

For discussion  
on 23 April 2018

## **Legislative Council Panel on Economic Development**

### **Reform of the Regulatory Regime for Local Pleasure Vessels**

#### **PURPOSE**

This paper seeks Members' comments on the legislative proposal to take forward the reform of the regulatory regime for Class IV vessels (i.e. local pleasure vessels<sup>1</sup>).

#### **EXISTING REGULATORY REGIME OF CLASS IV VESSELS**

2. Under the existing regulatory regime, a Class IV vessel is required to comply with specific survey requirements and obtain a Certificate of Survey ("CoS") from the Marine Department ("MD") or a Certificate of Inspection ("CoI")<sup>2</sup> from a competent surveyor. Generally speaking, Class IV vessels which are licensed to carry more than 60 passengers or are of more than 150 gross tonnage are required to comply with more stringent plan approval and survey requirements.

3. A Class IV vessel may be let for hire or reward so long as it has a valid CoS or a CoI, a written charter or a hire-purchase agreement, and third-party insurance coverage. There is no requirement for the vessel concerned to seek MD's prior approval before it is let for hire or reward.

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<sup>1</sup> Local vessels are classified into Classes I to IV under the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548D). Broadly speaking, Classes I to IV refer to the vessels with the following functions respectively –

- (a) Class I: passenger vessels;
- (b) Class II: cargo vessels;
- (c) Class III: fishing vessels; and
- (d) Class IV: pleasure vessels.

<sup>2</sup> Under the Merchant Shipping (Local Vessels) (Safety and Survey) Regulation (Cap. 548G), Class IV vessels are required to obtain a CoS if they (a) are licensed to carry more than 60 passengers; (b) are of more than 150 gross tonnage; or (c) are of novel construction. Class IV vessels are required to obtain a CoI if they do not carry more than 60 passengers and are let for hire or reward.

## PROPOSED REFORM MEASURES

4. In view of the rising safety requirements for pleasure vessels imposed by other jurisdictions in recent years, MD has carried out a comprehensive review from a safety angle of the existing regulatory regime of Class IV vessels and proposes to tighten the regulation of Class IV vessels, in particular those that are let for hire or reward. The proposed changes, which will entail legislative amendments to the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548D), the Merchant Shipping (Local Vessels) (General) Regulation (Cap. 548F) and the Merchant Shipping (Local Vessels) (Safety and Survey) Regulation (Cap. 548G), are summarised below.

### *Plan approval and survey requirements for new Class IV vessels of not less than 24 m in length and Class IV vessels for hire or reward*

5. Class IV vessels of more than 150 gross tonnage are currently subject to tighter plan approval and survey requirements due to their large size. Noting that a more widely-adopted international parameter in measuring the size of pleasure vessels is by vessel length<sup>3</sup>, we propose to set the different levels of plan approval and survey requirements for Class IV vessels that are licensed after the commencement of the legislative proposal, hereafter referred to as “new Class IV vessels<sup>4</sup>”, according to their length.

6. New Class IV vessels which are of not less than 24 metres in length,<sup>5</sup> as well as new Class IV vessels that are let for hire or reward (regardless of their size), will be required to fulfil new structural requirements in various aspects including water tightness, stability and structural fire protection. As it would not be practicable to require existing Class IV vessels that are licensed before the commencement date of the proposed legislation (hereafter referred to as “existing Class IV vessels”) to follow the new structural requirements, we propose to require

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<sup>3</sup> Pleasure vessels are primarily measured by length in jurisdictions such as the United Kingdom (UK), the Mainland and the Marshall Islands.

<sup>4</sup> “New Class IV vessels” means Class IV vessels which are licensed for the first time after the commencement of the proposed legislation, as well as Class IV vessels licensed before the commencement date but have undergone substantial alterations on or after the commencement date.

