

LEGISLATIVE COUNCIL BRIEF

Merchant Shipping (Local Vessels) Ordinance
(Chapter 548)

**MERCHANT SHIPPING (LOCAL VESSELS)
(GENERAL) (AMENDMENT) REGULATION 2016**

**MERCHANT SHIPPING (LOCAL VESSELS)
(SAFETY AND SURVEY) (AMENDMENT) REGULATION 2016**

INTRODUCTION

To assist navigation and facilitate communications at sea, the Secretary for Transport and Housing has made the following amendment regulations under section 89(1) of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) (“The Ordinance”) to require local vessels to use specified navigational and communications equipment —

- (a) the Merchant Shipping (Local Vessels) (General) (Amendment) Regulation 2016 at **Annex A**; and
- (b) the Merchant Shipping (Local Vessels) (Safety and Survey) (Amendment) Regulation 2016 at **Annex B**.

BACKGROUND

2. Subsequent to the vessel collision incident near Lamma Island on 1 October 2012, the Chief Executive in Council appointed an independent Commission of Inquiry (“CoI”) to investigate the cause of the incident and recommend measures to prevent recurrence. One of the measures recommended is to enhance navigational and communications equipment on local vessels.

3. Specifically, the CoI recommended all ferries and launches for more than 12 passengers to carry a Very High Frequency radiotelephone (“VHF radio”), and for vessels for more than 100 passengers to further install automatic identification system (“AIS”) and radar. Details of these equipment are as follows —

- (a) **VHF radio:** A common type of communication equipment at sea, VHF radio enables vessels in emergency to contact and seek assistance from the Marine Department (MD)’s Vessel Traffic Centre (“VTC”) and nearby vessels, as well as to communicate with government vessels handling emergency situations at sea (e.g. Marine Police and Fire

Services launches). VHF radio disseminates messages by way of broadcast so that all parties concerned receive the messages simultaneously.

- (b) **AIS:** AIS sends navigational information of a vessel (e.g. the vessel's position, name, course, speed) automatically to other vessels and shore stations (e.g. VTC), thus helping coxswains to take appropriate navigational decisions. Vessels with AIS can be more easily located and identified in emergency situations, facilitating the effective deployment of rescue teams for a more expeditious search and rescue operation. The data collected from AIS will also support traffic management planning and accident investigation.
- (c) **Radar:** It helps predict risks of collision with vessels or objects in the vicinity by detecting the traffic conditions of nearby waters. Preventive actions can then be taken at the earliest opportunity to enhance navigational safety. Radar is particularly useful during times of limited visibility (e.g. heavy fog or rain).

4. At present, only specified types of oil carriers, high-speed ferries and ferry vessels plying outside the Victoria port are required to have VHF radio, AIS and radar. Other local vessels in Hong Kong are not required to have such equipment. With the advancement of navigational technology, VHF radio, AIS and radar are now more widely used to assist navigation. There are merits in mandating local vessels to use such equipment for better communication and safer navigation.

LEGISLATIVE PROPOSAL

5. We propose to amend the Merchant Shipping (Local Vessels) (General) Regulation (Cap. 548F) and the Merchant Shipping (Local Vessels) (Safety and Survey) Regulation (Cap. 548G) to require local vessels to install and operate VHF radio, AIS and radar.

VHF radio

6. We propose to require Class I vessels (i.e. passenger vessels) permitted to carry more than 12 passengers to be fitted with VHF radio. At least one crew member on board should have the certificate of competency issued by the Office of the Communications Authority (OFCA) 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.

Automatic Identification System (“AIS”)

7. We propose to require Class I vessels¹ permitted to carry more than 100 passengers to install and use AIS at all times. To further enhance navigational safety, we also propose to take a step further to impose such requirements on the following categories of vessels due to their large size and the dangerous nature of the goods carried —

- (a) Class II vessels of 300 gross tonnage or above fitted with propulsion engine; and
- (b) Class II vessels used for carrying dangerous goods (whether fitted with or without any propulsion engine), including dangerous goods carriers, noxious liquid substance carriers and oil carriers.

