

Merchant Shipping (Seafarers) (Amendment) Bill 2013

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A BILL

To

Amend the Merchant Shipping (Seafarers) Ordinance to implement certain requirements of the Maritime Labour Convention, 2006; to make technical amendments to improve the operation and presentation of the Ordinance; and to provide for related matters.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Merchant Shipping (Seafarers) (Amendment) Ordinance 2013.
- (2) This Ordinance comes into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette.

2. Enactments amended

- (1) The enactments specified in Parts 2 and 3 are amended as set out in those Parts.

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- (2) The provisions of the Merchant Shipping (Seafarers) Ordinance (Cap. 478) set out in an item in column 1 of Schedules 1 and 2 are amended by repealing the words set out in column 2 of that item and substituting the words set out in column 3 of that item.
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Part 2

Amendments to Merchant Shipping (Seafarers) Ordinance (Cap. 478)

Division 1—Amendments to Provisions on Preliminary Matters

3. Section 2 amended (interpretation)

(1) Section 2(1), English text—

Repeal the definition of *A.B.*

Substitute

“*A.B.* means an able-bodied seaman;”.

(2) Section 2(1), definition of *crew department record*—

(a) **Repeal**

“company”

Substitute

“body”;

(b) **Repeal**

“company’s”

Substitute

“body’s”.

(3) Section 2(1)—

Repeal the definition of *employer*

Substitute

“*employer* (僱主), in relation to a seafarer employed to work on board a ship, means the person identified by name or necessary implication as the employer of the seafarer in the following agreement entered into by the seafarer for working on board the ship—

(a) if the ship is a Hong Kong ship, the crew agreement; or

(b) if the ship is not a Hong Kong ship, any other agreement for employment;”.

- (4) Section 2(1), definition of *employment registration book*—

Repeal

“seafarer’s”

Substitute

“person’s”.

- (5) Section 2(1), definition of *permit*—

Repeal

“to maintain a company roster”

Substitute

“or seafarers’ organization to maintain a roster”.

- (6) Section 2(1), definition of *permitted crew department*—

Repeal

“company”

Substitute

“body”.

- (7) Section 2(1), definition of *registered address*—

Repeal

“seafarer” (wherever appearing)

Substitute

“person”.

- (8) Section 2(1), definition of *registered seafarer*—

Repeal

““registered seafarer” (註冊海員)”

Substitute

“*registered person* (註冊人士)”.

- (9) Section 2(1), Chinese text, definition of 遠洋船舶—

Repeal

“(foreign-going ship)”

Substitute

“(sea-going ship)”.

- (10) Section 2(1)—

- (a) definition of *company roster*;
- (b) definition of *direct trade entrant*;
- (c) definition of *seafarer*;
- (d) Chinese text, definition of 高級水手—

Repeal the definitions.

- (11) Section 2(1)—

Add in alphabetical order

“*permitted body* (核准團體) means any company or seafarers’ organization holding a valid permit;

roster (候船名冊), in relation to a permitted body, means the list of registered persons kept in its permitted crew department under section 64(1);”.

4. Section 2A added

After section 2—

Add

“2A. Who is a seafarer

(1) In this Ordinance—

seafarer (海員) means a person who works on board a ship in any capacity, but does not include a person specified in Schedule 1A.

(2) The Secretary for Transport and Housing may, after consultation with the Advisory Board, by notice published in the Gazette, amend Schedule 1A.”.

Division 2—Amendments to Provisions on Establishment of Seafarers’ Advisory Board

5. Section 6 amended (establishment of Seafarers’ Advisory Board)

(1) Section 6(2), after “advise”—

Add

“the Secretary for Transport and Housing or”.

(2) Section 6(2), after “consulted by”—

Add

“the Secretary or”.

(3) Section 6(9), after “advise”—

Add

“the Secretary for Transport and Housing or”.

(4) Section 6(9), after “consulted by”—

Add

“the Secretary or”.

Division 3—Amendments to Provisions on Registration of Seafarers and Persons Desirous to be Employed as Seafarers

6. Part III heading amended (registration of seafarers)

Part III, heading, after “SEAFARERS”—

Add

“AND PERSONS DESIROUS TO BE EMPLOYED AS SEAFARERS”.

7. Section 7 amended (register of seafarers)

(1) Section 7, heading—

Repeal

“Register of seafarers”

Substitute

“Register of persons employed as seafarers and of persons desirous to be employed as seafarers”.

(2) Section 7(1)—

Repeal

“seafarers”

Substitute

“persons”.

(3) Section 7(1)(a), after “coastal-going ships”—

Add

“as seafarers”.

- (4) Section 7(1)(b), after “coastal-going ships”—

Add

“as seafarers”.

- (5) Section 7(4)(a)—

Repeal

“seafarers”

Substitute

“persons”.

- (6) Section 7(4)(a)(i), after “ships”—

Add

“as seafarers”.

- (7) Section 7(4)(a)(ii), after “ships”—

Add

“as seafarers”.

- (8) Section 7(4)(b)—

Repeal

“seafarers”

Substitute

“persons”.

- (9) Section 7(4)(b)(i), after “ships”—

Add

“as seafarers”.

- (10) Section 7(4)(b)(ii), after “ships”—

Add

“as seafarers”.

- (11) Section 7—

Repeal subsection (5).

8. Section 8 amended (Part I of register)

- (1) Section 8(2)(b)—

Repeal

everything after “17 years”

Substitute a semicolon.

- (2) Section 8(2)(d)(ii)—

Repeal

“or”.

- (3) Section 8(2)(d)(iii)—

Repeal

“and”

Substitute

“or”.

- (4) After section 8(2)(d)(iii)—

Add

“(iv) has been issued with a certificate of qualification as a ship’s cook by the competent authority of a party to the Certification of Ships’ Cooks Convention 1946, or the Maritime Labour Convention, 2006, as amended from time to time; and”.

- (5) Section 8(3)—

Repeal

“of seafarers”

Substitute

“of persons”.

- (6) Section 8(3)—

Repeal

“any seafarer”

Substitute

“any person”.

- (7) Section 8(4)—

Repeal

“seafarers”

Substitute

“persons”.

- (8) Section 8(5)—

Repeal

“seafarers”

Substitute

“persons”.

9. Section 9 amended (Part II of register)

Section 9(2)(b)—

Repeal

everything after “17 years”

Substitute a semicolon.

10. Section 11 repealed (employment of persons who are not seafarers)

Section 11—

Repeal the section.

11. Section 12 substituted

Section 12—

Repeal the section

Substitute

“12. Disqualification for entry of person’s name in register

(1) Subject to the sections specified in subsection (2), a person whose name has been removed from the register under section 28(1) or (2) is not entitled to have the person’s name entered in the register again.

(2) The sections are—

(a) section 15(3);

(b) section 28(5);

(c) section 32(1)(a);

(d) section 36(2) and (3); and

(e) section 38.”.

12. Section 13 amended (particulars to be entered in register)

(1) Section 13(1)—

Repeal

“seafarer” (wherever appearing)

Substitute

“person”.

(2) Section 13(2)—

Repeal

“seafarer’s”

Substitute

“person’s”.

(3) Section 13(2)(a)—

Repeal

“seafarer” (wherever appearing)

Substitute

“person”.

(4) Section 13(2)(b)—

Repeal

“seafarer”

Substitute

“person”.

(5) Section 13(2)—

Repeal paragraph (c)

Substitute

“(c) if the person is employed as a seafarer, the capacity and rank in which the person is so employed;”.

(6) Section 13(2)(d)—

Repeal

“the seafarer”

Substitute

“the person”.

- (7) Section 13(2)(e)—

Repeal

“seafarer” (wherever appearing)

Substitute

“person”.

- (8) Section 13(2)(f), Chinese text—

Repeal

“該海員”

Substitute

“該人”.

13. Section 14 amended (change of seafarer’s rating)

- (1) Section 14, heading—

Repeal

“rating”

Substitute

“rank”.

- (2) Section 14(1)—

Repeal

“rating” (wherever appearing)

Substitute

“rank”.

- (3) Section 14(2)—

Repeal

“rating” (wherever appearing)

Substitute

“rank”.

- (4) Section 14(2), English text—

Repeal

“has been reduced”

Substitute

“has been lowered”.

- (5) Section 14(2), English text—

Repeal

“was reduced”

Substitute

“was lowered”.

- (6) Section 14(3), before “alter”—

Add

“the Superintendent must”.

- (7) Section 14(3)—

Repeal

“rating” (wherever appearing)

Substitute

“rank”.

**Division 4—Amendments to Provisions on Employment
Registration Books**

14. Section 16 amended (seafarer’s employment registration book)

- (1) Section 16, heading—

Repeal

“Seafarer’s employment”

Substitute

“Employment”.

(2) Section 16—

Repeal

“seafarer”

Substitute

“person”.

15. Section 17 amended (regulations in relation to employment registration books)

(1) Section 17(a), English text—

Repeal

“the holders thereof”

Substitute

“their holders”.

(2) Section 17(a)—

Repeal

“seafarers”

Substitute

“registered persons”.

