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SHIPPING AND PORT CONTROL (WORKS) REGULATION

(Made by the Chief Executive in Council under section 80 of the Shipping and Port Control Ordinance (Cap. 313))

PART 1

PRELIMINARY

1. Commencement

This Regulation shall come into operation on a day to be appointed by the Secretary for Economic Development and Labour by notice published in the Gazette.

2. Interpretation

(1) In this Regulation, unless the context otherwise requires—

“certificate of test and examination” (測試及檢驗證明書), in relation to a lifting appliance or lifting gear, means a certificate of test and examination, in the specified form, issued by the competent examiner who tests and examines the lifting appliance or lifting gear, and containing all the particulars required to be entered in the certificate with regard to the test and examination;

“competent examiner” (合資格檢驗員) means a person who—

- (a) is registered under the Engineers Registration Ordinance (Cap. 409) within a discipline specified in Schedule 3; or
- (b) is appointed as a competent examiner for the purposes of this Regulation by an organization specified under subsection (2);

“competent person” (合資格的人) means a person who is competent to perform an inspection or any other particular task permitted or required to be performed by a competent person under the relevant provision of this Regulation;

“employer” (僱主), in relation to a person employed, means that person’s employer;

“hatch” (艙口) means an opening in a deck of a vessel used for—

- (a) loading or unloading the vessel;
- (b) trimming; or
- (c) ventilation;

“hatchway” (艙口間) means the whole space within the square of the hatches, from the top deck to the bottom of the hold;

“inspector” (督察) means a person appointed under section 38 of the Ordinance;

“person employed” (受僱人) means a person employed to carry out works;

“pulley block” (滑輪組) means a pulley, block, gin or similar gear, other than a crane block specially constructed for use with a crane to which it is permanently attached;

“register of lifting appliances and lifting gear” (起重裝置及起重工具登記冊) means a register of lifting appliances and lifting gear required to be kept under section 40(1);

“relevant safety training course” (有關安全訓練課程) means any of the following training courses provided by a person approved under section 69—

- (a) (in relation to a works supervisor) the safety training course called “Works supervisor safety training course”;
- (b) (in relation to a person who operates or is in charge of a crane) the safety training course called “Shipboard crane operator safety training course”; or
- (c) (in relation to a person who carries out cargo handling) the safety training course called “Shipboard cargo handling basic safety training course”;

“safe working load” (安全操作負荷)—

- (a) in relation to a lifting appliance or lifting gear which is tested and examined by a competent examiner in the manner prescribed in Schedule 1, means the appropriate safe working load of the lifting appliance or lifting gear specified in the current certificate of test and examination;
- (b) in relation to a lifting appliance or lifting gear which by virtue of section 70(1) is not required to be tested and examined under this Regulation, means the appropriate safe working load of the lifting appliance or lifting gear specified in the current certificate or record referred to in that section;
- (c) in relation to lifting gear which is a pulley block and which by virtue of section 70(2) is not required to be tested and examined under this Regulation, means the safe working load stamped on the pulley block as required under section 43;
- (d) in relation to lifting gear which is a chain and which by virtue of section 70(2) is not required to be tested and examined under this Regulation, means the safe working load marked on the chain or on a tablet or ring attached to the chain as required under section 44(2);
- (e) in relation to lifting gear which is a wire rope sling and which by virtue of section 70(2) is not required to be tested and examined under this Regulation, means—

- (i) the safe working load marked on the wire rope sling or on a tablet or ring attached to the wire rope sling as required under section 44(3)(a); or
- (ii) the safe working load of the wire rope sling stated in a notice required under section 44(3)(b); or
- (f) in relation to a lifting appliance or lifting gear not covered by paragraphs (a), (b), (c), (d) and (e), means the appropriate safe working load of the lifting appliance or lifting gear;

“specified form” (指明格式) means a form specified under section 71;

“valid certificate” (有效證明書), in relation to a relevant safety training course, means a certificate which—

(a) is issued by a person approved under section 69 to another person in respect of the attendance of that other person at the relevant safety training course; and

(b) has not reached its date of expiry;

“workplace” (工作地方) means any place on a vessel in which a person employed carries out works;

“works supervisor” (工程督導員) means a person appointed under section 19.

(2) The Director may specify an organization which is a full member of the International Association of Classification Societies for the purposes of the definition of “competent examiner” in subsection (1).

(3) The Director shall from time to time publish in the Gazette a notice setting out the organizations specified under subsection (2).

(4) For the purposes of sections 20, 23, 24, 37, 50 and 53, a person is at work throughout the time he is in the course of employment.

(5) For the purposes of this Regulation, a lifting appliance or lifting gear is thoroughly examined if—

(a) it is examined by means of a visual examination that is carried out as carefully as the circumstances permit; and

(b) the examination is supplemented, if necessary, by other means like a hammer test or by the dismantling of the parts of the lifting appliance or lifting gear, in order to arrive at a reliable conclusion as to the safety of the parts examined.

(6) For the purposes of this Regulation, regard shall be had to the relevant code of practice issued under section 44A of the Ordinance in determining—

(a) whether an examination required to be carried out under this Regulation has been or is carried out carefully;

(b) whether a person is competent, reliable or trained for the purposes of performing a particular task; or

(c) whether any means of access to a workplace is safe.

3. Application

(1) Subject to subsection (2), this Regulation applies to all vessels (except local vessels) in Hong Kong or in the waters of Hong Kong.

(2) This Regulation does not apply to any repairs to, or the breaking up of, a vessel that is—

- (a) in a dock, other than a floating dock; or
- (b) on a slip or mechanical lift.

PART 2

SAFE MEANS OF ACCESS AND SAFE WORKPLACES

4. Safe means of access to vessels from land, etc.

(1) If a vessel is lying at a wharf, quay or mid-stream for the purposes of any works, there shall be provided safe means of access for use by a person employed when that person has to pass—

- (a) from the vessel to the shore or a place on land; or
- (b) from the shore or a place on land to the vessel.

(2) Safe means of access is taken to have been provided—

(a) if the vessel is equipped with an accommodation ladder or a similar construction, of which one side is properly protected by the vessel's side, and the ladder or the construction is—

- (i) not less than 550 mm wide;
- (ii) properly secured to prevent its displacement;
- (iii) constructed of materials of good quality and in good condition;
- (iv) securely fenced, throughout on the other side that is not so protected, to a clear height of not less than 820 mm, either by means of upper and lower rails, taut ropes or chains or by other equally safe means; and
- (v) of adequate length;

(b) if the vessel is equipped with an accommodation ladder or a similar construction, of which neither side is properly protected by the vessel's side, and the ladder or the construction is—

- (i) not less than 550 mm wide;
- (ii) properly secured to prevent its displacement;
- (iii) constructed of materials of good quality and in good condition;

- (iv) securely fenced, throughout on each side, to a clear height of not less than 820 mm, either by means of upper and lower rails, taut ropes or chains or by other equally safe means; and
 - (v) of adequate length; or
- (c) if the vessel is equipped with a gangway or a similar construction, and the gangway or the construction is—
- (i) not less than 550 mm wide;
 - (ii) properly secured to prevent its displacement;
 - (iii) constructed of materials of good quality and in good condition;
 - (iv) securely fenced, throughout on each side, to a clear height of not less than 820 mm, either by means of upper and lower rails, taut ropes or chains or by other equally safe means; and
 - (v) of adequate length.

(3) Where it is not reasonably practicable for a vessel to be equipped with an accommodation ladder or gangway, or any other construction similar to an accommodation ladder or gangway, safe means of access is taken to have been provided under subsection (1) if the vessel is equipped with a ladder which is—

- (a) of sound material and adequate length; and
- (b) properly secured to prevent its displacement.

(4) If there is a contravention of subsection (1), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

(5) Where the employer is not the person in charge of works, if there is a contravention of subsection (1), the employer shall provide safe means of access required by that subsection as soon as reasonably practicable after the contravention occurs.

(6) An employer who fails to comply with subsection (5) commits an offence and is liable on conviction to a fine at level 3.

5. Safe means of access to workplaces, etc.

(1) There shall be provided safe means of access to a workplace.

(2) All breaks, dangerous corners and other dangerous parts of a workplace shall, in so far as reasonably practicable having regard to the works concerned, be securely fenced, and the fence shall be maintained in good condition ready for use and in no place be less than 1 m in height.

(3) If there is a contravention of subsection (1) or (2), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

(4) Where the employer of the person employed to carry out works in the workplace is not the person in charge of works, if there is a contravention of subsection (1) or (2), the employer shall provide safe means of access required by subsection (1), or take the measures required by subsection (2), as the case may be, as soon as reasonably practicable after the contravention occurs.

(5) An employer who fails to comply with subsection (4) commits an offence and is liable on conviction to a fine at level 3.

6. Safe means of access when vessels alongside each other, etc.

(1) If a person employed has to pass from a vessel to another vessel (whether that vessel or that other vessel is a local vessel or not), there shall be provided safe means of access for use by that person.

