

L.N. 154 of 2022

**Merchant Shipping (Prevention of Oil Pollution)
(Amendment) Regulation 2022**

Contents

Section	Page
1. Commencement	B3863
2. Merchant Shipping (Prevention of Oil Pollution) Regulations amended.....	B3863
3. Regulation 1 amended (citation and interpretation)	B3863
4. Regulation 2 amended (applications and exemptions).....	B3865
5. Regulation 3B amended (Director may recognize organizations to survey ships and issue certificates etc.).....	B3867
6. Regulation 3D amended (Director may at request of Convention countries survey non-Hong Kong ships and issue or endorse certificates).....	B3867
7. Part II, Division 1 heading added.....	B3869
Division 1—Specified Certificates and Related Surveys	
8. Regulation 7 amended (issue and duration of IOPP and HKOPP Certificate)	B3869
9. Regulation 7EA, Part II, Division 2 and Part II, Division 3 heading added.....	B3869
7EA. Exemption for UNSP barges.....	B3869

Section	Page
Division 2—International Oil Pollution Prevention Exemption Certificates and Related Surveys	
7EB.	Issue of IOPPE Certificate B3871
7EC.	Initial survey and renewal survey B3873
7ED.	Director may require additional survey..... B3873
7EE.	Validity period of International Oil Pollution Prevention Exemption Certificate B3875
7EF.	When International Oil Pollution Prevention Exemption Certificate ceases to be valid B3877
Division 3—Supplementary Provisions	
10.	Regulation 7F amended (cancellation of specified Certificate) B3877
11.	Regulation 10A added B3877
10A.	Certificate for UNSP barge to be kept on towing or pushing vessels B3877
12.	Regulation 16CA added B3879
16CA.	Special requirements for carriage or use of heavy fuel oil in Arctic waters B3879
13.	Regulation 35 amended (power to inspect specified Certificate, etc.) B3881
14.	Regulation 36A amended (power to specify form) B3881
15.	Regulation 37 amended (penalties) B3883

Merchant Shipping (Prevention of Oil Pollution) (Amendment) Regulation 2022

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

1. Commencement

- (1) Subject to subsection (2), this Regulation comes into operation on 1 November 2022.
- (2) Section 12 comes into operation on 1 July 2024.

2. Merchant Shipping (Prevention of Oil Pollution) Regulations amended

The Merchant Shipping (Prevention of Oil Pollution) Regulations (Cap. 413 sub. leg. A) are amended as set out in sections 3 to 15.

3. Regulation 1 amended (citation and interpretation)

- (1) Regulation 1(2)—

Add in alphabetical order

“*International Oil Pollution Prevention Exemption Certificate* (國際防油污免除證書) means—

- (a) an IOPPE Certificate;
- (b) an International Oil Pollution Prevention Exemption Certificate for Unmanned Non-self-propelled (UNSP) Barges issued by a recognized organization in conformity with Annex I; or

- (c) an International Oil Pollution Prevention Exemption Certificate for Unmanned Non-self-propelled (UNSP) Barges issued by or under the authority of an Administration in conformity with Annex I;

IOPPE Certificate (IOPPE證書) means a certificate issued under regulation 7EB;

UNSP barge (無人非自航駁船) means an unmanned non-self-propelled (UNSP) barge as defined in Regulation 1 of Annex I;”.

- (2) After regulation 1(3)—

Add

“(4) In these Regulations, in relation to a barge that does not have a master, a reference to the master is a reference to the operator of the barge.”.

4. Regulation 2 amended (applications and exemptions)

- (1) Regulation 2(3)—

Repeal

“to 30 of these Regulations”

Substitute

“and Parts III, IIIA, IV, V and VI”.

- (2) Regulation 2(3), Chinese text—

Repeal

“不切實”

Substitute

“並非切實”.

-
- 5. Regulation 3B amended (Director may recognize organizations to survey ships and issue certificates etc.)**
- (1) Regulation 3B(b)(i)—
Repeal
“or”.
- (2) Regulation 3B(b)(ii), after “Certificates;”—
Add
“or”.
- (3) After regulation 3B(b)(ii)—
Add
“(iii) International Oil Pollution Prevention Exemption Certificates;”.
- (4) Regulation 3B(c)—
Repeal
“paragraph (b)”
Substitute
“paragraph (b)(i) or (ii)”.
- 6. Regulation 3D amended (Director may at request of Convention countries survey non-Hong Kong ships and issue or endorse certificates)**
- (1) Regulation 3D—
Renumber the regulation as regulation 3D(1).
- (2) After regulation 3D(1)—
Add

“(2) However, no IOPP Certificate may be issued under paragraph (1)(b)(i) in respect of a non-Hong Kong ship entitled to fly the flag of a country that is not a Convention country.”.

