

LEGISLATIVE COUNCIL BRIEF

Merchant Shipping (Seafarers) Ordinance (Cap. 478)

Amendments to its subsidiary legislation to give effect to the 2006 Maritime Labour Convention

INTRODUCTION

To implement the 2006 Maritime Labour Convention (“MLC”) adopted by the International Labour Organisation (ILO), the Secretary for Transport and Housing has made the following regulations under the Merchant Shipping (Seafarers) Ordinance (Cap. 478) (“the Ordinance”) —

- A (a) Merchant Shipping (Seafarers) (Working and Living Conditions) Regulation (“the New Regulation”), at **Annex A**, under sections 86, 96, 97, 119 and 134 of the Ordinance;
- B (b) Merchant Shipping (Seafarers) (Allotments) (Amendment) Regulation 2016, at **Annex B**, under sections 89 and 134 of the Ordinance;
- C (c) Merchant Shipping (Seafarers) (Health and Safety: General Duties) (Amendment) Regulation 2016, at **Annex C**, under sections 96 and 134 of the Ordinance;
- D (d) Merchant Shipping (Seafarers) (Hours of Work) (Amendment) Regulation 2016, at **Annex D**, under sections 96 and 134 of the Ordinance;
- E (e) Merchant Shipping (Seafarers) (Crew Accommodation) (Amendment) Regulation 2016, at **Annex E**, under sections 97 and 134 of the Ordinance;
- F (f) Merchant Shipping (Seafarers) (Medical Examination) (Amendment) Regulation 2016, at **Annex F**, under sections 96 and 134 of the Ordinance;
- G (g) Merchant Shipping (Seafarers) (Official Log Books) (Amendment) Regulation 2016, at **Annex G**, under sections 119 and 134 of the Ordinance;
- H (h) Merchant Shipping (Seafarers) (Repatriation) (Amendment) Regulation 2016, at **Annex H**, under sections 86, 96, 104, 119 and 134 of the Ordinance;

- I
- (i) Merchant Shipping (Seafarers) (Safety Officials and Reporting of Accidents and Dangerous Occurrences) (Amendment) Regulation 2016, **Annex I**, under sections 96 and 134 of the Ordinance;
- J
- (j) Merchant Shipping (Seafarers) (Medical Stores) (Amendment) Regulation 2016, at **Annex J**, under sections 96, 100 and 134 of the Ordinance;
- K
- (k) Merchant Shipping (Seafarers) (Code of Safe Working Practices) (Amendment) Regulation 2016, at **Annex K**, under sections 96 and 134 of the Ordinance;
- L
- (l) Merchant Shipping (Seafarers) (Provisions and Water) Regulation (Repeal) Regulation, at **Annex L**, under sections 96 and 134 of the Ordinance; and
- M
- (m) Merchant Shipping (Seafarers) (Ship’s Doctors) Regulation (Repeal) Regulation, at **Annex M**, under sections 96 and 134 of the Ordinance.

N

2. To prescribe fees for the inspection and certification of ships conducted by the Marine Department (MD) pursuant to MLC, the Secretary for Financial Services and the Treasury has made the Merchant Shipping (Seafarers) (Fees) (Amendment) Regulation 2016 (“Fees Amendment Regulation”), at **Annex N**, under section 133 and 134 of the Ordinance.

JUSTIFICATIONS

Implementation of MLC

3. Prior to the adoption of MLC in February 2006, ILO relied on 37 maritime labour conventions to regulate the working and living conditions of seafarers and to protect their welfare. In view of the obsolete provisions of these conventions and their low level of ratification, ILO consolidated the relevant regulatory instruments into MLC in 2006 to ensure comprehensive worldwide protection of the rights of seafarers and to establish a level playing field for countries and shipowners by preventing unfair competition from substandard ships and operations.

4. MLC entered into force globally on 20 August 2013. Although Hong Kong is not a member of ILO¹, the Government is committed to protecting the

¹ China is a member of ILO and has ratified MLC. It will enter into force in the Mainland of China on 12 November 2016. The MLC will not be automatically applied to Hong Kong. For MLC to be extended to Hong Kong, the Central People’s Government has to notify ILO. MLC will be officially extended to Hong Kong on a date to be specified after the subsidiary legislation under the Ordinance has been passed.

working conditions and welfare of seafarers. The working standards, health requirements and employment conditions for seafarers are currently regulated by the Ordinance and its subsidiary legislation. Implementation of MLC requirements not only helps enhance the working and living conditions of seafarers on board Hong Kong ships, it would also avoid detention of Hong Kong ships by overseas port state control due to the lack of proper maritime labour certificate required under MLC.

LEGISLATIVE PROPOSALS

Working and living conditions of seafarers under the MLC

5. The standards governing the working and living conditions of seafarers on board seagoing ships to be incorporated into the new and amendment regulations can be grouped under 16 areas. With the exception of fishing vessel, ships of traditional build (such as wooden ships), and warships or naval auxiliaries, these standards are applicable to all seagoing ships registered in Hong Kong and engaged in commercial activities. Technical requirements of a structural nature (e.g. requirements relating to accommodation) will not apply to ships constructed prior to the application of MLC in Hong Kong.

- (a) ***Minimum age*** – No seafarers under the age of 17 will be allowed to work on a ship. Seafarers under the age of 18 will not be allowed to engage in night work or duties that are likely to jeopardise their health or safety.
- (b) ***Medical certificate*** – All seafarers will be required to hold a valid medical fitness certificate attesting that they are medically fit to perform their duties at sea.
- (c) ***Qualifications of seafarers*** – All seafarers will be required to be trained or qualified in accordance with the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (“STCW Convention”)² for carrying out shipboard duties.
- (d) ***Seafarers’ employment agreements*** – This requirement will ensure that seafarers have a fair employment agreement. For example, the agreement should have a minimum notice period not shorter than seven days for early termination.

² The STCW Convention will come into effect globally on 1 January 2017. We aim at introducing the legislative amendments to implement the STCW Convention to the Legislative Council in late 2016 for negative vetting. Notwithstanding this, references will be made directly to the STCW Code, as amended from time to time.

- (e) ***Use of recruitment and placement services*** – This requirement will ensure that shipowners who engage service agents to employ seafarers to work on Hong Kong-registered ship will protect seafarers' employment rights in accordance with the MLC.
- (f) ***Hours of work or rest*** – This requirement will ensure that seafarers will be given regulated hours of work and hours of rest. For example, they should have at least 10 hours of rest in any 24-hour period.
- (g) ***Manning levels*** – This requirement will ensure that ships are sufficiently manned for the safe, efficient and secure operation of the ship.
- (h) ***Accommodation*** – For ships constructed on or after the commencement of the New Regulation, the standard of provisioning (heating, ventilation, lighting, sanitary and laundry facilities, etc.) for seafarers' accommodation should be consistent with MLC. Other ships will continue to be governed by the Merchant Shipping (Seafarers) (Crew Accommodation) Regulation (Cap. 478I).
- (i) ***On-board recreational and communication facilities*** – This requirement will ensure that appropriate recreational and communication facilities on board are provided to seafarers. For example, reasonable access to ship-to-shore telephone communications, email, and Internet facilities must be provided where practicable.
- (j) ***Food and catering*** – This requirement will ensure that free food and drinking water suitable in respect of quantity, nutritional value, quality and variety are provided to seafarers.
- (k) ***Health and safety and accident prevention*** – Shipowners will be required to adopt, implement and promote occupational safety and health policies and programmes on ships. They will have to report to MD any occupational accidents, injuries and certain diseases and the corresponding remedial measures taken.
- (l) ***On-board medical care*** – This requirement will ensure that seafarers will be provided with free medical and essential dental care. The health protection and medical care to seafarers should be as comparable as possible to the care generally available to

workers ashore.

- (m) ***On-board complaint procedures*** – MLC requires fair, expeditious and well-documented on-board procedures for handling seafarers' complaints. Seafarers will have a right to complain directly to the ship's master, as well as MD.
- (n) ***Payment of wages*** – The requirement will ensure that seafarers are paid for their services.
- (o) ***Financial security for repatriation*** – Shipowners will be required to compensate seafarers when a ship is lost or has foundered. They will also be required to provide financial security, in the form of an insurance policy, to repatriate and compensate abandoned seafarers.
- (p) ***Financial security for shipowners' liability*** – Shipowners will be required to bear the cost for seafarers working on Hong Kong ships when they are sick or injured on board. They will also be required to provide financial guarantee to ensure compensation to seafarers in the event of death or long-term disability due to occupational injury, illness or hazard.

Compliance and enforcement

6. To ensure compliance, shipowners will be required to apply for a Declaration of Maritime Labour Compliance from MD by providing details on the measures to be put in place. A Maritime Labour Certificate, valid for five years, will be issued by MD or a Recognised Organisation³ (RO) on behalf of MD after the ship is inspected by either a Government surveyor or an RO and found to conform to the requirements stipulated in the Declaration of Maritime Labour Compliance. All ships will be required to undergo an intermediate inspection between the second and third anniversaries of the Maritime Labour Certificate, and will be inspected again before its renewal.

7. To monitor compliance, MD will be given the power to investigate complaints against a ship. Government surveyors may board any ship registered in Hong Kong or within Hong Kong waters for this purpose. If there is any evidence that the ship concerned does not comply with MLC or fails to take corrective action for breaches, MD may detain the ship or withdraw its Maritime Labour Certificate.

³ A Recognised Organisation (RO) is a classification society recognised by the HKSAR Government to provide survey and certification services for Hong Kong-registered ships. It is common for governments to authorise ROs to conduct ship surveys.

Application of Direct Reference Approach

8. In line with the established practice in incorporating requirements of other marine-related international conventions into our local legislation, we have adopted the “direct reference approach” (DRA) in making and amending the regulations. By making direct reference to provisions under international agreements in local legislation, DRA can keep our local legislation in tandem with new MLC requirements. As a guiding principle, DRA is adopted for technical details such as requirements on crew accommodation and financial security).

The New Regulation

9. The main provisions of the New Regulation are set out below –
- (a) Part 2 and the related schedules set out the detailed requirements in respect of the 16 areas relating to the working and living conditions of seafarers outlined in paragraph 5;
 - (b) Part 3 sets out the certification requirements for Hong Kong seagoing ships of 500 gross tonnage or over and engaged in commercial activities and provides for the application, renewal, and validity of the certificate;
 - (c) Part 4 provides for enforcement of the requirements under Part 2 in relation to Hong Kong ships, and the enforcement of MLC in relation to non-Hong Kong ships while they are in Hong Kong waters; and
 - (d) Part 5 contains provisions that deal with Director of Marine’s powers to recognise organisations to inspect ships and issue certificates; as well as to inspect non-Hong Kong ships and issue certificates at the request of other convention countries.

Amendments to existing subsidiary legislation under the Ordinance

10. The New Regulation will cover the majority of MLC requirements. However, it is also necessary to make consequential and related amendments to 11 pieces of subsidiary legislation, as follows —

- (a) The Merchant Shipping (Seafarers) (Allotments) Regulation (Cap. 478A) is amended to allow seafarers to allot part or all of their wages according to their preference;
- (b) The Merchant Shipping (Seafarers) (Health and Safety: General Duties) Regulation (Cap. 478C) is amended to impose duties on employers to ensure the health and safety of seafarers;

- (c) The Merchant Shipping (Seafarers) (Hours of Work) Regulation (Cap. 478D) is amended to confine its application to coastal-going ships on or after the commencement of the New Regulation. Similar requirements for seafarers employed on Hong Kong seagoing ships are provided in the New Regulation;
- (d) The Merchant Shipping (Seafarers) (Crew Accommodation) Regulation (Cap. 478I) is amended to confine its application to Hong Kong ships constructed before the commencement date of the New Regulation. Ships constructed on or after the commencement date of the New Regulation have to comply with the crew accommodation requirements stipulated under the New Regulation;
- (e) The Merchant Shipping (Seafarers) (Code of Safe Working Practices) Regulation (Cap. 478M) is amended to change the title of the cross-referenced Merchant Shipping (Seafarers) (Safety Officials and Reporting of Accidents and Dangerous Occurrences) Regulation (Cap. 478R);
- (f) The Merchant Shipping (Seafarers) (Medical Examination) Regulation (Cap. 478O) is amended to align the criteria for issuing medical fitness certificates and contents of the certificates with the latest international standards and requirements;
- (g) The Merchant Shipping (Seafarers) (Official Log Books) Regulation (Cap. 478P) is amended to update the contents required of official log books consequential to the New Regulation;
- (h) The Merchant Shipping (Seafarers) (Repatriation) Regulation (Cap. 478Q) is amended to implement the requirements relating to seafarers' repatriation under MLC. The amendments include the circumstances under which employers must repatriate seafarers, the employers' obligations in repatriation and the duty of employers to make financial arrangements for seafarers' repatriation;
- (i) The Merchant Shipping (Seafarers) (Safety Officials and Reporting of Accidents and Dangerous Occurrences) Regulation (Cap. 478R) is amended to provide for the MLC requirements relating to the election of safety representatives and appointment of safety committees, and the reporting of diseases contracted by seafarers which arise out of and in the course of employment on the ships;
- (j) The Merchant Shipping (Seafarers) (Medical Stores) Regulation (Cap. 478X) is amended to align the requirements relating to the medical stores carried on board Hong Kong ships with the latest international standards and requirements; and

- (k) The Fees Amendment Regulation prescribes the fees for the inspection and certification of ships carried out by MD under the New Regulation. The fees would be set at the same level as those for similar services provided by MD under existing regulations, given that the workflow and resources involved are the same. Also, we will take the opportunity to remove five fee items and reduce six fee items related to sight test as MD no longer provide such services.

LEGISLATIVE TIMETABLE

11. The New Regulation, the 11 pieces of amendment regulations and the two repeal regulations will be published in the Gazette on 20 May 2016 and introduced into the Legislative Council on 25 May 2016.

IMPLICATIONS OF THE PROPOSAL

12. On financial and civil service implications, MD has already secured the additional staffing resources in accordance with the established resource allocation mechanism.

13. The fees for the inspection and certification services provided by MD are determined on a cost recovery basis. The revenue generated from the fees is expected to be very small as most inspection and certification services would be carried out by RO.

14. The proposal would have insignificant economic implications. Given that the MLC has been in force globally in 2013, most ships are already in compliance and the cost impact arising from these new requirements on working and living conditions should be minimal. While the ship owners would need to pay for the inspection and certification fees, the fees are expected to be relatively small as compared to the total operating costs.

15. The regulations have no productivity, family, gender, environmental or sustainability implications. They are in conformity with the Basic Law, including the provisions concerning human rights. They will not affect the current binding effect of the Ordinance.

PUBLIC CONSULTATION

16. We consulted the Legislative Council Panel on Economic Development on the legislative proposals on 11 December 2012. Members supported the proposed amendments.

17. We have also consulted shipowners' and seafarers' organisations. They are supportive of the legislative proposals for implementing MLC. Other advisory committees consulted include the Seafarers' Advisory Board, the Shipping Consultative Committee⁴ and the Committee on the Implementation of International Labour Standards under the Labour Advisory Board⁵. All of them have no objection to the proposals.

PUBLICITY

18. A press release will be issued on 20 May 2016. A spokesman will be available to answer enquires.

ENQUIRIES

19. Any enquiries on this brief can be addressed to Ms Louisa Yan, Principal Assistant Secretary for Transport and Housing (Transport) (Tel: 3509 8162) or Mr Y.M. Cheng, Assistant Director, Shipping, Marine Department (Tel: 2852 4404).

**Transport and Housing Bureau
May 2016**

⁴ Shipping Consultative Committee is a non-statutory consultative body comprises representatives of the shipping industry, seafarers' associations and trade organisations.

⁵ The Committee on the Implementation of International Labour Standards under the Labour Advisory Board is a non-statutory consultative body comprises representatives of employers and employees.

Merchant Shipping (Seafarers) (Working and Living Conditions) Regulation

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Merchant Shipping (Seafarers) (Working and Living Conditions) Regulation

(Made by the Secretary for Transport and Housing under sections 86, 96, 97, 119 and 134 of the Merchant Shipping (Seafarers) Ordinance (Cap. 478))

Part 1

Preliminary

1. Commencement

This Regulation comes into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette.

2. Interpretation

(1) In this Regulation—

Accommodation Regulation (《艙房規例》) means the Merchant Shipping (Seafarers) (Crew Accommodation) Regulation (Cap. 478 sub. leg. I);

anniversary date (周年日期), in relation to a maritime labour certificate or preliminary certificate, means the day and month of each year which corresponds to the date of expiry of the certificate;

approved training programme (認可訓練課程) means a training programme for seafarers approved by the Superintendent;

commencement date (生效日期) means the date on which Part 3 comes into operation;

competent authority (主管當局), in relation to a ML Convention country, or a country that is a party to the Ships' Cooks

Convention, means the authority with the power to enforce, in the country, the law for implementing the Convention concerned;

complaint procedures (投訴程序), in relation to a ship, means the procedures for dealing with complaints from seafarers working on board the ship regarding alleged breaches of the Part 2 requirements applicable to the ship;

compliance measures (合規措施), in relation to a ship, means the measures set out in Part II of the declaration of maritime labour compliance issued in respect of the ship;

compliance report (合規報告) means a compliance report issued—

- (a) by the Authority under section 91; or
- (b) by a recognized organization;

Convention-related document (《公約》相關文件) means—

- (a) a maritime labour certificate;
- (b) an interim maritime labour certificate;
- (c) a compliance report; or
- (d) a declaration of maritime labour compliance;

declaration of maritime labour compliance (海事勞工合規聲明) means a declaration of maritime labour compliance comprising—

- (a) Part I which is issued by the Authority under section 82(1) or 93(1); and
- (b) Part II which is issued—
 - (i) by the Authority under section 82(3) or 93(3);
 - (ii) by the competent authority of a ML Convention country under section 115; or
 - (iii) by a recognized organization;

endorsement for intermediate inspection (中期檢查批註) means an endorsement for an intermediate inspection that is made on the maritime labour certificate of a ship—

- (a) by the Authority under section 74;
- (b) by the competent authority of a ML Convention country under section 115; or
- (c) by a recognized organization;

function (職能) includes power and duty;

Government surveyor (政府驗船師) means a person appointed to be a Government surveyor under section 110;

gross tonnage (總噸位), in relation to a ship, means the gross tonnage of the ship determined in accordance with regulation 6 of the Merchant Shipping (Registration) (Tonnage) Regulations (Cap. 415 sub. leg. C);

Hong Kong ship (香港船舶) means a ship registered in Hong Kong under the Merchant Shipping (Registration) Ordinance (Cap. 415);

hours of rest (休息時間) means any period of time outside working hours, but does not include short breaks within working hours;

interim maritime labour certificate (臨時海事勞工證書) means an interim maritime labour certificate issued—

- (a) by the Authority under section 78;
- (b) by the competent authority of a ML Convention country under section 115; or
- (c) by a recognized organization;

intermediate inspection (中期檢查) means an intermediate inspection carried out in respect of a ship under section 73(1);

maritime labour certificate (海事勞工證書) means a maritime labour certificate issued or renewed—

- (a) by the Authority under section 69, 70 or 72;
- (b) by the competent authority of a ML Convention country under section 115; or
- (c) by a recognized organization;

medical care (醫療照顧) includes dental care;

medical fitness certificate (健康證明書) has the meaning given by section 2(1) of the Merchant Shipping (Seafarers) (Medical Examination) Regulation (Cap. 478 sub. leg. O);

ML Convention (《海事勞工公約》) means the Maritime Labour Convention, 2006, adopted by the International Labour Conference of the International Labour Organization on 23 February 2006, as from time to time revised or amended by any revision or amendment to any provision of the Convention that applies to Hong Kong;

ML Convention country (《海事勞工公約》國) means a country that is a party to the ML Convention, and includes a place to which the Convention applies;

non-Hong Kong ship (非香港船舶) means a ship other than a Hong Kong ship;

official log book (正式航海日誌) means an official log book kept on a Hong Kong ship under section 119 of the Ordinance;

Part 2 requirement (第 2 部規定) means a requirement relating to the working and living conditions of seafarers specified in Divisions 2 to 17 of Part 2;

port authority (港口當局)—

- (a) in relation to the port of Hong Kong, means the Director of Marine; and
- (b) in relation to a port outside Hong Kong, means the person having control of the operation of the port;

preliminary certificate (初步證書) means a preliminary certificate referred to in section 70(2)(a)(ii);

recognized organization (認可機構) means an organization recognized under section 111;

regulated ship (受管制船舶) means a seagoing ship, whether publicly or privately owned, that is engaged in commercial activities, but does not include—

- (a) a fishing vessel;
- (b) a ship of traditional build, including a dhow or a junk; or
- (c) a warship or naval auxiliary;

seagoing ship (海域航行船舶) means a ship other than one which navigates exclusively in one or more of the following areas—

- (a) inland waters;
- (b) waters within, or closely adjacent to, sheltered waters;
- (c) areas where port regulations apply;

shipowner (船東)—

- (a) in relation to a Hong Kong ship in respect of which a maritime labour certificate or compliance report is in force, means the person identified as the shipowner of the ship on the certificate or report; or
- (b) in relation to any other Hong Kong ship—
 - (i) means the person registered as the owner of the ship under the Merchant Shipping (Registration) Ordinance (Cap. 415); or
 - (ii) means a person who has assumed responsibility for the operation of the ship from the owner of the ship and who, on assuming the responsibility, has agreed to take over the obligations imposed on the owner of the ship under the ML Convention;

Ships' Cooks Convention (《船上廚師公約》) means the Certification of Ships' Cooks Convention, 1946, adopted by the General Conference of the International Labour Organization on 27 June 1946;

STCW Code (《培訓規則》) means the Seafarers' Training, Certification and Watchkeeping Code published by the International Maritime Organization, as from time to time revised or amended by any revision or amendment that applies to Hong Kong;

STCW Convention (《培訓公約》) means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as from time to time revised or amended by any revision or amendment to any provision of the Convention that applies to Hong Kong;

young seafarer (青年海員) means a seafarer who is under the age of 18.

