

PROVISIONAL LOCAL VESSEL ADVISORY COMMITTEE

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

Purpose

This paper is to report on the legislative progress of the compulsory third party risks insurance for local vessels.

Background

2. At present, only pleasure vessels, launches and ferry vessels, which are mechanically propelled, are required to take out third party risks insurance relating to bodily injury and death. The existing minimum liability levels of \$0.6 million for pleasure vessels and \$3 million for launches and ferry vessels were set in 1979 and 1990 respectively.

3. In 1998, this Committee set up a working group to review the scope and minimum liability levels of the insurance requirement. The working group conducted an in-depth review and proposed various recommendations for enhancing the protection of third party bodily injury and death on local vessels.

Original Recommendations

4. The working group recommended that:

- the compulsory third party risks insurance should be extended to cover all local vessels including river-trade vessels coming from Mainland and Macau; and

- the minimum liability levels should be set at \$5 million for local vessels carrying not more than 12 passengers, and \$10 million for local vessels carrying more than 12 passengers.

5 The recommendations were endorsed by the Committee and also supported by other interested parties.

Legislative Progress

6. The proposed Merchant Shipping (Local Vessels) (Compulsory Third Parties Risks Insurance) Regulation (CTPRIR) is being drafted on the basis of the working group’s recommendations and the existing insurance legislation under the Merchant Shipping Ordinance, Cap. 281. The CTPRIR is now at its 2nd draft. As part of the legislative procedure, the Legislative Council Panel on Economic Services discussed the CTPRIR in January and February this year. The Panel agreed with the recommendations made by this Committee but was concerned with the added financial burden on vessel owners and operators, particularly on those primitive passenger vessels in remote or sheltered waters. Having considered the views of the Panel, the proposed compulsory third party risks insurance requirements have been revised, and later supported by the Panel.

Revised Proposals

7. The revised minimum liability levels applicable to different types of local vessels are summarized in the table below:

Types of Vessels	Minimum Level
Any vessel permitted to carry more than 12 passengers, other than (i) Kaitos, (ii) transportation sampans within typhoon shelters or (iii) pleasure vessels not letting for hire.	\$5 million
Any vessels other than the above	\$1 million

8. Like the former proposal, the revised levels are determined by the number of passengers that a vessel is licensed to carry, but their amounts have

been reduced from \$10 million to \$5 million and from \$5 million to \$1 million. Under the new proposal, concessions will be given to *kaitos*, transportation sampans operating solely within typhoon shelters and pleasure vessels not letting for hire, because they are considered relatively less likely to cause serious accidents. The minimum cover applicable to these vessels is \$1 million, irrespective of the number of passengers they carry. Also, laid-up vessels and small non-mechanically propelled vessels (up to 4 metres in length) will be excluded from the requirements, because they are not likely to cause injury to third party on any other vessels.

River Trade Vessels

9. Unlike licensed local vessels, the compulsory third party risks insurance of river-trade vessels coming from Mainland or Macau (RTVs) cannot be implemented by the licensing system similar to that of local vessels. Instead, the insurance requirements for RTVs will be enforced through other legislative means at the point of entry of these vessels.

10. More specifically, before RTVs enter into Hong Kong waters, their owners, agents or masters will be required to tender a pre-arrival notification (PAN) to the Director of Marine and provide information regarding the required insurance. The PAN requirement is governed under the Shipping and Port Control Regulations (Cap. 313A) and legislative amendment to that Regulations will be made to include information of the required insurance. For those failing to provide such information, the Director may refuse their entry into Hong Kong waters. It was suggested that the Director should consider releasing relevant information to parties concerned to facilitate the claim. Furthermore, RTVs will be required to produce the required insurance policy when they apply for a permit to remain in Hong Kong waters.

Implementation

11. Initially, the existing third party risks insurance requirements will remain unchanged on the commencement of the CTPRIR. The new requirements, as outlined in paragraphs (7) to (10) above, will be implemented later to tie in with the full implementation of the compulsory third party risks insurance requirements in the Mainland.

12 Depending on the drafting progress and legislative programme, the CTPRIR is estimated to be implemented in early 2004.

Presentation

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

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