to approval and safety survey by Marine Department in accordance with relevant safety and construction requirements comparable to a Class 1 vessel carrying same number of passenger as specified in “Code of Practice – Safety Standards for Class I, II and III”.</p>	MD
<p>[4.4 onwards etc. are to be re-numbered.]</p>	MD
<p>7.2 The insurance coverage and written charter agreement / written hire-purchase agreement ^(Note) should be kept onboard as required under Merchant Shipping (Local Vessels)(Certification and Licensing) Regulation.</p>	TSC
<p>Note : “written charter agreement / written charter agreement” , their meaning or purposes are given in section 6 under Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (as quoted in Annex 1A).</p>	TSC
<p>8.1 The owner, coxswain and agent of any Class IV vessel is required to observe applicable duties as indicated in the Merchant Shipping (Local Vessels)(Certification and Licensing) Regulation.</p>	MD
<p>8.1 It is the responsibility of the owner and agent of any Class IV vessel :-</p> <p>(a) to ensure that the vessel is properly maintained and examined in accordance with the requirements of the Ordinance and regulations as mentioned in paragraph 2 above, in addition to this Code; and</p> <p>(b) to ensure that the vessel is built and constructed with adequate strength and stability, adequacy in safety for machinery, electrical and in safety arrangement and equipment for vessel’s intended purpose ^(see note below).</p>	MD
<p>Note: For any Class IV vessel carrying not more than 60 passengers and not engaged in chartering, owner or agent of the vessel may seek advice and recommendations from a builder or an authorized surveyor/organization, as appropriate, and for their confirmation and verification of vessel’s compliance in accordance with relevant standards and requirements as prescribed in this Code, and may request for the issue of relevant survey report or certificate as appropriate.</p>	TSC

<p>8.2 It is the responsibility of the owner, agent and the coxswain of any Class IV vessel to observe applicable duties as indicated in the Merchant Shipping (Local Vessels)(General) Regulation and Merchant Shipping (Local Vessels)(Certification and Licensing) Regulation, and in particular relating to restrictions imposed under section 6 and operators holding relevant certificates of competency etc. required on any Class IV vessel specified under sections 47, 48 and 50 of the latter Regulation. These are extracted in Annex 1A and Annex 1B for reference..</p>	<p>PVA</p>
<p>8.3 For any Class IV vessel engaging in chartering and carrying not more than 60 passengers and that the vessel length not exceeding 24 metres or its total propulsion power not more than 1,000kW, the vessel can be considered properly controlled by one person, i.e. a “combined coxswain”^(see Note below) operation, provided that the following arrangements are met:-</p> <p>(a) the vessel is appropriately equipped, including fittings of bilge alarm, essential main engine controls, indicators and main / generator engines abnormal warning alarms, remote shutdown of main / generator engines and ventilation fans, and a fire or smoke detection system, as appropriate, for unattended machinery space operation as specified in para 3.14 of Chapter III. These requirements suitable for “combined coxswain” operation should be inspected and tested annually by an authorized surveyor/ organization and certified in the format as given in Annex 4A; and</p> <p>(b) there should be at least one crew member with common engineering knowledge on board to assist the coxswain while the vessel is underway in order to cope with operation needs including helping out emergency measures, etc..</p> <p><i>[Explanatory Note : It is a current practice that certain commercial vessels of those limitations are permitted to operate under “combined coxswain” arrangement provided the above conditions or equivalent are met.]</i></p> <p><u>Note</u> : Before the commencement of the Ordinance a “combined coxswain” is a person holding a “local certificate of competency - pleasure vessel coxswain” and a “local certificate of competency - pleasure vessel engine operator”. After the commencement of Ordinance, the equivalent new certificates of competency for a “combined coxswain” is a “local certificate of competency as pleasure vessel operator (Grade 1)”; or a “local certificate of competency as pleasure vessel operator (Grade 2)” [for vessel of length less than 15 m] or combination of equivalent of appropriate types of certificates of competency.</p>	<p>TSC/ MD</p>
<p>8.4 For any Class IV vessel not engaging in chartering and carrying not more than 60 passengers and that the vessel length not exceeding 24 metres or its total propulsion power not more than 1,000kW, the vessel can be considered properly controlled by one person, i.e. a “combined coxswain” operation, provided that the following arrangements are met:-</p> <p>(a) the vessel is appropriately equipped, including fittings of bilge alarm, essential main engine controls, indicators and main / generator engines abnormal warning alarms, remote shutdown of main / generator engines and ventilation fans, and a</p>	<p>MD</p>