7. Part II, Division 1 heading added

Before regulation 4—

Add

“Division 1—Specified Certificates and Related Surveys”.

8. Regulation 7 amended (issue and duration of IOPP and HKOPP Certificate)

Regulation 7(7)—

Repeal

“An”

Substitute

“Subject to regulation 10A, an”.

9. Regulation 7EA, Part II, Division 2 and Part II, Division 3 heading added

After regulation 7E—

Add

“7EA. Exemption for UNSP barges

A UNSP barge in respect of which an International Oil Pollution Prevention Exemption Certificate is in force is exempted from this Division.

Division 2—International Oil Pollution Prevention Exemption Certificates and Related Surveys

7EB. Issue of IOPPE Certificate

- (1) Subject to paragraphs (3) and (4), the Director may, on application of the owner of a barge (being a Hong Kong ship) that is of 400 GT and above and that is engaged in a voyage to a port or an offshore terminal within the jurisdiction of another Convention country, issue an IOPPE Certificate in respect of the barge.
- (2) The application must be accompanied by the prescribed fee for the issue of the certificate.
- (3) The Director must not issue an IOPPE Certificate in respect of the barge unless the Director is satisfied—
 - (a) if—
 - (i) no International Oil Pollution Prevention Exemption Certificate is in force in respect of the barge—that an initial survey of the barge has been carried out in accordance with regulation 7EC; or
 - (ii) an International Oil Pollution Prevention Exemption Certificate is in force in respect of the barge—that a renewal survey of the barge has been carried out in accordance with regulation 7EC; and
 - (b) on evidence of a declaration of survey forwarded under regulation 7EC(3), that the barge is a UNSP barge.

- (4) The Director must not issue an IOPPE Certificate in respect of the barge if the barge has any means (whether temporary or permanent) of generating oil residues.

7EC. Initial survey and renewal survey

- (1) An initial survey or renewal survey of a barge for the purposes of regulation 7EB is to be carried out by a Government surveyor.
- (2) The owner of the barge must provide the Government surveyor with the information and drawings in respect of the barge requested by the surveyor for the survey.
- (3) If, after having carried out an initial survey or renewal survey of the barge, the Government surveyor is satisfied that the barge is a UNSP barge, the surveyor must—
 - (a) make a declaration of survey to that effect; and
 - (b) forward the declaration to the Director.

7ED. Director may require additional survey

- (1) The Director may, by written notice to the owner of a barge in respect of which an International Oil Pollution Prevention Exemption Certificate is issued, require an additional survey of the barge to be carried out by a Government surveyor within a reasonable period specified in the notice.
- (2) The additional survey may be general or partial as the Director thinks fit.

- (3) The Director may exercise the power under paragraph (1) only if the Director has reasonable grounds to believe that the barge is no longer a UNSP barge.
- (4) On receiving a notice under paragraph (1), the owner of the barge must cause an additional survey to be carried out.
- (5) The owner of the barge must provide the Government surveyor with the information and drawings in respect of the barge requested by the surveyor for the survey.
- (6) If, after having carried out an additional survey of the barge, the Government surveyor is satisfied that the barge is a UNSP barge, the surveyor must—
 - (a) make a declaration of survey to that effect; and
 - (b) forward the declaration to the Director.

7EE. Validity period of International Oil Pollution Prevention Exemption Certificate

- (1) Subject to paragraph (2), an International Oil Pollution Prevention Exemption Certificate issued in respect of a UNSP barge is valid for such period as may be specified in the certificate.
- (2) The period specified in an International Oil Pollution Prevention Exemption Certificate issued on the basis of the result of an initial survey or renewal survey must not exceed 5 years beginning on the date of completion of the survey.

7EF. When International Oil Pollution Prevention Exemption Certificate ceases to be valid

An International Oil Pollution Prevention Exemption Certificate issued in respect of a UNSP barge (being a Hong Kong ship) ceases to be valid if—

- (a) the barge is no longer a UNSP barge; or
- (b) the barge ceases to be registered in Hong Kong.

Division 3—Supplementary Provisions”.

10. Regulation 7F amended (cancellation of specified Certificate)

- (1) Regulation 7F, heading—

Repeal

“specified”.

- (2) Regulation 7F(1), after “Certificate”—

Add

“or an International Oil Pollution Prevention Exemption Certificate”.

11. Regulation 10A added

Part II, after regulation 10—

Add

“10A. Certificate for UNSP barge to be kept on towing or pushing vessels

- (1) This regulation applies to a UNSP barge that is engaged in a towing or pushing operation during a voyage to a port or an offshore terminal within the jurisdiction of another Convention country.

