

LEGISLATIVE COUNCIL BRIEF

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

Legislative Amendments for the Implementation of the Latest Requirements of the International Maritime Organization on the Carriage of Dangerous Goods and Marine Pollutants

INTRODUCTION

To incorporate the latest requirements of the International Convention for the Safety of Life at Sea (“SOLAS”), the International Maritime Dangerous Goods Code (“IMDG Code”) as well as the International Convention for the Prevention of Pollution from Ships (“MARPOL”) of the International Maritime Organization (“IMO”) in relation to the carriage of dangerous goods and marine pollutants into our local legislation, the Secretary for Transport and Housing has made the Merchant Shipping (Safety) (Dangerous Goods and Marine Pollutants) (Amendment) Regulation 2018 (“the Amendment Regulation”) at **Annex A** under Sections 3 and 3A of the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413) (“the Ordinance”).

BACKGROUND

2. IMO regulates the carriage of dangerous goods and marine pollutants through three main instruments —

- (a) Chapter VII of SOLAS¹, which provides an international standard for the carriage and safe transportation of dangerous goods for ocean-going vessels (“OGVs”);

¹ SOLAS covers different aspects of maritime safety as follows:

Chapter I:	General provisions;
Chapter II-1:	Construction — subdivision and stability, machinery and electrical installations;
Chapter II-2:	Construction — fire protection, fire detection and fire extinction;
Chapter III:	Life-saving appliances and arrangements;
Chapter IV:	Radiocommunications;
Chapter V:	Safety of navigation;
Chapter VI:	Carriage of cargoes and oil fuels;

- (b) IMDG Code, which classifies different types of dangerous goods including marine pollutants into various classes² and sets out the requirements on packing, labelling, stowage and documentation in respect of the different classes of dangerous goods; and
- (c) Annex III to MARPOL³, which regulates ships carrying marine pollutants.

3. In Hong Kong, the requirements in relation to the carriage of dangerous goods and marine pollutants are implemented through the Merchant Shipping (Safety) (Dangerous Goods and Marine Pollutants) Regulation (Cap. 413H) (“the Regulation”). The requirements therein currently apply to all Hong Kong-registered ships wherever they may be and other ships while they are within Hong Kong waters, as long as they are

Chapter VII:	Carriage of dangerous goods;
Chapter VIII:	Nuclear ships;
Chapter IX:	Management for the safe operation of ships;
Chapter X:	Safety measures for high-speed craft;
Chapter XI-1:	Special measures to enhance maritime safety;
Chapter XI-2:	Special measures to enhance maritime security;
Chapter XII:	Additional safety measures for bulk carriers;
Chapter XIII:	Verification of compliance; and
Chapter XIV:	Safety measures for ships operating in polar waters.

² IMDG Code contains nine classes of dangerous goods:

Class 1:	Explosives;
Class 2:	Gases;
Class 3:	Flammable liquids;
Class 4:	Flammable solids or substances;
Class 5:	Oxidizing substances and organic peroxides;
Class 6:	Toxic and infectious substances;
Class 7:	Radioactive substances;
Class 8:	Corrosives; and
Class 9:	Miscellaneous dangerous substances and articles.

³ Annexes to MARPOL govern various substances as follows:

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

carrying dangerous goods in bulk or packaged form and marine pollutants in packaged form⁴.

LEGISLATIVE PROPOSALS

Major Requirements

4. We propose to amend the Regulation to incorporate the latest IMO requirements in relation to the carriage of dangerous goods and marine pollutants into our local legislation. Some of the new requirements are described below —

- (a) *Classification of Dangerous Substances* — IMO has made substantial changes to the 2016 edition of the IMDG Code⁵, one of which is the classification of dangerous substances which seeks to communicate their hazards to stakeholders accurately. The amendments to the 2016 edition of the IMDG Code include introducing new classification criteria and documentation requirements in relation to the carriage of fireworks; the addition of new criteria for determining the viscosity of flammable liquids to assess risks of fire; and the inclusion of polymerising substances⁶ as a type of dangerous substances subject to regulation.
- (b) *Carriage of Lithium Batteries* — There has been an increasing number of incidents involving the carriage of lithium batteries in recent years. To ensure that lithium batteries are transported safely, packages carrying lithium batteries are required to provide sufficient insulation to prevent sparks or short-circuiting and be resilient to

⁴ The amended Regulation does not apply to —

- (a) a warship;
- (b) a naval auxiliary; or
- (c) any other ship owned or operated by a government and used only on government non-commercial service.

⁵ The IMDG Code has undergone many changes over the years, in both format and content, in order to keep up with the rapid expansion of the shipping industry. The 2016 edition, which was adopted by IMO in May 2016, includes revisions to various sections of the IMDG Code and transport requirements for specific substances.

⁶ Polymerising substances are substances that will undergo a chemical reaction, namely polymerisation, which will generate intense heat and pressure.

external shocks⁷. In addition, the packages are to be marked with a standardised notice indicating that they contain lithium batteries.

- (c) *Use of proper shipping names for dangerous goods* — To accurately represent the hazards of dangerous goods in shipment, the IMDG Code standardises the global nomenclature of dangerous goods. Only the Proper Shipping Names⁸ as listed in the IMDG Code can be used when naming dangerous goods in a shipboard Dangerous Goods Declaration and on dangerous goods packages. The Proper Shipping Names facilitate rapid and precise identification during transport to ensure correct handling, stowage, segregation and appropriate actions in an emergency.
- (d) *Identification of Harmful Substances* — The IMDG Code contains a comprehensive list of marine pollutants, which is updated from time to time by IMO to include newly identified marine pollutants. To allow for identification of harmful substances yet to be included in the IMDG Code, an Appendix is added to Annex III to MARPOL to set out the criteria for shippers to identify harmful substances in between updates to the IMDG Code. Such criteria include whether the substances are highly toxic to aquatic life or bio-accumulated to a significant extent and known to produce a hazard to aquatic life. If a substance meets one of the criteria, the shipper will have the duty to meet the relevant safety requirements as if the harmful substance so identified has already been included in the list of marine pollutants under the IMDG Code.

⁷ To ensure the strength and resilience of lithium battery packages, they are required to undergo drop tests and must not exhibit any damage affecting safety during transport thereafter.

⁸ Proper Shipping Names are intended to reflect the specific physical and chemical properties of dangerous goods with a view to providing a standardised way of determining labelling, marking and documentation.

THE REGULATIONS

Merchant Shipping (Safety) (Dangerous Goods and Marine Pollutants) (Amendment) Regulation 2018

5. The Amendment Regulation is made to implement the latest requirements of IMO in relation to the carriage of dangerous goods and marine pollutants on board OGVs.