Radar

8. We propose to require Class I 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.

9. However, Class I vessels which operate a franchised or licensed ferry service plying within the Victoria port will be exempt from this requirement because —

- (a) the Victoria port is calm and sheltered from wind;
- (b) coxswains of vessels operating a franchised or licensed ferry service are familiar with the navigational channels and situation in nearby waters; and
- (c) with the installation of AIS (as mentioned in paragraph 7 above), the navigational risks of such vessels plying within the Victoria port are low.

Other Exceptions

10. Floating restaurants, stationary vessels, and Class I vessels which are restricted by conditions under any licence or permit to ply within typhoon shelters only are not required to install VHF radio, AIS and radar. These vessels are either

¹ Local vessels are classified into Classes I to IV under the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548D). Generally speaking, Classes I to IV refer to the vessels of 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.

stationary, or operate in very close proximity to the shore or within restricted areas, the risks involved in their navigation are low.

THE REGULATIONS

11. The Amendment Regulations will —
- (a) require certain local vessels to provide on board three kinds of navigational and communications equipment, i.e. AIS, radar and VHF radio;
 - (b) require the AIS on board to be switched on and maintained in good working condition, and require the radar and VHF radio on board to be maintained in good working condition;
 - (c) require the presence of crew members who are competent or qualified to use the radar and VHF radio on board; and
 - (d) prescribe the communications protocols for using the VHF radio.

LEGISLATIVE TIMETABLE

12. The Amendment Regulations will be published in the Gazette on 9 December 2016 and introduced into the Legislative Council for negative vetting on 14 December 2016.

13. Most of the provisions will commence operation on 1 April 2017. Provisions which require qualified persons on board to obtain licence for operating radar and VHF radio will commence later to allow sufficient lead time for training. The provisions relating to radar will commence in operation on 1 December 2017, while provisions relating to VHF radio will be commenced separately by notice published in Gazette. Provisions relating to the installation and operation of AIS on Class II vessels will commence operation on 1 March 2018 after the Government's subsidy scheme for Class II vessels to install AIS ends in February 2018.

IMPLICATIONS OF THE PROPOSAL

14. The Amendment Regulations are in conformity with the Basic Law, including the provisions concerning human rights. They will not affect the current binding effect of the Ordinance and its subsidiary legislation.

15. The Amendment Regulations have no financial, civil service, productivity, environmental, sustainability, gender or family implications.

16. On economic implications, the proposal would assist navigation and facilitate assistance in case of emergency, thereby reducing the economic loss associated with

accidents and casualties. While the proposal would impose additional capital costs on the trade, the various subsidy schemes provided by the Government as illustrated in the table below should have alleviated the cost burden —

| Subsidy | Target Beneficiary² | Time | No. of Applicants [as at 30 November 2016] |
|---|---------------------------------------|---------------------------------|---|
| full subsidy for the installation of AIS (Up to \$26,700) | Class I vessels | November 2014 to January 2016 | 77 |
| half subsidy for installation of radar (Up to \$31,000) | Class I vessels | January 2016 and March 2017 | 2 ³ |
| full subsidy for installation of AIS (Up to \$26,700) | Class II vessels | December 2016 and February 2018 | |

PUBLIC CONSULTATION

17. We consulted the Local Vessels Advisory Committee⁴ on 25 April 2014. Members endorsed the legislative proposal.

18. During the consultation, the trade indicated that the radar training course and the examination for a certificate of competency in radiotelephony issued by OFCA were too demanding for local vessels. After liaising with relevant training institutions and OFCA, the relevant radar training course and examination were both adjusted to suit local vessels from late 2014.

19. We consulted the Legislative Council Panel on Economic Development at its meeting on 27 May 2015. Members endorsed the proposal.

