

L.N. 108 of 2015

**Merchant Shipping (Prevention of Pollution by Sewage)
(Amendment) Regulation 2015**

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Merchant Shipping (Prevention of Pollution by Sewage) (Amendment) Regulation 2015

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

1. Commencement

This Regulation comes into operation on 1 November 2015.

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

The Merchant Shipping (Prevention of Pollution by Sewage)
Regulation (Cap. 413 sub. leg. K) is amended as set out in
sections 3 to 27.

3. Section 2 amended (interpretation)

- (1) Section 2, definition of *Convention*—

Repeal

everything after “1973,”

Substitute

“including its protocols and appendices, and Annex IV
(but no other Annex), as from time to time revised or
amended by any revision or amendment to any provision
of such Convention that applies to Hong Kong;”.

- (2) Section 2, definition of *international voyage*—

Repeal

everything after “a voyage”

Substitute

“between—

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

- (3) Section 2, definition of *ISPP Certificate*—

Repeal

everything after “means—”

Substitute

- “(a) a sewage certificate;
- (b) a certificate entitled “International Sewage Pollution Prevention Certificate” issued by a recognized organization in conformity with Annex IV to the Convention; or
- (c) a certificate issued by or under the authority of an Administration in conformity with Annex IV to the Convention;”.

- (4) Section 2, English text, definition of *sewage certificate*—

Repeal the semicolon

Substitute a full stop.

- (5) Section 2, Chinese text, definition of 續證檢驗—

Repeal the semicolon

Substitute a full stop.

- (6) Section 2—

Repeal the definitions of *Annex IV*, *company* and *surveyor*.

Section 4

(7) Section 2—

Add in alphabetical order

“*Administration* (主管機關), in relation to a ship, means the government of any place outside Hong Kong whose flag the ship is entitled to fly;

Annex IV (《附則 IV》) means the revised Annex IV to the Convention adopted by the International Maritime Organization by resolution MEPC.115(51), as from time to time revised or amended by the revision or amendment that applies to Hong Kong;”.

4. Section 3 amended (application and exemption)

(1) Section 3(1)—

Repeal

“(2),”.

(2) Section 3—

Repeal subsection (2).

(3) Section 3—

Repeal subsection (5).

5. Section 5 amended (Director may recognize organizations to survey ships and issue and endorse certificates)

(1) Section 5(1)(a), after “Convention”—

Add

“and specifying any corrective actions which the organization considers necessary to be taken in respect of those ships”.

(2) Section 5, Chinese text—

Section 6

Repeal

“附件 IV” (wherever appearing)

Substitute

“《附則 IV》”.

(3) Section 5, Chinese text—

Repeal

“該附件” (wherever appearing)

Substitute

“該附則”.

6. Section 6 amended (Director may request Convention countries to survey ships and issue or endorse certificates)

(1) Section 6, Chinese text—

Repeal

“附件 IV” (wherever appearing)

Substitute

“《附則 IV》”.

(2) Section 6, Chinese text—

Repeal

“該附件”

Substitute

“該附則”.

7. Section 6A added

After section 6—

Add

“6A. Director may issue sewage certificates etc. at request of Convention countries

- (1) The Director may, at the request of any Convention country—
 - (a) cause a non-Hong Kong ship that is within the waters of Hong Kong to be surveyed under sections 9 and 10 as if the ship were a Hong Kong ship;
 - (b) issue a sewage certificate in respect of the ship under section 9 as if the ship were a Hong Kong ship; and
 - (c) endorse on an ISPP Certificate in conformity with Annex IV to the Convention.
- (2) For the purpose of subsection (1), sections 9 and 10 apply as if a reference in those sections to the Schedule were a reference to Annex IV to the Convention.”.

8. Section 9 amended (applications for issue of International Sewage Pollution Prevention Certificates)

Section 9(1)—

Repeal

“A company”

Substitute

“An owner”.

9. Section 10 amended (initial surveys and renewal surveys)

- (1) Section 10(1), before “surveyor”—

Add

“Government”.

- (2) Section 10(4), before “surveyor”—

Add

“Government”.

10. Section 11 amended (form of sewage certificates)

Section 11(2), Chinese text—

Repeal

“附件 IV”

Substitute

“《附則 IV》”.

11. Section 13 amended (extension of period of validity)

Section 13(1)—

Repeal

“company”

Substitute

“owner”.

12. Section 15 amended (extension of period of validity where ships are not in ports in which ships are to be surveyed)

Section 15(1)—

Repeal

“company”

Substitute

“owner”.

13. Section 16 amended (extension of period of validity where ships are on short voyages)

Section 16—

Repeal

“company”

Substitute

“owner”.

14. Section 19 amended (certified true copies of sewage certificates)

Section 19—

Repeal

“company”

Substitute

“owner”.

15. Section 20 amended (alteration made to sewage certificates)

Section 20(1)—

Repeal

“company”

Substitute

“owner”.