Consequential amendment

Merchant Shipping (Local Vessels) (General) (Amendment) Regulation 2018

6. The Merchant Shipping (Local Vessels) (General) (Amendment) Regulation 2018, at **Annex B**, is made to consequentially amend the Merchant Shipping (Local Vessels) (General) Regulation (Cap. 548F) such that the latest requirements of IMO in relation to the carriage of dangerous goods and marine pollutants apply to local vessels.

Application of the Direct Reference Approach

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

LEGISLATIVE TIMETABLE

8. The regulations will be published in the Gazette on 7 December 2018 and introduced into the Legislative Council on 12 December 2018.

IMPLICATIONS OF THE PROPOSAL

9. The proposal will have positive environmental and sustainability implications as the implementation of the latest requirements on the carriage of dangerous goods and marine pollutants of IMO implemented in Hong Kong, such as requirements on packaging of dangerous goods and marine pollutants, will contribute to conserving marine biodiversity.

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

PUBLIC CONSULTATION

11. We consulted the Legislative Council Panel on Economic Development in January 2018, as well as the Shipping Consultative Committee of the Marine Department. Members supported the proposal.

PUBLICITY

12. A press release will be issued on 7 December 2018. A spokesman will be available to answer enquiries.

ENQUIRIES

13. Any enquiries on this brief can be addressed to Ms Louisa Yan, Principal Assistant Secretary for Transport and Housing (Transport) (Tel: 3509 8162), or Mr Choi Chi Chuen, Assistant Director (Multi-lateral Policy), Marine Department (Tel: 2852 4408).

**Transport and Housing Bureau
December 2018**

Merchant Shipping (Safety) (Dangerous Goods and Marine Pollutants) (Amendment) Regulation 2018

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Merchant Shipping (Safety) (Dangerous Goods and Marine Pollutants) (Amendment) Regulation 2018

(Made by the Secretary for Transport and Housing under sections 101, 107 and 112B of the Merchant Shipping (Safety) Ordinance (Cap. 369) and sections 3 and 3A of the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413))

1. Commencement

This Regulation comes into operation on 1 March 2019.

2. Merchant Shipping (Safety) (Dangerous Goods and Marine Pollutants) Regulation amended

The Merchant Shipping (Safety) (Dangerous Goods and Marine Pollutants) Regulation (Cap. 413 sub. leg. H) is amended as set out in sections 3 to 26.

3. Section 1 amended (interpretation)

(1) Section 1(1), definition of *dangerous goods*—

Repeal

everything after “means” and before “include”

Substitute

“the substances, materials and articles covered by the IMDG Code and includes empty receptacles, and residues in empty tanks or cargo holds, that have been used previously for carrying the substances, materials and articles and that have not been—

- (a) cleaned and dried;
- (b) gas freed or ventilated (as the case requires); or

(c) if the previous contents were radioactive substances—cleaned and adequately closed, but must not”.

(2) Section 1(1)—

Repeal the definition of *IMDG Code*

Substitute

“*IMDG Code* (《海運危險貨物規則》) means the International Maritime Dangerous Goods Code adopted by the Maritime Safety Committee of the IMO by resolution MSC.122(75) on 24 May 2002, as from time to time revised or amended by any revision or amendment that applies to Hong Kong;”.

(3) Section 1(1)—

Repeal the definition of *marine pollutant*

Substitute

“*marine pollutant* (海洋污染物) means—

- (a) a substance that presents a hazard to the marine environment and is identified in the IMDG Code as a marine pollutant; or
- (b) a substance that meets the criteria in the Appendix to Annex III, and includes empty receptacles, and residues in empty tanks or cargo holds, that have been used previously for carrying the substance and that have not been—
 - (c) cleaned and dried; or
 - (d) gas freed or ventilated (as the case requires);”.

(4) Section 1(1)—

(a) definition of *BCH Code*;

- (b) definition of *Bulk Cargoes Code*;
- (c) definition of *correct technical name*;
- (d) definition of *flammable liquid*;
- (e) definition of *IBC Code*;
- (f) definition of *IGC Code*;
- (g) definition of *in bulk*;
- (h) definition of *Merchant Shipping Notice*;
- (i) definition of *package*;
- (j) definition of *packaged goods*;
- (k) definition of *UN number*—

Repeal the definitions.

- (5) Section 1(1)—

Add in alphabetical order

“*Annex III* (《附則 III》) means Annex III to the Convention, as from time to time revised or amended by any revision or amendment that applies to Hong Kong;

cargo transport unit (貨物運輸單元) means—

- (a) a road transport tank or freight vehicle;
- (b) a railway transport tank or freight wagon;
- (c) a multimodal freight container or portable tank;
- (d) a multiple-element gas container; or
- (e) a vehicle;

Convention (《公約》) means the International Convention for the Prevention of Pollution from Ships, 1973, including its protocols and appendices, and Annex III (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;

dangerous goods in solid form in bulk (固體散裝危險貨物) has the meaning given by Regulation 7 of Chapter VII of the Annex to the SOLAS Convention;

IMSBC Code (《固體散裝貨規則》) means the International Maritime Solid Bulk Cargoes Code adopted by the IMO by resolution MSC.268(85) on 4 December 2008, as from time to time revised or amended by any revision or amendment that applies to Hong Kong;

packaged form (有包裝)—

- (a) in relation to dangerous goods—has the meaning given by Regulation 1 of Chapter VII of the Annex to the SOLAS Convention; or
- (b) in relation to marine pollutants—has the meaning given by Regulation 1 of Annex III;

port authority (港口當局), in relation to a port outside Hong Kong, means the person or authority having control of the operation of the port;

proper shipping name (正確運輸名稱) has the meaning given by Chapter 3.1 of the IMDG Code;

SOLAS Convention (《安全公約》) means the International Convention for the Safety of Life at Sea signed in London on 1 November 1974, or any convention that replaces that Convention or any successor convention, as amended from time to time and as applicable to Hong Kong.”.

- (6) Section 1—

Repeal subsections (2) and (3).

4. **Section 2 amended (application)**

(1) Section 2—

Repeal subsection (1)

Substitute

“(1) This Regulation applies to ships carrying—

- (a) dangerous goods in solid form in bulk or in packaged form; or
- (b) marine pollutants in packaged form.”.

(2) After section 2(2)—

Add

“(3) This Regulation does not apply to—

- (a) a warship;
- (b) a naval auxiliary; or
- (c) any other ship owned or operated by a government and used only on government non-commercial service.

