

Local Vessels Advisory Committee

Legislative Amendments for Enhancing the Provision of Lifejackets on Local Vessels

Purpose

This paper seeks members' comments on the proposed legislative amendments for enhancing the provision of lifejackets on local vessels and an associated subsidy scheme.

Background

2. Lifejacket provision requirements for various classes of local vessels are currently set out in the Merchant Shipping (Local Vessels) (Safety and Survey) Regulation (Cap. 548G). Generally speaking, local vessels are required to provide a lifejacket for every adult on board. At present, Class I, Class II and Class IV vessels which are let for hire or reward are in general required by law to carry children lifejackets for 5% of the total number of persons on board. Under the prevailing legislation, local vessels are not required to carry infant lifejackets.

3. Pursuant to maritime experts' recommendations, all classes of local vessels should be required to provide every child on board with a lifejacket, and consideration should be given to the provision of infant lifejackets. The Marine Department ("MD") consulted the trade on the recommendations in 2013. While the trade at that time recognised the public's concern about maritime safety, it was pointed out that there were practical difficulties in providing a children lifejacket for every child passenger on board, e.g., difficulties in forecasting and ascertaining the number of child passengers on board before each journey, insufficient space on board for stowing more children lifejackets, and the risk of an adult mistakenly putting on a children lifejacket and vice versa.

4. To proactively respond to the concerns of the trade and to ensure the practicability of new lifejacket provision requirements, MD commissioned a subsidiary consultancy company of the Hong Kong Polytechnic University ("PolyU") in 2015 to explore the feasibility of developing a type of lifejacket which was suitable for both adults and children, and it was found that this type of lifejacket was technically feasible. The PolyU subsequently applied for protection of the intellectual property rights concerned in late 2017 and actively negotiated with a relevant manufacturer. It has already entered into a co-operation agreement with the manufacturer and the production of the lifejacket will soon commence. To allow the trade to get prepared for the maritime safety enhancement measures to be launched by

the Government, MD met with trade representatives to introduce the lifejacket to them in September this year. The manufacturer was also present to explain the production details of the lifejacket.

Legislative Amendment Proposal

5. After careful technical assessment and extensive consultation with the trade, MD proposes to amend legislation to strengthen the provision of lifejackets of local vessels. Details are as follows:

- (a) Local vessels should provide every person (regardless of whether he/she is a child or an adult) on board with a suitable lifejacket, the total number of which not less than the maximum number of persons to be carried (i.e. including crew members) as specified in the operating licence. In actual practice, Class II non-passenger-carrying vessels and Class III vessels normally do not have children on board, hence the new requirement will not affect these vessels in general; and
- (b) Local commercial vessels carrying more than 12 passengers (i.e. Class I vessels and some Class IV vessels which are let for hire or reward) should provide infant lifejackets in a number not less than 2.5% of the maximum number of passengers to be carried (excluding crew members) as specified in the operating licence.

6. In view of the special operation mode of some local Class I or Class II vessels, MD proposes to set different provision requirements for them after careful technical assessment. Specifically:

- (a) Local vessels confined to operate in specified sheltered waters or typhoon shelters can opt to continue following the existing practice to provide an adequate combination¹ of lifejackets and lifebuoys so long as the total number is no less than the maximum number of persons to be carried under the operating licence. However, the number of lifejackets, which must be suitable for use by both adults and children, should not be less than 50% of the maximum number of persons to be carried. These vessels should also provide infant lifejackets in accordance with the requirements stated in paragraph 5(b) above; and

¹ For the purposes of assessing the adequacy of life-saving appliances on board a local vessel, each lifebuoy is taken to be for use by two persons on board the vessel.

- (b) The scale of life-saving appliances for floating restaurants meeting specific criteria² may be reduced by 50% according to the existing approach. These floating restaurants usually operate in specified sheltered waters or typhoon shelters. It is proposed that they may opt to provide a combination of lifejackets and lifebuoys so long as the total number is no less than 50% of the maximum number of persons to be carried under the operating licence. However, the number of lifejackets, which must be suitable for use by both adults and children, should not be less than 25% of the maximum number of persons to be carried. These vessels should also provide a number of infant lifejackets no less than 1.25% of the maximum number of passengers to be carried (i.e. excluding crew members) under the operating licence.

7. Meanwhile, MD has conducted a review on the requirements for the provision of life-saving appliances on small-sized Class II and Class III vessels set out in Schedule 2 to Cap. 548G. After careful technical assessment, MD proposes that:

- (a) For the small-sized non-mechanised transportation sampans³ described in paragraph (b) of Schedule 2, taking into account that these vessels also carry fare-paying passengers and the number of passengers may change from time to time, MD, after assessing that sufficient space is available on board these vessels, proposes that they should meet the requirements set out in paragraph 5(a) above, i.e. they should provide every person (regardless of whether he/she is a child or an adult) on board with a suitable lifejacket, the total number of which no less than the maximum number of persons to be carried (i.e. including crew members) under the operating licence.
- (b) As for the small-sized outboard open sampans (aka “P4”)⁴ described in paragraph (a) of Schedule 2 and the non-mechanised work boats and fishing sampans described in paragraph (b) of Schedule 2, in view of their operation mode, vessel structure and operation area, MD proposes that these vessels should be required to provide lifejackets or

² Specific criteria mean that the floating restaurant is attached to the shore and provided with adequate gangways; or not attached to the shore, but provided with above-water flotation in the form of a steel embarkation pontoon moored alongside; or steel tenders at both ends capable of being towed to a safe place away from the floating restaurant.