- (2) For the purposes of this Regulation, a ship is constructed when—
 - (a) its keel is laid; or
 - (b) it is at a similar stage of construction.

Part 2

Requirements Relating to Working and Living Conditions of Seafarers

Division 1—General

3. Application

This Part applies to a regulated ship that is a Hong Kong ship, wherever it may be.

4. Working and living conditions of seafarers

The working and living conditions of seafarers employed to work on board a ship must comply with the requirements specified in Divisions 2 to 17.

Division 2—Minimum Age and Other Age-related Requirements

5. Minimum age

A seafarer who works on board a ship must be at least 17 years of age.

6. Young seafarers must not work during night period

- (1) Subject to subsection (2), a young seafarer employed to work on board a ship must have a night rest period that—
 - (a) lasts at least 9 consecutive hours; and
 - (b) includes the hours between midnight and 5 a.m.
- (2) The seafarer must not work during the period unless—

- (a) the training for the seafarer in accordance with an approved training programme would be impaired; or
- (b) the specific nature of the duty of the seafarer or of an approved training programme requires the seafarer to work during the period and the work to be carried out—
 - (i) falls within Regulations II/1 and II/3 of the STCW Convention;
 - (ii) forms part of the training for engineer officer under Regulation III/1 of the STCW Convention;
 - (iii) forms part of the training for navigational watch rating under Regulation II/4 of the STCW Convention;
 - (iv) forms part of the training for engine room watch rating under Regulation III/4 of the STCW Convention;
 - (v) forms part of the training for rating as able seafarer deck under Regulation II/5 of the STCW Convention;
 - (vi) forms part of the training for rating as able seafarer engine under Regulation III/5 of the STCW Convention;
 - (vii) forms part of the training for electro-technical officer under Regulation III/6 of the STCW Convention;
 - (viii) forms part of the training for electro-technical rating under Regulation III/7 of the STCW Convention;
 - (ix) forms part of the training for radio personnel under Regulation IV/2 of the STCW Convention;

- (x) forms part of the training for alternative certification under Regulation VII of the STCW Convention.

7. Young seafarers must not carry out certain types of work

- (1) A young seafarer employed to work on board a ship must not carry out any work—
 - (a) that has to be carried out in a high-pressure atmosphere and that would expose the seafarer to risks of high pressure and decompression;
 - (b) that involves taking care of or coming into contact with patients on board the ship;
 - (c) that would expose the seafarer to electrical voltage of over 1 000 volts;
 - (d) that would expose the seafarer to—
 - (i) shocks that could cause back pain to, or damage to the spine of, the seafarer; or
 - (ii) low-frequency vibration; or
 - (e) that involves the handling of—
 - (i) any substance listed in the Dangerous Goods List of the IMDG Code; or
 - (ii) any noxious liquid listed in Chapter 17 of the IBC Code.

- (2) In this section—

IBC Code (《國際散裝化學品規則》) means the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk published by the International Maritime Organization, as from time to time revised or amended by any revision or amendment that applies to Hong Kong;

IMDG Code (《危險貨物守則》) means the International Maritime Dangerous Goods Code published by the International Maritime Organization, as from time to time revised or amended by any revision or amendment that applies to Hong Kong.

8. Young seafarers must not carry out certain types of work without training etc.

- (1) A young seafarer employed to work on board a ship must not carry out any work specified in subsection (2) unless—
 - (a) the seafarer has completed a relevant approved training programme; or
 - (b) the seafarer is provided with appropriate supervision and instruction by an officer on board the ship for carrying out the work.
- (2) The work is—
 - (a) lifting, moving or carrying heavy loads or objects;
 - (b) work that involves entry into boilers, tanks and cofferdams;
 - (c) work that involves exposure to harmful noise and vibration levels;
 - (d) operating hoisting and other power machinery or tools, or acting as signallers to operators of the machinery or tools;
 - (e) handling mooring or tow lines or anchoring equipment;
 - (f) rigging;
 - (g) working aloft or on deck in heavy weather;
 - (h) nightwatch duties;
 - (i) servicing electrical equipment;

- (j) work that involves exposure to potentially harmful materials, or harmful physical agents, including dangerous or toxic substances and ionizing radiations;
- (k) cleaning catering machinery;
- (l) handling or taking charge of ship's boats.

9. Offences

- (1) If section 5 is contravened, the shipowner of the ship concerned commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 2 years.
- (2) If section 6, 7 or 8 is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction—
 - (a) for the shipowner, to a fine at level 6;
 - (b) for the master, to a fine at level 4.

Division 3—Medical Certification

10. Seafarer must hold medical fitness certificate

A seafarer employed to work on board a ship must hold a valid medical fitness certificate.

Division 4—Qualifications of Seafarers

11. Qualifications and training

- (1) A seafarer must not work in any capacity on board a ship unless the seafarer complies with the requirements in respect of that capacity imposed by the subsidiary legislation made under the Ordinance for implementing the STCW Convention.

- (2) A seafarer must not work on board a ship unless the seafarer has completed the training for personal safety in compliance with the STCW Code.

Division 5—Seafarers' Employment Agreements

12. Seafarers must have entered into employment agreements

- (1) A seafarer working on board a ship must have entered into a written employment agreement with the employer of the seafarer.
- (2) The seafarer must be given—
 - (a) an opportunity to examine and seek advice on the agreement before entering into it; and
 - (b) any facilities that are necessary to ensure that the seafarer—
 - (i) has a sufficient understanding of the seafarer's rights and obligations under the agreement before entering into it; and
 - (ii) freely enters into the agreement.
- (3) The seafarer must be given a signed original of the agreement.
- (4) If the agreement is not in English, a copy of a standard form of the agreement adopted for seafarers on board the ship in English must be made available to the seafarer.

13. Requirements for employment agreement

An employment agreement of a seafarer must comply with Schedule 1.

14. Employment agreement to be made available for review

A copy of the employment agreement between a seafarer and the employer of the seafarer must, on request, be made available for review by the competent authority of a ML Convention country.

15. Record of employment

- (1) A seafarer must, before being discharged from the ship on which the seafarer has worked, be given a record of the seafarer's employment on board the ship that complies with subsection (2).
- (2) The record of employment—
 - (a) must contain sufficient information to facilitate the seafarer to acquire further work, or to satisfy the sea-service requirements for the seafarer's upgrading or promotion; but
 - (b) must not contain any statement as to the wages of the seafarer or quality of the seafarer's work.

16. Offences

- (1) If section 12(2) is contravened, the employer of the seafarer concerned commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.
- (2) If section 12(3) or (4) is contravened, the employer of the seafarer concerned commits an offence and is liable on conviction to a fine at level 3.
- (3) If section 13 is contravened, the employer of the seafarer concerned commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.
- (4) If section 14 or 15(1) is contravened, the employer of the seafarer concerned commits an offence and is liable on conviction to a fine at level 3.

- (5) It is a defence for a person charged under subsection (1) or (2) to show that the person had taken all reasonable steps to prevent the commission of the offence.

Division 6—Use of Recruitment and Placement Services

17. Recruitment and placement agent in ML Convention country

If the shipowner of a ship engages an agent operating in a ML Convention country to recruit and place seafarers to work on board the ship, the shipowner must ensure that the agent is permitted to do so under the law of the country.

18. Recruitment and placement agent in other countries

- (1) If the shipowner of a ship engages an agent operating in a country, not being a ML Convention country, to recruit and place seafarers to work on board the ship, the shipowner must, as far as practicable, ensure that the agent complies with all the requirements specified in subsection (2).
- (2) The requirements are—
 - (a) the agent must not use any means, mechanism or list to prevent or deter a seafarer from gaining employment for which the seafarer is qualified;
 - (b) the agent must not require a seafarer to bear, whether directly or indirectly, in part or in whole, any fees or charges for arranging employment for the seafarer;
 - (c) the agent must maintain an up-to-date register of all seafarers recruited or placed by it;
 - (d) the agent must have measures in place to ensure that—
 - (i) a seafarer to be employed is informed of the seafarer's rights and obligations under the employment agreement to be entered into;

- (ii) the agreement complies with Schedule 1;
 - (iii) the seafarer may examine the agreement before it is signed; and
 - (iv) the seafarer receives a copy of the agreement after it has been signed;
- (e) the agent must have measures in place to verify that a seafarer recruited or placed by it to take up a position on board the ship is qualified for, and holds the documents necessary for, the position;
- (f) the agent must have measures in place to ensure, as far as practicable, that the shipowner has the means to protect a seafarer employed or placed from being stranded in a foreign port;
- (g) the agent must have measures in place, whether by way of insurance or otherwise, to compensate a seafarer employed for any monetary loss that the seafarer may incur as a result of the failure of the agent or the shipowner to meet its obligation to the seafarer.
- (3) For the purposes of subsection (2)(b), the fees or charges for arranging employment for a seafarer does not include the cost of obtaining—
- (a) the seafarer's medical fitness certificate;
 - (b) the seafarer's record of employment; and
 - (c) the seafarer's passport or other similar personal travel documents, other than a visa required for travelling to a place in the course of employment.

19. Offences

- (1) The shipowner of a ship who contravenes section 17 or 18(1) commits an offence and is liable on conviction to a fine at level 5.

- (2) It is a defence for a person charged under subsection (1) to show that the person had taken all reasonable steps to prevent the commission of the offence.

Division 7—Hours of Rest

20. Minimum hours of rest

- (1) Subject to subsection (2) and section 21, a seafarer employed to work on board a ship must have at least—
- (a) 10 continuous hours of rest in any 24-hour period; and
 - (b) 77 hours of rest in any 7-day period.
- (2) The hours of rest in a 24-hour period may be divided into 2 periods if—
- (a) one of them is at least 6 hours in duration; and
 - (b) the interval between 2 consecutive periods of rest does not exceed 14 hours.
- (3) Emergency drills on board the ship must be conducted in a manner—
- (a) that minimizes the disruption of any rest period; and
 - (b) that does not induce fatigue to any seafarer on board the ship.

21. Authority may permit exceptions

The Authority may, in accordance with Standard A2.3 of the ML Convention and Section A-VIII/1 of the STCW Convention, permit an exception to the requirements on hours of rest under section 20(1) and (2).

22. Schedules of service and records of rest

- (1) The master of a ship must—

- (a) compile a table that complies with subsection (2); and
 - (b) display the table in a conspicuous position on board the ship, which is accessible to the seafarers on it.
- (2) The table must—
- (a) contain, in respect of each seafarer on board the ship—
 - (i) a schedule of service at sea and service in port; and
 - (ii) the minimum hours of rest; and
 - (b) be presented—
 - (i) in the working language of the crew of the ship; and
 - (ii) if the working language is not English, also in English.
- (3) The master may require a seafarer to work during the hours of rest shown in the schedule of service for—
- (a) ensuring the immediate safety of the ship, or a person or cargo on board the ship; or
 - (b) giving assistance to any other ship or a person in distress at sea.
- (4) If a seafarer has worked pursuant to subsection (3), the seafarer must be provided with a compensatory rest period.
- (5) The master must—
- (a) maintain a record of daily hours of rest of every seafarer on board the ship that is endorsed by—
 - (i) the master or a person authorized by the master; and
 - (ii) the seafarer; and
 - (b) provide each seafarer with a copy of the record relating to the seafarer.

23. Working hours of young seafarers

- (1) The following requirements must be complied with in relation to a young seafarer employed to work on board a ship—
- (a) the working hours of the seafarer must not exceed—
 - (i) 8 hours in any 24-hour period; and
 - (ii) 40 hours in any 7-day period;
 - (b) there must be—
 - (i) sufficient time for meals; and
 - (ii) a break of at least 1 hour for the main meal of a day; and
 - (c) there must be a 15-minute rest period as soon as practicable after every 2 hours of continuous work.
- (2) Subsection (1) does not apply if—
- (a) the seafarer is assigned to watchkeeping duties or working on a rostered shiftwork system in the deck department, engine room department or catering department, and it is impracticable for the requirements to be complied with;
 - (b) it is necessary for the seafarer to work for extra working hours to—
 - (i) ensure the immediate safety of the ship, or a person or cargo on board the ship; or
 - (ii) give assistance to any other ship or a person in distress at sea; or
 - (c) the training for the seafarer in accordance with an approved training programme would be impaired.
- (3) If any of the requirements specified in subsection (1) is not complied with in relation to a seafarer because of subsection

- (2), the master of the ship concerned must compile and sign a record containing the following particulars—
- (a) the duration of the extra working hours; and
 - (b) the circumstances under which the working hours of the seafarer are exceeded.

24. Offences

- (1) If section 20(1) or (3) or 22(4) is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction—
 - (a) for the shipowner, to a fine at level 5;
 - (b) for the master, to a fine at level 3.
- (2) The master of a ship who contravenes section 22(1) or (5) or 23(3) commits an offence and is liable on conviction to a fine at level 1.
- (3) If section 23(1) is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction—
 - (a) for the shipowner, to a fine at level 5;
 - (b) for the master, to a fine at level 3.
- (4) It is a defence for a person charged under subsection (1), (2) or (3) to show that the person had taken all reasonable steps to prevent the commission of the offence.

Division 8—Manning Levels

25. Sufficient number of seafarers to ensure safety of ship etc.

- (1) Without prejudice to the requirements on manning of ships under the Merchant Shipping (Seafarers) (Certification of Officers) Regulation (Cap. 478 sub. leg. J)—

- (a) there must be a sufficient number of seafarers on board a ship to ensure that the ship is operated safely and efficiently, with due regard to security; and
 - (b) the ship must be manned by a crew that is adequate, in terms of size and qualifications, to ensure the safety and security of the ship and all the persons on board the ship under all operating conditions.
- (2) A ship issued with a Minimum Safe Manning Certificate under the Merchant Shipping (Safety) (Minimum Safe Manning Certificate) Regulation (Cap. 369 sub. leg. AS) is taken to have complied with subsection (1) if the ship is manned in accordance with the Certificate.
 - (3) If subsection (1) is contravened, the shipowner of the ship concerned commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 2 years.

Division 9—Accommodation

26. Interpretation

In this Division—

special purpose ship (特殊用途船舶) means a ship that complies with the requirements for special purpose ships set out in the Code of Safety for Special Purpose Ships adopted by the International Maritime Organization by Resolution A.534(13), as amended from time to time.

27. Accommodation and related requirements

- (1) Subject to sections 29, 30 and 31, a ship constructed on or after the commencement date must comply with Schedule 2.
- (2) A ship constructed before the commencement date must comply with the accommodation and related requirements that apply to it under the Accommodation Regulation.

28. Regular inspections to be carried out regarding accommodation and related facilities

- (1) The master of a ship constructed on or after the commencement date must carry out an inspection of the ship once every week to ensure that the accommodation and related facilities for seafarers are clean and maintained in a good state of repair.
- (2) The master may appoint an officer on board the ship to carry out the inspection on behalf of the master.
- (3) The master must ensure that the master or the officer appointed is accompanied by another seafarer on board the ship during the inspection.
- (4) The master must ensure that, for each inspection, a record that complies with subsection (5)—
 - (a) is entered in the ship's official log book; and
 - (b) is, on request, made available for review by a port authority.
- (5) The record of inspection must contain the following information—
 - (a) the time and date of the inspection;
 - (b) the name and rank of each seafarer—
 - (i) who carried out the inspection; or
 - (ii) who was present during the inspection under subsection (3); and
 - (c) the items inspected and details of non-compliance with Schedule 2, if any.

29. Exemptions for ships of less than 200 gross tonnage

- (1) The Authority may, after consulting the Advisory Board, exempt a ship constructed on or after the commencement date

that is of less than 200 gross tonnage from any of the requirements specified in subsection (2).

- (2) The requirements are those under Standard A3.1 of the ML Convention relating to—
 - (a) air conditioning;
 - (b) washbasins in sleeping rooms;
 - (c) laundry facilities;
 - (d) the floor area of sleeping rooms for seafarers.
- (3) The Authority may only grant an exemption under subsection (1) if the Authority considers it reasonable to do so, having regard to—
 - (a) the size of the ship; and
 - (b) the number of persons to be carried on board the ship.

30. Exemptions for ships of less than 3 000 gross tonnage and special purpose ships

- (1) The Authority may, after consulting the Advisory Board, exempt a ship constructed on or after the commencement date that is of less than 3 000 gross tonnage from any of the requirements specified in subsection (2).
- (2) The requirements are those under Standard A3.1 of the ML Convention relating to—
 - (a) the provision of individual sleeping room for each seafarer;
 - (b) the provision of adjoining sitting rooms, day rooms or equivalent additional spaces to the master, chief engineer and chief navigating officer;
 - (c) the location of mess rooms;

- (d) the provision of sanitary facilities within easy access of the navigating bridge and the machinery space or near the engine room control centre;
 - (e) the provision of separate offices or a common ship's office for use by the deck department and engine room department.
- (3) The Authority may, after consulting the Advisory Board, exempt a ship constructed on or after the commencement date that is a special purpose ship from the requirement relating to the provision of individual sleeping room for each seafarer under Standard A3.1 of the ML Convention.
- (4) The Authority may only grant an exemption under subsection (1) or (3) if the Authority considers it reasonable to do so, having regard to—
- (a) the space available on the ship;
 - (b) the effect of the exemption on the structure of the ship; and
 - (c) the effect of the exemption on the safety of the persons on board the ship.

31. Variations in requirements set out in Schedule 2

- (1) This section applies to a ship that is constructed on or after the commencement date.
- (2) The Authority may allow a reduction in the minimum permitted headroom in the accommodation for seafarers on board a ship required under Standard A3.1 of the ML Convention, if the Authority is satisfied that the reduction—
- (a) is reasonable; and
 - (b) will not result in discomfort to the seafarers.
- (3) The Authority may allow the sleeping rooms on a passenger ship or special purpose ship to be located below the load line

(but not to be located immediately beneath working alleyways), if satisfactory arrangements are made for the lighting and ventilation of the ship.

- (4) The Authority may, for providing single berth sleeping rooms on board a ship that is of less than 3 000 gross tonnage, allow the floor area of such a sleeping room to be less than 4.5 m².
- (5) The Authority may allow a reduction in the number of sanitary facilities required of a ship under Standard A3.1 of the ML Convention, if the ship is a passenger ship normally engaged in voyages of not more than 4 hours' duration.

32. Offences

- (1) If section 27(1) is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction to a fine at level 5.
- (2) The master of a ship who contravenes section 28(1), (3) or (4) commits an offence and is liable on conviction to a fine at level 3.
- (3) It is a defence for a person charged under subsection (2) to show that the person had taken all reasonable steps to prevent the commission of the offence.

Division 10—Recreational and Communications Facilities

33. Requirements for recreational and communications facilities

- (1) A ship constructed on or after the commencement date must comply with Schedule 3.
- (2) A ship constructed before the commencement date must comply with the requirements for recreational and communications facilities that apply to it under the Accommodation Regulation.

34. Regular inspections to be carried out regarding recreational and communications facilities

- (1) The master of a ship constructed on or after the commencement date must carry out an inspection of the ship once every week to ensure that the recreational and communications facilities for seafarers are clean and maintained in a good state of repair.
- (2) The master may appoint an officer on board the ship to carry out the inspection on behalf of the master.
- (3) The master must ensure that the master or the officer appointed is accompanied by another seafarer on board the ship during the inspection.
- (4) The master must ensure that, for each inspection, a record that complies with subsection (5)—
 - (a) is entered in the ship's official log book; and
 - (b) is, on request, made available for review by a port authority.
- (5) The record of inspection must contain the following information—
 - (a) the time and date of the inspection;
 - (b) the name and rank of each seafarer—
 - (i) who carried out the inspection; or
 - (ii) who was present during the inspection under subsection (3); and
 - (c) the items inspected and details of non-compliance with Schedule 3, if any.

35. Offences

- (1) If section 33(1) is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction to a fine at level 5.
- (2) The master of a ship who contravenes section 34(1), (3) or (4) commits an offence and is liable on conviction to a fine at level 3.
- (3) It is a defence for a person charged under subsection (2) to show that the person had taken all reasonable steps to prevent the commission of the offence.

