

LEGISLATIVE COUNCIL BRIEF

**Merchant Shipping (Safety) Ordinance (Cap. 369)
Merchant Shipping (Prevention and Control of Pollution)
Ordinance (Cap. 413)**

**Implementation of the Latest Requirements under
Conventions of the International Maritime Organization**

INTRODUCTION

To implement the latest requirements under the International Convention for the Safety of Life at Sea (“SOLAS”) and the International Convention for the Prevention of Pollution from Ships (“MARPOL”) of the International Maritime Organization (“IMO”), the Secretary for Transport and Housing has made the following regulations—

- (a) Merchant Shipping (Safety) (Ships Operating in Polar Waters) Regulation, under sections 107 and 112B of the Merchant Shipping (Safety) Ordinance (Cap. 369) (“the New Safety Regulation”), at **Annex A**;
- (b) Merchant Shipping (Prevention of Oil Pollution) (Amendment) Regulation 2019, under sections 3 and 3A of the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413), at **Annex B**;
- (c) Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) (Amendment) Regulation 2019, under sections 3 and 3A of the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413), at **Annex C**;
- (d) Merchant Shipping (Prevention of Pollution by Sewage) (Amendment) Regulation 2019, under sections 3 and 3A of the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413), at **Annex D**; and

- (e) Merchant Shipping (Prevention of Pollution by Garbage) (Amendment) Regulation 2019, under sections 3 and 3A of the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413), at **Annex E**.

BACKGROUND

2. SOLAS governs the standards for the construction, equipment and operation of ships to ensure maritime safety. It was adopted in 1974 and came into force internationally in 1980. Different aspects of maritime safety are covered under different chapters of the Annex to SOLAS¹. In Hong Kong, the requirements of SOLAS are implemented through the Merchant Shipping (Safety) Ordinance (Cap. 369) and its subsidiary legislation.

3. MARPOL seeks to protect the marine environment and minimise pollution arising from ship operations. It was adopted in 1973 and came into force internationally in 1983. Its six Annexes regulate the discharge of different pollutants² from ships. In Hong Kong, the requirements of MARPOL

¹ Different chapters in the Annex to SOLAS cover different aspects of maritime safety, as follows:

Chapter I:	General provisions;
Chapter II-1:	Construction – structure, subdivision and stability, machinery and electrical installations;
Chapter II-2:	Construction – fire protection, fire detection and fire extinction;
Chapter III:	Life-saving appliances and arrangements;
Chapter IV:	Radiocommunications;
Chapter V:	Safety of navigation;
Chapter VI:	Carriage of cargoes and oil fuels;
Chapter VII:	Carriage of dangerous goods;
Chapter VIII:	Nuclear ships;
Chapter IX:	Management for the safe operation of ships;
Chapter X:	Safety measures for high-speed craft;
Chapter XI-1:	Special measures to enhance maritime safety;
Chapter XI-2:	Special measures to enhance maritime security;
Chapter XII:	Additional safety measures for bulk carriers;
Chapter XIII:	Verification of compliance; and
Chapter XIV:	Safety measures for ships operating in polar waters.

² Annexes to MARPOL govern various substances as follows:

Annex I:	Regulations for the prevention of pollution by oil;
Annex II:	Regulations for the control of pollution by noxious liquid substances in bulk;
Annex III:	Regulations for the prevention of pollution by harmful substances carried by sea in packaged form;
Annex IV:	Regulations for the prevention of pollution by sewage from ships;
Annex V:	Regulations for the prevention of pollution by garbage from ships; and
Annex VI:	Regulations for the prevention of air pollution from ships.

are implemented through the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413) and its subsidiary legislation.

4. This legislative exercise seeks to implement the latest requirements under SOLAS and MARPOL in relation to ships operating in polar waters (i.e. Arctic and Antarctic waters), as well as those under Annex IV to MARPOL in relation to the discharge of sewage from passenger ships within the Baltic Sea Special Area³. The requirements will apply to Hong Kong-registered ships navigating in Polar waters or within the Baltic Sea Special Area.

LEGISLATIVE PROPOSALS

(I) Ships operating in polar waters

5. Owing to the low temperatures and extreme weather conditions around the two poles, ships navigating in polar waters are exposed to more challenging navigational conditions. At the same time, the marine environment in polar waters is pristine and vulnerable. The IMO has therefore adopted the Polar Code which sets out requirements in various aspects⁴, including the safety of ship operation and the protection of the marine environment in polar waters.

6. The Polar Code came into force in 2017. The requirements therein relating to safety are made mandatory via Chapter XIV of the Annex to SOLAS, while those relating to environmental protection are made mandatory via Annexes I, II, IV and V of MARPOL.

(i) Safety of Ship Operation

7. Mandatory requirements of the Polar Code relating to safety of ships

³ Special Areas are sea areas where special methods for the prevention of pollution of the sea are required due to their special oceanographical and ecological characteristics, as well as maritime traffic patterns within those areas. In July 2011, IMO designated the Baltic Sea as a special area for sewage from passenger ships. The decision entered into force on 1 January 2013.

⁴ Requirements in the Polar Code mainly concern three aspects, namely (i) safe operation of ships, (ii) protection of marine environment and (iii) manning and training requirements of seafarers on board ships navigating in polar waters. Manning and training requirements are made mandatory via the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (“STCW Convention”) and are implemented in Hong Kong via the Merchant Shipping (Seafarers) (Ships Operating in Polar Waters) Regulation, which was gazetted on 22 February 2019 and introduced into the Legislative Council for negative vetting on 27 February 2019. All relevant regulations to implement the requirements of the Polar Code will come into operation on 31 May 2019.

will be incorporated into the New Safety Regulation. The key requirements include—

- (a) ***Polar Ship Certificate*** — Ships intending to operate in polar waters will need to apply for a Polar Ship Certificate from their respective flag administrations. The ship will be classified into one of three categories (Category A, Category B and Category C), depending on factors including where in the polar waters the ship is intended to operate and the seasons in which it will operate there. Category A ships operate in the most severe ice conditions where Category C ships operate in the least severe ice conditions. To obtain the Polar Ship Certificate, a ship is required to undergo an assessment which will take into account the anticipated range of operating conditions and hazards the ship may encounter in polar waters; and the assessment result has to be accepted by the flag administration.

- (b) ***Means for removing snow and ice*** — Ships operating in polar waters are likely to be exposed to different levels of snow throughout their voyage. Accumulation of snow or ice on deck or in equipment will affect a ship's safety and stability. As such, the IMO requires ships operating in polar waters to have effective means to remove and prevent snow and ice accumulation. It also requires such means to be stipulated in the Polar Ship Certificate for the ship concerned. Different ships may have different ways to remove and prevent snow and ice accumulation. For instance, ships can install heating cables around door frames and hatch covers, or they can have steam and hot water spray available on board for seafarers to remove the snow and ice.

- (c) ***Polar Water Operational Manual*** — Ships operating in polar waters are required to keep on board a Polar Water Operational Manual ("PWOM"), which contains information that assists seafarers in making decisions when they encounter different ice and weather conditions. The PWOM should set out the procedures for seafarers to follow in different scenarios throughout their voyage in polar waters, including the procedures for operating equipment under low temperatures, the procedures for maintaining the safety and stability of ships when trapped in ice for a prolonged period, and the contact information of emergency response services if and when accidents occur.

(ii) Protection of the marine environment

8. Mandatory requirements of the Polar Code relating to the protection of the marine environment will be incorporated into our local legislation by amending the four pieces of subsidiary legislation under the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413) referred to in paragraph 1. The key requirements include—

- (a) **Discharge restrictions** — To protect the marine resources and animal species in polar waters, no discharge of oil or oily mixtures, noxious liquid substances (“NLS”) or mixtures containing NLS, plastic garbage and animal carcasses into polar waters will be allowed. Discharge of sewage is permitted subject to certain prescribed conditions, including having an approved sewage treatment plant on ships for dilution.
- (b) **Prevention of oil leakage and accidental discharge of oil from ships** — To prevent oil leakage and accidental discharge of oil from ships, the oil tanks of ships belonging to Category A or Category B and are constructed on or after 1 January 2017 are required to be installed with a minimum distance of 0.76 metres from the ship’s surface. In addition, oil tankers belonging to Category A or Category B and are constructed on or after 1 January 2017 are required to have a double hull and double bottom.

