

LOCAL VESSELS ADVISORY COMMITTEE

Joint Sub-committee on Class I and Class IV Vessels

Proposed Legislation for Safety Measures during a Major Event at Sea

Response of the Marine Department to the Views Collected at the Meeting on 6 October 2016

Purpose

The Marine Department (“MD”) proposes to implement safety measures by legislation requiring children¹ on a spectator vessel to wear a lifejacket at all times and a list of passengers and crew be kept during a major event at sea. At the meeting of the Joint Sub-committee on 6 October 2016, the MD briefed members on the revised legislative proposals and some members expressed their views on certain issues. This paper aims to give response to the views expressed by the members at the meeting on 6 October 2016.

The Views on Requiring Children on Board the Vessels to Wear a Lifejacket at All Times

Children aged below two

2. As stated in paragraph 14(a) of the Joint Sub-committee Paper No. 4/2016 (“Paper No. 4/2016”), we now propose that an adult who accompanies a child aged two or above and below 12 be required to use his best endeavours to cause the child to wear a lifejacket at all times while on board the vessels. Nevertheless, a child aged below two (“an infant”) will not be strictly required to wear a lifejacket at all times while on board the vessels. However, as stated in paragraph 14(b), the adult who accompanies the infant is still required to use his best endeavours to ensure that the safety of the infant would not be prejudiced by not having worn a lifejacket while on board the vessels. Also, as

¹ “Children” refers to all persons aged below 12.

stated in paragraph 20 of Paper No. 4/2016, we now propose to require that a suitable lifejacket should be provided for each child (including children aged below two, i.e. infants) on board an applicable local vessel, where a suitable lifejacket means a lifejacket suitable for a child in terms of his physical attributes.

3. At the meeting on 6 October 2016, a member expressed that there was yet to be an international standard for the specifications of infant lifejackets, and there were not many infant lifejackets available in the market and their prices were relatively high. The member also opined that it should not be the duty of the vessels' owners, owners' agents and coxswains to provide infant lifejackets for the infants on board the vessels.

4. According to information available to the MD, the category of infant lifejackets is already included in the standards for lifejacket specifications such as the International Life-Saving Appliance Code and infant lifejackets with specifications meeting the related standards are available for sale in the market. The MD opines that it should be the duty of the vessels' owners, owners' agents and coxswains to provide suitable lifejackets to every person on board the vessels, including infants. If any vessels' owners, owners' agents and coxswains find it difficult to provide suitable lifejackets for the infants on board the vessels, they should consider not carrying infants on their vessels.

“Required to use his best endeavours”

5. As stated in paragraph 14 of Paper No. 4/2016, we now propose:

- (a) an adult² who accompanies a child aged two or above and below 12 is required to use his best endeavours to cause the child to wear a lifejacket at all times while on board an applicable local vessel; and
- (b) an adult who accompanies an infant is required to use his best endeavours to ensure that the safety of the infant would not be prejudiced by reason of not having worn a lifejacket while on board an applicable local vessel.

² “Adult” refers to a person aged 18 or above.

6. At the meeting on 6 October 2016, a member said that the wording “required to use his best endeavours” was ambiguous. The member was concerned that the coxswain might have to bear ultimate responsibility.

7. The phrase “required to use his best endeavours” is used to describe the duty of the adult accompanying the child instead of the duty of the coxswain. As long as the coxswains comply with the requirements stated in paragraphs 19 and 20 of Paper No. 4/2016, they will not be held criminally liable even if the children on board do not wear lifejackets subsequently. Regarding the phrase “required to use his best endeavours”, the wording has been decided with reference to the provisions of the existing law³. The MD considers the wording appropriate.

Views on the List of Passengers and Crew

Removal of the liability of tourist guides or persons in charge of local tours

8. As mentioned in paragraph 26 of Paper No. 4/2016, we no longer propose to require a tourist guide or a person in charge of a local tour to provide the coxswain with the particulars of the travellers or members of the tour as the liability for providing the required particulars should be borne by the data subject (i.e. travellers or members of the tour). A tourist guide or a person in charge of a local tour who boards an applicable local vessel with the travellers or members of the tour is required to provide the coxswain or other members of the crew with his or her particulars as a passenger as well.

Way Forward

9. The MD will submit the revised legislative proposals set out in Paper No. 4/2016 to the Local Vessels Advisory Committee for discussion and support. The Government will then consult the Legislative Council Panel on Economic Development on the legislative proposals and seek its support.

Advice Sought

³ Please refer to the Tung Chung Cable Car Bylaw (Cap. 577A S.22(2)): “The person accompanying a child on the Cable Car System or in the Cable Car System area shall use his best endeavours to prevent the child from behaving in a manner likely to endanger persons or property.”

10. Members are invited to give their views on this paper.

**Operations Branch
Port Control Division
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