PUBLICITY

20. A press release will be issued on 9 December 2016. A spokesperson will be available to handle press enquiries.

² Class I vessels permitted to carry more than 100 passengers and Class II vessels with propulsion engine of 300 gross tonnage or above or for carrying dangerous goods would be subject to requirements relating to AIS; and Class I vessels permitted to carry more than 100 passengers would be subject to requirements relating to radar.

³ Around 50 local vessels will be subject to the radar requirement. As many of these vessels have already installed radar, only two applications for subsidy have been received so far.

⁴ A statutory advisory committee established under section 4 of the Ordinance chaired by the Deputy Director of Marine and comprising representatives of the shipping industry, seafarers' associations and trade organisations.

ENQUIRIES

21. For enquiries on the brief, please contact Ms Louisa Yan, Principal Assistant Secretary for Transport and Housing (Transport) (Tel: 3509 8162), or Mr W H Ho, Assistant Director (Special Duties), Marine Department (Tel: 2852 3192).

**Transport and Housing Bureau
Marine Department
December 2016**

Merchant Shipping (Local Vessels) (General) (Amendment) Regulation 2016

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Merchant Shipping (Local Vessels) (General) (Amendment) Regulation 2016

(Made by the Secretary for Transport and Housing under section 89 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548))

1. Commencement

- (1) Subject to subsections (2), (3) and (4), this Regulation comes into operation on 1 April 2017.
- (2) The following provisions come into operation on 1 December 2017—
 - (a) section 4, in so far as it relates to the new Division 2 of Part 5A;
 - (b) section 9.
- (3) Section 4, in so far as it relates to the new section 33A(2) and (3), comes into operation on 1 March 2018.
- (4) The following provisions come into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette—
 - (a) section 3;
 - (b) section 4, in so far as it relates to the new Division 3 of Part 5A;
 - (c) sections 6, 7 and 8.

2. Merchant Shipping (Local Vessels) (General) Regulation amended

The Merchant Shipping (Local Vessels) (General) Regulation (Cap. 548 sub. leg. F) is amended as set out in sections 3 to 9.

3. Section 2 amended (interpretation)

- (1) Section 2, Chinese text, definition of ~~檢疫碇泊處~~
Repeal the full stop
Substitute a semicolon.

- (2) Section 2—
Add in alphabetical order

“*call sign* (呼叫信號) has the same meaning as in the Radio Regulations;

MARDEP or *MARDEP, HONG KONG* means the call sign of the Marine Department of the Government transmitted as such for the purpose of commencing VHF radiotelephone communication between a vessel and an authorized officer at the vessel traffic centre;

Radio Regulations (《無線電規則》) means the Radio Regulations annexed to the Constitution and Convention of the International Telecommunication Union in force at the relevant time;

report (報告) means a report made to the vessel traffic centre by means of VHF radiotelephone communication in accordance with section 59(1), (2) and (3), or the making of the report;

seaward limits of the vessel traffic service coverage (船隻航行監察服務範圍的朝海界限) means the limits delineated in the Fifteenth Schedule to the SAPCR specifying the extent of the coverage of the vessel traffic service;

vessel traffic centre (船隻航行監察中心) means the vessel traffic centre (identified by the call sign “MARDEP” or “MARDEP, HONG KONG”) from which the vessel

traffic service of Hong Kong is operated and to which reports are made;

vessel traffic service (船隻航行監察服務) means the vessel traffic service of Hong Kong operated by the Director in respect of vessels within the seaward limits of the vessel traffic service coverage;

VHF (甚高頻) means very high frequency;

VHF channel (甚高頻頻道), in relation to VHF radiotelephone communication, means a radiotelephone channel in the VHF band provided for in the Radio Regulations and specified in column 1 of the First Schedule to the SAPCR;

VHF sector (甚高頻區段) means a VHF sector the boundaries of which are delineated in the Second Schedule to the SAPCR;”

4. Part 5A added

After Part 5—

Add

“Part 5A

Class I Vessels and Class II Vessels

Division 1—Automatic Identification System

33A. Application of Division 1

- (1) This Division applies to a Class I vessel that is licensed to carry more than 100 passengers except—
 - (a) a floating restaurant;
 - (b) a stationary vessel; or

(c) a vessel the operating licence of which restricts the vessel to plying within a typhoon shelter.