(II) Restrictions on discharge of sewage within the Baltic Sea Special Area

9. The IMO revised the requirements of Annex IV to MARPOL which prevents pollution by sewage from ships. We propose to amend the Merchant Shipping (Prevention of Pollution by Sewage) Regulation (Cap. 413K) to reflect the latest requirements by prohibiting ocean-going passenger ships constructed on or after 1 June 2019 from discharging sewage into the Baltic Sea Special Area, unless they are fitted with sewage holding tanks or an approved sewage treatment system. As for existing ocean-going passenger ships, depending on which part of the Baltic Sea Special Area the ships are navigating in, they will be required to comply with the same requirement by 1 June 2021 or 1 June 2023⁵.

⁵ The Baltic Sea Special Area is sub-divided into two parts, i.e. a western and an eastern part, along longitude 28°10'E. Existing ships navigating to the western part will be required to comply with the new requirement by 1 June 2021, while those navigating exclusively to the eastern part (and those which do not call at ports within the Baltic Sea Special Area at all) will be required to comply with the same by

THE REGULATIONS

Merchant Shipping (Safety) (Ships Operating in Polar Waters) Regulation

10. The New Safety Regulation implements safety-related requirements under the Polar Code and gives effect to Chapter XIV of the Annex to SOLAS.

Merchant Shipping (Prevention of Oil Pollution) (Amendment) Regulation 2019

11. The Merchant Shipping (Prevention of Oil Pollution) (Amendment) Regulation 2019 implements requirements relating to the prevention of oil pollution under the Polar Code and gives effect to the relevant amendments made to Annex I to MARPOL.

Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) (Amendment) Regulation 2019

12. The Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) (Amendment) Regulation 2019 implements the requirements relating to the control of pollution by NLS in bulk under the Polar Code and gives effect to the relevant amendments made to Annex II to MARPOL.

Merchant Shipping (Prevention of Pollution by Sewage) (Amendment) Regulation 2019

13. The Merchant Shipping (Prevention of Pollution by Sewage) (Amendment) Regulation 2019 implements the requirements relating to the prevention of pollution by sewage under the Polar Code and gives effect to the relevant amendments made to Annex IV of MARPOL. It also implements the requirements relating to the prevention of pollution by sewage within the Baltic Sea Special Area.

Merchant Shipping (Prevention of Pollution by Garbage) (Amendment) Regulation 2019

14. The Merchant Shipping (Prevention of Pollution by Garbage) (Amendment) Regulation 2019 implements the requirements relating to the prevention of pollution by garbage under the Polar Code, and gives effect to the relevant amendments made to Annex V of MARPOL.

Application of the Direct Reference Approach

15. The requirements of SOLAS, MARPOL and the Polar Code are technical in nature and are updated from time to time by IMO. In line with the established practice in incorporating the requirements of other marine-related international conventions into our local legislation, we have adopted a direct reference approach where appropriate to allow our local legislation to remain up-to-date as far as practicable.

LEGISLATIVE TIMETABLE

16. The regulations will be published in the Gazette on 29 March 2019 and introduced into the Legislative Council on 3 April 2019 for negative vetting.

IMPLICATIONS OF THE PROPOSAL

17. The implementation of the latest requirements under MARPOL, as well as those under the Polar Code relating to the prevention of marine pollution, will contribute towards environmental protection, as well as the sustainability of the marine environment. Ships operating in polar waters or the Baltic Sea Special Area have been informed of and are already in compliance with the relevant requirements.

18. The proposal is in conformity with the Basic Law, including provisions concerning human rights. It will not affect the current binding effect of the relevant Ordinances and the existing regulations. The proposal has no economic, financial, civil service, productivity, gender or family implications.

PUBLIC CONSULTATION

19. With regard to the requirements under the Polar Code and relevant amendments to SOLAS and MARPOL, we consulted the Legislative Council Panel on Economic Development in January 2018, as well as the Shipping Consultative Committee of the Marine Department in December 2016. Members supported the proposal.

20. In respect of the requirements of MARPOL on the discharge of sewage within the Baltic Sea Area, we consulted the Legislative Council Panel on Economic Development in March 2019, as well as the Hong Kong Fleet Operation Advisory Committee of the Marine Department in November 2017. Members supported the proposal.

PUBLICITY

21. A press release will be issued on 29 March 2019. A spokesperson will be available to answer enquiries.

ENQUIRIES

22. 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 CHOI Chi Chuen, Assistant Director (Multi-lateral Policy), Marine Department (Tel: 2852 4408).

**Transport and Housing Bureau
Marine Department
March 2019**

Merchant Shipping (Safety) (Ships Operating in Polar Waters) Regulation

Contents

Section	Page
Part 1	
Preliminary	
1. Commencement	1
2. Interpretation	1
3. Application	3
4. Director may request Convention countries to issue Polar Ship Certificates etc. in respect of Hong Kong ships	4
5. Director may at Convention countries' requests issue certificates etc. in respect of non-Hong Kong ships	4
Part 2	
Ships Operating in Polar Waters: Duties	
6. Duty to have voyage plans.....	6
7. Duty to comply with certain requirements in Polar Code.....	6
8. Duty to have Polar Ship Certificates.....	6
9. Duty to keep Polar Ship Certificates on board.....	7
10. Duty to maintain conditions of ships	7
11. Duty to report certain accidents or defects	7

Section	Page
Part 3	
Polar Ship Certificates	
Division 1—Issue and Form of Polar Ship Certificates	
12. Issue of Polar Ship Certificates—general.....	9
13. Issue of Polar Ship Certificates—Category C ships	10
14. Issue of Polar Ship Certificates—ships transferred from other Convention countries' registries	11
15. Form of Polar Ship Certificates	12
Division 2—Duration of Polar Ship Certificates	
16. Duration of Polar Ship Certificates issued after initial surveys or verifications.....	12
17. Duration of Polar Ship Certificates issued after renewal surveys	13
18. Duration of Polar Ship Certificates after early completion of certain surveys of cargo ships	14
19. Extend duration of Polar Ship Certificates	14
Division 3—Cessation and Cancellation of Polar Ship Certificates	
20. Polar Ship Certificates cease to be valid.....	15
21. Cancellation of Polar Ship Certificates.....	16
Division 4—Alteration and Certified True Copies of Polar Ship Certificates	
22. Alteration of Polar Ship Certificates.....	17

Section	Page
23. Certified true copies of Polar Ship Certificates	17
Part 4	
Surveys	
Division 1—Surveys for Passenger Ships	
24. Application of Division 1	18
25. Initial surveys for passenger ships	18
26. Renewal surveys for passenger ships.....	18
27. Additional surveys for passenger ships	19
Division 2—Surveys for Cargo Ships	
28. Application of Division 2	20
29. Initial surveys for cargo ships.....	20
30. Renewal surveys for cargo ships	21
31. Intermediate surveys for cargo ships	22
32. Periodical surveys for cargo ships	22
33. Annual surveys for cargo ships.....	23
34. Additional surveys for cargo ships	24
Part 5	
Miscellaneous Provisions	
35. Defence	26
36. Transitional provisions	26

Merchant Shipping (Safety) (Ships Operating in Polar Waters) Regulation

(Made by the Secretary for Transport and Housing under sections 107 and 112B of the Merchant Shipping (Safety) Ordinance (Cap. 369))

Part 1

Preliminary

1. Commencement

This Regulation comes into operation on 31 May 2019.

2. Interpretation

In this Regulation—

anniversary date (周年日期), in relation to a Polar Ship Certificate that is in force in respect of a ship, means the day and month of each year which corresponds to the date of expiry of the Certificate;

cargo ship (貨船) means a ship other than a passenger ship;

Cargo Ship Safety Certificate (貨船安全證明書) means a certificate issued under section 21A of the Ordinance;

Cargo Ship Safety Construction Certificate (貨船構造安全證明書), except in section 16(2)(b), means a certificate issued under section 21(1) of the Ordinance;

Cargo Ship Safety Equipment Certificate (貨船設備安全證明書) means a certificate issued under section 17(1) of the Ordinance;

Cargo Ship Safety Radio Certificate (貨船無線電安全證明書) means a certificate issued under section 18(1) of the Ordinance;

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 that is a party to the Convention;

Government surveyor (政府驗船師) means a Government surveyor appointed under section 5 of the Ordinance;

Hong Kong ship (香港船舶) means a ship registered in Hong Kong;

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 from the owner; and
 - (ii) on assuming the responsibility, has agreed to take over all the duties and responsibilities imposed in respect of the ship by the Convention;

Passenger Ship Safety Certificate (客船安全證明書), except in section 16(2)(a), means a certificate issued under section 15(1) of the Ordinance;

Polar Code (《極地規則》) means the International Code for Ships Operating in Polar Waters, adopted by International Maritime Organization Resolutions MSC.385(94) and MEPC.264(68), as from time to time revised or amended by

any revision or amendment to any provision of such Code that applies to Hong Kong;

Polar Ship Certificate (極地船舶證書) means—

- (a) a certificate issued under section 12, 13 or 14; or
- (b) a certificate issued at a request made under section 4(1) and containing a statement that the certificate is so issued;

polar waters (極地水域) has the meaning given by Regulation 1 of Chapter XIV of the Annex to the Convention.

