

## **LOCAL VESSELS ADVISORY COMMITTEE**

### **Authorization of Surveyors and Performance Management/Discipline of Authorized Surveyors**

#### **Purpose**

This paper informs members of the revised procedures / guidelines governing the authorization of persons as surveyors and the performance management/disciplinary procedures of Authorized Surveyors (ASs).

#### **Background**

2. Under section 7 of the Merchant Shipping (Local Vessels) Ordinance (Cap 548), the Director of Marine (DM) may authorize a person who is not a public officer as a surveyor to carry out survey or approve plans of local vessels for the purpose of Cap. 548 subject to such conditions as DM thinks fit and specified in the authorization. Since 2007, the Marine Department (MD) has been authorizing ASs to carry out plan approval and survey work for low risk local vessels, including low risk Class II vessels, Class III vessels and certain types of Class IV vessels.

3. The authorization of surveyors and the performance management/discipline of ASs are governed by a set of internal procedures and guidelines to ensure quality professional services and safeguarding public safety. MD has recently reviewed the relevant procedures and guidelines and drawn up revised procedures and guidelines with a view to enhancing the effectiveness of the existing system. In drawing up the revised procedures/guidelines, MD has taken into account the recommendations in the Ombudsman's investigation report on a complaint related to the disciplinary procedures of AS and the recommendations in a study report of the Independent Commission Against Corruption on the subject.

#### **The revised procedures and guidelines**

4. The main features of the revised procedures/guidelines are summarized below:

Authorization of surveyors

- (a) a Vetting Committee (VC) comprising MD officers at directorate and senior professional levels will be formed to assess applications for authorization as surveyors, including the re-application for authorization from ASs, and make recommendations to DM;
- (b) an authorization will normally last for **two years**;

Performance management and disciplinary procedures

- (c) MD staff will visit the office of each AS who has conducted the authorized services at least once during the authorization period;
- (d) MD staff will continue to conduct audit inspections<sup>1</sup> and document vetting on the services performed by the AS;
- (e) a performance appraisal report will be made on each AS on 31 December every year;
- (f) warning letters may be issued for isolated breaches of the authorization conditions, and there is an appeal channel to the subject Assistant Director of Marine;
- (g) DM will appoint a standing Disciplinary Panel comprising persons with expertise in the operation and maintenance of local vessels from relevant local organizations, registered professional engineers, professional surveyors of classification societies and lay members;
- (h) a disciplinary board comprising Disciplinary Panel members and MD officers will be formed to conduct inquiry into the breach(es) of the authorization of an AS who has repeatedly breached the authorization conditions before or a very serious breach of the authorization and to make recommendation to DM on the actions to be taken on the AS concerned;
- (i) a disciplinary board will be convened according to a set of refined procedures and guidelines.

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<sup>1</sup> LVAC is separately consulted on the revised procedures for audit inspection vide LVAC Paper No. 10/2017.

### Authorization conditions

- (j) the authorization conditions are revised to update the obligations, probity and integrity of an AS, and the requirements in respect of essential tools/equipment and visits of MD officers to an AS's office.
5. Details of the revised procedures/guidelines and the authorization conditions are set out in ***Enclosures 1 to 3***.

### **Consultation with ASs**

6. MD has consulted the views of ASs on the revised procedures/guidelines. Some of the originally proposed procedures have been adjusted upon considering the comments of the ASs. A summary of the consultation exercise and the salient comments of the ASs and MD's responses are at ***Enclosure 4***.

### **Sub-Committee on Survey Work of Local Vessels**

7. MD consulted the Sub-Committee on Survey Work of Local Vessels on the revised procedures/guidelines at its meeting of 23 May 2017. Some of the sub-committee members expressed their views about the revision of the authorization period from three years to two years. They opined that since the new performance management/disciplinary system would provide adequate measures to monitor the performance of ASs, it was not necessary to tighten the control by shortening of the authorization period. The latter might also affect the commitment of ASs to the survey work. Some members also invited MD to enhance the transparency of the disciplinary procedures and review the continuous professional development (CPD) requirement for authorization of surveyors.

8. Having considered the views of the Sub-Committee members, MD remained of the view that the authorization period should be revised to two years in order to enable a more frequent review of the all-round suitability of the persons to be authorized as surveyors. This arrangement is conducive to upkeeping quality survey services and maritime safety. In determining the revised authorization period, MD has taken into account the concerns of the ASs set out at items 1 and 2 in ***Enclosure 4***.

9. On the refined disciplinary procedures which are outlined in *Enclosure 2*, MD has consulted the advice of the Department of Justice to ensure procedural fairness. As indicated in paragraphs 13 to 19 of *Enclosure 2*, the accused AS will be given the opportunity to attend the disciplinary board meeting to contest the evidence produced and to present his own case before the disciplinary board and to make representations on the disciplinary board's findings and recommendations. The AS will also be briefed on disciplinary board meeting procedures and his rights during the disciplinary proceedings.

