

LEGISLATIVE COUNCIL BRIEF

Merchant Shipping (Seafarers) Ordinance (Cap. 478)

Legislative Amendments to Implement Requirements under the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers of the International Maritime Organization

INTRODUCTION

To incorporate the latest seafarers' training requirements under the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers ("STCW Convention") of the International Maritime Organization ("IMO") into local legislation, the Secretary for Transport and Housing has made the following regulations under sections 72, 73, 96 and 134 of the Merchant Shipping (Seafarers) Ordinance (Cap. 478) ("the Ordinance") —

- (a) Merchant Shipping (Seafarers) (Ships Using Low-flashpoint Fuels) Regulation ("the New Regulation") at **Annex A**; and
- (b) Merchant Shipping (Seafarers) (Passenger Ships—Training) (Amendment) Regulation 2019 ("the Amendment Regulation") at **Annex B**.

2. At the meeting of the Executive Council on 12 February 2019, the Council ADVISED and the Chief Executive ORDERED that, under section 4 of the Administrative Appeals Board Ordinance (Cap. 442), the Administrative Appeals Board Ordinance (Amendment of Schedule) Order 2019, at **Annex C**, should be made to include references to the New Regulation, which confer on seafarers the right of appeal to the Administrative Appeals Board against the Director of Marine's ("DM") decision to refuse to grant or renew training certificates.

BACKGROUND

3. The STCW Convention promotes the safety of life and property at sea, as well as the protection of the marine environment by establishing international standards on training, certification and watchkeeping for seafarers. IMO adopts resolutions from time to time to amend the STCW

Convention to ensure that seafarers possess the necessary qualification and skills for operating ships with new technological and operational practices. In Hong Kong, the requirements of the STCW Convention are implemented through the Ordinance and its subsidiary legislation.

LEGISLATIVE PROPOSALS

Major Requirements

4. This exercise seeks to implement the latest requirements of two IMO resolutions, one concerning the training of seafarers working on ships using low-flashpoint fuels¹ and the other concerning seafarers working on passenger ships.

(I) Training Requirements for Ships Using Low-flashpoint Fuels

5. As there is an increasing number of ships using gases or low-flashpoint fuels, IMO has, by adopting the International Code of Safety for Ships Using Gases or other Low-Flashpoint Fuels (“IGF Code”), made it compulsory for seafarers working on those ships to receive relevant training starting from 1 January 2017. We propose to make the New Regulation under the Ordinance to implement the latest training and certification requirements for seafarers working on ships using low-flashpoint fuels.

6. The requirements will apply to all Hong Kong-registered ocean-going vessels (“OGVs”) using low-flashpoint fuels wherever they may be, and all non-Hong Kong OGVs using low-flashpoint fuels in Hong Kong waters². The key requirements include —

¹ Low-flashpoint fuels are fuels with a flashpoint of less than 60°C, such as liquefied natural gas.

² The requirements will not apply to —

- (a) ships owned or operated by a government and engaged only on governmental non-commercial service;
- (b) fishing vessels;
- (c) pleasure yachts not engaged in trade;
- (d) wooden ships of primitive build;
- (e) warships or troopships;
- (f) ships not propelled by mechanical means;
- (g) cargo ships of less than 500 gross tonnage;
- (h) high speed crafts; and
- (i) gas carriers.

- (a) *Specific training requirements for seafarers working on ships using low-flashpoint fuels* — Compared with other fuels, extreme care needs to be exercised when handling low-flashpoint fuels. Therefore, seafarers have to attend courses arranged by convention parties to acquire knowledge including the physical properties and characteristics of the fuels used on board, as well as bunkering, stowage and securing of the fuels, to ensure they are well equipped with the specific skills associated with the handling of low-flashpoint fuels.
- (b) *Certification of seafarers on ships using low-flashpoint fuels* — Upon receiving training and evaluation corresponding to their skill requirements, seafarers working on ships using low-flashpoint fuels will be required to obtain a basic training certificate³ issued by DM, while masters, engineering officers and seafarers with immediate responsibility for maintaining and using low-flashpoint fuels on ships will be required to obtain an advanced training certificate⁴ issued by DM in addition to a basic one.