3. Application

- (1) Subject to subsection (2) and section 5, this Regulation applies to a Hong Kong ship, wherever it is.
- (2) This Regulation does not apply to—
 - (a) a cargo ship of less than 500 gross tonnage determined in accordance with the Merchant Shipping (Registration) (Tonnage) Regulations (Cap. 415 sub. leg. C);
 - (b) a ship not propelled by mechanical means;
 - (c) a wooden ship of primitive build;
 - (d) a vessel used for catching fish, whales, seals, walrus or other living resources of the sea;
 - (e) a vessel (other than a passenger ship) that—
 - (i) is primarily used for sport or recreation; and
 - (ii) is not engaged in trade; or
 - (f) a ship owned or operated by the Government and engaged only on governmental non-commercial service.

4. Director may request Convention countries to issue Polar Ship Certificates etc. in respect of Hong Kong ships

- (1) The Director may request the government of a Convention country—
 - (a) to cause a Hong Kong ship within the waters of that country to be surveyed; and
 - (b) to—
 - (i) issue a Polar Ship Certificate in accordance with Chapter 1 of Part I-A of the Polar Code in respect of the ship, or authorize the issue of such a Certificate in respect of the ship; or
 - (ii) make, in accordance with Chapter I of the Annex to the Convention, an endorsement on a Polar Ship Certificate issued in respect of the ship, or authorize such an endorsement.
- (2) For the purposes of section 18(3) or 20(d)(i), (ii) or (iii), an endorsement made or authorized at a request made under subsection (1) has effect as if it were an endorsement made under section 18(2), 31(2), 32(2) or 33(3).

5. Director may at Convention countries' requests issue certificates etc. in respect of non-Hong Kong ships

- (1) This section applies in relation to a ship that—
 - (a) is not a Hong Kong ship;
 - (b) is registered in a Convention country; and
 - (c) is within the waters of Hong Kong.
- (2) The Director may, at the request of the government of the country in which a ship is registered—
 - (a) cause the ship to be surveyed; and

- (b) if the Director is satisfied that the structure, equipment, fittings, machinery, arrangements and materials of, and the documented procedures in respect of, the ship comply with the applicable requirements specified in Part I-A of the Polar Code—
 - (i) issue a certificate in accordance with Chapter 1 of Part I-A of the Polar Code in respect of the ship, or authorize the issue of such a certificate in respect of the ship; or
 - (ii) make, in accordance with Chapter I of the Annex to the Convention, an endorsement on a certificate issued in accordance with Chapter 1 of Part I-A of the Polar Code in respect of the ship, or authorize such an endorsement.

Part 2

Ships Operating in Polar Waters: Duties

6. Duty to have voyage plans

- (1) The master of a ship must have in place a voyage plan for each voyage in polar waters in compliance with Chapter 11 of Part I-A of the Polar Code when the ship enters polar waters.
- (2) A master who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 2 years.

7. Duty to comply with certain requirements in Polar Code

- (1) A ship must comply with the applicable requirements specified in Chapters 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10 of Part I-A of the Polar Code when it is operating in polar waters.
- (2) If subsection (1) is contravened in respect of a ship, the owner and the master of the ship each commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 2 years.

8. Duty to have Polar Ship Certificates

- (1) A ship must have a Polar Ship Certificate in force in respect of it when it is operating in polar waters.
- (2) If subsection (1) is contravened in respect of a ship, the owner and the master of the ship each commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 2 years.

9. Duty to keep Polar Ship Certificates on board

- (1) The owner and the master of a ship must ensure that the Polar Ship Certificate in force in respect of the ship—
 - (a) is kept on board the ship; and
 - (b) is available for inspection by a Government surveyor at all reasonable times.
- (2) If subsection (1) is contravened in respect of a ship, the owner and the master of the ship each commits an offence and is liable on conviction to a fine at level 2.

10. Duty to maintain conditions of ships

- (1) The owner and the master of a ship in respect of which a Polar Ship Certificate is in force must maintain the condition of the structure, equipment, fittings, machinery, arrangements and materials of the ship in compliance with the applicable requirements specified in Part I-A of the Polar Code.
- (2) No change may be made to the structure, equipment, fittings, machinery, arrangements or materials of a ship in respect of which a Polar Ship Certificate is in force, except with the approval of the Director.
- (3) Subsection (2) does not prohibit a replacement of a part by another part of a type approved by the Director.
- (4) If subsection (1) or (2) is contravened in respect of a ship, the owner and the master of the ship each commits an offence and is liable on conviction to a fine at level 3.

11. Duty to report certain accidents or defects

- (1) If a reportable incident happens to a ship, the owner or the master of the ship must, as soon as practicable, report the incident to—
 - (a) the Director; and

- (b) if the ship is in a port of a Convention country—the government of the country.
- (2) After receiving a report made under subsection (1)(a), the Director may require the ship to be subject to an additional survey if the Director considers the survey is necessary.
- (3) A ship that is required to be subject to an additional survey must not operate in polar waters until the Director is satisfied by the result of the survey that the structure, equipment, fittings, machinery, arrangements and materials of the ship comply with the applicable requirements specified in Part I-A of the Polar Code.
- (4) If subsection (1) or (3) is contravened in respect of a ship, the owner and the master of the ship each commits an offence and is liable on conviction to a fine at level 3.
- (5) In this section—
- reportable incident* (須報告事故), in relation to a ship, means the occurrence of an accident that affects the following matter, or the discovery of a defect in the ship that affects the following matter—
- (a) the safety of the ship in polar waters;
 - (b) the safety of the persons on board when the ship is operating in polar waters; or
 - (c) the efficiency or completeness of the structure, equipment, fittings, machinery, arrangements or materials of the ship for operation in polar waters.

Part 3

Polar Ship Certificates

Division 1—Issue and Form of Polar Ship Certificates

12. Issue of Polar Ship Certificates—general

- (1) This section applies to a ship—
- (a) to which Division 1 or 2 of Part 4 applies; and
 - (b) to which section 13 or 14 does not apply.
- (2) The owner of a ship may apply to the Director for a Polar Ship Certificate in respect of the ship.
- (3) The application must be accompanied by the prescribed fee.
- (4) The Director may issue a Polar Ship Certificate in respect of a ship if—
- (a) satisfied that—
 - (i) if a Polar Ship Certificate has never been issued in respect of the ship—an initial survey of the ship has been carried out under—
 - (A) for a ship to which Division 1 of Part 4 applies—section 25; or
 - (B) for a ship to which Division 2 of Part 4 applies—section 29; or
 - (ii) if a Polar Ship Certificate has been issued in respect of the ship—a renewal survey of the ship has been carried out under—
 - (A) for a ship to which Division 1 of Part 4 applies—section 26; or

- (B) for a ship to which Division 2 of Part 4 applies—section 30; and
- (b) satisfied on the basis of a declaration of survey provided under—
- (i) for a ship to which Division 1 of Part 4 applies and in respect of which a Polar Ship Certificate has never been issued—section 25(2);
 - (ii) for a ship to which Division 1 of Part 4 applies and in respect of which a Polar Ship Certificate has been issued—section 26(3);
 - (iii) for a ship to which Division 2 of Part 4 applies and in respect of which a Polar Ship Certificate has never been issued—section 29(2); or
 - (iv) for a ship to which Division 2 of Part 4 applies and in respect of which a Polar Ship Certificate has been issued—section 30(3),

that the structure, equipment, fittings, machinery, arrangements and materials of, and the documented procedures in respect of, the ship comply with the applicable requirements specified in Part I-A of the Polar Code.