Division 11—Food and Catering

36. Sufficient provisions and drinking water to be provided

- (1) The shipowner of a ship must ensure that the seafarers working on board the ship are provided with provisions and drinking water in compliance with subsection (2).
- (2) The provisions and drinking water must—
 - (a) be suitable in quantity, nutritional value, quality and variety, having regard to the number of seafarers on board the ship, their religious and cultural background, and the duration and nature of the voyage; and
 - (b) be provided free of charge.

37. Staffing requirements for catering department

The shipowner of a ship must ensure that the catering department of the ship is staffed in compliance with Schedule 4.

38. Organization and equipment of catering department

The master of a ship must ensure that the catering department of the ship is so organized and equipped that—

- (a) adequate, nutritious and varied meals may be prepared; and
- (b) meals may be served in hygienic conditions.

39. Regular inspections to be carried out regarding provisions, drinking water, etc.

- (1) The master of a ship must ensure that an inspection is carried out once every week in compliance with subsection (2) regarding—
 - (a) the supply of provisions and drinking water referred to in section 36;
 - (b) the space and equipment used for storing and handling provisions and drinking water; and
 - (c) the galley and other equipment used for preparing and serving meals.
- (2) The inspection must be carried out by—
 - (a) the master or a person authorized by the master; and
 - (b) a seafarer employed in the catering department of the ship.
- (3) The master must ensure that—
 - (a) the result of each inspection is entered in the ship's official log book; and
 - (b) each entry in the book is signed by all the persons who carried out the inspection.

40. Offences

- (1) The shipowner of a ship who contravenes section 36 or 37 commits an offence and is liable on conviction to a fine at level 5.

- (2) The master of a ship who contravenes section 38 commits an offence and is liable on conviction to a fine at level 5.
- (3) The master of a ship who contravenes section 39(1) or (3) commits an offence and is liable on conviction to a fine at level 3.
- (4) It is a defence for a person charged under subsection (1), (2) or (3) to show that the person had taken all reasonable steps to prevent the commission of the offence.

Division 12—Health, Safety and Accident Prevention

41. Health and safety of seafarers

Sections 4 and 6 of the Merchant Shipping (Seafarers) (Health and Safety: General Duties) Regulation (Cap. 478 sub. leg. C) must be complied with in relation to a ship.

42. Appointment of safety officials and reporting of accidents etc.

Sections 4, 12 and 12A of the Merchant Shipping (Seafarers) (Safety Officials and Reporting of Accidents, Dangerous Occurrences and Occupational Diseases) Regulation (Cap. 478 sub. leg. R) must be complied with in relation to a ship.

Division 13—On Board Medical Care

43. Interpretation

In this Division—

qualified dentist (合資格牙醫) means—

- (a) a registered dentist as defined by section 2(1) of the Dentists Registration Ordinance (Cap. 156); or
- (b) a person who is qualified to practise dentistry in a country that is a party to the STCW Convention;

qualified medical practitioner (合資格醫生) means—

- (a) a registered medical practitioner as defined by section 2(1) of the Medical Registration Ordinance (Cap. 161); or
- (b) a person who is qualified to practise medicine in a country that is a party to the STCW Convention.

44. Qualified medical practitioner to be carried on ship

A qualified medical practitioner must be carried on board a ship if the ship—

- (a) carries 100 or more persons; and
- (b) is engaged in a voyage—
 - (i) that is of more than 3 days' duration; and
 - (ii) that is wholly or partly outside the river trade limits.

45. Seafarers to be in charge of medical care on board etc.

- (1) If a ship is not required to have a qualified medical practitioner on board the ship under section 44, the shipowner of the ship must ensure that there is—
 - (a) at least one seafarer on board the ship who—
 - (i) is responsible for providing medical care and administering medicine; and
 - (ii) is a qualified seafarer; or
 - (b) at least one seafarer on board the ship who is competent to provide medical first aid.
- (2) For the purposes of subsection (1)(a)(ii), a seafarer is a qualified seafarer if the seafarer—

- (a) meets the standard of competence in medical care specified in section A-VI/4, paragraphs 4, 5 and 6 of the STCW Code; and
 - (b) has taken a refresher course on medical care, which had been approved by the Authority or the competent authority of a ML Convention country, within the previous 5 years.
- (3) For the purposes of subsection (1)(b), a seafarer is competent to provide medical first aid if the seafarer—
 - (a) meets the standard of competence in medical first aid specified in section A-VI/4, paragraphs 1, 2 and 3 of the STCW Code; and
 - (b) has taken a refresher course on medical first aid, which had been approved by the Authority or the competent authority of a ML Convention country, within the previous 5 years.
 - (4) The Authority may approve a refresher course referred to in subsection (2)(b) or (3)(b) if the Authority is satisfied that the course may—
 - (a) refresh seafarers' knowledge and skills on medical care or medical first aid; and
 - (b) provide seafarers with information on new developments in medical care or medical first aid.

46. Shipowner to ensure medical care

- (1) The shipowner of a ship must ensure that a seafarer working on board the ship is provided with medical care that complies with all the requirements specified in subsection (2).
- (2) The requirements are—
 - (a) the medical care must be appropriate, having regard to the duties to be carried out by the seafarer and the

special requirements related to working on board the ship;

- (b) the medical care must be as comparable as possible to that which is generally made available to workers ashore, including prompt access to—
 - (i) the necessary medicines, medical equipment and facilities for diagnosis and treatment; and
 - (ii) medical information and expertise;
- (c) where practicable, the seafarer may visit a qualified medical practitioner or qualified dentist without delay in a port of call;
- (d) the medical care must be provided free of charge.

47. Medicines, medical stores and medical guides, etc.

- (1) Sections 4, 6, 7 and 8 of the Merchant Shipping (Seafarers) (Medical Stores) Regulation (Cap. 478 sub. leg. X) must be complied with in relation to a ship.
- (2) The shipowner of a ship must ensure that a copy of each of the following publications, as amended from time to time, is carried on board the ship—
 - (a) the “International Medical Guide for Ships” published by the World Health Organization;
 - (b) the “Medical First Aid Guide for Use in Accidents Involving Dangerous Goods” published by the International Maritime Organization;
 - (c) the STCW Convention;
 - (d) the medical section of the “International Code of Signals” published by the International Maritime Organization.

48. Regular inspections to be carried out regarding medicines, medical stores, etc.

- (1) The master of a ship must ensure that—
 - (a) the following are inspected once every year—
 - (i) the medicines and medical stores required to be kept on board the ship under section 4 of the Merchant Shipping (Seafarers) (Medical Stores) Regulation (Cap. 478 sub. leg. X); and
 - (ii) the publications required to be carried on board the ship under section 47; and
 - (b) for each inspection, a record containing the information specified in subsection (2) is compiled and maintained.
- (2) The information is—
 - (a) the date of inspection and recording;
 - (b) the name and rank of the person who carried out the inspection; and
 - (c) the result of the inspection.

49. Medical information relating to seafarers

If the shipowner or the master of a ship receives any medical information relating to a seafarer working on board the ship, the shipowner or the master must ensure that the information—

- (a) is kept confidential; and
- (b) may only—
 - (i) be used to facilitate the treatment of the seafarer; or
 - (ii) be used for other purposes that are permitted by law.

50. Offences

- (1) The shipowner or the master of a ship who authorizes or permits the ship to proceed to sea in contravention of section 44, whether or not the ship so proceeds, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 2 years.
- (2) The shipowner of a ship who contravenes section 45(1) or 46(1) commits an offence and is liable on conviction to a fine at level 4.
- (3) The shipowner of a ship who contravenes section 47(2) commits an offence and is liable on conviction to a fine at level 3.
- (4) The master of a ship who contravenes section 48(1) commits an offence and is liable on conviction to a fine at level 3.
- (5) The shipowner or the master of a ship who contravenes section 49 commits an offence and is liable on conviction to a fine at level 3.

Division 14—On Board Complaint Procedures

51. Procedures for dealing with complaints

- (1) The master of a ship must ensure that the on board complaint procedures adopted for the ship comply with all the requirements specified in subsection (2).
- (2) The requirements are—
 - (a) the complaint procedures seek to resolve the complaint at the lowest level of ranking;
 - (b) despite paragraph (a), the complaint procedures also allow the complainant to complain directly to the master;

- (c) the complainant may be accompanied or represented by another seafarer chosen by the complainant during the complaint process;
- (d) there are safeguards to protect the complainant from any adverse action that may be taken by a person against the complainant for lodging the complaint.

52. Provision of impartial advice

The master of a ship must appoint a person on board the ship who may, on a confidential basis—

- (a) provide a complainant with impartial advice on the complaint lodged; and
- (b) assist the complainant in dealing with the complaint procedures.

53. Copies of complaint procedures etc. to be provided to seafarers

The master of a ship must ensure that each seafarer on board the ship is provided with—

- (a) a copy of the complaint procedures;
- (b) the name of the person appointed under section 52; and
- (c) the contact information of—
 - (i) the Superintendent; or
 - (ii) for a seafarer who does not reside in Hong Kong, the competent authority of the seafarer's country of residence.

54. Offences

- (1) The master of a ship who contravenes section 51(1) or 52 commits an offence and is liable on conviction to a fine at level 3.

- (2) The master of a ship who contravenes section 53 commits an offence and is liable on conviction to a fine at level 2.

Division 15—Payment of Wages

55. Wages to be paid in full and at regular intervals

The employer of a seafarer working on board a ship must pay, in accordance with the employment agreement entered into with the seafarer, the wages and any additional payments due to the seafarer—

- (a) in full; and
- (b) at regular intervals not exceeding 1 month.

56. Monthly account to be provided to seafarers

The employer of a seafarer working on board a ship must provide the seafarer with a written account each month setting out—

- (a) the amount of wages and any additional payments payable and paid to the seafarer during the month;
- (b) details of all deductions from the amount payable; and
- (c) if the seafarer is paid in a currency or at a rate of exchange other than that agreed to in the employment agreement concerned, the currency or rate of exchange for the payment.

57. Allotment of seafarers' wages

- (1) The employer of a seafarer working on board a ship must, subject to the Merchant Shipping (Seafarers) (Allotments) Regulation (Cap. 478 sub. leg. A), ensure that the seafarer may allot all or a part of the seafarer's wages to a person nominated by the seafarer.

- (2) The employer of a seafarer working on board a ship must ensure that—
 - (a) the charge for the allotment, if any, is reasonable in amount; and
 - (b) if applicable, the rate of exchange for the allotment is—
 - (i) the rate agreed between the employer and the seafarer; or
 - (ii) the prevailing market rate.

58. Offences

- (1) The employer of a seafarer who contravenes section 55 commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 2 years.
- (2) The employer of a seafarer who contravenes section 56 commits an offence and is liable on conviction to a fine at level 1.
- (3) The employer of a seafarer who contravenes section 57(1) commits an offence and is liable on conviction to a fine at level 2.
- (4) The employer of a seafarer who contravenes section 57(2) commits an offence and is liable on conviction to a fine at level 6.
- (5) It is a defence for a person charged under subsection (2) or (3) to show that the person had taken all reasonable steps to prevent the commission of the offence.

Division 16—Financial Security for Repatriation

59. Financial security to provide assistance to seafarers when abandoned

- (1) A financial security must be in force in respect of a ship to ensure that any seafarer employed to work on board the ship is provided with assistance when the seafarer is abandoned.
- (2) The financial security—
 - (a) must be in the form of an insurance policy;
 - (b) must comply with the requirements set out in paragraphs 4, 8, 9, 10 and 12 of Standard A2.5.2 of the ML Convention;
 - (c) must not be terminated before the expiry date of the security, unless the provider of the security has given to the Authority at least 30 days prior notice in writing; and
 - (d) must not prejudice any right of recourse of the provider of the security against third parties.
- (3) A seafarer is regarded to be abandoned under the circumstances listed in paragraph 2 of Standard A2.5.2 of the ML Convention.
- (4) If subsection (1) or (2) is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 2 years.

60. Documentary evidence of financial security to be carried on ship

- (1) A ship must—
 - (a) carry on board, in respect of the financial security referred to in section 59(1), a certificate or other

documentary evidence issued by each provider of the security; and

- (b) have a copy of the certificate or other documentary evidence displayed in a conspicuous position on board the ship, which is accessible to the seafarers on it.
- (2) The certificate or other documentary evidence—
 - (a) must contain the particulars and information set out in Appendix A2-I to the ML Convention; and
 - (b) must be in English or accompanied by an English translation.
- (3) If subsection (1) or (2) is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction to a fine at level 3.

Division 17—Financial Security Relating to Shipowners' Liability

61. Financial security to ensure compensation for liability claims

- (1) A financial security must be in force in respect of a ship to ensure the payment of compensation for any liability claim brought in respect of any seafarer employed to work on board the ship under—
 - (a) the law of Hong Kong;
 - (b) the seafarer's employment agreement; or
 - (c) any agreement voluntarily entered into between one or more shipowners' organizations and one or more seafarers' organizations that satisfies the following conditions—
 - (i) the agreement relates to the working and living conditions of seafarers;

- (ii) the shipowner of the ship is a member of the shipowners' organization or at least one of the shipowners' organizations, as the case requires; and
 - (iii) the seafarer is a member of the seafarers' organization or at least one of the seafarers' organizations, as the case requires.
- (2) The financial security—
- (a) must be in the form of an insurance policy;
 - (b) must comply with the requirements set out in paragraphs 8(a), (b), (c), (d) and (e) and 13 of Standard A4.2.1 of the ML Convention; and
 - (c) must not be terminated before the expiry date of the security, unless the provider of the security has given to the Authority at least 30 days prior notice in writing.
- (3) If a financial security referred to in subsection (1) is to be cancelled or terminated, the provider of the security must give the seafarers employed to work on board the ship at least 30 days prior notice in writing.
- (4) If a financial security referred to in subsection (1) is cancelled or terminated, the provider of the security must, by written notice within 30 days of the cancellation or termination, inform the Authority of the cancellation or termination.
- (5) If subsection (1), (2), (3) or (4) is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction to a fine at level 5.
- (6) In this section—

liability claim (責任索償) means a claim in respect of the death or long-term disability of a seafarer due to an occupational injury, illness or hazard.

62. Documentary evidence of financial security to be carried on ship

- (1) A ship must—
- (a) carry on board, in respect of the financial security referred to in section 61(1), a certificate or other documentary evidence issued by each provider of the security; and
 - (b) have a copy of the certificate or other documentary evidence displayed in a conspicuous position on board the ship, which is accessible to the seafarers on it.
- (2) The certificate or other documentary evidence—
- (a) must contain the particulars and information set out in Appendix A2-I to the ML Convention; and
 - (b) must be in English or accompanied by an English translation.
- (3) If subsection (1) or (2) is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction to a fine at level 3.

Part 3

Certification Requirements for Regulated Ships of 500 Gross Tonnage or above

Division 1—Application

63. Application

This Part applies to a regulated ship—

- (a) that is a Hong Kong ship; and
- (b) that is of 500 gross tonnage or above,
wherever it may be.

Division 2—Certificates etc. to be Carried on Ships

64. Ships must not proceed to sea without maritime labour certificate etc.

- (1) A ship must not proceed to sea unless there is in force in respect of it—
 - (a) a maritime labour certificate; or
 - (b) an interim maritime labour certificate.
- (2) The ship must—
 - (a) carry on board the certificate; and
 - (b) have a copy of the certificate displayed in a conspicuous position on board the ship, which is accessible to the seafarers on it.
- (3) The maritime labour certificate of a ship must have the ship's declaration of maritime labour compliance attached to it.

65. Copies of maritime labour certificates etc. to be made available on request

- (1) If the shipowner or the master of a ship receives a request from any of the persons specified in subsection (2) for a copy of the maritime labour certificate or interim maritime labour certificate of the ship, the shipowner or the master must provide the copy as requested.
- (2) The persons are—
 - (a) a seafarer on board the ship or the seafarer's representative;
 - (b) the Authority or a Government surveyor;
 - (c) an authorized officer in a port of a ML Convention country;
 - (d) the shipowner's representative.

66. Copy of ML Convention to be displayed on ship

A ship must have a copy of the ML Convention displayed in a conspicuous position on board the ship, which is accessible to the seafarers on it.

67. Offences

- (1) If section 64(1) is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 2 years.
- (2) If section 64(2) or (3) is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction to a fine at level 3.
- (3) The shipowner or the master of a ship who contravenes section 65 commits an offence and is liable on conviction to a fine at level 3.

- (4) If section 66 is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction to a fine at level 1.

Division 3—Maritime Labour Certificate

Subdivision 1—Application for Maritime Labour Certificate

68. Application for maritime labour certificate

- (1) The shipowner of a ship may, by written application, request the Authority to issue a maritime labour certificate in respect of the ship.
- (2) The shipowner must provide to the Authority the documents and information specified by the Authority.

69. Authority may issue maritime labour certificates

- (1) Subject to section 70, the Authority may issue a maritime labour certificate in respect of a ship if the Authority is satisfied—
- (a) that an inspection of the ship has been carried out by a Government surveyor; and
- (b) based on the result of the inspection, that all the Part 2 requirements applicable to the ship are complied with.
- (2) Subject to section 75, a maritime labour certificate issued under subsection (1) is valid for the period specified on the certificate, which must not exceed 5 years.

70. Recognition of inspection carried out before commencement date

- (1) If all the conditions specified in subsection (2) are satisfied in relation to a ship, the Authority may issue a maritime labour

certificate in respect of the ship even though no inspection of the ship referred to in section 69(1) has been carried out.

(2) The conditions are—

- (a) an authorized organization had, before the commencement date—
- (i) carried out an inspection of the ship; and
- (ii) based on the result of the inspection, issued a preliminary certificate certifying that the requirements under the ML Convention for each of the items specified in Appendix A5-I to the Convention are complied with in relation to the ship;
- (b) if the preliminary certificate was issued more than 3 years before the date of application for the maritime labour certificate, the preliminary certificate bears an endorsement by an authorized organization, indicating that the organization—
- (i) has inspected the ship between the second anniversary date and third anniversary date of the preliminary certificate; and
- (ii) is satisfied, based on the result of the inspection, that the requirements under the ML Convention for each of the items specified in the Appendix are complied with in relation to the ship;
- (c) the Authority is satisfied, based on the preliminary certificate and any other documents and information provided by the shipowner of the ship, that all the Part 2 requirements applicable to the ship are complied with.
- (3) Subject to section 75, a maritime labour certificate issued under subsection (1) is valid for the period specified on the

certificate, which must not exceed 5 years from the date of the preliminary certificate.

(4) In this section—

authorized organization (獲授權機構) means a member of the International Association of Classification Societies authorized by the Authority to issue preliminary certificates in respect of Hong Kong ships before the commencement date.

Subdivision 2—Renewal of Maritime Labour Certificate

71. Application for renewal of maritime labour certificate

- (1) The shipowner of a ship issued with a maritime labour certificate may, by written application before the certificate expires, request the Authority to issue a new maritime labour certificate in respect of the ship.
- (2) The shipowner must provide to the Authority the documents and information specified by the Authority.

72. Renewal of maritime labour certificate

- (1) The Authority may issue a new maritime labour certificate in respect of a ship if the Authority is satisfied—
 - (a) that an inspection of the ship has been carried out by a Government surveyor; and
 - (b) based on the result of the inspection, that all the Part 2 requirements applicable to the ship are complied with.
- (2) Subject to section 75, a maritime labour certificate issued under subsection (1) is valid for the period specified on the certificate, which must not exceed 5 years from—
 - (a) if the inspection is completed within 3 months before the date of expiry of the current maritime labour certificate, the date of expiry of the current certificate;

- (b) if the inspection is completed more than 3 months before the date of expiry of the current maritime labour certificate, the date of completion of the inspection.

Subdivision 3—Intermediate Inspection

73. Intermediate inspection

- (1) The shipowner of a ship issued with a maritime labour certificate must ensure that an intermediate inspection of the ship is carried out—
 - (a) if the certificate is issued under section 69 or 72, between the second anniversary date and third anniversary date of the certificate;
 - (b) if the certificate is issued under section 70, during the period for carrying out an intermediate inspection specified on the certificate.
- (2) Subsection (1) does not apply if—
 - (a) the maritime labour certificate is issued under section 70; and
 - (b) the preliminary certificate issued in respect of the ship bears an endorsement as described in section 70(2)(b).

74. Endorsement for intermediate inspection

- (1) The shipowner of a ship issued with a maritime labour certificate may, by written application, request the Authority to make an endorsement for intermediate inspection on the certificate.
- (2) The Authority may make such an endorsement if the Authority is satisfied—
 - (a) that an intermediate inspection of the ship has been carried out by a Government surveyor; and

- (b) based on the result of the inspection, that all the Part 2 requirements applicable to the ship are complied with.

