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on 14 October 2016**

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 7 October 2016**

**Tabling in LegCo** : Council meeting of 12 October 2016

**Amendment to be made by** : Council meeting of 9 November 2016 (or that of 30 November 2016 if extended by resolution)

**PART I SUBSIDIARY LEGISLATION MADE UNDER THE PHARMACY  
AND POISONS ORDINANCE (CAP. 138)**

**Pharmacy and Poisons (Amendment) (No. 4) Regulation  
2016**

**(L.N. 119)**

L.N. 119 is made by the Pharmacy and Poisons Board ("the Board") under section 29(1B) of the Pharmacy and Poisons Ordinance (Cap. 138) with the approval of the Secretary for Food and Health.

2. L.N. 119 amends the Pharmacy and Poisons Regulations (Cap. 138A) to:
- (a) add eight substances ("the eight substances") to Division A of Schedule 1 and Division A of Schedule 3 to Cap. 138A. Substances included in Schedule 1 to Cap. 138A are subject to restrictions concerning their sale, supply, labelling and storage. Substances included in Schedule 3 to Cap. 138A can only be sold by retail upon a prescription given by a registered medical practitioner, registered dentist or registered veterinary surgeon; and
  - (b) add eight substances to Division A of Part 1 of the Poisons List set out in Schedule 10 to Cap. 138A so that poisons containing those substances can only be sold on registered premises of an authorized seller of poisons by a registered pharmacist or in the presence and under the supervision of a registered pharmacist.

3. According to paragraph 4 of the LegCo Brief (File Ref: FHB/H/23/4) issued by the Food and Health Bureau in October 2016, the Board considers the amendments appropriate in view of the potency, toxicity and potential side effects of the eight substances. Members may refer to Annex B to the LegCo Brief for details of these substances.

4. As advised by the Clerk to the Panel on Health Services, the Administration has not consulted the Panel on L.N. 119.

5. L.N. 119 came into operation on the day of publication in the Gazette, i.e. 7 October 2016.

## **PART II SUBSIDIARY LEGISLATION MADE UNDER THE PILOTAGE ORDINANCE (CAP. 84)**

**Pilotage (Amendment) Order 2016 (L.N. 120)**

**Pilotage (Amendment) Regulation 2016 (L.N. 121)**

### L.N. 120

6. L.N. 120 is made by the Pilotage Authority under section 22 of the Pilotage Ordinance (Cap. 84) after consultation with the Pilotage Advisory Committee ("PAC").

7. Under section 10C of the Pilotage Ordinance (Cap. 84), every specified ship<sup>1</sup>, unless being exempted under Cap. 84, while navigating in the waters of Hong Kong must be under the pilotage of a licensed pilot (or pilots). The licensing regime of pilots is provided in Cap. 84 and its subsidiary legislation. The classification, experience and qualification of the licensed pilots are regulated by the Pilotage Order (Cap. 84C). The existing classes of pilotage are set out in Schedule 2 to Cap. 84C. At present, licensed pilots are classified into Class I and Class II, and Class II pilots are subdivided into Classes IIA, IIB, IIC and IID.

8. L.N. 120 mainly amends the Schedules to Cap. 84C to:

- (a) add two new classes of pilotage (i.e. Class IIE and Class IIF) (by amending Schedule 2) to the existing classification structure of pilotage services;
- (b) provide for the experience required for the new classes of pilotage and revise the experience required for the existing classes of pilotage (by amending Schedule 3); and

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<sup>1</sup> Ships subject to compulsory pilotage under section 10C, including a ship of 3 000 gross tonnage or over, are specified in Schedule 1 to Cap. 84.

- (c) reflect the recent changes of wharves and berths in Hong Kong at which apprentice pilots registered under the Pilotage Regulations (Cap. 84A) have to acquire the necessary experience at such wharves or berths to obtain a pilot's licence (by amending Schedule 1).

