



立法會秘書處 法律事務部
LEGAL SERVICE DIVISION
LEGISLATIVE COUNCIL SECRETARIAT

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By Fax (2523 0030)

20 May 2016

Ms Louisa YAN
Principal Assistant Secretary for Transport and Housing
(Transport) 10
Transport and Housing Bureau
21/F, East Wing
Central Government Offices
2 Tim Mei Avenue
Tamar
Hong Kong

Dear Ms YAN,

**Merchant Shipping (Safety) (Signals of Distress and
Prevention of Collisions) (Amendment) Regulation 2016 (L.N. 53)**

**Merchant Shipping (Safety) (Carriage of Cargoes)
(Amendment) Regulation 2016 (L.N. 54)**

Merchant Shipping (Safety) (IMSBC Code) Regulation (L.N. 55)

**Merchant Shipping (Safety) (High Speed Craft)
(Amendment) Regulation 2016 (L.N. 56)**

I am scrutinizing the legal and drafting aspects of the above regulations. I would be grateful if you could provide the following information or clarification.

L.N. 53

It is noted that rule 31 in the Schedule to the Merchant Shipping (Safety) (Signals of Distress and Prevention of Collisions) Regulations (Cap. 369N) as amended by section 4(8) of L.N. 53 concerns both a seaplane

and a Wing-In-Ground ("WIG") craft. However, the heading of rule 31 refers to seaplanes only. Please clarify whether a WIG craft is a kind of seaplane, and whether the heading of rule 31 should be amended to refer to both seaplanes and WIG crafts.

Section 4(17) of L.N. 53 amends paragraph 1(c) of Annex III in the Schedule to Cap. 369N. It is noted that the two paragraphs after the table in paragraph 1(c) are repealed in the Chinese text whereas they would be retained in the English text. Please clarify whether these two paragraphs are intended to be repealed or not, and consider whether the Chinese or the English text should be amended accordingly.

L.N. 54

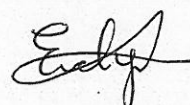
It is noted that section 9 of L.N. 54 adds a new section 3A to the Merchant Shipping (Safety) (Carriage of Cargoes) Regulation (Cap. 369AV). Under the new section 3A(8), a notice published by the Director of Marine in the Gazette pursuant to the new section 3A(7) is not subsidiary legislation. According to section 3 of the Interpretation and General Clauses Ordinance (Cap. 1), "subsidiary legislation" includes any notice made under or by virtue of any Ordinance and having legislative effect. In the light of the above, please clarify whether a notice made under the new section 3A(7) has legislative effect (and provide the relevant justifications), and if the answer is in the affirmative, explain why such a notice is not considered as "subsidiary legislation".

L.N. 55

Section 7 of L.N. 55 concerns the assessment of acceptability of solid bulk cargoes for safe shipment. According to section 7(1), the shipper must provide the master of the ship with information which is prescribed under section 7(2) "sufficiently in advance of loading". Please clarify the meaning of "sufficiently in advance of loading".

We would be grateful for your reply in both Chinese and English language on or before 30 May 2016.

Yours sincerely,



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