

L.N. 123 of 2016

**Merchant Shipping (Safety) (Minimum Safe Manning
Certificate) (Amendment) Regulation 2016**

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Merchant Shipping (Safety) (Minimum Safe Manning Certificate) (Amendment) Regulation 2016

(Made by the Secretary for Transport and Housing under section 107 of the Merchant Shipping (Safety) Ordinance (Cap. 369))

1. Commencement

This Regulation comes into operation on 1 December 2016.

2. Merchant Shipping (Safety) (Minimum Safe Manning Certificate) Regulation amended

The Merchant Shipping (Safety) (Minimum Safe Manning Certificate) Regulation (Cap. 369 sub. leg. AS) is amended as set out in sections 3 to 14.

3. Title amended

The title—

Repeal

“MINIMUM SAFE MANNING CERTIFICATE”

Substitute

“SHIP’S MANNING”.

4. Part 1 heading added

Before section 1—

Add

“Part 1 Preliminary”.

5. Section 1 amended (interpretation)

- (1) Section 1, definition of *Minimum Safe Manning Certificate*—

Repeal

“in Schedule 1”

Substitute

“required by the resolution on principles of minimum safe manning adopted and amended from time to time by the International Maritime Organization,”.

- (2) Section 1, English text, definition of *Minimum Safe Manning Certificate*—

Repeal the full stop

Substitute a semicolon.

- (3) Section 1—

Add in alphabetical order

“*Convention* (《公約》) means the International Convention for the Safety of Life at Sea signed in London on 1 November 1974, or any convention that replaces that Convention or any successor convention, as amended from time to time and as applicable to Hong Kong;

Convention country (公約國) means a country which is a party to the Convention;

international voyage (國際航程) means a voyage between—

Section 6

- (a) Hong Kong and a port outside the People's Republic of China; or
- (b) a port in a Convention country and a port outside that Convention country (whether in a Convention country or not);

owner (船東), in relation to a ship, means—

- (a) the owner of the ship; or
- (b) a person who—
 - (i) has assumed responsibility for the operation of the ship; and
 - (ii) on assuming that responsibility, has agreed to take over all the duties and responsibilities imposed in respect of the ship by the International Management Code for the Safe Operation of Ships and for Pollution Prevention adopted by the International Maritime Organization, as from time to time revised or amended by any revision or amendment that applies to Hong Kong;

river trade limits (內河航限) has the meaning given by section 2 of the Shipping and Port Control Ordinance (Cap. 313).”.

6. Section 2 repealed (application)

Section 2—

Repeal the section.

7. Section 3 amended (exemptions)

Section 3—

Repeal

“the application of this Regulation”

Substitute

“any of the provisions of Part 2 or 3 on any conditions the Director thinks fit”.

8. Part 2 heading and section 3A added

Before section 4—

Add

“Part 2

**Minimum Safe Manning Certificate and
Communication Language from Bridge**

3A. Application of Part 2

- (1) This Part (except section 4) applies to—
 - (a) a Hong Kong ship wherever it may be; and
 - (b) any other ship that is—
 - (i) engaged in an international voyage; and
 - (ii) within the waters of Hong Kong.
- (2) This Part does not apply to—
 - (a) a fishing vessel;
 - (b) a pleasure vessel;
 - (c) a local vessel within the meaning of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548);
 - (d) a warship;
 - (e) a troop ship;

Section 9

- (f) a cargo ship (other than a Hong Kong ship) of less than 500 gross tonnage;
- (g) a ship (other than a Hong Kong ship) not propelled by mechanical means; or
- (h) a ship that is not a Hong Kong ship and flies the flag of a State that is not a Convention country, if the ship is within the waters of Hong Kong due to—
 - (i) stress of weather; or
 - (ii) any other circumstances that could not have been prevented or forestalled by the owner or the master of the ship.”.

9. Section 4 amended (Director may issue certificate)

- (1) Before section 4(1)—

Add

“(1A) This section applies to a Hong Kong ship wherever it may be.”.

- (2) Section 4(2), after “Certificate”—

Add

“, and the number and qualification of seafarers required for the ship to which a Minimum Safe Manning Certificate relates”.

- (3) Section 4(2)—

Repeal

“International Maritime Organization Resolution A.481(XII)”

Substitute

“resolution on principles of minimum safe manning adopted and amended from time to time by the International Maritime Organization”.