Division 5—Amendments to Provisions on Establishment of Seafarers’ Appeals Board, Disciplinary Inquiries and Appeals

16. Part V heading amended (establishment of Seafarers’ Appeals Board and removal or suspension of seafarers from register)

Part V, heading—

Repeal

“AND REMOVAL OR SUSPENSION OF SEAFARERS FROM REGISTER”

Substitute

“, DISCIPLINARY INQUIRIES AND APPEALS”.

17. Section 20 amended (complaint against seafarer)

Section 20(1)—

Repeal

“registered seafarer”

Substitute

“seafarer whose name is entered in the register”.

18. Section 21 amended (suspension of registration of seafarer prior to disciplinary inquiry)

(1) Section 21, heading—

Repeal

“of seafarer”.

(2) Section 21(1)—

Repeal

“forthwith suspend a seafarer’s registration”

Substitute

“suspend a registered person’s registration without delay”.

(3) Section 21(1)—

Repeal

“that the seafarer”

Substitute

“that the person”.

(4) Section 21(1)(g), Chinese text—

Repeal

“海員”

Substitute

“人”.

(5) Section 21(1)(h)—

Repeal

“seafarer”

Substitute

“person”.

(6) Section 21(2)—

Repeal

“a seafarer’s”

Substitute

“a person’s”.

(7) Section 21(2)—

Repeal

“on the seafarer”

Substitute

“on the person”.

(8) Section 21(2)(b)—

Repeal

“seafarer”

Substitute

“person”.

(9) Section 21(2)(b)—

Repeal

“seafarer’s”

Substitute

“person’s”.

- (10) Section 21(2)(c)—

Repeal

“of this subsection”.

- (11) Section 21(2)(c)—

Repeal

“seafarer’s”

Substitute

“person’s”.

- (12) Section 21(3)—

Repeal

“a seafarer’s”

Substitute

“a person’s”.

- (13) Section 21(3)—

Repeal paragraph (a)

Substitute

“(a) if the person is employed as a seafarer, give notice in writing of that suspension to the person’s employer without delay; and”.

- (14) Section 21(3)(b)—

Repeal

“forthwith”

Substitute

“without delay”.

- (15) Section 21(3)(b)(ii), before “give notice”—

Add

“if the person is employed as a seafarer,”.

- (16) Section 21(3)(b)(ii)—

Repeal

“seafarer’s”

Substitute

“person’s”.

- (17) Section 21(4)—

Repeal

“seafarer’s”

Substitute

“person’s”.

- (18) Section 21(4)—

Repeal

“seafarer”

Substitute

“person”.

19. Section 25 amended (representation)

- (1) Section 25(1)—

Repeal

“The seafarer”

Substitute

“The registered person”.

- (2) Section 25(1)(b)—

Repeal

“the seafarer is a member by virtue of”

Substitute

“the person is a member by”.

- (3) Section 25(1)(b), after “a seafarer”—

Add

“or being desirous to be employed as a seafarer”.

20. Section 27 amended (abandonment of disciplinary inquiry)

- (1) Section 27(1)—

Repeal

“inquiry the seafarer”

Substitute

“inquiry, the registered person who is”.

- (2) Section 27(1)—

Repeal

“against the seafarer”

Substitute

“against the person”.

- (3) Section 27(1)—

Repeal

everything after “on that date”

Substitute a full stop.

- (4) Section 27—

Repeal subsection (2)

Substitute

- “(2) If the Superintendent refuses to hold a disciplinary inquiry under subsection (1), but fails to take any action permitted by that subsection against the registered person within 30 days after the date set down for holding the inquiry, the Superintendent must, without delay—
- (a) withdraw the suspension under section 21(1) of the person’s registration; and
 - (b) if the person is employed as a seafarer, give notice in writing of the withdrawal to the person’s employer.
- (3) If at any stage of the proceedings of a disciplinary inquiry, the Superintendent is of the opinion that there is insufficient evidence, or no evidence, to justify the Superintendent taking the action under section 28(1) or 29(1) or (3) against the registered person, the Superintendent—
- (a) may refuse to continue the inquiry; and
 - (b) after so refusing, must withdraw the suspension under section 21(1) of the person’s registration without delay.”.

21. Section 28 amended (removal of seafarer’s name from register)

- (1) Section 28, heading—

Repeal

“seafarer’s”

Substitute

“registered person’s”.

- (2) Section 28(1)—

Repeal

“seafarer” (wherever appearing)

Substitute

“person”.

- (3) Section 28(2)—

Repeal

“seafarer” (wherever appearing)

Substitute

“person”.

- (4) Section 28(3)—

Repeal

“seafarer”

Substitute

“person”.

- (5) Section 28(4)—

Repeal

“a seafarer’s”

Substitute

“a person’s”.

- (6) Section 28(4)—

Repeal

“forthwith serve on”

Substitute

“, without delay”.

- (7) Section 28(4)(a)—

Repeal

“the seafarer,”

Substitute

“serve on the person”.

- (8) Section 28(4)(b)—

Repeal

“the seafarer’s employer, if any,”

Substitute

“if the person is employed as a seafarer, serve on the person’s employer”.

- (9) Section 28(4)(b)—

Repeal

“seafarer’s name”

Substitute

“person’s name”.

- (10) Section 28(5)—

Repeal

“seafarer has”

Substitute

“person has”.

- (11) Section 28(5)—

Repeal

“again be registered as a seafarer”

Substitute

“have the person’s name entered in the register again”.

- (12) Section 28(6)—

Repeal

“seafarer who”

Substitute

“person who”.

- (13) Section 28(6)—

Repeal

“to again be registered as a seafarer”.

- (14) Section 28(7)—

Repeal

“seafarer has”

Substitute

“person has”.

- (15) Section 28(7)—

Repeal

“again be registered as a seafarer”

Substitute

“have the person’s name entered in the register again”.

22. Section 29 amended (suspension of registration of seafarer after disciplinary inquiry)

- (1) Section 29, heading—

Repeal

“of seafarer”.

- (2) Section 29(1)—

(a) **Repeal**

“seafarer” (wherever appearing)

Substitute

“person”;

(b) **Repeal**

“seafarer’s”

Substitute

“person’s”.

(3) Section 29(2)—

Repeal

“seafarer’s”

Substitute

“person’s”.

(4) Section 29(2)—

Repeal

“seafarer”

Substitute

“person”.

(5) Section 29(3)—

Repeal

“seafarer” (wherever appearing)

Substitute

“person”.

(6) Section 29(4)—

Repeal

“a seafarer’s”

Substitute

“a person’s”.

(7) Section 29(4)—

Repeal

“forthwith serve on”

Substitute

“, without delay”.

- (8) Section 29(4)(a)—

Repeal

“the seafarer,”

Substitute

“serve on the person”.

- (9) Section 29(4)(b)—

Repeal

“the seafarer’s employer, if any,”

Substitute

“if the person is employed as a seafarer, serve on the person’s employer”.

- (10) Section 29(4)(b)—

Repeal

“seafarer’s registration”

Substitute

“person’s registration”.

23. Section 30 amended (suspension on medical grounds)

- (1) Section 30(1)—

Repeal

“seafarer”

Substitute

“person”.

- (2) Section 30(2)—

Repeal

“seafarer”

Substitute

“person”.

- (3) Section 30(3)—

Repeal

“seafarer whose name appears in the register, forthwith”

Substitute

“person who is employed as a seafarer,”.

- (4) Section 30(3)—

Repeal

“thereof to the seafarer’s employer, if any”

Substitute

“of the suspension to the person’s employer without delay”.

- (5) Section 30(4)—

Repeal

“seafarer’s”

Substitute

“person’s”.

- (6) Section 30(5)—

Repeal

“seafarer” (wherever appearing)

Substitute

“person”.

- (7) Section 30(5)—

Repeal

“forthwith give notice in writing thereof”

Substitute

“, without delay, give notice in writing of the certificate”.

24. Section 32 amended (provision where hearing of appeal not commenced within prescribed period)

- (1) Section 32(1)—

Repeal

“a seafarer”

Substitute

“a person”.

- (2) Section 32(1)(a)—

Repeal

“of the seafarer’s”

Substitute

“of the person’s”.

- (3) Section 32(1)(a)—

Repeal

“forthwith restore the seafarer’s name to the register”

Substitute

“restore the person’s name to the register without delay”.

- (4) Section 32(1)(b)—

Repeal

“of the suspension of the seafarer’s”

Substitute

“of the suspension of the person’s”.

- (5) Section 32(1)(b)—

Repeal

“forthwith withdraw the suspension of the seafarer’s registration”

Substitute

“withdraw the suspension of the person’s registration without delay”.

- (6) Section 32(2)(a) and (b)—

Repeal

“seafarer”

Substitute

“person”.

25. Section 34 amended (practice and procedure upon hearing of appeal)

- (1) Section 34(1)—

Repeal

“seafarer”

Substitute

“person”.

- (2) Section 34(2)—

Repeal

“a seafarer”

Substitute

“a person”.

(3) Section 34(2)(c)—

Repeal

“seafarer”

Substitute

“person”.

(4) Section 34(2)(d)—

Repeal

“seafarer”

Substitute

“person”.

(5) Section 34(2)(e)—

Repeal

“seafarer” (wherever appearing)

Substitute

“person”.

(6) Section 34(2)(f)—

Repeal

“and the seafarer”

Substitute

“and the person”.