(4) Sections 3, 4, 5, 6 and 7 and Parts II, III and IV do not apply to local vessels within the meaning of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548).”.

5. **Section 3 amended (general duties of shipowners, employers and masters)**

Section 3(4)—

Repeal

everything after “with”

Substitute

“the Revised Recommendations on the safe transport of dangerous cargoes and related activities in port areas adopted by the Maritime Safety Committee of the IMO by MSC.1/Circ.1216 on 26 February 2007.”.

6. **Part II heading amended (carriage of packaged goods)**

Part II, heading—

Repeal

“CARRIAGE OF PACKAGED GOODS”

Substitute

“CARRIAGE OF DANGEROUS GOODS IN PACKAGED FORM”.

7. **Section 8 amended (documentation)**

(1) Section 8, heading, after “**Documentation**”—

Add

“**for dangerous goods in packaged form**”.

(2) Section 8(1)(a)—

Repeal

“No packaged goods shall”

Substitute

“Dangerous goods in packaged form must not”.

(3) Section 8(1)(a)—

Repeal

“or a marine pollutants declaration as appropriate”.

(4) Section 8(1)(b)—

Repeal

everything after “pollutant declaration”

Substitute

“required by section 18A may be combined into one document.”.

- (5) Section 8—

Repeal subsection (2)

Substitute

“(2) A dangerous goods declaration must contain all information relating to the dangerous goods required by Chapter 5.4 of the IMDG Code.”.

- (6) Section 8—

Repeal subsection (3).

- (7) Section 8—

Repeal subsection (4)

Substitute

“(4) A dangerous goods declaration must include a statement required by Chapter 5.4 of the IMDG Code.”.

- (8) Section 8(8)—

Repeal

everything after “on board,” and before “commits”

Substitute

“any dangerous goods in packaged form for which a dangerous goods declaration has not been furnished under this section”.

8. Section 9 amended (packing certificates)

- (1) Section 9, heading, after “**Packing certificates**”—

Add

“for dangerous goods in packaged form”.

- (2) Section 9(1)—

Repeal

everything before “Such”

Substitute

“(1) If dangerous goods in packaged form have been packed into a cargo transport unit, the person responsible for the packing must furnish the shipowner or master of the ship on which the goods are to be carried with a signed packing certificate in accordance with Chapter 5.4 of the IMDG Code.”.

- (3) Section 9(1)—

Repeal

“section 8(5)”

Substitute

“section 8(1)(a)”.

- (4) Section 9—

Repeal subsection (2)

Substitute

“(2) A person who fails to comply with subsection (1) commits an offence.”.

- (5) Section 9(3)—

Repeal

“freight container or vehicle with such goods”

Substitute

“cargo transport unit with dangerous goods in packaged form”.

- (6) Section 9(3)—

Repeal

everything after “otherwise that”

Substitute

“the goods have been packed into the cargo transport unit in accordance with the IMDG Code.”.

9. Section 10 amended (list, manifest or stowage plan)

- (1) Section 10, heading, after “plan”—

Add

“for dangerous goods in packaged form”.

- (2) Section 10(1)—

Repeal

“packaged goods shall”

Substitute

“dangerous goods in packaged form must”.

- (3) Section 10(1)—

Repeal paragraphs (a) and (b)

Substitute

“(a) setting out the details that are obtained from the shipping documents submitted by the shipper required by Chapters 5.4 and 5.5 of the IMDG Code; and

(b) showing the details of the stowage location and the total quantity of the goods.”.

- (4) Section 10(2)—

Repeal

“packaged dangerous goods and packaged marine pollutants”

Substitute

“dangerous goods in packaged form and marine pollutants in packaged form required by section 18C”.

- (5) Section 10(2)—

Repeal

“and which are marine pollutants”

Substitute

“in packaged form and which are marine pollutants in packaged form”.

- (6) Section 10—

Repeal subsection (3)

Substitute

“(3) A copy of the list, manifest or stowage plan referred to in subsection (1) must be submitted before departure—

(a) if the ship is within Hong Kong waters—to the Director; or

(b) if the ship is in a port outside Hong Kong—to the relevant port authority.”.

- (7) Section 10(4)—

Repeal

“packaged dangerous goods”

Substitute

“dangerous goods in packaged form in the ship”.

- (8) Section 10(6)—

Repeal

“packaged goods”

Substitute

“dangerous goods in packaged form”.

10. Section 11 amended (packaging of dangerous goods and marine pollutants)

(1) Section 11, heading—

Repeal

“Packaging of dangerous goods and marine pollutants”

Substitute

“Packing of dangerous goods in packaged form”.

(2) Section 11(1)—

Repeal

“The packaging of packaged goods shall be”

Substitute

“Dangerous goods in packaged form must be packed”.

(3) Section 11(2)—

Repeal

“Packaged goods shall”

Substitute

“Dangerous goods in packaged form must”.

11. Section 12 amended (marking and labelling)

(1) Section 12, heading, after “labelling”—

Add

“of dangerous goods in packaged form”.

(2) Section 12(1)—

Repeal

“or marine pollutants which are contained in a package shall”

Substitute

“in packaged form must”.

(3) Section 12(2)(a)—

Repeal

“or marine pollutants shall”

Substitute

“must”.

(4) Section 12(2)(b)—

Repeal

“or marine pollutants shall”

Substitute

“must”.

(5) Section 12(2)(c)—

Repeal

“correct technical name”

Substitute

“proper shipping name”.

(6) Section 12(2)(c)—

Repeal

“or marine pollutants shall”

Substitute

“must”.

(7) Section 12(2)(c)—

Repeal

“or marine pollutant mark, or both.”.

- (8) Section 12(2)(d)—

Repeal

everything after “contained in a” and before “bear conspicuously”

Substitute

“cargo transport unit, the cargo transport unit must”.

- (9) Section 12(3)—

Repeal

“packaged goods”

Substitute

“dangerous goods in packaged form”.

- (10) Section 12(4)—

Repeal

“or marine pollutants”.

12. Part III heading amended (stowage and carriage)

Part III, heading—

Repeal

“STOWAGE AND CARRIAGE”

Substitute

“STOWAGE OF DANGEROUS GOODS IN PACKAGED FORM ETC.”.

13. Section 13 amended (stowage)

- (1) Section 13, heading, after “**Stowage**”—

Add

“of dangerous goods in packaged form etc.”.

- (2) Section 13(1)—

Repeal

“Packaged goods”

Substitute

“Dangerous goods in packaged form”.

- (3) Section 13(2)—

Repeal

everything before “which was loaded”

Substitute

“(2) If dangerous goods in packaged form are contained in a cargo transport unit”.