(II) Crowd management training on passenger ships

7. In the wake of a serious cruise accident in Italy in 2012⁵ and in view of the increasing carrying capacity of passenger ships, training courses in relation to crowd management for masters, officers and qualified ratings⁶ designated to assist passengers in emergency situations held after June 2018 must include elements in emergency plans and mustering procedures of ships. The new requirement aims to ensure that these seafarers will have the knowledge and ability to manage a crowd in emergency situations and assist a crowd to designated assembly and embarkation stations of ships. We

³ Seafarers applying for a basic training certificate will be evaluated on, among others, their knowledge of the characteristics and operations of fuel systems and fuel storage systems, as well as precautions against hazards and environmental pollution associated with the use of low-flashpoint fuels. They will be evaluated by means of in-service training, simulator training or other approved training programmes.

⁴ Seafarers applying for an advanced training certificate will be evaluated on, among others, their knowledge of the physical and chemical characteristics of low-flashpoint fuels, ability to safely perform, monitor and plan operations related to low-flashpoint fuels, as well as compliance with relevant legislative requirements. They will be evaluated by means of in-service training, simulator training or other approved training programmes.

⁵ Italian cruise ship Costa Concordia, with some 4 200 persons on board, capsized after striking an underwater rock near Tuscany, Italy, in January 2012, resulting in 32 deaths.

⁶ Qualified ratings are crew members of a ship who are qualified to possess certificates of proficiency issued under the STCW Convention.

propose to amend the Merchant Shipping (Seafarers) (Passenger Ships—Training) Regulation (Cap. 478AD) to incorporate this new requirement.

THE SUBSIDIARY LEGISLATION ITEMS

Merchant Shipping (Seafarers) (Ships Using Low-flashpoint Fuels) Regulation

8. The New Regulation is made to implement the requirements of the STCW Convention in respect of training requirements for seafarers on board ships using low-flashpoint fuels.

Merchant Shipping (Seafarers) (Passenger Ships—Training) (Amendment) Regulation 2019

9. The Amendment Regulation gives effect to the new requirements under the STCW Convention with regard to passenger ship emergency familiarisation training, as well as passenger ship crowd management training.

Consequential amendments⁷

Administrative Appeals Board Ordinance (Amendment of Schedule) Order 2019

10. The Administrative Appeals Board Ordinance (Amendment of Schedule) Order 2019, at **Annex C**, is made to consequentially amend the Schedule to the Administrative Appeals Board Ordinance (Cap. 442) to make a decision of DM to refuse to issue or renew a training certificate under the New Regulation appealable to the Administrative Appeals Board.

Merchant Shipping (Seafarers) (Fees) (Amendment) Regulation 2019

11. The Merchant Shipping (Seafarers) (Fees) (Amendment) Regulation 2019 (“Fees Amendment Regulation”), at **Annex D**, is made to consequentially amend the Merchant Shipping (Seafarers) (Fees) Regulation

⁷ The consequential amendment items have also incorporated consequential amendments arising from the making of the Merchant Shipping (Seafarers) (Ships Operating in Polar Waters) Regulation, which is a separate legislative exercise and will be introduced into the Legislative Council on the same day for negative vetting. A separate Legislative Council brief will be issued for that exercise.

(Cap. 478AB) to prescribe the fees for the training certificates issued under the New Regulation and for a copy of a written determination made by DM under the New Regulation.

Merchant Shipping (Seafarers) (Certification and Watchkeeping) (Amendment) Regulation 2019

12. The Merchant Shipping (Seafarers) (Certification and Watchkeeping) (Amendment) Regulation 2019, at **Annex E**, is made to consequentially amend the Merchant Shipping (Seafarers) (Certification and Watchkeeping) Regulation (Cap. 478T) to require training certificates issued under the New Regulation be kept in its original form on board the ship on which the holder is serving.