(2) Safe means of access is taken to have been provided—

(a) where the vessels are alongside each other and one of them has a freeboard lower than that of the other vessel, if the vessel having the higher freeboard satisfies the conditions set out in subsection (3)(a), (b), (c) or (d); or

(b) in any other case, if either of the vessels satisfies the conditions set out in subsection (3)(a), (b), (c) or (d).

(3) The conditions referred to in subsection (2) are as follows—

(a) the vessel is equipped with an accommodation ladder or a similar construction, of which one side is properly protected by the vessel's side, and the ladder or the construction is—

(i) not less than 550 mm wide;

(ii) properly secured to prevent its displacement;

(iii) constructed of materials of good quality and in good condition;

(iv) securely fenced, throughout on the other side that is not so protected, to a clear height of not less than 820 mm, either by means of upper and lower rails, taut ropes or chains or by other equally safe means; and

(v) of adequate length;

(b) the vessel is equipped with an accommodation ladder or a similar construction, of which neither side is properly protected by the vessel's side, and the ladder or the construction is—

(i) not less than 550 mm wide;

(ii) properly secured to prevent its displacement;

(iii) constructed of materials of good quality and in good condition;

- (iv) securely fenced, throughout on each side, to a clear height of not less than 820 mm, either by means of upper and lower rails, taut ropes or chains or by other equally safe means; and
- (v) of adequate length;
- (c) the vessel is equipped with a gangway or a similar construction, and the gangway or the construction is—
 - (i) not less than 550 mm wide;
 - (ii) properly secured to prevent its displacement;
 - (iii) constructed of materials of good quality and in good condition;
 - (iv) securely fenced, throughout on each side, to a clear height of not less than 820 mm, either by means of upper and lower rails, taut ropes or chains or by other equally safe means; and
 - (v) of adequate length;
- (d) if it is not reasonably practicable for the vessel to be equipped with an accommodation ladder or gangway, or any other construction similar to an accommodation ladder or gangway, the vessel is equipped with a ladder which is—
 - (i) of sound material and adequate length; and
 - (ii) properly secured to prevent its displacement.

(4) If there is a contravention of subsection (1), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

(5) Where the employer is not the person in charge of works, if there is a contravention of subsection (1), the employer shall provide safe means of access required by that subsection as soon as reasonably practicable after the contravention occurs.

(6) An employer who fails to comply with subsection (5) commits an offence and is liable on conviction to a fine at level 3.

(7) Subsection (1) does not apply if, having regard to the condition of the sea, the gap between the vessels, and the deck levels of the vessels, it is safe for a person employed to pass from one vessel to the other without the aid of a ladder, gangway or similar construction as required under subsections (2) and (3).

7. Safe means of access to holds

(1) If a person employed has to carry out works in a hold of a vessel the depth of which, when measured from the level of the deck to the bottom of the hold, exceeds 1.5 m, there shall be provided safe means of access from the deck to the hold for use by that person.

(2) Subject to subsection (3), the means of access shall be afforded by ladders or steps that are separate from any hatchway and sloping from deck to deck unless the Director otherwise permits.

(3) The means of access may be afforded—

(a) by ladder cleats or cups on the coamings;

(b) by ladder cleats or cups on a bulkhead or in a trunk hatchway, if it can be shown that it is not reasonably practicable to provide any ladder on the bulkhead or in the trunk hatchway; or

(c) by shaft tunnels.

(4) For the purposes of this section, any means of access afforded by ladder is not taken to be safe—

(a) unless—

(i) at each rung of the ladder there is a foothold of a depth, including any space behind the ladder, of not less than 115 mm and a width of not less than 250 mm and there is a sufficient number of firm handholds along each side of the ladder;

(ii) the cargo, if any, is stowed sufficiently far from the ladder, having regard to the requirements under subparagraph (i);

(iii) there is room to pass between a winch (or any other obstruction) and the coamings at the place where the ladder leaves the deck; and

(iv) (where ladders are afforded from the top deck to the lower decks) the ladders between the lower decks are in the same line as the ladder from the top deck, if that is reasonably practicable having regard to the position of the lower hatch or hatches; or

(b) if the ladder is recessed under the deck more than is reasonably necessary to keep the ladder clear of the hatchway.

(5) For the purposes of this section, any means of access afforded by cleats or cups is not taken to be safe unless—

(a) the cleats or cups provide a foothold of a depth, including any space behind the cleats or cups, of not less than 115 mm and a width of not less than 250 mm and there is a sufficient number of firm handholds along each side of the means of access;

(b) the cleats or cups are so constructed as to prevent a person's foot slipping off the side; and

(c) the cleats or cups are placed vertically one above the other and, if they give access to ladders, in the same line as the ladders to which they give access.

(6) For the purposes of this section, any means of access afforded by steps is not taken to be safe unless—

- (a) every step provides a foothold of a depth, including any space behind the step, of not less than 115 mm and a width of not less than 250 mm and there is a sufficient number of firm handholds along each side of the means of access;
- (b) the cargo, if any, is stowed sufficiently far from the steps, having regard to the requirements under paragraph (a);
- (c) there is room to pass between a winch (or any other obstruction) and the coamings at the place where the steps leave the deck.

(7) For the purposes of this section, any means of access afforded by a shaft tunnel is not taken to be safe unless the tunnel is equipped on each side with adequate footholds, each of a depth of not less than 115 mm and a width of not less than 250 mm, and firm handholds.

(8) If there is a contravention of subsection (1), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

(9) Where the employer is not the person in charge of works, if there is a contravention of subsection (1), the employer shall provide safe means of access required by that subsection as soon as reasonably practicable after the contravention occurs.

(10) An employer who fails to comply with subsection (9) commits an offence and is liable on conviction to a fine at level 3.

8. Free passage to means of access at coamings

(1) Where works are to be, or are being, carried out in a hold of a vessel, free passage to the means of access from the deck to the hold shall be left at the coamings of the vessel.

(2) If there is a contravention of subsection (1), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

(3) Where the employer of the person employed to carry out the works is not the person in charge of works, if there is a contravention of subsection (1), the employer shall take the measures required by that subsection as soon as reasonably practicable after the contravention occurs.

(4) An employer who fails to comply with subsection (3) commits an offence and is liable on conviction to a fine at level 3.

9. Lighting of workplaces, etc.

(1) Where works are being carried out on a vessel—

- (a) every workplace of the vessel;
- (b) every other part of the vessel to which a person employed may be required to proceed in the course of his employment; and
- (c) every means of access provided under sections 4, 5, 6 and 7,

shall be efficiently lighted, having regard to the safety of the vessel and cargo concerned, the person employed and the navigation of any other vessel.

(2) If there is a contravention of subsection (1), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

(3) Where the employer is not the person in charge of works, if there is a contravention of subsection (1), the employer shall take the measures required by that subsection as soon as reasonably practicable after the contravention occurs.

(4) An employer who fails to comply with subsection (3) commits an offence and is liable on conviction to a fine at level 3.

10. Ventilation and protection against fumes, etc.

(1) Effective and suitable arrangements shall be made for the adequate ventilation of every workplace and every other part of a vessel to which a person employed is permitted or required to proceed in the course of his employment.

(2) Without limiting the generality of subsection (1), the ventilation of a place mentioned in that subsection is not adequate if—

- (a) the proportion of oxygen in the air in that place is, or may have been, substantially reduced below the normal proportion; or
- (b) there exists, or is likely to exist, any fume, gas, vapour, dust or other impurity in the air that may be injurious to health.

(3) All practicable measures shall be taken to protect a person who is in a place mentioned in subsection (1) against inhalation of any fume, gas, vapour, dust and other impurity in the air that may be injurious to health.

(4) If there is a contravention of subsection (1) or (3), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

(5) Where the employer is not the person in charge of works, if there is a contravention of subsection (1) or (3), the employer shall make the arrangements required by subsection (1), or take the measures required by subsection (3), as the case may be, as soon as reasonably practicable after the contravention occurs.

(6) An employer who fails to comply with subsection (5) commits an offence and is liable on conviction to a fine at level 3.

11. Gear for lifting beams

(1) Where works are to be, or are being, carried out on, to or by means of a vessel, each beam used for hatch covering in respect of the vessel shall have suitable gear for lifting it on and off so that it is not necessary for a person to go on the beam to adjust the gear.

(2) If there is a contravention of subsection (1), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

12. Marking on hatch coverings and beams

(1) Where works are to be, or are being, carried out on, to or by means of a vessel, each hatch covering of the vessel shall be plainly marked to indicate—

- (a) the deck to which it belongs;
- (b) the hatch to which it belongs; and
- (c) its position in the hatch.

(2) Where works are to be, or are being, carried out on, to or by means of a vessel, each beam used for hatch covering in respect of the vessel shall be plainly marked to indicate—

- (a) the deck to which it belongs;
- (b) the hatch to which it belongs; and
- (c) its position in the hatch.