Subdivision 4—Circumstances under which Maritime Labour Certificate Ceases to be Valid

75. Circumstances under which maritime labour certificate ceases to be valid

- (1) The maritime labour certificate of a ship ceases to be valid under any of the circumstances specified in subsection (2).
- (2) The circumstances are—
 - (a) the ship ceases to be registered in Hong Kong;
 - (b) the person identified on the certificate as the shipowner of the ship ceases to assume responsibility for the operation of the ship;
 - (c) a substantial change has been made to the structure or equipment of the accommodation for seafarers, the recreational and communications facilities for seafarers, or the food and catering facilities of the ship;
 - (d) the certificate does not bear an endorsement for intermediate inspection—
 - (i) if the certificate is issued under section 69 or 72, on the third anniversary date of the certificate;
 - (ii) if the certificate is issued under section 70, on the date immediately after the period for carrying out an intermediate inspection specified on the certificate.

Division 4—Interim Maritime Labour Certificate

76. Circumstances under which shipowners may apply for interim maritime labour certificate

The shipowner of a ship may request an interim maritime labour certificate to be issued in respect of the ship if—

- (a) the ship is a new ship on delivery;
- (b) the ship has changed its flag and has just been registered in Hong Kong; or
- (c) the shipowner assumes responsibility for the operation of the ship for the first time.

77. Application for interim maritime labour certificate

- (1) The shipowner of a ship may, by written application, request the Authority to issue an interim maritime labour certificate in respect of the ship.
- (2) The shipowner must provide to the Authority the documents and information specified by the Authority.

78. Authority may issue interim maritime labour certificates

The Authority may issue an interim maritime labour certificate in respect of a ship if the Authority is satisfied—

- (a) that an inspection of the ship has been carried out by a Government surveyor; and
- (b) based on the result of the inspection, that—
 - (i) the ship has adequate measures in place to comply with all the Part 2 requirements applicable to the ship;
 - (ii) the master of the ship is familiar with those requirements and the responsibilities for complying with those requirements; and

- (iii) the shipowner of the ship has submitted an application for a declaration of maritime labour compliance in respect of the ship.

79. Period of validity of interim maritime labour certificate

- (1) Subject to subsection (2), an interim maritime labour certificate is valid for the period specified on the certificate, which must not exceed 6 months.
- (2) The interim maritime labour certificate of a ship ceases to be valid if—
 - (a) the ship ceases to be registered in Hong Kong;
 - (b) the person identified on the certificate as the shipowner of the ship ceases to assume responsibility for the operation of the ship; or
 - (c) a substantial change has been made to the structure or equipment of the accommodation for seafarers, the recreational and communications facilities for seafarers, or the food and catering facilities of the ship.

80. Interim maritime labour certificate not renewable

An interim maritime labour certificate is not renewable.

Division 5—Declaration of Maritime Labour Compliance

81. Application for declaration of maritime labour compliance

- (1) The shipowner of a ship may, by written application, request the Authority to issue a declaration of maritime labour compliance in respect of the ship.
- (2) The shipowner must provide to the Authority—
 - (a) the documents and information specified by the Authority; and

- (b) a proposal on the measures that the shipowner will adopt to ensure that all the Part 2 requirements applicable to the ship are complied with.

82. Authority may issue declaration of maritime labour compliance

- (1) The Authority may, on application, issue Part I of a declaration of maritime labour compliance in respect of a ship.
- (2) Part I of the declaration of maritime labour compliance must contain—
 - (a) the registration details of the ship; and
 - (b) any exemption from complying with any Part 2 requirement granted under section 114.
- (3) The Authority may issue Part II of the declaration of maritime labour compliance if the Authority is satisfied that the proposed measures referred to in section 81(2)(b) are sufficient to ensure that all the Part 2 requirements applicable to the ship are complied with.
- (4) Part II of the declaration of maritime labour compliance must contain—
 - (a) the proposed measures; and
 - (b) an endorsement by the Authority that the proposed measures are sufficient to ensure that all the Part 2 requirements applicable to the ship are complied with.

83. Results and reports of relevant inspections to be appended to declaration of maritime labour compliance

- (1) The shipowner of a ship must ensure that the results and reports of all relevant inspections carried out in respect of the ship are inscribed in or appended to the declaration of maritime labour compliance issued in respect of the ship.

(2) In this section—

relevant inspection (有關檢查) means—

- (a) an inspection carried out for issuing a maritime labour certificate;
- (b) an intermediate inspection; or
- (c) an inspection carried out under Part 5.

Part 4

Compliance Reports for Regulated Ships of Less than 500 Gross Tonnage

Division 1—Application

84. Application

This Part applies to a regulated ship—

- (a) that is a Hong Kong ship; and
- (b) that is of less than 500 gross tonnage,

wherever it may be.

Division 2—Compliance Reports etc. to be Carried on Ships

85. Ships must not proceed to sea without compliance reports

- (1) Subject to section 87, a ship must not proceed to sea unless it carries on board a compliance report that—
 - (a) certifies that all the Part 2 requirements applicable to the ship are complied with; and
 - (b) was issued not more than 3 years ago.
- (2) A copy of the report must be displayed in a conspicuous position on board the ship, which is accessible to the seafarers on it.
- (3) The report must have the ship's declaration of maritime labour compliance attached to it.

86. Copies of compliance reports to be made available on request

- (1) If the shipowner or the master of a ship receives a request from any of the persons specified in subsection (2) for a copy

of the compliance report carried on board the ship under section 85, the shipowner or the master must provide the copy as requested.

- (2) The persons are—
- (a) a seafarer on board the ship or the seafarer's representative;
 - (b) the Authority or a Government surveyor;
 - (c) an authorized officer in a port of a ML Convention country;
 - (d) the shipowner's representative.

87. Exception to section 85

Section 85 does not prevent a ship from proceeding to sea if there is in force in respect of it a maritime labour certificate or an interim maritime labour certificate pursuant to section 95.

88. Copy of ML Convention to be displayed on ship

A ship must have a copy of the ML Convention displayed in a conspicuous position on board the ship, which is accessible to the seafarers on it.

89. Offences

- (1) If section 85(1) is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 2 years.
- (2) If section 85(2) or (3) is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction to a fine at level 3.

- (3) The shipowner or the master of a ship who contravenes section 86 commits an offence and is liable on conviction to a fine at level 3.
- (4) If section 88 is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction to a fine at level 1.

Division 3—Compliance Reports

90. Application for compliance reports

- (1) The shipowner of a ship may, by written application, request the Authority to issue a compliance report in respect of the ship.
- (2) The shipowner must provide to the Authority the documents and information specified by the Authority.

91. Authority may issue compliance reports

- (1) The Authority may issue a compliance report in respect of a ship if the Authority is satisfied—
 - (a) that an inspection of the ship has been carried out by a Government surveyor; and
 - (b) based on the result of the inspection, that all the Part 2 requirements applicable to the ship are complied with.
- (2) A compliance report must specify the date of inspection.

Division 4—Declaration of Maritime Labour Compliance

92. Application for declaration of maritime labour compliance

- (1) The shipowner of a ship may, by written application, request the Authority to issue a declaration of maritime labour compliance in respect of the ship.

- (2) The shipowner must provide to the Authority—
 - (a) the documents and information specified by the Authority; and
 - (b) a proposal on the measures that the shipowner will adopt to ensure that all the Part 2 requirements applicable to the ship are complied with.

93. Authority may issue declaration of maritime labour compliance

- (1) The Authority may, on application, issue Part I of a declaration of maritime labour compliance in respect of a ship.
- (2) Part I of the declaration of maritime labour compliance must contain—
 - (a) the registration details of the ship; and
 - (b) any exemption from complying with any Part 2 requirement granted under section 114.
- (3) The Authority may issue Part II of the declaration of maritime labour compliance if the Authority is satisfied that the proposed measures referred to in section 92(2)(b) are sufficient to ensure that all the Part 2 requirements applicable to the ship are complied with.
- (4) Part II of the declaration of maritime labour compliance must contain—
 - (a) the proposed measures; and
 - (b) an endorsement by the Authority that the proposed measures are sufficient to ensure that all the Part 2 requirements applicable to the ship are complied with.

94. Results and reports of relevant inspections to be appended to declaration of maritime labour compliance

- (1) The shipowner of a ship must ensure that the results and reports of all relevant inspections carried out in respect of the ship are inscribed in or appended to the declaration of maritime labour compliance issued in respect of the ship.

- (2) In this section—

relevant inspection (有關檢查) means—

- (a) an inspection carried out for issuing a compliance report; or
- (b) an inspection carried out under Part 5.

Division 5—Miscellaneous

95. Shipowner may apply for maritime labour certificate etc.

- (1) The shipowner of a ship may apply for a maritime labour certificate or an interim maritime labour certificate to be issued in respect of the ship, as if the ship were one that falls within section 63.
- (2) If a maritime labour certificate or an interim maritime labour certificate is issued and is in force in respect of a ship, Part 3 applies to the ship, as if the ship were one that falls within section 63.

Part 5

Enforcement

Division 1—Hong Kong Ships

96. Application

This Division applies to a regulated ship that is a Hong Kong ship, wherever it may be.

97. Authority may ascertain compliance with requirements under Parts 2, 3 and 4

The Authority may, at all reasonable times, board and inspect a ship for ascertaining whether the requirements under Part 2, 3 or 4 are complied with.

98. Investigations into non-compliance

- (1) On receiving a complaint or obtaining evidence on any of the matters specified in subsection (2) in relation to a ship, the Authority may board and inspect the ship for investigating into the matter.
- (2) The matters are—
 - (a) there is a deficiency in complying with any requirement under Part 2, 3 or 4;
 - (b) there is a serious deficiency in implementing the compliance measures.
- (3) The Authority must keep the source of the complaint or evidence confidential.

99. Powers of Authority in inspections

For the purposes of sections 97 and 98, the Authority may board and inspect a ship and—

- (a) carry out an examination or a test in respect of any part of, or any equipment or thing on, the ship;
- (b) require the shipowner or the master of the ship, or a seafarer on board the ship, to produce the documents and provide the information specified by the Authority;
- (c) examine and copy any document referred to in paragraph (b);
- (d) take measurements and photographs, and make records, as the Authority considers necessary; and
- (e) take or remove, for the purpose of analysis, samples of products, cargoes, provisions, drinking water, materials and substances on board the ship.

100. Authority may require rectification of deficiencies

- (1) This section applies if the Authority identifies, from an inspection of a ship—
 - (a) any deficiency in complying with any requirement under Part 2, 3 or 4; or
 - (b) any deficiency in implementing the compliance measures.
- (2) The Authority may, by written notice to the shipowner and the master of the ship, require the deficiency to be rectified within the time specified in the notice.
- (3) If the Authority is satisfied that the deficiency falls within subsection (4), the Authority may also—

- (a) by written notice to the shipowner and the master of the ship, direct that the ship must not proceed to sea until the deficiency has been rectified; and
 - (b) take steps to prohibit the ship from proceeding to sea in contravention of the direction.
- (4) The deficiency is one that—
- (a) constitutes a serious or repeated breach of any requirement under Part 2, 3 or 4; or
 - (b) represents a significant danger to the safety, health or security of the seafarers on board the ship.
- (5) If the shipowner of a ship is aggrieved by a decision of the Authority under subsection (2) or (3), the shipowner may, within 5 working days after receiving notice of the decision, appeal to the Administrative Appeals Board against the decision.
- (6) The appeal does not affect the operation of the decision unless the Authority directs otherwise in writing.

101. Authority may withdraw maritime labour certificate etc. if deficiency not rectified

- (1) This section applies if—
- (a) the Authority has issued a written notice in respect of a ship under section 100(2); and
 - (b) a deficiency specified in the notice is not rectified in accordance with the notice.
- (2) The Authority may, by written notice to the shipowner and the master of the ship, withdraw the maritime labour certificate, interim maritime labour certificate or compliance report issued in respect of the ship.
- (3) When deciding whether to withdraw the certificate or report issued in respect of the ship, the Authority must take into

- account the seriousness and frequency of occurrence of the deficiency.
- (4) On receiving a notice under subsection (2), the shipowner and the master of the ship must deliver the certificate or report to the Authority immediately.
- (5) The shipowner or the master of the ship may, after the deficiency has been rectified, apply to the Authority for the return of the certificate or report.
- (6) If the Authority is satisfied that the deficiency has been rectified, the Authority must, by written notice to the applicant, return the certificate or report to the applicant.
- (7) If subsection (4) is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction to a fine at level 6.

102. Preparation of reports

- (1) The Authority must prepare a report on an inspection carried out under section 97 or 98.
- (2) The report—
- (a) must set out—
 - (i) the date of commencement and completion of the inspection; and
 - (ii) the details of any deficiency identified and the date when the deficiency is rectified; and
 - (b) must be in the Chinese or English language.
- (3) The Authority must furnish a copy of the report to the shipowner and the master of the ship concerned.
- (4) A copy of the report must—
- (a) be displayed in a conspicuous position on board the ship, which is accessible to the seafarers on it; and

- (b) on request by a seafarer's representative, be provided to the representative.
- (5) If subsection (4) is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction to a fine at level 3.

Division 2—Non-Hong Kong Ships

103. Application

This Division applies to a regulated ship—

- (a) that is a non-Hong Kong ship; and
- (b) that is within the waters of Hong Kong in the normal course of business or for operational reasons.

104. Authority may ascertain compliance with requirements under ML Convention

- (1) The Authority may, at all reasonable times, board and inspect a ship for ascertaining whether the requirements under the ML Convention are complied with.
- (2) Without limiting subsection (1), if the ship flies the flag of a ML Convention country, the Authority may examine any document certifying the ship's compliance with the requirements under the Convention, which are issued in accordance with the law of the country.

105. Investigations into non-compliance

- (1) On receiving a complaint or obtaining evidence that there is a deficiency in complying with any requirement under the ML Convention in relation to a ship, the Authority may board and inspect the ship for investigating into the non-compliance.
- (2) The Authority must keep the source of the complaint or evidence confidential.

106. Powers of Authority in inspections

For the purposes of sections 104 and 105, the Authority may exercise any of the powers under section 99 in relation to a non-Hong Kong ship as if the ship were a Hong Kong ship.

107. Authority may require rectification of deficiencies

- (1) This section applies if the Authority identifies, from an inspection of a ship, any deficiency in complying with any requirement under the ML Convention.
- (2) The Authority may, by written notice to the master of the ship, require the deficiency to be rectified within the time specified in the notice.
- (3) If the Authority is satisfied that the deficiency falls within subsection (4), the Authority may also—
- (a) by written notice to the master of the ship, direct that the ship must not proceed to sea until—
- (i) the deficiency has been rectified; or
- (ii) the submission by the master of the ship of a plan for rectifying the deficiency and of evidence that the plan will be implemented in an expeditious manner, both of which must be satisfactory to the Authority; and
- (b) take steps to prohibit the ship from proceeding to sea in contravention of the direction.
- (4) The deficiency is one that—
- (a) constitutes a serious or repeated breach of any requirement under the ML Convention; or
- (b) represents a significant danger to the safety, health or security of the seafarers on board the ship.

Division 3—Miscellaneous

108. Authority may authorize Government surveyors

The Authority may authorize a Government surveyor to perform the Authority's functions under this Part.

109. Offence for obstructing Authority or Government surveyor

A person who obstructs the Authority or a Government surveyor in carrying out the functions under this Part commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 2 years.

Part 6

Miscellaneous

Division 1—Government Surveyors and Recognized Organizations

110. Authority may appoint Government surveyors

The Authority may appoint a person to be a Government surveyor for the purposes of this Regulation.

111. Authority may recognize organizations

- (1) The Authority may recognize an organization for carrying out any of the acts specified in subsection (2) in relation to a ship.
- (2) The acts are—
 - (a) to carry out an inspection of the ship and—
 - (i) to issue or renew a maritime labour certificate in respect of the ship;
 - (ii) to make an endorsement for intermediate inspection on the maritime labour certificate of the ship;
 - (iii) to issue an interim maritime labour certificate in respect of the ship; or
 - (iv) to issue a compliance report in respect of the ship;
 - (b) to consider the measures proposed by the shipowner of the ship to ensure compliance with all the Part 2 requirements applicable to the ship, and to issue Part II of the declaration of maritime labour compliance in respect of the ship;

- (c) to require the rectification of any deficiency in complying with any Part 2 requirement applicable to a ship identified from an inspection of the ship.

Division 2—Miscellaneous Powers and Duties of Authority

112. Authority may cancel Convention-related documents

- (1) If the Authority has reasonable ground to believe that a Convention-related document issued in respect of a ship was issued on the basis of false or erroneous information, the Authority may cancel the document by written notice to the shipowner of the ship.
- (2) The Authority must give reasons for cancelling a Convention-related document.
- (3) On receiving a notice under subsection (1), the shipowner of the ship must deliver the Convention-related document to the Authority immediately.
- (4) The shipowner of a ship who contravenes subsection (3) commits an offence and is liable on conviction to a fine at level 6.

113. Forms of Convention-related documents

The Authority may specify the form of a Convention-related document.

114. Authority may grant exemptions

- (1) Subject to sections 29 and 30, the Authority may exempt a Hong Kong ship or a class or description of Hong Kong ships from complying with any Part 2 requirement, subject to the conditions the Authority thinks fit.
- (2) The Authority may alter or cancel an exemption granted under subsection (1).

115. Authority may request ML Convention countries to inspect Hong Kong ships

- (1) The Authority may, while a Hong Kong ship is within the waters of a ML Convention country, request the competent authority of the country to carry out any of the acts specified in subsection (2) in relation to the ship on the Authority's behalf.
- (2) The acts are—
 - (a) to carry out an inspection of the ship and—
 - (i) to issue or renew a maritime labour certificate in respect of the ship;
 - (ii) to make an endorsement for intermediate inspection on the maritime labour certificate of the ship;
 - (iii) to issue an interim maritime labour certificate in respect of the ship; or
 - (iv) to issue a compliance report in respect of the ship;
 - (b) to consider the measures proposed by the shipowner of the ship to ensure compliance with all the Part 2 requirements applicable to the ship, and to issue Part II of the declaration of maritime labour compliance in respect of the ship.

116. Authority may on request of ML Convention countries carry out certain acts in relation to ships flying their flags

- (1) If a ship that flies the flag of a ML Convention country is within the waters of Hong Kong, the Authority may, on a written request of the competent authority of the country, carry out any of the acts specified in subsection (2) in relation to the ship on behalf of the authority.
- (2) The acts are—

- (a) to review the measures proposed by the shipowner of the ship to ensure compliance with the requirements under the ML Convention;
 - (b) to carry out an inspection of the ship;
 - (c) based on the result of the review or inspection, to make an endorsement or issue a certificate regarding the working and living conditions of seafarers on board the ship.
-

Schedule 1

[ss. 13 & 18]

Requirements for Employment Agreement

1. A seafarer's employment agreement must contain the following information and terms—
 - (a) the full name, date of birth or age, and birthplace of the seafarer;
 - (b) the name and address of the employer;
 - (c) the place and date of entering into the agreement;
 - (d) the capacity in which the seafarer is employed;
 - (e) the seafarer's wages or the formula for calculating the wages;
 - (f) the term of the agreement and—
 - (i) if the agreement is for an indefinite period, the period of notice to be given by the employer and the seafarer for terminating the agreement;
 - (ii) if the agreement is for a definite period, the date on which it expires; and
 - (iii) if the agreement is to cover a specific voyage, the port of destination and the time that has to lapse after the ship's arrival at the port before the seafarer is to be discharged;
 - (g) the grounds for early termination of the agreement and the period of notice to be given by the employer and the seafarer for early termination of the agreement;

- (h) the health and social security protection benefits to be provided to the seafarer by the employer, if any;
 - (i) the seafarer's entitlement to repatriation;
 - (j) the seafarer's entitlement to paid leave and, where the leave is not taken, the amount of payment in lieu or the formula for calculating the amount; and
 - (k) the seafarer's entitlement to shore leave, the duration of which is to be determined by reference to the operational requirements of the seafarer's capacity.
2. The employment agreement must not contain any provision that seeks to forgo the seafarer's entitlement to paid leave.
3. The employment agreement must contain provisions regarding the employer's liability for the seafarer's sickness or injury to the effect that—
- (a) the employer must bear the costs in respect of any sickness or injury of the seafarer—
 - (i) occurring between the date of commencement of employment and the date on which the seafarer is repatriated; or
 - (ii) arising from the employment between those dates;
 - (b) the employer must provide financial security to ensure the payment of compensation for any claim in respect of the death or long-term disability of the seafarer due to an occupational injury, illness or hazard;
 - (c) the employer must defray the expenses for the seafarer's medical care (including medical treatment and the supply of the necessary medicines and therapeutic appliances) and the seafarer's boarding and lodging away from home until whichever is the earliest of the following—

- (i) the seafarer has recovered;
 - (ii) the sickness or incapacity suffered by the seafarer has been declared to be of a permanent character;
 - (iii) the expiry of 16 weeks from the commencement of sickness or the date of injury;
- (d) if the sickness or injury results in incapacity for work, the employer is liable to pay full wages to the seafarer as long as the seafarer remains on board the ship, or until the seafarer is repatriated;
- (e) if the sickness or injury results in incapacity for work, and the seafarer is repatriated, the employer is liable to pay 80% of the wages to the seafarer for the period beginning on the date after the repatriation until whichever is the earlier of the following—
- (i) the date when the seafarer has recovered;
 - (ii) the expiry of 16 weeks from the commencement of sickness or the date of injury;
- (f) if the seafarer dies on board the ship or ashore in the course of employment, the employer must pay the burial or cremation expenses; and
- (g) if the seafarer leaves any property on board the ship following the seafarer's sickness, injury or death, the employer must take measures for safeguarding the property, and for returning the property to the seafarer or to the seafarer's next of kin.
4. The employment agreement must contain a reference to any agreement voluntarily entered into between one or more shipowners' organizations and one or more seafarers' organizations (*relevant agreement*) that satisfies the following conditions—

- (a) the relevant agreement relates to the working and living conditions of seafarers;
 - (b) the shipowner of the ship on which the seafarer is employed to work is a member of the shipowners' organization or at least one of the shipowners' organizations, as the case requires; and
 - (c) the seafarer is a member of the seafarers' organization or at least one of the seafarers' organizations, as the case requires.
5. For the purposes of section 1(f)(i) of this Schedule, the period of notice to be given by the employer for terminating the employment agreement must not be shorter than that to be given by the seafarer.
6. For the purposes of section 1(g) of this Schedule—
 - (a) the employer and the seafarer must give at least 7 days prior notice for early termination of the employment agreement; but
 - (b) the seafarer may give less than 7 days prior notice for early termination of the agreement—
 - (i) on compassionate grounds; or
 - (ii) on other urgent grounds as specified in the agreement.
7. For the purposes of section 1(j) of this Schedule, the paid leave for the seafarer must not be less than 2.5 days per month of employment.

