

PROVISIONAL LOCAL VESSEL ADVISORY COMMITTEE

**Proposed Amendments to the Legislation Relating to
Conveyance of Dangerous Goods in the Waters of Hong Kong**

Purpose

The purpose of this paper is to inform members on the progress of the amendments to the Dangerous Goods Ordinance (Cap. 295) (**DGO**) and its subsidiary legislation.

Background

2. The rapid growing of dangerous goods movement in Hong Kong has caused concerns. The administration started a comprehensive review of the Dangerous Goods Ordinance in 1995 with a view to bringing it in line with international standards. As most of dangerous goods are imported and exported by sea, the administration considered that the local control system should follow the International Maritime Dangerous Goods (IMDG) Code as far as possible, with minor variation to suit local circumstance.

3. In the years of 2000, the Dangerous Goods (Amendments) Bill 2000 was introduced into the Legislative Council and was passed on 13 March 2002. The Dangerous Goods (Amendments) Ordinance 2002 was gazetted on 22 March 2002. To effect the Dangerous Goods (Amendments) Ordinance, it is required to make consequential amendments to the Dangerous Goods (Shipping) Regulations (Cap. 295 sub. leg.) (**DG(S)R**) and other relevant maritime legislation.

Proposal

4. With reference to the above background and for helping the shipping industry to observe the legislation relating to conveyance of dangerous goods by vessels of which are currently scattered in different legislation, it is proposed to amend the DG(S)R as outlined at **Annex 1**.

5. It is also proposed to make consequential amendments to other legislation as outlined at **Annex 2**.

Consultation

6. The barge operators involving in the conveyance of dangerous goods and the members of Hong Kong Port Operation Committee have been consulted on the proposed amendments to the DG(S)R. They support the proposed amendments in general.

Advice Sought

7. Members are requested to comment on the proposed amendments to the DG(S)R and proposed consequential amendments to other legislation.

Presentation

8. This paper will be presented by Mr. K.L. Wong, Senior Marine Officer of the Marine Department.

Operations Branch
Port Control Division
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**Proposed Amendments to
the Dangerous Goods (Shipping) Regulations**

To effect the Dangerous Goods (Amendment) Ordinance 2002 (**the Ordinance**), it is proposed to amend the Dangerous Goods (Shipping) Regulations (Cap. 295 sub. leg.) (**DG(S)R**) as outlined below: -

1. Incorporating the existing provisions under the Merchant Shipping (Safety) (Dangerous Goods and Marine Pollutants) Regulation (Cap. 413 sub. leg.) in respect of compliance with the IMDG Code into the DG(S)R, of which will apply to local vessels including locally licensed vessels and Mainland non-convention vessels. However, some of those provisions will be modified to suit the local situation and practice, such as dangerous goods should be stowed and segregated either in accordance with the IMDG Code or the conditions laid down in a conveyance permit issued by the Director of Marine; the required information about the locations of dangerous goods would be simplified; and the report of incidents involving dangerous goods would be specified in a standard format.
2. Relocating regulations 4, 7 and 59 of the Dangerous Goods (General) Regulations (Cap. 295 sub. leg.), which are relating to the issue of removal permits, prohibition of carrying explosives on public ferry and discharge of firework in Hong Kong waters respectively, into the DG(S)R.
3. Introducing new provisions to achieve the following objectives: -
 - (a) To codify the current practice that Type I¹ and Type II² vessels are not required to possess a conveyance licence as required under Section 6 of the Dangerous Goods Ordinance (Cap. 295). It is because these vessels are already required to possess relevant certificates for conveyance of dangerous goods, and to submit dangerous goods manifests or tanker arrival notices.

¹ Type I vessel means any vessel other than type II or type III vessel.

² Type II vessel means any vessel conveying gases (DG in Class 2), flammable liquids (DG in Class 3), or diesel oil or furnace oil (DG in Class 3A) in bulk other than type III vessel.

- (b) To require owners, agents or masters of Type II vessels including Mainland non-convention vessels to submit tanker arrival notices; and to specify that the submission of tanker arrival notices under the Shipping and Port Control Regulations (Cap. 313 sub. leg.) is deemed to comply with this requirement.
 - (c) To specify that Type III³ vessels carrying any dangerous goods would be allowed to carry "passengers" who are holders of an appropriate certificate recognized by the Director of Marine, i.e. trained persons only.
 - (d) To specify that when any dangerous goods being handled, loaded or unloaded on board a Type III vessel, a trained person should be in charge of the operation on board.
 - (e) To require Type III vessels carrying, loading or unloading any flammable liquids (DG in Class 3 or 3A) in bulk to take the same precautions as specified in the existing regulation 11, i.e. precautions regarding openings to cargo tanks.
 - (f) To empower the Director of Marine to grant exemptions in respect of a specific case or a specific person from all or any of the provisions of the DG(S)R.
 - (g) To introduce necessary definition of the terms used in the proposed new provisions, of which are mainly modelled on the Merchant Shipping (Safety) (Dangerous Goods and Marine Pollutants) Regulation (Cap. 413 sub. leg.), the IMDG Code, and relevant maritime legislation.
4. Deleting obsolete regulations under the DG(S)R, namely regulations 3, 5(2), 7, 10, 11, 15, 17(1)(a) and (b), 18, 20, Second Schedule, and the definitions and penalties related to the deleted regulations.
5. Updating the following regulations of the DG(S)R along the proposed lines: -
- (a) Regulation 2
To amend the classification of dangerous goods to be in line with the

³ Type III vessel means any locally licensed vessel.

classification under the IMDG Code and the Dangerous Goods Ordinance (Cap. 295) as amended by the Ordinance.