- (2) This Division also applies to a Class II vessel that is—
 - (a) a dangerous goods carrier;
 - (b) a noxious liquid substance carrier;
 - (c) an oil carrier; or
 - (d) a vessel of 300 gross tonnage or above fitted with a propulsion engine.
- (3) This Division does not apply to a vessel referred to in subsection (2)(a), (b) or (c) if—
 - (a) the vessel is not fitted with a propulsion engine; and
 - (b) the vessel is not carrying any dangerous goods as defined in regulation 2 of the Dangerous Goods (Shipping) Regulations (Cap. 295 sub. leg. C).

33B. Automatic identification system

- (1) Subject to subsection (2), an automatic identification system fitted on a vessel must at all times be switched on.
- (2) Compliance with subsection (1) is not required when—
 - (a) the coxswain of the vessel reasonably considers the operation of the system may compromise the safety of the vessel; or
 - (b) a security incident is imminent.
- (3) The automatic identification system must at all times be maintained in a good working condition.
- (4) If for any reason it is not possible to operate the automatic identification system fitted on the vessel, the

- coxswain of the vessel must as soon as practicable restore it or cause it to be restored to an effective operating condition.
- (5) If subsection (1) is contravened without reasonable excuse, the coxswain of the vessel commits an offence and is liable on conviction to a fine at level 3.
- (6) If subsection (3) is contravened, each person specified in subsection (7) commits an offence if the person has no reasonable excuse for the contravention.
- (7) The persons are—
- the owner of the vessel;
 - the owner's agent; and
 - the coxswain of the vessel.
- (8) A person who commits an offence under subsection (6) is liable on conviction to a fine at level 3.
- (9) If subsection (4) is contravened without reasonable excuse, the coxswain of the vessel commits an offence and is liable on conviction to a fine at level 1.
- (10) In this section—
- automatic identification system* (自動識別系統) has the meaning given by section 80A(8) of the Merchant Shipping (Local Vessels) (Safety and Survey) Regulation (Cap. 548 sub. leg. G).

Division 2—Radar Equipment

33C. Application of Division 2

- (1) This Division applies to a Class I vessel—
- that is a ferry vessel or a launch;

- that operates a franchised service or a licensed service; and
 - that plies outside the boundaries of the Victoria port.
- (2) This Division also applies to a Class I vessel that is licensed to carry more than 100 passengers except—
- a floating restaurant;
 - a stationary vessel;
 - a vessel the operating licence of which restricts the vessel to plying within a typhoon shelter; or
 - a vessel—
- that is in use on or is reserved for a franchised service or a licensed service;
 - that is subject to the maximum permitted speed specified in Schedule 2; and
 - the operating licence of which restricts the vessel to plying within the boundaries of the Victoria port.
- (3) In this section—
- franchised service* (專營服務) has the meaning given by section 2(1) of the Ferry Services Ordinance (Cap. 104);
- licensed service* (領牌服務) has the meaning given by section 2(1) of the Ferry Services Ordinance (Cap. 104);
- Victoria port* (維多利亞港口) has the meaning given by section 2(1) of the Ferry Services Ordinance (Cap. 104).

33D. Radar equipment

- (1) Radar equipment fitted on a vessel must at all times be maintained in a good working condition.