- (2) The following certificate in force in respect of the UNSP barge must be made available to the towing or pushing vessel during the towing or pushing operation—
 - (a) if the barge is exempted under regulation 7EA—the International Oil Pollution Prevention Exemption Certificate; or
 - (b) otherwise—the International Oil Pollution Prevention Certificate.
- (3) During the towing or pushing operation, the certificate mentioned in paragraph (2)(a) or (b) must be kept on board the towing or pushing vessel.”.

12. Regulation 16CA added

Part III, after regulation 16C—

Add

“16CA. Special requirements for carriage or use of heavy fuel oil in Arctic waters

- (1) Subject to paragraphs (2) and (3), the following carriage or use of heavy fuel oil by a Hong Kong ship is prohibited in the Arctic waters—
 - (a) carriage of heavy fuel oil as fuel; and
 - (b) use of heavy fuel oil as fuel.
- (2) Subject to paragraph (3), paragraph (1) applies, as from 1 July 2029, to a Hong Kong ship to which Regulation 12A of Annex I or Regulation 1.2.1 of Chapter 1 of Part II-A of the Polar Code applies.
- (3) Paragraph (1) does not apply to a Hong Kong ship that is—
 - (a) engaged in securing the safety of a ship;

- (b) engaged in a search and rescue operation; or
- (c) dedicated to oil spill preparedness and response.

(4) In this regulation—

heavy fuel oil (重油) means oil (other than crude oil)—

- (a) having a density at 15°C higher than 900 kg/m³;
or
- (b) having a kinematic viscosity at 50°C higher than 180 mm²/s.”.

13. Regulation 35 amended (power to inspect specified Certificate, etc.)

(1) Regulation 35, heading—

Repeal

“specified”.

(2) Regulation 35(1)—

Repeal

“specified Certificate” (wherever appearing)

Substitute

“specified Certificate or International Oil Pollution Prevention Exemption Certificate”.

14. Regulation 36A amended (power to specify form)

(1) Regulation 36A, heading—

Repeal

“Power to specify form”

Substitute

“Form of Certificate”.

- (2) Regulation 36A—

Renumber the regulation as regulation 36A(1).

- (3) After regulation 36A(1)—

Add

“(2) The Director may specify the form of an IOPPE Certificate, which must correspond to the Form of Certificate set out in Appendix IV to Annex I.”.

15. Regulation 37 amended (penalties)

- (1) Regulation 37, heading—

Repeal

“Penalties”

Substitute

“Offences and penalties”.

- (2) Regulation 37(1), after “than regulation”—

Add

“10A,”.

- (3) After regulation 37(1)—

Add

“(1A) If regulation 10A(2) is not complied with in respect of a UNSP barge, the owner and the operator of the barge each commits an offence and is liable—

- (a) on conviction on indictment—to a fine at level 6;
or

- (b) on summary conviction—to a fine at level 3.

- (1B) If regulation 10A(3) is not complied with in respect of a towing or pushing vessel, the owner and the master of the vessel each commits an offence and is liable—
- (a) on conviction on indictment—to a fine at level 6;
or
 - (b) on summary conviction—to a fine at level 3.”.
- (4) Regulation 37(4)—

Repeal

“or the master” (wherever appearing)

Substitute

“, the master or the operator”.

Frank CHAN Fan
Secretary for Transport and
Housing

24 June 2022

Explanatory Note

This Regulation amends the Merchant Shipping (Prevention of Oil Pollution) Regulations (Cap. 413 sub. leg. A) (*principal Regulations*) to give effect to certain revisions made to Annex I to the International Convention for the Prevention of Pollution from Ships, 1973 (*Annex I*) by the International Maritime Organization Resolution MEPC.329(76) and Resolution MEPC.330(76).

2. Under the revised Annex I, an unmanned non-self-propelled (UNSP) barge may be exempted from certain survey and certification requirements by applying for an International Oil Pollution Prevention Exemption Certificate for Unmanned Non-self-propelled (UNSP) Barges (*Certificate*).
3. The Regulation amends the principal Regulations to provide for—
 - (a) the issue of the Certificate by the Director of Marine (*Director*) and related surveys;
 - (b) the validity period of the Certificate;
 - (c) the requirement to keep the Certificate during a towing or pushing operation and related offences; and
 - (d) the powers exercisable by the Director and a Government surveyor in respect of the Certificate.
4. The amendments mentioned in paragraph 3 come into operation on 1 November 2022.

5. A new regulation 16CA is also added to the principal Regulations to provide for the prohibition on the carriage or use of heavy fuel oil as fuel by a Hong Kong ship in the Arctic waters. That new regulation comes into operation on 1 July 2024.