13. Issue of Polar Ship Certificates—Category C ships

- (1) This section applies to a cargo ship if—
 - (a) it is a Category C ship within the meaning of section 2 of the Introduction of the Polar Code;
 - (b) an application for a Polar Ship Certificate has never been made to the Director in respect of it; and
 - (c) it is a ship to which section 14 does not apply.
- (2) The owner of a ship may apply to the Director for a Polar Ship Certificate in respect of the ship.

- (3) The application must be accompanied by the prescribed fee.
- (4) The Director may issue a Polar Ship Certificate in respect of a ship if satisfied—
 - (a) that an assessment of the ship and its equipment has been undertaken by its owner in accordance with paragraph 1.5 of Chapter 1 of Part I-A of the Polar Code;
 - (b) that the result of the assessment is that the ship requires no additional equipment or structural modification to comply with the Polar Code; and
 - (c) on the basis of documented verification that the structure, equipment, fittings, machinery, arrangements and materials of, and the documented procedures in respect of, the ship comply with the applicable requirements specified in Part I-A of the Polar Code.

14. Issue of Polar Ship Certificates—ships transferred from other Convention countries' registries

- (1) This section applies to a ship if—
 - (a) the ship ceased to be registered in a Convention country (*previous country*) and is registered in Hong Kong instead; and
 - (b) no survey of the ship has been carried out for the issue of a Polar Ship Certificate in respect of the ship.
- (2) The owner of a ship may apply to the Director for a Polar Ship Certificate in respect of the ship.
- (3) The application must be accompanied by the prescribed fee.
- (4) The Director may issue a Polar Ship Certificate in respect of a ship if satisfied that—
 - (a) a certificate (*non-local certificate*) was issued in respect of the ship in accordance with paragraph 1.3.2 or 1.3.3

- of Chapter 1 of Part I-A of the Polar Code by, or under the authority of, the government of the previous country;
- (b) the non-local certificate would, but for the change in the place of registration of the ship, have remained valid;
 - (c) since the day on which the non-local certificate was issued, no change (other than the replacement of a part by another part of a type approved by the government of the previous country or the Director) has been made to the structure, equipment, fittings, machinery, arrangements or materials of the ship, except with the approval of that government or the Director; and
 - (d) the condition of the structure, equipment, fittings, machinery, arrangements and materials of the ship has been maintained in compliance with the applicable requirements specified in Part I-A of the Polar Code.
- (5) A Polar Ship Certificate issued in respect of a ship under this section is valid until the expiry of the date specified by the Director in the Certificate, which must be a date not later than the expiry date of the non-local certificate of the ship.

15. Form of Polar Ship Certificates

A Polar Ship Certificate must be in the form specified in Appendix 1 to the Polar Code.

Division 2—Duration of Polar Ship Certificates

16. Duration of Polar Ship Certificates issued after initial surveys or verifications

- (1) Subject to this Division and Division 3—
- (a) a Polar Ship Certificate issued in respect of a passenger ship under section 12 as a result of an initial survey of the ship is valid until the expiry of the date specified by

- the Director in the Certificate, which must be a date within 1 year beginning on the date of completion of the initial survey;
- (b) a Polar Ship Certificate issued in respect of a cargo ship under section 12 as a result of an initial survey of the ship is valid until the expiry of the date specified by the Director in the Certificate, which must be a date within 5 years beginning on the date of completion of the initial survey; and
 - (c) a Polar Ship Certificate issued in respect of a cargo ship under section 13 is valid until the expiry of the date specified by the Director in the Certificate, which must be a date within 5 years beginning on the date of completion of the verification mentioned in section 13(4)(c) of the ship.
- (2) For the purposes of this Division—
- (a) a Polar Ship Certificate issued in respect of a passenger ship is regarded as a Passenger Ship Safety Certificate mentioned in Regulation 14 of Chapter I of the Annex to the Convention; and
 - (b) a Polar Ship Certificate issued in respect of a cargo ship is regarded as a Cargo Ship Safety Construction Certificate mentioned in Regulation 14 of Chapter I of the Annex to the Convention.

17. Duration of Polar Ship Certificates issued after renewal surveys

A Polar Ship Certificate issued in respect of a ship under section 12 as a result of a renewal survey of the ship is valid until the expiry of the date specified by the Director in the Certificate in accordance with Regulation 14 of Chapter I of the Annex to the Convention.

18. Duration of Polar Ship Certificates after early completion of certain surveys of cargo ships

- (1) This section applies if—
 - (a) an intermediate survey of a cargo ship is completed before the period within which the survey is required to be carried out under section 31;
 - (b) a periodical survey of a cargo ship is completed before the period within which the survey is required to be carried out under section 32; or
 - (c) an annual survey of a cargo ship is completed before the period within which the survey is required to be carried out under section 33.
- (2) After a survey of a cargo ship is completed as described in subsection (1), the existing Polar Ship Certificate issued in respect of the ship must be endorsed to show a date described in the endorsement as the “new anniversary date” (*new anniversary date*), which must be a date within 3 months from the date of completion of the survey.
- (3) The period within which an intermediate survey, periodical survey or annual survey of the ship must be carried out under section 31, 32 or 33 after the endorsement is to be determined by reference to the new anniversary date.
- (4) The validity period of the existing Polar Ship Certificate issued in respect of the ship may be varied by the Director in accordance with Regulation 14 of Chapter I of the Annex to the Convention.

19. Extend duration of Polar Ship Certificates

The Director may extend the validity period of an existing Polar Ship Certificate (*existing Certificate*) issued in respect of a ship in

accordance with Regulation 14 of Chapter I of the Annex to the Convention if—

- (a) the ship—
 - (i) is a passenger ship and the validity period is shorter than 1 year; or
 - (ii) is a cargo ship and the validity period is shorter than 5 years;
- (b) after a renewal survey of the ship has been completed, a new Polar Ship Certificate cannot be issued or placed on board the ship before the expiry of the existing Certificate;
- (c) the ship is not in the port in which it is to be surveyed when the existing Certificate expires; or
- (d) the ship is engaged in short voyages and the validity period has not been extended in the situation specified in paragraph (a), (b) or (c).

Division 3—Cessation and Cancellation of Polar Ship Certificates

20. Polar Ship Certificates cease to be valid

A Polar Ship Certificate of a ship ceases to be valid if—

- (a) a survey of the ship is not carried out in compliance with—
 - (i) for a passenger ship—Division 1 of Part 4; or
 - (ii) for a cargo ship—Division 2 of Part 4, before the expiry of the period specified for the survey in that Division;
- (b) the following certificate of the ship ceases to be valid—

- (i) for a passenger ship—a Passenger Ship Safety Certificate; or
- (ii) for a cargo ship—a Cargo Ship Safety Certificate, a Cargo Ship Safety Construction Certificate, a Cargo Ship Safety Equipment Certificate or a Cargo Ship Safety Radio Certificate;
- (c) for a passenger ship—no declaration of survey is provided to the Director under section 27(4) after an additional survey of the ship is carried out;
- (d) for a cargo ship—
 - (i) no endorsement is made under section 31(2) on the Polar Ship Certificate after an intermediate survey of the ship is carried out;
 - (ii) no endorsement is made under section 32(2) on the Polar Ship Certificate after a periodical survey of the ship is carried out;
 - (iii) no endorsement is made under section 33(3) on the Polar Ship Certificate after an annual survey of the ship is carried out; or
 - (iv) no declaration of survey is provided to the Director under section 34(4) after an additional survey of the ship is carried out; or
- (e) the ship ceases to be registered in Hong Kong.

21. Cancellation of Polar Ship Certificates

- (1) The Director may, by written notice to the owner and the master of a ship, cancel a Polar Ship Certificate of the ship if the Director has reasonable grounds to believe that the Certificate was issued, or any endorsement on the Certificate was made, on the basis of false or erroneous information.

- (2) The Director must give reasons for the cancellation in the notice.
- (3) On receiving the notice, the Certificate must be delivered to the Director by the owner or the master of the ship.

Division 4—Alteration and Certified True Copies of Polar Ship Certificates

22. Alteration of Polar Ship Certificates

- (1) The Director may, at the request of the owner of a ship in respect of which a Polar Ship Certificate has been issued by the Director, alter any of the particulars contained in the Certificate.
- (2) The Director may refuse to make the alteration if the Director considers it to be a material alteration.
- (3) No alteration may be made unless the prescribed fee is paid to the Director.