9. L.N. 120 contains a transitional provision so that the pre-amended classification of licensed pilots and the relevant experience requirements will continue to apply to a person who is a licensed pilot immediately before the commencement of L.N. 120 (i.e. 23 December 2016). As such, the amendments under L.N. 120 do not have retrospective effect.

10. According to paragraph 5 of the LegCo Brief (File Ref.: THB(T)PML 8/10/50/1) issued by the Transport and Housing Bureau in October 2016, as the length of vessels calling at Hong Kong has been increasing over the years and long vessels require more skills to operate, PAC decided to add two more levels of Class II pilotage, Classes IIE and IIF, to enable pilots to acquire the necessary experience in handling larger vessels in a progressive manner.

#### L.N. 121

11. L.N. 121 is made by the Chief Executive ("CE") in Council under section 21 of Cap. 84 to amend the Pilotage Regulations (Cap. 84A). It makes consequential amendments to Cap. 84A (relating to the prescribed licence fees of different classes) that are required as a result of the addition of the new classes of pilotage by L.N. 120.

12. L.N. 120 and L.N. 121 come into operation on 23 December 2016.

13. As advised by the Clerk to the Panel on Economic Development, the Panel was consulted on the amendments to update the pilotage classes, experience required for progression of pilots and berth information on 19 April 2016. Members were supportive of the proposals. Members noted that the adding of two more levels of Class II pilotage to the existing four-level scale could enable pilots to acquire the necessary experience in handling larger vessels in a progressive manner.

### **PART III SUBSIDIARY LEGISLATION MADE UNDER THE MERCHANT SHIPPING (SAFETY) ORDINANCE (CAP. 369) AND THE MERCHANT SHIPPING ORDINANCE (CAP. 281)**

**Merchant Shipping (Safety) (Navigational Equipment and Safety of Navigation) Regulation**

**(L.N. 122)**

**Merchant Shipping (Safety) (Minimum Safe Manning Certificate) (Amendment) Regulation 2016**

**(L.N. 123)**

<b>Merchant Shipping (Safety) (Automatic Pilot and Testing of Steering Gear) Regulations (Repeal) Regulation</b>	<b>(L.N. 124)</b>
<b>Merchant Shipping (Safety) (Carriage of Nautical Publications) Regulations (Repeal) Regulation</b>	<b>(L.N. 125)</b>
<b>Merchant Shipping (Safety) (Navigational Equipment) Regulations (Repeal) Regulation</b>	<b>(L.N. 126)</b>
<b>Merchant Shipping (Safety) (Navigational Warnings) Regulations (Repeal) Regulation</b>	<b>(L.N. 127)</b>
<b>Merchant Shipping (Safety) (Arrangements for Embarkation and Disembarkation of Pilots) Regulation (Repeal) Regulation</b>	<b>(L.N. 128)</b>
<b>Merchant Shipping (Safety) (Cargo Ship Construction and Survey) (Ships Built On or After 1 September 1984) (Amendment) Regulation 2016</b>	<b>(L.N. 129)</b>
<b>Merchant Shipping (Safety) (Cargo Ship Safety Equipment Survey) (Amendment) Regulation 2016</b>	<b>(L.N. 130)</b>
<b>Merchant Shipping (Safety) (Passenger Ship Construction and Survey) (Ships Built On or After 1 September 1984) (Amendment) Regulation 2016</b>	<b>(L.N. 131)</b>
<b>Merchant Shipping (Fees) (Amendment) Regulation 2016</b>	<b>(L.N. 132)</b>

