

L.N. 155 of 2022

**Merchant Shipping (Prevention of Pollution by Sewage)
(Amendment) Regulation 2022**

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Merchant Shipping (Prevention of Pollution by Sewage) (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

This Regulation comes into operation on 1 November 2022.

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

The Merchant Shipping (Prevention of Pollution by Sewage) Regulation (Cap. 413 sub. leg. K) is amended as set out in sections 3 to 18.

3. Section 2 amended (interpretation)

(1) Section 2—

Renumber the section as section 2(1).

(2) Section 2(1), definition of *ISPP Certificate*, paragraph (b)—

Repeal

“a certificate entitled “International Sewage Pollution Prevention Certificate””

Substitute

“an International Sewage Pollution Prevention Certificate”.

(3) Section 2(1), definition of *ISPP Certificate*, paragraph (c)—

Repeal

Section 3

“a certificate”

Substitute

“an International Sewage Pollution Prevention Certificate”.

- (4) Section 2(1), English text, definition of *sewage certificate*—

Repeal the full stop

Substitute a semicolon.

- (5) Section 2(1)—
- (a) definition of *additional survey*;
 - (b) definition of *initial survey*;
 - (c) definition of *renewal survey*—

Repeal the definitions.

- (6) Section 2(1)—

Add in alphabetical order

“*exemption certificate* (豁免證書) means an International Sewage Pollution Prevention Exemption Certificate for Unmanned Non-self-propelled (UNSP) Barges issued under section 18A;

ISPPE Certificate (國際防污水免除證書) means—

- (a) an exemption certificate;
- (b) an International Sewage Pollution Prevention Exemption Certificate for Unmanned Non-self-propelled (UNSP) Barges issued by a recognized organization in conformity with Annex IV to the Convention; or

Section 4

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

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

- (7) After section 2(1)—

Add

- “(2) In this Regulation, 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. Section 5 amended (Director may recognize organizations to survey ships and issue and endorse certificates)

Section 5(1)(b), after “Certificates”—

Add

“or International Sewage Pollution Prevention Exemption Certificates for Unmanned Non-self-propelled (UNSP) Barges”.

5. Section 6A amended (Director may issue sewage certificates etc. at request of Convention countries)

After section 6A(2)—

Add

- “(3) Despite subsection (1)(b), no sewage certificate may be issued under that subsection in respect of a non-Hong Kong ship entitled to fly the flag of a country that is not a Convention country.”.

Section 6

6. Section 8A added

Part 2, after section 8—

Add

“8A. Exemption for UNSP barges

A UNSP barge in respect of which an ISPPE Certificate is in force is exempted from section 8.”.

7. Part 3 heading amended (issue of International Sewage Pollution Prevention Certificates and related matters)

Part 3, heading—

Repeal

“International Sewage Pollution Prevention”.

8. Part 3, Division 1 heading added

Before section 9—

Add

“Division 1—International Sewage Pollution Prevention Certificates and Related Surveys”.

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

Section 10(1)—

Repeal

“shall”

Substitute

“for the purposes of section 9 is to”.

10. Section 11 amended (form of sewage certificates)

(1) Section 11(2), English text—

Repeal

“shall”

Substitute

“must”.

(2) Section 11(2)—

Repeal

“the Appendix”

Substitute

“Appendix I”.

11. Part 3, Division 2 and Part 3, Division 3 heading added

After section 18—

Add

**“Division 2—International Sewage Pollution
Prevention Exemption Certificates for Unmanned
Non-self-propelled (UNSP) Barges and Related
Surveys**

**18A. Issue of International Sewage Pollution Prevention
Exemption Certificates for Unmanned Non-self-propelled
(UNSP) Barges**

(1) Subject to subsections (3) and (4), the Director may, on application of the owner of a barge (being a Hong Kong ship), issue an International Sewage Pollution Prevention Exemption Certificate for Unmanned Non-self-propelled (UNSP) Barges 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 International Sewage Pollution Prevention Exemption Certificate for Unmanned Non-self-propelled (UNSP) Barges in respect of the barge unless the Director is satisfied—
 - (a) if—
 - (i) no ISPPE Certificate is in force in respect of the barge—that an initial survey of the barge has been carried out in accordance with section 18B; or
 - (ii) an ISPPE Certificate is in force in respect of the barge—that a renewal survey of the barge has been carried out in accordance with section 18B; and
 - (b) on evidence of a declaration of survey forwarded under section 18B(3), that the barge is a UNSP barge.
- (4) The Director must not issue an International Sewage Pollution Prevention Exemption Certificate for Unmanned Non-self-propelled (UNSP) Barges in respect of the barge if the barge has any means (whether temporary or permanent) of generating sewage.

