

LOCAL VESSELS ADVISORY COMMITTEE

Joint Sub-committee on Class I and Class IV Vessels

Proposed Legislation to Require that Children Don a Lifejacket at all times and a Passenger and Crew List be kept on board a Spectator Vessel during a Major Event at Sea (Cont'd)

Purpose

Further to Paper No. 3/2013 on this subject, this paper puts forward, for members' support, a revised proposal on the legislative requirements on donning of lifejackets by children at all times and on keeping of a passenger and crew list on board a spectator vessel during a major event at sea. The revised proposal has taken into account the views of members of this committee and the Department of Justice. (The revised texts of the proposal are italicized for ease of reference.)

The Revised Proposal

2. The Requirements below are proposed with an aim to enhance protection for the safety of passengers on board a spectator vessel in a major event at sea:

- (i) A child, *aged two or above*, must be donned with a lifejacket at all times while on board a spectator vessel.
- (ii) A passenger and crew list with the required particulars* must be kept on board a spectator vessel *and be protected from water damage by an appropriate means. A copy of the list must also be submitted to the Marine Department by fax, e-mail or any other specified practical means before the beginning of a trip to which these requirements apply.*

- (iii) For the purpose of Requirement (ii) above, *the coxswain of a spectator vessel must obtain the required particulars from all of his or her passengers; and a passenger must furnish the coxswain with the required particulars.*
- (iv) For the purpose of Requirement (ii) above, a tourist guide¹ must furnish the coxswain of a spectator vessel with the required particulars of the travellers who are under his or her care and intend to get on board the spectator vessel to view a major event at sea.
- (v) *For the purpose of Requirement (ii) above, a person in charge of a local tour must furnish the coxswain of a spectator vessel with the required particulars of the members of the tour who will get on board the spectator vessel to view a major event at sea.*

** A form will be specified for the passenger and crew list in a Marine Department Notice and the Web site of the Marine Department (a downloadable version in this case) for reference. The required particulars are “name” and “gender” for an adult; and “name”, “gender” and “age” for a child.*

Definitions

3. Below are the meanings of terms for the purpose of the proposal:
- (i) “major event at sea”: an event, such as fireworks display, pyrotechnic display, etc., which requires the closure of an area at sea and attracts a number of vessels to gather in the immediate vicinity of the event for viewing.
 - (ii) “child”: *a person under the age of 12.*

¹ Tourist guides in Hong Kong are required to be accredited by the Travel Industry Council of Hong Kong.

Application

4. The proposed Requirements apply to a Class I or Class IV vessel² that is on a trip *immediately before, and proceeding directly to the venue of*, a major event at sea, and for the sole purpose of viewing the event. The aforesaid trip is deemed to begin when the first passenger gets on board the vessel and end at a time when the last passenger disembarks from the vessel immediately after the event.

Liability

5. Below are the proposed liabilities for not meeting the proposed Requirements detailed in paragraph 2 above:

Requirement (i)

- (i) If Requirement (i) is not met, both the coxswain of the spectator vessel and an adult who accompanies and has the responsibility to take care of the child found not donned with a lifejacket commit an offence and is liable on conviction to a fine at level 2³.

(The coxswain will be allowed to defend himself or herself for circumstances beyond his or her control or in which he or she has already exercised due diligence to prevent the commission of the offence.)

Requirement (ii)

- (ii) If *any part of* Requirement (ii) is not met, *the owner and the coxswain* of the spectator vessel commit an offence and are liable on conviction to a fine at level 2.

Requirement (iii)

- (iii) If Requirement (iii) is not met, *the coxswain of the vessel and the*

² A Class I or Class IV is a vessel so classed under the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation.

³ \$5,000

passenger refused to provide his or her particulars or the particulars of a child under his or her care commit an offence and are liable on conviction to a fine at level 2.

If a passenger knowingly provides the coxswain with false or inaccurate particulars, the passenger commits an offence and is liable on conviction to a fine at level 2.

Requirement (iv)

- (iv) If Requirement (iv) is not met, or a tourist guide knowingly provides the coxswain with false or inaccurate particulars of the travellers, the tourist guide commits an offence and is liable on conviction to a fine at level 2.

Requirement (v)

- (v) *If Requirement (v) is not met, or a person in charge of a local tour knowingly provides the coxswain with false or inaccurate particulars of the members of the tour, that person commits an offence and is liable on conviction to a fine at level 2.*

Advice Sought

6. Members' support is sought for the Revised Proposal set out in paragraphs 2–5 above.