#### Background

14. According to paragraphs 1 and 2 of the LegCo Brief (File Ref: THB PML CR 8/10/80/6) issued by the Transport and Housing Bureau in October 2016, the International Convention for the Safety of Life at Sea ("SOLAS") is a convention under the International Maritime Organization ("IMO") governing the standards for the construction, equipment and operation of ships to ensure maritime safety. SOLAS is implemented in Hong Kong through the Merchant Shipping (Safety) Ordinance (Cap. 369) and its subsidiary legislation. IMO has adopted new requirements under Chapter V of SOLAS concerning the safety of navigation for ocean-going vessels ("OGVs"). In order to give effect to the updated requirements under SOLAS, the Secretary for Transport and Housing ("STH") has made a new regulation (i.e. L.N. 122) and an amendment regulation (i.e. L.N. 123) under Cap. 369. According to paragraph 9 of the LegCo Brief, the Administration has adopted the "direct reference approach" ("DRA") in the making of L.N. 122 and L.N. 123. The Administration considers that by making direct reference to provisions under international agreements in local legislation, DRA can keep local

legislation in tandem with IMO's new requirements. DRA is mainly adopted in L.N. 122 and L.N. 123 for the technical details of the new requirements.

#### L.N. 122

15. L.N. 122 is a new regulation made by STH under sections 98, 99, 100, 107, 108, 112 and 112B of Cap. 369 and section 3 of the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413). The object of L.N. 122 is to implement the updated technical requirements for the safety of navigation provided in Chapter V of SOLAS, as amended and applicable to Hong Kong.

16. The major parts of L.N. 122 provide for the requirements (a) in respect of the navigational systems and equipment that OGVs must install or be fitted with<sup>2</sup> and (b) for the safety of navigation at sea.<sup>3</sup> Certain offences are created under L.N. 122 against the owner and/or master (including the officer-in-charge appointed by the master) of the relevant OGV for the contravention of the requirements under L.N. 122 or the relevant regulations under Chapter V of SOLAS.

17. According to section 3 of L.N. 122, L.N. 122 does not apply to local vessels<sup>4</sup>, fishing vessels, pleasure vessels, warships, naval auxiliaries, ships owned or operated by the Government (or by the government of a Convention country), or a ship of a non-Convention country which is within the waters of Hong Kong due to stress of weather, etc.

#### L.N. 123

18. L.N. 123 is made by STH under section 107 of Cap. 369 to amend the Merchant Shipping (Safety) (Minimum Safe Manning Certificate) Regulation (Cap. 369AS). The object of L.N. 123 is to implement the updated technical requirements for OGV's manning provided in regulation 14 of Chapter V of SOLAS, as amended and applicable to Hong Kong.

19. L.N. 123 amends Cap. 369AS to extend its scope so as to cover the following aspects of manning requirements of OGVs engaged in an international voyage:

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<sup>2</sup> See Part 2 of L.N. 122. Such systems and equipment include voyage data recorder, automatic identification system, long range identification and tracking system, electronic chart display and information system, and bridge navigational watch alarm system.

<sup>3</sup> See Part 3 of L.N. 122. Such requirements include a plan for cooperation with search and rescue services, mandatory ships' routing system, requirement on nautical charts and publications, mandatory records of navigational activities, obligations and procedures in distress situations, and mandatory communication on navigation dangers to all ships in the vicinity and the nearest coastal authority.

<sup>4</sup> Local vessels are separately regulated under the Merchant Shipping (Local Vessels) Ordinance (Cap. 548).

- (a) working language on board, including a requirement that the working language to be used on board must be determined in advance by the owner of the ship so as to ensure effective communication between seafarers on board; and
- (b) communication from bridge, including a requirement that the master of a ship must ensure that English is used on the bridge communications (i.e. communications of bridge-to-bridge, bridge-to-shore and between the pilot of the ship and the bridge) as the working language, unless the persons directly involved in the communications speak a common language other than English.

20. New offences are also created under L.N. 123 against the owners or masters of OGVs who fail to comply with the latest requirements. Furthermore, L.N. 123 renames the title of Cap. 369AS as "the Merchant Shipping (Safety) (Ship's Manning) Regulation" to reflect the extension of scope of the Regulation.

21. According to sections 8 and 13 of L.N. 123, the requirements for the ship's manning and working language do not apply to local vessels, fishing vessels, pleasure vessels, warships, naval auxiliaries, ships owned or operated by the Government (or by the government of a Convention country), or a ship of a non-Convention country which is within the waters of Hong Kong due to stress of weather, etc.