- (4) After section 4(3)—

Add

- “(4) In a Minimum Safe Manning Certificate—

- (a) a reference to an able seafarer deck means a qualified able seafarer deck as defined by section 2 of the Merchant Shipping (Seafarers) (Certificates of Proficiency for Able Seafarers) Regulation;
- (b) a reference to an able seafarer engine means a qualified able seafarer engine as defined by section 2 of the Merchant Shipping (Seafarers) (Certificates of Proficiency for Able Seafarers) Regulation;
- (c) a reference to deck Class 1, deck Class 2 or deck Class 3 means an officer who is the holder of a certificate of competency (or a certificate treated as equivalent to a certificate of competency) or licence as a deck officer of Class 1, Class 2 or Class 3 (as the case may be) under the Merchant Shipping (Seafarers) (Certification of Officers) Regulation (Cap. 478 sub. leg. J);
- (d) a reference to an electro-technical officer means an officer who is the holder of a certificate of competency or licence as an electro-technical officer under the Merchant Shipping (Seafarers) (Certification of Officers) Regulation (Cap. 478 sub. leg. J);

- (e) a reference to an electro-technical rating means a qualified electro-technical rating as defined by section 2 of the Merchant Shipping (Seafarers) (Engine Room Watch Ratings and Electro-Technical Ratings) Regulation (Cap. 478 sub. leg. V);
- (f) a reference to engineer Class 1, engineer Class 2 or engineer Class 3 means an officer who is the holder of a certificate of competency (or a certificate treated as equivalent to a certificate of competency) or licence as an engineer officer of Class 1, Class 2 or Class 3 (as the case may be) under the Merchant Shipping (Seafarers) (Certification of Officers) Regulation (Cap. 478 sub. leg. J);
- (g) a reference to a rating forming part of an engineering watch means a qualified engine room watch rating as defined by section 2 of the Merchant Shipping (Seafarers) (Engine Room Watch Ratings and Electro-Technical Ratings) Regulation (Cap. 478 sub. leg. V);
- (h) a reference to a rating forming part of a navigational watch means a rating who is the holder of a certificate of proficiency (or a certificate recognized as equivalent to a certificate of proficiency) under the Merchant Shipping (Seafarers) (Navigational Watch) Regulation.”.

10. Section 5 amended (provision of Minimum Safe Manning Certificate)

(1) Section 5(1)—

Repeal

Section 11

“to which this Regulation applies”.

- (2) Section 5(2)—

Repeal

“to which this Regulation applies”.

- (3) Section 5(2)—

Repeal

“on an international voyage”

Substitute

“to sea”.

- (4) Section 5(3)—

Repeal

“of \$20,000”

Substitute

“at level 4”.

11. Section 5A added

After section 5—

Add

“5A. Communication language from bridge

- (1) The master of a ship must ensure that English is used on the bridge as the working language for—
- (a) bridge-to-bridge and bridge-to-shore safety communications; and
 - (b) communications on board between the pilot of the ship and the bridge watchkeeping personnel concerned.

Section 12

- (2) Subsection (1) does not apply if the persons directly involved in the communications speak a common language other than English.
- (3) The master of a ship who fails to comply with subsection (1) commits an offence and is liable to a fine at level 4.”.

12. Section 6 repealed (amendment of Schedules)

Section 6—

Repeal the section.

13. Part 3 added

The Regulation—

Add

“Part 3

Ship’s Manning and Working Language

7. Application of Part 3

- (1) This Part applies to—
 - (a) a Hong Kong ship wherever it may be; and
 - (b) any other ship within the waters of Hong Kong.
- (2) This Part does not apply to—
 - (a) a fishing vessel;
 - (b) a pleasure vessel;
 - (c) a local vessel within the meaning of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548);
 - (d) a warship;

- (e) a naval auxiliary;
- (f) a ship owned or operated by the Government, or by the government of a Convention country, and engaged only on governmental non-commercial service; or
- (g) a ship that is not a Hong Kong ship and flies the flag of a State that is not a Convention country, if the ship is within the waters of Hong Kong due to—
 - (i) stress of weather; or
 - (ii) any other circumstances that could not have been prevented or forestalled by the owner or the master of the ship.