To amend the definitions of “dangerous goods” and “freight container”, which are modelled on the Merchant Shipping (Safety) Ordinance (Cap. 369) and the Freight Container (Safety) Ordinance (Cap. 506) respectively.

To amend the definitions of “Type I vessel”, “Type II vessel” and “Type III vessels” in order to remove the existing ambiguity that locally licensed vessels trading to or from Hong Kong might be regarded as Type I or Type II vessels.

(b) Regulation 4

To require owners, agents or masters of Type I vessels to submit dangerous goods manifests to the Director of Marine prior to the vessels enter Hong Kong waters or before loading any dangerous goods on board the vessel. The form of dangerous goods manifest would be set out in the Marine Department Notice. In case of not possible to submit the dangerous goods manifests before loading of any dangerous goods, the manifests should be furnished to the Director of Marine within 48 hours after the loading of any dangerous goods on board or before the departure of the vessels, whichever is earlier.

To require the owners, agents or masters to declare in the dangerous goods manifests that any dangerous goods are conveyed in accordance with the IMDG Code.

(c) Regulation 5

To codify the current practice that for Type I vessels having explosives (DG in Class 1) on board, the master of the vessels should report the vessels’ movements to the Director of Marine; and comply with any direction given by the Director of Marine. Also, except with the permission (which may be an oral one) from the Director of Marine, no such vessels should enter or leave the harbour; anchor or berth at a place other than designated places; and be moved after anchoring or berthing.

(d) Regulation 5A

To codify the current practice that Type I vessels should load or discharge any explosives at the western dangerous goods anchorage or a place as specified or directed by the Director of Marine.

(e) Regulation 8

To update those positions affected by reclamation works, of which would be based on the datum of WGS 84.

(f) Regulation 12

To codify the current practice that Type III vessels conveying the following dangerous goods in bulk are not required to possess a conveyance permit in respect of such dangerous goods.

“Gases (DG in Class 2);
Flammable liquids (DG in Class 3);
Diesel oils and furnace oils (DG in Class 3A); and
Corrosives (DG in Class 8).”

It is because these vessels are already required to possess a declaration of fitness for conveyance of any such dangerous goods.

To codify the current practice that –

- (i) a miscellaneous permit granted under the Shipping and Port Control Regulations (Cap. 313 sub. leg.) for conveyance of dangerous goods other than explosives; and
- (ii) a permit to move radioactive material (DG in Class 7) granted under the Radiation (Control of Radioactive Substances) Regulations (Cap. 303 sub. leg.)

is deemed to be a conveyance permit in respect of such dangerous goods granted under the DG(S)R.

(g) Regulation 16

To specify that not more than one Type III vessel should be towed at any one time.

(h) Regulations 8, 9, 17 and 19

To extend the application of the existing provisions for controlling the conveyance of flammable liquids (DG in Class 3 or 3A) to the conveyance of gases as well.

(i) Regulations 6, 8, 9 12, 17 and 19

To update the categories of the dangerous goods concerned with appropriate new Classes under the Ordinance, and to replace the terms of “local storm signal” by “tropical cyclone warning signal”.

(j) First & Third Schedules

To update the lists of Approved Petroleum Wharves under First Schedule and the list of Approved Container Terminals under Third Schedule.

6. Replacing the maximum fines under the DG(S)R by “level of fines” as stipulated in Schedule 8 of the Criminal Procedure Ordinance (Cap. 221), i.e. the existing maximum fines of \$10,000 and \$5,000 would be amended to “level 4” (\$25,000) and “level 3” (\$10,000) respectively.

Proposed Consequential Amendments to Other Legislation

To be consistent with the classification of dangerous goods under the IMDG Code, the definition and classification of dangerous goods under the Dangerous Goods Ordinance (Cap. 295) will be amended. As it is necessary to have a united classification for dangerous goods in Hong Kong, the definition of dangerous goods under the Merchant Shipping (Safety) (Dangerous Goods and Marine Pollutants) Regulation (Cap. 413 sub. leg.) and the classes of dangerous goods specified in the following legislation should be amended accordingly: -

- ? ? Schedule 1 of the Pilotage Ordinance (Cap. 84);
- ? ? Regulation 37(2) and Sixteenth Schedule of the Shipping and Port Control Regulations (Cap. 313 sub. leg.); and
- ? ? Section R of the Schedule of Merchant Shipping (Fees) Regulations (Cap. 281 sub. leg.).