16. Part 4 heading substituted

Part 4, heading—

Repeal the heading

Substitute

“Part 4

**Duties of Owners and Masters and Additional
Surveys, etc.”.**

17. Section 21 amended (interpretation of Part 4)

(1) Section 21(c)(ii)—

Repeal

“that are equivalent to the provisions of the Schedule”.

(2) Section 21(c)(ii), Chinese text—

Repeal

“附件 IV”

Substitute

“《附則 IV》”.

18. Section 24 amended (duty to report defects of ships, etc.)

Section 24(1)—

Repeal

“company”

Substitute

“owner”.

**19. Section 25 repealed (actions against ships that are not fit to
proceed to sea without presenting unreasonable threat of harm to
marine environment, etc.)**

Section 25—

Repeal the section.

20. Section 26 amended (additional surveys)

(1) Section 26(1)—

Repeal paragraph (a).

(2) Section 26(1), before “surveyor”—

Add

“Government”.

(3) Section 26(2)—

Repeal

“company”

Substitute

“owner”.

(4) Section 26(3), before “surveyor”—

Add

“Government”.

21. Section 26A added

After section 26—

Add

“26A. Corrective action to be taken

(1) A Government surveyor may, by written notice, require the owner or the master of a Hong Kong ship in respect of which an ISPP Certificate has been issued to take such corrective action which the surveyor considers necessary if on any survey (other than an initial survey) of the ship—

- (a) the surveyor determines that the condition of the ship, or its equipment, does not correspond substantially with the particulars in the Certificate; or
 - (b) the surveyor is of the opinion that the ship is not fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment.
- (2) A surveyor must, on giving notice under subsection (1), inform the Director.
 - (3) If the corrective action is not taken within the period specified by the surveyor, the surveyor must inform the Director and the Director may, by written notice to the owner and the master of the ship, withdraw the Certificate.
 - (4) On receiving a notice under subsection (3), the owner and the master of the ship must deliver the Certificate to the Director immediately.
 - (5) The owner or the master of the ship may, after the corrective action in respect of the ship has been taken, apply to the Director for the return of the Certificate.
 - (6) On receiving an application under subsection (5), if the Director is satisfied that the corrective action in respect of the ship has been taken, the Director must, by written notice to the owner or the master, return the Certificate to the owner or the master.”.

22. Section 27 amended (cancellation of ISPP Certificates)

- (1) Section 27(1)—

Section 23

Repeal

“company”

Substitute

“owner and the master”.

(2) Section 27(3)—

Repeal

“company”

Substitute

“owner and the master”.

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

(1) Section 28(1)(a)(i)—

Repeal

“or a sewage comminuting and disinfecting system specified in the ISPP Certificate issued in respect of the ship,”.

(2) Section 28(1)(a)(ii)—

Repeal

everything after “sewage”

Substitute

“originating from spaces containing living animals or that has been stored in holding tanks is not discharged instantaneously but at a moderate rate; and”.

(3) Section 28(1)(a)—

Repeal subparagraph (iii).

Section 24

- (4) Section 28(1)(b)(ii)—

Repeal

everything after “sewage”

Substitute

“originating from spaces containing living animals or that has been stored in holding tanks is not discharged instantaneously but at a moderate rate; and”.

- (5) Section 28(1)(b)—

Repeal subparagraph (iii).

- (6) Section 28(1)(c)—

Repeal

“or a sewage treatment plant specified in the ISPP Certificate issued in respect of the ship”.

- (7) Section 28(1)(c)—

Repeal subparagraph (i).

- (8) After section 28(2)—

Add

“(3) In this section—

moderate rate (適當的速率) means the rate which is derived in accordance with the recommendation on standards for discharge of sewage from ships adopted by the International Maritime Organization.”.

24. Part 5A added

After Part 5—

Add

“Part 5A

Power of Government Surveyors

29A. Power of Government surveyors to inspect, examine, etc. ships

- (1) Any of the powers conferred by this section may be exercised for the purpose of ascertaining whether this Regulation has been or is being complied with.
- (2) A Government surveyor may, at any reasonable time—
 - (a) board a ship that is within the waters of Hong Kong; and
 - (b) take with the surveyor any other person and any equipment or materials required to assist the surveyor.
- (3) After boarding the ship, the Government surveyor may—
 - (a) inspect the ship;
 - (b) make any examination and investigation as the surveyor considers necessary;
 - (c) take samples of any article or substance found on the ship that the surveyor may reasonably require for the inspection, examination or investigation;
 - (d) inspect, seize and remove from the ship any article or substance in respect of which the surveyor suspects on reasonable grounds that an offence under this Regulation has been committed;