23. Certified true copies of Polar Ship Certificates

- (1) The Director may, on application by the owner of a ship in respect of which a Polar Ship Certificate has been issued by the Director, issue a certified true copy of the Certificate.
- (2) The application must be accompanied by the prescribed fee.

Part 4

Surveys

Division 1—Surveys for Passenger Ships

24. Application of Division 1

This Division applies to a passenger ship.

25. Initial surveys for passenger ships

- (1) An initial survey of a ship is to be carried out by a Government surveyor—
 - (a) before the ship is put into service; or
 - (b) before a Polar Ship Certificate is issued for the first time in respect of the ship.
- (2) If, after having carried out an initial survey of the ship, the Government surveyor is satisfied that the structure, equipment, fittings, machinery, arrangements and materials of, and the documented procedures in respect of, the ship comply with the applicable requirements specified in Part I-A of the Polar Code, the surveyor must make a declaration of survey to that effect and provide the Director with the declaration.

26. Renewal surveys for passenger ships

- (1) Subject to subsection (2), a renewal survey of a ship is to be carried out by a Government surveyor within 1 year—
 - (a) from the date of completion of the initial survey of the ship; or

- (b) if a renewal survey of the ship has been carried out—
from the date of completion of the preceding renewal survey.
 - (2) If the validity period of a Polar Ship Certificate issued in respect of the ship has been extended under section 19(c) or (d), the period of 1 year mentioned in subsection (1) is to be extended by the period for which the Certificate is extended.
 - (3) If, after having carried out a renewal survey of the ship, the Government surveyor is satisfied that the structure, equipment, fittings, machinery, arrangements and materials of, and the documented procedures in respect of, the ship comply with the applicable requirements specified in Part I-A of the Polar Code, the surveyor must make a declaration of survey to that effect and provide the Director with the declaration.

27. Additional surveys for passenger ships

- (1) The Director may, by written notice to the owner and the master of a ship, require an additional survey (whether general or partial) of the ship to be carried out by a Government surveyor within a reasonable period specified in the notice.
- (2) The Director may exercise the power under subsection (1) if—
 - (a) after a Polar Ship Certificate has been issued in respect of the ship, significant alterations, replacements or repairs have been made to the structure, equipment, fittings, machinery, arrangements or materials of the ship covered by the survey leading to the issue of the Certificate (*relevant survey*);
 - (b) the Director has reasonable grounds to believe that the condition of the structure, equipment, fittings, machinery, arrangements or materials of the ship

- covered by the relevant survey is not maintained in compliance with the applicable requirements specified in Part I-A of the Polar Code; or
- (c) the Director considers that an additional survey of the ship is necessary under section 11(2).
- (3) On receiving a notice under subsection (1), the owner and the master of the ship must comply with the notice.
- (4) If, after having carried out an additional survey of the ship, the Government surveyor is satisfied that—
- (a) the structure, equipment, fittings, machinery, arrangements and materials of the ship comply with the applicable requirements specified in Part I-A of the Polar Code; and
- (b) if the additional survey is required to be carried out on the ground described in subsection (2)(a)—
- (i) the alterations, replacements or repairs have been effectively made; and
- (ii) the materials used in, and the workmanship of, the alterations, replacements or repairs are in all respects satisfactory,

the surveyor must make a declaration of survey to that effect and provide the Director with the declaration.

Division 2—Surveys for Cargo Ships

28. Application of Division 2

This Division applies to a cargo ship.

29. Initial surveys for cargo ships

- (1) An initial survey of a ship is to be carried out by a Government surveyor—

- (a) before the ship is put into service; or
- (b) before a Polar Ship Certificate is issued under section 12 for the first time in respect of the ship.
- (2) If, after having carried out an initial survey of the ship, the Government surveyor is satisfied that the structure, equipment, fittings, machinery, arrangements and materials of, and the documented procedures in respect of, the ship comply with the applicable requirements specified in Part I-A of the Polar Code, the surveyor must make a declaration of survey to that effect and provide the Director with the declaration.

30. Renewal surveys for cargo ships

- (1) Subject to subsection (2), a renewal survey of a ship is to be carried out by a Government surveyor within 5 years—
- (a) from the date of completion of the initial survey of the ship;
- (b) if the Polar Ship Certificate in force in respect of the ship was issued under section 13—from the date of completion of the verification mentioned in section 13(4)(c) of the ship; or
- (c) if a renewal survey of the ship has been carried out—from the date of completion of the preceding renewal survey.
- (2) If the validity period of a Polar Ship Certificate issued in respect of the ship has been extended under section 19(c) or (d), the period of 5 years mentioned in subsection (1) is to be extended by the period for which the Certificate is extended.
- (3) If, after having carried out a renewal survey of the ship, the Government surveyor is satisfied that the structure, equipment, fittings, machinery, arrangements and materials

of, and the documented procedures in respect of, the ship comply with the applicable requirements specified in Part I-A of the Polar Code, the surveyor must make a declaration of survey to that effect and provide the Director with the declaration.

31. Intermediate surveys for cargo ships

- (1) An intermediate survey of a ship in respect of which a Polar Ship Certificate is in force, and in respect of which a Cargo Ship Safety Certificate or a Cargo Ship Safety Construction Certificate is also in force, is to be carried out by a Government surveyor—
 - (a) within the period commencing 3 months before, and ending 3 months after, the second anniversary date of the Polar Ship Certificate; or
 - (b) within the period commencing 3 months before, and ending 3 months after, the third anniversary date of the Polar Ship Certificate.
- (2) If, after having carried out an intermediate survey of the ship, the Government surveyor is satisfied that the structure, equipment, fittings, machinery, arrangements and materials of, and the documented procedures in respect of, the ship comply with the applicable requirements specified in Chapters 1, 2, 4, 5, 6, 11 and 12 of Part I-A of the Polar Code, the surveyor must make an endorsement to that effect on the Polar Ship Certificate.

32. Periodical surveys for cargo ships

- (1) A periodical survey of a ship in respect of which a Polar Ship Certificate is in force, and in respect of which a Cargo Ship Safety Certificate, a Cargo Ship Safety Equipment Certificate

or a Cargo Ship Safety Radio Certificate is also in force, is to be carried out by a Government surveyor—

- (a) within the period commencing 3 months before, and ending 3 months after, the second anniversary date of the Polar Ship Certificate; or
 - (b) within the period commencing 3 months before, and ending 3 months after, the third anniversary date of the Polar Ship Certificate.
- (2) If, after having carried out a periodical survey of the ship, the Government surveyor is satisfied that the structure, equipment, fittings, machinery, arrangements and materials of, and the documented procedures in respect of, the ship comply with the applicable requirements specified in Chapters 1, 2, 4, 7, 8, 9, 10, 11 and 12 of Part I-A of the Polar Code, the surveyor must make an endorsement to that effect on the Polar Ship Certificate.

33. Annual surveys for cargo ships

- (1) Subject to subsection (2), an annual survey of a ship is to be carried out by a Government surveyor within the period commencing 3 months before, and ending 3 months after, each anniversary date of the Polar Ship Certificate issued in respect of the ship.
- (2) If an intermediate survey or periodical survey of the ship has been carried out under section 31 or 32 by reference to an anniversary date, the annual survey of the ship by reference to the anniversary date for the relevant year is not required to be carried out.
- (3) If, after having carried out an annual survey of the ship, the Government surveyor is satisfied that the structure, equipment, fittings, machinery, arrangements and materials of, and the documented procedures in respect of, the ship

remain satisfactory for the service for which the ship is intended, the surveyor must make an endorsement to that effect on the Polar Ship Certificate.

34. Additional surveys for cargo ships

- (1) The Director may, by written notice to the owner and the master of a ship, require an additional survey (whether general or partial) of the ship to be carried out by a Government surveyor within a reasonable period specified in the notice.
- (2) The Director may exercise the power under subsection (1) if—
 - (a) after a Polar Ship Certificate has been issued or endorsed in respect of the ship, significant alterations, replacements or repairs have been made to the structure, equipment, fittings, machinery, arrangements or materials of the ship covered by the survey leading to the issue or endorsement of the Certificate (*relevant survey*);
 - (b) the Director has reasonable grounds to believe that the condition of the structure, equipment, fittings, machinery, arrangements or materials of the ship covered by the relevant survey is not maintained in compliance with the applicable requirements specified in Part I-A of the Polar Code; or
 - (c) the Director considers that an additional survey of the ship is necessary under section 11(2).
- (3) On receiving a notice under subsection (1), the owner and the master of the ship must comply with the notice.
- (4) If, after having carried out an additional survey of the ship, the Government surveyor is satisfied that—

- (a) the structure, equipment, fittings, machinery, arrangements and materials of the ship comply with the applicable requirements specified in Part I-A of the Polar Code; and
- (b) if the additional survey is required to be carried out on the ground described in subsection (2)(a)—
 - (i) the alterations, replacements or repairs have been effectively made; and
 - (ii) the materials used in, and the workmanship of, the alterations, replacements or repairs are in all respects satisfactory,

the surveyor must make a declaration of survey to that effect and provide the Director with the declaration.

