

PROVISIONAL LOCAL VESSELS ADVISORY COMMITTEE

Merchant Shipping (Local Vessels)(General) Regulation

Merchant Shipping (Local Vessels) (Compulsory Third Party Risks Insurance) Regulation

Merchant Shipping (Local Vessels)(Fees) Regulation

Purpose

This paper briefs members on three new Regulations made under the Merchant Shipping (Local Vessels) Ordinance, Cap. 548 (LVO) to improve the safety, control and regulation of local vessels. The Regulations will be tabled at the Legislative Council shortly.

Background

2. Over the years, the administration and control of local vessels have been governed by requirements scatters in Various Ordinance and subsidiary legislation instead of a single set of laws. This is not at all user-friendly to owners and operators of local vessels.

3. In July 1999, the Legislative Council enacted the LVO, which consolidated the scattered provisions into one piece of legislation dedicated for local vessels. The LVO also introduced necessary changes to meet the today's requirements of the local shipping industry. To implement the LVO, it is necessary to introduce ten pieces of subsidiary legislation. The Legislative Council had already passed five of them during 2001-04 legislative sessions, namely the Merchant Shipping (Local Vessels)(Dwelling Vessels) Regulation, Merchant Shipping (Local Vessels)(Ferry Terminals) Regulation, Merchant Shipping (Local Vessels)(Conduct of Inquiries) Rules, Merchant Shipping (Local Vessels)(Certification and Licensing) Regulation and Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation.

4. We plan to table the five remaining pieces of subsidiary legislation at the Legislative Council shortly for negative vetting. Three of them, namely the Merchant Shipping (Local Vessels) (General) Regulation, Merchant Shipping (Local Vessels)(Compulsory Third Party Risks Insurance) Regulation, and Merchant Shipping (Local Vessels)(Fees) Regulation, are outlined below.

The Regulations

(a) Merchant Shipping (Local Vessels)(General) Regulation (General Reg.)

5. The General Reg. incorporates general provisions for the administration of local vessels and their safety requirements. These provisions are mainly modelled on existing Shipping and Port Control Regulations, Cap. 313 sub. leg. and other regulations under the Shipping and Port Control Ordinance, Cap. 313 applicable to local vessels. The Regulation will also introduce new provisions and modifications to existing provisions to enhance the safe operation of local vessels within Hong Kong waters related to the following regulatory areas :-

- (i) the number of tiers of local vessels allowed to lie alongside an ocean going ship is reduced from five to not more than three abreast (endorsed by members in December 1999, PLVAC Paper No. 14/1999 refers);
- (ii) bunkering activities are allowed to take place only when a vessel receiving bunker is berthed at a pier or anchored in an anchorage or a port specified; or when a bunker delivery vessels is moored in a bunkering area designated by the Director (endorsed by members in August 2000, PLVAC Paper No. 7/2000 refers);
- (iii) the meaning of "lying alongside a ship" will be specified clearly to plug the loophole of a Mainland or Macau non-convention vessel moored to an ocean going ship by placing a local certificated vessel between them.
- (iv) a permission to tow is required from the Director before a local vessel can be used for towing purposes;

- (v) passengers carrying vessels shall indicate the maximum number of passengers permitted by posting a sign at the embarkation point;
- (vi) cargo carried on board a local vessel shall be loaded, stowed and secured properly to minimize risks to the safety of the vessel or person therein. In case any cargo fell overboard, the owner, his agent and the coxswain are required to retrieve the cargo from the sea as soon as practical;
- (vii) a local vessel shall keep a record of cargo carried on board when entering or leaving the waters of Hong Kong; and
- (viii) Mainland or Macau non-convention vessels will be issued with permits for the vessels to remain in the waters of Hong Kong.

(b) *Merchant Shipping (Local Vessels)(Compulsory Third Party Risks Insurance) Regulation (Insurance Reg.)*

6. The purpose of Insurance Reg. is to prescribe requirements for compulsory third party risks insurance for local certificated vessels, including requirements related to insurance policy, certificate of insurance, termination of policy and application for approval as approved insurer, etc. The Regulation will incorporate relevant provisions in the Merchant Shipping Ordinance, Cap. 281(MSO), and the Merchant Shipping (Compulsory Third Party Risks Insurance) Regulation, Cap. 281 sub. Leg (MS(Insurance)R). Part XIVA of the MSO and the MS(Insurance)R will be repealed upon commencement of the Insurance Reg. In addition to consolidating the relevant provisions, the Insurance Reg. will also introduce a number of improvements as :-

- (i) the compulsory insurance requirements will be extended to all local vessels certificated under the LVO except laid-up vessels and small non-mechanically propelled vessels (endorsed by members in August 2003, PLVAC Paper No. 1/2003 refers);

- (ii) the minimum liability amount of third party risks insurance will be increased to \$1 million and applied to any Kaitos, transportation sampans within typhoon shelters, and pleasure vessels not letting for hire (irrespective of their passenger carrying capacity) and any local vessels carrying not more than 12 passengers; and to \$5 million for other local vessels carrying more than 12 passengers (endorsed by members in August 2003, PLVAC Paper No. 1/2003 refers);
- (iii) the Regulation will be implemented in 2 phases to ensure smooth implementation. The existing insurance requirement will remain unchanged on the commencement of the Insurance Reg. The extension and increase in liability amount will be implemented later to tie in with the implementation of similar insurance requirement imposed on Mainland or Macau non-convention vessels in Hong Kong waters. These vessels will be required to provide information of the required insurance in their submission of pre-arrival notification and application for permit to remain in Hong Kong waters (endorsed by members in August 2003, PLVAC Paper No. 1/2003 refers).
- (iv) application procedures for approving Protection and Indemnity Associations as approved insurers will be set out clearly to increase transparency. The Director will be empowered to suspend or revoke the approval if the approved insurers fail to comply with the Regulation or with a condition to which the approval is subject;
- (v) any person aggrieved by the decision of the Director related to approval as an approved insurer may appeal to the Administrative Appeals Board against that decision; and