Schedule 2

[ss. 27, 28 & 31]

Accommodation and Related Requirements

Part 1

Requirements for Accommodation

1. The accommodation for seafarers working on board a ship must comply with the requirements set out in Standard A3.1 and Guideline B3.1 of the ML Convention on the following areas—
 - (a) general requirements for accommodation;
 - (b) ventilation and heating;
 - (c) lighting;
 - (d) sleeping rooms;
 - (e) mess rooms;
 - (f) sanitary and laundry facilities; and
 - (g) prevention of noise and vibration.
2. The ventilation of the accommodation of the ship must comply with the requirements specified in the following provisions of the Accommodation Regulation—
 - (a) section 16(7); and
 - (b) if the ship falls within the description set out in section 16(2), (3) or (4) of the Regulation, section 16(2), (3) or (4) respectively.

3. If a heating system is required for the ship, the system must comply with the standard of heating as specified in section 14(1) of the Accommodation Regulation.
4. The accommodation of the ship must comply with the requirements on lighting set out in section 15 of the Accommodation Regulation.
5. If any of the employed seafarers is required to sleep on board the ship, sleeping accommodation must be provided on board the ship.

Part 2

Hospital Accommodation

6. If the ship carries 15 or more seafarers and is engaged in a voyage of more than 3 days' duration, there must be hospital accommodation on board the ship which is to be used exclusively for medical purpose.
7. The hospital accommodation must, in all weathers, be easily accessible, provide comfortable housing for the occupants and be conducive to their receiving prompt and proper attention.
8. The hospital accommodation must—
 - (a) comply with the relevant requirements set out in Guideline B3.1 of the ML Convention; and
 - (b) have at least one bed for every 50 seafarers working on board the ship.

Part 3

Bedding, Mess Utensils and Miscellaneous Provisions

9. The following provisions must be carried on board the ship and be made available to the seafarers working on it—
 - (a) clean bedding of good quality;
 - (b) plates, cups and other mess utensils which are made of durable material and can be easily cleaned; and
 - (c) towels, soap and toilet paper.

Part 4

Prevention of Noise and Vibration

10. The ship must comply with the relevant requirements set out in the Code on Noise Levels on Board Ships published by the International Maritime Organization, as from time to time revised or amended by any revision or amendment that applies to Hong Kong.

Part 5

Miscellaneous Requirements

11. The ship must have a space on open deck—
 - (a) which seafarers working on board the ship can have access to when off duty; and
 - (b) which must be of an adequate size, having regard to the size of the ship and the number of seafarers on board the ship.

12. The ship must have separate offices or a common ship's office for use by the deck department and engine room department.
 13. If separate facilities are provided for engine department personnel to change their clothes, the facilities must—
 - (a) be located outside the machinery space but have easy access to it; and
 - (b) be fitted with individual clothes lockers, as well as with tubs or showers, or both, and washbasins having hot and cold running fresh water.
 14. If the ship is regularly engaged in voyages to mosquito-infested ports, the ship must be fitted with devices against admission of mosquitoes as set out in section 37 of the Accommodation Regulation.
-

Schedule 3

[ss. 33 & 34]

Requirements for Recreational and Communications Facilities

Part 1

Recreational Facilities

1. Appropriate recreational facilities, spaces, amenities and services, as adapted to meet the special needs of seafarers on board the ship, must be provided on board the ship.
2. The following facilities must be available on board the ship—
 - (a) a television; and
 - (b) reading materials consisting of vocational and other books.

Part 2

Communications Facilities

3. Seafarers on board the ship must, if practicable, be provided with reasonable access to ship-to-shore telephone communications, and email and Internet facilities.
 4. The charges for the use of the communications facilities referred to in section 3 of this Schedule must be reasonable.
-

Schedule 4

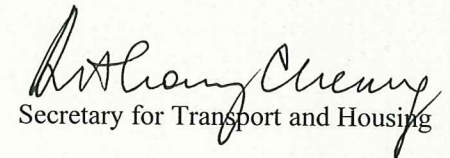
[s. 37]

Staffing Requirements for Catering Department

1. There must be a qualified cook in the catering department of a ship if the prescribed manning of the ship, as set out in the Minimum Safe Manning Certificate issued in respect of the ship under the Merchant Shipping (Safety) (Minimum Safe Manning Certificate) Regulation (Cap. 369 sub. leg. AS), is not less than 10 persons.
2. For the purposes of section 1 of this Schedule, a seafarer is a qualified cook if the seafarer is at least 18 years of age and—
 - (a) the seafarer has completed a training course—
 - (i) which covers practical cookery, food and personal hygiene, food storage, stock control, environmental protection and catering health and safety; and
 - (ii) which is recognized by the Authority as providing sufficient training for working as a ship's cook;
 - (b) the seafarer—
 - (i) has worked as a ship's cook on board a seagoing ship, whether a Hong Kong ship or not, for not less than 12 months, or has comparable experience; and
 - (ii) has completed a top-up course recognized by the Authority as providing sufficient supplementary training for working as a ship's cook; or
 - (c) the seafarer is issued with a certificate of qualification as a ship's cook by the competent authority of a country

that is a party to the Ships' Cooks Convention, or of a ML Convention country.

3. If a ship is not required to have a qualified cook on board the ship under section 1 of this Schedule, each seafarer processing food in the galley must be trained or instructed in—
 - (a) food and personal hygiene; and
 - (b) the handling and storage of food.


Secretary for Transport and Housing

16 May 2016

Explanatory Note

The Maritime Labour Convention, 2006 (*Convention*) was adopted by the International Labour Conference of the International Labour Organization in 2006. It sets out a comprehensive set of global standards for the working and living conditions of seafarers on seagoing ships and seeks to protect the right of seafarers to decent employment. The Convention will apply to Hong Kong after China has ratified the Convention and extended it to Hong Kong.

2. The main purpose of this Regulation is to implement the major requirements of the Convention. Some other requirements are implemented by the Merchant Shipping (Seafarers) (Amendment) Ordinance 2013 (16 of 2013) and by the amendments to various items of subsidiary legislation under the Merchant Shipping (Seafarers) Ordinance (Cap. 478).
3. The Regulation contains 6 Parts and 4 Schedules.

Part 1—Preliminary

4. Part 1 provides for the commencement of the Regulation and the interpretation of certain terms used in the Regulation, including *Hong Kong ship, regulated ship, seagoing ship* and *shipowner*.

Part 2—Requirements relating to working and living conditions of seafarers

5. Part 2 applies to seagoing ships registered in Hong Kong that are engaged in commercial activities (*regulated Hong Kong ships*), wherever they may be. It provides for the requirements relating to the working and living conditions of seafarers employed to work on those ships under the Convention (*Part 2 requirements*). The Part 2 requirements relate to the following areas—

- (a) minimum age and other age-related requirements (Division 2);
- (b) medical certification (Division 3);
- (c) qualifications of seafarers (Division 4);
- (d) seafarers' employment agreements (Division 5 and Schedule 1);
- (e) use of recruitment and placement services (Division 6);
- (f) hours of rest (Division 7);
- (g) manning levels (Division 8);
- (h) accommodation (Division 9 and Schedule 2);
- (i) recreational and communications facilities (Division 10 and Schedule 3);
- (j) food and catering (Division 11 and Schedule 4);
- (k) health, safety and accident prevention (Division 12);
- (l) on board medical care (Division 13);
- (m) on board complaint procedures (Division 14);
- (n) payment of wages (Division 15);
- (o) financial security for repatriation (Division 16); and
- (p) financial security relating to shipowner's liability (Division 17).

Part 3—Certification requirements for regulated Hong Kong ships of 500 gross tonnage or above

6. Part 3 provides for the certification requirements for the working and living conditions of seafarers on regulated Hong Kong ships that are of 500 gross tonnage or above.
7. Division 2 provides that a ship must not proceed to sea unless there is in force in respect of it a maritime labour certificate (*ML*

certificate) or an interim maritime labour certificate (*interim certificate*). Division 3 provides for the application and renewal of a ML certificate. Division 4 provides for the application for an interim certificate. Division 5 provides for the application for a declaration of maritime labour compliance which must be attached to a ML certificate.

Part 4—Compliance reports for regulated Hong Kong ships of less than 500 gross tonnage

8. Part 4 applies to regulated Hong Kong ships of less than 500 gross tonnage.
9. Division 2 provides that a ship must not proceed to sea unless it carries on board a report issued not more than 3 years ago, certifying that all the Part 2 requirements applicable to the ship are complied with (*compliance report*). Division 3 provides for the application for compliance reports. Division 4 provides for the application for a declaration of maritime labour compliance which must be attached to a compliance report.

Part 5—Enforcement

10. Division 1 provides for the enforcement powers of the Seafarers' Authority (*Authority*) in relation to regulated Hong Kong ships, wherever they may be. Division 2 provides for the Authority's enforcement powers in relation to seagoing ships engaged in commercial activities that are non-Hong Kong ships while they are within the waters of Hong Kong.

Part 6—Miscellaneous

11. Part 6 provides for miscellaneous matters, including the powers of the Authority to recognize organizations, to cancel, among others, ML certificates, interim certificates and compliance reports, and to

grant exemptions to regulated Hong Kong ships from complying with any Part 2 requirement.

**Merchant Shipping (Seafarers) (Allotments)
(Amendment) Regulation 2016**

(Made by the Secretary for Transport and Housing under sections 89 and 134 of the Merchant Shipping (Seafarers) Ordinance (Cap. 478))

1. Commencement

This Regulation comes into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette.

2. Merchant Shipping (Seafarers) (Allotments) Regulation amended

The Merchant Shipping (Seafarers) (Allotments) Regulation (Cap. 478 sub. leg. A) is amended as set out in sections 3 and 4.

3. Section 4 amended (circumstances in which a seafarer may make an allotment)

(1) Section 4—

Repeal

“A seafarer”

Substitute

“Subject to section 5, a seafarer”.

(2) Section 4, before “part of”—

Add

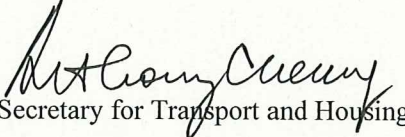
“all or a”.

4. Section 5 amended (limitation on issue of allotment notes)

Section 5(1), after “a seafarer”—

Add

“employed to work on board a coastal-going ship”.


Secretary for Transport and Housing

16 May 2016

Explanatory Note

The Maritime Labour Convention, 2006 (*Convention*) was adopted by the International Labour Conference of the International Labour Organization in 2006. It sets out a comprehensive set of global standards for the working and living conditions of seafarers on seagoing ships and seeks to protect the right of seafarers to decent employment. The Convention will apply to Hong Kong after China has ratified the Convention and extended it to Hong Kong.

2. Section 4 of the Merchant Shipping (Seafarers) (Allotments) Regulation (Cap. 478 sub. leg. A) (*principal Regulation*) only allows seafarers to allot part of their wages to other persons. This restriction is inconsistent with the Convention. That section is amended so that seafarers may allot all or a part of their wages to other persons.
3. Section 5 of the principal Regulation provides that seafarers may not allot more than half of their wages or allot that part of the wages to more than 2 persons unless their employers or the masters of the ships on which they work agree. That section is amended so that this restriction will only apply to seafarers employed to work on coastal-going ships, but not to seafarers employed to work on seagoing ships.

Merchant Shipping (Seafarers) (Health and Safety: General Duties) (Amendment)
Regulation 2016

Section 1

1

**Merchant Shipping (Seafarers) (Health and Safety:
General Duties) (Amendment) Regulation 2016**

(Made by the Secretary for Transport and Housing under sections 96 and
134 of the Merchant Shipping (Seafarers) Ordinance (Cap. 478))

1. Commencement

This Regulation comes into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette.

2. Merchant Shipping (Seafarers) (Health and Safety: General Duties) Regulation amended

The Merchant Shipping (Seafarers) (Health and Safety: General Duties) Regulation (Cap. 478 sub. leg. C) is amended as set out in sections 3 and 4.

3. Section 2 amended (interpretation)

(1) Section 2, Chinese text, definition of 物質—

Repeal

“氣；”

Substitute

“氣。”

(2) Section 2—

Repeal the definition of *seafarer*.

4. Section 4 amended (general duties of employers)

(1) Before section 4(2)(a)—

Add

Merchant Shipping (Seafarers) (Health and Safety: General Duties) (Amendment)
Regulation 2016

Section 4

2

“(aa) the adoption, implementation and promotion of occupational safety and health policies and programmes;”.

(2) Section 4(2)(e)—

Repeal

“health; and”

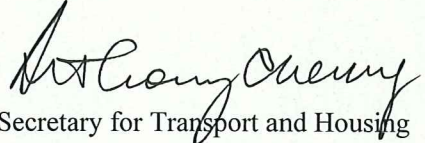
Substitute

“health;”.

(3) After section 4(2)(e)—

Add

“(ea) the adoption of precautions, so far as is reasonably practicable, to prevent occupational accidents, injuries and diseases on board the ship, including measures to reduce and prevent the risk of exposure to harmful levels of ambient factors and chemicals; and”.


Secretary for Transport and Housing

16 May 2016

Explanatory Note

The Maritime Labour Convention, 2006 (*Convention*) was adopted by the International Labour Conference of the International Labour Organization in 2006. It sets out a comprehensive set of global standards for the working and living conditions of seafarers on seagoing ships and seeks to protect the right of seafarers to decent employment. The Convention will apply to Hong Kong after China has ratified the Convention and extended it to Hong Kong.

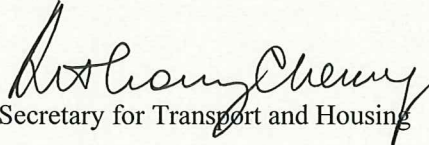
2. The Merchant Shipping (Seafarers) (Health and Safety: General Duties) Regulation (Cap. 478 sub. leg. C) (*principal Regulation*) provides that the employer of seafarers on board a Hong Kong ship has a duty to ensure, so far as is reasonably practicable, the health and safety of seafarers on board the ship. To reflect the requirements of the Convention, section 4 of the principal Regulation is amended to provide that the duty includes the adoption, implementation and promotion of occupational safety and health policies and programmes, and the adoption of precautions to prevent occupational accidents, injuries and diseases on board the ship.
3. Section 3 of this Regulation repeals the definition of *seafarer* in the principal Regulation. The term will carry the same meaning as that provided under the Merchant Shipping (Seafarers) Ordinance (Cap. 478) as amended by the Merchant Shipping (Seafarers) (Amendment) Ordinance 2013 (16 of 2013).

Merchant Shipping (Seafarers) (Hours of Work) (Amendment) Regulation 2016

(Made by the Secretary for Transport and Housing under sections 96 and 134 of the Merchant Shipping (Seafarers) Ordinance (Cap. 478))

1. **Commencement**
This Regulation comes into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette.
2. **Merchant Shipping (Seafarers) (Hours of Work) Regulation amended**
The Merchant Shipping (Seafarers) (Hours of Work) Regulation (Cap. 478 sub. leg. D) is amended as set out in sections 3 to 7.
3. **Title amended**
The title—
 Repeal
 “HOURS OF WORK”
 Substitute
 “HOURS OF REST”.
4. **Section 2 amended (interpretation)**
 - (1) Section 2—
 Repeal the definition of *ship*
 Substitute
 “*ship* (船、船舶) does not include a fishing vessel.”.
 - (2) Section 2, Chinese text, definition of 僱主—

- Repeal the semicolon**
Substitute a full stop.
- (3) Section 2—
 Repeal the definition of *other ship*.
 5. **Section 3 amended (application)**
Section 3—
 Repeal subsection (1)
 Substitute
 “(1) This Regulation applies to—
 (a) a coastal-going ship registered in Hong Kong; and
 (b) any other coastal-going ship while it is within the waters of Hong Kong.”.
 6. **Section 4 heading amended (hours of work)**
Section 4, heading—
 Repeal
 “Hours of work”
 Substitute
 “Hours of rest”.
 7. **Section 7 amended (copies of Regulation to be kept on board)**
Section 7—
 Repeal
 “a ship”
 Substitute
 “a coastal-going ship registered in Hong Kong”.


Secretary for Transport and Housing

16 May 2016

Explanatory Note

The Maritime Labour Convention, 2006 (*Convention*) was adopted by the International Labour Conference of the International Labour Organization in 2006. It sets out a comprehensive set of global standards for the working and living conditions of seafarers on seagoing ships and seeks to protect the right of seafarers to decent employment. The Convention will apply to Hong Kong after China has ratified the Convention and extended it to Hong Kong.

2. The Convention provides for the minimum hours of rest for seafarers employed on seagoing ships. This requirement will be provided in the new Merchant Shipping (Seafarers) (Working and Living Conditions) Regulation. Section 5 of this Regulation amends section 3 of the Merchant Shipping (Seafarers) (Hours of Work) Regulation (Cap. 478 sub. leg. D) (*principal Regulation*) so that the principal Regulation will no longer apply to seagoing ships, but will only apply to coastal-going ships.
3. Section 3 of this Regulation amends the title of the principal Regulation by replacing “hours of work” by “hours of rest” to reflect more accurately the object of the principal Regulation. A corresponding amendment is made to the heading of section 4 of the principal Regulation to reflect more accurately the contents of that section 4.
4. Section 7 of this Regulation amends section 7 of the principal Regulation to clarify that the obligation to keep on board a copy of the principal Regulation only applies to a coastal-going ship registered in Hong Kong.
5. This Regulation also makes some technical amendments to the definition of *ship* and repeals the definition of *other ship* which is no longer necessary.

**Merchant Shipping (Seafarers) (Crew Accommodation)
(Amendment) Regulation 2016**

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Merchant Shipping (Seafarers) (Crew Accommodation) (Amendment) Regulation 2016

(Made by the Secretary for Transport and Housing under sections 97 and
134 of the Merchant Shipping (Seafarers) Ordinance (Cap. 478))

1. Commencement

This Regulation comes into operation on a day to be appointed by
the Secretary for Transport and Housing by notice published in the
Gazette.

2. Merchant Shipping (Seafarers) (Crew Accommodation) Regulation amended

The Merchant Shipping (Seafarers) (Crew Accommodation)
Regulation (Cap. 478 sub. leg. I) is amended as set out in sections 3
to 14.

3. Part I heading amended (requirements to be complied with by Hong Kong ships on or after 1 July 1979)

Part I, heading—

Repeal

“TO BE COMPLIED WITH BY HONG KONG SHIPS ON OR AFTER
1 JULY 1979”

Substitute

“FOR CERTAIN HONG KONG SHIPS CONSTRUCTED ON OR
AFTER 1 JULY 1979 ETC.”.

4. Section 2 amended (interpretation)

Section 2—

Repeal the definition of *controlled drugs*.

5. Section 3 amended (application)

(1) Section 3—

Repeal paragraph (a).

(2) Section 3(b)—

Repeal

“on or after 1 July 1979;”

Substitute

“between—

(i) 1 July 1979; and

(ii) the date on which the Merchant Shipping
(Seafarers) (Crew Accommodation) (Amendment)
Regulation 2016 comes into operation
(*commencement date*);”.

(3) Section 3(c)—

Repeal

“1 July 1979 and which was re-registered in Hong Kong on”

Substitute

“the commencement date and which was re-registered in
Hong Kong, whether on, before”.

6. Section 36 amended (medical cabinet)

Section 36(2)(b)—

Repeal

“controlled drugs”

Substitute

“dangerous drugs within the meaning of section 2(1) of the Dangerous Drugs Ordinance (Cap. 134)”.

