

COMMISSION OF INQUIRY
APPOINTED PURSUANT TO SECTION 2 OF THE COMMISSION OF
INQUIRY ORDINANCE (CHAPTER 86) ON 22 OCTOBER 2012

SUPPLEMENTAL WITNESS STATEMENT OF WONG WING CHUEN

I, WONG WING CHUEN, Senior Surveyor of Ships, Local Vessels Safety Section, Marine Department, 23/F, Harbour Building, 38 Pier Road, Central, Hong Kong, do say as follows: -

1. I am a Senior Surveyor of Ships in the Local Vessels Safety Section (“LVS”), Shipping Division of the Marine Department (“Mardep”). I am the same Wong Wing Chuen who has made a Witness Statement dated 14 January 2013.

2. I make this Supplemental Witness Statement on behalf of the Director of Marine (“Director”), who has been granted leave to participate in the hearings of the Commission of Inquiry appointed pursuant to section 2 of the Commission of Inquiry Ordinance, Cap.86, on 22 October 2012 (“the Commission”) by the Ruling of the Commission made on 5 December 2012. Save where otherwise appears, the facts deposed hereto are within my personal knowledge or are derived from office files and records and sources to which I have access, and are true to the best of my knowledge, information and belief.

3. The purpose of this Supplemental Witness Statement is to provide answers to the enquiries of the Commission through its solicitors Messrs. Lo & Lo dated 16 January 2013 in relation to the following questions:

- i. what models of lifejacket were approved by the Mardep in the past 2 years;
- ii. how various models of lifejacket are approved by the Mardep, i.e., whether the Mardep will give generic approval to certain

classes of lifejackets by referring to, for example, certification that a model of lifejacket has met certain international safety standards; or individual applicants will have to satisfy the Mardep that a particular lifejacket model can meet the requirements specified by the Mardep (e.g. with respect to buoyance);

- iii. setting out the requirements of the Mardep in relation to lifejackets.

Models of lifejackets approved by Mardep in the past two years

4. Under the Merchant Shipping (Local Vessels) (Safety and Survey) Regulation (Cap. 548G) (“**Cap. 548G**”), section 32 thereof provides for the provision of life-saving appliances on board the local vessels such as the Lamma IV, which is a Class I vessel.

5. Section 32(2) of Cap. 548G provides for the quantity of life-saving appliances to be provided on board including lifejackets, lifebuoys, and lifelines, which will be dealt with below.

6. Section 32(1) provides for the general requirement of the life-saving appliances provided on board; it does not set out the specific models of lifejackets to be approved.

7. Under section 8 of the Merchant Shipping (Local Vessels) Ordinance (“**Cap. 548**”), the Director of Marine may, for the purpose of providing practical guidance in respect of any requirements under that Ordinance, approve and issue such codes of practice as in his opinion are suitable for that purpose. Pursuant to section 8 of Cap. 548, the Director of Marine has approved and issued the “Code of Practice - Safety Standards for Classes I, II and III Vessels (December 2006 Edition) (the “**2006 Code**”) [**Marine11/29/3415-3669**].

8. The 2006 Code was issued for the purpose of ensuring acceptable technical and safety standards in the design construction, maintenance and inspection of local vessels in conjunction with the condition required or the standards prescribed under, among others, Cap. 548G (see Foreword, paragraph (2) [**Marine11/29/3418**]).

9. Paragraphs 4.3 and 4.4 (Chapter I) of the 2006 Code [**Marine11/29/3434-3439**] provide that:

“4.3 Existing vessels shall comply with the requirements previously applicable to these vessels unless otherwise expressly specified in [Cap. 548G] or in this Code. The approval and/or exemption of construction and equipment, if any, given to the existing vessels shall remain valid unless otherwise repealed.

4.4 Requirement in pair of angle brackets < > appeared in the other chapters in this Code are applicable to new vessels only.”

10. The Lamma IV is a Class I vessel, and an “existing vessel” as defined in paragraph 3.1 (Chapter I) of the 2006 Code [**Marine11/29/3434-3438**].