Part 5

Miscellaneous Provisions

35. Defence

It is a defence for a person charged with an offence under section 6(2), 7(2), 8(2), 9(2), 10(4) or 11(4) to show that the person had taken all reasonable steps to prevent the commission of the offence.

36. Transitional provisions

- (1) Part 2 does not apply in relation to a specified passenger ship until the expiry of the last day of the period within which the next survey of the ship must be completed under section 9(1) of the Ordinance, which must be after 31 May 2019.
- (2) Part 2 does not apply in relation to a specified cargo ship until the expiry of the earliest of the following dates—
 - (a) 31 March 2021;
 - (b) the last day of the period within which the next renewal survey of the ship must be completed under the renewal survey provision, which must be after 31 May 2019;
 - (c) the last day of the period within which the next intermediate survey of the ship must be completed under the intermediate survey provision, which must be after 31 May 2019.
- (3) In this section—

constructed (建造), in relation to a ship, means the stage at which—

- (a) the keel of the ship is laid; or
- (b) construction identifiable with the ship begins and assembly of the ship has commenced comprising at least

50 tonnes or 1% of the estimated mass of all structural material, whichever is less;

intermediate survey provision (中期檢驗條文) means—

- (a) for a ship constructed before 1 September 1984—regulation 74C of the Merchant Shipping (Safety) (Cargo Ship Construction and Survey) (Ships Built Before 1 September 1984) Regulations (Cap. 369 sub. leg. R);
- (b) for a ship constructed on or after 1 September 1984 but before 1 July 2002—regulation 58 of the Merchant Shipping (Safety) (Cargo Ship Construction and Survey) (Ships Built On or After 1 September 1984) Regulations (Cap. 369 sub. leg. S); or
- (c) for a ship constructed on or after 1 July 2002—section 70 of the Merchant Shipping (Safety) (Construction and Survey) Regulation (Cap. 369 sub. leg. BD);

renewal survey provision (換證檢驗條文) means—

- (a) for a ship constructed before 1 September 1984—regulation 74B of the Merchant Shipping (Safety) (Cargo Ship Construction and Survey) (Ships Built Before 1 September 1984) Regulations (Cap. 369 sub. leg. R);
- (b) for a ship constructed on or after 1 September 1984 but before 1 July 2002—regulation 57 of the Merchant Shipping (Safety) (Cargo Ship Construction and Survey) (Ships Built On or After 1 September 1984) Regulations (Cap. 369 sub. leg. S); or
- (c) for a ship constructed on or after 1 July 2002—section 69 of the Merchant Shipping (Safety) (Construction and Survey) Regulation (Cap. 369 sub. leg. BD);

specified cargo ship (指明貨船) means a cargo ship—

- (a) that operates in polar waters;
- (b) that is constructed before 1 January 2017; and
- (c) in respect of which a Cargo Ship Safety Certificate or a Cargo Ship Safety Construction Certificate is in force on 30 May 2019;

specified passenger ship (指明客船) means a passenger ship—

- (a) that operates in polar waters;
- (b) that is constructed before 1 January 2017; and
- (c) in respect of which a Passenger Ship Safety Certificate is in force on 30 May 2019.


Secretary for Transport and Housing

26 March 2019

Explanatory Note

This Regulation implements Part I-A of the International Code for Ships Operating in Polar Waters (*Polar Code*), which is adopted by International Maritime Organization Resolutions MSC.385(94) and MEPC.264(68), and made mandatory under Chapter XIV of the Annex to the International Convention for the Safety of Life at Sea (*Convention*). A Hong Kong ship operating in polar waters must comply with Part I-A of the Polar Code and have a Polar Ship Certificate.

2. Part 1 provides for the commencement, interpretation of certain terms and application of this Regulation. That Part also provides that the Director of Marine may request the government of a country that is a party to the Convention to survey a Hong Kong ship within the waters of that country and to issue a Polar Ship Certificate in respect of the ship, to endorse a Polar Ship Certificate of the ship or to authorize such an issuance or endorsement.
3. Part 2 provides for the duties required in respect of a Hong Kong ship operating in polar waters.
4. Part 3 governs the issue, form, duration, cessation, cancellation and alteration of, and issue of certified true copies of, a Polar Ship Certificate.
5. Part 4 sets out the various types of surveys that are required to be carried out for a passenger ship and a cargo ship.
6. The defence and transitional provisions are set out in Part 5.

**Merchant Shipping (Prevention of Oil Pollution)
(Amendment) Regulation 2019**

Contents

Section	Page
1. Commencement	1
2. Merchant Shipping (Prevention of Oil Pollution) Regulations amended.....	1
3. Regulation 1 amended (citation and interpretation).....	1
4. Regulation 3AA added	2
3AA. Director may delegate powers etc.	2
5. Regulation 3B amended (Director may recognize organizations to survey ships and issue certificates etc.).....	2
6. Regulation 12 amended (ships other than oil tankers and machinery space bilges of oil tankers).....	2
7. Regulation 13 amended (oil tankers).....	2
8. Regulation 14 amended (oil filtering equipment).....	3
9. Regulation 15 amended (retention of oil on board).....	3
10. Regulation 16 amended (methods for the prevention of oil pollution from ships operating in special areas)	3
11. Part IIIA added	4

Part IIIA

Section	Page
Requirements for Ships Operating in Polar Waters	
16D. Interpretation of Part IIIA	4
16E. Application of Part IIIA	4
16F. Requirements for ships operating in polar waters.....	5
16G. Statement of compliance.....	5
16H. Transitional provision.....	5

Merchant Shipping (Prevention of Oil Pollution) (Amendment) Regulation 2019

(Made by the Secretary for Transport and Housing under sections 3 and 3A of the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413))

1. Commencement

This Regulation comes into operation on 31 May 2019.

2. Merchant Shipping (Prevention of Oil Pollution) Regulations amended

The Merchant Shipping (Prevention of Oil Pollution) Regulations (Cap. 413 sub. leg. A) are amended as set out in sections 3 to 11.

3. Regulation 1 amended (citation and interpretation)

(1) Regulation 1(2)—

Add in alphabetical order

“*Polar Code* (《極地規則》) means the International Code for Ships Operating in Polar Waters, adopted by IMO Resolutions MSC.385(94) and MEPC.264(68); as from time to time revised or amended by any revision or amendment to any provision of such Code that applies to Hong Kong;”.

(2) After regulation 1(3)(a)—

Add

“(ab) Arctic waters;”.

(3) After regulation 1(3)(j)—

Add

“(ja) polar waters;”.

4. Regulation 3AA added

Before regulation 3A—

Add

“3AA. Director may delegate powers etc.

- (1) The Director may, in writing, delegate to a public officer or a class of public officers any of the Director’s powers, functions or duties under these Regulations.
- (2) The Director may, in writing, revoke a delegation under paragraph (1) at any time.
- (3) A delegation under paragraph (1) does not preclude the Director from exercising or performing at any time any delegated power, function or duty.”.

5. Regulation 3B amended (Director may recognize organizations to survey ships and issue certificates etc.)

After regulation 3B(b)—

Add

“(ba) making a statement of compliance in conformity with regulation 16G in an International Oil Pollution Prevention Certificate issued by the organization;”.

6. Regulation 12 amended (ships other than oil tankers and machinery space bilges of oil tankers)

After regulation 12(2)(b)—

Add

“(ba) the ship is not within Arctic waters;”.

7. Regulation 13 amended (oil tankers)

After regulation 13(2)(b)—

Add

“(ba) the tanker is not within Arctic waters;”.

8. Regulation 14 amended (oil filtering equipment)

(1) Regulation 14(3)(a)(i)—

Repeal

“or”.

(2) After regulation 14(3)(a)(i)—

Add

“(ia) on voyages within Arctic waters; or”.