Application of the Direct Reference Approach

13. The requirements of the STCW Convention 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

14. The regulations will be published in the Gazette on 22 February 2019 and introduced into the Legislative Council on 27 February 2019 for negative vetting.

IMPLICATIONS OF THE PROPOSAL

15. We expect the proposal to have minimal financial implications to the Government as the number of officers and ratings registered in Hong Kong is relatively small⁸. Civil service implication is negligible and the Marine Department will absorb the additional work arising from the proposal with its existing resources.

16. The proposal is in conformity with the Basic Law, including provisions concerning human rights. It will not affect the current binding

⁸ As of December 2017, there were 128 officers and 4 ratings serving on board ships.

effect of the relevant Ordinances and the existing regulations. The proposal has no economic, productivity, environmental, sustainability, gender or family implications.

PUBLIC CONSULTATION

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

PUBLICITY

18. A press release will be issued on 22 February 2019. A spokesperson will be available to answer enquiries.

ENQUIRIES

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

Transport and Housing Bureau
Marine Department
February 2019

Merchant Shipping (Seafarers) (Ships Using Low-flashpoint Fuels) Regulation

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Merchant Shipping (Seafarers) (Ships Using Low-flashpoint Fuels) Regulation

(Made by the Secretary for Transport and Housing under sections 72, 73, 96 and 134 of the Merchant Shipping (Seafarers) Ordinance (Cap. 478))

Part 1

Preliminary

1. Commencement

This Regulation comes into operation on 31 May 2019.

2. Interpretation

In this Regulation—

advanced certificate (高級證書)—

- (a) means a certificate issued under section 6(4); and
- (b) includes—
 - (i) a certificate mentioned in paragraph (a) as renewed under section 6(5); and
 - (ii) a certificate issued under section 10 to replace a certificate mentioned in subparagraph (i) or paragraph (a);

basic certificate (基本證書)—

- (a) means a certificate issued under section 6(3); and
- (b) includes—
 - (i) a certificate mentioned in paragraph (a) as renewed under section 6(5); and

- (ii) a certificate issued under section 10 to replace a certificate mentioned in subparagraph (i) or paragraph (a);

certificate of proficiency (培訓合格證書) means—

- (a) a basic certificate; or
- (b) an advanced certificate;

company (公司), in relation to a ship, means—

- (a) the registered owner of the ship; or
- (b) a person who—
 - (i) has assumed responsibility for the operation of the ship from the owner; and
 - (ii) on assuming the responsibility, has agreed to take over the obligations imposed on the owner under the Convention;

Convention (《公約》) means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as from time to time revised or amended by any revision or amendment to any provision of such Convention that applies to Hong Kong.

3. Application

This Regulation applies to a ship—

- (a) that is a ship to which the Merchant Shipping (Safety) (Construction and Survey) Regulation (Cap. 369 sub. leg. BD) applies;
- (b) that is not a ship falling within paragraph (a) of the definition of *specified ship* in section 28(3) of that Regulation;
- (c) that is not a ship—
 - (i) falling within paragraph (b) of that definition; and

- (ii) engaged only on governmental non-commercial service; and
 - (d) that uses low-flashpoint fuels as defined by that section.
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Part 2

Requirements for Training and Certificates of Proficiency

- 4. Requirements for training and certificates of proficiency**
- (1) The company and the master of a ship must ensure that every seafarer on the ship has, before being assigned to undertake any duties on board, received ship and equipment specific familiarization training in relation to the duties in accordance with Regulation I/14, paragraph 1.5 of the Convention.
 - (2) The company and the master of a ship must ensure that every seafarer on the ship holds a basic certificate—
 - (a) before being assigned to undertake—
 - (i) any safety duties that are associated with the care or use of fuels on the ship; or
 - (ii) any safety duties in emergency response in relation to the fuels on the ship; and
 - (b) while undertaking those duties on the ship.
 - (3) The company and the master of a ship must ensure that—
 - (a) every engineer officer of the ship; and
 - (b) every other seafarer who has the immediate responsibility for the care or use of fuels or fuel systems on the ship,hold an advanced certificate before being assigned to undertake any duties, and while undertaking those duties, on the ship.
 - (4) The master of a ship must hold an advanced certificate.

