

L.N. 140 of 2016

**Merchant Shipping (Seafarers) (Certification and
Watchkeeping) (Amendment) Regulation 2016**

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Merchant Shipping (Seafarers) (Certification and Watchkeeping) (Amendment) Regulation 2016

(Made by the Secretary for Transport and Housing under sections 72, 73, 96 and 134 of the Merchant Shipping (Seafarers) Ordinance (Cap. 478))

1. Commencement

This Regulation comes into operation on 1 December 2016.

2. Merchant Shipping (Seafarers) (Certification and Watchkeeping) Regulation amended

The Merchant Shipping (Seafarers) (Certification and Watchkeeping) Regulation (Cap. 478 sub. leg. T) is amended as set out in sections 3 to 15.

3. Section 2 amended (interpretation)

(1) Section 2—

- (a) definition of *Certification Regulation*;
- (b) definition of *employer*;
- (c) definition of *hazardous cargo*;
- (d) definition of *qualified officer*;
- (e) definition of *seagoing*—

Repeal the definitions.

(2) Section 2—

Add in alphabetical order

“*company* (公司), in relation to a ship, means—

- (a) the registered owner of the ship; or

- (b) a person who has assumed responsibility for the operation of the ship from the owner and who, on assuming the responsibility, has agreed to take over the obligations imposed on the owner of the ship under the Convention;

Convention (《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 such Convention that applies to Hong Kong;

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

seagoing ship (海船) 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;

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 to any provision of such Code that applies to Hong Kong.”.

4. Section 3 amended (application)

- (1) Section 3(1), Chinese text—

Repeal paragraph (a)

Substitute

“(a) 所有屬香港船舶的海船；及”。

(2) Section 3(1)(b), Chinese text—

Repeal

“海域航行船舶”

Substitute

“海船”。

(3) Section 3—

Repeal subsection (2)

Substitute

“(2) This Regulation does not apply to—

- (a) ships owned or operated by a government and engaged only on governmental non-commercial service;
- (b) fishing vessels;
- (c) pleasure yachts not engaged in trade; or
- (d) wooden ships of primitive build.”。

5. Sections 4 and 5 substituted

Sections 4 and 5—

Repeal the sections

Substitute

“4. Duties of company and master in relation to watchkeeping

The company and the master of a ship must ensure that the watchkeeping arrangements for the ship meet the requirements specified in—

- (a) Regulation VIII/2, paragraph 2 of the Convention; and
- (b) section A-VIII/2, Parts 2 to 5 of the STCW Code.

5. Duties of chief engineer officer in relation to watchkeeping

The chief engineer officer of a ship must ensure that the engineering watchkeeping arrangements for the ship meet the requirements specified in section A-VIII/2, Part 4-2 of the STCW Code.”.

6. Sections 6 and 7 repealed

Sections 6 and 7—

Repeal the sections.

7. Sections 7A to 7D added

Before section 8—

Add

“7A. Miscellaneous duties of company

- (1) The company of a ship must ensure that the requirements specified in Regulation I/14, paragraphs 1.3 to 1.6 of the Convention are met on the ship.
- (2) The company of a ship must ensure that the assignment of seafarers for service on the ship meets the requirements specified in section A-I/14 of the STCW Code.

7B. Minimum hours of rest

- (1) Subject to subsection (2) and section 7C, 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.

7C. Authority may permit exceptions

The Authority may, in accordance with section A-VIII/1 of the STCW Code, permit an exception to the requirements on hours of rest under section 7B(1) and (2).

7D. 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

Section 8

- (ii) the seafarer; and
- (b) provide each seafarer with a copy of the record relating to the seafarer.”.

8. Section 8 amended (manning and certificates)

- (1) Section 8, heading—

Repeal

“Manning and certificates”

Substitute

“Certificates”.

- (2) Section 8(1)—

Repeal

“required to be held by an officer under this Regulation shall”

Substitute

“(with or without endorsement) that is issued under any of the subsidiary legislation specified in subsection (5) or that is treated as equivalent to a certificate so issued, or any of the documents specified in subsection (9), must”.

