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**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—
 - (a) the owner of the vessel;
 - (b) the owner's agent; and
 - (c) 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—

Section 4

- (a) that is a ferry vessel or a launch;
 - (b) that operates a franchised service or a licensed service; and
 - (c) 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) 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;
 - (ii) that is subject to the maximum permitted speed specified in Schedule 2; and
 - (iii) 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—
 - (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) 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—

- (a) is issued under section 32K of the Telecommunications Ordinance (Cap. 106); and
- (b) qualifies the crew member to operate the class of radiotelephone equipment on board the vessel.

33G. VHF radiotelephone communication

- (1) A VHF radiotelephone communication from a vessel must, so far as practicable, be made in accordance with the Radio Regulations.
- (2) 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

- (1) This section applies to a VHF radiotelephone communication made from a vessel to the vessel traffic centre.
- (2) The communication must be identified by the call sign “MARDEP” or “MARDEP, HONG KONG” and the name or call sign of the vessel.
- (3) 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.
- (4) 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

- (1) 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.
- (2) Subsection (1) does not apply when—
 - (a) 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—
 - (a) the Director gives permission for communication by radiotelephone on another channel; and
 - (b) 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—
 - (a) the owner of the vessel;
 - (b) the owner's agent; or
 - (c) 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—

- (a) definition of *call sign*;

Section 7

- (b) definition of *MARDEP* or *MARDEP, HONG KONG*;
- (c) definition of *Radio Regulations*;
- (d) definition of *report*;
- (e) definition of *seaward limits of the vessel traffic service coverage*;
- (f) definition of *vessel traffic centre*;
- (g) definition of *vessel traffic service*;
- (h) definition of *VHF*;
- (i) definition of *VHF channel*;
- (j) 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)—

Section 9

Repeal

“within the meaning of Part 9”.

9. Schedule 2 amended (speed of local vessels)

Schedule 2—

Repeal

“[s. 9]”

Substitute

“[ss. 9 & 33C]”.

Anthony B. L. CHEUNG
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.