(c) *Merchant Shipping (Local Vessels)(Fees) Regulation (Fees Reg.)*

7. The primary objective of Fees Reg. is to consolidate, simplify and rationalize the fee structure applicable to local vessels, so that the number of fee items will be reduced and the new fee structure will be more user-friendly. The simplified fee structure is, in fact, proposed by a working group on fees review formed under the Helping Business Study in 1999, which has consulted major local shipowner associations and crew union concerned.

8. The Fees Reg. is mainly modelled on the Merchant Shipping (Fees) Regulations, Cap. 281 sub. leg. and will consolidate fees currently prescribed under that Regulations, the Shipping and Port Control Regulations, Cap. 313 sub. leg., and the Shipping and Port Control (Ferry Terminals) Regulations, Cap. 313 sub. leg. These existing regulations will either be repealed or will no longer be applicable to local vessels when the LVO and Fees Reg. come into force. The fees prescribed in the Regulation cover four types of services, which are set out below :-

(i) *Fees for the survey of vessels and the examination of their plans*

The simplified fee structure for surveys and plan examinations will reflect the re-classification of vessels from over ten classes into 4 classes. The survey fee levels are set based on the principle of "revenue neutral" and aimed at minimizing impacts on existing owners and operators. The financial impacts on vessel owners and operators are summarized at *Annex A*.

Fees provided in the Regulation are only for surveys and plan examinations carried out by government surveyors. Since surveys and plan examinations for low risks local vessels will be carried out by authorized surveyors, authorized organizations or recognized authorities under the Director's delegation, these services will be charged by the authorized surveyors or organizations at market rates. It is anticipated that the rates will be stabilised and maintained at an acceptable level as the supply pool of these services is expected sufficiently large.

(ii) *Licence fees*

The changes in licence fees mainly arise from the re-classification of vessels and standardization of the unit used to calculate the fees. The licence fee levels are set based on the principle of "revenue neutral" and aimed at minimizing impacts on existing owners and operators. The standardized charging unit, i.e. overall length x extreme breadth, will reflect truly the size of vessel and the water area to be occupied, and also remove outdated and complicated charging unit such as "picul". The financial impacts on vessel owners and operators are analysed at *Annex B*.

(iii) *Fees for use of ferry terminals*

No change is proposed for fees related to the use of ferry terminals.

(iv) *Port charges*

Based on the principle of "revenue neutral", various fee charges are incorporated into an arrival clearance and a "permit to remain in Hong Kong waters". As a result of the simplification, 77% of the vessel calls will pay more by \$5 to \$74 for an arrival clearance, and 82% of the vessels calls will pay less by \$20 to \$60 for a "permit to remain in Hong Kong waters". The impact of the fee increase for an arrival clearance will be offset by the fee reduction for a permit to remain. Except the above changes, other fees related to port charges will remain unchanged.

Consultation

9. We briefed the Legislative Council Panel on Economic Services on the General Reg. at its meetings on 28 May 2001 and 22 April 2002. The Fees Reg. was briefed at the Panel meeting on 27 January 2003 and the Insurance Reg. was briefed on 27 January and 24 February 2003. Members of the Panel have given their in-principle support to the Regulations.

Advice Sought

10. Members are invited to comment on the general administration and control of local vessels proposed in the Regulations.

Presentation

11. 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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**The Financial Impacts related to the Survey of Vessels
and the Examination of their Plans**

- The survey fee levels are set based on the principle of "revenue neutral". 87% of vessels will not be affected, 8% of vessels will pay less (ranging from \$10 to \$1,730), and only 5% of vessels will pay more (ranging from \$20 to \$865).

- While some new cargo vessels which carry dangerous goods will pay lower fees for plan examination, all other new vessels will pay higher fees (ranging from \$370 to \$13,050). The new fees are set to achieve full cost recovery gradually. Existing vessels will not be affected.

- For safety purpose, non-mechanised stationary vessels will be required to undergo a biennial inspection by the Marine Department. A fee (\$1,145) will be charged for the inspection. About 175 vessels will be affected.

The Financial Impacts related to Licence Fees

	Percentage of Vessels Affected		
	No change/ subject to less than 1% change	Pay less	Pay more
<i>Class I</i> (<i>passenger vessels</i>)	69%	11% ^{Note 1} (\$55 - \$1,475)	20% ^{Note 1} (\$300 - \$2,485)
<i>Class II</i> (<i>cargo vessels</i>)	52%	15% (\$255 - \$3,650)	33% ^{Note 2} (\$65 - \$2,448)
<i>Class III</i> (<i>fishing vessels</i>)	66%	11% (\$24 - \$589)	23% (\$72 - \$155)
<i>Class IV</i> (<i>pleasure vessels</i>)	81%	7% (\$355 - \$1,400)	12% (\$345 - \$2,800)

Note 1: Among all Class I vessels, there are two exceptions. Of the two floating restaurants in Hong Kong, one will pay \$1,688 less and the other will pay \$8,250 less.

Note 2: Among all Class II vessels, there are three exceptions. All of them are stationary vessels. They will pay \$9,560, \$11,880 and \$13,382 more.