

Translation

**Local Vessels Advisory Committee**  
**Joint Sub-committee on Class I and Class IV Vessels**  
**Minutes of the 11th Meeting**

Date : 20 February 2014 (Thursday)  
Time : 10:10 a.m.  
Place : Conference Room A, 24/F, Harbour Building, Central

**Present**

Mr. CHEUK Fan-lun (Chairman)	Marine Department (MD)
Mr. WONG Sai-fat (Chairman)	MD
Mr. KWOK Tak-kee	Hong Kong & Kowloon Motor Boats & Tug Boats Association Ltd. (MBTA)
Mr. WEN Tsz-kit	MBTA
Mr. Thomas WONG	MBTA
Mr. PUI Chi-keung, Emil	MBTA
Mr. LEUNG Ming-kee	MBTA
Mr. NG Siu-yuen, Nelson	Hong Kong & Kowloon Ferry Ltd. (HKKF)
Mr. Ken WONG	HKKF
Mr. WU Ka-shun	South China Towing Co. Ltd.
Mr. CHEUNG Kwok-wai	New World First Ferry Services Ltd. (First Ferry)
Mr. P.M. LEE, Alfred	First Ferry
Mr. LI Kin-wah	First Ferry
Mr. CHOR Yee-on	The Hongkong and Yaumati Ferry Co. Ltd. (HYF)
Mr. Bill CHAN	Discovery Bay Transportation Services Ltd. (DBTPL)
Mr. Ben LO	DBTPL
Mr. LO Ngok-yang	Cheoy Lee Shipyards Limited (Cheoy Lee)
Mr. WONG Yiu-wah	Marine Excursion Association (MEA)
Mr. William LI	MEA
Mr. KWOK Chi-hong	MEA
Mr. Andrew KAY	MEA

Mr. LEE Shing-hing	Sai Kung Kaito Association
Mr. Donald LEE	Hong Kong Water Ski Association
Mr. CHEUNG Yat-leung, Jacky	Sai Kung Yacht Association
Mr. Roger EASTHAM	Royal Hong Kong Yacht Club
Mr. Johnny T. H. LEUNG	The “Star” Ferry Company, Limited (Star Ferry)
Ms. CHING Ngan-lai	Harbour Transportation Workers General Union (HTWGU)/Small Craft Workers Union
Mr. FAN Keung	HTWGU
Mr. CHAN Chi-ming	The Hong Kong Shipyard Limited (HK Shipyard)
Mr. KEUNG Siu-fai	Hong Kong & Kowloon Floating Fishermen Welfare Promotion Association (Floating Fishermen)
Ms. Sandy MAK	Tsui Wah Ferry Service (H.K.)Ltd.
Mr. CHAN Kam-hung	Fortune Ferry Co., Ltd.
Mr. Paul CHEUNG	Hong Kong Jet Sports Boating Association
Mr. YUEN Wing-cheong	Transport Department (TD)
Ms. YAU Lai-sze, Lizzy	Leisure and Cultural Services Department
Mr. CHEUNG Mei-hon, Barry	Hong Kong Police Force
Mr. Ng Lap-hay, Andrew	MD
Mr. CHAN Hon-bun	MD
Miss Jackie CHAN (Secretary)	MD

**Absent with Apologies**

Mr Chris WONG	DBTPL
Mr. Keith MOWSER	Hong Kong Sailing Federation
Mr. Paul CHEUNG	Hong Kong Jet Sports Boating Association
Mr. SHEK Ale	Yachting & Boating Club
Dr. LAU Kwok-lam, Alan	Pleasure Boating Operations
Mr. Robert BLYTHE	Gold Coast Yacht and Country Club
Mr. MA Chi-wai	HK Shipyard

**I. Opening Remarks**

**Mr. CHEUK Fan-lun (MD) and Mr. WONG Sai-fat (MD)** welcomed all industry representatives to the meeting.

## **II. Confirmation of Minutes of Previous Meeting**

2. There being no amendments from members at the meeting, the minutes of the previous meeting were confirmed.

## **III. Discussion Items**

### **1. Marine Traffic Control and Safety Measures**

3. Regarding the liability arising from the donning of child lifejacket, **Mr. CHEUK Fan-lun (MD)** stated that a consensus was reached between MD and the Legal Policy Division of the Department of Justice (DoJ) on 13 February. **Mr. Ng Lap-hay, Andrew (MD)** would brief members on the details.