- (4) Section 13(2)—

Repeal

everything after “loading” and before “is adequate”

Substitute

“the cargo transport unit to ensure that the stowage, segregation and securing of those goods in the cargo transport unit”.

- (5) Section 13(3)—

Repeal

“goods in a freight container or vehicle”

Substitute

“dangerous goods in a cargo transport unit”.

14. Section 15 amended (carriage of packaged dangerous goods in passenger ships)

- (1) Section 15, heading—

Repeal

“packaged dangerous goods”

Substitute

“dangerous goods in packaged form”.

- (2) Section 15(1)—

Repeal

“packaged dangerous goods”

Substitute

“dangerous goods in packaged form”.

- (3) Section 15(1), after “in accordance with”—

Add

“Chapters 7.1 and 7.2 of”.

- (4) Section 15—

Repeal subsections (2) and (3).

15. Section 16 amended (document of compliance to carry packaged dangerous goods)

- (1) Section 16, heading—

Repeal

“packaged dangerous goods”

Substitute

“dangerous goods in packaged form”.

- (2) Section 16(1)—

Repeal

everything before “unless it has on board”

Substitute

“(1) Dangerous goods in packaged form must not be taken on board a ship the keel of which was laid (or that was at a similar stage of construction) on or after 1 September 1984 and before 1 July 2002”.

- (3) Section 16(1)—

Repeal

“that the spaces in which the packaged dangerous goods”

Substitute

“certifying that the spaces on the ship in or on which the goods”.

- (4) After section 16(1)—

Add

“(1A) Dangerous goods in packaged form must not be taken on board a ship the keel of which was laid (or that was at a similar stage of construction) on or after 1 July 2002 unless the ship has on board a document of compliance that complies with subsection (1B).

- (1B) A document of compliance must—

- (a) be issued—

(i) by or on behalf of the Director; or

(ii) by or on behalf of the competent authority of the country in which the ship is registered; and

- (b) certify that the spaces on the ship in or on which the goods are to be carried comply with the

provisions of Regulation 19 of Chapter II-2 of the Annex to the SOLAS Convention that are applicable to the classification of those goods.”.

16. Section 17 amended (reporting of incidents involving dangerous goods or marine pollutant)

- (1) Section 17, heading—

Repeal

everything after “**Reporting**”

Substitute

“**incidents involving dangerous goods in packaged form**”.

- (2) Section 17(1)—

Repeal

everything before “the master”

Substitute

“(1) If a ship is involved in an incident at sea and the incident involves an actual or probable discharge of dangerous goods in packaged form from the ship,”.

- (3) Section 17(1)—

Repeal

“to the nearest coastal state”

Substitute

“to the Director if the ship is within Hong Kong waters, or to the nearest coastal state if the ship is outside Hong Kong”.

- (4) Section 17(1)—

Repeal

“A.648(16)”

Substitute

“A.851(20), as amended from time to time”.

- (5) Section 17(2), English text—

Repeal

“owner”

Substitute

“shipowner”.

- (6) Section 17(2), Chinese text—

Repeal

“所指”

Substitute

“規定”.

- (7) Section 17—

Repeal subsection (3).

- (8) At the end of section 17—

Add

“(4) A master, or a person having charge of the ship, who fails to comply with subsection (1) commits an offence.

(5) A shipowner who fails to comply with subsection (2) commits an offence.”.

17. Section 18 amended (jettisoning of packaged dangerous goods)

- (1) Section 18, heading—

Repeal

everything after “**Jettisoning of**”

Substitute

“dangerous goods in packaged form prohibited”.

(2) Section 18(1)—

Repeal

“Packaged dangerous goods shall not be jettisoned,”

Substitute

“The shipowner or master of a ship must ensure that dangerous goods in packaged form are not jettisoned from the ship.”.

18. Part IIIA added

After Part III—

Add

“Part IIIA

Carriage of Marine Pollutants in Packaged Form

18A. Documentation for marine pollutants in packaged form

- (1) Marine pollutants in packaged form must not be offered for carriage or taken on board a ship unless a marine pollutant declaration has been furnished to the shipowner or master.
- (2) A marine pollutant declaration must contain all information relating to the marine pollutants required by Chapter 5.4 of the IMDG Code.
- (3) A marine pollutant declaration must include a statement required by Chapter 5.4 of the IMDG Code.
- (4) The shipper of any marine pollutants in packaged form must—

- (a) furnish the shipowner or master with a marine pollutant declaration; or
 - (b) if the shipper does not deliver the pollutants to the ship or the agent of the ship—furnish the forwarder with the declaration.
- (5) After receiving a marine pollutant declaration under subsection (4)(b), the forwarder must furnish the shipowner or master with the declaration.
 - (6) A shipper who fails to furnish a marine pollutant declaration under subsection (4)(a) or (b), or furnishes a marine pollutant declaration which the shipper knew or ought to have known to be false, commits an offence.
 - (7) A forwarder who fails to furnish a marine pollutant declaration under subsection (5), or furnishes a marine pollutant declaration which the forwarder knew or ought to have known to be false, commits an offence.
 - (8) A shipowner or master who accepts for carriage, or takes or receives on board, any marine pollutants in packaged form for which a marine pollutant declaration has not been furnished under this section commits an offence.

18B. Packing certificates for marine pollutants in packaged form

- (1) If marine pollutants in packaged form have been packed into a cargo transport unit, the person responsible for the packing must furnish the shipowner or master of the ship on which the pollutants are to be carried with a signed packing certificate in accordance with Chapter 5.4 of the IMDG Code.
- (2) A person who fails to comply with subsection (1) commits an offence.

- (3) The shipowner, shipowner's agent or master of a ship must not take on board the ship any cargo transport unit with marine pollutants in packaged form in it unless—
 - (a) the shipowner, shipowner's agent or master has been furnished with a signed packing certificate under subsection (1); or
 - (b) the shipowner, shipowner's agent or master is otherwise satisfied that the pollutants have been packed into the cargo transport unit in accordance with the IMDG Code.
- (4) A shipowner, shipowner's agent or master who contravenes subsection (3) commits an offence.

18C. List, manifest or stowage plan for marine pollutants in packaged form

- (1) The master of a ship carrying marine pollutants in packaged form must cause to be carried in the ship a special list, manifest or stowage plan—
 - (a) setting out the details that are obtained from the shipping documents submitted by the shipper required by Chapters 5.4 and 5.5 of the IMDG Code; and
 - (b) showing the details of the stowage location and the total quantity of the pollutants.
- (2) A copy of the list, manifest or stowage plan referred to in subsection (1) must be submitted before departure—
 - (a) if the ship is within Hong Kong waters—to the Director; or
 - (b) if the ship is in a port outside Hong Kong—to the relevant port authority.