- (2) A certificated coxswain must be present on board the vessel at all times when it is underway.
- (3) Radar equipment fitted on the vessel must be used and operated by a certificated coxswain.
- (4) If for any reason it is not possible to operate the radar equipment fitted on the vessel, the coxswain of the vessel must as soon as practicable restore it or cause it to be restored to an effective operating condition.
- (5) If subsection (1) or (2) is contravened, each person specified in subsection (6) commits an offence if the person has no reasonable excuse for the contravention.
- (6) The persons are—
 - (a) the owner of the vessel;
 - (b) the owner's agent; and
 - (c) the coxswain of the vessel.
- (7) A person who commits an offence under subsection (5) is liable on conviction to a fine at level 3.
- (8) If subsection (3) is contravened without reasonable excuse, the coxswain of the vessel commits an offence and is liable on conviction to a fine at level 3.
- (9) If subsection (4) is contravened without reasonable excuse, the coxswain of the vessel commits an offence and is liable on conviction to a fine at level 1.
- (10) In this section—

certificated coxswain (持證船長) means a holder of a local certificate of competency as a coxswain of a local vessel with an endorsement that the holder is competent in the use and operation of radar equipment.

Division 3—Radiotelephone Equipment

33E. Application of Division 3

- (1) This Division applies to a Class I vessel that is licensed to carry more than 12 passengers except—
 - (a) a floating restaurant;
 - (b) a stationary vessel;
 - (c) a vessel to which Part 9 applies; or
 - (d) a vessel the operating licence of which restricts the vessel to plying within a typhoon shelter.
- (2) In an emergency affecting the safety of any person or property or the environment, compliance with any of the following is excused to the extent necessary to avoid endangering any person or property or the environment—
 - (a) a provision of this Division;
 - (b) a condition attached to an exemption granted under section 33I(4).

33F. Radiotelephone equipment

- (1) Radiotelephone equipment on board a vessel must at all times be maintained in a good working condition.
- (2) A certificated operator must be present on board the vessel at all times when it is underway.
- (3) If for any reason it is not possible to operate the radiotelephone equipment on board the vessel, the coxswain of the vessel must as soon as practicable restore it or cause it to be restored to an effective operating condition.

- (4) If subsection (1) or (2) is contravened, each person specified in subsection (5) commits an offence if the person has no reasonable excuse for the contravention.
- (5) The persons are—
- the owner of the vessel;
 - the owner's agent; and
 - the coxswain of the vessel.
- (6) A person who commits an offence under subsection (4) is liable on conviction to a fine at level 3.
- (7) If subsection (3) is contravened without reasonable excuse, the coxswain of the vessel commits an offence and is liable on conviction to a fine at level 1.
- (8) In this section—
- certificated operator** (持證操作員) means a crew member of a vessel who holds a certificate of competency that—
- is issued under section 32K of the Telecommunications Ordinance (Cap. 106); and
 - qualifies the crew member to operate the class of radiotelephone equipment on board the vessel.

33G. VHF radiotelephone communication

- A VHF radiotelephone communication from a vessel must, so far as practicable, be made in accordance with the Radio Regulations.
- A person on board a vessel in the waters of Hong Kong must not make an intership VHF radiotelephone communication except in accordance with section 10 of the Telecommunications Ordinance (Cap. 106).

- (3) If subsection (1) or (2) is contravened without reasonable excuse, the coxswain of the vessel commits an offence and is liable on conviction to a fine at level 2.

33H. VHF radiotelephone communication with vessel traffic centre

- This section applies to a VHF radiotelephone communication made from a vessel to the vessel traffic centre.
- The communication must be identified by the call sign "MARDEP" or "MARDEP, HONG KONG" and the name or call sign of the vessel.
- Unless the Director permits otherwise, a communication from a vessel that is within a VHF sector described in column 2 of the First Schedule to the SAPCR must be made on the VHF channel specified in column 1 of that Schedule opposite to the sector.
- If subsection (2) or (3) is contravened without reasonable excuse, the coxswain of the vessel commits an offence and is liable on conviction to a fine at level 2.