4. **Mr. NG (MD)** stated that if children not donning lifejackets were found on board a spectator vessel, sufficient evidence on coxswain's negligence on the execution of the relevant measures must be gathered by law enforcement officers before any prosecution against the coxswain could be initiated, such as insufficient provision of lifejackets onboard, absence of clear indications of the location and donning method of lifejackets, absence of public announcement before setting sail or failure of crew members to remind passengers to help their children don a lifejacket. Coxswains were not required to defend themselves in court simply for children not donning lifejackets.

5. **Mr. NG (MD)** stated that MD conducted vessel inspections during several major events at sea after the Lamma IV incident. A total of 120 vessels (29 Class I and 91 Class IV) was inspected at the 2012 New Year's Eve Countdown, whereas 84 vessels (26 Class I and 58 Class IV) and 98 vessels (27 Class I and 71 Class IV) were inspected at the Lunar New Year Fireworks Display held on 11 February 2013 and 1 February 2014 respectively. As all children on board these spectator vessels inspected during major events at sea wore a lifejacket at all times and all coxswains had kept a passenger and crew list on board, no verbal warning from MD was warranted. It was thus not necessary for the industry to worry about coxswains' liability in connection with a child's failure to don a lifejacket. MD was very grateful to the industry for its support and cooperation, which was conducive to the full implementation of the safety measures for major events at sea promulgated in Marine Department Notices since 1991.

6. **Mr. NG (MD)** said for the proposed requirements on donning of lifejackets by children at all times while on board a spectator vessel and on keeping by coxswains of a passenger and crew list on board during major events at sea, amendments would be made by MD in light of the recent practical experience and the consensus reached between MD and DoJ. Relevent papers would be sent to LVAC for endorsement.

7. **Mr. CHEUK (MD)** added that for the coxswains' liability arising from a child's failure to don a lifejacket, the burden of proof would rest with the law enforcement officers, which was different from the original proposal that coxswains were required to defend themselves.

8. **Mr. Thomas WONG (MBTA)** said the liability arising from a child's failure to don a lifejacket should rest with passengers and legislation should be introduced for the prosecution of passengers.

9. **Mr. NG (MD)** said according to the law of Hong Kong, no child under the age of 10 years can be held criminally responsible.

10. **Mr. CHEUK (MD)** agreed that passengers should be held liable for non-compliances. While no child under the age of 10 can be held criminally responsible, parents or the accompanying adults should take the responsibility to help the child don a lifejacket. Coxswains were also duty bound to provide lifejackets and remind passengers to don a lifejacket. Hence, MD proposed that coxswains would not be held liable if no acts of negligence was involved.

11. **Mr. Johnny T. H. LEUNG (Star Ferry)** said it was not necessary to stress the above as the burden of proof would rest with the prosecution under the Criminal Law of Hong Kong.

12. **Mr. WU Ka-shun (South China Towing Co. Ltd)** said though coxswains' liability had been clarified, he was worried that they did not know what 'negligence' was.

13. **Mr. NG (MD)** said whether coxswains had committed acts of negligence could be established by such factors as insufficient provision of lifejackets onboard, absence of clear indications of the location and donning method of lifejackets, and failure of coxswains or crew members to remind parents or the accompanying adults to help their children don a lifejacket, etc.

14. **Mr. CHEUK (MD)** said that the burden of proof was clarified because it had been previously mentioned that the coxswain would be allowed to defend himself if he had already exercised due diligence to remind passengers to don lifejackets. However, MD would now propose that law enforcement officers had to prove negligence on the part of the parents, accompanying adults or coxswain before prosecution.