- (3) The master of a ship must also cause to be carried in the ship any additional special documents required by the IMDG Code for carrying marine pollutants in packaged form in the ship.
- (4) The special list, manifest or stowage plan and any additional special documents required to be carried in a ship under subsections (1) and (3) must be kept available for reference or inspection on board the ship until the pollutants have been discharged from the ship.
- (5) A master who fails to comply with subsection (1) or (3) commits an offence.
- (6) If subsection (2) is contravened in relation to a ship, the shipowner and the master of the ship each commits an offence.
- (7) If subsection (4) is contravened in relation to a ship, the master of the ship commits an offence.

18D. Packing of marine pollutants in packaged form

- (1) Marine pollutants in packaged form—
 - (a) must be packed in accordance with Part 4 of the IMDG Code; and
 - (b) must be subject to the applicable performance test specified in the IMDG Code.
- (2) Marine pollutants in packaged form must not be taken on board a ship for carriage in the ship if the shipowner or master knows or ought to know that the pollutants are not packed in a way as to withstand the ordinary risk of carriage by sea.

- (3) If subsection (1) is contravened in relation to any marine pollutants in packaged form, the shipper of the pollutants commits an offence.
- (4) If subsection (2) is contravened in relation to a ship, the shipowner and the master of the ship each commits an offence.

18E. Marking and labelling of marine pollutants in packaged form

- (1) Marine pollutants in packaged form must not be taken on board a ship for carriage in the ship unless subsections (2), (3) and (4) are complied with in relation to the pollutants.
- (2) Packages containing marine pollutants must be durably marked or labelled in accordance with Chapter 5.2 of the IMDG Code.
- (3) The method of affixing marks or labels on packages containing marine pollutants must comply with Chapter 5.2 of the IMDG Code.
- (4) If marine pollutants in packaged form are contained in a cargo transport unit, the cargo transport unit must bear conspicuously on its exterior distinctive placards or other appropriate marking in accordance with Chapter 5.3 of the IMDG Code.
- (5) If any marine pollutants in packaged form are taken on board a ship in contravention of subsection (1)—
 - (a) the shipper of the pollutants commits an offence; and
 - (b) the shipowner and the master of the ship each commits an offence.

18F. Stowage of marine pollutants in packaged form etc.

- (1) Marine pollutants in packaged form taken on board a ship for carriage in the ship must be stowed, segregated and secured on the ship in accordance with Part 7 of the IMDG Code.
- (2) If marine pollutants in packaged form are contained in a cargo transport unit which was loaded after the pollutants left the premises or control of the shipper, the person responsible for loading the cargo transport unit must ensure that the pollutants are stowed, segregated and secured in the cargo transport unit in accordance with Part 7 of the IMDG Code.
- (3) If subsection (1) is contravened in relation to a ship, the shipowner and the master of the ship each commits an offence.
- (4) A person who fails to comply with subsection (2) commits an offence.

18G. Prohibition of carrying and limit on quantity

- (1) The Director may, for scientific and technical reasons—
 - (a) prohibit the carriage of any type of marine pollutants on board a ship; or
 - (b) specify the maximum quantity of certain marine pollutants in packaged form that may be carried on board a ship, having regard to—
 - (i) the size, construction and equipment of the ship;
 - (ii) the packaging of the pollutants; and
 - (iii) the inherent nature of the pollutants.

- (2) A shipowner or master of a ship must ensure that the quantity of marine pollutants in packaged form carried on board the ship does not exceed the quantity specified in the IMDG Code or specified under subsection (1)(b), whichever is less.
- (3) A shipowner or master who fails to comply with subsection (2) commits an offence.

18H. Jettisoning of marine pollutants in packaged form prohibited

- (1) The shipowner or master of a ship must ensure that marine pollutants in packaged form are not jettisoned from the ship, except where necessary for the purposes of securing the safety of the ship or saving life at sea.
- (2) A shipowner or master who fails to comply with subsection (1) commits an offence.

18I. Measures to regulate washing of leakages overboard

- (1) The shipowner or master of a ship carrying marine pollutants in packaged form must—
 - (a) take appropriate measures, having regard to the physical, chemical or biological properties of the pollutants, to regulate the washing of leakages overboard of the pollutants; and
 - (b) ensure that the measures do not impair the safety of the ship and persons on board.
- (2) A shipowner or master who fails to comply with subsection (1) commits an offence.”.

19. Part IV heading amended (carriage of dangerous goods in bulk)
Part IV, heading—

Repeal

“CARRIAGE OF DANGEROUS GOODS IN BULK”

Substitute

“CARRIAGE OF DANGEROUS GOODS IN SOLID FORM IN BULK”.

20. Section 19 amended (carriage in bulk)

- (1) Section 19, heading, after “Carriage”—

Add

“of dangerous goods in solid form”.

- (2) Section 19(1)—

Repeal

“cannot safely be carried in bulk”

Substitute

“in solid form in bulk cannot be carried in accordance with Regulation 7-5 of Chapter VII of the Annex to the SOLAS Convention”.

- (3) Section 19(1)—

Repeal

“loaded in bulk”

Substitute

“loaded”.

- (4) Section 19(3)—

Repeal paragraph (a).

- (5) Section 19(3)—

Repeal paragraph (b)

Substitute

“(b) if the dangerous goods in question are listed in the IMSBC Code—that the goods were loaded in accordance with the IMSBC Code; or”.

(6) Section 19(3)(c)—

Repeal

everything before “were handled”

Substitute

“(c) if the dangerous goods in question are not listed in the IMSBC Code—that the goods”.

21. Sections 19A, 19B and 19C added

After section 19—

Add

“19A. Stowage and segregation of dangerous goods in solid form in bulk

- (1) Dangerous goods in solid form in bulk must be loaded and stowed on a ship in accordance with Regulation 7-3 of Chapter VII of the Annex to the SOLAS Convention.
- (2) Incompatible dangerous goods in solid form in bulk must be segregated from one another in accordance with the IMDG Code or the IMSBC Code, as may be appropriate.
- (3) Dangerous goods in solid form in bulk that are liable to spontaneous heating or combustion may be carried on board a ship only if the goods are carried in accordance with Regulation 7-3 of Chapter VII of the Annex to the SOLAS Convention.

(4) If subsection (1), (2) or (3) is contravened in relation to a ship, the shipowner and the master of the ship each commits an offence.

