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Ms Wendy KAN
Legal Service Division
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Ms Kan,

**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)**

Thank you for your letter of 30 December 2016. Our responses seriatum are set out in the following paragraphs.

L.N. 186

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

The risks of a Class II vessel not fitted with propulsion engine and not carrying dangerous goods to marine safety are very low. Therefore, they can be excluded from the mandatory requirement to operate AIS.

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

The new section 33E(2) applies if there is an emergency affecting the safety of any person or property or the environment. In such circumstances, a person is excused from complying with the relevant provisions or conditions to the extent that is necessary to avoid endangering any person or property or the environment. As both “必要” and “需要” bear the meaning of “必須的，不可缺少的”，both Chinese renditions accurately reflect the meaning of “necessary” in the relevant context. There is no discrepancy in the meaning of the Chinese text between the existing section 80(1) and the new section 33E(2) of Cap. 548F.

The new section 33F of Cap. 548F

VHF radio is a telecommunications apparatus regulated under the Telecommunications Ordinance (Cap. 106). Under its section 8(1), the possession or use of any radio apparatus on ships registered or licensed in Hong Kong requires an appropriate licence granted by the Communications Authority (CA). The licence for VHF radio requires that it can only be operated by persons possessing a valid and appropriate certificate of competency issued by the CA. There is no need to repeat the same requirement under Cap. 548F.

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

Technically speaking, a radiotelephone equipment would only become inoperable for reason of malfunction. The stipulation under the new section 33I(2)(b) intends to provide an elaboration to cover all circumstances.

L.N. 187

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

Section 10 of the Merchant Shipping (Local Vessel) Ordinance (Cap. 548) states that its Part IV does not apply to –

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- (i) a pleasure vessel from outside Hong Kong and does not remain in Hong Kong waters for more than 182 days out of 365 consecutive days;
- (ii) a vessel used exclusively for pleasure purpose; not fitted with an engine and in the opinion of the Director of Marine (DM), incapable of being fitted with an engine;
- (iii) a licensed dwelling vessel; or
- (iv) a vessel which has never been launched.

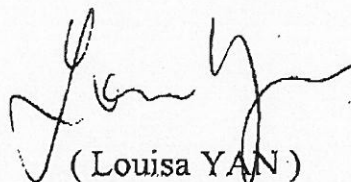
Cap. 548G does not apply to the above categories of vessels because they do not or seldom navigate in Hong Kong waters. As such, they do not pose any risks to marine safety.

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

The proposed definition for AIS is modelled on Regulation 19.2.4.5 in Chapter V of the International Convention for the Safety of Life at Sea (SOLAS), in which the listed items of information are meant to be non-exhaustive. The items spelt out in the Regulations are essential for marine safety.

Please contact me at 3509 8162 or louisayan@thb.gov.hk if you require further clarifications. Thank you.

Yours sincerely,



(Louisa YAN)

Principal Assistant Secretary for Transport and
Housing (Transport)

c.c.

Department of Justice

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