10. Regarding the CPD requirement, currently an applicant for authorization is required to fulfill 30 hours of CPD activities in the preceding 12 months. MD considered that the current requirement is appropriate and the ASs have not raised any comments on such requirement.

### **Advice Sought**

11. Members are invited to note the revised procedures for authorization of surveyors and performance management/discipline of ASs, and the updated authorization conditions in *Enclosures 1, 2 and 3* respectively.

Task Force on Reform  
Marine Department  
June 2017

**Authorization of a Person as a Surveyor  
under section 7 of the Merchant Shipping (Local Vessels) Ordinance  
(Cap 548)**

The proposed revised procedures and guidelines for authorization of a person as a surveyor under section 7 of the Merchant Shipping (Local Vessels) Ordinance (Cap 548) are set out in the ensuing paragraphs.

**VETTING COMMITTEE**

2. A Vetting Committee (VC) comprising Marine Department (MD) officers shall be formed to assist the Director of Marine (DM) in considering applications for authorization as surveyors.

3. The VC has the following functions:

- (a) examine the qualifications and experience of applicants;
- (b) inquire and ascertain whether an applicant has the relevant experience;
- (c) conduct interviews with the applicants; and
- (d) make recommendations to DM or his delegated officer as to whether he may authorize the applicants, or refuse to authorize the applicants, to be surveyors.

4. VC shall meet every four months, or at a shorter interval as the VC deems appropriate, to consider applications received and make recommendations to DM or his delegated officer.

**PROCEDURES FOR PROCESSING APPLICATIONS**

***Application form and the time frame for processing an application***

5. An application for authorization as a surveyor shall be made on a specified form. The applications are processed by batches. Normally, an applicant is notified of the result of his application in about four months after his application is received by the Marine Department.

***Qualification/experience requirements and continuous professional development requirement***

6. An applicant for authorization as a surveyor is required to meet the minimum qualification/experience requirements and continuous professional development requirement of an AS.

### ***Unqualified applications***

7. If an applicant **does not** meet the minimum qualification/ experience requirements and/or continuous professional development requirement of an AS, his application will normally be rejected.

### ***Assessment and verification of qualifications***

8. For those applicants considered to be suitable for authorization as surveyors by VC, the authenticity and standard of their qualifications will be assessed and verified.

### ***Vetting of performance/disciplinary/criminal records***

9. Before recommending the authorization of an applicant, VC will take into account all relevant information, including his criminal conviction record, disciplinary order/sanction by a professional institute, and disciplinary record/performance records in MD, if any. VC will duly consider these performance/disciplinary/criminal records, if any, having regard to the nature and gravity of the offence/ misconduct/sub-standard performance, the time of committing the offence/misconduct, and the sentence/order/sanction handed down by the court/professional institute, etc..

### ***Authorization of successful applicants as surveyors***

10. A successful applicant will be authorized as a surveyor for a period of two years normally, or a shorter period as recommended by the VC, and subject to a set of authorization conditions. The information of ASs will be uploaded on MD's website.

## **RE-APPLICATION FOR AUTHORIZATION**

### ***Re-application for authorization***

11. An AS who wishes to continue to be authorized as a surveyor upon the expiry of his authorization must submit an application before the expiry of the current authorization. If an AS does not re-apply for authorization, his name shall be removed from the MD's website upon the expiry of his authorization.

12. The re-applications for authorization from ASs will be processed according to the procedures for authorization in paragraphs 5 to 10 above.

**Performance Management and Disciplinary Procedures  
of Authorized Surveyors**

The proposed revised procedures/guidelines governing the performance management and disciplinary proceedings of Authorized Surveyors (ASs) are set out in the ensuing paragraphs.

**PERFORMANCE MANAGEMENT**

*Office visit*

2. Officer(s) of the Local Vessels Safety Section (LVSS) of Marine Department will visit, at least once during the authorization period, the office of each AS who has conducted the services authorized by the Director of Marine (DM) to examine their tools/equipment and the system and facility for safe-keeping the records of their work. The inspecting officer will complete an office inspection report after the office inspection.

*Audit inspection and document vetting*

3. Officer(s) of the LVSS will conduct audit inspection(s)/checks on vessels surveyed/plans approved by an AS. The LVSS staff will also vet the Declarations of Survey issued and other documents submitted by the ASs.

*Performance Appraisal Report*

4. Performance appraisal report shall be made on each AS on 31 December each year. An appraisal report will cover the following areas:

- (a) quality of service provided as revealed by the office visits and/or audit inspection(s) and/or other sources;
- (b) number of vessels for which the AS has conducted the authorized services; and
- (c) feedbacks, if any, from vessel owners/operators who engaged the services of the AS.