(3) If there is a contravention of subsection (1) or (2), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

(4) Subsection (1)(a) does not apply if—

- (a) the vessel has only one deck; or
- (b) all hatch coverings of the vessel are interchangeable.

(5) Subsection (1)(b) does not apply if—

- (a) the vessel has only one hatch; or
- (b) all hatch coverings of the vessel are interchangeable.

(6) Subsection (1)(c) does not apply if—

- (a) the vessel has only one hatch covering; or
- (b) all hatch coverings of the vessel are interchangeable.

(7) Notwithstanding subsection (6), subsection (1)(c) does not apply to any hatch covering in respect of a particular hatch of the vessel if—

- (a) there is only one hatch covering in respect of that particular hatch; or
- (b) all hatch coverings in respect of that particular hatch are interchangeable.

(8) Subsection (2)(a) does not apply if—

- (a) the vessel has only one deck; or
- (b) all beams used for hatch coverings in respect of the vessel are interchangeable.

(9) Subsection (2)(b) does not apply if—

- (a) the vessel has only one hatch; or
- (b) all beams used for hatch coverings in respect of the vessel are interchangeable.

(10) Subsection (2)(c) does not apply if—

- (a) the vessel has only one beam used for hatch covering; or
- (b) all beams used for hatch coverings in respect of the vessel are interchangeable.

(11) Notwithstanding subsection (10), subsection (2)(c) does not apply to any beam used for hatch covering in respect of a particular hatch of the vessel if—

- (a) there is only one beam used for hatch covering in respect of that particular hatch; or
- (b) all beams used for hatch coverings in respect of that particular hatch are interchangeable.

13. Maintenance of hatch coverings and beams

(1) Where works are to be, or are being, carried out on, to or by means of a vessel, all hatch coverings, and all beams used for hatch coverings, of the vessel shall be maintained in good condition.

(2) If there is a contravention of subsection (1), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

14. Hand grips on hatch coverings

(1) Where works are to be, or are being, carried out on, to or by means of a vessel, all hatch coverings of the vessel shall be provided with adequate hand grips.

(2) For the purposes of subsection (1), in determining whether adequate hand grips are provided, regard shall be had to the size and weight of the hatch coverings.

(3) If there is a contravention of subsection (1), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

(4) This section does not apply to a hatch covering if the construction of the hatch or the hatch covering is such that provision of hand grips is unnecessary.

15. Locking devices on hatch coverings and beams

(1) Where works are to be, or are being, carried out on, to or by means of a vessel—

- (a) all hatch coverings of the vessel which are of a type that does not require beams for support; and
 - (b) all beams used for hatch coverings in respect of the vessel,
- shall be fitted with adequate locking devices to prevent their displacement by a passing load or in any other circumstances.

(2) If there is a contravention of subsection (1), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

16. Safety in removing and replacing hatch coverings and beams

(1) If the working space around a hatch of a vessel is less than 600 mm wide, such arrangements shall be made as to enable a person employed to remove and replace in safety any hatch covering and beam used for hatch covering.

(2) If there is a contravention of subsection (1), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

17. Power operated hatch coverings and hull doors, etc.

(1) Where works are to be, or are being, carried out on, to or by means of a vessel, no power operated hatch covering of the vessel shall be opened, closed or otherwise operated—

(a) by a person other than a competent person; or

(b) in a manner that may cause injury to any person.

(2) Where works are to be, or are being, carried out on, to or by means of a vessel, no power operated door in the hull, ramp, retractable deck or similar ship's equipment of the vessel shall be opened, closed or otherwise operated—

(a) by a person other than a competent person; or

(b) in a manner that may cause injury to any person.

(3) If there is a contravention of subsection (1) or (2), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

PART 3

OCCUPATIONAL SAFETY

18. Works to be supervised by works supervisors

(1) No works shall be carried out on, to or by means of a vessel unless the works are carried out under the supervision of at least one works supervisor.

(2) If there is a contravention of subsection (1), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

19. Appointment of works supervisors

(1) For the purposes of supervising works carried out on, to or by means of a vessel, a person in charge of works may, subject to subsection (2), appoint a person as a works supervisor.

(2) An appointment made under subsection (1) is not valid unless—

(a) it is in writing; and

(b) the person appointed is a person who—

(i) has attained the age of 18 years;

(ii) has at least 2 years practical experience in relevant works on any vessel; and

(iii) holds—

(A) a valid certificate in respect of the relevant safety training course; or

(B) such other certificate relating to safety training recognized by the Director.

20. Duties of works supervisors

(1) A works supervisor shall—

(a) supervise works carried out on, to or by means of a vessel in accordance with the safety instructions given by a person in charge of works;

(b) assist a person in charge of works in performing any duties imposed on that person under this Regulation;

(c) carry with him while at work a certificate referred to in section 19(2)(b)(iii); and

(d) produce the certificate to an inspector for inspection on demand.

(2) A person who, without reasonable excuse, fails to comply with subsection (1)(a) or (b) commits an offence and is liable on conviction to a fine at level 3.

(3) A person who, without reasonable excuse, fails to comply with subsection (1)(c) or (d) commits an offence and is liable on conviction to a fine at level 2.

21. Safety helmets, etc.

(1) A person employed shall be provided with an appropriate safety helmet and, so far as reasonably practicable, other protective clothing and equipment that are appropriate to prevent bodily injury to that person.

(2) Reasonable measures shall be taken to ensure that a person employed does not remain on the vessel when works are being carried out unless he is—

- (a) wearing an appropriate safety helmet; and
- (b) if any other protective clothing and equipment are provided under subsection (1), using those other clothing and equipment.

(3) If there is a contravention of subsection (1) or (2), the person in charge of works and the employer commit an offence and each is liable on conviction to a fine at level 3.

(4) In this section, “protective clothing and equipment” (防護衣物及裝備) includes safety goggles, ear protectors (which include ear-muffs and ear plugs), safety shoes, safety harness, respirators, buoyancy aids and other body protection.

22. Provision of first aid box

(1) Where works are to be, or are being, carried out on, to or by means of a vessel, there shall be a first aid box that—

- (a) is of adequate capacity; and
- (b) contains such items as are specified in Schedule 2.

(2) The items required to be contained in a first aid box under subsection (1)(b) shall be maintained in good condition at all times.

(3) The first aid box shall be kept in such place and maintained in such a way as to be readily accessible.

(4) If there is a contravention of subsection (1), (2) or (3), the person in charge of works and the employer of a person employed to carry out the works commit an offence and each is liable on conviction to a fine at level 3.

23. General duties of persons in charge of works and employers

(1) Any machinery, equipment or appliance provided for use by a person employed in relation to works shall be in a safe working condition.

(2) Measures shall, in so far as reasonably practicable, be taken to ensure the safety of a person employed at work.

(3) There shall be provided such information, instruction, training or supervision as may be necessary to ensure, in so far as reasonably practicable, the safety of a person employed at work.

(4) If there is a contravention of subsection (1), (2) or (3), the person in charge of works and the employer commit an offence and each is liable on conviction to a fine at level 4.

(5) In this section, “machinery, equipment or appliance” (機械、裝備或裝置) has the same meaning as in section 36 of the Ordinance.

24. Persons employed to take care of others while at work and to cooperate with works supervisors

- (1) A person employed at work shall—
- (a) take reasonable care for the safety of himself and of other persons who may be affected by his act or omission; and
 - (b) wear an appropriate safety helmet and use other appropriate protective clothing and equipment provided to him under section 21.

(2) A person employed at work shall cooperate with or assist a works supervisor to the extent necessary for enabling the works supervisor to perform the duty imposed on him under section 20(1)(a) or (b).

(3) A person who fails to comply with subsection (1) or (2) commits an offence and is liable on conviction to a fine at level 2.

PART 4

LIFTING APPLIANCES AND LIFTING GEAR

25. Interpretation of Part 4

- (1) In this Part—

“owner” (擁有人), in relation to a lifting appliance or lifting gear, includes—

- (a) the lessee or hirer of the lifting appliance or lifting gear; and
- (b) a foreman, an overseer or any other person in charge or having the control or management of the lifting appliance or lifting gear;

“relevant local vessels regulation” (有關本地船隻規例) means any regulation that may be made from time to time under section 89 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) providing for, amongst other things, the control and use of lifting appliances and lifting gear.

(2) A reference in any provision of this Part to a regulation of the Shipping and Port Control (Cargo Handling) Regulations (Cap. 313 sub. leg. B) is a reference to that regulation in the Shipping and Port Control (Cargo Handling) Regulations (Cap. 313 sub. leg. B) which was in force before the commencement of that provision.

26. General safety requirements regarding lifting appliances

- (1) No lifting appliance shall be used unless—

- (a) the lifting appliance is of good mechanical construction and design, made of strong and sound materials and free from any patent defect;
- (b) the lifting appliance is properly maintained in a safe working condition and properly installed and rigged for use in a safe and proper manner;
- (c) the arrangements for fixing and anchoring the lifting appliance are adequate to secure its safety; and
- (d) (if the lifting appliance is a derrick) adequate measures are taken to prevent the foot of the derrick being accidentally lifted out of its socket or support.