(7) Section 34(2)(f)—

Repeal

“seafarer has”

Substitute

“person has”.

- (8) Section 34(2)(f)—

Repeal

“paragraph (d) the seafarer”

Substitute

“paragraph (d), the person”.

- (9) Section 34(3)—

Repeal

“seafarer, the seafarer”

Substitute

“person, the person”.

- (10) Section 34(3)—

Repeal

“the seafarer is a member by virtue of”

Substitute

“the person is a member by”.

- (11) Section 34(3), after “being a seafarer”—

Add

“or being desirous to be employed as a seafarer”.

26. Section 37 amended (seafarer, etc. to be given notice of decision of Appeals Board)

- (1) Section 37, heading—

Repeal

“Seafarer, etc. to be given notice”

Substitute

“**Notice**”.

- (2) Section 37(1)—

Repeal

“seafarer”

Substitute

“person”.

- (3) Section 37(1)(b)—

Repeal

“thereof,”

Substitute

“of the findings, relied on”.

- (4) Section 37—

Repeal subsections (2) and (3)

Substitute

- “(2) If the Superintendent restores the name of a person to the register or withdraws the suspension of registration of a person in accordance with a direction given under section 36(2), the Superintendent must, if the person is employed as a seafarer, give notice in writing of the restoration or withdrawal to the person’s employer as soon as practicable.
- (3) If the Appeals Board directs that a person’s registration be suspended for a shorter period under section 36(3), the Superintendent must, if the person is employed as a seafarer, give notice in writing of that direction to the person’s employer as soon as practicable.”.

27. Section 39 substituted

Section 39—

Repeal the section

Substitute

“39. Notice to employer of result of appeal

(1) This section applies if, by reason of an appeal under section 38 by a person employed as a seafarer, the Superintendent—

(a) restores the name of the person to the register; or

(b) withdraws the suspension of registration of the person.

(2) The Superintendent must give notice in writing of the restoration or withdrawal to the person’s employer as soon as practicable.”.

Division 6—Amendments to Provisions on Control of Supply, Selection, Employment and Discharge of Registered Persons

28. Section 42 amended (procedures for the selection of registered seafarers for listing by permitted companies)

(1) Section 42, heading—

Repeal

“seafarers for listing by permitted companies”

Substitute

“persons for listing by permitted bodies”.

(2) Section 42(1)—

Repeal

“company” (wherever appearing)

Substitute

“body”.

- (3) Section 42(1)—

Repeal

“seafarer” (wherever appearing)

Substitute

“person”.

- (4) Section 42(2)—

Repeal

“company”

Substitute

“body”.

- (5) Section 42(2)—

Repeal

“seafarer” (wherever appearing)

Substitute

“person”.

- (6) Section 42(2)—

Repeal

“forthwith present the form to the Office”

Substitute

“present the form to the Office without delay”.

- (7) Section 42(3)—

Repeal

“registered seafarer”

Substitute

“registered person”.

(8) Section 42(3)(a)—

Repeal

“seafarer’s”

Substitute

“person’s”.

(9) Section 42(3)(a)—

Repeal

“company”

Substitute

“body”.

(10) Section 42(3)(b)—

Repeal

“seafarer’s”

Substitute

“person’s”.

(11) Section 42(3)(b)—

Repeal

“seafarer”

Substitute

“person”.

(12) Section 42(3)(c)—

Repeal

“seafarer’s”

Substitute

“person’s”.

- (13) Section 42(3)(c)—

Repeal

“company, forthwith delete that name from that list”

Substitute

“body, delete that name from that list without delay”.

- (14) Section 42(4)—

Repeal

“seafarer”(wherever appearing)

Substitute

“person”.

- (15) Section 42(4)—

Repeal

“permitted company”

Substitute

“permitted body”.

- (16) Section 42(4)—

Repeal

“forthwith return to that company and thereupon that company”

Substitute

“return to that body without delay, and then that body”.

- (17) Section 42(4)—

Repeal

“then enter”

Substitute

“enter”.

29. Section 44 amended (procedures for employment of registered seafarers by permitted companies)

(1) Section 44, heading—

Repeal

“Procedures for employment of registered seafarers by permitted companies”

Substitute

“Procedures relating to employment of registered persons supplied by permitted bodies”.

(2) Section 44(1)—

Repeal

“seafarer” (wherever appearing)

Substitute

“person”.

(3) Section 44(1)—

Repeal

“company” (wherever appearing)

Substitute

“body”.

(4) Section 44(2)—

Repeal

“registered seafarer”

Substitute

“registered person”.

- (5) Section 44(2)—

Repeal

“therein”

Substitute

“in that ship,”.

- (6) Section 44(2)(a)—

Repeal

“seafarer”

Substitute

“person”.

- (7) Section 44(2)(b)—

Repeal

“seafarer’s”

Substitute

“person’s”.

- (8) Section 44—

Repeal subsection (3)

Substitute

“(3) Subject to section 48, a permitted body must pay the prescribed fee in respect of every registered person who is—

- (a) supplied by it for employment in a ship; and
- (b) employed in the ship.”.

- (9) Section 44(4)—

Repeal

“seafarers”

Substitute

“persons”.

- (10) Section 44(4)—

Repeal

“company” (wherever appearing)

Substitute

“body”.

- (11) Section 44(4)—

Repeal

“seafarer”

Substitute

“person”.

- (12) Section 44(4)—

Repeal

“(3)(a)”

Substitute

“(3)”.

- (13) Section 44(5)—

Repeal

“seafarer” (wherever appearing)

Substitute

“person”.

- (14) Section 44(5)—

Repeal

“therein”

Substitute

“in that ship”.

(15) Section 44(5)—

Repeal

“seafarer’s”

Substitute

“person’s”.

(16) Section 44(5)—

Repeal

“company”

Substitute

“body”.

(17) Section 44(6)—

Repeal

“company”

Substitute

“body”.

30. Section 45 amended (employment of registered seafarers through mustering procedure)

(1) Section 45, heading—

Repeal

“seafarers”

Substitute

“persons”.

(2) Section 45(1)—

Repeal

“seafarers”

Substitute

“persons”.

- (3) Section 45(1)—

Repeal

“seafarer” (wherever appearing)

Substitute

“person”.

- (4) Section 45(2)—

Repeal

“seafarer” (wherever appearing)

Substitute

“person”.

- (5) Section 45(3)—

Repeal

“seafarer”

Substitute

“person”.

- (6) Section 45(3)—

Repeal

“forthwith return that card to the Superintendent”

Substitute

“return that card to the Superintendent without delay”.

- (7) Section 45(4)—

Repeal

“seafarer” (wherever appearing)

Substitute

“person”.

- (8) Section 45(4)—

Repeal

“thereat for inspection”

Substitute

“for inspection in the Office”.

- (9) Section 45(5)—

Repeal

“registered seafarer”

Substitute

“registered person”.

- (10) Section 45(5)—

Repeal

“therein”

Substitute

“in that ship”.

- (11) Section 45(5)(a)—

Repeal

“seafarer”

Substitute

“person”.

- (12) Section 45(5)(b)—

Repeal

“seafarer’s”

Substitute

“person’s”.

- (13) Section 45(6)(b)—

Repeal

“seafarer”

Substitute

“person”.

(14) Section 45(6)(b)—

Repeal

“ship,”

Substitute

“ship.”.

(15) Section 45(6)—

Repeal everything after paragraph (b).

(16) Section 45(7)—

Repeal

“seafarers”

Substitute

“persons”.

(17) Section 45(7)—

Repeal

“seafarer”

Substitute

“person”.

(18) Section 45(8)—

Repeal

“seafarer” (wherever appearing)

Substitute

“person”.

(19) Section 45(8)—

Repeal

“therein”

Substitute

“in that ship”.

(20) Section 45(8)—

Repeal

“seafarer’s”

Substitute

“person’s”.

31. Section 47 amended (emergency employment procedures)

(1) Section 47(1)—

Repeal

“seafarer” (wherever appearing)

Substitute

“person”.

(2) Section 47(2)—

Repeal

“seafarer”

Substitute

“person”.

(3) Section 47(2)—

Repeal

“therein, the seafarer’s”

Substitute

“in that ship, the person’s”.

(4) Section 47(3)—

Repeal

“registered seafarer”

Substitute

“registered person”.

- (5) Section 47(3)(a)(i)—

Repeal

“seafarer”

Substitute

“person”.

- (6) Section 47(3)(a)(ii)—

Repeal

“seafarer” (wherever appearing)

Substitute

“person”.

- (7) Section 47(3)(a)(ii)—

Repeal

“thereby”

Substitute

“by the form”.

- (8) Section 47(3)(b)—

Repeal

“of the seafarer”

Substitute

“of the person”.

- (9) Section 47(3)(b)(i)—

Repeal

“seafarer”

Substitute

“person”.

- (10) Section 47(3)(b)(ii)—

Repeal

“seafarer,”

Substitute

“person.”.

- (11) Section 47(3)—

Repeal everything after paragraph (b).

- (12) Section 47(4)—

Repeal

“seafarer”

Substitute

“person”.

- (13) Section 47(5)—

Repeal

“seafarer”

Substitute

“person”.

- (14) Section 47(5)—

Repeal

“therein”

Substitute

“in that ship”.