**PROCEDURES FOR HANDLING BREACHES OF THE  
AUTHORIZATION CONDITIONS**



5. An AS is subject to a set of authorization conditions. If suspected breaches of the authorization conditions by an AS are revealed during an office visit/audit inspection or from other sources, the case will be handled according to the procedures in paragraphs 6 to 7 below.

6. If an AS is convicted of criminal offences or receives a disciplinary order under the Engineers Registration Ordinance (Cap 409) or disciplinary sanction by other professional bodies, his case will be referred to a disciplinary board for consideration.

7. For a suspected breach of the authorization conditions **not involving criminal offences**, the following actions will be taken:

- (a) If there is prima facie evidence of a breach of the authorization conditions upon investigation, a letter will be issued to the AS concerned informing him of the alleged breach of authorization conditions and the possible actions to be taken against him; and inviting him to submit in writing explanation/representation on the case.
- (b) If there is prima evidence to take action on the breach of the authorization conditions upon considering the explanation/representation of the AS concerned, consideration will be given to issuing a warning letter or convening a disciplinary board to consider the case.

## **PROCEDURES FOR ISSUANCE OF WARNING LETTERS**

8. Warning letters are issued for the purpose of correcting and deterring isolated breaches of the authorization conditions in a timely manner. However, breaches of the authorization conditions repeatedly by an AS or a very serious breach with major implications on maritime safety may warrant the referral to a disciplinary board for consideration.

9. A warning letter will set out the deficiency of the AS being warned and require the AS to rectify the deficiency within 10 calendar days. If the AS does not rectify the deficiency within 10 calendar days, another warning letter will be issued to him or a disciplinary board will be convened to consider his case, having regard to the number of warning letters previously issued to the AS.

10. An AS who receives a warning letter has the right to appeal to the subject Assistant Director of Marine (AD), in writing, against the warning letter giving detailed reasons in support of his appeal. Upon considering an appeal, the subject AD may uphold the position of the warning letter issued, or withdraw

the warning letter, or recommend to DM to convene a disciplinary board to consider the case.

## **DISCIPLINARY PROCEDURES**

### *Disciplinary Panel*

11. DM shall appoint persons from the following sectors to be members of a standing Disciplinary Panel (the Panel):

- (a) persons with expertise in the operation and maintenance of local vessels from relevant local organizations, including the major local vessel operators, major local ship building and repairing companies;
- (b) persons who are registered professional engineer (Marine and Naval Architecture Discipline) and not public officers or professional surveyors in classification societies; and
- (c) lay members who are neither a person in the maritime sectors nor a registered professional engineer nor a public officer.

### *Disciplinary board*

12. A disciplinary board, comprising Panel members and MD officers will be convened to conduct an inquiry into the alleged breach(es) of the authorization conditions of an AS; and make recommendations to DM on the appropriate actions to be taken on the AS concerned.

### *Notification to the accused AS on a disciplinary hearing*

13. Where a disciplinary board will be convened, the accused AS will be:

- (a) notified in writing of the decision to convene a disciplinary board, and invite him to indicate his intention to admit or deny the alleged breach of the authorization conditions at the disciplinary hearing;
- (b) issued with a notification letter **at least 14 calendar days before the date of hearing.** The notification letter will set out the board composition, invite the accused AS to attend a disciplinary hearing at the date, time, venue specified, and attach the documents for the

hearing;

- (c) given a briefing, before the hearing, on the hearing procedures, his rights during the disciplinary proceedings, and the administrative arrangements of the hearing.

Where an accused AS makes an application for legal representative at the disciplinary hearing, MD will consider his application having regard to the circumstances of his case and seek legal advice if required. The application will be permitted if it is justified having regard to the principle of fairness.

### *Disciplinary hearing procedures*

14. The disciplinary hearing is for the purpose of discovering the facts of the case based on the evidence presented at the hearing and examining the circumstances surrounding the case and the mitigating factors, if any. The disciplinary board may inquire into the matter and take into account any evidence or information which the board considers relevant. The accused AS will be given adequate opportunity to contest the evidence produced and to present his own case before the disciplinary board. The disciplinary board will determine whether facts have been established to support the alleged breach(es) of the authorization conditions.

### *Findings and recommendations of the disciplinary board*

15. The disciplinary board shall produce a report on the hearing and the board's findings and recommendations. In recommending the actions to be taken on the AS, the disciplinary board shall take into account the warning letters issued to the AS during the prevailing authorization period.

16. The AS concerned will be informed of the disciplinary board findings/recommendations and provided with a copy of the board report.

### *Representations of the accused AS on the disciplinary board report*

17. For cases where the disciplinary board has found **all or part of the alleged breach(es) of the authorization conditions substantiated**, the accused AS shall be informed of the breach(es) of the authorization conditions which have been found substantiated and, where applicable, the breaches of conditions which have not been established and be given an opportunity to make representations on the disciplinary board's findings and recommendations.

