



中華人民共和國香港特別行政區  
Hong Kong Special Administrative Region of the People's Republic of China



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)

30 December 2016

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

Dear Ms YAN,

**Merchant Shipping (Local Vessels) (General) (Amendment)  
Regulation 2016 (L.N. 186) and Merchant Shipping (Local Vessels)  
(Safety and Survey) (Amendment) Regulation 2016 (L.N. 187)**

We are scrutinizing the above Regulations and should be grateful for your clarification on the matters set out below.

L.N. 186

*The new section 33A(3) of the Merchant Shipping (Local Vessels) (General) Regulation (Cap. 548F)*

The new section 80A(2) of the Merchant Shipping (Local Vessels) (Safety and Survey) Regulation (Cap. 548G) as added by section 7 of L.N. 187 provides, among other things, that a Class II vessel which is a dangerous goods carrier, a noxious liquid substance carrier or an oil carrier must be fitted with an automatic identification system ("AIS") with prescribed information to be stored and maintained.

The new section 33A(3) of Cap. 548F, however, excludes a Class II vessel being one of the above carriers that is not fitted with a propulsion engine and is not carrying any dangerous goods as defined in regulation 2 of the

Dangerous Goods (Shipping) Regulations (Cap. 295C) from the application of the new Division 1 of Part 5A of Cap. 548F which provides for the requirements relating to the operation of AIS. Please explain for making such exclusion in Cap. 548F.

*The new section 33E(2) of Cap. 548F*

The new section 33E(2) excuses the compliance of the relevant requirements in an emergency situation as described in the provision to the extent necessary to avoid endangering any person or property or the environment. Similar provision is made in the current section 80(1) of Cap. 548F in respect of Part 9 of Cap. 548F.

It is noted that the phrase "to the extent necessary" in the English text of both provisions is rendered as "屬必要的範圍內" in the Chinese text of the new section 33E(2) but as "屬需要的範圍內" in the Chinese text of the current section 80(1). Please explain the reasons for different Chinese renditions for the same English phrase.

*The new section 33F of Cap. 548F*

The new section 33F only requires a certificated operator to be present on board the vessel at all times when it is underway without further restricting the radiotelephone equipment to be operated by the certificated operator only. Please clarify.

*The new section 33I(2)(b) of Cap. 548F*

The new section 33I(2)(b) specifies that the obligation to maintain continuous listening watch under the new section 33I(1) of Cap. 548F does not apply when the radiotelephone equipment for VHF radiotelephone communication on board a vessel is inoperable due to malfunction of the equipment. Similar provision is found in the current section 82(2)(a) of Cap. 548F in respect of a local vessel specified in the current section 57(a), (b) or (c) of Cap. 548F, except that no provision is made for requiring that the equipment is inoperable due to malfunction. Please explain the grounds to make such a limit in the new section 33I(2)(b). Is it possible that such an equipment could be inoperable for reasons other than malfunction of the equipment?



L.N. 187

*The new sections 80(1A), 80A and 80B of Cap. 548G*

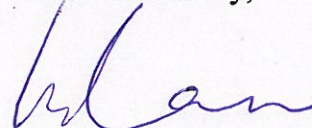
Section 3 of Cap. 548G provides that Cap. 548G applies to local vessels to which Part IV of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) applies. Section 10 of Cap. 548 states that Part IV of Cap. 548 does not apply to four kinds of local vessels. The new requirements regarding radar, AIS and radiotelephone equipment under the new sections 80(1A), 80A and 80B therefore do not apply to these four kinds of local vessels. Please explain for such exclusion.

*Definition of "specified information" under the new section 80A(8) of Cap. 548G*

"AIS" is defined in the new section 80A(8) to mean a system, among other things, that is capable of providing and receiving the specified information automatically. "Specified information" is defined in the same section, in relation to a vessel, to include the identity, type, position, course, speed, navigational status and other safety related information of the vessel. Apart from these expressed items, is there any other information about the vessel that AIS should be capable of providing and receiving and if so, should such information be spelt out in the definition of "specified information" for the sake of clarity and certainty? Alternatively, if these expressed items are meant to be exhaustive, should "includes" in the definition be replaced by "means"? It should be noted that it is an offence punishable with a maximum fine at level 3 under the new section 80A(7) of Cap. 548G for contravention of the requirement for fitting vessels with AIS under the new section 80A(3) of Cap. 548G without reasonable excuse.

We would be grateful if you could let us have your reply in bilingual form as soon as possible, preferably on or before 12:00 pm on 4 January 2017.

Yours sincerely,



(Wendy KAN)

Assistant Legal Adviser

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Clerk to the Subcommittee  
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