- (15) Section 47(5)—

Repeal

“seafarer’s”

Substitute

“person’s”.

32. Section 50 amended (notification of intention not to re-employ)

(1) Section 50(1)—

Repeal

“seafarer’s” (wherever appearing)

Substitute

“person’s”.

(2) Section 50(2)—

Repeal

“seafarer” (wherever appearing)

Substitute

“person”.

(3) Section 50(2)—

Repeal

“seafarers”

Substitute

“persons”.

(4) Section 50(3) and (4)—

Repeal

“seafarer”

Substitute

“person”.

(5) Section 50(5)—

(a) **Repeal**

“seafarer’s”

Substitute

“person’s”;

(b) **Repeal**

“seafarers” (wherever appearing)

Substitute

“persons”.

(6) Section 50(6)—

Repeal

“seafarer”

Substitute

“person”.

(7) Section 50(6)—

Repeal

“company”.

(8) Section 50(9)—

Repeal

“seafarer”

Substitute

“person”.

Division 7—Amendments to Provisions on Permitted Crew Departments

33. Section 52 amended (permits to maintain company rosters)

(1) Section 52, heading—

Repeal

“company”.

(2) Section 52(1)—

Repeal

“company roster to any company”

Substitute

“roster to any company or seafarers’ organization”.

(3) Section 52(1)—

Repeal paragraph (a)

Substitute

“(a) the objects of which, as set out in its articles or memorandum of association or constitution—

(i) for a company, include the carrying on of the business of shipowner or the business of managing or chartering ships; or

(ii) for a seafarers’ organization, include the recruitment and supply of seafarers for employment; and”.

(4) Section 52(1)(b)—

Repeal

“company”.

(5) Section 52(3)—

Repeal

“company” (wherever appearing)

Substitute

“body”.

- (6) Section 52(3)—

Repeal

“company’s”

Substitute

“body’s”.

34. Section 53 amended (information to be supplied to Superintendent)

- (1) Section 53(1)(a), English text—

Repeal

“thereby”

Substitute

“by the form”.

- (2) Section 53(1)(b)—

Repeal

“permitted crew department”

Substitute

“crew department of the applicant”.

- (3) Section 53(2)—

Repeal

“a company applying for the grant of a permit”

Substitute

“an applicant”.

- (4) Section 53—

Repeal subsection (3)

Substitute

“(3) If there is any change to the particulars of the owner of a ship for which a permitted body supplies registered persons for employment, the body must notify the Superintendent of the change by written notice and pay the prescribed fee without delay.

(3A) On receiving a written notice and the prescribed fee under subsection (3) from a permitted body, the Superintendent must amend the body’s permit accordingly.”.

(5) Section 53(4)—

Repeal

“company” (wherever appearing)

Substitute

“body”.

(6) Section 53(5)—

Repeal

“company”

Substitute

“body”.

35. Section 54 amended (grounds on which grant of permit may be refused)

(1) Section 54(1)(a) and (b), English text—

Repeal

“therefor”.

(2) Section 54(1)(c)—

Repeal

“company applying for the grant of the permit”

Substitute

“applicant”.

- (3) Section 54(1)(d)—

Repeal

“unless he is”

Substitute

“if the Superintendent is not”.

- (4) Section 54(1)(d)(i)—

Repeal

“therefor as the person who is or”

Substitute

“as the person who”.

- (5) Section 54(1)(d)(i)—

Repeal

everything after “in charge of the”

Substitute

“crew department of the applicant is a fit and proper person to be so in charge;”.

- (6) Section 54(1)(d)(ii)—

Repeal

“are or will be provided by the company applying for the grant of a permit”

Substitute

“will be provided by the applicant”.

- (7) Section 54(1)(d)(ii)—

Repeal

“seafarers supplied by the permitted”

Substitute

“persons to be supplied by the”.

- (8) Section 54(1)(d)(iii)—

Repeal

“seafarers are employed in all ships for which the permitted crew department supplies or”

Substitute

“persons will be employed in ships for which the crew department”.

- (9) Section 54(1)(d)(iii)—

Repeal

“seafarers to continue to be employed in such ships; and”

Substitute

“persons to continue to be employed in the ships;”.

- (10) Section 54(1)(d)—

Repeal subparagraph (iv)

Substitute

“(iv) (if the applicant is a company) the applicant will be responsible for the payment of wages, allowances, bonuses, remittances and allotments, as they become due, to registered persons to be supplied by the crew department and the acceptance of such responsibility will be declared by the applicant to such persons at the time of their employment in ships owned, managed or chartered by the applicant; and

(v) (if the applicant is a seafarers’ organization) the applicant will adopt effective measures, whether by way of insurance or otherwise, to ensure that any registered person to be supplied by the crew department will be fully compensated for any monetary loss that the person may suffer as a result of

the failure of the person's employer to meet the employer's obligations under the crew agreement between the person and the employer; or".

- (11) Section 54(1)(d), Chinese text—

Repeal

“但如他並非不信納以上事宜，則不可拒絕發給許可證；”。

- (12) Section 54(1)(e)—

Repeal

“the company” (wherever appearing)

Substitute

“the applicant”.

- (13) Section 54(1)(e)—

Repeal

“applying for the grant of the permit”.

- (14) Section 54(1)(e)(ii)—

Repeal

“company”

Substitute

“person”.

- (15) Section 54(1)(e)(iii)—

Repeal

“company”

Substitute

“person”.

- (16) Section 54(1)(e)(iii)—

Repeal

“; or”

Substitute a full stop.

(17) Section 54(1)—

Repeal paragraph (f).

(18) Section 54(2)—

Repeal paragraphs (a) and (b)

Substitute

“(a) if the applicant is or has at any time been engaged in the recruitment or supply of registered persons for pecuniary advantage without a permit; or

(b) if in the Superintendent’s opinion, the interest of registered persons in general, or of registered persons who would or might be employed through the crew department of the applicant, will best be served by refusing to grant the permit.”.

36. Section 55 amended (notice of refusal to grant permit)

Section 55—

Repeal

everything after “in writing” and before “together”

Substitute

“to the applicant for the permit”.

37. Section 56 amended (cancellation of permit)

(1) Section 56(1)—

Repeal

“permitted company”

Substitute

“permitted body”.

- (2) Section 56(1)(a)—

Repeal

“company” (wherever appearing)

Substitute

“body”.

- (3) Section 56(1)(b), English text—

Repeal

“in charge thereof”

Substitute

“so in charge”.

- (4) Section 56(1)(c)—

Repeal

“the company” (wherever appearing)

Substitute

“the body”.

- (5) Section 56(1)(c)(ii)—

Repeal

“company”

Substitute

“person”.

- (6) Section 56(1)(c)(iii)—

Repeal

“company”

Substitute

“person”.

- (7) Section 56(1)(d)—

Repeal

“company” (wherever appearing)

Substitute

“body”.

(8) Section 56(1)(d)—

Repeal

“seafarer”

Substitute

“person”.

(9) Section 56(1)(e)—

Repeal

“company” (wherever appearing)

Substitute

“body”.

(10) Section 56(1)—

Repeal paragraph (f).

(11) At the end of section 56(1)—

Add

“(g) if the body fails to examine or respond to any complaint concerning its business of recruiting or supplying registered persons for employment, or fails to report to the Superintendent any such complaint which has not been resolved.”.

(12) Section 56(2)—

Repeal

“forthwith give to the company”

Substitute

“, without delay, give to the company or seafarers’ organization”.

(13) Section 56(2)—

Repeal

“section 60(1)”

Substitute

“section 60(2)”.

(14) Section 56(3)—

Repeal

“company” (wherever appearing)

Substitute

“body”.

38. Section 57 substituted

Section 57—

Repeal the section

Substitute

“57. Permitted body may supply registered persons for employment in certain ships only

A permitted body may only supply registered persons for employment—

- (a) if the body is a company, in ships that it owns, manages or charters; or
- (b) if the body is a seafarers’ organization, in Hong Kong ships.”.

39. Section 58 amended (changes in staff of permitted crew department to be notified to Superintendent)

(1) Section 58(1)—

Repeal

“company” (wherever appearing)

Substitute

“body”.

(2) Section 58(1)—

Repeal

“thereof to the Superintendent forthwith”

Substitute

“of the commencement or cessation of employment to the Superintendent without delay”.

(3) Section 58(3)—

Repeal

“company”

Substitute

“body”.

40. Section 60 substituted

Section 60—

Repeal the section

Substitute

“60. Appeal against certain decisions of Superintendent

(1) A company or seafarers’ organization may appeal to the Administrative Appeals Board if it is aggrieved by a decision of the Superintendent—

(a) to refuse to grant it a permit;

(b) to impose a condition on it under section 52(3);
or

(c) to cancel its permit under section 56(1).

- (2) The company or seafarers’ organization must lodge the appeal within 28 days after receiving notice of the decision.”.

41. Section 61 amended (permitted crew department records)

- (1) Section 61(1)—

Repeal

“company” (wherever appearing)

Substitute

“body”.

- (2) Section 61(1)—

Repeal

“seafarers”

Substitute

“persons”.

- (3) Section 61(2)—

Repeal

“company” (wherever appearing)

Substitute

“body”.