7. Part II heading amended (requirements to be complied with by ships registered in Hong Kong before 1 July 1979)

Part II, heading—

Repeal

“TO BE COMPLIED WITH BY SHIPS REGISTERED IN HONG KONG”

Substitute

“FOR CERTAIN HONG KONG SHIPS CONSTRUCTED”.

8. Section 41A added

Part II, after section 41—

Add

“41A. Offences

- (1) If any of the requirements in sections 6 to 37, and Schedules 1, 2, 3, 4 and 5 is not complied with in relation to a Part I ship, the shipowner and the master of the ship each commits an offence and is liable on conviction to a fine at level 5.
- (2) A Part I ship that complies with the requirements set out in Schedule 2 to the Working and Living Conditions Regulation is to be regarded as having complied with the requirements referred to in subsection (1).
- (3) If any of the requirements in Schedule 6 is not complied with in relation to a Part II ship, the shipowner and the master of the ship each commits an offence and is liable on conviction to a fine at level 5.

(4) If section 38(1) or (2) is not complied with in relation to a Part I ship, the master of the ship commits an offence and is liable on conviction to a fine at level 3.

(5) It is a defence for a person charged under subsection (4) to show that the person had taken all reasonable steps to prevent the commission of the offence.

(6) In this section—

Part I ship (第 I 部船舶) means a ship to which Part I and Schedules 1, 2, 3, 4 and 5 apply under section 3;

Part II ship (第 II 部船舶) means a ship to which Part II and Schedule 6 apply under section 40;

shipowner (船東) has the meaning given by section 2(1) of the Working and Living Conditions Regulation;

Working and Living Conditions Regulation (《工作及生活條件規例》) means the Merchant Shipping (Seafarers) (Working and Living Conditions) Regulation.”.

9. Schedule 1 amended (deck coverings)

Schedule 1—

Repeal

“& 42”

Substitute

“, 41A & 42”.

10. Schedule 2 amended (insulating material for the underside of decks)

Schedule 2—

Repeal

“& 42”

Substitute

“, 41A & 42]”.

11. Schedule 3 amended (electric lighting)

Schedule 3—

Repeal

“& 42]”

Substitute

“, 41A & 42]”.

12. Schedule 4 amended (trunked mechanical ventilation systems)

Schedule 4—

Repeal

“& 42]”

Substitute

“, 41A & 42]”.

13. Schedule 5 amended (marking)

Schedule 5—

Repeal

“& 42]”

Substitute

“, 41A & 42]”.

14. Schedule 6 amended (crew accommodation requirements for ships registered in Hong Kong before 1 July 1979)

(1) Schedule 6, heading—

Repeal

“FOR SHIPS REGISTERED IN HONG KONG”

Substitute

“FOR CERTAIN HONG KONG SHIPS CONSTRUCTED”.

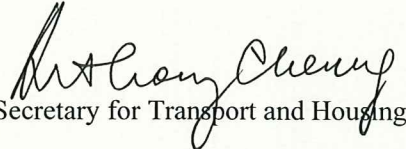
(2) Schedule 6—

Repeal

“& 42]”

Substitute

“, 41A & 42]”.


Secretary for Transport and Housing

16 May 2016

Explanatory Note

The Maritime Labour Convention, 2006 (*Convention*) was adopted by the International Labour Conference of the International Labour Organization in 2006. It sets out a comprehensive set of global standards for the working and living conditions of seafarers on seagoing ships and seeks to protect the right of seafarers to decent employment. The Convention will apply to Hong Kong after China has ratified the Convention and extended it to Hong Kong.

2. The Convention provides for new requirements relating to the accommodation and recreational facilities for seafarers. The requirements will be implemented by the Merchant Shipping (Seafarers) (Working and Living Conditions) Regulation and will only apply to Hong Kong ships constructed on or after the date on which this Regulation comes into operation (*commencement date*).
3. The main purposes of this Regulation are to amend the Merchant Shipping (Seafarers) (Crew Accommodation) Regulation (Cap. 478 sub. leg. 1) (*principal Regulation*)—
 - (a) to provide that the existing requirements relating to the accommodation and recreational facilities for seafarers under the principal Regulation will apply to, among others, Hong Kong ships constructed before the commencement date; and
 - (b) to provide for offence provisions regarding the contravention of the existing requirements.

**Merchant Shipping (Seafarers) (Medical Examination)
(Amendment) Regulation 2016**

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Merchant Shipping (Seafarers) (Medical Examination) (Amendment) Regulation 2016

(Made by the Secretary for Transport and Housing under sections 96 and 134 of the Merchant Shipping (Seafarers) Ordinance (Cap. 478))

1. Commencement

This Regulation comes into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette.

2. Merchant Shipping (Seafarers) (Medical Examination) Regulation amended

The Merchant Shipping (Seafarers) (Medical Examination) Regulation (Cap. 478 sub. leg. O) is amended as set out in sections 3 to 13.

3. Section 2 amended (interpretation)

- (1) Section 2(1), definition of *medical fitness certificate*—

Repeal

everything after “issued under”

Substitute

“section 6(1B) or 11(5)(a) or (b) and includes, except in section 6, a certificate treated under section 5(1) as equivalent to one issued under section 6(1B);”.

- (2) Section 2(1)—

- (a) definition of *approved*;
- (b) definition of *crew*;
- (c) definition of *employer*;

- (d) definition of *GRT*;
- (e) definition of *tons* and *tonnage*—

Repeal the definitions.

- (3) Section 2(1)—

Add in alphabetical order

“*approved medical practitioner* (認可醫生) means a medical practitioner approved under section 18(1);

Guidelines (《指引》) means the “Guidelines on the Medical Examinations of Seafarers” published by the International Labour Organization and the International Maritime Organization, as amended from time to time;”.

4. Section 3 amended (application)

- (1) Section 3(1)(b)—

Repeal

“200 GRT”

Substitute

“500 gross tonnage”.

- (2) After section 3(3)—

Add

“(4) In this section—

gross tonnage (總噸位), in relation to a ship, means the gross tonnage of the ship determined in accordance with regulation 6 of the Merchant Shipping (Registration) (Tonnage) Regulations (Cap. 415 sub. leg. C).”.

5. Section 4 amended (prohibition on employment)

- (1) Section 4(1)—

Repeal

“subsection (3),”

Substitute

“subsections (3) and (4),”.

- (2) Section 4(1)—

Repeal

everything after “valid medical fitness certificate”

Substitute a full stop.

- (3) Section 4(2)—

Repeal

“Subject to subsection (3), no person”

Substitute

“No person”.

- (4) Section 4(2), English text, after “geographical area”—

Add a comma.

- (5) Section 4—

Repeal subsection (3)

Substitute

- “(3) Subject to the conditions specified in subsection (5), a seafarer employed on a ship whose medical fitness certificate expires while in the course of a voyage may continue to be employed on the ship for the remainder of the voyage.
- (4) Subject to the conditions specified in subsection (5), if there is an urgent need relating to the operation of a ship, a seafarer whose medical fitness certificate expired not more than 6 months ago may, with the approval of the

Authority, be employed on the ship without a valid medical fitness certificate.

- (5) The conditions are—

- (a) the seafarer must, as soon as practicable, obtain a valid medical fitness certificate in a port of call; and
- (b) the period during which the seafarer is employed on the ship, without a valid medical fitness certificate, does not exceed 3 months.”.

6. Section 5 amended (certificates equivalent to a medical fitness certificate)

- (1) Section 5, heading—

Repeal

“Certificates equivalent to a medical fitness certificate”

Substitute

“Certificate equivalent to medical fitness certificate issued under section 6(1B)”.

- (2) Section 5—

Repeal subsection (1)

Substitute

- “(1) A certificate is to be treated as equivalent to a medical fitness certificate issued under section 6(1B) if—
- (a) the issuer of the certificate is qualified to practise medicine under the law of a place outside Hong Kong;
- (b) the issuer has regard to the medical standards, requirements and criteria for seafarers specified in

Schedule 1 when determining whether the holder of the certificate is fit for sea service; and

(c) the certificate—

- (i) certifies that the holder is fit for sea service;
- (ii) contains the information and declarations specified in Schedule 2; and
- (iii) is in English.”.

(3) Section 5(2)—

Repeal

“section 6” (wherever appearing)

Substitute

“section 6(1B)”.

7. Section 6 amended (issue of medical fitness certificate)

Section 6—

Repeal subsection (1)

Substitute

- “(1) A person may apply to an approved medical practitioner for a medical fitness certificate.
- (1A) The medical practitioner must conduct a medical examination in respect of the applicant, having regard to the suggested procedures and recommendations set out in Part 3 of the Guidelines.
- (1B) If, having regard to the medical standards, requirements and criteria for seafarers specified in Schedule 1, the medical practitioner considers that the applicant is fit for sea service, the medical practitioner must issue a medical fitness certificate to the applicant.

(1C) A medical fitness certificate issued under subsection (1B) must—

- (a) certify that the holder of the certificate is fit for sea service;
- (b) contain the information and declarations specified in Schedule 2; and
- (c) be in English.”.

8. Section 7 substituted

Section 7—

Repeal the section

Substitute

“7. Certification on vision standards

- (1) Despite section 6(1A), an approved medical practitioner may, instead of examining the vision of an applicant, accept the certification by a registered optometrist as proof of the applicant’s vision if the medical practitioner is satisfied that the optometrist, when making the certification, has regard to the vision standards specified in Appendix A to the Guidelines.
- (2) In this section—
registered optometrist (註冊視光師) means an optometrist registered under section 13 or 15 of the Supplementary Medical Professions Ordinance (Cap. 359).”.

9. Section 8 amended (period of validity of certificate)

(1) Section 8—

Repeal

everything before “specify the period”

Substitute

“A medical fitness certificate issued under section 6(1B) or 11(5)(a) or (b) must”.

- (2) Section 8—

Repeal

“, for which the certificate shall remain”

Substitute

“by an approved medical practitioner or a medical review panel (as the case requires), for which the certificate is”.

10. Section 9 amended (suspension or cancellation of medical certificate)

- (1) Section 9, English text, heading, after “**medical**”—

Add

“**fitness**”.

- (2) Section 9(1)(b), English text, after “was issued”—

Add a comma.

- (3) Section 9(1)(b)—

Repeal

“referred to in section 6”

Substitute

“, requirements and criteria for seafarers specified in Schedule 1”.

11. Section 11 amended (application for a review)

- (1) Section 11(5)(a)—

Repeal

“medical and visual standards”

Substitute

“medical standards, requirements and criteria for seafarers”.

- (2) Section 11(5)(a)—

Repeal

“in the form specified in Schedule 2”.

- (3) After section 11(5)—

Add

“(5A) A medical fitness certificate issued under subsection (5)(a) or (b) must—

- (a) certify that the holder of the certificate is fit for sea service;
- (b) contain the information and declarations specified in Schedule 2; and
- (c) be in English.”.

12. Section 18 amended (Authority to publish certain lists)

- (1) Section 18—

Renumber the section as section 18(2).

- (2) Before section 18(2)—

Add

“(1) The Authority may approve a registered medical practitioner to conduct medical examinations, and issue, suspend or cancel medical fitness certificates, in respect of seafarers.”.

- (3) After section 18(2)—

Add

“(3) In this section—

registered medical practitioner (註冊醫生) has the meaning given by section 2(1) of the Medical Registration Ordinance (Cap. 161).”.

13. Schedules 1 and 2 substituted

Schedules 1 and 2—

Repeal the Schedules

Substitute

“Schedule 1

[ss. 5, 6, 9, 11 & 17]

**Medical Standards, Requirements and Criteria
for Seafarers**

The medical standards, requirements and criteria for seafarers are those as specified in the following appendices to the Guidelines—

Appendix A	Vision Standards
Appendix B	Hearing Standards
Appendix C	Physical Capability Requirements
Appendix D	Fitness Criteria for Medication Use

Appendix E

Fitness Criteria for Common Medical
Conditions

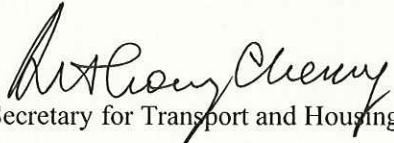
Schedule 2

[ss. 5, 6, 11 & 17]

Contents of Medical Fitness Certificate

1. The following particulars of the holder of the medical fitness certificate—
 - (a) name;
 - (b) date of birth;
 - (c) gender;
 - (d) nationality.
2. A declaration by the issuer of the medical fitness certificate that the identification documents of the holder of the certificate have been checked at the point of the medical examination.
3. A declaration by the issuer of the medical fitness certificate on whether the holder of the certificate is fit for sea service, and in particular, whether—
 - (a) the holder’s hearing meets the standards specified in Appendix B to the Guidelines;
 - (b) the holder’s unaided hearing is satisfactory;

- (c) the holder's visual acuity meets the standards specified in Appendix A to the Guidelines;
 - (d) the holder's colour vision meets the standards specified in Appendix A to the Guidelines;
 - (e) the holder is fit for lookout duties;
 - (f) there is any limitation or restriction on the holder's fitness and, if so, the limitation or restriction; and
 - (g) the holder is free from any medical condition likely to be aggravated by sea service or to render the holder unfit for the service or to endanger the health of other persons on board.
4. The date of the medical examination.
 5. The expiry date of the medical fitness certificate.
 6. The name of the issuer of the medical fitness certificate and the place where the issuer is qualified to practise medicine.”.


Secretary for Transport and Housing

16 May 2016

Explanatory Note

The Maritime Labour Convention, 2006 (*Convention*) was adopted by the International Labour Conference of the International Labour Organization in 2006. It sets out a comprehensive set of global standards for the working and living conditions of seafarers on seagoing ships and seeks to protect the right of seafarers to decent employment. The Convention will apply to Hong Kong after China has ratified the Convention and extended it to Hong Kong.

2. The Convention prohibits seafarers from working on seagoing ships unless they are certified as medically fit to perform their duties. The Merchant Shipping (Seafarers) (Medical Examination) Regulation (Cap. 478 sub. leg. O) (*principal Regulation*) provides for the medical standards required to be met by seafarers and the issue of medical fitness certificates. This Regulation amends the principal Regulation to update the medical standards, requirements and criteria for seafarers.
3. The major amendments are as follows—
 - (a) section 4 of the principal Regulation is amended to provide for the circumstances under which seafarers whose medical fitness certificates have expired may be employed on ships;
 - (b) section 5 of the principal Regulation is amended to provide that certificates issued by persons who are qualified to practise medicine under the law of a place outside Hong Kong are to be treated as equivalent to medical fitness certificates issued under section 6(1B) of the principal Regulation if certain conditions are met;
 - (c) section 6 of the principal Regulation is amended to provide for the new medical standards, requirements and criteria for issuing medical fitness certificates (see new

Merchant Shipping (Seafarers) (Medical Examination) (Amendment) Regulation
2016

Explanatory Note
Paragraph 3

13

Schedule 1 to the principal Regulation). That section is also amended to provide for the contents of medical fitness certificates (see new Schedule 2 to the principal Regulation).

Merchant Shipping (Seafarers) (Official Log Books) (Amendment) Regulation 2016

(Made by the Secretary for Transport and Housing under sections 119 and 134 of the Merchant Shipping (Seafarers) Ordinance (Cap. 478))

1. Commencement

This Regulation comes into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette.

2. Merchant Shipping (Seafarers) (Official Log Books) Regulation amended

The Merchant Shipping (Seafarers) (Official Log Books) Regulation (Cap. 478 sub. leg. P) is amended as set out in sections 3 and 4.

3. Section 2 amended (interpretation)

(1) Section 2(1)—

Repeal the definition of *Pilot Ladders and Hoists Regulations*.

(2) Section 2(1)—

Add in alphabetical order

“*Embarkation and Disembarkation Regulation* (《登船與離船規例》) means the Merchant Shipping (Safety) (Arrangements for Embarkation and Disembarkation of Pilots) Regulation (Cap. 369 sub. leg. AU);”.

4. Schedule amended (entries required to be made in official log books kept in ships)

(1) The Schedule, paragraph 16—

Repeal

“is left behind in any place outside Hong Kong or is taken to such a place on being shipwrecked, or a person who became employed in the ship under an agreement entered into outside Hong Kong is left behind in Hong Kong or is taken to Hong Kong on being shipwrecked,”

Substitute

“has, for the purpose of repatriation, left the ship on which the seafarer worked,”.

(2) The Schedule, Chinese text, paragraph 16(a), before “海員”—

Add

“該”.

(3) The Schedule, paragraph 16(b)—

Repeal

“and the place at which the seafarer was left behind”

Substitute

“the seafarer left the ship”.

(4) The Schedule, paragraph 16—

Repeal subparagraph (c)

Substitute

“(c) the circumstances under which the seafarer was entitled to be repatriated; and”.

(5) The Schedule, paragraph 16(d)—

Repeal

everything after “is informed”

Substitute

“of the particulars specified in section 5(2) of the Repatriation Regulation.”.

- (6) The Schedule, paragraph 16—

Repeal subparagraph (e).

- (7) The Schedule, paragraph 19, column 1—

Repeal

everything after “under”

Substitute

“—

- (a) section 38(2) of, and section 31(2) of Schedule 6 to, the Crew Accommodation Regulation; or
- (b) sections 28 and 34 of the Merchant Shipping (Seafarers) (Working and Living Conditions) Regulation.”.

- (8) The Schedule, paragraph 20—

Repeal

“inspection of provisions and water to be supplied to seafarers employed in the ship with”

Substitute

“inspection carried out with respect to the supply of provisions and drinking water, the space and equipment for storing and handling provisions and drinking water and the galley and other equipment used for preparing and serving meals, and”.

- (9) The Schedule, paragraph 21—

Repeal

“regulation 12 of the Pilot Ladders and Hoists Regulations”

Substitute

“section 21 of the Embarkation and Disembarkation Regulation”.

- (10) The Schedule, paragraph 23—

Repeal

“Where 3 or more seafarers employed in the ship complain to the master”

Substitute

“Where a seafarer employed in the ship complains”.

- (11) The Schedule, paragraph 23(a)—

Repeal

“names of the seafarers”

Substitute

“name of the seafarer”.

- (12) The Schedule, paragraph 23(c), before the semicolon—

Add

“(if applicable)”.

- (13) The Schedule, paragraph 23—

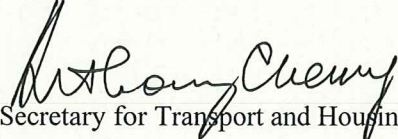
Repeal subparagraphs (d) and (e)**Substitute**

“(d) whether the seafarer states to the master the seafarer’s dissatisfaction with the action taken by the master on the complaint and whether the seafarer claims to complain to the Superintendent (if applicable);

(e) if the seafarer claims to complain to the Superintendent, the arrangements made by the master to enable the seafarer to do so;”.

- (14) The Schedule, paragraph 23(f), before the semicolon—
Add
 “(if applicable)”.
- (15) The Schedule, paragraph 23(g), before the full stop—
Add
 “(if applicable)”.
- (16) The Schedule, paragraph 23—
Repeal
 “One of the seafarers”
Substitute
 “The seafarer”.
- (17) The Schedule, paragraph 24—
Repeal
 “complains to the master under section 99 of the Ordinance about the master or any other seafarer employed in the ship or about the conditions on board the ship”
Substitute
 “complains under section 99 of the Ordinance about any other seafarer employed in the ship, any conditions on board the ship or anything relating to the seafarer’s employment”.
- (18) The Schedule, paragraph 24(c), before the semicolon—
Add
 “(if applicable)”.
- (19) The Schedule, paragraph 24—
Repeal subparagraph (d)
Substitute

- “(d) whether the seafarer states to the master the seafarer’s dissatisfaction with the action taken by the master on the complaint and whether the seafarer claims to complain to the Superintendent (if applicable);”.
- (20) The Schedule, paragraph 24(f), before the full stop—
Add
 “(if applicable)”.
- (21) The Schedule, paragraph 41(a)—
Repeal
 everything after “or VIIB of the”
Substitute
 “Merchant Shipping (Safety) (Passenger Ship Construction) (Ships Built Before 1 September 1984) Regulations (Cap. 369 sub. leg. AL) or under Part IV or VIA of the Merchant Shipping (Safety) (Passenger Ship Construction and Survey) (Ships Built On or After 1 September 1984) Regulations (Cap. 369 sub. leg. AM); and”.
- (22) The Schedule, paragraph 42—
Repeal
 everything before “, as the”
Substitute
 “42. For ships of Class I, II or II(A) as specified in the Merchant Shipping (Safety) (Passenger Ship Construction) (Ships Built Before 1 September 1984) Regulations (Cap. 369 sub. leg. AL) or the Merchant Shipping (Safety) (Passenger Ship Construction and Survey) (Ships Built On or After 1 September 1984) Regulations (Cap. 369 sub. leg. AM)”.


Secretary for Transport and Housing

16 May 2016

Explanatory Note

The Maritime Labour Convention, 2006 (*Convention*) was adopted by the International Labour Conference of the International Labour Organization in 2006. It sets out a comprehensive set of global standards for the working and living conditions of seafarers on seagoing ships and seeks to protect the right of seafarers to decent employment. The Convention will apply to Hong Kong after China has ratified the Convention and extended it to Hong Kong.