(3) Regulation 14(3)(a)(D), before “or (ii)”—

Add

“, (ia)”.

9. Regulation 15 amended (retention of oil on board)

After regulation 15(5)(b)(ii)(A)—

Add

“(AB) on voyages within Arctic waters; or”.

10. Regulation 16 amended (methods for the prevention of oil pollution from ships operating in special areas)

(1) Regulation 16, heading, after “areas”—

Add

“or Arctic waters”.

(2) Regulation 16(2)(b)—

Repeal the full stop**Substitute a semicolon.**

(3) After regulation 16(2)(b)—

Add

“(c) any discharge into the sea of oil or oily mixture from a Hong Kong ship in Arctic waters is prohibited.”.

11. Part IIIA added

After Part III—

Add**“Part IIIA****Requirements for Ships Operating in Polar Waters****16D. Interpretation of Part IIIA**

In this Part—

applicable Polar requirements (適用極地規定), in relation to a ship, means the requirements set out in paragraph 1.2 of Chapter 1 of Part II-A of the Polar Code that are applicable to the ship;

statement of compliance (合規陳述) means a statement of compliance referred to in regulation 16G.

16E. Application of Part IIIA

This Part applies to a Hong Kong ship that—

(a) is constructed on or after 1 January 2017; and

(b) is—

(i) a Category A ship, or Category B ship, as defined by section 2 of the Introduction of the Polar Code; or

- (ii) a Category A oil tanker, or Category B oil tanker, referred to in paragraph 1.2.3 of Chapter 1 of Part II-A of the Polar Code.

16F. Requirements for ships operating in polar waters

A ship must not operate in polar waters unless the International Oil Pollution Prevention Certificate in force in respect of the ship contains a statement of compliance.

16G. Statement of compliance

- (1) The Director may, on application by the owner of a ship, make a statement of compliance in the International Oil Pollution Prevention Certificate in force in respect of the ship certifying that the structure and arrangements of the ship comply with the applicable Polar requirements.
- (2) The Director may make a statement of compliance if satisfied, based on the result of a survey of the ship carried out in accordance with regulation 4, that the structure and arrangements of the ship comply with the applicable Polar requirements.

16H. Transitional provision

- (1) This regulation applies in relation to a ship—
 - (a) the International Oil Pollution Prevention Certificate in force in respect of which does not contain a statement of compliance; and
 - (b) the structure and arrangements of which comply with the applicable Polar requirements.
- (2) For the purposes of regulation 16F, the International Oil Pollution Prevention Certificate in force in respect of a ship is regarded as containing a statement of compliance until the earlier of the following—

- (a) the expiry of 3 months beginning on the date on which the Merchant Shipping (Prevention of Oil Pollution) (Amendment) Regulation 2019 comes into operation;
- (b) a statement of compliance is made in the Certificate under regulation 16G.”.


Secretary for Transport and Housing

26 March 2019

Explanatory Note

This Regulation amends the Merchant Shipping (Prevention of Oil Pollution) Regulations (Cap. 413 sub. leg. A) mainly to implement the requirements under Chapter 1 of Part II-A of the International Code for Ships Operating in Polar Waters (*Polar requirements*) and give effect to the relevant amendments made to Annex I to the International Convention for the Prevention of Pollution from Ships, 1973.

2. The Polar requirements are—
 - (a) oil or oily mixtures must not be discharged into the sea from Hong Kong ships in Arctic waters; and
 - (b) Hong Kong ships that are constructed on or after 1 January 2017 must not operate in polar waters unless certain structural requirements are complied with.

Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk)
(Amendment) Regulation 2019

Section 1

1

**Merchant Shipping (Control of Pollution by Noxious
Liquid Substances in Bulk) (Amendment) Regulation
2019**

(Made by the Secretary for Transport and Housing under sections 3 and 3A
of the Merchant Shipping (Prevention and Control of Pollution) Ordinance
(Cap. 413))

1. **Commencement**
This Regulation comes into operation on 31 May 2019.
2. **Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) Regulations amended**
The Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) Regulations (Cap. 413 sub. leg. B) are amended as set out in sections 3 to 6.
3. **Regulation 1 amended (citation and interpretation)**
Regulation 1(2)—
Add in alphabetical order
“*Arctic waters* (北極水域) has the same meaning as in Annex II;
Polar Code (《極地規則》) means the International Code for Ships Operating in Polar Waters, adopted by IMO Resolutions MSC.385(94) and MEPC.264(68), as from time to time revised or amended by any revision or amendment to any provision of such Code that applies to Hong Kong;

Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk)
(Amendment) Regulation 2019

Section 4

2

polar waters (極地水域) has the same meaning as in Annex II;”.

4. **Regulation 3A added**
After regulation 3—
Add
“3A. **No discharge of noxious liquid substance in Arctic waters**
A noxious liquid substance or a mixture containing any noxious liquid substance must not be discharged into the sea from a Hong Kong ship in Arctic waters.”.
5. **Regulation 16 amended (exceptions)**
Regulation 16—
Repeal
“Regulation 3 shall”
Substitute
“Regulations 3 and 3A do”.
6. **Regulation 28B added**
After regulation 28A—
Add
“28B. **Loading or carrying noxious liquid substance in polar waters**
(1) This regulation applies to a Hong Kong ship that—
(a) is constructed on or after 1 January 2017;

- (b) is a Category A ship, or Category B ship, as defined by section 2 of the Introduction of the Polar Code; and
 - (c) is a type 3 ship as defined by paragraph 2.1.2.3 of Chapter 2 of the IBC Code.
- (2) A ship operating in polar waters must not load in bulk or carry in bulk any noxious liquid substance mentioned in paragraph 2.1.3 of Chapter 2 of Part II-A of the Polar Code unless—
- (a) there is in force in respect of the ship an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk, or IBC Code Certificate, covering the substance; and
 - (b) the loading and carriage is in accordance with the terms of that Certificate.”.


Secretary for Transport and Housing

26 March 2019

Explanatory Note

This Regulation amends the Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) Regulations (Cap. 413 sub. leg. B) to implement the requirements under Chapter 2 of Part II-A of the International Code for Ships Operating in Polar Waters (*Polar requirements*) and give effect to the relevant amendments made to Annex II to the International Convention for the Prevention of Pollution from Ships, 1973.

2. The Polar requirements are—
- (a) noxious liquid substances or mixtures containing any noxious liquid substances must not be discharged into the sea from Hong Kong ships in Arctic waters; and
 - (b) Hong Kong ships that are constructed on or after 1 January 2017 and operating in polar waters must not load or carry certain noxious liquid substances unless certain conditions are complied with.

Merchant Shipping (Prevention of Pollution by Sewage) (Amendment) Regulation 2019

(Made by the Secretary for Transport and Housing under sections 3 and 3A of the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413))

1. Commencement

This Regulation comes into operation on 31 May 2019.

2. Merchant Shipping (Prevention of Pollution by Sewage) Regulation amended

The Merchant Shipping (Prevention of Pollution by Sewage) Regulation (Cap. 413 sub. leg. K) is amended as set out in sections 3 to 7.

3. Section 28 amended (restriction on discharge of sewage into sea)

After section 28(1)—

Add

“(1A) This section does not apply to a ship to which section 28B applies.”.

4. Sections 28A and 28B added

After section 28—

Add

“28A. Additional restriction on sewage discharge—ships operating in polar waters

- (1) To avoid doubt, the application of this section to a ship does not preclude the application of section 28 to the ship.
- (2) No sewage may be discharged into the sea from a ship that operates in polar waters unless any of the exceptions specified in paragraph 4.2 of Chapter 4 of Part II-A of the Polar Code applies.

(3) In this section—

Polar Code (《極地規則》) means the International Code for Ships Operating in Polar Waters, adopted by International Maritime Organization Resolutions MSC.385(94) and MEPC.264(68), as from time to time revised or amended by any revision or amendment to any provision of such Code that applies to Hong Kong;

polar waters (極地水域) has the same meaning as in Annex IV.

28B. Restriction on sewage discharge—passenger ships within special area etc.