19B. Document of compliance to carry dangerous goods in solid form in bulk

- (1) Dangerous goods in solid form in bulk must not be taken on board a ship the keel of which was laid (or that was at a similar stage of construction) on or after 1 September 1984 and before 1 July 2002 unless the ship has on board a document of compliance that complies with subsection (3).
- (2) Dangerous goods in solid form in bulk must not be taken on board a ship the keel of which was laid (or that was at a similar stage of construction) on or after 1 July 2002 unless the ship has on board a document of compliance that complies with subsection (3).
- (3) A document of compliance must—
 - (a) be issued—
 - (i) by or on behalf of the Director; or
 - (ii) by or on behalf of the competent authority of the country in which the ship is registered; and
 - (b) certify that the spaces on the ship in or on which the dangerous goods are to be carried or stowed comply with—
 - (i) for the purposes of subsection (1)—the provisions of regulation 143 of the Merchant Shipping (Safety) (Fire Protection) (Ships Built On or After 1 September 1984) Regulations (Cap. 369 sub. leg. Y) that are

applicable to the classification of the goods;
or

- (ii) for the purposes of subsection (2)—the provisions of Regulation 19 of Chapter II-2 of the Annex to the SOLAS Convention that are applicable to the classification of the goods.

- (4) If any dangerous goods in solid form in bulk are taken on board a ship in contravention of subsection (1) or (2), the shipowner and the master of the ship each commits an offence.

19C. Reporting incidents involving dangerous goods in solid form in bulk

- (1) If a ship is involved in an incident at sea and the incident involves an actual or probable discharge of dangerous goods in solid form in bulk from the ship, the master, or another person having charge of the ship, must report the particulars of the incident without delay and to the fullest extent possible to the Director if the ship is within Hong Kong waters, or to the nearest coastal state if the ship is outside Hong Kong.
- (2) The report must be based on the guidelines and general principles adopted by the IMO by resolution A.851(20), as amended from time to time.
- (3) The shipowner of the ship must, to the fullest extent practicable, make or complete a report required by subsection (1) if—
- (a) the ship is abandoned; or
- (b) the report is incomplete or unobtainable.

- (4) A master, or a person having charge of the ship, who fails to comply with subsection (1) or (2) commits an offence.
- (5) A shipowner who fails to comply with subsection (3) commits an offence.”.

22. Section 20 amended (documentation)

- (1) Section 20, heading—

Repeal

“Documentation”

Substitute

“List, manifest or stowage plan for dangerous goods in solid form in bulk”.

- (2) Section 20—

Repeal subsection (1).

- (3) Section 20(2)—

Repeal

“in solid form in bulk any dangerous goods listed in Appendix B to the Bulk Cargoes Code shall cause a specific list, manifest or detailed stowage plan to be carried in the ship”

Substitute

“dangerous goods in solid form in bulk must cause to be carried in the ship a special list, manifest or detailed stowage plan”.

- (4) Section 20(2)(a)—

Repeal

everything before “and their”

Substitute

“(a) setting out details of the dangerous goods carried in the ship, including the Bulk Cargo Shipping Name of the goods, their classification in accordance with the IMSBC Code”.

(5) After section 20(2)—

Add

“(2A) A copy of the list, manifest or stowage plan referred to in subsection (2) must be submitted before departure—

- (a) if the ship is within Hong Kong waters—to the Director; or
- (b) if the ship is in a port outside Hong Kong—to the relevant port authority.”.

(6) Section 20(3)—

Repeal

everything after “special documents”

Substitute

“required by the IMDG Code and the IMSBC Code for carrying dangerous goods in solid form in bulk.”.

(7) Section 20—

Repeal subsection (5)

Substitute

- “(5) A master who fails to comply with subsection (2), (3) or (4) commits an offence.
- (6) If subsection (2A) is contravened in relation to a ship, the shipowner and the master of the ship each commits an offence.
- (7) In this section—

Bulk Cargo Shipping Name (散裝貨物船運名) has the meaning given by section 1.7 of the IMSBC Code.”.

23. Part IVA added

After Part IV—

Add

“Part IVA

Powers of Director and Authorized Officers

20A. Application of Part IVA

This Part applies to the provisions of this Regulation that relate to marine pollutants (*relevant provisions*).

20B. Director may appoint authorized officer

The Director may appoint any public officer in the Marine Department at or above the rank of Marine Inspector to be an authorized officer for the purposes of the relevant provisions.

20C. Power of authorized officers to inspect, examine etc. ships

- (1) Any of the powers conferred by this section may be exercised for ascertaining whether the relevant provisions have been or are being complied with.
- (2) An authorized officer may, at any reasonable time—
 - (a) board a ship that is within Hong Kong waters; and
 - (b) take with the authorized officer any other person and any equipment or materials required to assist the authorized officer.
- (3) After boarding the ship, the authorized officer may—

- (a) inspect the ship;
- (b) make any examination or investigation as the authorized officer considers necessary;
- (c) take samples of any article or substance found on the ship that the authorized officer 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 authorized officer suspects on reasonable grounds that an offence under any of the relevant provisions has been committed;
- (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 any of the relevant provisions;
- (f) take any measurements and photographs and make any recordings that the authorized officer may reasonably require for the inspection, examination or investigation;
- (g) require that the ship, or any part of the ship, 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 authorized officer 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 authorized officer;
 - (ii) to answer the questions that the authorized officer 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 any of the relevant provisions; and
 - (ii) any other certificates, books or documents that the authorized officer considers necessary for the inspection, examination or investigation; and
- (j) require any person to afford the authorized officer 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 authorized officer considers necessary to enable the authorized officer 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.

20D. Offences relating to section 20C

- (1) A person commits an offence if the person—
 - (a) wilfully obstructs an authorized officer in the exercise of any power conferred by section 20C;
 - (b) fails to comply with a requirement imposed on the person under section 20C(3);
 - (c) gives an answer that the person knows is false, or recklessly gives an answer that is false, in purported compliance with a requirement under section 20C(3)(h); or
 - (d) signs a declaration that the person knows is false, or recklessly signs a declaration that is false, in purported compliance with a requirement under section 20C(3)(h).
- (2) A master who fails to comply with section 20C(5) commits an offence.
- (3) A person who commits an offence under subsection (1) or (2) is liable to a fine at level 6.”.

24. Section 21 amended (penalties for offences under Parts II, III and IV)

- (1) Section 21, heading, after “III”—
Add
“, IIIA”.
- (2) Section 21, after “III”—

Add

“, IIIA”.

25. Section 22 amended (defences)

- (1) Section 22(1), after “III”—

Add

“, IIIA”.

- (2) Section 22(2)(b)—

Repeal

“goods”

Substitute

“goods being dangerous goods in packaged form or marine pollutants in packaged form”.