2. The requirements of the Convention are implemented by amending the Merchant Shipping (Seafarers) Ordinance (Cap. 478) and its subsidiary legislation, and by making a new item of subsidiary legislation under the Ordinance. This Regulation makes amendments to the Merchant Shipping (Seafarers) (Official Log Books) Regulation (Cap. 478 sub. leg. P) (*principal Regulation*) which are consequential to the amendments mentioned above.
3. This Regulation also amends the reference in the principal Regulation to an item of subsidiary legislation under the Merchant Shipping (Safety) Ordinance (Cap. 369).

Merchant Shipping (Seafarers) (Repatriation) (Amendment) Regulation 2016

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Merchant Shipping (Seafarers) (Repatriation) (Amendment) Regulation 2016

(Made by the Secretary for Transport and Housing under sections 86, 96, 104, 119 and 134 of the Merchant Shipping (Seafarers) Ordinance (Cap. 478))

1. Commencement

This Regulation comes into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette.

2. Merchant Shipping (Seafarers) (Repatriation) Regulation amended

The Merchant Shipping (Seafarers) (Repatriation) Regulation (Cap. 478 sub. leg. Q) is amended as set out in sections 3 to 15.

3. Section 2 amended (interpretation)

(1) Section 2—

Repeal the definitions of *employer* and *master*.

(2) Section 2—

Add in alphabetical order

“*repatriation destination* (遣返目的地), in relation to a seafarer who is entitled to be repatriated, means the place of return ascertained under section 7;”

4. Section 3 substituted

Section 3—

Repeal the section

Substitute

“3. Application

This Regulation applies to a seafarer who is employed to work on board a ship.”

5. Sections 3A to 3D added

After section 3—

Add

“3A. Seafarer’s entitlement to repatriation

(1) Subject to section 3B, a seafarer employed to work on board a ship is entitled to be repatriated under any of the circumstances specified in subsection (2).

(2) The circumstances are—

(a) the seafarer’s crew agreement expires;

(b) the seafarer’s crew agreement is terminated—

(i) by the employer of the seafarer; or

(ii) by the seafarer for justifiable reasons;

(c) the seafarer has served on board the ship consecutively for—

(i) 11 months; or

(ii) any longer period agreed to by the seafarer in writing;

(d) the employer is unable to fulfil the employer’s legal or contractual obligations to the seafarer because—

(i) the employer is insolvent;

(ii) the ownership of the ship has changed; or

(iii) the ship has ceased to be registered in Hong Kong;

- (e) the seafarer—
 - (i) is unable to or cannot be expected to carry out the duties under the crew agreement due to illness, injury or other medical conditions; but
 - (ii) is medically fit to travel;
- (f) the ship is on its way to a war zone to which the seafarer does not consent to go;
- (g) the ship is wrecked.

3B. Circumstances under which seafarer's entitlement to repatriation ceases

A seafarer's entitlement to repatriation ceases if—

- (a) the seafarer, without reasonable cause, fails to comply with any reasonable arrangement made by the employer of the seafarer for the seafarer's repatriation;
- (b) the seafarer informs the employer in writing that the seafarer does not wish to be repatriated; or
- (c) the employer does not know and could not reasonably have known of the seafarer's whereabouts within 3 months after the date when the seafarer becomes entitled to be repatriated under section 3A.

3C. Employer's obligations to make provision for repatriation

- (1) If a seafarer is entitled to be repatriated under section 3A, the employer of the seafarer must make provision—
 - (a) for the seafarer to be returned to the repatriation destination as soon as practicable;

- (b) for the seafarer's relief and maintenance from the time the seafarer is entitled to be repatriated until the seafarer is returned to the destination; and
 - (c) if the seafarer dies before the seafarer is returned to the destination, for the burial or cremation of the seafarer.
- (2) For subsection (1)(a), the seafarer must be returned to the repatriation destination—
 - (a) by air; or
 - (b) by any other appropriate and expeditious means that is agreed between the seafarer and the employer of the seafarer.
 - (3) For subsection (1)(b), the seafarer's relief and maintenance includes—
 - (a) food and lodging; and
 - (b) surgical, medical, dental or optical treatment (including the repair or replacement of any appliance) for any condition of the seafarer which requires immediate medical care.
 - (4) For subsection (1)(b), if the seafarer is entitled to be repatriated because the ship on which the seafarer is employed to work is wrecked, the seafarer's relief and maintenance also includes—
 - (a) clothing;
 - (b) toilet and other personal necessities;
 - (c) if the seafarer is not entitled to legal aid, or legal aid is insufficient, reasonable costs for defending the seafarer in any criminal proceedings in respect of any act or omission in connection with the

shipwreck that is within the scope of the seafarer's employment; and

- (d) sufficient money to meet any minor ancillary expenses necessarily incurred or likely to be so incurred by the seafarer for relief and maintenance.
- (5) Subsection (4)(c) does not apply if the employer of the seafarer or the employer's agent is a party to the criminal proceedings.
- (6) An employer who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 5.

3D. Contribution from seafarer prohibited

- (1) The employer of a seafarer must not—
 - (a) require the seafarer to make an advance payment towards the cost of repatriation at the beginning of the seafarer's employment; or
 - (b) recover the cost of repatriation from the seafarer's wages or other entitlements.
- (2) Subsection (1)(b) does not apply if the seafarer is in serious default of the seafarer's obligations under the crew agreement concerned.
- (3) An employer who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 5."

6. Section 4 repealed (return and relief of seafarers left behind or shipwrecked)

Section 4—

Repeal the section.

7. Section 5 amended (other provisions relating to seafarers left behind and shipwrecked seafarers)

- (1) Section 5, heading—

Repeal

“Other provisions relating to seafarers left behind and shipwrecked seafarers”

Substitute

“Superintendent to be informed of particulars of repatriated seafarer”.

- (2) Section 5(1)—

Repeal

everything before “of the particulars”

Substitute

“(1) As soon as practicable after a seafarer has, for the purpose of repatriation, left the ship on which the seafarer is or was employed to work, the employer of the seafarer must inform the Superintendent”.

- (3) Section 5—

Repeal subsection (2)

Substitute

“(2) The particulars are—

- (a) the name of the seafarer;
- (b) the seafarer's home address as stated in the list of crew;
- (c) the name and address of the seafarer's next of kin as stated in the list of crew;
- (d) the name of the ship;
- (e) the date when the seafarer left the ship;

- (f) the circumstances under which the seafarer was entitled to be repatriated;
 - (g) the name and address of the employer; and
 - (h) if the ship was wrecked—
 - (i) the date of the shipwreck;
 - (ii) the date when the seafarer was brought ashore;
 - (iii) the place where the seafarer was brought ashore; and
 - (iv) the present whereabouts of the seafarer.
- (2A) Subsection (1) does not apply if a notice of the seafarer's discharge has been given to the Superintendent in accordance with section 21 of the Merchant Shipping (Seafarers) (Crew Agreements, Lists of Crew and Discharge of Seafarers) Regulation (Cap. 478 sub. leg. L)."
- (4) Section 5(3)—
- Repeal**
- "master shall make entries, in relation to any seafarer left behind"
- Substitute**
- "master of the ship must make entries, in relation to the repatriated seafarer".
- (5) Section 5(3)(a)—
- Repeal**
- everything after "log book"
- Substitute**
- "and in the list of crew—

- (i) the date when the seafarer left the ship; and
 - (ii) the circumstances under which the seafarer was entitled to be repatriated; and".
8. **Section 6 amended (obligation to keep Superintendent informed of arrangements made in respect of seafarer)**
- (1) Section 6, Chinese text, heading—
- Repeal**
- "通知"
- Substitute**
- "告知".
- (2) Section 6(1)—
- Repeal**
- "for the seafarer's return, relief and maintenance specified in section 4"
- Substitute**
- "for a seafarer under section 3C".
9. **Section 7 amended (place of return)**
- (1) Section 7—
- Repeal**
- "returned pursuant to this Regulation shall be returned"
- Substitute**
- "repatriated under this Regulation must be returned".
- (2) Section 7(b)(i)—
- Repeal**
- "from which he was left behind or shipwrecked".

10. Section 8 amended (provision for a seafarer's return, relief and maintenance by Superintendent)

Section 8—

Repeal

“section 4”

Substitute

“section 3C”.

11. Section 9 amended (conveyance orders and directions)

(1) Section 9(1)—

Repeal

“section 4”

Substitute

“section 3C”.

(2) Section 9(1)(a)—

Repeal

“place ascertained under section 7 to which he is to be returned”

Substitute

“repatriation destination”.

12. Section 12 amended (wages of seafarers, employed in ships, who are left behind)

(1) Section 12, heading—

Repeal

“Wages of seafarers, employed in ships, who are left behind”

Substitute

“Wages and account of wages etc.”.

(2) Section 12—

Repeal subsection (1)

Substitute

“(1) If a seafarer is returned to a repatriation destination under section 3C, the employer of the seafarer must, within 28 days after the date of return—

(a) pay the outstanding wages in full to the seafarer; and

(b) deliver to the seafarer and the Superintendent an account of the wages paid.

(1A) Subsection (1) does not apply if the seafarer is discharged from the ship on which the seafarer is employed to work and is entitled to receive wages and an account of the wages under sections 84 and 85 of the Ordinance.”.

(3) Section 12—

Repeal subsections (3) and (4)

Substitute

“(3) If a seafarer's entitlement to repatriation ceases under section 3B, the employer of the seafarer must, within 28 days after the date of cessation—

(a) if the employer knows the seafarer's current address—

(i) pay the outstanding wages in full to the seafarer; and

(ii) deliver to the seafarer and the Superintendent an account of the wages paid; or

(b) if the employer does not know the seafarer's current address, deliver to the seafarer's last known address and the Superintendent—

- (i) an account of the outstanding wages; and
- (ii) a notice to the effect that the seafarer may contact the employer regarding the payment of wages.

(4) An employer who contravenes subsection (1)(a) or (3)(a)(i) commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 2 years.”.

(4) After section 12(4)—

Add

“(5) An employer who contravenes subsection (2) commits an offence and is liable on conviction to a fine at level 3.

(6) An employer who contravenes subsection (1)(b) or (3)(a)(ii) or (b) commits an offence and is liable on conviction to a fine at level 1.”.

13. Section 14 amended (other records and accounts)

Section 14(2)—

Repeal

“regulations made under section 86(a) of the Ordinance to be made”

Substitute

“the Merchant Shipping (Seafarers) (Wages and Accounts) Regulation (Cap. 478 sub. leg. S)”.

14. Section 15 amended (property of seafarers left behind and of shipwrecked seafarers)

(1) Section 15, heading—

Repeal

“Property of seafarers left behind and of shipwrecked seafarers”

Substitute

“Property left on ship by sick seafarer etc.”.

(2) Section 15—

Repeal subsection (1)

Substitute

“(1) This section applies to any property (including money) left on board a ship by—

- (a) a sick or injured seafarer who has been repatriated; or
- (b) a seafarer who was to be repatriated, but has died before the repatriation.”.

(3) Section 15—

Repeal subsection (2).

(4) Section 15(3), after “The master”—

Add

“of the ship on which the seafarer is or was employed to work”.

(5) Section 15(5)(a)—

Repeal

everything after “by the employer”

Substitute

“of the seafarer, cause the property to be delivered to the employer at an address in the repatriation destination; and”.

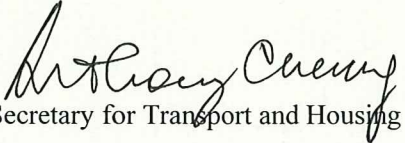
15. **Section 17 added**

After section 16—

Add

“17. Copy of Regulation to be kept on ship etc.

- (1) A copy of this Regulation must be kept on board a ship.
- (2) The master of a ship must, if requested by a seafarer employed to work on board the ship, make a copy of this Regulation available to the seafarer.
- (3) If subsection (1) is contravened, the master of the ship concerned and the master’s employer each commits an offence and is liable on conviction—
 - (a) for the master, to a fine at level 1; and
 - (b) for the employer, to a fine at level 2.
- (4) The master of a ship who contravenes subsection (2) commits an offence and is liable on conviction to a fine at level 1.”.


Secretary for Transport and Housing

16 May 2016

Explanatory Note

The Maritime Labour Convention, 2006 (*Convention*) was adopted by the International Labour Conference of the International Labour Organization in 2006. It sets out a comprehensive set of global standards for the working and living conditions of seafarers on seagoing ships and seeks to protect the right of seafarers to decent employment. The Convention will apply to Hong Kong after China has ratified the Convention and extended it to Hong Kong.

2. The Merchant Shipping (Seafarers) (Repatriation) Regulation (Cap. 478 sub. leg. Q) (*principal Regulation*) provides for, among others, the repatriation of seafarers in cases where the seafarers are left behind and in cases of shipwreck. This Regulation amends the principal Regulation to implement the requirements of the Convention regarding repatriation of seafarers.
3. The major amendments are—
 - (a) to provide for additional circumstances under which seafarers are entitled to be repatriated and to make related amendments; and
 - (b) to require a copy of the principal Regulation, as amended, to be kept on board Hong Kong ships (see new section 17 of the principal Regulation).

Merchant Shipping (Seafarers) (Safety Officials and Reporting of Accidents and Dangerous Occurrences) (Amendment) Regulation 2016

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Merchant Shipping (Seafarers) (Safety Officials and Reporting of Accidents and Dangerous Occurrences) (Amendment) Regulation 2016

(Made by the Secretary for Transport and Housing under sections 96 and 134 of the Merchant Shipping (Seafarers) Ordinance (Cap. 478))

1. Commencement

This Regulation comes into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette.

2. Merchant Shipping (Seafarers) (Safety Officials and Reporting of Accidents and Dangerous Occurrences) Regulation amended

The Merchant Shipping (Seafarers) (Safety Officials and Reporting of Accidents and Dangerous Occurrences) Regulation (Cap. 478 sub. leg. R) is amended as set out in sections 3 to 14.

3. Title amended

The title—

Repeal

“AND DANGEROUS OCCURRENCES”

Substitute

“, DANGEROUS OCCURRENCES AND OCCUPATIONAL DISEASES”.

4. Section 2 amended (interpretation)

(1) Section 2, definition of *safety committee*—

Repeal

“section 4(4)”

Substitute

“section 4(1)(c)”.

(2) Section 2—

Add in alphabetical order

“*high speed craft* (高速船) has the meaning given by section 2(1) of the Merchant Shipping (Safety) (High Speed Craft) Regulation (Cap. 369 sub. leg. AW);

Merchant Shipping Notice (商船公告) means a notice described as such and issued by the Authority;

notifiable disease (須呈報疾病) means an occupational disease contracted by a seafarer that arises out of the seafarer’s employment on a ship;

occupational disease (職業病) means a disease listed in the list of occupational diseases that is approved by the International Labour Organization from time to time;”.

5. Section 3 amended (application)

Section 3—

Repeal subsection (1)

Substitute

“(1) This Part applies to a seagoing ship on which a crew of more than 5 is employed, but does not apply to—

(a) a fishing vessel; or

(b) a high speed craft that navigates exclusively between Hong Kong and any other port in China.”.

6. Section 4 amended (appointment and election of safety officials)

- (1) Section 4(1)(a)—

Repeal

“shall appoint a safety officer; and”

Substitute

“must appoint a safety officer;”

- (2) Section 4(1)(b)—

Repeal

“the officers and ratings may”

Substitute

“the employer must arrange for the officers and ratings to elect”.

- (3) Section 4(1)(b), English text—

Repeal

“paragraph elect”

Substitute

“paragraph”.

- (4) Section 4(1)(b)(ii)(B)—

Repeal the full stop

Substitute

“; and”.

- (5) After section 4(1)(b)—

Add

“(c) the employer must appoint a safety committee which includes the master, the safety officer and every safety

representative, with the master as the chairperson of the committee.”.

- (6) Section 4—

Repeal subsection (4).

7. Section 6 amended (duties of safety officer)

- (1) Section 6(1)(g)(ii), after “Department Notice”—

Add

“or Merchant Shipping Notice”.

- (2) Section 6(1)(i)(i)—

Repeal

“; and”

Substitute a semicolon.

- (3) Section 6(1)(i)(ii), after the semicolon—

Add

“and”.

- (4) After section 6(1)(i)(ii)—

Add

“(iii) describing the details of all notifiable diseases contracted by the seafarers employed on the ship (including the seafarers involved, the diseases contracted and the dates of diagnosis of the diseases);”.

8. Section 8 amended (duties of safety committee)

- Section 8(1)(f)—

Repeal

“or dangerous occurrences, Marine Department Notices,”

Substitute

“, dangerous occurrences or notifiable diseases, Marine Department Notices, Merchant Shipping Notices,”.

9. Section 9 amended (duties of employer and master)

(1) Section 9(1)(a)—

Repeal

“and Marine Department Notice”

Substitute

“, Marine Department Notice and Merchant Shipping Notice”.

(2) Section 9(1)(i), after “access”—

Add

“, or every notifiable disease contracted by the seafarers employed on the ship”.

(3) Section 9(1)(k)—

Repeal

“to be held within 3 days of being requested to do so by any 2 seafarers entitled to vote in such an election”.

10. Part III heading amended (reporting of accidents and dangerous occurrences)

Part III, heading—

Repeal

“AND DANGEROUS OCCURRENCES”

Substitute

“, DANGEROUS OCCURRENCES AND OCCUPATIONAL DISEASES”.

11. Section 10 amended (application)

Section 10(1)—

Repeal

everything after “subsection (2)”

Substitute

“and section 12A, this Part applies to a seagoing ship.”.

12. Section 12 amended (reporting and investigation of accidents and dangerous occurrences)

(1) Section 12(3)(a), English text—

Repeal

“the master,”

Substitute

“, the master”.

(2) Section 12(3)(a)—

Repeal

“in the prescribed form”.

(3) Section 12(3)(b)(i)(B)—

Repeal

“in the prescribed form”.

13. Sections 12A and 12B added

Part III, after section 12—

Add

“12A. Reporting of notifiable diseases

- (1) If a seafarer employed on a seagoing ship is diagnosed with a notifiable disease, the employer must, on knowing of the diagnosis, require the master or, if the master is not available, the most senior officer available to complete, sign and forward to the Superintendent within 7 days after the employer knows of the diagnosis, a report containing the information specified in subsection (2).
- (2) The information is—
 - (a) the seafarer’s name, address, sex and date of birth;
 - (b) the employer’s name, address and contact details;
 - (c) the capacity in which the seafarer is employed and the length of service with the employer; and
 - (d) the details relating to the notifiable disease, including—
 - (i) the name and nature of the disease;
 - (ii) the harmful agent, process or exposure to which the disease is attributable;
 - (iii) the length of the seafarer’s exposure to the harmful agent or process;
 - (iv) a description of the seafarer’s work and conditions which might have given rise to the disease; and
 - (v) the date when the disease was diagnosed.
- (3) This section does not apply to a high speed craft that navigates exclusively between Hong Kong and any other port in China.

12B. Disclosure of certain personal or medical information relating to seafarers prohibited

- (1) A person must not disclose or give to another person any personal or medical information relating to a seafarer employed on a ship that has come to the knowledge of, or into the possession of, the person in carrying out the person’s obligations under this Part.
- (2) Despite subsection (1), a person may disclose or give to another person any information referred to in the subsection if—
 - (a) the disclosure or giving of information is necessary for carrying out the person’s obligations under this Part;
 - (b) the disclosure or giving of information is required by law; or
 - (c) the consent for the disclosure or giving of information has been obtained from the seafarer.”.

14. Section 14 amended (offences and penalties)

- (1) Section 14(1)(a)—

Repeal

“or to make rules”

Substitute

“, or to make rules or arrange”.
- (2) Section 14(1)(c), after “section 12(3)(b)”—

Add

“, 12A(1)”.
- (3) Section 14(2)(b), after “or (3)”—


Add

“or 12A(1)”.

- (4) After section 14(3)—

Add

“(3A) A person who contravenes section 12B(1) commits an offence and is liable on conviction to a fine at level 3.”.


Secretary for Transport and Housing

16 May 2016

Explanatory Note

The Maritime Labour Convention, 2006 (*Convention*) was adopted by the International Labour Conference of the International Labour Organization in 2006. It sets out a comprehensive set of global standards for the working and living conditions of seafarers on seagoing ships and seeks to protect the right of seafarers to decent employment. The Convention will apply to Hong Kong after China has ratified the Convention and extended it to Hong Kong.

2. This Regulation amends the Merchant Shipping (Seafarers) (Safety Officials and Reporting of Accidents and Dangerous Occurrences) Regulation (Cap. 478 sub. leg. R) (*principal Regulation*) to implement certain requirements of the Convention relating to the health and safety protection of seafarers.
3. The major amendments to the principal Regulation include—
 - (a) providing for the reporting of occupational diseases contracted by the seafarers employed on a ship that arise out of their employment (*notifiable disease*); and
 - (b) providing that the requirements regarding safety officials on a ship and the reporting of notifiable diseases do not apply to a high speed craft that navigates exclusively between Hong Kong and any other port in China.
4. The title of the principal Regulation is also amended to show that the principal Regulation also deals with the reporting of occupational diseases.