(2) If there is a contravention of subsection (1), the owner of the lifting appliance and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

27. General safety requirements regarding lifting gear

- (1) No lifting gear shall be used unless—
 - (a) the lifting gear is of good mechanical construction and design, made of strong and sound materials and free from any patent defect; and
 - (b) the lifting gear is properly maintained in a safe working condition and properly installed and rigged for use in a safe and proper manner.

(2) If there is a contravention of subsection (1), the owner of the lifting gear and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

28. Safety requirements regarding certain lifting gear—ropes in general

(1) No rope shall be used as lifting gear unless it is of suitable quality and free from any patent defect.

(2) If there is a contravention of subsection (1), the owner of the lifting gear and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

29. Restrictions on using certain lifting gear

(1) No lifting gear made of wrought iron or having any part made of wrought iron shall be used.

(2) No heat treatment shall be applied to lifting gear made of steel or having any part made of steel unless the treatment is carried out under the supervision of a competent person and as required by him.

(3) If there is a contravention of subsection (1) or (2), the owner of the lifting gear and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

30. Testing and examination of lifting appliances

(1) A lifting appliance shall not be taken into use if it has not been duly tested and examined.

(2) A lifting appliance that has been taken into use shall not be used again if it has not been duly tested and examined, within the preceding 5 years.

(3) A lifting appliance of which any stress-bearing part has been substantially altered or repaired shall not be used if the lifting appliance has not been duly tested and examined after the alteration or repair.

(4) If there is a contravention of subsection (1), (2) or (3), the owner of the lifting appliance and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

(5) For the purposes of subsections (1), (2) and (3), a lifting appliance has been duly tested and examined if—

- (a) it has been tested and examined by a competent examiner in the manner prescribed in Schedule 1;
- (b) it has been tested and examined in accordance with the relevant local vessels regulation; or
- (c) it has been tested and examined in compliance with regulation 20(1) of the Shipping and Port Control (Cargo Handling) Regulations (Cap. 313 sub. leg. B).

31. Thorough examination of lifting appliances

(1) A lifting appliance that has been taken into use shall not be used again if it has not been thoroughly examined by a competent examiner, within the preceding 12 months.

(2) If there is a contravention of subsection (1), the owner of the lifting appliance and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

(3) Subsection (1) does not apply if—

- (a) the lifting appliance has been duly tested and examined in compliance with section 30, within the preceding 12 months;
- (b) the lifting appliance has been thoroughly examined in compliance with the relevant local vessels regulation, within the preceding 12 months; or

- (c) the lifting appliance has been inspected or examined in compliance with regulation 20(2)(a) or (b) of the Shipping and Port Control (Cargo Handling) Regulations (Cap. 313 sub. leg. B), within the preceding 12 months.

32. Testing and examination of certain lifting gear

(1) A chain, wire rope sling, ring, hook, shackle, swivel or pulley block shall not be used as lifting gear if it has not been duly tested and examined.

(2) A chain, ring, hook, shackle or swivel, which has been lengthened, altered or repaired by welding, shall not be used as lifting gear if it has not been duly tested and examined after it has been so lengthened, altered or repaired, as the case may be.

(3) If there is a contravention of subsection (1) or (2), the owner of the lifting gear and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

(4) For the purposes of subsection (1), a chain, wire rope sling, ring, hook, shackle, swivel or pulley block has been duly tested and examined if—

- (a) it has been tested and examined by a competent examiner in the manner prescribed in Schedule 1;
- (b) it has been tested and examined in accordance with the relevant local vessels regulation; or
- (c) it has been tested and examined in compliance with regulation 21(1) of the Shipping and Port Control (Cargo Handling) Regulations (Cap. 313 sub. leg. B).

33. Thorough examination of certain lifting gear

(1) A chain, wire rope sling, ring, hook, shackle, swivel or pulley block shall not be used as lifting gear if it has not been thoroughly examined by a competent examiner, within the preceding 12 months.

(2) If there is a contravention of subsection (1), the owner of the lifting gear and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

(3) Subsection (1) does not apply if—

- (a) the chain, wire rope sling, ring, hook, shackle, swivel or pulley block has been duly tested and examined in compliance with section 32, within the preceding 12 months;
- (b) the chain, wire rope sling, ring, hook, shackle, swivel or pulley block has been thoroughly examined in compliance with the relevant local vessels regulation, within the preceding 12 months; or

- (c) the chain, wire rope sling, ring, hook, shackle, swivel or pulley block has been examined in compliance with regulation 21(3) of the Shipping and Port Control (Cargo Handling) Regulations (Cap. 313 sub. leg. B), within the preceding 12 months.

34. Inspection of certain lifting gear

(1) A chain, wire rope sling, ring, hook, shackle, swivel or pulley block shall not be used as lifting gear if it has not been inspected by a competent person, within the preceding 3 months.

(2) If there is a contravention of subsection (1), the owner of the lifting gear and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

(3) Subsection (1) does not apply if—

- (a) the chain, wire rope sling, ring, hook, shackle, swivel or pulley block has been duly tested and examined in compliance with section 32, or examined in compliance with section 33, within the preceding 3 months;
- (b) the chain, wire rope sling, ring, hook, shackle, swivel or pulley block has been thoroughly examined or inspected in compliance with the relevant local vessels regulation, within the preceding 3 months; or
- (c) the chain, wire rope sling, ring, hook, shackle, swivel or pulley block has been examined or inspected in compliance with regulation 21(3) of the Shipping and Port Control (Cargo Handling) Regulations (Cap. 313 sub. leg. B), within the preceding 3 months.

35. Testing and examination of other lifting gear—wire ropes

(1) A wire rope shall not be used as lifting gear if it has not been duly tested and examined.

(2) If there is a contravention of subsection (1), the owner of the lifting gear and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

(3) For the purposes of subsection (1), a wire rope has been duly tested and examined if—

- (a) it has been tested and examined by a competent examiner in the manner prescribed in Schedule 1;
- (b) it has been tested and examined in accordance with the relevant local vessels regulation; or

- (c) it has been tested and examined in compliance with regulation 22(1)(b) of the Shipping and Port Control (Cargo Handling) Regulations (Cap. 313 sub. leg. B).

36. Inspection of other lifting gear—wire ropes

(1) A wire rope in which any wire has broken shall not be used as lifting gear if it has not been inspected by a competent person, within the preceding month.

(2) Any other wire rope shall not be used as lifting gear if it has not been inspected by a competent person, within the preceding 3 months.

(3) If there is a contravention of subsection (1) or (2), the owner of the lifting gear and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

(4) Subsection (1) does not apply if—

- (a) the wire rope has been duly tested and examined in compliance with section 35, within the preceding month;
- (b) the wire rope has been inspected in compliance with the relevant local vessels regulation, within the preceding month; or
- (c) the wire rope has been inspected in compliance with regulation 22(2) of the Shipping and Port Control (Cargo Handling) Regulations (Cap. 313 sub. leg. B), within the preceding month.

(5) Subsection (2) does not apply if—

- (a) the wire rope has been duly tested and examined in compliance with section 35, within the preceding 3 months;
- (b) the wire rope has been inspected in compliance with the relevant local vessels regulation, within the preceding 3 months; or
- (c) the wire rope has been inspected in compliance with regulation 22(2) of the Shipping and Port Control (Cargo Handling) Regulations (Cap. 313 sub. leg. B), within the preceding 3 months.

37. Powers of Director and inspector to request lifting appliances or lifting gear to be tested and examined, thoroughly examined or inspected

(1) The Director or an inspector may, if it appears to him to be desirable in the interest of safety of persons employed at work, request a lifting appliance—

- (a) to be tested and examined by a competent examiner in the manner prescribed in Schedule 1 before it is used; or
- (b) to be thoroughly examined by a competent examiner before it is used.

(2) The Director or an inspector may, if it appears to him to be desirable in the interest of safety of persons employed at work, request a chain, wire rope sling, ring, hook, shackle, swivel or pulley block used as lifting gear—

- (a) to be tested and examined by a competent examiner in the manner prescribed in Schedule 1 before it is used;
- (b) to be thoroughly examined by a competent examiner before it is used; or
- (c) to be inspected by a competent person before it is used.

(3) The Director or an inspector may, if it appears to him to be desirable in the interest of safety of persons employed at work, request a wire rope used as lifting gear—

- (a) to be tested and examined by a competent examiner in the manner prescribed in Schedule 1 before it is used; or
- (b) to be inspected by a competent person before it is used.

(4) A request may be made to—

- (a) the owner of the lifting appliance or lifting gear;
- (b) the person in charge of works; or
- (c) both of them.

(5) If the owner of the lifting appliance or lifting gear or the person in charge of works does not comply with a request made to him, he commits an offence and is liable on conviction to a fine at level 3.