### *Notification to the accused AS of DM's decision*

18. The disciplinary board report and the accused AS's representations, if any, will be submitted to DM for consideration. The accused AS will be notified in writing of DM's decision.

*Appeal channel*

19. An AS, if aggrieved by the DM's decision to revoke his authorization, may appeal to the Administrative Appeals Board (AAB) under section 87 of Cap 548. The disciplinary actions approved by DM, however, will continue to be effective on the AS unless and until AAB has decided the otherwise.

**Proposed Revised Conditions of Authorization of Surveyors  
for Approval of Plans and Surveys of Local Vessels**

These conditions form an integral part of the Authorization made by the **Director of Marine** by letter (“Authorization”) and have to be read together with the Authorization.

**1. Interpretation**

In these conditions -

“**Authorized Surveyor**” means the person authorized under this Authorization by the **Director** pursuant to section 7 of the Ordinance;

“Code of Practice” means any code of practice approved or issued by the **Director** under section 8 of the Ordinance;

“**Director**” means the **Director of Marine** of the Government of the Hong Kong Special Administrative Region of the People's Republic of China;

“Local Vessel” has the same meaning as defined in the Ordinance;

“Ordinance” means the Merchant Shipping (Local Vessels) Ordinance, Cap 548 and includes any subsidiary legislation made thereunder; and

“Services” means any services within the scope of the services as defined in paragraph 2.1.

**2. Scope of Services and Obligations**

2.1 The scope of services (“Services”) under this Authorization is any such surveys and approval of plans that are required by the Merchant Shipping (Local Vessels) (Safety and Survey) Regulation (Cap 548G) to be carried out in respect of Local Vessels as set out in Appendix for the purpose of:-

- (a) approving any plans relating to tonnage measurements and calculations under section 9(1)(b);
- (b) seeking the issue by the **Director** of the following certificates or records:-
  - (i) certificate of survey;
  - (ii) survey record of safety equipment; and
  - (iii) Hong Kong load line certificate or freeboard assignment certificate; or issuing a certificate of inspection.

2.2 The Authorized Surveyor shall conduct the Services for no less than 10 vessels during the authorization period.

- 2.3 The **Authorized Surveyor** shall conduct the Services in accordance with the requirements of the Merchant Shipping (Local Vessels) (Safety and Survey) Regulation and any applicable standards, specifications or practical guidance that are provided in the Codes of Practice, and the guidelines and instructions issued to Authorized Surveyors by Marine Department from time to time<sup>2</sup>. In case where no suitable standard, specification or practical guidance in the Regulation or Codes of practice is applicable to a case of Services, the Director's agreement shall be sought as to the suitability or application of other standard, specification or practical guidance that are stipulated by other organization/authorities before the **Authorized Surveyor** shall follow such standards standards, specifications or practical guidance for conducting the Services.
- 2.4 In case of any matter to be surveyed which requires work by special tool or equipment and specialist to perform, such as non-destructive tests, inspection of special tools or equipment (such as liferaft, etc.) or material testing, the **Authorized Surveyor** shall engage, or ensure the owner of the vessel or shipyard concerned to engage, such reputable and competent persons, companies or organization to carry out the work.
- 2.5 The **Authorized Surveyor** shall ensure that every declaration, report or document relating to the Services performed by him for submission to the **Director** is signed by him.
- 2.6 The **Authorized Surveyor** shall conduct personally or supervise personally on site any survey or inspection relating to the Services.
- 2.7 The **Authorized Surveyor** shall notify the **Director** in writing within 2 working days where any Services reveal:-
- (a) any major non-compliance with the Ordinance or any Code of Practice that renders or will render the vessel unfit for the service intended, and such condition that may endanger life or cause environmental pollution if it is permitted to continue. The **Authorized Surveyor** shall state the grounds on which the opinion is made and the measures required to rectify the condition, or
  - (b) that the vessel will undergo or is undergoing a major conversion or modification which will alter the material particulars of the vessel, vessel type or status of a certificate or licence issued by the **Director**.
- 2.8 The Director may, with reasons in writing, refuse to accept any declaration, inspection report or document or approval issued by the **Authorized Surveyor** pursuant to this Authorization.

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<sup>2</sup> The relevant guidelines and instructions are uploaded on the Marine Department website:  
[http://www.mardep.gov.hk/en/pub\\_services/ocean/lvs.html](http://www.mardep.gov.hk/en/pub_services/ocean/lvs.html)

- 2.9 The **Authorized Surveyor** shall, when so required by the **Director**, suspend, withdraw or cancel any certificate, declaration, record or document issued by the **Authorized Surveyor** pursuant to this Authorization, if the **Director** has reasons to believe that the condition of the vessel does not warrant the issuance of the aforesaid certificate, declaration, record or document.