(1) This section applies—

- (a) on and after 1 June 2019, to a new passenger ship within a special area;
- (b) on and after 1 June 2021, to an existing passenger ship within a special area; and
- (c) on and after 1 June 2023, to an existing passenger ship—
 - (i) that is en route directly—

- (A) from a port located outside a special area to a port located east of longitude 28°10'E within the special area; or
 - (B) from a port located east of longitude 28°10'E within a special area to a port located outside the special area; and
- (ii) that does not call at any port within a special area (other than the port referred to in subparagraph (i)(A) or (B)).
- (2) No sewage may be discharged into the sea from a passenger ship.
 - (3) Subsection (2) does not apply to a passenger ship if—
 - (a) it has in operation a sewage treatment plant referred to in section 1(a) of the Schedule; and
 - (b) the effluent from it—
 - (i) does not produce visible floating solids; and
 - (ii) does not cause any discoloration of the surrounding water.
 - (4) In this section, the following terms have the same meaning as in Annex IV—
 - (a) existing passenger ship;
 - (b) new passenger ship;
 - (c) passenger ship;
 - (d) special area.”.

5. Section 29 amended (exceptions to section 28)

- (1) Section 29, heading—
Repeal

“Exceptions to section 28”

Substitute

“General exceptions to sections 28, 28A and 28B”.

- (2) Section 29—

Repeal

“Section 28 does”

Substitute

“Sections 28, 28A and 28B do”.

6. Section 30 amended (offences and penalties)

Section 30(1), after “28(1)”—

Add

“, 28A(2), 28B(2)”.

7. Schedule amended (requirements for equipments, etc.)

The Schedule—

Repeal

“& 28J”

Substitute

“, 28 & 28BJ”.



Secretary for Transport and Housing

26 March 2019

Explanatory Note

This Regulation amends the Merchant Shipping (Prevention of Pollution by Sewage) Regulation (Cap. 413 sub. leg. K) to implement the requirements under Chapter 4 of Part II-A of the International Code for Ships Operating in Polar Waters (*Polar Code*) and give effect to the relevant amendments made to Annex IV to the International Convention for the Prevention of Pollution from Ships, 1973 (*MARPOL Annex IV*).

2. The relevant amendments made to MARPOL Annex IV include—
 - (a) declaring that ships operating in polar waters must not discharge sewage into the sea unless the exceptions in Chapter 4 of Part II-A of the Polar Code apply; and
 - (b) providing for the restriction and exceptions in relation to the discharge of sewage into the sea from passenger ships within a special area.

Merchant Shipping (Prevention of Pollution by Garbage) (Amendment) Regulation 2019

(Made by the Secretary for Transport and Housing under sections 3 and 3A of the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413))

1. **Commencement**
This Regulation comes into operation on 31 May 2019.
2. **Merchant Shipping (Prevention of Pollution by Garbage) Regulation amended**
The Merchant Shipping (Prevention of Pollution by Garbage) Regulation (Cap. 413 sub. leg. O) is amended as set out in sections 3 to 9.
3. **Section 2 amended (interpretation)**
 - (1) Section 2(1), English text, definition of *treated food wastes*, paragraph (b)—
Repeal
“25 mm;”
Substitute
“25 mm.”.
 - (2) Section 2(1)—
Repeal the definition of *treated introduced avian products*.
 - (3) Section 2(1)—
Add in alphabetical order

“*Antarctic area* (南極區域) has the same meaning as in Annex V;

Arctic waters (北極水域) has the same meaning as in Annex V;

Polar Code (《極地規則》) means the International Code for Ships Operating in Polar Waters, adopted by IMO Resolutions MSC.385(94) and MEPC.264(68), 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 4 amended (prohibition on discharge of garbage from ships)**
Section 4(1)—
Repeal
“and 6”
Substitute
“, 5A, 6 and 6A”.
5. **Section 5 amended (discharge of garbage from ships outside special areas permitted in certain circumstances)**
 - (1) Section 5, heading—
Repeal
“special”
Substitute
“protected”.
 - (2) Section 5(1)—
Repeal

“special”

Substitute

“protected”.

(3) Section 5(2)—

Repeal

“special”

Substitute

“protected”.

(4) After section 5(8)—

Add

“(9) In this section—

protected area (受保護區域) means—

- (a) a special area; or
- (b) Arctic waters.”.

6. Section 5A added

After section 5—

Add

“5A. Discharge of garbage from ships in Arctic waters permitted in certain circumstances

- (1) Despite section 3, this section does not apply to a ship that is—
 - (a) alongside a fixed or floating platform; or
 - (b) within 500 m of a fixed or floating platform.

- (2) Food wastes may be discharged from a ship into the sea in Arctic waters if the discharge is made in accordance with—
 - (a) Regulations 4.1 (excluding Regulation 4.1.1) and 7.2 of Annex V; and
 - (b) paragraph 5.2.1 of Chapter 5 of Part II-A of the Polar Code.
- (3) Special cargo residues contained in cargo hold wash water may be discharged from a ship into the sea in Arctic waters if the discharge is made in accordance with—
 - (a) Regulation 4.1 of Annex V; and
 - (b) paragraph 5.2.1.5 of Chapter 5 of Part II-A of the Polar Code.
- (4) Cleaning agents or additives contained in cargo hold wash water may be discharged from a ship into the sea in Arctic waters if—
 - (a) the ship is en route; and
 - (b) the discharge is made in accordance with—
 - (i) Regulation 4.2 of Annex V; and
 - (ii) paragraph 5.2.1.5 of Chapter 5 of Part II-A of the Polar Code.
- (5) Cleaning agents or additives contained in deck wash water or in external surfaces wash water may be discharged from a ship into the sea in Arctic waters if the discharge is made in accordance with Regulation 4.2 of Annex V.”.

7. **Section 6 amended (discharge of garbage from ships within special areas permitted in certain circumstances)**

(1) Section 6, heading—

Repeal

“special”

Substitute

“specified”.

(2) Section 6(1)—

Repeal

“, (5)”.

(3) Section 6(1)—

Repeal

“special”

Substitute

“specified”.

(4) Section 6(2)—

Repeal

“special”

Substitute

“specified”.

(5) Section 6(4)—

Repeal

“(other than treated introduced avian products)”.

(6) Section 6—

Repeal subsection (5).

(7) Section 6(7)(a)—

Repeal

“special” (wherever appearing)

Substitute

“specified”.

(8) Section 6(9), English text, definition of *harmless special cargo residues*, paragraph (b)—

Repeal

“Annex V.”

Substitute

“Annex V;”.

(9) Section 6(9)—

Add in alphabetical order

“*specified area* (指明區域) means a special area other than the Antarctic area.”.

8. **Section 6A added**

After section 6—

Add

“6A. Discharge of garbage from ships in Antarctic area permitted in certain circumstances

(1) Despite section 3, this section does not apply to a ship that is—

(a) alongside a fixed or floating platform; or

(b) within 500 m of a fixed or floating platform.

(2) Food wastes may be discharged from a ship into the sea in the Antarctic area if the discharge is made in accordance with—

- (a) Regulations 6.1 and 7.2 of Annex V; and
 - (b) paragraph 5.2.2 of Chapter 5 of Part II-A of the Polar Code.
- (3) Special cargo residues contained in cargo hold wash water may be discharged from a ship into the sea in the Antarctic area if the discharge is made in accordance with—
- (a) Regulation 6.1 of Annex V; and
 - (b) paragraph 5.2.2.1 of Chapter 5 of Part II-A of the Polar Code.
- (4) Cleaning agents or additives contained in cargo hold wash water may be discharged from a ship into the sea in the Antarctic area if the discharge is made in accordance with—
- (a) Regulation 6.1 of Annex V; and
 - (b) paragraph 5.2.2.1 of Chapter 5 of Part II-A of the Polar Code.
- (5) Cleaning agents or additives contained in deck wash water or in external surfaces wash water may be discharged from a ship into the sea in the Antarctic area if the discharge is made in accordance with Regulation 6.2 of Annex V.”.

9. **Section 9 amended (placards)**

Section 9(3)(a)—

Repeal

“and 6”

Substitute

“, 5A, 6 and 6A”.



Secretary for Transport and Housing

26 March 2019

Explanatory Note

This Regulation amends the Merchant Shipping (Prevention of Pollution by Garbage) Regulation (Cap. 413 sub. leg. O) to implement the requirements under Chapter 5 of Part II-A of the International Code for Ships Operating in Polar Waters (*Chapter 5*) and give effect to the relevant amendments made to Annex V to the International Convention for the Prevention of Pollution from Ships, 1973.

2. Chapter 5 imposes additional requirements for discharge of garbage from a ship into the sea in Arctic waters and the Antarctic area.