- (3) Section 22(2)(c)—

Repeal

“freight container or vehicle” (wherever appearing)

Substitute

“cargo transport unit”.

- (4) Section 22(2)(c), after the semicolon—

Add

“or”.

- (5) Section 22(2)(c), Chinese text—

Repeal

“包裝”

Substitute

“裝貨”.

(6) Section 22(2)(d)—

Repeal

“solid dangerous goods”

Substitute

“dangerous goods in solid form”.

(7) Section 22(2)(d)—

Repeal

“Bulk Cargoes Code;”

Substitute

“IMSBC Code.”.

(8) Section 22(2)—

Repeal paragraphs (e) and (f).

26. Section 23 amended (offences due to fault of another person)

Section 23, after “III”—

Add

“, IIIA”.



Secretary for Transport and Housing

4 Dec 2018

Explanatory Note

This Regulation amends the Merchant Shipping (Safety) (Dangerous Goods and Marine Pollutants) Regulation (Cap. 413 sub. leg. H) (*principal Regulation*) to give effect to certain changes made to—

- (a) Annex III (*MARPOL Annex III*) to the International Convention for the Prevention of Pollution from Ships, 1973 as from time to time revised or amended by any revision or amendment to any provision of such Convention that applies to Hong Kong; and
 - (b) Chapter VII of the Annex (*SOLAS Chapter VII*) to the International Convention for the Safety of Life at Sea, 1974 as amended from time to time and as applicable to Hong Kong.
2. Parts I, II, III, IV and V of the principal Regulation impose requirements on ships in relation to, respectively, the carriage of dangerous goods and marine pollutants, documentation, packing, marking, labelling, stowage and provide for offences and penalties. The Regulation amends those Parts to reflect the latest requirements of MARPOL Annex III and SOLAS Chapter VII.
 3. A new Part IIIA has been introduced to the principal Regulation to provide separately for carriage of marine pollutants in packaged form which comprises requirements for documentation, packing, marking, labelling, stowage, prohibition of carrying and limit on quantity, jettisoning and washing of leakages of marine pollutants, etc.
 4. New provisions have been introduced to the principal Regulation to provide for—

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- (a) the meaning of various new terms used in the principal Regulation;
 - (b) stowage and segregation of dangerous goods in solid form in bulk (new section 19A);
 - (c) document of compliance to carry dangerous goods in solid form in bulk (new section 19B); and
 - (d) reporting incidents involving dangerous goods in solid form in bulk (new section 19C).
5. A new Part IVA has been introduced to the principal Regulation to provide for powers of the Director of Marine and authorized officers to inspect, examine etc. ships and related offences.
6. The Regulation removes from the principal Regulation certain provisions that are obsolete or outdated, including some definitions.

Merchant Shipping (Local Vessels) (General) (Amendment) Regulation 2018

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Merchant Shipping (Local Vessels) (General) (Amendment) Regulation 2018

(Made by the Secretary for Transport and Housing under section 89 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548))

1. Commencement

This Regulation comes into operation on 1 March 2019.

2. Merchant Shipping (Local Vessels) (General) Regulation amended

The Merchant Shipping (Local Vessels) (General) Regulation (Cap. 548 sub. leg. F) is amended as set out in sections 3, 4 and 5.

3. Section 2 amended (interpretation)

Section 2—

Add in alphabetical order

“*cargo transport unit* (貨物運輸單元) has the meaning given by section 1(1) of the Merchant Shipping (Safety) (Dangerous Goods and Marine Pollutants) Regulation (Cap. 413 sub. leg. H);

dangerous goods declaration (危險貨物聲明) means a certificate or declaration in writing, signed by the person making it, that the shipment offered for carriage is—

- (a) properly classified, packaged, marked, labelled or placarded, as appropriate, in accordance with the IMDG Code; and
- (b) in a proper condition for carriage by sea;

forwarder (代運人) has the meaning given by section 1(1) of the Merchant Shipping (Safety) (Dangerous Goods and Marine Pollutants) Regulation (Cap. 413 sub. leg. H);

IMDG Code (《海運危險貨物規則》) means the International Maritime Dangerous Goods Code adopted by the Maritime Safety Committee of the International Maritime Organization by resolution MSC.406(96) on 13 May 2016;

packaged form (有包裝) means the form of containment specified in the IMDG Code;

shipper (付運人), in relation to any cargo carried by a vessel or delivered to a vessel for carriage, means the person who, whether as principal or agent, consigns the cargo for carriage by the vessel;”.

4. Section 34 amended (stowage and securing of cargo)

- (1) Section 34(9), English text, definition of *cargo unit*—

Repeal

“vessel;”

Substitute

“vessel.”.

- (2) Section 34(9)—

Repeal the definition of *shipper*.

5. Sections 34A to 34J added

After section 34—

Add

“34A. Packing of dangerous goods in packaged form

- (1) No dangerous goods in packaged form may be delivered to a local vessel for carriage unless—
 - (a) they are packed in accordance with Part 4 of the IMDG Code; and
 - (b) the packaging of the goods has undergone the applicable performance test specified in Part 6 of the IMDG Code.
- (2) Dangerous goods in packaged form must not be taken on board a local vessel for carriage if the owner or coxswain of the vessel knows, or ought to know, that the goods are not packed in a way as to withstand the ordinary risk of carriage by sea.
- (3) If subsection (1) is contravened in relation to any dangerous goods, the shipper of the goods commits an offence.
- (4) If subsection (2) is contravened in relation to a local vessel, the owner and coxswain of the vessel each commits an offence.

34B. Marking and labelling of dangerous goods in packaged form

- (1) For the purposes of this section, dangerous goods in packaged form are properly identified if—
 - (a) the packages containing the goods are marked or labelled in accordance with Chapter 5.2 of the IMDG Code;
 - (b) the marks or labels on the packages are affixed in accordance with Chapter 5.2 of the IMDG Code; and

- (c) for dangerous goods contained in a cargo transport unit—the cargo transport unit bears on its exterior distinctive placards or other appropriate marking in accordance with Chapter 5.3 of the IMDG Code.
- (2) The shipper of any dangerous goods in packaged form must not deliver the goods to a local vessel for carriage unless the goods are properly identified.
- (3) The owner or coxswain of a local vessel must not accept for carriage on, or take on board for carriage on, the vessel any dangerous goods in packaged form unless the goods are properly identified.
- (4) A shipper who contravenes subsection (2) commits an offence.
- (5) An owner or coxswain of a local vessel who contravenes subsection (3) commits an offence.