11. Chapter VII of the 2006 Code [**Marine11/29/3507-3511**] makes provisions for, among others, the types or models of lifejackets approved by the Mardep, which forms the practice of the Mardep to date. Paragraph 2 to Cap. VII of the 2006 Code reads:

“<2.1 Life-saving appliances should be of approved types. Appliances which conform to the LSA Code [defined in paragraph 1.2 to mean the “International Life-Saving Appliances (LSA) Code] adopted by the Maritime Safety Committee of IMO [i.e., the International Maritime Organization] by resolution MSC. 48(66) and approved by the maritime administration of a convention country or a classification society are acceptable.>

For existing vessels other than high risk vessels, life-saving appliances which have been approved by the national maritime authority of their country of manufacture in accordance with the national standard or have been approved by the Department are also considered acceptable.”

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Requirement of the Mardep in relation to lifejackets

(i) Quantity of lifejacket to be provided on board

16. Section 32(2) of Cap. 548G provides that, without limiting the generality of subsection (1):

“(a) every local vessel shall comply with the general requirements as regards the provision of life-saving appliances set out in Part 1 of Schedule 3; and

(b) every local vessel belonging to any class, type, category or description of vessel specified in any Table in Part 2 of Schedule 3 shall comply with the specific requirements as regards the provision of life-saving appliances set out in that Table.”

17. Section 32(3) provides that if, without reasonable excuse, subsection (1) or (2) is contravened, the owner of the local vessel concerned, his agent and the coxswain each commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

18. For example, for a Class I vessel like the Lamma IV, the requirements set out in Part 1 and Part 2 (Table 1), Schedule 3 to Cap. 548G apply. The Lamma IV, when travelling anywhere within waters of Hong Kong, was required to have 100% adult lifejacket plus 5% children lifejacket (by reference to the total number of persons on board), and a minimum number of lifebuoys as per Table 2 in Part 2, Schedule 3, that is, 12 lifebuoys by reference to the vessel length of the Lamma IV.

19. Under paragraph 4(1) in Part 1 of Schedule 3 to Cap. 548G, for the purposes of assessing the adequacy of life-saving appliances on board a local vessel, each lifebuoy is taken to be for use by 2 persons on board the vessel.

(ii) **Location and operation readiness of lifejackets**

20. Paragraph 4.1 in Chapter VII of the 2006 Code provides that whenever a local vessel is being used or operated, every life-saving appliance (including lifejacket) carried on board the vessel shall be in working order, ready for immediate use, and placed in a position easily accessible. This is adopted from the statutory requirement under paragraph 2 in Part I of Schedule 3 to Cap. 548G.

21. Paragraph 10.1 of the 2006 Code further provides that lifejackets shall be so placed as to be readily accessible and their position shall be plainly indicated. Additional lifejackets shall be stowed in conspicuous places on deck or at muster stations.

22. Normally, lifejackets are stowed under seats, underneath overhead ceiling or in compartments in the passenger space. For seats in the

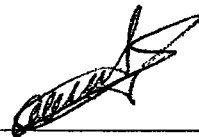
open deck (which has no stowing compartment), it is considered by the Mardep to be acceptable if they are stored in readily accessible places and if their position is plainly indicated.

23. The 2006 Code, p. VII-2 at paragraph 2.9 provides that donning instructions should be posted at suitable positions in the vessel. In the case of the Lamma IV, such instructions can be seen at the photos at the [Police Photo bundle/5/317-318].

24. For the sake of completeness, in relation to lifebuoys, paragraph 9.1 in Chapter VII of the 2006 Code [Marine11/29/3510] provides that lifebuoys shall be so distributed as to be readily available on both sides of the vessel and as far as practicable on all open decks extending to the vessel's side. At least one lifebuoy shall be placed in the vicinity of the stern. Paragraph 9.2 further provides that lifebuoys shall be so stowed as to be capable of being rapidly cast loose and not permanently secured in any way to allow to be float free.

25. I confirm the contents of this Supplemental Witness Statement to be true to the best of my knowledge, information and belief.

Dated this 23rd day of January 2013.



WONG WING CHUEN

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ORDINANCE (CHAPTER 86) ON 22
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WONG WING CHUEN

Dated the 23rd day of January 2013

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