- (5) The company of a ship must ensure that the master of the ship holds an advanced certificate.
- (6) A company who contravenes subsection (1), (2), (3) or (5) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 2 years.
- (7) A master who contravenes subsection (1), (2), (3) or (4) commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 2 years.
- (8) In this section—
 - (a) a reference to a basic certificate includes a certificate recognized under section 9(1) as being equivalent to a basic certificate; and
 - (b) a reference to an advanced certificate includes a certificate recognized under section 9(2) as being equivalent to an advanced certificate.

5. Exception to section 4

- (1) A seafarer on a ship who holds a basic certificate but does not hold an advanced certificate as required by section 4(3) may still be assigned to undertake any duties in respect of the bunkering operations on the ship if—
 - (a) the assignment is made for enabling the seafarer to satisfy the requirements mentioned in section 6(4)(a); and
 - (b) the duties are to be undertaken under the supervision of a person holding an advanced certificate.
- (2) In this section—
 - (a) a reference to a basic certificate includes a certificate recognized under section 9(1) as being equivalent to a basic certificate; and

- (b) a reference to an advanced certificate includes a certificate recognized under section 9(2) as being equivalent to an advanced certificate.

Part 3

Certificates of Proficiency

6. Issue and renewal of certificates of proficiency

- (1) A person may apply to the Authority for—
 - (a) the issue or renewal of a certificate in basic training for service on ships to which this Regulation applies; or
 - (b) the issue or renewal of a certificate in advanced training for service on ships to which this Regulation applies.
- (2) The application must be accompanied by—
 - (a) evidence establishing that the applicant—
 - (i) for the issue of a certificate—
 - (A) has satisfied the requirements mentioned in subsection (3)(a) or (4)(a) (as the case requires); and
 - (B) has attained the applicable standards of competency, and has satisfied the applicable conditions, specified under section 7(1)(a); or
 - (ii) for the renewal of a certificate—
 - (A) has satisfied the requirements mentioned in subsection (5)(a); and
 - (B) has satisfied the applicable conditions specified under section 7(1)(b); and
 - (b) the prescribed fee.
- (3) The Authority may issue a certificate in basic training for service on ships to which this Regulation applies if satisfied that the applicant—

- (a) has satisfied the requirements specified in Regulation V/3, paragraph 5 or 6 of the Convention; and
 - (b) has attained the applicable standards of competency, and has satisfied the applicable conditions, specified under section 7(1)(a).
- (4) The Authority may issue a certificate in advanced training for service on ships to which this Regulation applies if satisfied that the applicant—
 - (a) has satisfied the requirements specified in Regulation V/3, paragraph 8 or 9 of the Convention; and
 - (b) has attained the applicable standards of competency, and has satisfied the applicable conditions, specified under section 7(1)(a).
 - (5) The Authority may renew a certificate of proficiency if satisfied that the applicant has satisfied—
 - (a) the requirements specified in Regulation V/3, paragraph 12 of the Convention; and
 - (b) the applicable conditions specified under section 7(1)(b).
 - (6) If the Authority decides to refuse an application, the Authority must notify the applicant in writing of the refusal and the reasons for the refusal.
 - (7) If an applicant is aggrieved by a decision of the Authority to refuse to issue or renew a certificate of proficiency, the applicant may appeal against the decision to the Administrative Appeals Board.
- #### 7. Authority may specify standards of competency, conditions, etc.
- (1) The Authority may make determinations in writing specifying—
 - (a) the details of the applicable standards of competency to be attained, or the details of the applicable conditions to

be satisfied, by an applicant to qualify for the issue of a certificate of proficiency;

- (b) the applicable conditions to be satisfied by an applicant to qualify for the renewal of the applicant's certificate of proficiency; and
 - (c) the way in which the attainment of any such standards or the satisfaction of any such conditions is to be established.
- (2) A person may apply to the Authority for a copy of a determination made under subsection (1) on payment of the prescribed fee.