34C. Dangerous goods declaration for dangerous goods in packaged form

- (1) The shipper of any dangerous goods in packaged form must—
 - (a) provide the owner or coxswain of the local vessel on which the goods are to be carried with a dangerous goods declaration; or
 - (b) if the shipper delivers the goods to the vessel or the owner’s agent through a forwarder—provide the forwarder with the declaration.
- (2) After receiving a dangerous goods declaration under subsection (1)(b), the forwarder must provide the owner or coxswain of the local vessel on which the dangerous goods are to be carried with the declaration.

- (3) The owner or coxswain of a local vessel must not accept for carriage on, or take on board for carriage on, the vessel any dangerous goods in packaged form unless the owner or coxswain has received a dangerous goods declaration in respect of the goods.
- (4) A dangerous goods declaration must contain—
- all information relating to the dangerous goods concerned required by Chapter 5.4 of the IMDG Code; and
 - a statement required by Chapter 5.4 of the IMDG Code.
- (5) A shipper—
- who contravenes subsection (1); or
 - who provides a dangerous goods declaration that the shipper knew, or ought to have known, to be false,
- commits an offence.
- (6) A forwarder—
- who contravenes subsection (2); or
 - who provides a dangerous goods declaration that the forwarder knew, or ought to have known, to be false,
- commits an offence.
- (7) An owner or coxswain of a local vessel who contravenes subsection (3) commits an offence.

34D. Packing certificates for dangerous goods in packaged form

- (1) The person responsible for packing any dangerous goods in packaged form into a cargo transport unit for carriage on a local vessel must, after the packing, provide the

- owner or coxswain of the vessel with a signed packing certificate in accordance with Chapter 5.4 of the IMDG Code.
- (2) A packing certificate may be combined with the dangerous goods declaration made in respect of the dangerous goods concerned.
- (3) The owner, owner's agent or coxswain of a local vessel must not accept for carriage on, or take on board for carriage on, the vessel a cargo transport unit containing dangerous goods unless—
- subsection (1) has been complied with in relation to the goods; or
 - the owner, owner's agent or coxswain is otherwise satisfied that the goods have been packed in the cargo transport unit in accordance with Chapter 5.4 of the IMDG Code.
- (4) A person who contravenes subsection (1) or (3) commits an offence.

34E. Stowage of dangerous goods in packaged form etc.

- (1) Dangerous goods in packaged form taken on board a local vessel for carriage must be stowed, segregated and secured in accordance with Part 7 of the IMDG Code.
- (2) If—
- dangerous goods in packaged form taken on board a local vessel for carriage are contained in a cargo transport unit; and
 - the cargo transport unit was loaded after the goods left the premises or control of the shipper,
- the person responsible for the loading must ensure that the goods are stowed, segregated and secured in the

cargo transport unit in accordance with Part 7 of the IMDG Code.

- (3) If subsection (1) is contravened in relation to a local vessel, the owner and coxswain of the vessel each commits an offence.
- (4) A person who fails to comply with subsection (2) commits an offence.

34F. Special list, manifest or stowage plan for dangerous goods in packaged form

- (1) The coxswain of a local vessel carrying dangerous goods in packaged form must ensure that there are on board the vessel—
 - (a) a special list, manifest or stowage plan setting out the details that are obtained from the shipping documents submitted by the shipper of the goods required by Chapters 5.4 and 5.5 of the IMDG Code; and
 - (b) additional special documents required by Chapter 5.4 of the IMDG Code for carrying dangerous goods in packaged form on the vessel.
- (2) A copy of the special list, manifest or stowage plan referred to in subsection (1)(a) must be submitted to the Director before the vessel departs from Hong Kong.
- (3) The special list, manifest or stowage plan and additional special documents required under subsection (1) must be kept available for reference or inspection on board the vessel until the dangerous goods concerned have been discharged from the vessel.
- (4) A coxswain of a local vessel who contravenes subsection (1) commits an offence.

- (5) If subsection (2) is contravened in relation to a local vessel, the owner and coxswain of the vessel each commits an offence.
- (6) If subsection (3) is contravened in relation to a local vessel, the coxswain of the vessel commits an offence.

34G. Carriage of explosives

- (1) Explosives that the owner or coxswain of a local vessel knows or ought to know present a serious risk when carried on the vessel must not be taken on board the vessel for carriage unless the explosives are stowed and segregated in accordance with the IMDG Code.
- (2) If subsection (1) is contravened in relation to a local vessel, the owner and coxswain of the vessel each commits an offence.
- (3) In this section—

explosives (爆炸品) means the articles and substances contained in Class 1 of the IMDG Code.

34H. Penalties for offences under sections 34A, 34B, 34C, 34D, 34E, 34F and 34G

A person who commits an offence under section 34A, 34B, 34C, 34D, 34E, 34F or 34G is liable—

- (a) on summary conviction—to a fine at level 3; or
- (b) on conviction on indictment—to a fine at level 3 and, in the case of an individual, to imprisonment for 1 year.

34I. Defences for offences under sections 34A, 34B, 34C, 34D, 34E, 34F and 34G

- (1) In any proceedings for an offence under section 34A, 34B, 34C, 34D, 34E, 34F or 34G brought in relation to any dangerous goods or explosives, it is a defence for the defendant to show that the defendant took all reasonable steps to ensure compliance with the section.
- (2) In any proceedings for an offence under section 34B, 34C, 34D, 34E or 34F brought in relation to any dangerous goods, it is a defence for the defendant to show that the defendant—
 - (a) neither knew nor ought to have known; or
 - (b) had no reasonable grounds to suspect, that the goods were dangerous goods.

34J. Offences due to fault of another person

- (1) If the commission by a person (*Person A*) of an offence under section 34A, 34B, 34C, 34D, 34E, 34F or 34G is due to the act or default of another person (*Person B*), then Person B also commits the offence.
- (2) Person B may be charged with and convicted of an offence under this section whether or not proceedings are taken against Person A.”



Secretary for Transport and Housing

4 Dec 2018

Explanatory Note

This Regulation amends the Merchant Shipping (Local Vessels) (General) Regulation (Cap. 548 sub. leg. F) to provide that certain requirements of Annex III to the International Convention for the Prevention of Pollution from Ships, 1973 in respect of carriage of dangerous goods in packaged form and explosives apply to local vessels, and provide for offences.

2. Those requirements include the requirements on—
 - (a) documentation and plans for dangerous goods in packaged form;
 - (b) packing of dangerous goods in packaged form;
 - (c) marking and labelling of dangerous goods in packaged form;
 - (d) stowage of dangerous goods in packaged form etc.; and
 - (e) carriage of explosives.