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- (e) detain the article or substance for so long as is necessary—
 - (i) for the inspection, examination or investigation; and
 - (ii) to ensure that it is available for use as evidence in any proceedings for an offence under this Regulation;
 - (f) take any measurements and photographs and make any recordings that the surveyor may reasonably require for the inspection, examination or investigation;
 - (g) require that the ship or any part of it, or anything on the ship, is to be left undisturbed (whether generally or in particular respects) for so long as is necessary for the inspection, examination or investigation;
 - (h) require any person who the surveyor reasonably believes is able to give any information relevant to the inspection, examination or investigation—
 - (i) to attend at a place and time specified by the surveyor;
 - (ii) to answer the questions that the surveyor thinks fit to ask; and
 - (iii) to sign a declaration of the truth of the person's answers;
 - (i) require the production of, and inspect and take copies of or of any entry in—
 - (i) any certificates, books or documents that are required to be kept under this Regulation; and

- (ii) any other certificates, books or documents that the surveyor considers necessary for the inspection, examination or investigation; and
 - (j) require any person to afford the surveyor such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as the surveyor considers necessary to enable the surveyor to exercise any power conferred by this section.
- (4) If an inspection of a ship under subsection (3) reveals a deficiency, the Director may give a direction to the master of the ship requiring the master to cause the ship not to proceed to sea until the deficiency is rectified.
- (5) A master to whom a direction is given under subsection (4) must—
 - (a) comply with the direction;
 - (b) take steps to rectify the deficiency; and
 - (c) inform the Director once the deficiency is rectified.
- (6) If the ship concerned is a Hong Kong ship and the deficiency is not rectified within the period specified by the Director, the Director may, by written notice to the owner and the master of the ship, withdraw the ISPP Certificate issued in respect of the ship.
- (7) On receiving a notice under subsection (6), the owner and the master of the ship must deliver the Certificate to the Director immediately.

- (8) The owner or the master of the ship may, after the deficiency in respect of the ship has been rectified, apply to the Director for the return of the Certificate.
- (9) On receiving an application under subsection (8), if the Director is satisfied that the deficiency in respect of the ship has been rectified, the Director must, by written notice to the owner or the master, return the Certificate to the owner or the master.”.

25. Section 29B added

Part 6, before section 30—

Add

“29B. Obstruction and non-compliance with requirements

- (1) A person must not—
 - (a) wilfully obstruct a Government surveyor in the exercise of any power conferred by section 29A; or
 - (b) make a statement or sign a declaration that the person knows is false, or recklessly make a statement or sign a declaration that is false, in purported compliance with a requirement under section 29A(3)(h).
- (2) A person must comply with a requirement imposed on the person under section 29A(3).”.

26. Section 30 amended (offences and penalties)

- (1) Section 30(1)—

Repeal

“or 28(1) is contravened, the company”

Substitute

“, 26A(4), 28(1) or 29A(7) is contravened, the owner”.

- (2) Section 30(1)—

Repeal

everything after “liable”

Substitute

“to a fine at level 6.”.

- (3) Section 30—

Repeal subsection (2)

Substitute

“(2) A master of a ship who fails to comply with a direction given under section 29A(4) commits an offence and is liable to a fine at level 6.”.

- (4) After section 30(2)—

Add

“(2A) A person who contravenes section 29B(1) commits an offence and is liable to a fine at level 6.

(2B) A person who without reasonable excuse fails to comply with section 29B(2) commits an offence and is liable to a fine at level 6.”.

- (5) Section 30(3)—

Repeal

“this section”

Substitute

“subsection (1)”.

- (6) After section 30(3)—

Add

“(4) If an offence under this section is committed, or would, save for the operation of subsection (3), have been committed by the owner or the master of a ship due to the act or omission of some other person, that other person also commits the offence and may be charged with and convicted of the offence whether or not proceedings are taken against the owner or the master.”.

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

(1) The Schedule—

Repeal

“[ss. 9, 10, 21, 23, 26 & 28]”

Substitute

“[ss. 6A, 9, 10, 21, 23, 26 & 28]”.

(2) The Schedule, section 1(a)—

Repeal

everything after “with the”

Substitute

“standards adopted by the International Maritime Organization for sewage treatment plants;”.

YAU Shing-mu
Acting Secretary for Transport and
Housing

29 May 2015

Explanatory Note

This Regulation amends the Merchant Shipping (Prevention of Pollution by Sewage) Regulation (Cap. 413 sub. leg. K) (*principal Regulation*) to implement the latest requirements of Annex IV to the International Convention for the Prevention of Pollution from Ships, 1973 (*Convention*). The Regulation also makes other minor amendments to the principal Regulation.

2. The main amendments are set out below—
- (a) section 7 adds a new section 6A to the principal Regulation which empowers the Director of Marine to issue and endorse on an International Sewage Pollution Prevention Certificate at the request of a Convention country;
 - (b) section 23 amends section 28 of the principal Regulation to update the restrictions on discharge of sewage into sea in accordance with the Convention;
 - (c) section 24 adds a new Part 5A to the principal Regulation to provide Government surveyors with general powers to inspect and examine ships. And section 25 adds a new section 29B to the principal Regulation to deal with the obstruction of, and non-compliance with the requirements imposed by, Government surveyors in their exercising the power under the new section 29A; and
 - (d) section 27 amends the Schedule to the principal Regulation to update the requirements for equipment in accordance with the Convention.