

Provisional Local Vessel Advisory Committee

Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation

Purpose

The purpose of this paper is to seek members comments on a new legislation for the regulation and control of the use of typhoon shelters by local vessels.

Background

2. The Merchant Shipping (Local Vessels) Bill was introduced to the Legislative Counsel on 31 March 1999.

3. Currently, local vessels using typhoon shelters are regulated and controlled under the Shipping and Port Control (Typhoon Shelters) Regulations which are subsidiary legislation made under the Shipping and Port Control Ordinance, Cap. 313. However, the Regulations will be repealed with the coming into force of a new Merchant Shipping (Local Vessels) Ordinance.

4. Therefore, a new Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation, which should incorporate all necessary provisions for the regulation and control of the use of typhoon shelters, will be made under the Merchant Shipping (Local Vessels) Ordinance.

The Regulation

5. A Departmental Draft of the Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation is attached at Annex. Except some outdated regulations are amended, this Regulation contains the same provisions, in seriatim, of the current Shipping and Port Control (Typhoon Shelters) Regulations.

Proposed Amendments

6. The amendments proposed in the Regulation are highlighted in the followings -
- (i) The definition of "prescribed vessel" is amended to mean all local vessels including Mainland coastal and river-trade vessels and vessels permitted by the Director to enter or remain in a typhoon shelter.
 - (ii) The Director may set aside any area of the waters within the limits of typhoon shelter as a mooring area or a passage area. These areas will be indicated in a series of plans specified in the Schedule of the Regulation.
 - (iii) Vessels are allowed to use typhoon shelters when no strong monsoon signal or tropical cyclone warning signal is hoisted.
 - (iv) Restrictions on the length of vessels and the conveyance of dangerous goods to enter or remain in a typhoon shelter is included in the new Regulation.
 - (v) The speed limit within any typhoon shelters is amended from 3 knots to 5 knots.
 - (vi) The regulation of vessels underway in the entrance of typhoon shelters is amended as such that it is not in relation to the tonnage of vessels but in relation to the engagement of towing operation.
 - (vii) The Director shall give a reasonable period notice in writing instead of a notice of not less than 14 days in writing in respect of exercising his power to remove vessels from a typhoon shelter.
 - (viii) The authority to handle appeals is amended from the Chief Executive to the Administrative Appeals Board.
 - (ix) The fine penalized for committing an offence under the Regulation will make reference to an equivalent level of fine.

- (x) The list of typhoon shelters in the Schedule is updated by deleting the "Kowloon North Camber Typhoon Shelter".

Justification

7. Reasons for the amendments proposed in paragraph 6 above are briefed, in seriatim, as follows -

- (i) In line with the definition of "local vessel" in the Merchant Shipping (Local Vessels) Ordinance, the definition of "prescribed vessel" should be amended to include Mainland coastal and river-trade vessels which are permitted to enter and remain in the waters of Hong Kong.
- (ii) From safety and control points of view, it is necessary to keep passages for vessels clear at all times. The designation of mooring areas and passage areas can indicate the usage of areas to port users so that they would be fully aware of where they shall anchor or moor their vessels within a typhoon shelter. As it is impracticable to lay buoy or other structures to demarcate all mooring areas, these areas will be indicated clearly in a series of plans.
- (iii) Despite the primary purpose of typhoon shelters is to provide shelter space for accommodating vessels during increment weather, typhoon shelters are being used as bases for local vessels.
- (iv) The restrictions on the length of vessels and the conveyance of dangerous goods are currently endorsed in the licences of concerned vessels. To enhance efficiency on licensing of vessels, they should be included in the new Regulation.
- (v) Marine Department conducted a speed limit review to assess whether the present speed limits are appropriate. Taking consideration of the views from port users, the review recommended to amend the speed limit within a typhoon shelter from 3 knots to 5 knots.
- (vi) It is considered unsatisfactory to use the tonnage of vessel as a yardstick to regulate vessels. In fact, vessel movements and engagement of towing operation are key factors of safe navigation.

- (vii) Effective remedial action may not be taken if the powers are required to be exercised after the expiry of 14 days' notice. To rectify this, the period of the notice is considered sufficient if it is a reasonable period.
- (viii) The Administrative Appeals Board is established to handle appeals of any grievance to Government Departments.
- (ix) As a new practice, fines penalized for committing offences in new legislation are specified in form of fine levels.
- (x) The "Kowloon North Camber Typhoon Shelter" is not a typhoon shelter.

Commencement Date

8. It is expected that the new Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation would come into operation in end of 1999.

Consultation

9. Members are invited to give their comments on the new Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation.