

PROVISIONAL LOCAL VESSELS ADVISORY COMMITTEE

Local Vessels (Miscellaneous Provisions) Bill

Introduction

This paper informs Members of proposals in the Local Vessels (Miscellaneous Provisions) Bill.

Background

2. In July 1999, the Legislative Council enacted the Merchant Shipping (Local Vessels) Ordinance, Cap. 548 (“LVO”). The Ordinance aimed to consolidate the provisions previously scattered in different Ordinances into one piece of legislation dedicated for local vessels, and also to introduce necessary changes to meet the today’s requirements of the local shipping industry.

3. The implementation of LVO entails the introduction of ten pieces of subsidiary legislation. We completed the processing of five of them during 2001 to 2004 legislative sessions. The remaining five are being drafted and will be tabled in Legislative Council in the 2004-05 session. These subsidiary legislation are listed in *Annex A*.

4. In drafting LVO and its subsidiary legislation, we identify that some existing primary and subsidiary legislation require consequential amendments to update reference made to legislation repealed under the LVO and modification to clarify the legal intention clearly.

Proposals

5. To ensure consistency in approach, it is desirable to cover all these amendments in one single piece of legislation, which can only be done by an

amendment bill as amendments to primary legislation are involved. The Local Vessels (Miscellaneous Provisions) Bill (MP Bill) is therefore proposed and being drafted. A list of Ordinances and subsidiary legislation which require amendments and which will be covered by the MP Bill is at *Annex B*.

6. The amendments can be broadly grouped into the following categories -

(i) *Amending reference to marine-related legislation*

7. LVO has repealed certain provisions in the Merchant Shipping Ordinance (Cap. 281), Shipping and Port Control Ordinance (Cap. 313), and subsidiary legislation under the Merchant Shipping Ordinance (Cap. 281), Shipping and Port Control Ordinance (Cap. 313) and Merchant Shipping (Safety) Ordinance (Cap. 369). It is necessary to amend references to the repealed parts of the above-mentioned legislation which appear in other existing legislation.

(ii) *Clarifying legal power*

8. The LVO empowers the Secretary for Economic Development and Labour to make necessary regulations specified under the Ordinance. The Director of Marine is also empowered with necessary powers under the Ordinance to enforce that Ordinance. However, in drafting the subsidiary legislation under the LVO, Government counsels advised that some of the empowering provisions are unclear on giving the intended powers, therefore modifications to these provisions are required to remove any legal doubts.

(iii) *Amendments to the Administrative Appeals Board Ordinance, Cap. 442*

9. Subsidiary regulations made under the LVO contain provisions which permit appeals against certain decisions of D of M to be made to the Administrative Appeals Board. It is necessary to include such decisions in the Schedule to the Administrative Appeals Board Ordinance.

(iv) *Others*

10. We also need to delete obsolete provisions and amend provisions and definition of terms in other legislation to reflect changes arising from the LVO and its subsidiary legislation.

Timetable

11. The Bill is being drafted and has been scheduled tentatively for submission into the Legislative Council in early 2005 for consideration and necessary legislative processes.

Consultation

12. Although the amendments to be covered in the MP Bill are modification or consequential in nature, relevant Government bureaux and departments have been consulted on the precise provisions to be covered in the MP Bill. In January 2003, we also consulted the Advisory Council on Environment on the proposed consequential amendment to the Waste Disposal (Charges for Disposal of Chemical Waste) Regulation. Members of the Council supported our proposed amendment. More, we briefed the Legislative Council Panel on Economic Services on the MP Bill at its meeting on 27 January 2003, in which in-principle support to the Bill was given.

Advice sought

13. Members are invited to give their views and support to the above proposals.

Presentation

14. Mr. Chan Yau-ning, Senior Marine Officer/ Legislation and Prosecution will present the paper to members in the coming meeting.

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Hong Kong SAR Government
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Subsidiary Legislation under LVO have been enacted

1. Merchant Shipping (Local Vessels) (Dwelling Vessels) Regulation, Cap. 548 sub. leg. A
2. Merchant Shipping (Local Vessels) (Ferry Terminals) Regulation, Cap. 548 sub. leg. B
3. Merchant Shipping (Local Vessels) (Conduct of Inquiries) Rules, Cap. 548 sub. leg. C
4. Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation, Cap. 548 sub. leg. D
5. Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation, Cap. 548 sub. leg. E

Subsidiary Legislation under LVO being drafted

6. Merchant Shipping (Local Vessels) (General) Regulation
7. Merchant Shipping (Local Vessels) (Compulsory Third Party Risks Insurance) Regulation
8. Merchant Shipping (Local Vessels) (Fees) Regulation
9. Merchant Shipping (Local Vessels) (Works) Regulation
10. Merchant Shipping (Local Vessels) (Safety Survey) Regulation

Primary legislation affected by LVO and its subsidiary legislation

1. Insurance Companies Ordinance, Cap. 41
2. Transfer of Businesses (Protection of Creditors) Ordinance, Cap. 49
3. Import and Export Ordinance, Cap. 60
4. Crimes Ordinance, Cap. 200
5. Summary Offences Ordinance, Cap. 228
6. Merchant Shipping Ordinance, Cap. 281
7. Shipping and Port Control Ordinance, Cap.313
8. Marine Fish Culture Ordinance, Cap. 353
9. Merchant Shipping (Safety) Ordinance, Cap. 369
10. Administrative Appeals Board Ordinance, Cap. 442
11. Environmental Impact Assessment Ordinance, Cap. 499
12. Merchant Shipping (Local Vessels) Ordinance, Cap.548

Subsidiary legislation affected by LVO and its subsidiary legislation

1. Export (Prescribed Articles) Regulations, Cap. 60 sub. leg.
2. Waterworks Regulations, Cap. 102 sub. leg.
3. Telecommunications Regulations, Cap. 106 sub. leg.
4. Dutiable Commodities (Marking and Colouring of Hydrocarbon Oil) Regulations, Cap. 109 sub. Leg
5. Boats and Wharves (Supply of Waters) Regulations, Cap. 141 sub. leg.
6. Merchant Shipping (Trawler Survey) Regulations, Cap. 281 sub. leg.
7. Dangerous Goods (Shipping) Regulations, Cap. 295 sub. leg
8. Shipping and Port Control Regulations, Cap. 313 sub. leg.
9. Waste Disposal (Charges for Disposal of Chemical Waste) Regulation, Cap. 354 sub. leg.
10. Merchant Shipping (Instructions to Surveyors) (Passenger Ships) Regulations, Cap. 369 sub. leg.
11. Hydrofoil Ships (Exemption) Notice, Cap. 369 sub. leg.
12. Sidewall Hovercraft (Exemption) (Consolidation) Notice, Cap. 369 sub. leg.
13. Jetcat Catamarans (Exemption) Notice, Cap. 369 sub. leg.
14. Life Saving Appliances (Exemption) Notice, Cap. 369 sub. leg.
15. Merchant Shipping (Safety) (Means of Access) Regulations, Cap. 369 sub. leg.
16. Merchant Shipping (Safety) (Life-saving Appliances) Regulation, Cap. 369 sub. leg.
17. Merchant Shipping (Control of Pollution by Noxious Liquid Substance in Bulk) Regulations, Cap. 413 sub. Leg.