**Merchant Shipping (Seafarers) (Medical Stores)
(Amendment) Regulation 2016**

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Merchant Shipping (Seafarers) (Medical Stores) (Amendment) Regulation 2016

(Made by the Secretary for Transport and Housing under sections 96, 100 and 134 of the Merchant Shipping (Seafarers) Ordinance (Cap. 478))

1. Commencement

This Regulation comes into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette.

2. Merchant Shipping (Seafarers) (Medical Stores) Regulation amended

The Merchant Shipping (Seafarers) (Medical Stores) Regulation (Cap. 478 sub. leg. X) is amended as set out in sections 3 to 13.

3. Section 2 amended (interpretation)

(1) Section 2(1)—

- (a) definition of *chemical*;
- (b) definition of *employer*;
- (c) definition of *IMDG Code*—

Repeal the definitions.

(2) Section 2(1)—

Add in alphabetical order

“*passenger-carrying ship* (載客船舶) means a ship authorized to carry passengers within river trade limits in reliance on a passenger certificate and a general safety certificate issued under Part II of the Merchant Shipping (Safety) Ordinance (Cap. 369);

Quantification Addendum (《指南補充本》) means the Quantification Addendum: International Medical Guide for Ships published by the World Health Organization, as amended from time to time;

Recommended List (《建議清單》) means the list of recommended medicines and equipment set out in Chapter 33 of the International Medical Guide for Ships published by the World Health Organization, as amended from time to time;”.

(3) Section 2—

Repeal subsections (2), (3) and (4).

4. Section 4 amended (medicines and medical stores)

(1) Section 4—

Repeal subsections (1) and (2)

Substitute

“(1) A seagoing ship must not proceed on a voyage unless there are kept on board the ship medicines and medical stores in compliance with Schedule 1.

(2) A passenger-carrying ship that only trades within river trade limits must not proceed on a voyage unless there are kept on board the ship medicines and medical stores in compliance with Schedule 2.”.

(2) Section 4—

Repeal everything after subsection (3).

5. Section 5 repealed (standards of medicines and medical stores)

Section 5—

Repeal the section.

6. Section 6 amended (packaging and labelling of containers)

(1) Section 6(1)—

Repeal

“other medical”

Substitute

“medical”.

(2) Section 6(1)(c)—

Repeal the semicolon**Substitute**

“; and”.

(3) Section 6(1)—

Repeal paragraph (d).

(4) Section 6(1)(e)—

Repeal

“or disinfectant”.

(5) Section 6(3), English text—

Repeal

“shown on labels”

Substitute

“shown on a label”.

(6) Section 6(3)—

Repeal paragraphs (a) and (b)**Substitute**

“(a) the generic name of the medicines or medical stores in the container, as set out in the Recommended List;

(b) any storage requirements for the medicines or medical stores, as specified by the supplier of the medicines or medical stores;

(ba) the dosage of the medicines recommended by the supplier of the medicines, if applicable;”.

(7) Section 6(3)(d)—

Repeal

“medicines and”

Substitute

“medicines or”.

(8) Section 6(3)(e)—

Repeal

“or of an antiseptic prescribed in any of the scales set out in Schedule 1”.

(9) Section 6(3)(e)—

Repeal

“for any purposes stated thereon;”

Substitute

“by the supplier of the disinfectant for using the disinfectant; and”.

(10) Section 6(3)—

Repeal paragraph (f).

(11) Section 6(3)(g)—

Repeal

“place; and”

Substitute

“place.”.

(12) Section 6(3)—

Repeal paragraph (h).

(13) After section 6(3)—

Add

“(4) If any of the particulars on the label of a container is illegible, all the medicines or medical stores in the container must be destroyed.

(5) If any medicine or medical store in a container cannot be identified, the medicine or medical store must be destroyed.”.

7. Section 7 amended (storage of medicines)

(1) Section 7, heading, after “**medicines**”—

Add

“**and medical stores**”.

(2) Section 7—

Repeal subsections (1) and (2)

Substitute

“(1) Any medicine or medical store kept on board a ship must—

- (a) be stored in accordance with the instructions on its container;
- (b) be kept in a good condition; and
- (c) be protected against humidity and temperature extremes.

(2) Subject to subsections (2A), (2B) and (2C), the medicines and medical stores kept on board a ship must be stored in a medical cabinet that is large enough for them—

(a) to be arranged in an orderly manner;

(b) to be easily identified; and

(c) to be available for immediate use.

(2A) The medicines and medical stores kept on board a ship that are to be used in emergencies must—

(a) be stored in an accessible place; and

(b) be stored separately from other medicines and medical stores.

(2B) If a medicine is required to be refrigerated, it must be stored in a refrigerator that—

(a) is located near a medical cabinet referred to in subsection (2);

(b) is equipped with a lock; and

(c) is not used for other purposes.

(2C) Any medicine or medical store that is a drug or substance specified in Part I of the First Schedule to the Dangerous Drugs Ordinance (Cap. 134) must—

(a) be stored separately from other medicines and medical stores; and

(b) be stored in a locked compartment in a room that is locked when unoccupied.”.

8. Section 8 amended (replenishment of dated medicines)

(1) Section 8, heading—

Repeal

“**Replenishment of dated medicines**”

Substitute

“**Replacement of expired medicines and medical stores**”.

- (2) Section 8(1)(a)—

Repeal

“other medical stores in accordance with any of the scales set out in”

Substitute

“medical store in compliance with”.

- (3) Section 8(1)(b)—

Repeal

“other medical stores, indicates a date after which the medicine or other”

Substitute

“medical store indicates a date after which the medicine or”.

- (4) Section 8—

Repeal subsection (2)**Substitute**

“(2) Expired medicines and medical stores must be taken to a pharmacy to be destroyed.”.

9. Section 9 amended (offences)

Section 9(1)—

Repeal

“5,”.

10. Section 10 amended (inspection and detention)

Section 10(1)—

Repeal

“, 5”.

11. Section 11 amended (amendment of Schedules)

Section 11—

Repeal

“Schedule 1, 2, 3 or 4”

Substitute

“Schedule 1 or 2”.

12. Schedules 1 and 2 substituted

Schedules 1 and 2—

Repeal the Schedules**Substitute****“Schedule 1**

[ss. 4, 8 & 11]

Medicines and Medical Stores to be Kept on Board Seagoing Ships

1. There must be kept on board a seagoing ship every medicine listed in the Recommended List, in the quantity set out in Annex 3 to the Quantification Addendum.
2. There must be kept on board a seagoing ship every equipment, material and instrument listed in the Recommended List, in the quantity set out in the Recommended List.

Schedule 2

[ss. 4, 8 & 11]

Medicines and Medical Stores to be Kept on Board Passenger-carrying Ships Trading within River Trade Limits

1. There must be kept on board a passenger-carrying ship that only trades within river trade limits—
 - (a) if the ship’s passenger capacity is not more than 100, 1 first aid kit;
 - (b) if the ship’s passenger capacity is more than 100, 2 first aid kits.
2. A first aid kit must contain every item listed and, if applicable, described in the table, in the quantity set out in the table.

Table

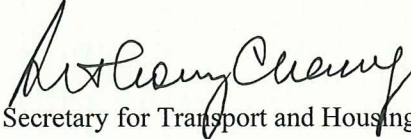
Column 1	Column 2	Column 3	Column 4
Item	Name	Description	Quantity required
1.	Triangular of calico	90 cm × 90 cm × 128 cm	8 pieces

Column 1	Column 2	Column 3	Column 4
Item	Name	Description	Quantity required
2.	Conforming bandage	5 cm × 195 cm	2 rolls
3.	Bandage	5 cm × 540 cm	2 rolls
4.	Bandage	7.5 cm × 540 cm	2 rolls
5.	Tape	Assorted, sterile, adhesive	20 pieces
6.	Dressings	Sterile paraffin gauze	10 pieces
7.	Dressing strip	2.5 cm × 495 cm	2 rolls
8.	Absorbent cotton wool	35 g	2 packs
9.	Safety pins	Rustless, 5 cm	12 pieces
10.	Disinfectant	—	0.2 L
11.	Scissors	Stainless steel throughout	1 pair”.

13. Schedules 3 and 4 repealed

Schedules 3 and 4—

Repeal the Schedules.


Secretary for Transport and Housing

16 May 2016

Explanatory Note

The Maritime Labour Convention, 2006 (*Convention*) was adopted by the International Labour Conference of the International Labour Organization in 2006. It sets out a comprehensive set of global standards for the working and living conditions of seafarers on seagoing ships and seeks to protect the right of seafarers to decent employment. The Convention will apply to Hong Kong after China has ratified the Convention and extended it to Hong Kong.

2. Under the Convention, seagoing ships are required to keep medical cabinets and medical equipment. The Merchant Shipping (Seafarers) (Medical Stores) Regulation (Cap. 478 sub. leg. X) (*principal Regulation*) provides for the medicines and medical stores to be kept on ships registered in Hong Kong. This Regulation amends the principal Regulation to update, in compliance with the latest international standards, the requirements relating to the medicines and medical stores.
3. Section 4 of the principal Regulation is amended to provide that seagoing ships, and passenger-carrying ships that only trade within river trade limits, must keep on board medicines and medical stores in compliance with the new Schedules 1 and 2 respectively.
4. Sections 6 and 7 of the principal Regulation are amended to update the technical requirements regarding the packaging and labelling of containers, and storage, of medicines and medical stores.
5. Section 8 of the principal Regulation is amended to provide that expired medicines and medical stores must be taken to a pharmacy to be destroyed.
6. This Regulation also repeals redundant provisions of the principal Regulation.

Merchant Shipping (Seafarers) (Code of Safe Working Practices) (Amendment) Regulation 2016

(Made by the Secretary for Transport and Housing under sections 96 and 134 of the Merchant Shipping (Seafarers) Ordinance (Cap. 478))

1. Commencement

This Regulation comes into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette.

2. Merchant Shipping (Seafarers) (Code of Safe Working Practices) Regulation amended

The Merchant Shipping (Seafarers) (Code of Safe Working Practices) Regulation (Cap. 478 sub. leg. M) is amended as set out in section 3.

3. Section 4 amended (ships to carry copies of the Code)

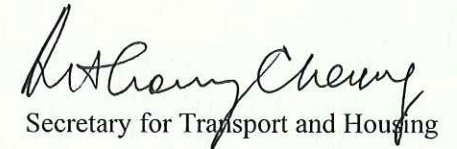
Section 4(2)(e), (f) and (g)—

Repeal

“and Dangerous Occurrences) Regulation (Cap. 478 sub. leg.)”

Substitute

“, Dangerous Occurrences and Occupational Diseases) Regulation (Cap. 478 sub. leg. R)”.


Secretary for Transport and Housing

16 May 2016

Explanatory Note

The Maritime Labour Convention, 2006 (*Convention*) was adopted by the International Labour Conference of the International Labour Organization in 2006. It sets out a comprehensive set of global standards for the working and living conditions of seafarers on seagoing ships and seeks to protect the right of seafarers to decent employment. The Convention will apply to Hong Kong after China has ratified the Convention and extended it to Hong Kong.

2. The Merchant Shipping (Seafarers) (Safety Officials and Reporting of Accidents and Dangerous Occurrences) Regulation (Cap. 478 sub. leg. R) (*Reporting of Accidents Regulation*) is amended to implement certain requirements of the Convention relating to the health and safety protection of seafarers. The title of the Reporting of Accidents Regulation is also amended. This Regulation amends section 4 of the Merchant Shipping (Seafarers) (Code of Safe Working Practices) Regulation (Cap. 478 sub. leg. M) to reflect the change in title.

Merchant Shipping (Seafarers) (Provisions and Water) Regulation (Repeal)
Regulation

Section 1

1

**Merchant Shipping (Seafarers) (Provisions and Water)
Regulation (Repeal) Regulation**

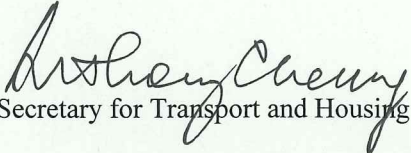
(Made by the Secretary for Transport and Housing under sections 96 and 134 of the Merchant Shipping (Seafarers) Ordinance (Cap. 478))

1. Commencement

This Regulation comes into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette.

2. Repeal

The Merchant Shipping (Seafarers) (Provisions and Water) Regulation (Cap. 478 sub. leg. E) is repealed.


Secretary for Transport and Housing

16 May 2016

Merchant Shipping (Seafarers) (Provisions and Water) Regulation (Repeal)
Regulation

Explanatory Note
Paragraph 1

2

Explanatory Note

The Maritime Labour Convention, 2006 (*Convention*) was adopted by the International Labour Conference of the International Labour Organization in 2006. It sets out a comprehensive set of global standards for the working and living conditions of seafarers on seagoing ships and seeks to protect the right of seafarers to decent employment. The Convention will apply to Hong Kong after China has ratified the Convention and extended it to Hong Kong.

2. Most of the requirements under the Convention, including those relating to provisions and water provided to seafarers, will be implemented by the Merchant Shipping (Seafarers) (Working and Living Conditions) Regulation (*new Regulation*). This Regulation repeals the Merchant Shipping (Seafarers) (Provisions and Water) Regulation (Cap. 478 sub. leg. E) in view of the making of the new Regulation.

Merchant Shipping (Seafarers) (Ships' Doctors) Regulation (Repeal) Regulation

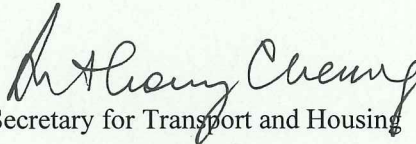
(Made by the Secretary for Transport and Housing under sections 96 and 134 of the Merchant Shipping (Seafarers) Ordinance (Cap. 478))

1. Commencement

This Regulation comes into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette.

2. Repeal

The Merchant Shipping (Seafarers) (Ships' Doctors) Regulation (Cap. 478 sub. leg. H) is repealed.


Secretary for Transport and Housing

16 May 2016

Explanatory Note

The Maritime Labour Convention, 2006 (*Convention*) was adopted by the International Labour Conference of the International Labour Organization in 2006. It sets out a comprehensive set of global standards for the working and living conditions of seafarers on seagoing ships and seeks to protect the right of seafarers to decent employment. The Convention will apply to Hong Kong after China has ratified the Convention and extended it to Hong Kong.

2. Most of the requirements under the Convention, including those relating to the carriage of ships' doctors on ships, will be implemented by the Merchant Shipping (Seafarers) (Working and Living Conditions) Regulation (*new Regulation*). This Regulation repeals the Merchant Shipping (Seafarers) (Ships' Doctors) Regulation (Cap. 478 sub. leg. H) in view of the making of the new Regulation.

Merchant Shipping (Seafarers) (Fees) (Amendment) Regulation 2016

(Made by the Secretary for Financial Services and the Treasury under sections 133 and 134 of the Merchant Shipping (Seafarers) Ordinance (Cap. 478))

1. Commencement

This Regulation comes into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette.

2. Merchant Shipping (Seafarers) (Fees) Regulation amended

The Merchant Shipping (Seafarers) (Fees) Regulation (Cap. 478 sub. leg. AB) is amended as set out in sections 3 to 9.

3. Section 2 amended (interpretation)

(1) Section 2, definition of *office hours*—

Repeal

“9 a.m. and 5 p.m., and 9 a.m. and noon on Saturday”

Substitute

“8:30 a.m. and 5:45 p.m. on Monday to Friday”.

(2) Section 2, definition of *surveyor*—

Repeal

everything after “means”

Substitute

“—

- (a) a person appointed under section 5(1) of the Merchant Shipping (Safety) Ordinance (Cap. 369) to be a Government surveyor; or
- (b) a person appointed under section 110 of the Merchant Shipping (Seafarers) (Working and Living Conditions) Regulation to be a Government surveyor;”.

4. Section 3 amended (schedule of fees)

Section 3—

Repeal subsection (2).

5. Section 5 amended (fees for services outside Hong Kong)

(1) Section 5(2), after “Part I”—

Add

“or IV”.

(2) Section 5(2)(b)—

Repeal

“specified in that Part”

Substitute

“, if any, specified in Part I or IV”.

(3) Section 5(2)(c)(ii)—

Repeal

“for the services specified in that Part”

Substitute

“, if any, for the services specified in Part I or IV”.

6. Section 6 amended (fees for transmission of documents)

Section 6—

(a) After “Part I” (wherever appearing)—

Add

“or IV”;

(b) After “issue of a certificate”—

Add

“, if any.”.

7. Section 7 amended (fees for services outside office hours)

(1) Section 7—

Repeal

“week-days”

Substitute

“Monday to Friday (except a general holiday)”.

(2) Section 7—

Repeal

“7 a.m. and 9 a.m. or 5 p.m. and 7 p.m.”

Substitute

“6:30 a.m. and 8:30 a.m. or 5:45 p.m. and 7:45 p.m.”.

(3) Section 7—

Repeal

“7 a.m. or after 7 p.m.”

Substitute

“6:30 a.m. or after 7:45 p.m.”.

(4) Section 7—

Repeal

“Saturdays (after noon), Sundays or Public Holidays”

Substitute

“Saturday, Sunday or a general holiday”.

8. Section 10 amended (fees for issue of certificates of survey, etc.)

(1) Section 10(2), after “service specified in Part I”—

Add

“or IV”.

(2) Section 10(2)(a), after “Part I”—

Add

“or IV”.

(3) Section 10(2)(a)—

Repeal

“that Part”

Substitute

“Part I or IV”.

(4) Section 10(2)(b), after “Part I”—

Add

“or IV”.

(5) Section 10(4)—

Repeal

“Part I”

Substitute

“Parts I and IV”.

9. Schedule amended

(1) The Schedule, Part II—

Repeal Notes (2) and (3).

(2) The Schedule, Part II, item 1(a)—

- Repeal**
“9,250”
- Substitute**
“8,980”.
- (3) The Schedule, Part II, item 1(b)—
- Repeal**
“6,940”
- Substitute**
“6,670”.
- (4) The Schedule, Part II, item 1(c)—
- Repeal**
“4,820”
- Substitute**
“4,550”.
- (5) The Schedule, Part II, item 1(d)—
- Repeal**
“6,940”
- Substitute**
“6,670”.
- (6) The Schedule, Part II, item 1(e)—
- Repeal**
“4,820”
- Substitute**
“4,550”.
- (7) The Schedule, Part II, item 1(f)—
- Repeal**

- “3,090”
- Substitute**
“2,820”.
- (8) The Schedule, Part II, item 6—
- Repeal sub-items (a), (b) and (c).**
- (9) The Schedule, Part II, item 7—
- Repeal sub-item (b).**
- (10) The Schedule, Part III, item 7(a)—
- Repeal**
“week-days from 7 a.m. to 9 a.m. or 5 p.m. to 7 p.m.”
- Substitute**
“Monday to Friday (except a general holiday) between the hours of 6:30 a.m. to 8:30 a.m. or 5:45 p.m. to 7:45 p.m.”.
- (11) The Schedule, Part III, item 7(b)—
- Repeal**
“week-days before 7 a.m. or after 7 p.m.”
- Substitute**
“Monday to Friday (except a general holiday) before 6:30 a.m. or after 7:45 p.m.”.
- (12) The Schedule, Part III, item 7(c)—
- Repeal**
“Saturday afternoons, Sundays and public holidays”
- Substitute**
“Saturday, Sunday or a general holiday”.
- (13) The Schedule, after Part III—
- Add**

“Part IV

**Fees Payable for Inspection and Issue of
Certificates under Merchant Shipping (Seafarers)
(Working and Living Conditions) Regulation**

	Service	Fee \$
1.	An inspection or intermediate inspection of a ship referred to in section 69, 72, 74, 78 or 91 of the Merchant Shipping (Seafarers) (Working and Living Conditions) Regulation	3,270 for the first hour or part hour, and \$1,115 for each subsequent hour or part hour during which the inspection continues.
2.	Issue of a maritime labour certificate, or interim maritime labour certificate, under section 69, 70, 72 or 78 of the Merchant Shipping (Seafarers) (Working and Living Conditions) Regulation	565”.

Secretary for Financial Services and
the Treasury

12 May 2016

Explanatory Note

The Maritime Labour Convention, 2006 (*Convention*) was adopted by the International Labour Conference of the International Labour Organization in 2006. It sets out a comprehensive set of global standards for the working and living conditions of seafarers on seagoing ships and seeks to protect the right of seafarers to decent employment. The Convention will apply to Hong Kong after China has ratified the Convention and extended it to Hong Kong. Most of the requirements of the Convention will be implemented by the Merchant Shipping (Seafarers) (Working and Living Conditions) Regulation (*Working and Living Conditions Regulation*).

2. This Regulation amends the Merchant Shipping (Seafarers) (Fees) Regulation (Cap. 478 sub. leg. AB)—
 - (a) to provide for the fees payable for the inspection of ships and the issue of certain certificates under the Working and Living Conditions Regulation;
 - (b) to update the definition of *office hours* and make related amendments; and
 - (c) to amend the fees payable for certain examinations.