#### L.N. 124 to L.N. 128 - repeal of five items of subsidiary legislation

22. L.N. 124 to L.N. 128 are made by STH under various sections of Cap. 369 to repeal the following regulations under Cap. 369:

- (a) the Merchant Shipping (Safety) (Automatic Pilot and Testing of Steering Gear) Regulations (Cap. 369L);
- (b) the Merchant Shipping (Safety) (Carriage of Nautical Publications) Regulations (Cap. 369M);
- (c) the Merchant Shipping (Safety) (Navigational Equipment) Regulations (Cap. 369AJ);
- (d) the Merchant Shipping (Safety) (Navigational Warnings) Regulations (Cap. 369AK); and
- (e) the Merchant Shipping (Safety) (Arrangements for Embarkation and Disembarkation of Pilots) Regulation (Cap. 369AU).

The relevant provisions of the above items of subsidiary legislation have been consolidated under or incorporated into L.N. 122. Hence, the above items of subsidiary legislation are to be repealed upon the commencement of L.N. 122.

L.N. 129 to L.N. 132 - consequential amendments

23. L.N. 129 to L.N. 131 are made by STH under various sections of Cap. 369. L.N. 132 is made by CE in Council under section 114 of the Merchant Shipping Ordinance (Cap. 281). L.N. 129 to L.N. 132 are consequential amendments made to the following regulations following the repeal of the Regulations specified in paragraph 22(a) to (e) by L.N. 124 to L.N. 128 and the making of L.N. 122:

- (a) the Merchant Shipping (Safety) (Cargo Ship Construction and Survey) (Ships Built On or After 1 September 1984) Regulations (Cap. 369S);
- (b) the Merchant Shipping (Safety) (Cargo Ship Safety Equipment Survey) Regulations (Cap. 369T);
- (c) the Merchant Shipping (Safety) (Passenger Ship Construction and Survey) (Ships Built On or After 1 September 1984) Regulations (Cap. 369AM); and
- (d) the Merchant Shipping (Fees) Regulations (Cap. 281F).

24. L.N. 122 to L.N. 132 come into operation on 1 December 2016.

25. As advised by the Clerk to the Panel on Economic Development, the Panel was consulted on the Administration's proposals to incorporate the latest requirements of SOLAS into the local legislation on 27 July 2015. Members generally supported the proposals and urged for their early implementation. In response to members' concern about the delay of incorporating the latest requirements of SOLAS into the local legislation, the Administration advised that the Marine Department had already promulgated guidelines through the Hong Kong Merchant Shipping Information Notes to facilitate compliance by OGVs. So far, the vessels concerned showed no problems in compliance.

**PART IV SUBSIDIARY LEGISLATION MADE UNDER THE MERCHANT SHIPPING (SEAFARERS) ORDINANCE (CAP. 478) AND THE ADMINISTRATIVE APPEALS BOARD ORDINANCE (CAP. 442)**