38. Other restrictions on use of wire ropes

(1) A wire rope shall not be used as lifting gear if—

- (a) in any length of 8 diameters the total number of visible broken wires exceeds 10% of the total number of wires; or
- (b) the rope shows signs of excessive wear, corrosion or other defect which, in the opinion of the person who inspects it, renders it unfit for use.

(2) Any thimble or loop splice made in a wire rope used as lifting gear shall have at least 3 tucks with a whole strand of the rope and 2 tucks with one half of the wires cut out of each strand, with the strands being tucked against the lay of the rope.

(3) No other form of splice shall be used unless it can be shown that the splice is as efficient as that described in subsection (2).

(4) If there is a contravention of subsection (1), (2) or (3), the owner of the lifting gear and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

39. Certificates to be obtained from competent examiners or competent persons

(1) Where a lifting appliance or lifting gear is tested and examined by a competent examiner in the manner prescribed in Schedule 1, the owner of the lifting appliance or lifting gear and the person in charge of works shall ensure that, before the lifting appliance or lifting gear is used—

- (a) there is obtained, from the competent examiner, a certificate of test and examination in respect of the lifting appliance or lifting gear; and
- (b) the certificate is attached to the register of lifting appliances and lifting gear.

(2) Where a lifting appliance or lifting gear is thoroughly examined by a competent examiner, the owner of the lifting appliance or lifting gear and the person in charge of works shall ensure that, before the lifting appliance or lifting gear is used, there is entered, by the competent examiner, in the register of lifting appliances and lifting gear—

- (a) a certificate of thorough examination in respect of the lifting appliance or lifting gear; and
- (b) all the particulars required to be entered in the register with regard to the examination.

(3) Where any lifting gear is inspected by a competent person, the owner of the lifting gear and the person in charge of works shall ensure that, before the lifting gear is used, there is entered, by the competent person, in the register of lifting appliances and lifting gear—

- (a) a certificate of inspection in respect of the lifting gear; and
- (b) all the particulars required to be entered in the register with regard to the inspection.

(4) A person who fails to comply with subsection (1), (2) or (3) commits an offence and is liable on conviction to a fine at level 3.

40. Keeping of register of lifting appliances and lifting gear

(1) The owner of a lifting appliance or lifting gear and the master of the vessel on which the lifting appliance or lifting gear is used shall ensure that there is kept on the vessel, a register of lifting appliances and lifting gear in the specified form, in respect of the lifting appliance or lifting gear.

(2) A person who, without reasonable excuse, fails to comply with subsection (1) commits an offence and is liable on conviction to a fine at level 2.

41. Markings on certain lifting gear

(1) Subject to subsection (2), every grab, lifting beam, lifting frame, vacuum lifting device or magnetic lifting device, that does not form an integral part of a lifting appliance but is used as lifting gear shall be clearly marked with its own weight.

(2) The markings required to be made under subsection (1) shall be readily legible and done in such a manner that they shall not affect the strength of the lifting appliance or lifting gear.

(3) If there is a contravention of subsection (1) or (2), the owner of the lifting gear and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

42. Safe working load not to be exceeded

(1) No lifting appliance or lifting gear shall be loaded beyond the safe working load applicable to the lifting appliance or lifting gear.

(2) If there is a contravention of subsection (1), the person in charge of works and the operator of the lifting appliance or lifting gear commit an offence and each is liable on conviction to a fine at level 3.

(3) For the purposes of this section, where any lifting gear is loaded by means of a lifting appliance, the person who operates the lifting appliance is the operator of the lifting gear.

(4) This section does not apply where a lifting appliance or lifting gear is being tested and examined.

43. Safe working loads of pulley blocks

(1) No pulley block shall be used as lifting gear unless the safe working load is clearly stamped on it.

(2) If there is a contravention of subsection (1), the owner of the lifting gear and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

44. Safe working loads of cranes and slings, etc.

(1) Every crane or derrick used as a lifting appliance shall have the safe working load prominently marked on it.

(2) Every chain used as lifting gear shall be marked with the safe working load in plain figures or letters on it or on a tablet or ring of durable material attached securely to it.

(3) Where a wire rope sling of any size is used as lifting gear—

- (a) the wire rope sling shall be marked with the safe working load in plain figures or letters on it or on a tablet or ring of durable material attached securely to it; or
- (b) there shall be a notice which—
 - (i) states clearly the safe working load of a wire rope sling of that size when used as lifting gear; and
 - (ii) is exhibited in such a manner as to be easily read by a person employed.

(4) Means shall be provided to enable a person using a chain or wire rope sling as lifting gear to ascertain the safe working load of the chain or sling under such conditions as it may be used.

(5) If there is a contravention of subsection (1), the owner of the lifting appliance and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

(6) If there is a contravention of subsection (2), (3) or (4), the owner of the lifting gear and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

45. Qualified persons to be in charge of lifting appliances

(1) No load shall be left suspended from a lifting appliance unless there is a qualified person in charge of the lifting appliance while the load is so left.

(2) In relation to a lifting appliance which is a crane, a qualified person is a person who—

- (a) has attained the age of 18 years;
- (b) holds—
 - (i) a valid certificate in respect of the relevant safety training course; or
 - (ii) such other certificate relating to safety training recognized by the Director; and
- (c) by virtue of his experience, is competent to operate a crane.

(3) In relation to any other lifting appliance, a qualified person is a person who—

- (a) has attained the age of 18 years; and
- (b) is trained and competent to operate the lifting appliance.

(4) If there is a contravention of subsection (1), the owner of the lifting appliance and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

46. Shortening of chains and their protection

(1) Chains used as lifting gear shall not be shortened by tying knots in them.

(2) Suitable packing shall be provided to prevent the links of such chains coming into contact with sharp edges of loads of hard material.

(3) If there is a contravention of subsection (1) or (2), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

47. Fencing of motors, etc.

(1) Any motor, cog-wheel, chain gearing, friction gearing, shafting, live electric conductor or steam pipe, when used as a component of a lifting appliance, shall, in so far as reasonably practicable, be securely fenced without impeding the safe working of the vessel.

(2) If there is a contravention of subsection (1), the owner of the lifting appliance and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

(3) This section does not apply to any motor, cog-wheel, chain gearing, friction gearing, shafting, live electric conductor or steam pipe if it can be shown that by its position and construction, it is equally safe to a person employed as it would be if securely fenced.

48. Safeguards on cranes, etc.

(1) Any crane or winch used as a lifting appliance shall be provided with such means as will reduce to a minimum the risk of the accidental descent of a load while being hoisted or lowered.

(2) If there is a contravention of subsection (1), the owner of the lifting appliance and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

49. Operator's platform on cranes

(1) The operator's platform on every crane used as a lifting appliance and driven by mechanical power shall be securely fenced and provided with safe means of access, and where access is afforded by ladder—

(a) the sides of the ladder shall extend to a reasonable distance beyond the platform or some other suitable handholds shall be provided;

(b) the landing place on the platform shall be maintained free from obstruction; and

(c) if the ladder is vertical and exceeds 9 m in height, a resting place shall be provided approximately midway between the platform and the foot of the ladder.

(2) If there is a contravention of subsection (1), the owner of the lifting appliance and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

50. Operators of cranes and other lifting appliances, etc.

(1) No crane shall be used as a lifting appliance unless the crane is operated by a person who—

(a) has attained the age of 18 years;

(b) holds—

(i) a valid certificate in respect of the relevant safety training course; or

(ii) such other certificate relating to safety training recognized by the Director; and

(c) by virtue of his experience, is competent to operate a crane.

(2) A person who operates a crane for the purposes mentioned in subsection (1) shall—

(a) carry with him while at work a certificate referred to in subsection (1)(b); and

(b) produce the certificate to an inspector for inspection on demand.

(3) No other lifting appliance shall be used unless the lifting appliance is operated by a person who—

(a) has attained the age of 18 years; and

(b) is trained and competent to operate the lifting appliance.

(4) A person shall not be permitted or required to attend to falls on winch ends or winch drums unless the person—

(a) has attained the age of 18 years; and

(b) is competent and reliable.

(5) If there is a contravention of subsection (1) or (3), the owner of the lifting appliance and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

(6) A person who, without reasonable excuse, fails to comply with subsection (2)(a) or (b) commits an offence and is liable on conviction to a fine at level 2.

(7) If any permission is given or requirement is made in contravention of subsection (4), the person in charge of works or, if the winch concerned is used as a lifting appliance, the owner of the lifting appliance, who gives the permission or makes the requirement commits an offence and is liable on conviction to a fine at level 3.

(8) Subsection (1)(b) and (c) does not apply if a person undergoing training as an operator of a crane operates the crane under the supervision of another person who meets the requirements in subsection (1)(a), (b) and (c).

(9) Subsection (3)(b) does not apply if a person undergoing training as an operator of the lifting appliance operates the lifting appliance under the supervision of another person who meets the requirements in subsection (3)(a) and (b).