8. Ship's manning

- (1) Subject to subsection (2), the owner and the master of a ship must ensure that the ship does not proceed to sea unless the ship is manned in accordance with the relevant instrument.
- (2) If—
 - (a) in relation to any one or more specified categories of seafarers, a Hong Kong ship is manned by one seafarer less than the number of seafarers required for the specified category of seafarers concerned under the Minimum Safe Manning Certificate issued in respect of the ship; and
 - (b) the fact is caused by the inability of any seafarer of that category to report for duty due to illness, absence or any other unforeseeable happening,

the ship may, subject to meeting the requirements specified in subsection (3), proceed to sea other than on a voyage within river trade limits.

- (3) The requirements are that the master of the ship must—
 - (a) take all reasonable steps to man the ship;
 - (b) satisfy himself or herself that the ship is safe to proceed to sea and enter a statement to that effect in the ship's log-book;
 - (c) before the ship proceeds to sea, notify the Director of the facts referred to in subsection (2)(a) and (b) and enter the notification in the ship's log-book; and
 - (d) ensure that the ship is not manned continuously, in relation to any specified category of seafarers, with less than the number of seafarers required for that category under the Minimum Safe Manning Certificate issued in respect of the ship for more than 28 days.
- (4) If subsection (1) is contravened, the owner and the master of the ship concerned each commits an offence and is liable to a fine at level 4 and to imprisonment for 2 years.
- (5) In this section—

relevant instrument (相關文書)—

- (a) for a ship in respect of which a Minimum Safe Manning Certificate has been issued, means the Certificate;
- (b) for a ship—
 - (i) which is not a Hong Kong ship;

- (ii) which is entitled to fly the flag of a State;
and
- (iii) in respect of which another document that sets out the requirements relating to the safe manning of the ship has been issued by or on behalf of the government of the State,

means that document;

specified category of seafarers (指明種類海員) means—

- (a) an able seafarer deck;
- (b) an able seafarer engine;
- (c) a deck Class 2 or deck Class 3;
- (d) an electro-technical officer;
- (e) an electro-technical rating;
- (f) an engineer Class 2 or engineer Class 3;
- (g) a rating forming part of an engineering watch;
or
- (h) a rating forming part of a navigational watch.

9. Working language on ship

- (1) The owner of a ship must determine the working language to be used on the ship.
- (2) The owner of the ship must ensure that all the seafarers on board the ship—
 - (a) use the working language in giving orders and instructions and reporting; and
 - (b) understand the orders, instructions and reports.
- (3) The master of the ship must ensure that the working language is recorded in the ship's log-book.

- (4) If the working language is not the official language or an official language of the State whose flag the ship is entitled to fly, the owner of the ship must ensure that all the plans and lists required by the Convention to be posted on the ship include a translation of the plans and lists in the working language.
- (5) The owner of a ship who fails to comply with subsection (1), (2) or (4) commits an offence and is liable to a fine at level 4.
- (6) The master of a ship who fails to comply with subsection (3) commits an offence and is liable to a fine at level 4.”.

14. Schedule 1 repealed (contents of Minimum Safe Manning Certificate)

Schedule 1—

Repeal the Schedule.

Anthony B. L. CHEUNG
Secretary for Transport and
Housing

3 October 2016

Explanatory Note

The object of this Regulation is to implement the updated technical requirements for ship's manning provided in regulation 14 of Chapter V of the Annex to the International Convention for the Safety of Life at Sea signed in London on 1 November 1974, as amended and applicable to Hong Kong (*Convention*) by extending the scope of the Merchant Shipping (Safety) (Minimum Safe Manning Certificate) Regulation (Cap. 369 sub. leg. AS) (*principal Regulation*) to cover a ship's manning requirements.

2. Section 3 renames the title of the principal Regulation as “the Merchant Shipping (Safety) (Ship's Manning) Regulation”.
3. The existing section 2 (application) of the principal Regulation is repealed and the scope of application of the provisions of the principal Regulation as amended by this Regulation (*new Regulation*) are set out in Parts 2 and 3 of the new Regulation respectively.
4. The existing section 3 (exemptions) of the principal Regulation is amended so that the Director of Marine may exempt a ship from the requirements in Parts 2 and 3 of the new Regulation.
5. New provisions on communication language from bridge, ship's manning and working language on ships are added to implement regulation 14 of Chapter V of the Annex to the Convention.
6. The existing section 6 (amendment of Schedules) of, and Schedule 1 (contents of Minimum Safe Manning Certificate) to, the principal Regulation are repealed. The information required by the resolution on principles of minimum safe manning adopted by the International Maritime Organization is to be included in a Minimum Safe Manning Certificate (see the amended definition of *Minimum Safe Manning Certificate* in section 1 of the new Regulation).