33I. Listening watch on radiotelephone

- The coxswain of a vessel that is within a VHF sector described in column 2 of the First Schedule to the SAPCR must maintain continuous listening watch on the radiotelephone carried on board the vessel on the VHF channel specified in column 1 of that Schedule opposite to the sector.
- Subsection (1) does not apply when—
 - a VHF radiotelephone communication to or from the vessel on that channel is in progress; or

- (b) it is not possible to operate the radiotelephone equipment for VHF radiotelephone communication on board a vessel due to malfunction of the equipment.
- (3) Subsection (1) also does not apply if—
- the Director gives permission for communication by radiotelephone on another channel; and
 - the listening watch is maintained continuously on that other channel except when a VHF radiotelephone communication to or from the vessel on that other channel is in progress.
- (4) The Director may exempt the coxswain of a vessel from compliance with subsection (1) on request by—
- the owner of the vessel;
 - the owner's agent; or
 - the coxswain of the vessel.
- (5) A request for an exemption must include the reasons for making the request and a proposed alternative course of action to be taken instead of compliance with subsection (1).
- (6) The Director may grant an exemption only if the Director is satisfied, having regard to the circumstances pertaining to the vessel, that the exemption will not affect the safety of any person or property or the environment.
- (7) If subsection (1) is contravened without reasonable excuse, the coxswain of the vessel commits an offence and is liable on conviction to a fine at level 2.
- (8) If a condition attached to an exemption granted under subsection (4) is contravened without reasonable excuse,

the coxswain of the vessel commits an offence and is liable on conviction to a fine at level 3.”.

5. Section 37 amended (vessels handling explosives or flammable liquids)

Section 37(2)—

Repeal

“of less than 61°C”

Substitute

“not exceeding 60°C”.

6. Section 56 amended (interpretation)

- (1) Section 56, English text, definition of *vessel not under command*—

Repeal the semicolon

Substitute a full stop.

- (2) Section 56—

- definition of *call sign*;
- definition of *MARDEP* or *MARDEP, HONG KONG*;
- definition of *Radio Regulations*;
- definition of *report*;
- definition of *seaward limits of the vessel traffic service coverage*;
- definition of *vessel traffic centre*;
- definition of *vessel traffic service*;
- definition of *VHF*;
- definition of *VHF channel*;
- definition of *VHF sector*—

Repeal the definitions.

7. Section 82 amended (failure of radiotelephone equipment)

(1) Section 82(1), Chinese text—

Repeal

“將或安排將該裝備修復至”

Substitute

“令或安排令該裝備恢復”。

(2) Section 82(3)(b), Chinese text—

Repeal

“被修復至”

Substitute

“恢復”。

8. Section 86 amended (conducting seatrials)

Section 86(1)(b)—

Repeal

“within the meaning of Part 9”。

9. Schedule 2 amended (speed of local vessels)

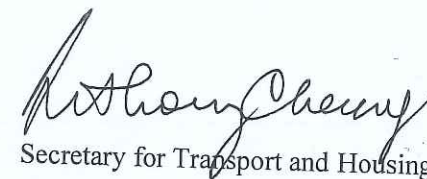
Schedule 2—

Repeal

“[s. 9]”

Substitute

“[ss. 9 & 33C]”。


Secretary for Transport and Housing

7 December 2016

Explanatory Note

This Regulation amends the Merchant Shipping (Local Vessels) (General) Regulation (Cap. 548 sub. leg. F)—

- (a) to provide for the requirements relating to—
 - (i) the operation of an automatic identification system, radar and radiotelephone equipment;
 - (ii) very high frequency radiotelephone communication and maintaining continuous listening watch on the radiotelephone; and
- (b) to revise the flash point of flammable liquid on a local vessel to tally with the relevant international standard.

Merchant Shipping (Local Vessels) (Safety and Survey) (Amendment) Regulation 2016

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Merchant Shipping (Local Vessels) (Safety and Survey) (Amendment) Regulation 2016

(Made by the Secretary for Transport and Housing under section 89 of the
Merchant Shipping (Local Vessels) Ordinance (Cap. 548))

1. Commencement

- (1) Subject to subsections (2), (3) and (4), this Regulation comes into operation on 1 April 2017.
- (2) Section 6 comes into operation on 1 December 2017.
- (3) Section 7, in so far as it relates to the new section 80A(2), comes into operation on 1 March 2018.
- (4) The following provisions come into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette—
 - (a) section 3, in so far as it relates to the new section 18(2)(a)(vib);
 - (b) section 5, in so far as it relates to the definition of *VHF* in the new section 78A;
 - (c) section 7, in so far as it relates to the new section 80B;
 - (d) section 9(1) and (2).