**Merchant Shipping (Seafarers) (Certification of Officers)  
(Amendment) Regulation 2016 (L.N. 133)**

**Merchant Shipping (Seafarers) (Tankers) Regulation (L.N. 134)**

**Merchant Shipping (Seafarers) (Engine Room Watch Ratings)  
(Amendment) Regulation 2016 (L.N. 135)**

<b>Merchant Shipping (Seafarers) (Navigational Watch) Regulation</b>	<b>(L.N. 136)</b>
<b>Merchant Shipping (Seafarers) (Certificates of Proficiency for Able Seafarers) Regulation</b>	<b>(L.N. 137)</b>
<b>Merchant Shipping (Seafarers) (Safety, Security and Designated Duties Training) Regulation</b>	<b>(L.N. 138)</b>
<b>Merchant Shipping (Seafarers) (Ro-Ro Passenger Ships–Training) (Amendment) Regulation 2016</b>	<b>(L.N. 139)</b>
<b>Merchant Shipping (Seafarers) (Certification and Watchkeeping) (Amendment) Regulation 2016</b>	<b>(L.N. 140)</b>
<b>Merchant Shipping (Seafarers) (Health and Safety: General Duties) (Amendment) (No. 2) Regulation 2016</b>	<b>(L.N. 141)</b>
<b>Merchant Shipping (Seafarers) (Fees) (Amendment) (No. 2) Regulation 2016</b>	<b>(L.N. 142)</b>
<b>Administrative Appeals Board Ordinance (Amendment of Schedule) Order 2016</b>	<b>(L.N. 143)</b>
<b>Merchant Shipping (Seafarers) (Tankers–Officers and Ratings) Regulation (Repeal) Regulation</b>	<b>(L.N. 144)</b>
<b>Merchant Shipping (Seafarers) (Navigational Watch Ratings) Regulation (Repeal) Regulation</b>	<b>(L.N. 145)</b>
<b>Merchant Shipping (Seafarers) (Certificates of Competency as A.B.) Rules (Repeal) Rules</b>	<b>(L.N. 146)</b>
<b>Merchant Shipping (Seafarers) (Safety Training) Regulation (Repeal) Regulation</b>	<b>(L.N. 147)</b>
<b>Merchant Shipping (Seafarers) (Certificates of Proficiency in Survival Craft, Rescue Boats and Fast Rescue Boats) Rules (Repeal) Rules</b>	<b>(L.N. 148)</b>
<b>Merchant Shipping (Seafarers) (Passenger Ships Other Than Ro-Ro Passenger Ships–Training) Regulation (Repeal) Regulation</b>	<b>(L.N. 149)</b>
<b>Merchant Shipping (Seafarers) (Safety Officials and Reporting of Accidents and Dangerous Occurrences) (Amendment) (No. 2) Regulation 2016</b>	<b>(L.N. 150)</b>



**Merchant Shipping (Seafarers) (Disciplinary Offences on Board Ships) (Amendment) Regulation 2016**

**(L.N. 151)**

Background

26. According to paragraph 2 of the Legislative Council ("the LegCo") Brief (File Ref: THB[T]PML 8/10/120/7) issued by the Transport and Housing Bureau in October 2016, the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (the "STCW Convention"), adopted by the IMO in 1978 and entered into force in 1984, promotes safety of life and property at sea and the protection of the marine environment by establishing international standards of training, certification and watchkeeping for seafarers. The Merchant Shipping (Seafarers) Ordinance (Cap. 478) and its subsidiary legislation implement, among others, the STCW Convention in Hong Kong.

L.N. 133 to L.N. 141

27. L.N. 133 to L.N. 141 are made by STH under various sections of Cap. 478 to implement the requirements under the STCW Convention as revised by the "Manila Amendments" adopted by IMO in 2010<sup>5</sup> (the "Revised STCW Convention"). According to paragraph 3 of the LegCo Brief, the Manila Amendments will be enforced internationally<sup>6</sup> with effect from 1 January 2017. In gist:

- (a) L.N. 133, 135, 139 and 140 are made to implement requirements under the Revised STCW Convention. They amend the following regulations to provide for the certification of, the application and requirements for the issue of certificates of competency or proficiency (as the case may be) on the matters set out below:
  - (i) the Merchant Shipping (Seafarers) (Certification of Officers) Regulation (Cap. 478J) in relation to electro-technical officers, which is a new rank of seafarers (L.N. 133) ;
  - (ii) the Merchant Shipping (Seafarers) (Engine Room Watch Ratings) Regulation (Cap. 478V) in relation to engine room watch ratings and electro-technical ratings (L.N. 135);
  - (iii) the Merchant Shipping (Seafarers) (Ro-Ro Passenger Ships-Training) Regulation (Cap. 478AD) in relation to the requirement

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<sup>5</sup> According to the Explanatory Notes of L.N. 133 to L.N. 141, the latest substantial amendments to the STCW Convention were adopted by the International Conference on Training and Certification of Seafarers in Manila, the Philippines in 2010 (the "Manila Amendments").