<p>fire or smoke detection system, as appropriate, for unattended machinery space operation by making reference to the requirements as specified in para 3.14 of Chapter III; and</p> <p>(b) it is the responsibility of the owner, agent and the coxswain of the vessel to ensure the above arrangement is fit and safe for the intended operation. In this connection, it is recommended that -</p> <p>(i) there should be at least one crew member with common engineering knowledge on board to assist the coxswain while the vessel is underway in order to cope with operation needs including helping out emergency measures, etc.; and</p> <p>(ii) the unattended machinery space requirements mentioned above suitable for “combined coxswain” operation are inspected and tested annually by an authorized surveyor/ organization or builder and certified in the format similar to that given in Annex 4A.</p>	
<p>8.5 Any vessel, in particular for vessel under “combined coxswain” operation, the coxswain should understand well that he should not leave the vessel navigating itself when he has left the steering position. Furthermore, it is the owner, agent and the coxswain of the vessel to ensure safe embarkation and dis-embarkation under operation.</p>	MD
<p>9.1 For any Class IV vessel carrying not more than 60 passengers and engaging in chartering, owner or agent of the vessel may request builder to propose vessel’s design, construction and safety standards and arrangements for certification by an authorized surveyor/organization.</p>	PVA
<p>9.1 Any vessel carrying not more than 60 passengers and engaging in chartering, its design, construction and safety requirements are to be certified by a builder or an authorized surveyor / organization.</p>	
<p>10 Equivalent</p>	
<p>10.1 Any requirements of this Code which cannot be fully met for one reason or another by any Class IV Vessel carrying not more than 60 passengers and engaged in chartering should be justified and arranged with suitable “equivalence”. Where necessary, the owner or agent of the vessel may invite a builder or an authorized surveyor or authorized organization to propose alternative or “equivalence” to the requirements of this code for endorsement by an authorized surveyor or authorized organization. These should be properly documented with records kept onboard.</p>	PVA
<p>12.2 It is recommended that the Certificate of Inspection should be displayed in a conspicuous location onboard and same remark should be indicated on the certificate.</p>	TSC
<p><u>Chapter II</u></p>	
<p>2.2 Copy of Relevant document of confirmation from builder with endorsement or certification from builder or by authorized surveyor / organization confirming the standard of construction applied to the vessel and, where appropriate, together with an inclining test report should be attached to kept onboard with the “Certificate of Inspection”.</p>	PVA

<p>2.3 New vessels of proto-type approval, including details of approved production procedures and key inspections, with certification for a production series of not exceeding 20 within a validity period of three years is considered acceptable.</p>	PVA
<p>2.4 For existing vessels, builder's inspection reports or certificates are required for assessment and endorsement by an authorized surveyor / organization. When an existing vessel has a record of at least five years' history of safe operation in the waters of Hong Kong or similar operating conditions, it will be considered to be adequate strength after a satisfactory examination. When an existing vessel is not built with a vessel standard and not met the above situations, technical assessment (including calculations, drawings, details of materials and construction) of the vessel by an authorized surveyor / organization is required to confirm the compliance of relevant safety requirements and structural soundness for the intended operation of the vessel.</p>	MD
<p>3.1 The following inspections items are relevant for the vessel concerned :-</p> <p>Hull Construction</p> <p>(4) Assessing/ endorsing document /or certificate of construction and/or inclining test report where appropriate. (refers to requirements in paragraph 9.1 of Chapter I, paragraph 2.2 of Chapter II and paragraphs 1 and 2 of Chapter III)</p> <p>Others</p> <p>(17) Other items considered necessary by the authorized surveyor/organization (to be indicated in separate list) .</p>	PVA
<p>Inspection on slip or dry-docking (at interval not more than two years after initial certification)</p>	PVA
<p>Chapter III</p> <p>2.6 (a) For any new vessel, an inclining test should be carried out in accordance with the standards of an authorized organization or equivalent standard.</p> <p>(b) As alternative to (a) above, for any new vessel carrying less than 12 passengers, a simple inclining test should be carried out to ascertain the angle of heel a vessel would occur when 2/3 of the passengers distributed on one side of the vessel and 1/3 on the other side. The objective is to ensure that no angle of heel exceeding 7 will arise as a result of the movement of passengers from one side of the vessel to the other side. If that vessel is not exceeding 6 metres, an immersion test to prove its adequacy of buoyancy is also acceptable as an alternative.</p>	PVA TSC