### **3. Interpretation, Equivalents and Exemptions**

- 3.1 While the interpretation of the applicable requirements under the Ordinance, as well as the determination of equivalents or the acceptance of substitutes for the requirements is the prerogative of the **Director**, the **Authorized Surveyor** shall co-operate and follow such interpretation or determination as necessary.
- 3.2 The **Authorized Surveyor** acknowledges that making of any exemptions from the requirements of the Ordinance is prerogative of the **Director** and only the **Director** may issue exemption certificates.
- 3.3 The interpretation by the **Director** of the technical aspects of the applicable requirements shall be final.

### **4. Probity and integrity**

- 4.1 The **Authorized Surveyor** shall not be engaged in any Services or any activities that may result in a conflict of interest with his performance of the Services.
- 4.2 The **Authorized Surveyor** shall not offer or accept advantages in relation to the performance of the Services.
- 4.3 **Authorized Surveyor** shall notify the **Director** immediately if he has received a disciplinary order under Engineers Registration Ordinance (Cap 409) or disciplinary sanction by other professional bodies; or is convicted of criminal offences.
- 4.4 The **Director** may revoke the authorization of the **Authorized Surveyor** if he has received a disciplinary order under the Engineers Registration Ordinance (Cap 409) or disciplinary sanction by other professional bodies; or is convicted of criminal offences related to the carrying out his duties as a surveyor.

### **5. Confidentiality**

- 5.1 The **Authorized Surveyor** shall treat as confidential information supplied by the **Director** under this Authorization which is designated as confidential by the

**Director** or which is by its nature confidential. This requirement does not extend to any information which was rightfully in the possession of the **Authorized Surveyor** prior to the date of this Authorization or which is already public knowledge or becomes so at a future date (otherwise than as a result of a breach of this condition).

5.2 The **Authorized Surveyor** shall not without the prior written consent of the **Director** at any time either during the course of this Authorization or thereafter divulge any information which the **Authorized Surveyor** is required by paragraph 5.1 to treat as confidential to any person.

5.3 The obligations of the **Authorized Surveyor** in this paragraph shall remain in effect irrespective of the expiration or revocation of the Authorization under section 7(3) of the Ordinance.

## **6. Information and Liaison**

6.1 The **Authorized Surveyor** shall set up and maintain an office in Hong Kong. The **Authorized Surveyor** shall notify the **Director** immediately of any changes in the office address.

6.2 The **Director** shall be granted access to and shall be provided on request all the documents, including any plans or survey reports, on the basis of which any certificate, declaration, record, report or approval document is issued or submitted to the **Director** by the **Authorized Surveyor**.

6.3 The **Authorized Surveyor** shall agree to hold such meeting with the **Director** as often as may be necessary, and in any event not less than once a year, to discuss any issue in relation to this Authorization with a view to enhancing the performance of Services provided thereunder.

6.4 The **Authorized Surveyor** shall report to the Director on a monthly basis, in the manner and form to be specified by the Director, about any certificates of inspection issued by the Authorized Surveyor in respect of Class IV vessels. Such report shall be submitted not later than the expiration of the period of 7 working days after the end of each month; and a nil return is required where no such certificate of inspection is issued.

## **7. Record System and Essential Tools/Equipment**

7.1 The **Authorized Surveyor** shall maintain a system safekeeping all the records in respect of the Services performed by him on each vessel including applications for survey, “Notice of Engagement” forms, declarations, calculations or approved plans, survey reports, certificates issued, and such other documents as are necessary to establish that the Services performed are in compliance with the Ordinance and any Code of Practice. Such records shall



be kept for at least six years or longer as required and shall be produced to the **Director** upon request. A “Notice of Engagement” means the specified form used to notify the Director of the engagement to fulfill the requirements under regulations 8(6) and 17(5) of the Merchant Shipping (Local Vessels) (Safety and Survey) Regulation (Chapter 548G).

- 7.2 The **Authorized Surveyor** shall be equipped with essential tools and equipment, including the personal protective equipment, for performing the Services. Such tools and equipment must be in good conditions and they may be owned by the **Authorized Surveyor** or provided by the shipyard on site.

## **8. Audit Inspection and Office Visit**

- 8.1 From time to time the **Director** (or his authorized officer) may audit check any plan approved or inspect any vessel in respect of which the **Authorized Surveyor** is carrying out or has carried out the Services. The **Authorized Surveyor** shall cooperate and render all assistance as reasonably required by the **Director** for the purpose of such audit check. The results of the audit check or inspection may be discussed at meetings with the relevant **Authorized Surveyor**. The **Director** may take appropriate action as he considers necessary.

- 8.2 The **Director** (or his authorized officer) may visit the office of the **Authorized Surveyor** to examine the essential tools and equipment kept in the office, if any, and the system and facility for safe-keeping the records in respect of the Services performed by him.