8. Validity period of certificates of proficiency

- (1) A certificate of proficiency is valid for the period specified in it unless it is cancelled or suspended under section 10(1)(a) or 11(4).
- (2) The period specified in a certificate of proficiency must not exceed 5 years beginning on the date of issue or renewal (as the case requires) of the certificate.

9. Recognition of non-local certificates as equivalents

- (1) If the Authority is satisfied that a certificate (*non-local basic certificate*)—
 - (a) is issued by, or under the authority of, the government of a state party to the Convention;
 - (b) is not issued on the basis of recognition by such a government of a certificate issued by another government; and
 - (c) shows that the holder of the non-local basic certificate has satisfied the requirements mentioned in section 6(3)(a),

the Authority may recognize the non-local basic certificate as being equivalent to a basic certificate for the purposes of this Regulation.

- (2) If the Authority is satisfied that a certificate (*non-local advanced certificate*)—
 - (a) is issued by, or under the authority of, the government of a state party to the Convention;
 - (b) is not issued on the basis of recognition by such a government of a certificate issued by another government; and
 - (c) shows that the holder of the non-local advanced certificate has satisfied the requirements mentioned in section 6(4)(a),

the Authority may recognize the non-local advanced certificate as being equivalent to an advanced certificate for the purposes of this Regulation.

Part 4

Miscellaneous

10. Replacement of certificates of proficiency that are lost etc.

- (1) Subject to subsections (3) and (4), if a certificate of proficiency (*original certificate*) issued to a person has been lost, defaced or destroyed, the Authority—
 - (a) may cancel the original certificate; and
 - (b) may issue to the person a certificate of proficiency (*replacement certificate*) in like terms on payment of the prescribed fee.
- (2) A replacement certificate—
 - (a) has the same effect as the original certificate; and
 - (b) unless cancelled or suspended under subsection (1)(a) or section 11(4), is valid until the validity period of the original certificate expires.
- (3) The Authority may issue a replacement certificate only if satisfied that the original certificate has in fact been lost, defaced or destroyed.
- (4) The Authority may waive or reduce the prescribed fee mentioned in subsection (1)(b) if satisfied that the original certificate has been lost, defaced or destroyed without fault on the part of the holder of the certificate.

11. Offence for false pretences and information

- (1) A person who, in connection with an application under this Regulation—
 - (a) makes a false pretence to the Authority; or
 - (b) supplies false information to the Authority,

knowing it to be false, or not having reasonable grounds for believing it to be true, commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 2 years.

- (2) A person who permits another person to use a certificate of proficiency that is not issued to that other person commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 2 years.
- (3) A person who falsely pretends to be the holder of a certificate of proficiency commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 2 years.
- (4) If a person is convicted of—
 - (a) an offence under subsection (1), (2) or (3);
 - (b) the offence of fraud under section 16A of the Theft Ordinance (Cap. 210) in relation to a certificate of proficiency;
 - (c) the offence of conspiracy to commit an offence mentioned in paragraph (a) or (b); or
 - (d) the offence of conspiracy to defraud in relation to a certificate of proficiency,the Authority may cancel, or suspend for any period, the certificate of proficiency concerned held by the person.
- (5) In this section, a reference to a certificate of proficiency includes—
 - (a) a certificate recognized under section 9(1) as being equivalent to a basic certificate; or
 - (b) a certificate recognized under section 9(2) as being equivalent to an advanced certificate.