<sup>6</sup> According to the Department of Justice, the Revised STCW Convention is one of the treaties in force and applicable to Hong Kong.

of keeping documentary evidence of the seafarers' training (L.N. 139); and

- (iv) the Merchant Shipping (Seafarers) (Certification and Watchkeeping) Regulation (Cap. 478T) in relation to watchkeeping, certain miscellaneous duties of the company of a ship, seafarers' hours of rest, the keeping of certificates and documents on a ship and power of inspection of a ship by a person authorised by the Seafarer's Authority to carry out specified verification and assessment (L.N. 140);
- (b) L.N. 134, 136, 137 and 138 are new regulations made to implement the various requirements under the Revised STCW Convention relating to the matters set out below. They provide for the certification of, the application and requirements for the issue of certificates of competency, proficiency or endorsements (as the case may be) on the following matters:
  - (i) undertaking duties or responsibilities by seafarers working on oil, chemical and liquefied gas tankers (L.N. 134);
  - (ii) navigational watch ratings (L.N. 136);
  - (iii) able seafarers deck and able seafarers engine (L.N. 137); and
  - (iv) ship safety, security and designated duties including medical first-aid and operation of fast rescue boats (L.N. 138); and
- (c) L.N. 141 amends the Merchant Shipping (Seafarers) (Health and Safety: General Duties) Regulation (Cap. 478C) to make it a criminal offence on board a ship for a seafarer to be under the influence of alcohol or drugs while the seafarer is performing certain duties.

28. L.N. 133 to L.N. 141 come into operation on 1 December 2016.

#### L.N. 142

29. As a result of the implementation of the requirements under the Revised STCW Convention, L.N. 142 is made by the Secretary for Financial Services and the Treasury under section 133 of Cap. 478 to amend the Schedule to the Merchant Shipping (Seafarers) (Fees) Regulation (Cap. 478AB) to provide for new fees payable for certain examinations, certificates and endorsements and to remove the obsolete fees. L.N. 142 comes into operation on 1 December 2016 except two repeal items (section 3(7) and (9)) which come into operation on 1 January 2017.

### L.N. 143

30. L.N. 143 is made by the Chief Executive in Council under section 4 of the Administrative Appeals Board Ordinance (Cap. 442) to amend the Schedule to Cap. 442 to provide for appeals to the Administrative Appeals Board in respect of certain decisions made by the Seafarer's Authority under the above-mentioned new regulations (i.e. L.N. 134, 136, 137 and 138) and Merchant Shipping (Seafarers) (Working and Living Conditions) Regulation (L.N. 69 of 2016), and to make certain amendments. L.N. 143 comes into operation on 1 December 2016, except the new right of appeal against specified decisions made by the Seafarer's Authority under L.N. 69 of 2016 which comes into operation on a day to be appointed by STH by notice published in the Gazette (which is in line with the commencement of L.N. 69 of 2016) and two repeal items (section 3(2) and (5)) which come into operation on 1 January 2017.

### L.N. 144 to L.N. 151

31. Consequential regulations and rules (L.N. 144 to L.N. 151) are made to repeal or amend the items of subsidiary legislation of Cap. 478 listed below:

