

立法會
Legislative Council

LC Paper No. LS37/18-19

**Paper for the House Committee Meeting
on 4 January 2019**

**Legal Service Division Further Report on
Merchant Shipping (Safety) (Passenger Ship Construction)
(Ships Built Before 1 September 1984) (Amendment) (No. 2) Regulation 2018
(L.N. 255 of 2018) Gazetted on 7 December 2018**

Members may recall that at the House Committee meeting on 14 December 2018, it was reported that the Legal Service Division ("LSD") was scrutinizing the legal and drafting aspects of L.N. 248 to L.N. 258, which implement the latest requirements of the International Convention for the Safety of Life at Sea of the International Maritime Organization and would make a further report if necessary (LC Paper No. LS31/18-19). No subcommittee was formed to study L.N. 248 to L.N. 258. Unless extended, the scrutiny period for these 11 items of subsidiary legislation will expire at the Council meeting of 9 January 2019.

2. LSD has since written to the Administration seeking clarification on the Merchant Shipping (Safety) (Passenger Ship Construction) (Ships Built Before 1 September 1984) (Amendment) (No. 2) Regulation 2018 (L.N. 255). No legal or drafting difficulties have been identified in relation to the other items of subsidiary legislation.

3. In relation to L.N. 255, LSD notes that two new regulations (i.e. sections 133 and 133B) are added by L.N. 255 to the Merchant Shipping (Safety) (Passenger Ship Construction) (Ships Built Before 1 September 1984) Regulations (Cap. 369AL). While the new section 133 of Cap. 369AL, when read together with section 94 of the Merchant Shipping (Safety) Ordinance (Cap. 369), makes contravention of regulation 4 of Cap. 369AL an offence in relation to a passenger ship registered in Hong Kong, no similar offence is provided under the new regulation 133B in relation to a passenger ship that is not registered in Hong Kong.

4. In response to LSD's enquiry on the reason for adopting a different arrangement for non-Hong Kong registered passenger ships, the Administration has confirmed that contravention of regulation 4 of Cap. 369AL should be an offence for all passenger ships that are subject to Cap. 369AL irrespective of whether they are Hong Kong and non-Hong Kong-registered. Instead of proposing a motion to amend L.N. 255, the Administration will make a separate amendment regulation to amend L.N. 255 ("the 2019 Amendment Regulation") before its commencement on 1 March 2019 to impose the offence on non-Hong Kong registered passenger ships. In this regard, Members may note that the Administration has issued a Legislative

Council ("LegCo") Brief (File Ref. THB (T) PML CR 8/10/80/13) to Members on 2 January 2019 on the 2019 Amendment Regulation (i.e. the Merchant Shipping (Safety) (Passenger Ship Construction) (Ships Built Before 1 September 1984) (Amendment) (No. 2) Regulation 2018 (Amendment) Regulation 2019) which will be published in the Gazette on 4 January 2019.

5. As L.N. 255 will be amended by the 2019 Amendment Regulation to be published in the Gazette on 4 January 2019, we have no further queries on L.N. 255. LSD will make a report on the 2019 Amendment Regulation at the House Committee meeting on 11 January 2019 after it is tabled at the Council meeting of 9 January 2019.

Prepared by

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LS/S/11/18-19