15. **Mr. LEUNG (Star Ferry)** said that different definitions were given for “negligence” in civil law and criminal law. The legislative intent here should be similar to that for the offence of careless driving under the Road Traffic Ordinance. He maintained that the parents or accompanying adults should be held liable and did not understand why the coxswain was involved.

16. **Mr. LEUNG (Star Ferry)** continued that law enforcement officers should seek explanation from the parents or accompanying adults for their children’s failure to don a lifejacket. The coxswain should only be held liable if no lifejacket was provided on board, as the law required that sufficient amount of lifejackets be given. It should be the parents or accompanying adults, not the coxswain, who should be held liable.

17. **Mr. KEUNG Siu-fai (Floating Fishermen)** remarked that to enhance marine safety, the focus should be on whether or not the coxswain or crew had advised the parents or accompanying adults to help their children don a lifejacket during major events at sea, given that the general public might not understand the importance of donning lifejackets. He further asked whether MD would consider requiring children to don lifejackets only in open areas on board lest the lifejackets should hinder their escape.

18. **Mr. Donald LEE (Hong Kong Water Ski Association)** believed that the number of people saved by donning lifejackets would be more than those being hindered. As in the case of seat belts in vehicles, passengers should don lifejackets inside the cabin.

19. **Mr. WONG (MBTA)** said that individual extreme cases should not be used as reference.

20. **Mr. CHEUK (MD)** said that MD would explore the implementation details of the new proposal, which would only be applicable to major events at sea. The industry should first agree it was imperative that children don

lifejackets.

21. In response to **Ms. Sandy MAK (Tsui Wah Ferry Service)**'s query, **Mr. NG (MD)** said that the definition of "major events at sea" would be set in the new proposal. MD would issue notices before those events to promulgate the date and time of the event, as well as the related safety measures.

22. **Mr. WEN (MBTA)** acknowledged the consensus reached by MD and DoJ that passengers, rather than the coxswain or vessel owner, should be held liable. He believed that discussions on the issue could be suspended.

23. **Mr. NG Siu-yuen (HKKF)** said that the effectiveness of a lifejacket depended on its buoyancy.

24. **Mr. CHEUNG Kwok-wai (First Ferry)** said it had been asked repeatedly whether the standard of child lifejackets should base on a child's height and weight as set by the International Maritime Organisation, or the child's age. He thought that MD should first clarify the standard for child lifejackets.

25. **Mr. CHEUNG (First Ferry)** added that the public had no knowledge about the standard for child lifejackets and MD should provide a definition as soon as possible.

26. **Mr. WU (South China Towing)** hoped that MD could provide a list of factors in determining negligence on the part of the coxswain or vessel owner.

27. **Mr. CHEUK (MD)** understood the concerns of the industry. MD would take into account members' views in working out the proposed legislative amendments and would submit the relevant documents to the LVAC for endorsement.

## **2. Local Examination Syllabuses and System for Certification**

28. **Mr. WONG Sai-fat (MD)** explained to members Paper No. 1/2014 point by point. The paper aimed to consult the Sub-committee on the proposed change measures for examination with a view to reducing the time required for local crew to attain relevant qualifications. He hoped that the proposal would gain members' support so that it would be endorsed by the

LVAC for implementation in the third quarter this year.

29. **Mr. WONG (MD)** said that without prejudice to the navigational safety within the harbour and considering that candidates would have to complete the preparatory maritime course and in-service training before they were eligible to take the examination for the Coxswain Grade 3 Certificate, the sea service time required on mechanised vessels other than pleasure vessels should be shortened from 12 months to 9 months. For service time on non-mechanised cargo vessels or on pleasure vessels whilst holding any type of pleasure vessel certificate of competency, it should be shortened from 24 months to 18 months. The number of multiple choice examination questions to be answered within 50 minutes should be cut from 50 to 40 to allow candidates more time to answer the questions. The pass mark should still be 70%.

30. **Mr. WEN (MBTA)** considered the pass mark at 70% reasonable. He proposed that the 50-minute examination time be relaxed as candidates should have an average of two minutes for each question.