(10) Subsection (4)(b) does not apply if the person attends to falls on winch ends or winch drums under the supervision of another person who meets the requirements in subsection (4)(a) and (b).

51. Measures regarding steam

(1) Adequate measures shall be taken to prevent exhaust steam, from a crane or winch used as a lifting appliance, from obscuring any part of a workplace.

(2) Adequate measures shall be taken to prevent, to the extent that it is reasonably practicable, live steam supplied to a crane or winch used as a lifting appliance from obscuring any part of a workplace.

(3) If there is a contravention of subsection (1) or (2), the owner of the lifting appliance and the person in charge of works commit an offence and each is liable on conviction to a fine at level 3.

52. Prohibition on use of lifting appliances or lifting gear which does not comply with this Part

(1) An employer shall not permit or require a person employed to use a lifting appliance or lifting gear which does not comply with this Part.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 3.

PART 5

CARGO HANDLING

53. Persons carrying out cargo handling are to hold certificates

(1) No cargo handling shall be carried out by a person unless that person holds a valid certificate in respect of the relevant safety training course or such other certificate relating to safety training recognized by the Director.

- (2) A person who carries out cargo handling shall—
- (a) carry with him while at work a certificate referred to in subsection (1); and
 - (b) produce the certificate to an inspector for inspection on demand.
- (3) If there is a contravention of subsection (1), the person in charge of works and, if the person who carries out the cargo handling is a person employed, the employer commit an offence and each is liable on conviction to a fine at level 3.
- (4) A person who, without reasonable excuse, fails to comply with subsection (2)(a) or (b) commits an offence and is liable on conviction to a fine at level 2.

54. Means of escape of persons employed

- (1) Necessary and effective precautions shall be taken to facilitate the escape of a person employed dealing with bulk cargo in a hold or on 'tween decks of a vessel.
- (2) If there is a contravention of subsection (1), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

55. Deck stages or cargo stages

- (1) No deck stage or cargo stage shall be used in cargo handling unless it is substantially and firmly constructed, adequately supported and, where necessary, securely fastened.
- (2) No truck shall be used for carrying cargo between a vessel and the shore on a stage so steep as to be unsafe.
- (3) Any deck stage or cargo stage that is slippery shall be made safe by the use of sand or otherwise.
- (4) If there is a contravention of subsection (1), (2) or (3), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

56. Requirements relating to fencing of hatches and hatch coverings

- (1) Where a person employed is on a vessel for the purposes of cargo handling, every hatchway of a cargo hold accessible to such a person shall, when not in use for the passage of goods or other material, or for trimming, be securely fenced to a height of 900 mm or be securely covered unless the hatchway—
- (a) is 1.5 m or less in depth from the level of the deck to the bottom of the hold; or
 - (b) is protected to a clear height of 750 mm by the coamings.

(2) Fencing as required under subsection (1) shall be provided when necessary to protect all other openings in a deck which might be dangerous to the person employed.

(3) Hatch coverings shall not be used on a vessel in the construction of deck stages or cargo stages, or for any other purpose which may expose the hatch coverings to damage.

(4) Hatch coverings shall be replaced on the hatches of a vessel in the positions indicated by the markings made on them pursuant to section 12.

(5) If there is a contravention of subsection (1), (2), (3) or (4), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

57. Loading or unloading by falls or slings

(1) No cargo shall be loaded or unloaded by a fall or sling at any intermediate deck of a vessel unless—

(a) the hatch at that deck is securely covered; or

(b) a secure landing platform of a width not less than that of one section of hatch coverings has been placed across it, and the hatch has been safely fenced or protected by a safety net.

(2) If there is a contravention of subsection (1), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

(3) This section does not apply to a process of unloading that is completed within half an hour.

58. Use of hooks

(1) No hook shall be made fast in the bands or fastenings of bales of cotton, wool, cork, gunny bags, or other similar goods for the purposes of cargo handling.

(2) No can-hook shall be used for hoisting or lowering a barrel that is a cargo when, owing to the construction or condition of the hook or of the barrel, its use is likely to be unsafe.

(3) If there is a contravention of subsection (1) or (2), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

(4) This section does not apply to breaking out or making up slings.

59. Provision of staging

(1) When cargo handling work is proceeding on any skeleton deck of a vessel, adequate staging shall be provided unless the space beneath the deck is filled with cargo to within a distance of 600 mm of such deck.

- (2) If there is a contravention of subsection (1)—
 - (a) the person in charge of works commits an offence; and
 - (b) if a person employed is involved in the work, both the person in charge of works and the employer commit an offence.
- (3) A person in charge of works or an employer who commits an offence under subsection (2) is liable on conviction to a fine at level 3.

60. Safe means of access to and safe working on container top, etc.

- (1) If a person employed has to carry out cargo handling on the top of a stack of containers on a vessel, there shall be provided safe means of access to and from the top of the stack for use by that person.
- (2) Reasonable measures shall be taken to ensure that a person employed does not work on the top of a container unless adequate precautions have been taken to prevent such a person from falling from the container.
- (3) If there is a contravention of subsection (1) or (2), the person in charge of works and the employer commit an offence and each is liable on conviction to a fine at level 3.

61. Securing of beams

- (1) A beam of any hatch of a vessel in use for cargo handling shall not be left in place unless the hatch opening is of such a size as to permit loading or unloading to be carried out without danger to a person in the hold or space because of the load striking against the beam.
- (2) A beam of any hatch of a vessel in use for cargo handling shall, if not removed, be properly secured to prevent its displacement.
- (3) If there is a contravention of subsection (1) or (2), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

62. Employment of signallers

- (1) Where any cargo is being loaded or unloaded by a fall at a hatchway of a vessel, the person in charge of works shall employ a signaller to attend the fall, and where more than one fall is being worked at the hatchway, he shall employ a separate signaller to attend each fall.
- (2) For the purposes of this section, a person is not eligible to be employed as a signaller unless he—
 - (a) has attained the age of 18 years; and
 - (b) is competent and reliable.

(3) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 3.

(4) This section does not apply in cases where a barge, lighter or other similar vessel is being loaded or unloaded, if the operator of the lifting appliance working the fall has a clear and unrestricted view of both of the holds where work is being carried out.

63. Shoring

(1) Where stacking, unstacking, stowing or unstowing of cargo or handling in connection with such cannot be safely carried out unaided, reasonable measures to guard against accident shall be taken by shoring or otherwise.

(2) If there is a contravention of subsection (1), the person in charge of works commits an offence and is liable on conviction to a fine at level 3.

PART 6

MISCELLANEOUS PROHIBITIONS

64. Unauthorized removal of fencing, etc.

(1) No person shall, unless in the case of necessity or with reasonable excuse, remove or interfere with any fencing, gangway, gear, ladder, hatch covering, mark, stage or other thing required by this Regulation to be provided.

(2) If any thing specified in subsection (1) is removed because of necessity or with reasonable excuse, it shall be restored, as soon as practicable after its removal, by the person last engaged in the work that necessitated or led to the removal.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine at level 3.

65. Safe means of access to be used

(1) No person employed shall use means of access other than those provided in accordance with sections 4, 5, 6, 7, 49 and 60.

(2) No person shall permit or require any other person to use means of access other than those provided in accordance with sections 4, 5, 6, 7, 49 and 60.

(3) A person who, without reasonable excuse, contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine at level 3.

66. Prohibition on going on beams

(1) No person shall, on a vessel, go on a beam used for hatch covering for the purposes of adjusting the gear for lifting it on and off, or for any other purposes of cargo handling.

(2) No person shall permit or require any other person to do the act prohibited under subsection (1).

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine at level 3.

PART 7**GENERAL AND MISCELLANEOUS PROVISIONS****67. Duty to report certain incidents by person in charge of works**

(1) Where—

(a) a person is seriously injured or killed in the course of works or in an incident arising out of works;

(b) a crane, winch, hoist, derrick or other appliance collapses or fails (other than breakage of a chain or rope sling) in the course of works or in an incident arising out of works; or

(c) a person, cargo or equipment is lost overboard from a vessel in the course of works or in an incident arising out of works,

the person in charge of works shall take the action described in subsection (2).

(2) The person in charge of works shall—

(a) immediately report the occurrence to the Director orally, by means of signals, or in writing; and

(b) furnish to the Director in writing with full particulars of the occurrence within 24 hours after the occurrence.

(3) For the purposes of subsection (1)(a), a person is regarded as being seriously injured if the nature of the injury is such that it requires admission to a hospital for observation or treatment immediately after the injury is sustained.

(4) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 3.

68. Duty to maintain records of persons employed

(1) A person in charge of works and the employer shall ensure that there is maintained a record that contains—

- (a) the name and address of every person employed;
- (b) the number of the identity card of each such person, or, where a person employed does not hold an identity card, the number of any other proof of identity of the person;
- (c) if the proof of identity held by the person employed is issued in a place outside Hong Kong, the name of the issuing country; and
- (d) the particulars of the certificate held by the person employed in respect of the relevant safety training course.