- (4) Section 61(2)—

Repeal

“seafarer”

Substitute

“person”.

- (5) Section 61—

Repeal subsection (3)

Substitute

“(3) If a permitted body receives a notice from a registered person that the person wishes to have the person’s name removed from the crew department record kept in its permitted crew department, the body must so remove the person’s name.”.

(6) Section 61(4)—

Repeal

“company” (wherever appearing)

Substitute

“body”.

(7) Section 61(4)—

Repeal

“registered seafarer”

Substitute

“registered person”.

(8) Section 61(4)(a)—

Repeal

“seafarer”

Substitute

“person”.

(9) Section 61(4)(a)—

Repeal

“he has been employed”

Substitute

“the person has been employed, or employers by whom the person has been employed as a seafarer,”.

(10) Section 61(5)—

Repeal

“seafarer”

Substitute

“person”.

(11) Section 61(5)—

Repeal

“company”

Substitute

“body”.

(12) Section 61(5)—

Repeal

“forthwith give notice thereof to the Superintendent”

Substitute

“give notice of the removal to the Superintendent without delay”.

(13) Section 61(6)—

Repeal

“company” (wherever appearing)

Substitute

“body”.

(14) Section 61(6)—

Repeal

“seafarer” (wherever appearing)

Substitute

“person”.

(15) Section 61(6)—

Repeal

“forthwith”

Substitute

“, without delay,”.

- (16) Section 61(7)—

Repeal

“company”

Substitute

“body”.

42. Section 64 amended (lists of registered seafarers waiting to be supplied for employment in ships)

- (1) Section 64, heading—

Repeal

“seafarers waiting to be supplied”

Substitute

“persons available”.

- (2) Section 64—

Repeal subsections (1) and (2)

Substitute

“(1) A permitted body must keep in its permitted crew department a list of the registered persons contained in its crew department record who are available for employment—

- (a) if the body is a company, in ships that it owns, manages or charters; or
- (b) if the body is a seafarers’ organization, in Hong Kong ships.

- (2) The list of registered persons must be—

- (a) kept in a form and manner approved by the Superintendent; and

(b) in both the English and Chinese languages.”.

(3) Section 64(3)—

Repeal

“shall”

Substitute

“must”.

(4) Section 64(3)—

Repeal

“seafarer whose name appears therein”

Substitute

“person whose name appears in the list”.

(5) Section 64(4)—

Repeal

“company”

Substitute

“body”.

43. Section 65 amended (particulars of registered seafarers employed by permitted company to be delivered to Superintendent)

(1) Section 65, heading—

Repeal

“seafarers employed by permitted company”

Substitute

“persons supplied by permitted body”.

(2) Section 65(1)—

Repeal

“company”

Substitute

“body”.

- (3) Section 65(1)—

Repeal

“seafarers”

Substitute

“persons”.

- (4) Section 65(2)—

Repeal

“company”

Substitute

“body”.

44. Section 66 amended (changes in particulars of permitted crew department to be notified to Superintendent)

- (1) Section 66, heading—

Repeal

“of permitted crew department”

Substitute

“or information supplied for application for permit”.

- (2) Section 66(1)—

Repeal

“company”

Substitute

“body”.

- (3) Section 66(1)(a), after “particulars” (wherever appearing)—

Add

“or information”.

- (4) Section 66(1)(a)—

Repeal

“section 53(2)”

Substitute

“section 53(1) or (2)”.

- (5) Section 66(2)—

Repeal

“company”

Substitute

“body”.

45. Section 67 substituted

Section 67—

Repeal the section

Substitute

“67. Approval of methods used in permitted crew department to select registered persons

The Superintendent’s approval is required for the method or methods used in the permitted crew department of a permitted body to select registered persons, whose names are contained in its crew department record, to be supplied for employment in ships.”.

46. Section 68 amended (certain notices and other documents to be displayed in permitted crew department)

- (1) Section 68(1)—

Repeal

“company shall”

Substitute

“body must”.

- (2) Section 68(1)—

Repeal

“seafarers have”

Substitute

“persons have”.

- (3) Section 68(1)(a)—

Repeal

everything after “registered”

Substitute

“person contained in its crew department record who is available for employment—

- (i) if the body is a company, in ships that it owns, manages or charters; or
- (ii) if the body is a seafarers’ organization, in Hong Kong ships;”.

- (4) Section 68(1)—

Repeal paragraph (b).

- (5) Section 68(1)—

Repeal paragraph (c)

Substitute

- “(c) if the body is a company, a notice or notices in the English and Chinese languages specifying the wages paid to each capacity or rank of seafarers employed in each ship for which the body supplies registered persons for employment;”.

- (6) Section 68(1)(d)—

Repeal

“permitted company supplies registered seafarers”

Substitute

“body supplies registered persons”.

(7) Section 68(1)(f)—

Repeal

“seafarers” (wherever appearing)

Substitute

“persons”.

(8) Section 68(1)(f)—

Repeal

“permitted company”

Substitute

“body”.

(9) Section 68—

Repeal subsection (2).

(10) Section 68(3)—

Repeal

“or (b) or under subsection (2) shall”

Substitute

“must”.

(11) Section 68(3)—

Repeal

“seafarers shall”

Substitute

“persons must”.

- (12) Section 68(4)—

Repeal

“or (b) or under subsection (2) shall have marked thereon”

Substitute

“must specify”.

- (13) Section 68(5)—

Repeal

“or (b) or under subsection (2) shall be deemed”

Substitute

“are taken”.

- (14) Section 68(5)—

Repeal

“seafarers who are for the time being waiting to be supplied”

Substitute

“persons who are available”.

- (15) Section 68(5)—

Repeal

“subsection (1)(a) or (b) or in subsection (2), as the case may be”

Substitute

“that subsection”.

- (16) Section 68(5)(a)—

(a) **Repeal**

“contains or contain the names of all registered seafarers waiting to be supplied”

Substitute

“contain the names of all registered persons available”;

(b) **Repeal**

“was or were first displayed and the notice or notices has not or”

Substitute

“were first displayed and the notice or notices”.

(17) Section 68(5)(b)—

(a) **Repeal**

“has or”;

(b) **Repeal**

“it or they contains or contain the names of all registered seafarers waiting to be supplied”

Substitute

“they contain the names of all registered persons available”;

(c) **Repeal**

“was or”.

(18) Section 68(7)—

Repeal

“company”

Substitute

“body”.

47. Section 70 amended (approval of methods used by permitted company to pay allotments and remittances and display of certain notices)

(1) Section 70(1)—

Repeal

“The method”

Substitute

“The Superintendent’s approval is required for the method”.

- (2) Section 70(1)—

Repeal

everything after “registered”

Substitute

“persons who are selected by it for employment in ships that it owns, manages or charters.”.

- (3) Section 70(2)—

Repeal

“seafarers”

Substitute

“persons”.

Division 8—Amendments to Provisions on Employment and Discharge of Seafarers

48. Section 79 amended (removal of discharged seafarers)

- (1) Section 79—

Repeal subsection (1)

Substitute

“(1) If a seafarer employed in a ship has been lawfully discharged from the ship, the seafarer must not remain on the ship.

(1A) Subsection (1) does not apply if the seafarer is permitted to remain on the ship by the master of the ship or the seafarer’s employer.”.

- (2) Section 79(2)—

Repeal

everything before “may”

Substitute

“(2) A seafarer who remains on a ship in contravention of subsection (1)”.

49. Section 80 amended (crew agreements)

(1) Section 80—

Repeal subsection (1)

Substitute

“(1) Subject to subsection (5), a written employment agreement must be entered into between—

(a) a person who works as a seafarer on a Hong Kong ship; and

(b) the owner of the ship or a person, including the manager or charterer of the ship, who has assumed responsibility for the operation of the ship from the owner.”.

(2) After section 80(8)—

Add

“(9) A provision of a crew agreement that purports to extinguish or reduce any right, benefit or protection conferred on the seafarers by this Ordinance is void.”.

50. Section 84 heading amended (payment of seafarer’s wages)

Section 84, heading, after “wages”—

Add

“on discharge”.

51. Section 85 amended (account of seafarers' wages)

- (1) Section 85, heading—

Repeal

“seafarers' wages”

Substitute

“wages for seafarers to be discharged”.

- (2) Section 85(1), after “section 86”—

Add

“, 96”.

- (3) Section 85(1)—

Repeal

everything after “104,”

Substitute

“if a seafarer employed in a Hong Kong ship under a crew agreement is to be discharged, the master of the ship or the employer of the seafarer must deliver to the seafarer an account of wages.”.

- (4) Section 85(2), after “and”—

Add

“, subject to subsection (4),”.

- (5) Section 85(4)—

Repeal

everything after “one ship,” and before “on or before”

Substitute

“the account of wages must be delivered to the seafarer by the employer of the seafarer”.

52. Section 88 amended (power of court to award interest on wages due otherwise than under crew agreement)

Section 88—

Repeal

“the master of a Hong Kong ship or”.

53. Section 89 amended (allotment notes)

Section 89(1), after “persons”—

Add

“all or a”.

54. Section 90 amended (right of person named in allotment note to sue in own name)

(1) Section 90(1)—

Repeal

“any part”

Substitute

“all or a part”.