- (a) L.N. 144 repeals the Merchant Shipping (Seafarers) (Tankers-Officers and Ratings) Regulation (Cap. 478K), as the updated requirements have been provided in L.N 134.
- (b) L.N. 145 repeals the Merchant Shipping (Seafarers) (Navigational Watch Ratings) Regulation (Cap. 478W), as the updated requirements have been provided in L.N 136.
- (c) L.N. 146 repeals the Merchant Shipping (Seafarers) (Certificates of Competency as A.B.) Rules (Cap. 478Y), as the updated requirements have been provided in L.N 137.
- (d) L.N. 147 and L.N. 148 respectively repeal the Merchant Shipping (Seafarers) (Safety Training) Regulation (Cap. 478AC) and the Merchant Shipping (Seafarers) (Certificates of Proficiency in Survival Craft, Rescue Boats and Fast Rescue Boats) Rules (Cap. 478Z), as the updated requirements have been provided in L.N 138.
- (e) L.N. 149 repeals the Merchant Shipping (Seafarers) (Passenger Ships Other Than Ro-Ro Passenger Ships-Training) Regulation (Cap. 478AE), as the updated requirements have been provided in L.N 139.
- (f) L.N. 150 amends the Merchant Shipping (Seafarers) (Safety Officials and Reporting of Accidents and Dangerous Occurrences) Regulation (Cap. 478R) to replace the reference to the Merchant Shipping

(Seafarers) (Tankers-Officers and Ratings) Regulation (Cap. 478K) with the Merchant Shipping (Seafarers) (Tankers) Regulation provided in L.N. 134.

- (g) L.N. 151 amends the Merchant Shipping (Seafarers) (Disciplinary Offences on Board Ships) Regulation (Cap. 478N) to remove the disciplinary offence relating to the influence of alcohol or drugs, as the updated requirements have been provided in L.N. 141.

32. L.N. 144 to L.N. 148 come into operation on 1 January 2017. L.N. 149 to L.N. 151 come into operation on 1 December 2016.

### Application of Direct Reference Approach

33. Section 134(3A) of Cap. 478 as added by the Merchant Shipping (Seafarers) (Amendment) Ordinance 2013 (Ord. 16 of 2013), which is to come into operation on 1 December 2016 (See L.N. 152 below), empowers STH to adopt DRA i.e. an approach of making direct reference to provisions of international conventions including the STCW Convention and the Revised STCW Convention in making and amending regulations under Cap. 478. It is noted that the Administration has adopted such approach in, for example, the new section 7C(2) of Cap. 478J provided in L.N. 133. According to paragraph 15 of the LegCo Brief, that approach is adopted to keep the local legislation in tandem with the new requirements under the Revised STCW Convention.

### Public consultation

34. As stated in paragraph 19 of the LegCo Brief, the Administration has consulted the Shipping Consultative Committee, which is a non-statutory consultative body comprising representatives of the shipping industry, seafarers' associations and trade organizations, on the legislative proposals for implementing the Revised STCW Convention. Members endorsed the proposals.

### Consultation with LegCo

35. As advised by the Clerk to the Panel on Economic Development, the Panel was consulted on the proposed amendments to implement the STCW Convention on 19 April 2016. Members were supportive of the proposals. Members noted that in order to keep the training standards in tandem with new technological and operational requirements, a major revision to the STCW Convention, commonly known as the "Manila Amendments", would be enforced internationally with effect from 1 January 2017. In this respect, members noted that institutions, such as the Maritime Services Training Institute, had already been providing the necessary trainings to seafarers in implementing the Manila Amendments.

## **PART V COMMENCEMENT NOTICES**

**Merchant Shipping (Seafarers) (Amendment) Ordinance 2013  
(Commencement) Notice 2016 (L.N. 152)**

**Merchant Shipping (Seafarers) (Health and Safety: General  
Duties) (Amendment) Regulation 2016 (Commencement) Notice  
2016 (L.N. 153)**

**Merchant Shipping (Seafarers) (Medical Examination)  
(Amendment) Regulation 2016 (Commencement) Notice (L.N. 154)**

### L.N. 152

36. L.N. 152 is made by STH under section 1(2) of the Merchant Shipping (Seafarers) (Amendment) Ordinance 2013 (Ord. No. 16 of 2013) to appoint 1 December 2016 as the day on which certain provisions of Ord. No. 16 of 2013 come into operation. These provisions relate to the amendment of the definition of seafarer (for example, section 3(11)(c) and section 4) and the adoption of DRA in making regulations in future for implementing requirements under international agreements applicable to Hong Kong (section 66). Other provisions of Ord. No. 16 of 2013 have not yet come into operation.