<p>2.7 For any existing vessel, a simple inclining test should be carried out is to ascertain the angle of heel a vessel would occur when 2/3 of the passengers distributed on one side of the vessel and 1/3 on the other side. The objective is to ensure that no angle of heel exceeding 7 will arise as a result of the movement of passengers from one side of the vessel to the other side. If that vessel is not exceeding 6 metres, an immersion test to prove its adequacy of buoyancy is also acceptable as an alternative.</p>	TSC
<p>3.3 To add a Note after “high speed” for open deck vessel :- Note: It means that when an open deck vessel is rated with operating speed exceeding 17 knot or capable to achieve that speed. It is also termed as “high speed open deck vessel”</p>	PVA
<p>3.14 Engine Room & Wheelhouse Communication and Safety Arrangement</p> <p>(a) On any vessel with manned engine rooms, a suitable system of communication between wheelhouse and engine room should be provided.</p> <p>(b) Any vessel with length or propulsion power as indicated below, operating in unattended machinery spaces mode, should be provided with the following installation in the proximity of the position of helmsman:</p> <p>(I) Vessel of $L \leq 24$ m or total propulsion power ≤ 750 kW</p> <p>(i) for main engine- essential controls (such as means of start, and stop, control of speed and clutch); indicators, abnormal alarms and remote stop.</p> <p>(ii) for generator engine and engine room ventilation fans - means to stop</p> <p>(iii) for bilge water in engine room- high level audible alarm.</p> <p>(II) Vessel of $L > 24$ m or total propulsion power > 750 kW same as (I) above but in addition, provided with a fixed fire detection (operated by smoke detectors) and fire alarm system for engine room.</p>	MD
<p>4.13 To add at the end :- The requirement is applicable to only non-metallic hull vessels.</p>	PVA
<p>5.1 At least one anchor is to be installed with anchor chain of adequate weight, length and strength for its intended purpose. Where ropes are used instead of chain cables, the ropes sizes and strength should be equivalent to that of chain cable. Except for manual operating type, suitable cable and anchor recovery arrangement or windlass is recommended.</p>	PVA
<p><u>Chapter IV</u></p> <p>1.4 All vessels should ensure the boarding for crew and passengers is safe. For any vessel carrying more than 60 passengers, a suitable boarding arrangement or gangplank should be provided.</p>	MD