31. **Mr. WONG (MD)** said that for candidates who had failed in one of the two sections (multiple choice questions and practical chart work) of Part A of the examination for Coxswain Grade 2 Certificate, their pass results should remain valid for two years and they should only be required to retake the examination for the section they failed.

32. Regarding **Mr. KWOK Tak-kee (MBTA)**'s proposal to extend the validity period for pass results to five years, **Mr. WONG (MD)** responded that the two-year validity period was set upon consulting the relevant systems. Since the pass results of Part B currently remained valid for two years, it was proposed that the same validity period should apply to the examination results of Part A.

33. **Mr. WONG (MBTA)** said unless candidates were guaranteed a short waiting time before taking the examinations, the pass results should be counted for the number of retakes instead of having a two-year validity period to ensure that candidates would be given the opportunity to retake the examinations.

34. **Mr. KWOK (MBTA)** worried that there was not much use of the two-year validity period if it took a long time to wait for taking the examinations.

35. **Mr. CHEUNG (First Ferry)** opined that MD should increase manpower to shorten the waiting time.

36. **Ms. CHING Ngon-lai (HTWGU)** suggested that the validity period should start from the date candidates got a pass result in the most recent examination.

37. **Mr. WONG (MD)** said cutting the number of multiple choice questions to be answered within 40 minutes in the Coxswain Grade 2 Certificate examination from 40 to 30 would allow candidates more time to answer the questions. The pass mark would still be 70%. As for the comment of **Mr. WEN (MBTA)** that the answering time could be relaxed to two minutes for one question in average, further discussions could be held.

38. **Mr. WONG (MD)** said the attainment of the eyesight standards required by MD as set out in the Examination Rules for Local Certificates of Competency and the Examination Rules for Pleasure Vessel Operator Certificate of Competency could be certified by a medical practitioner registered with the Medical Council of Hong Kong or an optometrist registered with the Optometrists Board. The eyesight testing service provided by MD would be terminated upon implementation of the proposal.

39. In response to the suggestion of **Mr. KEUNG (Floating Fishermen)** of keeping the eyesight testing service of MD for one year, **Mr. WONG (MD)** said the length of the period could be discussed but one year might be too long. If the proposal was to be implemented in September this year, the service could be kept for three months until the end of the year.

40. In response to the enquiry of **Dr. Andrew KAY (MEA)**, **Mr. WONG (MD)** reiterated that the above eyesight test was also included in the Examination Rules for Pleasure Vessel Operator Certificate of Competency.

41. **Mr. KEUNG (Floating Fishermen)** hoped the cost of the eyesight test would be lowered. **Mr. WONG (MD)** responded that it was not for MD to decide.

42. **Mr. CHAN Kam-hung (Fortune Ferry)** enquired whether crew over the age of 65 were required to have the aforementioned eyesight test. **Mr. WONG (MD)**, in response, said parity of treatment had to be ensured in



enforcing the examination rules and there would not be separate requirements and standards for different age groups.

43. **Mr. CHEUNG (First Ferry)** opined that the cost of the eyesight test should be lowered if the Government wished to attract more retirees to stay on in the industry.

44. **Mr. NG (HKKF)** said it would be an insult to coxswains and look-outs if they were required to undergo the eyesight test even though they already had a coxswain's licence.

45. **Mr. KWOK (MBTA)** suggested that pamphlets on examination questions be produced, making reference to the practice of TD.

46. **Mr. WONG (MD)** said he mentioned at the previous meeting that simulated questions were available in MD website and they would be updated regularly with different combination for practice purposes. In response to the comment of **Mr. LEUNG (Star Ferry)** that answers were not provided, **Mr. WONG (MD)** said the feasibility of uploading answers could be considered and explored.

47. **Mr. FAN Keung (HTWGU)** said the regular update of uploaded questions was well-received but suggested that the database be reviewed as some seafarers commented that there were only about 40 questions and they wished to learn more.

48. **Mr. CHOR Yee-on (HYF)** opined that the questions for coxswain examinations should not cover machinery operation since it was unfair.