37. The Merchant Shipping (Seafarers) (Amendment) Bill 2013 ("the Bill") was passed by LegCo on 6 November 2013 and the enacted Ordinance was published in the Gazette as Ord. No. 16 of 2013 on 15 November 2013. In gist, Ord. No. 16 of 2013 amends Cap. 478 to implement certain requirements of the Maritime Labour Convention, 2006 ("2006 Convention"), to make technical amendments to improve the operation and presentation of Cap. 478, and to provide for related and consequential matters.

38. According to paragraph 13 of the LegCo Brief (File Ref: THB[T]PML 8/10/120/7) i.e. the same LegCo Brief for L.N. 133 to L.N. 151, the commencement arrangement under L.N. 152 is for the implementation of the Revised STCW Convention.

39. As advised by the Clerk to the Bills Committee on the Bill, some members of the Bills Committee expressed reservation on the use of DRA in the Bill on the ground that it might deprive LegCo of the power to scrutinize the subsidiary legislation which implemented international conventions in Hong Kong. Upon explanation by the Administration of the various factors that it would take into account when deciding whether to adopt DRA, details of which are set out in paragraphs 18 to 21 of the Bills Committee's report (LC Paper No. CB(1)103/13-14), it was agreed that the Administration would include in the relevant LegCo Brief for subsidiary legislation to be made in the future a detailed explanation of the provisions

in the subsidiary legislation where DRA was adopted, and provide extracts of the requirements in 2006 Convention (where appropriate) as appendices to the LegCo Brief for Members' reference.

40. As advised by the Clerk to the Panel on Economic Development, the Panel has not been consulted on L.N. 152.

#### L.N. 153

41. L.N. 153 is made by STH under section 1 of the Merchant Shipping (Seafarers) (Health and Safety: General Duties) (Amendment) Regulation 2016 (L.N. 71 of 2016) to appoint 1 December 2016 as the day on which L.N. 71 of 2016 (except section 4 which amends general duties of employers) comes into operation.

42. L.N. 71 of 2016 amends the Merchant Shipping (Seafarers) (Health and Safety: General Duties) Regulation (Cap. 478C) to provide that the employer's duty under section 4(1) of Cap. 478C to ensure the health and safety of seafarers and other persons on board a ship is expanded to include the duty to adopt, implement and promote occupational safety and health policies and programmes, and the duty to adopt precautions to prevent occupational accidents, injuries and diseases on board the ship. It also makes certain drafting amendments.

43. As advised by the Clerk to the Panel on Economic Development, the Panel has not been consulted on L.N. 153.

#### L.N. 154

44. L.N. 154 is made by STH under section 1 of the Merchant Shipping (Seafarers) (Medical Examination) (Amendment) Regulation 2016 (L.N. 74 of 2016) to appoint 1 December 2016 as the day on which L.N. 74 of 2016 comes into operation.

45. L.N. 74 of 2016 amends the Merchant Shipping (Seafarers) (Medical Examination) Regulation (Cap. 478O) to update the medical standards, requirements and criteria for seafarers and the requirements on the issuance of medical fitness certificates.

46. As advised by the Clerk to the Panel on Economic Development, the Panel has not been consulted on L.N. 154.

### **Concluding Observations**

47. The Legal Service Division is scrutinizing L.N. 133 to L.N. 143 and will report further if necessary.

48. No difficulties have been identified in the legal and drafting aspects of L.N. 119 to L.N. 132 and L.N. 144 to L.N. 154.

Prepared by  
YICK Wing-kin (L.N. 119 to L.N. 132)  
LO Wing-yee, Winnie (L.N. 133 to L.N. 154)  
Assistant Legal Advisers  
Legislative Council Secretariat  
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