(2) Section 90(1)—

Repeal

“that part”

Substitute

“the allotted wages”.

(3) Section 90(2)—

Repeal

“any part”

Substitute

“all or a part”.

55. Section 92 substituted

Section 92—

Repeal the section

Substitute

“92. Certificate of discharge to be delivered to seafarer discharged in Hong Kong

- (1) If a seafarer employed in a ship is discharged from the ship before the Superintendent in Hong Kong, the master of the ship or the seafarer’s employer must sign and deliver to the seafarer a written certificate of discharge.
- (2) The certificate of discharge—
 - (a) must be delivered to the seafarer at the time of discharge; and
 - (b) must specify—
 - (i) the date of commencement of employment, and the date of discharge, of the seafarer; and
 - (ii) the capacity and rank in which the seafarer was employed.”.

56. Section 94 repealed (remedies of master for remuneration, disbursements, etc.)

Section 94—

Repeal the section.

Division 9—Amendments to Provisions on Health, Safety and Welfare of Seafarers

57. Section 97 amended (regulations relating to crew accommodation)

Section 97—

Repeal subsection (6).

58. Section 98 amended (complaints about provisions or water)

(1) Section 98(1)—

Repeal

“Where 3 or more seafarers employed in a Hong Kong ship consider”

Substitute

“If a seafarer employed in a Hong Kong ship considers”.

(2) Section 98(1)—

Repeal

“they”

Substitute

“, the seafarer”.

(3) Section 98(2)—

Repeal

“Where the seafarers who have”

Substitute

“If a seafarer who has”.

(4) Section 98(2)—

Repeal

“are”

Substitute

“is”.

- (5) Section 98(2)—

Repeal

everything after “result of” and before “and may claim”

Substitute

“the master’s investigation or with the master’s failure to take any action, the seafarer may state the dissatisfaction to the master”.

- (6) Section 98(2)—

Repeal

“and thereupon the master”

Substitute

“, and the master, on receiving the claim,”.

- (7) Section 98(2)—

Repeal

“the seafarers to”

Substitute

“the seafarer to”.

- (8) After section 98(2)—

Add

“(2A) Despite subsection (1), a seafarer employed in a Hong Kong ship may complain to the Superintendent directly on a subject matter referred to in that subsection.”.

- (9) Section 98(3)—

Repeal

“this section”

Substitute

“subsection (2) or (2A)”.

- (10) After section 98(4)—

Add

“(5) This section does not affect the right of a seafarer employed in a Hong Kong ship to make a complaint on a subject matter referred to in subsection (1) in accordance with the procedures for handling complaints adopted on board the ship.”.

59. Section 99 amended (other complaints)

- (1) Section 99, heading—

Repeal

“**Other complaints**”

Substitute

“**Complaints about conditions on ships, seafarers’ employment, etc.**”.

- (2) Section 99(1)—

Repeal

“the master of the ship or”.

- (3) Section 99(1)—

Repeal

“or about the conditions on board the ship”

Substitute

“, any conditions on board the ship or anything relating to the seafarer’s employment,”.

- (4) Section 99(1), after “to the master”

Add

“of the ship”.

- (5) Section 99(2)—

Repeal

everything after “complaint or” and before “and may claim”

Substitute

“with the master’s failure to take any action, the seafarer may state the dissatisfaction to the master”.

- (6) Section 99(2)—

Repeal

“and thereupon the master”

Substitute

“, and the master, on receiving the claim,”.

- (7) After section 99(2)—

Add

“(2A) Despite subsection (1), a seafarer employed in a Hong Kong ship may complain to the Superintendent directly on a subject matter referred to in that subsection.”.

- (8) Section 99(3)—

Repeal

“this section”

Substitute

“subsection (2) or (2A)”.

- (9) After section 99(4)—

Add

“(5) This section does not affect the right of a seafarer employed in a Hong Kong ship to make a complaint on a subject matter referred to in subsection (1) in accordance with the procedures for handling complaints adopted on board the ship.”.

60. Section 100 amended (medical stores)

Section 100—

Repeal subsection (2).

61. Section 102 amended (expenses of medical treatment, etc. during voyage)

(1) Section 102—

Re-number the section as section 102(1).

(2) Section 102(1), Chinese text—

Repeal

“火葬” (wherever appearing)

Substitute

“火化遺體”.

(3) After section 102(1)—

Add

“(2) Subsection (1) does not limit the responsibility of the employer of a seafarer employed in a Hong Kong ship to provide, under regulations made under this Ordinance, other medical care in respect of any sickness or injury suffered by the seafarer in the course of or arising from the seafarer’s employment.”.

Division 10—Amendments to Provisions on Repatriation of Seafarers

62. Section 104 amended (relief and return of seafarers left behind, etc.)

(1) Section 104, heading—

Repeal

“Relief and return of seafarers left behind, etc.”

Substitute

“Repatriation of seafarers”.

- (2) Section 104(1)—

Repeal paragraph (a)

Substitute

“(a) providing for the circumstances under which the employer of a seafarer working on a Hong Kong ship is required to repatriate the seafarer;”.

- (3) Section 104(1)(b)—

Repeal

“referred to in paragraph (a)”

Substitute

“to be repatriated”.

- (4) Section 104(1)(b)—

Renumber subparagraphs (i) and (ii) as subparagraphs (iii) and (iv) respectively.

- (5) Before section 104(1)(b)(iii)—

Add

“(i) for the manner in which the seafarer is to be repatriated;

(ii) for the relief and maintenance to be provided before the seafarer is repatriated;”.

- (6) Section 104(1)(b)(iii)—

Repeal

“who”

Substitute

“if the seafarer”.

- (7) Section 104(1)(b)(iii)—

Repeal

“him until he”

Substitute

“the seafarer until the seafarer”.

- (8) Section 104(1)(b)(iv)—

Repeal

“who dies before he can be returned”

Substitute

“if the seafarer dies before the seafarer is repatriated”.

- (9) Section 104(1)(c)—

Repeal

“referred to in paragraph (a), and any property of his”

Substitute

“to be repatriated, and any property of the seafarer”.

- (10) Section 104(1)(d)(ii)—

Repeal

“registered seafarers”

Substitute

“seafarer, whose name is entered in the register,”.

- (11) Section 104(2)(a)—

Repeal

“returned”

Substitute

“repatriated”.

- (12) Section 104—

Repeal subsection (3).

63. Section 105 repealed (limit of employer’s liability under section 104)

Section 105—

Repeal the section.

64. Section 106 amended (recovery of expenses incurred for relief and return, etc.)

(1) Section 106, heading—

Repeal

“relief and return, etc.”

Substitute

“repatriation”.

(2) Section 106(1), after “make provision”—

Add

“by the regulations made”.

(3) Section 106(1)(a)—

Repeal

everything after “on behalf of”

Substitute

“the Government—

(i) the Government may recover the expenses from the employer as a civil debt; and

(ii) the Government may detain any ship of the employer until the expenses have been repaid to the Government; and”.

(4) Section 106(2), Chinese text—

Repeal

everything after “，凡” and before “政府可”

Substitute

“特區政府就有關事宜招致費用，或香港以外任何地方的政府就有關事宜招致費用，並由他人代特區政府付還予該地方的政府，特區”。

- (5) Section 106(2)(a)—

Repeal

“，but for section 105, the seafarer’s last”

Substitute

“，but for the exceptions set out in the regulations made under section 104, the seafarer’s”。

- (6) Section 106(2)(a)—

Repeal

“under section 104”

Substitute

“by those regulations”。

- (7) Section 106(2)(b), after “to be made”—

Add

“by the Superintendent by the regulations made”。

Division 11—Amendments to Provisions on Miscellaneous Matters

65. Section 127 amended (false statement or information)

Section 127(2)—

Repeal

everything after “who” and before “66(1),”

Substitute

“supplies any particulars or information required to be supplied under section 53 or”.

66. Section 134 amended (regulations—general powers)

After section 134(3)—

Add

“(3A) Any regulations made under this Ordinance for giving effect (whether in whole or in part) to a provision of an international agreement that is applicable to Hong Kong and amended from time to time may—

- (a) set out (whether in a schedule or otherwise) or refer directly to the provision; and
- (b) specify (whether in a schedule or otherwise) amendments, modifications or adaptations subject to which the provision is to have effect.”.

Division 12—Persons Not Included in Definition of *Seafarer*

67. Schedule 1A added

Before Schedule 1—

Add

“Schedule 1A

[s. 2A]

Persons Not Included in Definition of *Seafarer*

1. The following persons who work on board a ship are not seafarers—
 - (a) a person who works on board the ship as a pilot;
 - (b) the owner of the ship;
 - (c) a person, including the manager or charterer of the ship, who has assumed responsibility for the operation of the ship from the owner (*responsible person*);
 - (d) a person (except the master of the ship) who represents the owner or responsible person on board the ship;
 - (e) an officer of a law enforcement agency who carries out law enforcement duties on board the ship;
 - (f) a person who works on board the ship only within a port or at a port facility;
 - (g) a person whose work—
 - (i) only relates to the construction, alteration, repair or testing of the ship or of its machinery or equipment; but
 - (ii) does not in any way relate to the normal operation of the ship within its deck, engine room or catering department.”.