- (3) Section 8—

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

- (4) Section 8—

Repeal subsection (5)

Substitute

“(5) The following subsidiary legislation is specified—

- (a) the Merchant Shipping (Seafarers) (Certification of Officers) Regulation (Cap. 478 sub. leg. J);

- (b) the Merchant Shipping (Seafarers) (Engine Room Watch Ratings and Electro-technical Ratings) Regulation (Cap. 478 sub. leg. V);
- (c) the Merchant Shipping (Seafarers) (Passenger Ships—Training) Regulation (Cap. 478 sub. leg. AD);
- (d) the Merchant Shipping (Seafarers) (Safety, Security and Designated Duties Training) Regulation;
- (e) the Merchant Shipping (Seafarers) (Certificates of Proficiency for Able Seafarers) Regulation;
- (f) the Merchant Shipping (Seafarers) (Navigational Watch) Regulation; and
- (g) the Merchant Shipping (Seafarers) (Tankers) Regulation.”.

(5) Section 8—

Repeal subsections (6), (7) and (8).

(6) At the end of section 8—

Add

- “(9) The following documents are specified for a ship that is not a Hong Kong ship—
- (a) a certificate of competency or certificate of service issued in relation to the implementation of the Convention by the appropriate authority of the country in which the ship is registered to a national of the country;
 - (b) a document treated by that authority as equivalent to such a certificate; and
 - (c) the documentary proof referred to in Regulation I/10, paragraph 5 of the Convention.”.

Section 9

9. Section 9 repealed (qualifications of officers)

Section 9—

Repeal the section.

10. Section 10 substituted

Section 10—

Repeal the section

Substitute

“10. Inspection

An authorized person may inspect a ship—

- (a) to carry out the verification or assessment specified in Regulation I/4, paragraphs 1.1, 1.2 and 1.3 of the Convention; or
- (b) if the ship is the subject of an exemption granted under this Regulation, or belongs to a class of ships that is granted an exemption under this Regulation—to verify that the conditions of the exemption have been complied with.”.

11. Section 11 amended (procedure to be adopted when inspection reveals deficiencies)

(1) Section 11—

Repeal paragraph (a)

Substitute

“(a) that there is a deficiency as described in Regulation I/4, paragraph 2 of the Convention; or”.

(2) Section 11(b)—

Repeal

Section 12

“with;”

Substitute

“with.”.

(3) Section 11—

Repeal paragraphs (c), (d), (e) and (f).

(4) Section 11, English text—

Repeal

“he shall”

Substitute

“the authorized person must”.

12. Section 12 amended (power to detain)

Section 12(1)—

Repeal

everything before “been corrected”

Substitute

“(1) If—

(a) an authorized person finds on an inspection carried out under section 10 any deficiency referred to in section 11(a); and

(b) the deficiency is not corrected within a reasonable time after notification of it under section 11,

the authorized person may detain the ship until the deficiency has”.

13. Section 13 amended (offences and penalties)

(1) Section 13(1)—

Repeal

“An employer who contravenes section 8(4), (7) or (8)”

Substitute

“A company who contravenes section 4 or 7A”.

(2) Section 13(2)—

Repeal

“, 6, 7 or 8(3), (4) or (7)”.

(3) After section 13(3)—

Add

“(3A) If section 7B(1) or (3) or 7D(4) is contravened, the company and the master of the ship concerned each commits an offence and is liable on conviction—

(a) for the company, to a fine at level 5;

(b) for the master, to a fine at level 3.

(3B) The master of a ship who contravenes section 7D(1) or (5) commits an offence and is liable on conviction to a fine at level 1.

(3C) It is a defence for a person charged under subsection (3A) or (3B) to show that the person had taken all reasonable steps to prevent the commission of the offence.”.

14. Section 14 repealed (amendment of Schedules)

Section 14—

Repeal the section.

15. Schedules 1 to 4 repealed

Schedules 1, 2, 3 and 4—

Repeal the Schedules.

Merchant Shipping (Seafarers) (Certification and Watchkeeping) (Amendment)
Regulation 2016

L.N. 140 of 2016
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Anthony B. L. CHEUNG
Secretary for Transport and
Housing

30 September 2016

Explanatory Note

The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (*Convention*) sets out a comprehensive set of global standards on the training and certification of seafarers and watchkeeping, in order to promote the safety of life and property at sea and the protection of the marine environment. The latest substantial amendments to the Convention were adopted by the International Conference on Training and Certification of Seafarers in Manila, the Philippines in 2010 (*Manila Amendments*) and are to be implemented by 1 January 2017. The Convention as revised by the Manila Amendments applies to Hong Kong.

2. This Regulation amends the Merchant Shipping (Seafarers) (Certification and Watchkeeping) Regulation (Cap. 478 sub. leg. T) to implement the requirements relating to watchkeeping, certain miscellaneous duties of the company of a ship, seafarers' hours of rest, the keeping of certificates and documents on a ship and the inspection of a ship under the Convention as revised by the Manila Amendments.