

L.N. 77 of 2016

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)”.

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Section 14

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(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.”.

Anthony B. L. CHEUNG
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.