1.5	For vessels carrying not more than 12 passengers , sanitary apparatus or wash room should be provided on onboard for use of crew and passengers.	COMBAY
2.1	<p>To amend/ add a Note (a) for “open deck vessel” :-</p> <p><u>Note(a):</u> “Open deck vessel” means vessel without the enclosed superstructure or compartment for personnel sheltered from weather. The existing Class IV vessels of open deck type may retain its licensed passenger numbers by submission to Licensing Section relevant supporting document, such as inclining testing certificates issued by Builder or recognized classification society or authorized surveyor or authorized organization indicating the maximum number of carrying capacity.</p> <p>To amend/ add a Note (b) for “enclosed deck vessel” :-</p> <p><u>Note (b):</u> “Enclosed deck vessel” means vessel provided with enclosed superstructure or compartment for personnel sheltered from weather.</p>	PVA
2.2	<p>An increased capacity may be considered subject to a satisfactory inclining test being conducted. Unless otherwise permitted by the Director, the maximum number of crew should not be more than two or 25% rounding upwards, whichever is the greater, of the specified minimum safe manning scale of the vessel. Such increase should take into consideration of the minimum number of crew required for the vessel as specified in the operating licence, of which the evaluation is guided by the details given at above paragraph 2.1 and format indicated in Annex 4A.</p>	COMBAY
2.3	<p>To revised s follows: -</p> <p>“All passengers should be arranged with seating or resting facilitates of proper construction adequate for the intended purpose. As a guidance, the number of fixed seats should be not less than 60% of its maximum number of carrying capacity and the balanced number of seats can be in other form or type provided that they are relatively stable and safe for its purpose.</p>	PVA
2.4	<p>(a) For any Class IV vessel carrying more than 12 passengers and engaging in chartering, any compartment below main deck should not be used as passenger space, except on a sunken deck which has scantlings equivalent to main deck, and is at least 300 mm above the deepest loaded waterline.</p> <p>(b) For any Class IV vessel carrying not more than 12 passengers and not engaging in chartering; any compartment below main deck should not be used as passenger space as far as practicable, except on a sunken deck which has scantlings equivalent to main deck, and is at least 100 mm above the deepest loaded waterline provided these spaces are used occasionally, clearly marked the accessible escape route and fitted with flooding alarms. The number of persons using such spaces should be minimized at any one time.</p>	COMBAY

<p>3.1 For any Class IV vessel carrying more than 12 passengers and engaging in chartering, the number of passengers in which each deck can accommodate should be indicated, in a conspicuous location, at all spaces where passengers will be embarking, in Chinese and English :-</p> <table style="margin-left: 40px;"> <tr> <td>Upper level</td> <td style="text-align: right;">x x x</td> </tr> <tr> <td>Main Deck</td> <td style="text-align: right;">x x x</td> </tr> <tr> <td>Etc.</td> <td style="text-align: right;">x x x</td> </tr> <tr> <td colspan="2" style="text-align: center;">-----</td> </tr> <tr> <td>Maximum number of passengers</td> <td style="text-align: right;">x x x</td> </tr> <tr> <td>Maximum Minimum number of crew</td> <td style="text-align: right;">x x x</td> </tr> <tr> <td>Maximum carrying capacity ^(Note)</td> <td style="text-align: right;">x x x</td> </tr> </table>	Upper level	x x x	Main Deck	x x x	Etc.	x x x	-----		Maximum number of passengers	x x x	Maximum Minimum number of crew	x x x	Maximum carrying capacity ^(Note)	x x x	<p>MD/ COMBAY</p>
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<p>3.1 To add a Note :</p> <p style="margin-left: 40px;">Note: Maximum carrying capacity is determined by Length x Width x factor. There is no specific rule indicating for each deck. This may be decided by the owner after consulting authorized surveyor / organization on the stability. The seating dimension should be not less than 300 mm x 450 mm and above deck for 150 mm .</p>	<p>PVA</p>														
<p>3.2 For any Class IV vessel carrying more than 12 passengers and not engaging in chartering, owner is advised to mark spaces as indicated in para 3.1 above or at least the maximum number of passengers and the maximum carrying capacity, in a conspicuous location where most passengers will be accommodated, in Chinese and English.</p>	<p>MD/ COMBAY</p>														
<p>3.3 Lifejacket stowage location should be clearly marked.</p>	<p>MD</p>														
<p>4.1 Owners and agents are advised required to comply with adhere to the requirements relevant to the prevention of marine pollution and disposal of waste at sea as follows :-</p> <p>(a) the being enforced MARPOL Annex I applicable to any pleasure vessel exceeding 400 gross tonnage; and</p> <p>(b) the requirements of MARPOL Annex VI which is effective on 19 May 2005, applicable to any pleasure vessel.</p>	<p>MD</p>														
<p>Chapter VI To amend lifejacket requirement for “Anywhere within waters of Hong Kong” as follows:- “ 100% adult lifejacket-(Note B)+ 5% children lifejacket (Note B and D)”</p>	<p>MD</p>														
<p>Chapter VII 2.1 All lanterns and sound signals should be of a type approved/certified by this Department the Director or by the Maritime Administration of a convention country.</p>	<p>MD</p>														