2. Merchant Shipping (Local Vessels) (Safety and Survey) Regulation amended

The Merchant Shipping (Local Vessels) (Safety and Survey) Regulation (Cap. 548 sub. leg. G) is amended as set out in sections 3 to 10.

3. Section 18 amended (matters to be surveyed under Part 4)

After section 18(2)(a)(vi)—

Add

“(via) section 80A;

(vib) section 80B;”.

4. Part 11 heading amended (specific requirements relating to plying limits, radars and engines)

Part 11, heading—

Repeal

“RADARS AND ENGINES”

Substitute

“RADARS, ENGINES AND OTHER EQUIPMENT”.

5. Section 78A added

Part 11, before section 79—

Add

“78A. Interpretation of Part 11

In this Part—

typhoon shelter (避風塘) has the meaning given by section 2 of the Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation (Cap. 548 sub. leg. E);

VHF (甚高頻) means very high frequency.”.

6. Section 80 amended (radar)

After section 80(1)—

Add

“(1A) This section also applies to a Class I vessel that is licensed to carry more than 100 passengers except—

(a) a floating restaurant;

(b) a stationary vessel;

(c) a vessel the operating licence of which restricts the vessel to plying within a typhoon shelter; or

(d) a vessel—

(i) that is in use on or is reserved for a franchised service or a licensed service as defined in the Ferry Services Ordinance (Cap. 104);

(ii) that is subject to the maximum permitted speed specified in Schedule 2 to the Merchant Shipping (Local Vessels) (General) Regulation (Cap. 548 sub. leg. F); and

(iii) the operating licence of which restricts the vessel to plying within the boundaries of the Victoria port.”.

7. Sections 80A and 80B added

After section 80—

Add

“80A. Automatic identification system

(1) This section applies to a Class I vessel that is licensed to carry more than 100 passengers except—

(a) a floating restaurant;

(b) a stationary vessel; or

(c) a vessel the operating licence of which restricts the vessel to plying within a typhoon shelter.

- (2) This section also applies to a Class II vessel that is—
- (a) a dangerous goods carrier;
 - (b) a noxious liquid substance carrier;
 - (c) an oil carrier; or
 - (d) a vessel of 300 gross tonnage or above fitted with a propulsion engine.
- (3) A vessel must be fitted with an automatic identification system.
- (4) The following information must be stored and maintained in the automatic identification system—
- (a) the Maritime Mobile Service Identity number of the vessel;
 - (b) the name of the vessel as specified in its certificate of ownership; and
 - (c) the identifier number of the vessel.
- (5) If subsection (3) or (4) is contravened, each person specified in subsection (6) commits an offence if the person has no reasonable excuse for the contravention.
- (6) The persons are—
- (a) the owner of the vessel;
 - (b) the owner's agent; and
 - (c) the coxswain of the vessel.
- (7) A person who commits an offence under subsection (5) is liable on conviction to a fine at level 3.
- (8) In this section—
- automatic identification system** (自動識別系統) means a system that—

- (a) meets the relevant requirements in Annex 2 to the ITU recommendation; and
- (b) is capable of—
 - (i) providing the specified information automatically to appropriately equipped shore stations, other vessels and aircraft;
 - (ii) receiving the specified information automatically from other vessels fitted with the system;
 - (iii) monitoring and tracking other vessels fitted with the system; and
 - (iv) exchanging data with shore-based facilities;

certificate of ownership (擁有權證明書) has the meaning given by section 2(1) of the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548 sub. leg. D);

identifier number (標識符編號), in relation to a vessel, means the identifier number describing the type of the vessel according to the table entitled "Identifiers to be used by ships to report their type" in the ITU recommendation;