(2) A person who fails to comply with subsection (1) commits an offence and is liable on conviction to a fine at level 3.

(3) In this section—

“identity card” (身分證) has the meaning assigned to it by section 1A(1) of the Registration of Persons Ordinance (Cap. 177);

“proof of identity” (身分證明文件) has the meaning assigned to it by section 17B(1) of the Immigration Ordinance (Cap. 115).

69. Director to approve provision of safety training courses

(1) For the purposes of this Regulation, the Director may, on written application being made to him, by notice in writing approve any person to provide a safety training course and issue a certificate to any person who attends the course.

(2) If the Director decides to refuse an application for approval under subsection (1), he shall notify the applicant in writing of his decision and state the reasons for his decision.

70. Director's power to grant exemptions

(1) If, in relation to a particular lifting appliance or lifting gear, the Director is satisfied that—

- (a) a test, examination or inspection of the lifting appliance or lifting gear has been carried out in accordance with the law of a place outside Hong Kong;
- (b) there is a certificate or record relating to the test, examination or inspection; and
- (c) the test, examination or inspection and the certificate or record are substantially in compliance with the provisions of this Regulation in that respect,

he may, on written application being made to him or on his own initiative, by notice in writing grant an exemption in respect of those provisions.

(2) If, having considered the particular circumstances of a case, the Director is satisfied that the requirement as to testing and examination under subsection (1) or (2) of section 32 is not necessary for the protection of persons employed owing to the size, design, material or infrequency of use of any gear or particular class of gear specified in the subsection, he may, on written application being made to him or on his own initiative, by notice in writing grant an exemption in respect of the subsection.

(3) If, having considered the particular circumstances of a case, the Director is satisfied that the arrangement made or measure taken to ensure the safety of persons employed is substantially in compliance with the provisions of this Regulation in that respect, he may, on written application being made to him or on his own initiative, by notice in writing grant an exemption in respect of those provisions.

(4) If the Director decides to refuse an application for exemption under subsection (1), (2) or (3), he shall notify the applicant in writing of his decision and state the reasons for his decision.

71. Forms

For the purposes of this Regulation, the Director may specify such forms as he thinks fit.

72. Director's power to amend Schedules

The Director may, by notice published in the Gazette, amend Schedules 1, 2 and 3.

SCHEDULE 1

[ss. 2, 30, 32, 35, 37,
39 & 72]

PROCEDURE FOR TESTING AND EXAMINING LIFTING APPLIANCES AND LIFTING GEAR

1. (1) Every winch, together with its accessories (including any derrick, gooseneck, eye-plate, eyebolt or other attachments), shall be tested with a proof load which shall exceed the safe working load as follows—

- (a) if the safe working load is less than 20 t, the proof load shall exceed the safe working load by at least 25%;
- (b) if the safe working load is 20 t or more but not more than 50 t, the proof load shall exceed the safe working load by at least 5 t;
- (c) if the safe working load is more than 50 t, the proof load shall exceed the safe working load by at least 10%.

(2) The proof load shall be applied by hoisting movable weights, or by means of a spring or hydraulic balance or a similar appliance, with the derrick at an angle to the horizontal which shall be specified in the certificate of the test.

(3) If the proof load is applied by hoisting movable weights, after the weights have been hoisted, the derrick shall be swung to the extremity of its working arc.

(4) If the proof load is applied by means of a spring or hydraulic balance or a similar appliance—

- (a) the derrick shall be swung, first in one direction and then in the other direction, to the extremity of its working arc; and
- (b) the proof load shall be applied each time after the derrick has been swung.

2. (1) Every crane and every other lifting appliance, together with its accessories, other than a lifting appliance referred to in section 1, shall be tested with a proof load which shall exceed the safe working load as follows—

- (a) if the safe working load is less than 20 t, the proof load shall exceed the safe working load by at least 25%;
- (b) if the safe working load is 20 t or more but not more than 50 t, the proof load shall exceed the safe working load by at least 5 t;
- (c) if the safe working load is more than 50 t, the proof load shall exceed the safe working load by at least 10%.

(2) The proof load shall be hoisted and then swung in so far as practicable first in one direction and then in the other direction.

(3) Where a crane with a jib which has a variable vertical operating radius is to be tested, the test shall be carried out by applying a proof load in accordance with subsection (1) at both the maximum radius and the minimum radius of the jib.

(4) Where in testing a hydraulic crane or hoist it is, because of the limitation of pressure, impossible to hoist a load which exceeds the safe working load by 25%, it is sufficient compliance with this section if the crane or hoist has the greatest possible load applied to it.

3. Every item of lifting gear (whether an accessory to any lifting appliance or not) shall be tested with a proof load in accordance with the following provisions—

- (a) if the item is a chain, wire rope sling, ring, hook, shackle or swivel, the proof load shall be at least twice the safe working load;
- (b) if the item is a single sheave pulley block or if a shackle is attached thereto, the proof load shall be at least 4 times the safe working load;

- (c) if the item is a multiple sheave pulley block with a safe working load of not more than 20 t, the proof load shall be at least twice the safe working load;
 - (d) if the item is a multiple sheave pulley block with a safe working load of more than 20 t but not more than 40 t, the proof load shall exceed the safe working load by at least 20 t;
 - (e) if the item is a multiple sheave pulley block with a safe working load of more than 40 t, the proof load shall be at least $1\frac{1}{2}$ times the safe working load.
4. After being tested in accordance with section 1, 2 or 3, the lifting appliance (including its accessories) or lifting gear shall be examined so as to ensure that no part of it has been damaged during the test.
5. For the purposes of carrying out the examinations of a pulley block, the sheaves and pins of the block shall be removed.
6. Where any wire rope is tested, a sample of the rope shall be tested to destruction, and the safe working load shall not exceed 20% of the breaking load of the sample tested.

SCHEDULE 2

[ss. 22 & 72]

FIRST AID ITEMS TO BE CONTAINED IN FIRST AID BOX

1. A sufficient number (not less than 12) of small-sized sterilized unmedicated dressings for injured fingers.
2. A sufficient number (not less than 6) of medium-sized sterilized unmedicated dressings for injured hands or feet.
3. A sufficient number (not less than 24) of adhesive wound dressings of assorted sizes.
4. A sufficient number (not less than 4) of triangular bandages of unbleached calico, the longest side of which measures not less than 1.3 m and each of the other sides not less than 900 mm.
5. A sufficient supply (not less than 1 roll of 25 mm by 4.5 m zinc oxide plaster) of adhesive plaster.

6. A sufficient number (not less than 6) of 30 g packets of absorbent cotton wool.
7. A pressure bandage.
8. Safety pins.

SCHEDULE 3

[ss. 2 & 72]

DISCIPLINES OF REGISTERED PROFESSIONAL ENGINEERS FOR
COMPETENT EXAMINERS

1. Marine and naval architecture.
2. Mechanical.

LAM Chik-ting, Tony
Clerk to the Executive Council

COUNCIL CHAMBER
4 July 2006

Explanatory Note

The main purpose of this Regulation is to provide for the safety of persons engaged in carrying out works in relation to a vessel. [*Note: The expression “works” is defined in the Shipping and Port Control Ordinance (Cap. 313).*]

2. Part 1 contains preliminary provisions—
 - (a) section 1 provides for the commencement of the Regulation;
 - (b) section 2 defines certain terms used in the Regulation;
 - (c) section 3 deals with the application of the Regulation.
3. Part 2 provides for, amongst other things, safe means of access to or from vessels, and to workplaces on vessels as follows—
 - (a) sections 4 and 6 require that safe means of access to or from a vessel be provided for use by a person employed to carry out works (“person employed”);

- (b) section 5 requires that safe means of access to a workplace be provided and that all breaks, dangerous corners and other dangerous parts of a workplace be securely fenced;
- (c) section 7 requires that where a person employed has to carry out works in a hold of a vessel the depth of which exceeds 1.5 m, safe means of access be provided for use by that person;
- (d) section 8 provides that where works are to be or being carried out in a hold of a vessel, free passage to the means of access from the deck to the hold should be left at the coamings of the vessel;
- (e) sections 9 and 10 require that every workplace and every other part of a vessel used for the purposes of access to the workplace be efficiently lighted and adequately ventilated to protect persons employed against inhalation of fume, gas, vapour, dust or other impurity in the air;
- (f) sections 11 to 17 impose, amongst other things, duties on the person in charge of works to ensure that hatch coverings and beams used for hatch coverings are maintained in good condition and are so constructed that they can be removed and replaced safely. The person in charge of works is also required to take appropriate measures to ensure the safe use of such coverings and beams.