<sup>5</sup> 24 metres in length is a threshold adopted in the International Convention on Load Lines of the International Maritime Organization in defining vessels that should be subject to the load line requirements. Various jurisdictions including the UK, the Mainland, Australia and the Marshall Islands have also adopted the same threshold to define large pleasure vessels with more stringent safety requirements.

them to provide adequate lifebuoys to facilitate speedy escape in case the vessels are in distress. The minimum number of lifebuoys will be set at 50% of the carrying capacity of the vessel concerned<sup>6</sup>.

***Enhancing navigational and communications equipment on certain Class IV vessels***

7. We propose to require certain Class IV vessels to install and operate on board the Very High Frequency Radiotelephone (“VHF radio”), Automatic Identification System (“AIS”) and radar, as well as to ensure that the navigational and communications equipment are maintained in good working condition and to require the presence of crew members who are competent or qualified to use them. The proposal is similar to the one introduced for Class I vessels in 2017. More specifically, we propose to –

- (a) in respect of VHF radio, require Class IV vessels permitted to carry more than 12 passengers and intended to be let for hire or reward, as well as all Class IV vessels permitted to carry more than 60 passengers (regardless of whether they are let for hire or reward) to be equipped with VHF radio. At least one crew member on board should have the certificate of competency issued by the Office of the Communications Authority for using VHF radio. The coxswain will also be required to continuously listen to the VHF channel so that emergency messages can be received as they arise;
- (b) in respect of AIS, require Class IV vessels permitted to carry more than 100 passengers to install and use AIS at all times. The AIS on board should be switched on and maintained in good working condition; and
- (c) in respect of radar, require Class IV vessels permitted to carry more than 100 passengers to be fitted with radar. The radar operator must hold a certificate of competency with an endorsement that he is competent in the use and operation of radar equipment.

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<sup>6</sup> For the purpose of assessing the adequacy of life-saving appliances on board a local vessel, each lifebuoy is taken to be for use by two persons on board the vessel.

***MD's prior approval must be obtained for Class IV vessels intended to be let for hire or reward***

8. At present, any Class IV vessels may be let for hire or reward; there is no requirement to obtain prior approval from MD as long as they have third-party insurance coverage, a written charter or hire-purchase agreement and a valid CoS or CoI. To maintain a list of Class IV vessels let for hire or reward and step up monitoring of these vessels, we propose to require such vessels to obtain MD's prior approval before being let for hire or reward. To obtain such approval, vessel owners shall indicate their intention to let their vessels for hire or reward and submit copies of valid CoS or CoI, and a third party risks insurance policy for MD's verification and approval. MD may conduct audit survey checks for these vessels, which may be done in the form of document checks, audit of plans and drawings against the relevant rules and regulations, and on-site field surveys. This requirement will apply to Class IV vessels which are intended to be let for hire or reward after the commencement of the legislative proposal. Class IV vessels currently let for hire or reward will have to seek MD's approval for continuing to do so within 12 months after the commencement of the proposed legislation<sup>7</sup>.

***Miscellaneous amendments in relation to survey requirements of local vessels***

***Merchant Shipping (Local Vessels) (Safety and Survey) Regulation***

9. In taking forward the exercise to refine the regulatory regime of Class IV vessels, MD has taken the opportunity to review some of the existing provisions relating to the survey requirements of local vessels and suggested some amendments. Although some of the proposed legislative changes concern vessels other than Class IV vessels, the trade has been consulted and agreed that the proposed changes would be conducive to enhancing marine safety. In gist, we propose to amend the Merchant Shipping (Local Vessels) (Safety and Survey) Regulation (Cap. 548G) to –

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<sup>7</sup> Operating licences are valid for not more than 12 months. In other words, MD will maintain a full list of Class IV vessels that are let for hire or reward 12 months after the commencement of the proposed legislation.

- (a) improve the structure of the legislation by relocating some existing key requirements on the keeping of survey plans from the Schedule to the Regulation<sup>8</sup>;
- (b) harmonise the requirements on the provision of life-saving appliances and fire-fighting apparatus for Class II vessels (i.e. cargo vessels)<sup>9</sup>;
- (c) harmonise the requirements on the provision of portable fire extinguishers for certain vessels of a certain length<sup>10</sup>; and
- (d) harmonise the load line certificate requirement for certain Class II vessels with reference to the relevant international convention<sup>11</sup>.