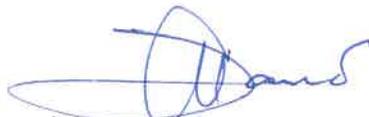
12. Record of certificates of proficiency

The Authority must keep a record of—

- (a) all certificates of proficiency;
- (b) the renewal, cancellation or suspension of certificates of proficiency; and
- (c) any other matters affecting certificates of proficiency that the Authority considers appropriate.

13. Exemption from this Regulation

- (1) The Authority may grant exemptions from any of the provisions of this Regulation for any class of cases or individual case on the conditions the Authority considers appropriate.
- (2) The Authority may, subject to giving reasonable notice, alter or cancel any exemption granted under subsection (1).



Secretary for Transport and Housing

13 Feb 2019

Explanatory Note

The main purpose of this Regulation is to implement the requirements of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (*Convention*) in respect of training requirements for seafarers on board ships—

- (a) to which the Merchant Shipping (Safety) (Construction and Survey) Regulation (Cap. 369 sub. leg. BD) applies;
- (b) that are not specified ships as defined by section 28(3) of that Regulation and are not engaged only on governmental non-commercial service if the ships are owned or operated by a government; and
- (c) that use low-flashpoint fuels as defined by that section.

Part 1—Preliminary

- 2. Part 1 provides for the commencement, interpretation of certain terms and application of this Regulation.

Part 2—Requirements for Training and Certificates of Proficiency

- 3. Part 2 provides for—
 - (a) the training or certificates of proficiency (*certificates*) that a seafarer must receive or hold before being assigned to undertake certain duties on a ship to which this Regulation applies; and
 - (b) the certificates that a seafarer must hold while undertaking the duties on the ship.

Part 3—Certificates of Proficiency

- 4. Part 3 provides for the issue and renewal of, and the validity period of, certificates.

5. Non-local certificates issued by, or under the authority of, the government of a state party to the Convention may be recognized under Part 3 as being equivalent to certificates.

Part 4—Miscellaneous

6. Part 4 provides for miscellaneous matters, such as the loss of certificates, offence for false pretences and information, keeping of a record of certificates and grant of exemptions.

Merchant Shipping (Seafarers) (Passenger Ships— Training) (Amendment) Regulation 2019

(Made by the Secretary for Transport and Housing under sections 72, 73, 96 and 134 of the Merchant Shipping (Seafarers) Ordinance (Cap. 478))

1. Commencement

This Regulation comes into operation on 31 May 2019.

2. Merchant Shipping (Seafarers) (Passenger Ships—Training) Regulation amended

The Merchant Shipping (Seafarers) (Passenger Ships—Training) Regulation (Cap. 478 sub. leg. AD) is amended as set out in sections 3 and 4.

3. Section 4 amended (training)

(1) Before section 4(1)—

Add

“(1A) The company and the master of a ship must ensure that all seafarers on the ship have completed passenger ship emergency familiarization training appropriate to their capacity, duties and responsibilities as specified in section A-V/2, paragraph 1 of the STCW Code.”.

(2) Section 4(1)—

Repeal

everything after “completed”

Substitute

“passenger ship crowd management training as specified in section A-V/2, paragraph 3 of the STCW Code—

- (a) master;
- (b) officers;
- (c) ratings qualified in accordance with chapter II, III or VII of the Convention;
- (d) other personnel designated on the muster list to assist passengers in emergency situations.”.

(3) Section 4(4)—

Repeal

“paragraph 4”

Substitute

“paragraph 5”.

(4) Section 4(5)—

Repeal

“paragraph 3”

Substitute

“paragraph 4”.

4. Section 6 amended (offences and penalties)

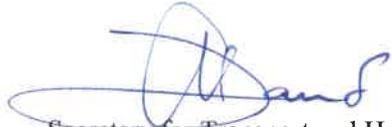
Section 6(1) and (2)—

Repeal

“4(1)”

Substitute

“4(1A), (1)”.