4. Part 3 mainly provides for the duties of works supervisors, employers and persons in charge of works—

- (a) section 18 imposes a duty on the person in charge of works to ensure that no works are to be carried out on, to or by means of a vessel unless the works are carried out under the supervision of at least one works supervisor;
- (b) section 19 provides for the appointment of a works supervisor;
- (c) section 20 imposes duties on a works supervisor to—
 - (i) supervise works carried out on, to or by means of a vessel;
 - (ii) assist a person in charge of works in performing his duties under the Regulation;
 - (iii) carry with him, while at work, a valid certificate in respect of the relevant safety training course issued by a person approved by the Director of Marine (“the Director”) or such other certificate relating to safety training recognized by the Director; and
 - (iv) produce the certificate to an inspector for inspection on demand;

- (d) section 21 imposes duties on the person in charge of works and the employer of a person employed (“employer”) to ensure that the person employed is provided with an appropriate safety helmet and other protective clothing and equipment. Further, the person in charge of works and the employer are required to take reasonable measures to ensure that the person employed does not remain on the vessel unless he is wearing an appropriate safety helmet and using other protective clothing and equipment;
- (e) section 22 imposes duties on the person in charge of works and the employer to ensure that a first aid box is kept and maintained in accordance with that section and Schedule 2;
- (f) section 23 requires the person in charge of works and the employer to ensure that every machinery, equipment and appliance provided for use by a person employed is in a safe working condition, and that necessary information, instruction, training and supervision are provided for the safety of the person employed at work;
- (g) section 24 imposes duties on a person employed at work—
 - (i) to take reasonable care for his safety and the safety of other persons who may be affected by his act or omission;
 - (ii) to wear an appropriate safety helmet and use other appropriate protective clothing and equipment provided to him under section 21; and
 - (iii) to cooperate with or assist a works supervisor to the extent necessary for enabling the works supervisor to perform the duty imposed on him under section 20(1)(a) or (b).

5. Part 4 makes provisions in respect of lifting appliances and lifting gear as follows—

- (a) section 25 defines the term “owner” used in that Part;
- (b) sections 26 and 27 set out general safety requirements for lifting appliances and lifting gear;
- (c) section 28 prohibits the use of any rope as lifting gear unless it is of suitable quality and free from any patent defect;
- (d) section 29 prohibits the use of lifting gear made of wrought iron or having any part made of wrought iron. The provision also prohibits the application of heat treatment to lifting gear which is made of steel or having any part made of steel unless the treatment is carried out under the supervision of a competent person;

- (e) sections 30 to 36 and Schedule 1 provide for the test and examination, thorough examination and inspection of lifting appliances and lifting gear;
- (f) section 37 confers powers on the Director and an inspector to request that a lifting appliance or lifting gear be tested, examined or inspected;
- (g) section 38 imposes restrictions on the use of wire ropes as lifting gear;
- (h) section 39 provides for the obtaining of a certificate of test and examination, a certificate of thorough examination, and a certificate of inspection from competent examiners and competent persons;
- (i) section 40 provides for the keeping of a register of lifting appliances and lifting gear;
- (j) section 41 requires every grab, lifting beam, lifting frame, vacuum lifting device or magnetic lifting device used as lifting gear to be clearly marked with its own weight;
- (k) section 42 prohibits the loading of a lifting appliance or lifting gear beyond the safe working load applicable to that appliance or gear;
- (l) sections 43 and 44 require a crane, derrick, pulley block, chain or wire rope sling used as a lifting appliance or lifting gear to have its safe working load stamped or marked on it in accordance with those provisions;
- (m) section 45 provides that no load shall be left suspended from a lifting appliance unless there is a qualified person in charge of the lifting appliance while the load is so left;
- (n) section 46 provides for the prohibition against shortening of chains used as lifting gear by tying knots in them. That section also requires the provision of suitable packing to prevent the links of such chains coming into contact with sharp edges of loads of hard material;
- (o) section 47 requires that all motors, cog-wheels, chain gearing, friction gearing, shaftings, live electric conductors and steam pipes, when used as components of lifting appliances, be securely fenced;
- (p) section 48 requires that a crane or winch used as a lifting appliance be provided with means that will reduce to a minimum the risk of the accidental descent of a load while being hoisted or lowered;
- (q) section 49 requires the operator's platform on a crane used as a lifting appliance and driven by mechanical power to be securely fenced and provided with safe means of access;

- (r) section 50 prohibits, amongst other things, the use of a crane or other lifting appliance unless it is operated by a person who satisfies the requirements mentioned in that section. (See subsections (1) and (3) of that section.) The provision, however, does not apply in respect of a person who has attained the age of 18 years and satisfies the following criteria—
- (i) in so far as a crane is concerned, that person, while undergoing training as an operator of a crane, is operating the crane under the supervision of another person who meets the requirements in subsection (1) of that section; and
 - (ii) in so far as any other lifting appliance is concerned, that person, while undergoing training as an operator of the lifting appliance, is operating the lifting appliance under the supervision of another person who meets the requirements in subsection (3) of that section.

Subsection (4) of that section prohibits the giving of permission to or requiring any person, other than a person who satisfies the requirements mentioned in subsection (4)(a) and (b), to attend to falls on winch ends or winch drums. The requirement in subsection (4)(b) (the requirement that the person must be competent and reliable), however, does not apply if a person who has attained the age of 18 years attends to falls on winch ends or winch drums under the supervision of another person who meets the requirements in subsection (4)(a) and (b);

- (s) section 51 requires adequate measures to be taken to prevent exhaust steam from and live steam supplied to a crane or winch used as a lifting appliance from obscuring any part of a place in which a person employed carries out works;
- (t) section 52 prohibits an employer from permitting or requiring a person employed to use a lifting appliance or lifting gear which does not comply with that Part.

6. Part 5 provides for safety measures to be taken in respect of cargo handling—

- (a) section 53 prohibits a person from carrying out cargo handling unless the person holds a valid certificate in respect of the relevant safety training course issued by a person approved by the Director or such other certificate relating to safety training recognized by the Director. A person is also required under that section to carry with him while at work, the above-mentioned certificate and produce it to an inspector for inspection on demand;

- (b) section 54 requires necessary and effective precautions to be taken to facilitate the escape of persons employed, dealing with bulk cargo in holds or on 'tween decks of a vessel;
- (c) section 55 prohibits the use of any deck stage or cargo stage in cargo handling unless it is substantially and firmly constructed, adequately supported and, where necessary, securely fastened, and that any deck stage or cargo stage that is slippery shall be made safe by the use of sand or otherwise. That section also prohibits the use of any truck for carrying cargo between a vessel and the shore on a stage so steep as to be unsafe;
- (d) section 56 requires, amongst other things, that every hatchway of a cargo hold accessible to a person employed and all other openings in a deck which might be dangerous to such a person be securely fenced;
- (e) section 57 prohibits the loading or unloading by a fall or sling of any cargo at any intermediate deck of a vessel unless the hatch at that deck is securely covered or a secure landing platform of a width not less than that of one section of hatch coverings has been placed across it and the hatch has been safely fenced or protected by a safety net. That section, however, does not apply to a process of unloading that is completed within half an hour;
- (f) section 58 prohibits the use of hooks in such manner or in such circumstances as specified in that section;
- (g) section 59 provides that when cargo handling work is proceeding on a skeleton deck of a vessel, adequate staging shall be provided unless the space beneath the deck is filled with cargo to within a distance of 600 mm of such deck;
- (h) section 60 requires safe means of access to and from the top of a stack of containers on a vessel to be provided for use by a person employed, and reasonable measures to be taken to ensure that the person does not work on the top of a container unless adequate precautions have been taken to prevent the person from falling from the container;
- (i) section 61 provides that a beam of any hatch of a vessel in use for cargo handling shall not be left in place unless the hatch opening is of such a size as to permit loading or unloading to be carried out without danger to a person in the hold or space because of the load striking against the beam, and that a beam of any hatch in use for cargo handling shall, if not removed, be properly secured to prevent its displacement;

- (j) section 62 provides for the employment of a signaller if any cargo is to be loaded or unloaded by a fall at a hatchway of a vessel;
- (k) section 63 provides that where stacking, unstacking, stowing or unstowing of cargo or handling in connection with such cannot be safely carried out unaided, reasonable measures to guard against accident shall be taken by shoring or otherwise.

7. Part 6 provides for miscellaneous prohibitions. For example—

- (a) section 64 prohibits the removal of or interference with any fencing, gangway, gear, ladder, hatch covering, mark, stage or other thing required by the Regulation to be provided;
- (b) section 65 prohibits the use by a person employed of any means of access other than those provided in accordance with sections 4, 5, 6, 7, 49 and 60;
- (c) section 66 prohibits a person from going on a beam used for hatch covering for the purposes of adjusting the gear for lifting it on and off. It also prohibits a person from permitting or requiring any other person to do such an act.

8. Part 7 provides for other miscellaneous matters like, reporting of the occurrence of certain incidents (section 67), maintenance of records of persons employed (section 68) and empowering the Director to approve any person to provide safety training courses and issue certificates, to exempt a lifting appliance or lifting gear from complying with certain requirements in the Regulation, to specify forms for the purposes of the Regulation and to amend Schedules 1, 2 and 3 (sections 69 to 72).