*Merchant Shipping (Prevention of Oil Pollution) Regulations and Merchant Shipping (Prevention of Air Pollution) Regulation*

10. Under the Merchant Shipping (Local Vessels) (Safety and Survey) Regulation, local vessels will need to undergo various surveys. Such surveys may be conducted by authorised surveyors employed by a

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<sup>8</sup> The proposed change is editorial in nature.

<sup>9</sup> Under the proposal, all Class II vessels operating within the river trade limits will be required to be equipped with certain number of lifebuoys. The requirement will be on par with that currently applicable to Class II oil carriers having cargo with flash point not exceeding 60°C. Separately, for a non-propelled dumb lighter or hopper barge, the existing requirement on provision of buoyant apparatus may be waived if it is at all times accompanied by another local vessel (e.g. a tug) equipped with life-saving appliances sufficient for both vessels. We propose to extend the same arrangement to the requirement on provision of inflatable liferaft. This proposed amendment seeks to harmonise the requirement on the provision of inflatable liferaft with that of buoyant apparatus for non-propelled dumb lighters and hopper barges. Separately, we propose to extend the requirements of provision of fire-fighting apparatus currently applicable to Class II oil carriers operating within river trade limits to Class II oil carriers operating within Hong Kong waters.

<sup>10</sup> We propose to require certain vessels that are 24 metres in length or above to provide four portable fire extinguishers. This is to align with the existing statutory requirement for vessels that are 15 meters in length or above but below 24 metres. In line with the requirement for other local vessels, Class IIIA vessels below 45 metres will be required to provide one portable fire extinguisher at machinery space.

<sup>11</sup> The amendment is proposed, after making reference to the International Convention on Load Lines, such that only special purpose Class II vessels of 24 metres in length or above are required to obtain a Hong Kong Load Line Certificate.

recognised organisation (“RO”)<sup>12</sup>. Upon completion of survey with satisfactory results, the Director of Marine (“DM”) may issue a certificate to the vessel concerned as a recognition that the vessel is fit for the service intended and in good condition.

11. Certain local vessels (i.e. oil tankers of 150 gross tonnage and above and other ships of 400 gross tonnage or above) are also required to be surveyed and certificated in accordance with the Merchant Shipping (Prevention of Oil Pollution) Regulations (Cap. 413A) and the Merchant Shipping (Prevention of Air Pollution) Regulation (Cap. 413P). At present, DM will issue the Hong Kong Oil Pollution Prevention Certificate and the Hong Kong Air Pollution Prevention Certificate with satisfactory survey results conducted by surveyors of MD. We propose to amend the two aforesaid regulations to provide for similar survey and certification arrangements as described in paragraph 10 above for these local vessels. The proposed amendments seek to provide the trade with more flexibility by allowing DM to recognise surveys conducted by authorised surveyors employed by an RO and, with satisfactory survey results, issue the certificates concerned.

## **CONSULTATION**

12. MD consulted the Local Vessels Advisory Committee (“LVAC”) on the proposed reform of regulatory regime for Class IV vessels in September 2017. Members supported the reform measures. The trade is generally supportive of the proposed amendments.

## **LEGISLATIVE TIMETABLE**

13. Subject to the drafting progress, we aim at introducing the legislative amendments into the Legislative Council for negative vetting within the 2018-19 legislative session.

## **ADVICE SOUGHT**

14. Members are invited to comment on the proposed reform

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<sup>12</sup> ROs are professional bodies specialised in the technical areas of ships, such as ship construction, equipment, operation and surveys, etc. At present, MD entrusted ROs through contractual agreements to carry out certain services for local vessels including ships’ survey.

measures set out in this paper.

**Transport and Housing Bureau  
Marine Department  
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