Secretary for Transport and Housing

13 Feb 2019

Explanatory Note

The Merchant Shipping (Seafarers) (Passenger Ships—Training) Regulation (Cap. 478 sub. leg. AD) (*principal Regulation*) implements the requirements under the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (*Convention*) relating to the training of seafarers on seagoing passenger ships (*seafarers*).

2. This Regulation amends the principal Regulation to give effect to certain changes made to the Convention, including—
 - (a) adding passenger ship emergency familiarization training as a type of required training for seafarers; and
 - (b) updating—
 - (i) the requirement of passenger ship crowd management training; and
 - (ii) certain references to the Seafarers' Training, Certification and Watchkeeping Code.

Administrative Appeals Board Ordinance (Amendment of Schedule) Order 2019

(Made by the Chief Executive in Council under section 4 of the Administrative Appeals Board Ordinance (Cap. 442))



Clerk to the Executive Council

1. Commencement

This Order comes into operation on 31 May 2019.

COUNCIL CHAMBER

2. Administrative Appeals Board Ordinance amended

The Administrative Appeals Board Ordinance (Cap. 442) is amended as set out in section 3.

12 Feb 2019

3. Schedule amended

The Schedule—

Add

- | | |
|--|---|
| <p>“58F. Merchant Shipping (Seafarers) (Ships Using Low-flashpoint Fuels) Regulation</p> | <p>A decision of the Seafarers’ Authority to refuse to issue or renew a certificate of proficiency under section 6.</p> |
| <p>58G. Merchant Shipping (Seafarers) (Ships Operating in Polar Waters) Regulation</p> | <p>A decision of the Seafarers’ Authority to refuse to issue or renew a certificate of proficiency under section 6.”.</p> |

Explanatory Note

The Schedule to the Administrative Appeals Board Ordinance (Cap. 442) sets out the decisions under various Ordinances against which an appeal may be made to the Administrative Appeals Board. This Order amends that Schedule to make the following decisions of the Seafarers' Authority appealable to the Board—

- (a) a decision to refuse to issue or renew a certificate of proficiency under the Merchant Shipping (Seafarers) (Ships Using Low-flashpoint Fuels) Regulation; and
- (b) a decision to refuse to issue or renew a certificate of proficiency under the Merchant Shipping (Seafarers) (Ships Operating in Polar Waters) Regulation.

Merchant Shipping (Seafarers) (Fees) (Amendment) Regulation 2019

(Made by the Secretary for Financial Services and the Treasury under section 133 of the Merchant Shipping (Seafarers) Ordinance (Cap. 478))

1. Commencement

This Regulation comes into operation on 31 May 2019.

2. Merchant Shipping (Seafarers) (Fees) Regulation amended

The Merchant Shipping (Seafarers) (Fees) Regulation (Cap. 478 sub. leg. AB) is amended as set out in section 3.

3. Schedule amended

(1) The Schedule, Part II, after item 8E—

Add

“8F. Fee for a copy of a determination made under section 7 of the Merchant Shipping (Seafarers) (Ships Using Low-flashpoint Fuels) Regulation 155

8G. Fee for a copy of a determination made under section 7 of the Merchant Shipping (Seafarers) (Ships Operating in Polar Waters) Regulation 155”.

(2) The Schedule, Part III, after item 9D—

Add

“9E. Fees in relation to a certificate of

proficiency under the Merchant Shipping (Seafarers) (Ships Using Low-flashpoint Fuels) Regulation—

(a) For issue or renewal of a certificate of proficiency under section 6 of that Regulation Nil

(b) For issue of a replacement certificate of proficiency under section 10 of that Regulation 155

9F. Fees in relation to a certificate of proficiency under the Merchant Shipping (Seafarers) (Ships Operating in Polar Waters) Regulation—

(a) For issue or renewal of a certificate of proficiency under section 6 of that Regulation Nil

(b) For issue of a replacement certificate of proficiency under section 10 of that Regulation 155”.



