

PROVISIONAL LOCAL VESSEL ADVISORY COMMITTEE

**Merchant Shipping (Local Vessels)
(Certification and Licensing) Regulation**

**Merchant Shipping (Local Vessels)
(Typhoon Shelters) Regulation**

Purpose

This paper briefs members on two new Regulations made under the Merchant Shipping (Local Vessels) Ordinance, Cap. 548 (the Ordinance) 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 scattered in various ordinances 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 Ordinance, which consolidated the scattered provisions into one piece of legislation dedicated for local vessels. The Ordinance also introduced necessary changes to meet the today's requirements of the local shipping industry. To implement the Ordinance, it is necessary to introduce ten pieces of subsidiary legislation. The Legislative Council had already passed three of them in 2001, namely the Merchant Shipping (Local Vessels)(Dwelling Vessels) Regulation, Merchant Shipping (Local Vessels)(Ferry Terminals) Regulation and Merchant Shipping (Local Vessels)(Conduct of Inquiries) Rules.

4. Of the seven remaining pieces of subsidiary legislation, we plan to table two of them at the Legislative Council shortly for negative vetting. They are the Merchant

Shipping (Local Vessels) (Certification and Licensing) Regulation (LV(C&L)R) and the Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation (LV(TS)R), which are outlined below.

The Regulations

(a) Merchant Shipping (Local Vessels)(Certification and Licensing) Regulation

5. The LV(C&L)R will set out requirements for the issuance, suspension and cancellation of certificates of ownership, operating licences, temporary operating licences and laid-up permits in respect of local vessels, and other related matters, such as the duties of certificated or licensed vessels, the carrying of competent coxswain and engine operator, and the use of pleasure vessels. Most of these requirements have been adopted from the relevant provisions of the existing Merchant Shipping (Miscellaneous Craft) Regulations, Cap. 313 sub. leg. (MCR), Merchant Shipping (Launches and Ferry Vessels) Regulations, Cap. 313 sub. leg. (LFVR) and Merchant Shipping (Pleasure Vessels) Regulations, Cap. 313 sub. leg. (PVR). These Regulations will be repealed upon commencement of the Ordinance and its subsidiary legislations.

6. Apart from the adoption with necessary modifications of the existing provisions of the MCR, LFVR and PVR, the following major improvements have been made to the LV(C&L)R :

- (i) a new classification system for licensing vessels, which has streamlined the number of classes of local vessels from eleven to four (endorsed by members in September 1998, PLVAC Paper No. 8/98 refers);
- (ii) a new documentation system for licensing vessels similar to the one used for licensing road vehicles, which includes the issue of a certificate of ownership to each vessel and the requirement for each vessel to have an operating licence or laid-up permit. This will facilitate the identification of the owner of a local vessel. (endorsed by members in January 1992, PLVAC Paper No. 2/92 refers);

- (iii) a new type of permit allowing a local vessel to be laid up without the need for an operating licence, if it is to be taken out of operation for an extended period of time because of valid reasons like the lack of employment. Such vessel will be temporarily exempted from compliance with safety survey standards required for the operation of the vessel (endorsed by members in January 1992, PLVAC Paper No. 2/92 refers).
- (iv) a new provision specifying that pleasure vessels should be used by its owner or charterer exclusively (i.e. used by limited categories of persons who have private relationship with the owner or charterer of the vessel only) for pleasure purpose. If a pleasure vessel is hired, a charter agreement shall be kept on board for inspection. In addition if such vessel is to carry any passenger, a valid certificate of inspection and relevant insurance policy shall be kept on board for inspection (endorsed by members in December 1999, PLVAC Paper No. 11/99 refers);
- (v) a new arrangement allowing a person, on the death of the owner of the vessel, to act as an interim owner and be responsible for the operation of the vessel. This will allow the vessel to be operated temporarily by the family members of the deceased owner until the vessel is properly disposed of according to the probate; and
- (vi) a new mechanism allowing a person aggrieved by Director's decisions on matters relating to certification and licensing of local vessels to appeal against such decisions.

(b) Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation

7. The LV(TS)R has adopted all necessary provisions for the management and control of typhoon shelters from the existing Shipping and Port Control (Typhoon Shelters) Regulations, Cap. 313 sub. leg. (TSR) including the demarcation of navigation areas in typhoon shelters, the use of typhoon shelters, the entry and anchoring of vessels, the removal of vessels unlawfully remain in typhoon shelters, etc. The TSR will be repealed upon commencement of the Ordinance and its subsidiary legislations. Apart from adoption of

existing provisions, the following new features (endorsed by members in July 1999, PLVAC Paper No. 4/99 refers) have been introduced:

- (i) a new provision requiring that plans showing the navigation areas of typhoon shelters be made available for public inspection;
- (ii) the Director of Marine at present prohibits three types of local vessels from entering and staying in a typhoon shelter through the imposition of licensing conditions. The Regulation will codify these prohibitions and apply to :
 - (a) a vessel having on board any specified dangerous goods;
 - (b) a vessel having a length exceeding the restricted length of the typhoon shelter; and
 - (c) a dwelling vessel unless it is licensed to stay there; and
- (iii) to improve the control on maintaining clear passage for typhoon shelters, which are very busy nowadays, the period of notice before the Director takes possession of or removes a vessel anchoring in a wrong place will be shortened from 14 days to 7 days.

Consultation

8. We briefed the Legislative Council Panel on Economic Services on the Regulations at its meeting on 25 February 2002, in which in-principle support to the Regulations was given.

Advice Sought

9. Members are invited to comment on the general administration and control of

local vessels proposed in the Regulations.

Presentation

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

Operations Branch
Port Control Division
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