49. **Mr. WONG (MD)** said coxswains also needed to have certain basic knowledge of machinery but agreed that the percentage of questions on it should not be too high since, different from the examinations for engineers or naval architects, it was not a major focus of the examinations for coxswains.

50. **Mr. KEUNG (Floating Fishermen)** said in view of the low passing rate of the examinations, MD should review the reasonableness of the questions and consider the courses on vessel operation organised by non-government organisations in a bid to attract more new blood to the industry. **Mr. KEUNG (Floating Fishermen)** also reiterated that it was feasible for the Pleasure Vessel

Operator Certificate to be converted to the Coxswain Certificate.

51. **Mr. WONG (MD)** said the use of a ship simulator for training and assessment was being discussed between MD and the Vocational Training Council. Discussions with members would be held afterwards.

52. **Mr. WONG (MD)** said the application of the definition of fast speed vessels to local vessels was still being discussed. MD hoped an independent organisation would be employed within this season to conduct a comprehensive study on it, which was to be followed by consultation with the industry. It was hoped that wordings like high speed craft could be avoided so as not to be confused with international vessels.

### **3. Working Hours of Coxswains and Crew, and Review of Their Duty Roster System for Local Passenger Carrying Vessels**

53. **Mr. WONG (MD)** said it was suggested that crew members should have a rest period every six hours. MD was of the view that flexibility could be allowed to ensure that reasonable working/rest time arrangements were made for crew members and it was hoped that they did not need to work 24 hours consecutively during peak periods.

54. **Mr. WONG (MD)** said reasonable working environment and hours could help attract more new blood to the industry. Making improvements in the two areas was believed to be a starting point.

55. **Ms. CHING (HTWGU)** hoped MD could set out a timetable or road map for the measure regarding working hours. **Mr. NG (HKKF)** hoped there would be a concrete proposal.

56. Regarding standard working hours, **Mr. LEUNG (Star Ferry)** remarked that they, operators of passenger carrying vessels, should not take the lead in stating their stance.

57. **Mr. WONG (MD)** responded that a mechanism had been in place for years for the bus industry. Passenger carrying vessels were not the first for which the issue of standard working hours was discussed.

58. **Mr. CHEUNG (First Ferry)** said there was still no breakthrough in resolving the lack of new blood and the shortage of manpower in the industry.

59. **Mr. WONG (MD)** considered that guidelines for improving the working environment and hours of crew could be drawn up even though there was shortage of manpower. He hoped members would agree on the main direction first. Drawing up guidelines did not mean immediate implementation of the guidelines. Suitable conditions for implementing standard working hours could be set out in the guidelines. When the conditions, such as manpower, were ready, members could further discuss ways of implementation.

60. **Mr. Alfred LEE (New Ferry)** said ferry services had to be provided in accordance with a schedule specified by TD. Since deployment of resources such as manpower and vessels was involved in making the arrangement, he hoped operators would be allowed to decide their sailing schedules upon implementation of standard working hours.

61. **Mr. WONG (MD)** said if standard working hours were to be implemented, the guidelines on working hours would not be linked to the licence issued by TD.

62. **Ms. MAK (Tsui Wah)** said manpower was a prevailing problem. This agenda item was putting the cart before the horse.

63. **Ms. CHING (HTWGU)** said the remuneration in the industry had all along been unsatisfactory. The workers union was disheartened but would not give up. It would continue to fight for reasonable working environment and hours.

64. **Mr. WONG (MD)** hoped papers could be tabled for discussion by members in the next meeting.

#### **IV. Any Other Business and Details of the Next Meeting**

65. **Mr. Roger EASTHAM (RHKYC)** hoped that the Chairman could clarify the position of the Joint Sub-committee on Class I and Class IV Vessels and that meetings of the Sub-committee on Class IV Vessels would be convened in due course. **Mr. WONG (MD)** said he would convey to the Chairman of the Sub-committee on Class IV Vessels the views expressed.

66. The next meeting would be held on Thursday, 15 May 2014 at 10:00 a.m., in Conference Room A, 24/F, Harbour Building.

**V. End of Meeting**

67. There being no other business, the meeting was adjourned at 12:05 p.m.