ITU recommendation (《國際電信聯盟建議書》) means the Recommendation ITU-R M.1371 "Technical characteristics for an automatic identification system using time division multiple access in the VHF maritime mobile frequency band" approved by the International Telecommunication Union, as amended from time to time;

Maritime Mobile Service Identity number (MMSI 編號), in relation to a vessel, means the maritime mobile service

identity number specified in the licence of the vessel granted by the Communications Authority under the Telecommunications Ordinance (Cap. 106), for the use of the automatic identification system fitted on the vessel;

specified information (指明資料), in relation to a vessel, includes the identity, type, position, course, speed, navigational status and other safety related information of the vessel.

80B. Radiotelephone equipment

- (1) This section applies to a Class I vessel that is licensed to carry more than 12 passengers except—
 - (a) a floating restaurant;
 - (b) a stationary vessel;
 - (c) a vessel to which Part 9 of the Merchant Shipping (Local Vessels) (General) Regulation (Cap. 548 sub. leg. F) applies; or
 - (d) a vessel the operating licence of which restricts the vessel to plying within a typhoon shelter.
- (2) A vessel must have on board radiotelephone equipment for VHF radiotelephone communication that is capable of operation on specified VHF channels.
- (3) The radiotelephone equipment must be available for operation from the navigational bridge of a vessel, or if there is no navigational bridge on the vessel, from its steering position.
- (4) If subsection (2) or (3) is contravened, each person specified in subsection (5) commits an offence if the person has no reasonable excuse for the contravention.

- (5) The persons are—
 - (a) the owner of the vessel;
 - (b) the owner's agent; and
 - (c) the coxswain of the vessel.
- (6) A person who commits an offence under subsection (4) is liable on conviction to a fine at level 3.
- (7) In this section—

Radio Regulations (《無線電規則》) means the Radio Regulations annexed to the Constitution and Convention of the International Telecommunication Union in force at the relevant time;

specified VHF channel (指明甚高頻頻道), in relation to VHF radiotelephone communication, means a radiotelephone channel in the VHF band provided for in the Radio Regulations and specified in column 1 of the First Schedule to the Shipping and Port Control Regulations (Cap. 313 sub. leg. A);

steering position (操舵位置) means the position from which the vessel is steered.”

8. Section 81 amended (restriction on use of certain engines)

Section 81(1)—

Repeal

“not exceeding 61°C”

Substitute

“of less than 60°C”.

9. Schedule 3 amended (provision of life-saving appliances)

- (1) Schedule 3, Part 2, Table 1—

Repeal

| | |
|--|---|
| VHF (very high frequency) radio installation ⁽⁵⁾ | 1 |
|--|---|

- (2) Schedule 3, Part 2, Table 1—

Repeal Note (5).

- (3) Schedule 3, Part 2, Table 4—

Repeal

“61°C”

Substitute

“60°C”.

10. Schedule 4 amended (fire protection and provision of fire-fighting apparatus)

- (1) Schedule 4, Part 1, section 2(1)(a), before “such”—

Add

“unless otherwise specified in this Schedule.”.

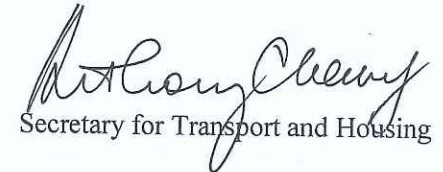
- (2) Schedule 4, Part 2, Table 6, Note (2)—

Repeal

“61°C”

Substitute

“60°C”.


Secretary for Transport and Housing

7 December 2016

Explanatory Note

This Regulation amends the Merchant Shipping (Local Vessels) (Safety and Survey) Regulation (Cap. 548 sub. leg. G)—

- (a) to require certain vessels to have an automatic identification system, radar or radiotelephone equipment fitted on board; and
- (b) to revise the minimum flash point for fuel oil to be used on the engines of certain vessels and to revise the flash point for cargoes carried on board certain vessels to tally with the relevant international standards.