Part 3

Related and Consequential Amendments

Division 1—Amendments to Subsidiary Legislation under Merchant Shipping (Seafarers) Ordinance (Cap. 478)

Subdivision 1—Amendment to Merchant Shipping (Seafarers) (Crew Agreements, Lists of Crew and Discharge of Seafarers) Regulation (Cap. 478 sub. leg. L)

68. Section 12 amended (particulars to be specified in lists of crew)

Section 12(1)(d)(iii)(A)—

Repeal

“registered seafarer”

Substitute

“seafarer whose name is entered in the register”.

Subdivision 2—Amendments to Merchant Shipping (Seafarers) (Employment Registration Books) Regulation (Cap. 478 sub. leg. U)

69. Section 2 amended (interpretation)

Section 2(2)—

Repeal

“seafarer”

Substitute

“registered person”.

70. Section 3 amended (application for employment registration book)

Section 3(1)—

Repeal

“seafarer”

Substitute

“person”.

71. Section 5 amended (form and contents of employment registration book)

Section 5(1)(b), after “capacity”—

Add

“and rank”.

72. Section 6 amended (entries in employment registration book)

(1) Section 6(2), after “capacity”—

Add

“and rank”.

(2) Section 6(2)—

Repeal

“seafarer” (wherever appearing)

Substitute

“holder”.

73. Section 11 amended (delivery of employment registration book)

(1) Section 11(1)—

Repeal

“seafarer”

Substitute

“registered person”.

(2) Section 11(1)(a), Chinese text—

Repeal

“該海員” (wherever appearing)

Substitute

“該人”.

- (3) Section 11(1)(b)—

Repeal

“seafarer’s”

Substitute

“person’s”.

- (4) Section 11(2)—

Repeal

“a seafarer”

Substitute

“a registered person”.

- (5) Section 11(2)—

Repeal

“the seafarer”

Substitute

“the person”.

- (6) Section 11(3)—

Repeal

“seafarer”

Substitute

“registered person”.

74. Section 12 amended (lost, etc., employment registration book)

- (1) Section 12, English text, heading—

Repeal

“Lost, etc.,”

Substitute

“Loss etc. of”.

- (2) Section 12(1)—

Repeal

“a seafarer”

Substitute

“a registered person”.

- (3) Section 12(1)—

Repeal

“the seafarer”

Substitute

“the person”.

- (4) Section 12(2)(a)—

Repeal

“a seafarer”

Substitute

“a registered person”.

- (5) Section 12(2)(a)—

Repeal

“the seafarer”

Substitute

“the person”.

- (6) Section 12(2)(b)—

Repeal

“seafarer”

Substitute

“person”.

75. Section 13 amended (effect of lack of space in employment registration book)

- (1) Section 13(1)—

Repeal

“seafarer’s”

Substitute

“registered person’s”.

- (2) Section 13(1)—

Repeal

“seafarer”

Substitute

“person”.

76. Section 15 amended (notification of errors in employment registration book)

- (1) Section 15(1)—

Repeal

“seafarer”

Substitute

“registered person”.

- (2) Section 15(2)—

Repeal

“seafarer”

Substitute

“registered person”.

77. Schedule amended (particulars to be recorded in and contents of employment registration books)

- (1) The Schedule, item 11—

Repeal

“company”.

- (2) The Schedule, item 16—

Repeal

“and rating on registration”

Substitute

“of and capacity and rank on registration,”.

- (3) The Schedule, item 16—

Repeal

“in rating”

Substitute

“in capacity and rank”.

- (4) The Schedule, item 26—

Repeal

“seafarer’s”

Substitute

“person’s”.

- (5) The Schedule, item 26—

Repeal

“seafarer”

Substitute

“person”.

**Subdivision 3—Amendment to Merchant Shipping (Seafarers)
(Engine Room Watch Ratings) Regulation (Cap. 478 sub. leg. V)**

**78. Schedule 1 amended (qualifications for issue of an engine room
watch rating certificate)**

Schedule 1, section 1(b)—

Repeal

“seafarer”

Substitute

“person”.

**Subdivision 4—Amendment to Merchant Shipping (Seafarers)
(Navigational Watch Ratings) Regulation (Cap. 478 sub. leg. W)**

**79. Schedule 1 amended (qualifications for issue of a navigational
watch rating certificate)**

Schedule 1, section 1(b)—

Repeal

“seafarer”

Substitute

“person”.

**Subdivision 5—Amendments to Merchant Shipping (Seafarers)
(Fees) Regulation (Cap. 478 sub. leg. AB)**

80. Schedule amended

- (1) The Schedule, Part III, item 11(b)—

Repeal

“non-registered seafarer”

Substitute

“seafarer whose name is not entered in the register”.

- (2) The Schedule, Part III, item 11(e) and (f)—

Repeal

“company roster”

Substitute

“roster”.

**Subdivision 6—Amendment to Merchant Shipping (Seafarers)
(Safety Training) Regulation (Cap. 478 sub. leg. AC)**

81. Section 1 amended (interpretation)

Section 1—

Repeal the definition of *seafarer*.

**Subdivision 7—Amendment to Merchant Shipping (Seafarers)
(Ro-Ro Passenger Ships—Training) Regulation
(Cap. 478 sub. leg. AD)**

82. Section 1 amended (interpretation)

Section 1—

Repeal the definition of *seafarer*.

**Subdivision 8—Amendment to Merchant Shipping (Seafarers)
(Passenger Ships Other Than Ro-Ro Passenger Ships—Training)
Regulation (Cap. 478 sub. leg. AE)**

83. Section 2 amended (interpretation)

Section 2—

Repeal the definition of *seafarer*.

**Division 2—Amendments to Administrative Appeals Board
Ordinance (Cap. 442)**

84. Schedule amended

The Schedule, item 52, column 3—

- (a) Paragraph (b), after “52(3);” —

Add

“or”;

- (b) **Repeal paragraph (c);**

- (c) Paragraph (d), after “permit” —

Add

“under section 56(1)”.

Schedule 1

[s. 2]

Minor Amendments to Merchant Shipping (Seafarers)
Ordinance Relating to Replacement of “Permitted
Company” by “Permitted Body”

	Column 1 Provision	Column 2 Repeal	Column 3 Substitution
1.	Section 40	company (wherever appearing)	body
2.	Section 43	company (wherever appearing)	body
3.	Section 59	company (wherever appearing)	body
4.	Section 62	company (wherever appearing)	body
5.	Section 63, heading	company	body
6.	Section 63	company (wherever appearing)	body
7.	Section 71	company (wherever appearing)	body
8.	Section 123(4)	company (wherever appearing)	body

Schedule 2

[s. 2]

**Minor Amendments to Merchant Shipping (Seafarers)
Ordinance Relating to Replacement of “Registered
Seafarer” by “Registered Person”**

	Column 1 Provision	Column 2 Repeal	Column 3 Substitution
1.	Section 10, heading	Seafarers	Persons
2.	Section 10(3)	registered seafarer	registered person
3.	Section 10(4)	seafarer (wherever appearing)	person
4.	Section 15, heading	seafarer	person
5.	Section 15	seafarer (wherever appearing)	person
6.	Section 22	(a) seafarer's (b) seafarer	person's person
7.	Section 23(3)	seafarer	registered person
8.	Section 31	(a) seafarer (wherever appearing) (b) seafarer's	person person's
9.	Section 33	(a) seafarer (wherever appearing) (b) seafarer's	person person's

Schedule 2

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	Column 1 Provision	Column 2 Repeal	Column 3 Substitution
10.	Section 36	(a) seafarer (wherever appearing)	person
		(b) seafarer's (wherever appearing)	person's
11.	Section 38(1)	seafarer	person
12.	Part VI, heading	SEAFARERS	PERSONS
13.	Section 40, heading	seafarers	persons
14.	Section 40	(a) seafarer (wherever appearing)	person
		(b) seafarers	persons
15.	Section 41, heading	seafarers	persons
16.	Section 41	(a) seafarer (wherever appearing)	person
		(b) seafarers	persons
17.	Section 43, heading	seafarers	persons
18.	Section 43	seafarer (wherever appearing)	person
19.	Section 46, heading	seafarers	persons
20.	Section 46	seafarer	person
21.	Section 48, heading	seafarers	persons
22.	Section 48	(a) seafarer (wherever appearing)	person

Schedule 2

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	Column 1 Provision	Column 2 Repeal	Column 3 Substitution
		(b) seafarer's (wherever appearing)	person's
23.	Section 49(1)	(a) seafarers (wherever appearing)	persons
		(b) seafarer (wherever appearing)	person
24.	Section 51, heading	seafarer	registered person
25.	Section 51	seafarer (wherever appearing)	person
26.	Section 62, heading	seafarer's	person's
27.	Section 62(1)	seafarer (wherever appearing)	person
28.	Section 63, heading	seafarers	persons
29.	Section 63	(a) seafarer (wherever appearing)	person
		(b) seafarers	persons
30.	Section 69(1)	seafarer (wherever appearing)	person
31.	Section 126, heading	seafarers	registered persons
32.	Section 126	seafarer (wherever appearing)	person

Explanatory Memorandum

The Maritime Labour Convention, 2006 (*Convention*) was adopted by the International Labour Conference of the International Labour Organization in 2006. It sets out a comprehensive set of global standards for the working and living conditions of seafarers and seeks to protect the right of seafarers to decent employment.