## **9. Remuneration**

Remuneration in respect of any Services is to be settled between the **Authorized Surveyor** and the party requesting the Services. The **Director** is not involved whatsoever.

## **10. Amendments**

Any amendment to this Authorization (including the Appendices) will become effective from such date as specified in writing by the **Director** to the **Authorized Surveyor**.

**Appendix** Scope of Services (for Authorized Surveyors and Authorized Organizations)

**Scope of Services for Authorized Surveyors**

To carry out any surveys and to approve any plans of the following vessels:

Initial Survey <sup>(Note 3)</sup>	Periodical Survey <sup>(Note 3)</sup>	Plan Approval <sup>(Note 4)</sup>
Class II vessels <sup>(Note 1)</sup> other than high risk vessels <sup>(Note 2)</sup> , Class III and Class IV vessels <sup>(Note 1)</sup>		

**Notes**

- (1) ‘Class II or Class III or Class IV vessel’ has the same meaning as defined under the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap 548D).
- (2) ‘high risk vessels’ in respect of Class II vessels means oil tankers, dangerous goods carriers, noxious liquid substances carriers, and any vessels intended for carrying cargoes of hazardous nature.
- (3) ‘Initial Survey’ and ‘Periodical Survey’ are defined in the “Code of Practice - Safety Standards for Class I, II and III Vessels” and “Code of Practice - Safety Standards for Class IV Vessels”.
- (4) ‘Plan Approval’ means the approval of any plan in respect of a Local Vessel which is required to be approved by sections 7 to 14 of the Merchant Shipping (Local Vessels) (Safety and Survey) Regulation (Cap 548 G).

**Remarks**

- (i) Class IV vessels in this Appendix refers to Class IV vessels that are (to be) licensed to carry not more than 60 passengers and intending to engage in letting for hire or reward (excluding those exceeding 150 gross tonnage or novel type). A Certificate of Inspection will be issued directly by an authorized surveyor after satisfactory completion of necessary approval of plans, survey and final inspection.
- (ii) The scope of services includes plan approval and survey for modification of Class II (other than high risk vessels), Class III and Class IV local vessels.

**Revised Procedures and Guidelines governing the  
Authorization of Surveyors and  
Performance Management/Disciplinary Procedures  
of Authorized Surveyors**

**Summary of the views expressed by Authorized Surveyors (ASs) and the  
Marine Department (MD)'s responses**

MD issued a letter to all ASs on 3 January 2017 inviting their views on the proposed revised procedures/guidelines for authorization of surveyors and performance management/disciplinary procedures of ASs. A briefing session on the main features of the revised procedures/ guidelines was conducted on 13 February 2017. Nine ASs attended the briefing. Eight ASs submitted their written comments before the end of consultation period on 28 February 2017.

The main issues raised by the ASs at the briefing/in the written submissions and the departmental responses are summarized below:

**(A) The proposed revised procedures/guidelines**

*Application for authorization*

<b>The views of ASs</b>	<b>MD's Response</b>
1. If an AS is required to re-apply for authorization with no guarantee of continuation of the authorization, it would be difficult for him to undertake services which last for a long time, for example survey of new built vessels which normally lasts for 6 to 12 months.	<ul style="list-style-type: none"> <li>● The shortening of authorization period to 2 years will facilitate a more frequent review of the all-round suitability of the persons to be authorized as surveyors.</li> </ul>
2. The authorization period should remain at three years and the existing "renewal of authorization" arrangement should continue. The proposed new arrangement will entail unnecessary administrative work for both the department and the ASs.	<ul style="list-style-type: none"> <li>● The Vetting Committee will review all the relevant information of the applicant, including his performance records, disciplinary records, etc. The process is necessary to ensure the AS's all-round suitability for another term of authorization.</li> </ul>

The views of ASs	MD's Response
	<ul style="list-style-type: none"> <li>● The scenario quoted by ASs at item 1 will happen even if the authorization period remains at 3 years.</li> <li>● In re-applying for authorization, basically the ASs are required to fill a simple application form. The AS are not required to submit supporting documents of their qualifications/ experience to MD again if their qualifications/experience have been verified to be meeting the prevailing requirements before. The process will not cause undue inconvenience to the ASs.</li> </ul>
<p>3. An AS should be notified of the result of his re-application three months before the end of the authorization period to facilitate the planning of his work.</p>	<ul style="list-style-type: none"> <li>● It is reasonable for ASs to be notified of the results of their re-application three months before the end of the authorization period. To facilitate the 3-month notice period, ASs must submit the re-application not less than six months and not more than eight months before the end of the authorization period. If the re-application is submitted <b>less than six months before the end of the authorization period</b>, the AS may not be notified of the result before the expiry of his authorization and there may be a break in the authorization. If an AS submit the re-application after the end of his authorization period, it will be treated as a new application.</li> </ul>