Secretary for Financial Services and
the Treasury

11 Feb 2019

Explanatory Note

To implement the requirements of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as from time to time revised or amended (*Convention*), in respect of training for seafarers on board ships using low-flashpoint fuels, the Merchant Shipping (Seafarers) (Ships Using Low-flashpoint Fuels) Regulation (*Fuels Regulation*) is made under the Merchant Shipping (Seafarers) Ordinance (Cap. 478) (*Ordinance*).

2. To implement Chapter 12 of Part I-A of the International Code for Ships Operating in Polar Waters, and the relevant amendments to the Convention and the Seafarers' Training, Certification and Watchkeeping Code, the Merchant Shipping (Seafarers) (Ships Operating in Polar Waters) Regulation (*Polar Regulation*) is made under the Ordinance.
3. Two types of certificate of proficiency are introduced under the Fuels Regulation and the Polar Regulation respectively. This Regulation amends the Schedule to the Merchant Shipping (Seafarers) (Fees) Regulation (Cap. 478 sub. leg. AB) to introduce the fees for those certificates and for a copy of a written determination made by the Seafarers' Authority under the Fuels Regulation or the Polar Regulation.

Merchant Shipping (Seafarers) (Certification and Watchkeeping) (Amendment)
Regulation 2019

Section 1

1

**Merchant Shipping (Seafarers) (Certification and
Watchkeeping) (Amendment) Regulation 2019**

(Made by the Secretary for Transport and Housing under sections 72, 73, 96
and 134 of the Merchant Shipping (Seafarers) Ordinance (Cap. 478))

1. Commencement

This Regulation comes into operation on 31 May 2019.

**2. Merchant Shipping (Seafarers) (Certification and
Watchkeeping) Regulation amended**

The Merchant Shipping (Seafarers) (Certification and
Watchkeeping) Regulation (Cap. 478 sub. leg. T) is amended as set
out in section 3.

3. Section 8 amended (certificates)

(1) Section 8(5)(f)—

Repeal

“and”.

(2) Section 8(5)(g)—

Repeal

“AG).”

Substitute

“AG);”.

(3) After section 8(5)(g)—

Add

“(h) the Merchant Shipping (Seafarers) (Ships Using Low-
flashpoint Fuels) Regulation; and

Merchant Shipping (Seafarers) (Certification and Watchkeeping) (Amendment)
Regulation 2019

Section 3

2

- (i) the Merchant Shipping (Seafarers) (Ships Operating in
Polar Waters) Regulation.”.



Secretary for Transport and Housing

13 Feb 2019

Explanatory Note

To implement the requirements of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as from time to time revised or amended (*Convention*), in respect of training for seafarers on board ships using low-flashpoint fuels, the Merchant Shipping (Seafarers) (Ships Using Low-flashpoint Fuels) Regulation (*Fuels Regulation*) is made under the Merchant Shipping (Seafarers) Ordinance (Cap. 478) (*Ordinance*).

2. To implement Chapter 12 of Part I-A of the International Code for Ships Operating in Polar Waters, and the relevant amendments to the Convention and the Seafarers' Training, Certification and Watchkeeping Code, the Merchant Shipping (Seafarers) (Ships Operating in Polar Waters) Regulation (*Polar Regulation*) is made under the Ordinance.
3. Two types of certificate of proficiency are introduced under the Fuels Regulation and the Polar Regulation respectively. This Regulation amends section 8(5) of the Merchant Shipping (Seafarers) (Certification and Watchkeeping) Regulation (Cap. 478 sub. leg. T) to require a certificate issued under the Fuels Regulation or the Polar Regulation (or treated as equivalent to such a certificate) be kept in its original form on board the ship on which the holder is serving.