

PROVISIONAL LOCAL VESSEL ADVISORY COMMITTEE

Proposed Amendment to Regulation 50 of the Shipping and Port Control Regulations

Purpose

The purpose of this paper is to seek members' endorsement on the proposed amendment to Regulation 50 of the Shipping and Port Control Regulations (SAPCR), as shown in the annex, in order to remove the ambiguity in the existing regulation concerning the requirement for paying anchorage dues.

Background

2. Except for certain vessels, or under certain conditions, all vessels anchoring in the waters of Hong Kong are required to pay anchorage dues. Regulation 50 (1) of the SAPCR stipulates that “***anchorage dues shall be paid in respect of every vessel which continues to lie at anchor in the waters of Hong Kong after the day on which it arrives.***”. The exceptions are specified in regulation 50 (2), which include Part IV vessels, cable ships or salvage vessels based in Hong Kong, vessels taking shelter in Hong Kong or vessels secured to a mooring, pier, shipyard or dry dock etc.

3. The above regulation was enacted in 1978, with the policy intent of not requiring visiting vessels to pay anchorage dues on their first day of arrival in Hong Kong. It was because that they are required, upon arrival, to complete various statutory port formalities, for example quarantine and immigration clearance, before they are allowed to conduct business within the port. It is reasonable not to charge them anchorage dues for such “non-productive” period.

Current Charging Practice

4. The current practice for charging anchorage dues is in accordance with the regulation, in that vessels are not charged on the first day of their arrival in Hong Kong waters.

For a vessel which continues to lie at the anchorage thereafter, she is charged anchorage dues from the second day onwards until departure. If the vessel shifts from one anchorage to another during this period, and to which a different rate of anchorage dues applies, she is charged the higher rate of the two on the day of shifting, and thereafter the rate for that anchorage at which she stays.

The Need for Amending the Regulation

5. During a recent review of the legislation, the Department of Justice (D of J) pointed out that, from the legal point of view, the existing wording of Regulation 50 could allow for more than one interpretation. They advised that the phrase “*after the day on which it arrives*” may be interpreted as “after the day on which it arrives in Hong Kong waters”, which is government’s original intention, or it may be taken to mean “after the day on which it arrives at the anchorage”. In the latter case, it may give rise to confusion as to whether a vessel has to pay anchorage dues when she shifts from one anchorage to another on the second day after her arrival in Hong Kong or thereafter. They also pointed out that the word “**continues**” as it appears in the existing regulation may also cause similar confusion in determining whether a vessel has to pay the anchorage dues when she shifts from one place to another within the same anchorage. In order to remove the ambiguity, D of J recommended that the existing regulation should be amended.

6. The Director of Marine has studied D of J’s advice in detail and agrees that amendment to the existing regulation is necessary. It would not only remove confusion in the interpretation, but also avoid unnecessary vessel movements within the port in the event that some vessels may try to circumvent the requirement to pay anchorage dues by shifting frequently from one anchorage to another during their stay in Hong Kong.

Recommendation

7. Members are invited to endorse the proposed amendment to Regulation 50 of the Shipping and Port Control Regulations as shown in the annex.

Presentation

8. This paper will be presented by Mr C Y Tsang of the Marine Department at the PLVAC meeting to be held on 29 July 1999.

Vessel Traffic Services Branch

Port Control Division

Marine Department

July 99

A n n e x t o P L V A C P a p e r N o . 9 / 9 9

**Proposed Amendment to Regulation 50
of the Shipping and Port Control Regulations, Cap. 313**

Existing Regulation :

50. Anchorage dues

(1) Subject to paragraph (2), the anchorage dues prescribed in the Thirteenth Schedule shall be paid in respect of every vessel which continues to lie at anchor in the waters of Hong Kong after the day on which it arrives.

(2) No anchorage dues shall be payable under paragraph (1) in respect of any vessel -

- (a) to which Part IV of the Ordinance applies, other than a vessel of 50 metres or more in length;
- (b) sheltering in the waters of Hong Kong from stress of weather;
- (c) equipped to the Director's satisfaction as a cable ship or salvage vessel and which is based on Hong Kong;
- (d) at anchor in a naval anchorage;
- (e) secured to a mooring or pier;
- (f) secured alongside a shipyard or at a slipway or dry dock; or
- (g) secured alongside a vessel which is secured alongside a shipyard.

Proposed Amendment :

50. Anchorage dues

(1) Subject to paragraph (2), the anchorage dues prescribed in the Thirteenth Schedule shall be paid in respect of every vessel *which anchors in the waters of Hong Kong*.

(2) No anchorage dues shall be payable under paragraph (1) in respect of any vessel -

- (a) *on the first day of her arrival in the waters of Hong Kong;*
- * (b) to which Part IV of the Ordinance applies, other than a vessel of 50 metres or more in length;
- (c) sheltering in the waters of Hong Kong from stress of weather;
- (d) equipped to the Director's satisfaction as a cable ship or salvage vessel and which is based on Hong Kong;

- (e) at anchor in a naval anchorage;
 - (f) secured to a mooring or pier;
 - (g) secured alongside a shipyard or at a slipway or dry dock; or
 - (h) secured alongside a vessel which is secured alongside a shipyard.
- the requirement for Part IV vessels of 50 metres or more in length to pay anchorage dues will be repealed under the new Local Vessel Bill.