The views of ASs	MD's Response
<p>4. MD should send letters to ASs reminding them to timely submit their re-application for authorization.</p>	<ul style="list-style-type: none"> <li>● MD will issue a letter or email to remind individual ASs of the expiry date of the authorization and deadline for submission of re-application. However, the onus is on the AS to timely submit the re-application for authorization.</li> </ul>

Minimum output requirement for ASs

The views of ASs	MD's Response
<p>5. The requirement for an AS to conduct the authorized services for no less than 10 vessels annually is unreasonable since the output of an AS would be affected by commercial factors and subject to market connection which takes time to build up.</p> <p>6. The survey of a new-built vessel involves a series of inspections. It is unreasonable to count such survey in the same manner as a periodic survey of an existing vessel, which is much less complicated in nature.</p>	<ul style="list-style-type: none"> <li>● The minimum output requirement is intended to ensure that an AS will conduct a reasonable amount of authorized services during the authorization period.</li> <li>● Having regard to the concerns of ASs, the requirement is revised as follows: <b><i>“The Authorized Surveyor shall conduct the Services for no less than 10 vessels during the authorization period.”</i></b></li> <li>● The above revised requirement has taken into account the fact that an AS requires some time to build up his business and that some services are more complicated and time-consuming.</li> <li>● If an AS who cannot conduct any services throughout the authorization period due to some special circumstances (e.g. prolonged sickness), MD will duly consider his case in determining the action to be taken</li> </ul>

<b>The views of ASs</b>	<b>MD's Response</b>
<p>7. An AS commented that ASs upholding a high survey standard might not be welcomed by the vessel owners and might face the problem of losing all the survey business. Hence, it is meaningless and unreasonable to impose a simple minimum output requirement on ASs and MD should delete the proposed condition. Another AS, however, had reservation about the above comments and pointed out that he had been strictly applying the survey standards in the law and code of practices and still received plenty of survey request cold calls from vessel owners.</p>	<p>on him.</p> <ul style="list-style-type: none"> <li>● All ASs are required to fulfill the same authorization condition of applying the standards/requirements under the law, the Codes of Practice and MD instructions in conducting their services. It is grossly groundless to claim that an AS will lose his business due to the application of a high survey standard.</li> </ul>

Vetting Committee

<b>The views of ASs</b>	<b>MD's Response</b>
<p>8. It is important to have a Vetting Committee comprising members of top marine professional qualifications and experience to interview, and to evaluate the qualifications of, applicants for authorization.</p>	<ul style="list-style-type: none"> <li>● The Vetting Committee comprises directorate professional officer and Senior Surveyors of Ships in MD. They possess the relevant professional qualifications and expertise to vet the qualifications and experience of the applicants for authorization.</li> </ul>

*Authorization conditions (in Enclosure 3)*

The views of ASs	MD's Response
<p><u>On clause 2.1</u></p> <p>9. Consideration should be given to including in an AS's scope of services the inspection of lifting appliances and lifting gears under the Merchant Shipping (Local Vessels) (Works) Regulations (Cap 548I).</p>	<ul style="list-style-type: none"> <li>● Under Cap 548I, the relevant inspection work is to be performed by a competent examiner who is either a registered professional engineer or a person appointed by an organization specified in Cap 548I. Hence, it is not appropriate to include such inspection work in ASs' scope of work.</li> </ul>
<p><u>On clause 2.7</u></p> <p>10. The time-limit of 2 days for AS to notify MD of a major non-compliance that may endanger life or cause environmental pollution or a major conversion/modification of a vessel detected in the course of survey should be extended. Moreover, it may not be necessary to notify MD if the major non-compliances in question are being rectified by the vessel owners.</p>	<ul style="list-style-type: none"> <li>● No change is made to clause 2.7 in this exercise.</li> <li>● It is necessary to maintain the current notification requirement to facilitate MD's timely decision on whether any actions (such as suspension of the Certificate of Survey) are required to be taken on the vessel concerned.</li> </ul>
<p><u>On Clause 7</u></p> <p>11. The essential tools/equipment and the record-keeping system that an AS is required to maintain should be clearly spelt out.</p>	<ul style="list-style-type: none"> <li>● The kinds of essential tools/equipment that an AS should be equipped with and the features of the required record-keeping system are listed in the Office Inspection Form which will be made available to the ASs.</li> </ul>