2. The main purpose of this Bill is to amend the Merchant Shipping (Seafarers) Ordinance (Cap. 478) (*Ordinance*) to implement certain requirements of the Convention, and to provide for related matters. The Bill also makes technical amendments to improve the operation and presentation of the Ordinance. Other requirements of the Convention will be implemented by new subsidiary legislation to be made, and amendments to existing subsidiary legislation, under the Ordinance.
3. Part 1 of the Bill provides for preliminary matters. Clause 1 sets out the short title and provides for commencement.
4. Part 2 of the Bill amends existing provisions of the Ordinance.

Definition of seafarer and related amendments

5. The current definition of *seafarer* includes persons employed in ships, and those who are to be so employed. The definition, however, does not include, among others, masters, officers and medical practitioners of ships for the purposes of some provisions of the Ordinance. This is inconsistent with the coverage of “seafarer” under the Convention.
6. The current definition is replaced by a new one in a new section 2A to be added to the Ordinance (see clause 4). The new definition includes persons who work on ships in any capacity, but excludes the persons listed in a new Schedule 1A to be

added to the Ordinance (see clause 67). The excluded persons include, among others, pilots, shipowners and their representatives, officers of law enforcement agencies and persons who work on ships within ports or port facilities only. The new section 2A also empowers the Secretary for Transport and Housing (*Secretary*) to, after consulting the Seafarers' Advisory Board, amend the Schedule by notice published in the Gazette.

7. In line with the new definition of *seafarer*, sections 7(5) and 11 of the Ordinance which relate to the employment in ships of persons not included in the current definition of *seafarer* are respectively repealed by clauses 7(11) and 10. Clauses 48, 51 and 55 respectively amend sections 79, 85 and 92 of the Ordinance so that the powers and duties of masters of ships in relation to seafarers under those sections may also be exercised and carried out by the seafarers' employers.

Registered person and related amendments

8. Part III of the Ordinance provides for the establishment of a register (*register*). Persons who are employed as seafarers and persons who are desirous of being so employed are required to be registered. Persons whose names are entered in the register are currently called "registered seafarers". Under the new definition of *seafarer*, persons who are only desirous of being employed as seafarers are no longer regarded as seafarers. The term "registered seafarer" is substituted by "registered person". Amendments are made to provisions in different Parts of the Ordinance for substituting the term and making related amendments. Some of the amendments for substituting the term are dealt with by Schedule 2 to the Bill.
9. The Bill also amends some of the registration requirements. Clauses 8 and 9 respectively amend sections 8 and 9 of the Ordinance to remove the age restrictions for registration. Persons who are at least 17 years of age may be registered if they meet the relevant qualification requirements. Clause 8 also amends the qualification requirements and a certificate of

qualification as a ship's cook issued by the competent authority of a party to the Certification of Ships' Cooks Convention 1946 or the Convention may be accepted as one of the qualification requirements for registration in the part of the register on sea-going ships.

Seafarers' organizations and permitted bodies

10. Under the current Ordinance, only companies may carry out the business of recruiting and supplying seafarers for employment in ships. The Convention also allows seafarers' organizations to do so. Clause 33 amends section 52 of the Ordinance so that seafarers' organizations may also apply for a permit (*permit*) from the Superintendent (*Superintendent*) of the Mercantile Marine Office (*Office*) established under the Ordinance to carry out the business. To obtain a permit, seafarers' organizations have to satisfy similar requirements as companies. The only difference is that seafarers' organizations will not be required to assume responsibility for payment of, among others, wages, allowances and bonuses to seafarers supplied by them. Instead, seafarers' organizations will be required to adopt measures to ensure that seafarers supplied will be fully compensated for any monetary loss suffered as a result of the failure of their employers to meet the employers' obligations under the employment agreements (see clause 35).
11. A new definition of *permitted body* is added to section 2(1) of the Ordinance to cover both companies and seafarers' organizations which have been granted a permit by the Superintendent (see clause 3). Amendments are made to provisions in different Parts of the Ordinance for substituting the term "permitted company" by "permitted body" and making related amendments. Some of the amendments for substituting the term are dealt with by Schedule 1 to the Bill.
12. Clause 37 amends section 56 of the Ordinance to provide for an additional ground under which the Superintendent may cancel the permits granted to permitted bodies. The additional ground

is that the bodies have failed to examine or respond to complaints concerning their business of recruiting or supplying registered persons for employment, or have failed to report unresolved complaints to the Superintendent.

13. Clause 38 amends section 57 of the Ordinance and restricts the ships to which companies or seafarers' organizations which have obtained permits may supply registered persons for employment. Under the amendments, permitted companies may only supply registered persons for employment in ships that they own, manage or charter, while permitted seafarers' organizations may only supply registered persons for employment in ships registered in Hong Kong (*Hong Kong ships*). The provisions under the current section 57 which allow permitted companies to supply registered persons for employment in ships that are owned, managed or chartered by other persons are repealed. Various provisions relating to the supply of registered persons for employment in such ships are also consequentially amended.

Written employment agreements between seafarers and shipowners

14. Clause 49 amends section 80 of the Ordinance to provide that persons who work as seafarers on Hong Kong ships must enter into written employment agreements with the shipowners or persons (including managers or charterers) who have assumed responsibility for operating the ships from the shipowners. The clause also repeals the existing provisions relating to employment agreements based on individual voyages made by ships. Such agreements are no longer adopted in practice.

Complaint procedures

15. Section 98 of the Ordinance provides that 3 or more seafarers employed in a Hong Kong ship may make a complaint to the master of the ship on the provisions or water provided for seafarers on the ship. Clause 58 amends that section so that a single seafarer may make such a complaint. A new subsection (2A) is added to that section so that the seafarer may make a

complaint on the subject matter directly to the Superintendent without first complaining to the master. A new subsection (5) is also added to provide that the complaint procedures in that section do not affect the right of the seafarer to make complaints in accordance with the complaint procedures adopted on the ship in which the seafarer is employed.

16. Section 99 of the Ordinance provides for the right of seafarers employed in Hong Kong ships to complain to masters of ships about the conditions or other seafarers in the ships. Clause 59 amends that section to also allow complaints to be made on anything relating to the seafarers' employment. Similar to section 98 of the Ordinance, a new subsection (2A) is added to section 99 to allow the seafarers to make a complaint on the subject matter directly to the Superintendent. A new subsection (5) is also added to provide that the complaint procedures in that section do not affect the right of the seafarers to make complaints in accordance with the complaint procedures adopted on the ships in which the seafarers are employed.

Repatriation of seafarers

17. Section 104 of the Ordinance is an empowering provision. It provides for subsidiary legislation to be made regarding the repatriation of seafarers who are left behind or shipwrecked. The Convention provides for a wider range of circumstances under which seafarers are entitled to be repatriated by their employers. Clause 62 amends that section so that all circumstances under which seafarers are entitled to be repatriated will be set out in subsidiary legislation.
18. Section 105 of the Ordinance provides for the circumstances under which seafarers left behind in places outside Hong Kong are not entitled to be repatriated by their employers. Clause 63 repeals that section and the circumstances under which employers are not required to repatriate seafarers will be set out in the subsidiary legislation regulating repatriation of seafarers.

19. Section 106 of the Ordinance provides that if the Government has incurred any expenses in repatriating seafarers for which the seafarers' employers are liable, the Government may recover the expenses as a civil debt from the employers. Clause 64 amends that section to reflect the provision of the Convention which allows the Government to also detain ships of the employers until the expenses have been paid.

Miscellaneous amendments

20. Clauses 29, 30 and 31 respectively amend sections 44, 45 and 47 of the Ordinance to repeal the provisions which allow permitted companies or employers to require seafarers to contribute to the fees payable to the Office in connection with the employment of seafarers.
21. Section 89 of the Ordinance permits seafarers to allot only part of their wages to another person. The restriction on the portion of wages to be allotted is inconsistent with the Convention. Clause 53 amends that section so that seafarers may allot all or a part of their wages.
22. Sections 97(1) and 100(1) of the Ordinance empower the Secretary to make subsidiary legislation relating to crew accommodation and medical stores in Hong Kong ships respectively. Sections 97(6) and 100(2) of the Ordinance are offence provisions in respect of contravention of the requirements set out in the subsidiary legislation. Clauses 57 and 60 respectively repeal sections 97(6) and 100(2). The offence provisions will be separately provided in the subsidiary legislation governing crew accommodation and medical stores in Hong Kong ships.
23. Section 134 of the Ordinance supplements the empowering provisions in other sections of the Ordinance for making subsidiary legislation. Clause 66 adds a new subsection (3A) to that section to expressly provide that subsidiary legislation to give effect to international agreements that are applicable to

Hong Kong and amended from time to time may adopt a direct reference approach to refer directly to the provisions in the agreements and specify amendments, modifications or adaptations subject to which the provisions are to have effect. That approach will facilitate timely implementation of requirements under international agreements which are frequently amended.

24. Part 3 of the Bill makes related and consequential amendments to various items of subsidiary legislation under the Ordinance, and to the Schedule to the Administrative Appeals Board Ordinance (Cap. 442).