³ These vessels are not fitted with any propulsion engine. They only operate manually with paddles in coastal areas and are generally required to operate in calm waters such as specified sheltered waters or typhoon shelters. One lifejacket is required for every person on board at present.

⁴ P4 is of less than 10 m in length overall; is fitted with a petrol outboard engine of a power not exceeding 12 kW; carries no fare-paying passengers; carries not more than 4 persons (including the crew); carries no fuel other than in a portable tank fitted with a fuel pipe line all of a type approved by the manufacturer of the engine is an outboard open sampan.

lifebuoys or a combination of both no less than the total number of persons on board⁵.

Subsidy Scheme for Purchase and Replacement of Lifejackets

8. As mentioned above, MD met with trade representatives in September this year to introduce a lifejacket developed by the PolyU which is suitable for both adults and children. The trade representatives expressed appreciation to the development of the lifejacket at the meeting. Based on the information obtained by MD from the manufacturer, subject to the total order quantity, the price of the lifejacket will range from about \$135 to \$180 per piece. In addition, to MD's knowledge, the price of infant lifejackets currently on the market ranges from about \$160 to \$200 per piece.

9. To comply with the new requirements for enhancing the provision of lifejackets, the trade is actively preparing to purchase the above-mentioned lifejacket which is suitable for both adults and children. Individual stakeholders will also purchase extra children lifejackets to meet the new requirements. Trade representatives have repeatedly expressed to MD that the purchase of lifejackets without subsidy will pose a heavy financial burden on the trade and may affect its operation. In response to the trade's such strong appeal and to encourage the trade to purchase lifejackets as soon as possible for meeting the new requirements, MD is now negotiating closely with the trade on the proposal to provide subsidy on an accountable basis⁶. Details will be announced in due course.

Supplementary Information on Proposed Legislation for Safety Measures during Major Events at Sea

10. MD consulted the Local Vessels Advisory Committee ("LVAC") on 30 December 2016 and obtained its endorsement of the proposed legislation for safety measures during major events at sea (please refer to LVAC Paper No. 19/2016⁷ for details). MD now plans to submit to the Legislative Council Panel on Economic Development ("LegCo ED Panel") the legislative proposals and the aforementioned proposal for enhancing the provision of lifejackets for consultation.

⁵ Currently, it is required to provide lifejackets or lifebuoys or a combination of both no less than the total member of persons on board on P4. At least one lifebuoy is required on board a non-mechanised work boat and a fishing sampan at present.

⁶ Vessels eligible for subsidy include: (i) licensed Class I vessels; (ii) licensed passenger-carrying Class II vessels; and (iii) licensed passenger-carrying Class IV vessels which are let for hire or award and shipowners should give proof that the vessel concerned can be let in their submission.

⁷ https://www.mardep.gov.hk/en/aboutus/pdf/lvacp19_16.pdf

11. It was mentioned vide LVAC Paper No. 19/2016 that the coxswain of an applicable vessel was required to distribute suitable lifejackets to the adults accompanying the children⁸. In addition, it was also proposed in the paper to require that a suitable lifejacket should be provided for every child on board an applicable local vessel, where a suitable lifejacket means a lifejacket suitable for a child in terms of his/her physical attributes. For the avoidance of doubt, it is required under the legislative proposals that during the implementation of safety measures for major events at sea, a suitable lifejacket should be provided for every person aged below 12 on board an applicable vessel (i.e. any local vessel which is licensed to carry any passenger and which enters into or is present in an area of waters within a certain period of time to be specified in a Marine Department Notice issued by the Director of Marine), including every person aged below 12 whose physical attributes are suitable for wearing an infant lifejacket. In other words, subject to the actual patronage of an applicable vessel, if the expected number of persons required to wear infant lifejackets **exceeds** 2.5% of the maximum number of passengers to be carried, the number of infant lifejackets required to be provided on board an applicable vessel during the implementation of safety measures for major events at sea may be more than that mentioned in paragraph 5(b) above.

Consultation

12. MD consulted the Subcommittees on Class I & Class II Vessels, Class III Vessels and Class IV Vessels under LVAC in October and early November 2018 respectively on the proposed legislative amendments and the subsidy scheme.

Views Sought

13. Members are invited to comment on the proposed legislative amendments and the subsidy scheme for purchase and replacement of lifejackets mentioned above.

Way Forward

14. Subject to the comments of the LVAC, MD will submit the proposed legislative amendments and the subsidy scheme to the LegCo ED Panel for discussion and to seek its support.

Task Force on Reform
Marine Department
November 2018

[Updated on 12 November 2018]

⁸ Under the legislative proposals, “children” refers to all persons aged below 12.