Qualification/experience requirements of ASs

The views of ASs	MD's Response
<p>12. ASs re-applying for authorization should not be required to meet the qualification requirements prevailing at the time of the re-application.</p>	<ul style="list-style-type: none"> <li>● The qualification requirement is to ensure that an AS possesses the required professional knowledge and training for delivering the authorized services. All applicants for authorization, including the ASs re-applying for authorization, should meet the qualification requirements prevailing at the time of application.</li> </ul>
<p>13. Are the professional qualifications subject to accreditation in the same manner as the academic qualifications?</p>	<ul style="list-style-type: none"> <li>● The current professional qualification requirement of AS is Corporate Membership in Marine &amp; Naval Architecture Discipline of the Hong Kong Institution of Engineers (HKIE). If an applicant holds an overseas professional qualification, MD will verify whether it is recognized by the HKIE as equivalent to its corporate membership.</li> </ul>
<p>14. It is suggested that the acceptable relevant experience in plan approval and vessel survey should be confined to that of locally licensed vessels.</p>	<ul style="list-style-type: none"> <li>● It is not appropriate to confine the relevant experience in plan approval and vessel survey to that of locally licensed vessels only as the relevant experience in respect of non-local vessels is also relevant to the work of an AS.</li> </ul>



Performance management and disciplinary proceedings

<b>The views of ASs</b>	<b>MD's Response</b>
15. Is an AS required to comply with the whole set of revised authorization conditions set out in Enclosure 3 of MD's letter issued to AS on 3 January 2017?	<ul style="list-style-type: none"> <li>● An AS is required to comply with the whole set of revised authorization conditions.</li> </ul>
16. The criteria for issuing warning letters should be clearly set out.	<ul style="list-style-type: none"> <li>● The warning letter will be issued on a case-by-case basis. For example, if non-compliance(s) (which are not of very serious nature involving major implications on maritime safety) is/are found in a vessel surveyed by an AS, a warning letter will be issued to him. A second warning letter will be issued to the AS if such non-compliance(s) is/are found in another vessel surveyed by him.</li> </ul>
17. What is the period in which the number of warning letters will be counted in deciding whether or not the disciplinary board procedures should be triggered?	<ul style="list-style-type: none"> <li>● If an AS has already received five warning letters in the preceding 12 months before he commits a further breach of condition, a disciplinary board would be convened to consider his case.</li> </ul>
18. An accused AS should have the right to be accompanied with in the disciplinary hearing.	<ul style="list-style-type: none"> <li>● Under the revised disciplinary board procedures, an accused AS may be permitted to be accompanied by his lawyer or another person who will assist in his defence if it is justified having regard to the principle of fairness.</li> </ul>
19. An AS with consistently good performance should be given due recognition in the performance appraisal.	<ul style="list-style-type: none"> <li>● Under the revised procedures, an appraisal report shall be made on each AS on 31 December every year. The good performance of</li> </ul>

The views of ASs	MD's Response
	ASs will be duly reflected in the appraisal reports. The Vetting Committee will take into account an AS's performance records in making recommendations on his re-application for authorization.
20. The results of the office visits, audit inspections, and performance appraisals should form the basis for considering an AS's re-application for authorization.	<ul style="list-style-type: none"> <li>● Under the revised procedures for authorization of surveyors, the Vetting Committee will consider, among other relevant information, the performance records of the applicants before making recommendations on their applications.</li> </ul>

**(B) Issues not covered in this review exercise**

Review of existing qualification requirements of ASs

The views of ASs	MD's Response
21. MD should review the qualification requirements of AS. An AS with qualification in nautical studies only may not be able to inspect the engine system and hull structure of a vessel.	<ul style="list-style-type: none"> <li>● ASs are authorized to conduct survey for low-risk vessels only, including the low-risk Class II vessels, Class III vessels and certain types of Class IV vessels. These vessels are relatively less sophisticated in terms of the engine system and hull structure. Those ASs with qualification in nautical studies and the required maritime experience would be able to conduct the authorized services on these vessels under the instructions/ guidance provided by MD.</li> <li>● This review exercise does not cover the qualification requirements. However, MD</li> </ul>

<b>The views of ASs</b>	<b>MD's Response</b>
	would regular review the arrangements of authorization of surveyors and duly revise the qualification requirements in future if deem necessary.

Access of ASs to approved vessel plans kept by MD

<b>The views of ASs</b>	<b>MD's Response</b>
22. An AS should be given access to the approved vessel plans (the General Arrangement plan and safety plan at least) kept in MD to enable the conduct of vessel inspection work.	<ul style="list-style-type: none"> <li>● MD will explore the way to facilitate ASs' access to the copies of approved vessel plans in MD in the event that the vessel owners cannot provide such plans to ASs.</li> </ul>

Authorization of organizations for the survey and plan approval work

<b>The views of ASs</b>	<b>MD's Response</b>
23. An AS has the capacity to provide services to small scale survey work only. MD should consider delegating the survey work to organizations of a capacity between a classification society and an AS.	<ul style="list-style-type: none"> <li>● MD welcomes applications from interested organizations for authorization to conduct the relevant vessel survey and plan approval work. In examining the applications, MD will assess the organization's capability to undertake the authorized services having regard to its staffing, experience and track records in conducting the relevant services, etc.</li> </ul>