<p><u>Annex 1</u></p> <p>3. Safety guide plates or cards will be considered to be an acceptable way of providing the information required in paragraph 2 above.</p>	PVA
<p><u>Annex 3</u> (This Annex will be replaced by a bilingual format document)</p> <p>Various necessary amendments are made to the document as indicated.</p>	MD/ TSC
<p><u>Annex 4</u></p> <p>To amend / add as indicated in the following:-</p> <p>Name of Vessel.....Certificate of Ownership No:..... 船名 :.....擁有權證明書編號 :.....</p>	MD
<p>4 審查/批核適當的附上建造文件/ 證書及 /或傾斜測試報告((批核文件須與本檢驗紀錄 放置在船上) Assessing / endorsing Attached document /or certificate of construction and/or inclining test report, where appropriate. (The endorsed document should be kept onboard with this Inspection Record)</p>	PVA
<p>17. 特許驗船師 / 機構認為需要檢驗的項目，表列於另外紙張。 Other items considered necessary to be inspected by the authorized surveyor / organization as listed in separate sheet.</p>	MD
<p>船排/乾塢檢驗 (兩年一次) Inspection on slip or dry-docking (bi-annually)</p>	PVA
<p>Name of Authorized Surveyor / Authorized Organization & name of surveyor.</p>	MD
<p>簽 署 Signature 日 期 Date</p>	MD
<p><u>Annex 4A is inserted on format as follows:-</u></p> <p>“Determination of maximum number of persons to be carried and / or Survey Certification on installation suitable for “combined coxswain” operation of a Class IV vessel”</p>	MD

Remark: All revised Annexes are attached in the revised 2nd draft COP.

FORWARD

(1) The Merchant Shipping (Local Vessels) Ordinance, Cap 548 (here below refers as “the Ordinance”), is to provide for the regulation and control of local vessels in Hong Kong and for other matters affecting local vessels, including their navigation and safety at sea (whether within or beyond the waters of Hong Kong).

(2) This Code of Practice is approved and issued by the Director in pursuant to section 8 of the Ordinance for the purpose of ensuring acceptable technical and safety standards in the design, construction, maintenance and inspection of local vessels in conjunction with the condition required or the standards prescribed by the Director under Merchant Shipping (Local Vessels)(Safety Survey) Regulation. This Code also provides necessary practical guidance on operational safety practices in conjunction with the relevant requirements in the Merchant Shipping (Local Vessels)(Certification and Licensing) Regulation.

(3) Section 9 of the Ordinance explains the use of approved codes of practice in proceeding which are quoted as followings:-

“(1) A failure on the part of any person to observe any provision of a code of practice approved under section 8 shall not of itself render the person liable to any civil or criminal proceedings but where in any proceedings under this Ordinance a person is alleged to have contravened a requirement under this Ordinance, being a requirement for which there was an approved code of practice at the time of the alleged contravention, subsection (2) shall have effect with respect to such code in relation to those proceedings.

(2) Any provision of a code of practice which appears to a specified body to be relevant to a requirement under this Ordinance alleged to have been contravened shall be admissible in evidence in the proceedings under this Ordinance concerned and if it is proved that there was at any material time a failure to observe any provision of the code which appears to that body to be relevant to any matter which it is necessary to prove in order to establish a contravention of such requirement, that matter shall be taken as proved in the absence of evidence that such requirement was in respect of that matter complied with otherwise than by way of observance of that provision.

(3) In any proceedings under this Ordinance, a code of practice which appears to a specified body to be the subject of a notice under section 8 shall be taken to be the subject of such notice in the absence of evidence to the contrary.”

(4) The owner, agent and the coxswain of any Class IV vessel (means any licensed pleasure vessel) when engaged in operations outside the waters of Hong Kong with permit arrangement are required -

- (a) to ensure the compliance with relevant safety requirements specified in MDN xx / xxx. by the Director. These requirements are promulgated in the Marine Department notices from time to time, and
- (b) to observe any relevant requirement required by local Authority of those waters.