18B. Initial survey and renewal survey

- (1) An initial survey or renewal survey of a barge for the purposes of section 18A 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.

18C. Form of exemption certificates

- (1) The Director may specify the form of an exemption certificate.
- (2) The form must correspond to the Form of Certificate set out in Appendix II to Annex IV to the Convention.

18D. Validity period of ISPPE Certificate

- (1) Subject to subsection (2), an ISPPE 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 ISPPE 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.

18E. When ISPPE Certificate ceases to be valid

An ISPPE 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”.

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

(1) Section 19, heading—

Repeal

“sewage”.

(2) Section 19, after “sewage certificate”—

Add

“or an exemption certificate”.

(3) Section 19, Chinese text, after “船東”—

Add a comma.

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

(1) Section 20, heading—

Repeal

“made to sewage”.

Substitute

“to”.

(2) Section 20(1), after “sewage certificate”—

Add

“or an exemption certificate”.

(3) Section 20(1), Chinese text, after “船東”—

Add a comma.

(4) Section 20(3)—

Repeal

Section 14

“, he shall”

Substitute

“requested, the Director must”.

(5) Section 20(3)—

Repeal

“sewage”.

14. Section 22 amended (duty to keep ISPP Certificates on ships)

Section 22—

Repeal

“An”

Substitute

“Subject to section 22A, an”.

15. Section 22A added

After section 22—

Add

“22A. Certificate for UNSP barge to be kept on towing or pushing vessels

- (1) This section applies to a UNSP barge that is engaged in a towing or pushing operation.
- (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 section 8A—the ISPPE Certificate; or
 - (b) otherwise—the ISPP Certificate.

- (3) During the towing or pushing operation, the certificate mentioned in subsection (2)(a) or (b) must be kept on board the towing or pushing vessel.”.

16. Section 26B added

After section 26A—

Add

“26B. Director may require additional survey of barge with ISPPE Certificate

- (1) The Director may, by written notice to the owner of a barge in respect of which an ISPPE 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 subsection (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 subsection (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.”.

17. Section 27 amended (cancellation of ISPP Certificates)

- (1) Section 27, heading, after “**Certificates**” —

Add

“**and ISPPE Certificates**”.

- (2) Section 27(1), after “ISPP Certificate” —

Add

“or an ISPPE Certificate”.

- (3) Section 27(1), English text —

Repeal

“he”

Substitute

“the Director”.

- (4) Section 27(1), English text —

Repeal

“the Certificate”

Substitute

“the certificate”.

- (5) Section 27(2) —

Repeal

“shall give”

Substitute

“must set out, in the notice,”.

- (6) Section 27(2) —

Repeal

“an ISPP Certificate”

Substitute

“the certificate under subsection (1)”.

- (7) Section 27(3)—

Repeal

“a notice under subsection (1), the owner and the master of the ship concerned shall forthwith”

Substitute

“the notice, the owner and the master of the ship concerned must as soon as reasonably practicable”.

- (8) Section 27(3)—

Repeal

“ISPP Certificate issued in respect of the ship”

Substitute

“cancelled certificate”.

18. Section 30 amended (offences and penalties)

- (1) After section 30(1)—

Add

“(1A) If section 22A(2) is contravened, the owner and the operator of the UNSP barge concerned each commits an offence and is liable on conviction to a fine at level 6.

(1B) If section 22A(3) is contravened, the owner and the master of the towing or pushing vessel concerned each commits an offence and is liable on conviction to a fine at level 6.”.

Section 18

- (2) Section 30(3), after “subsection (1)” —

Add

“, (1A) or (1B)”.

- (3) Section 30(4) —

Repeal

“by the owner or the master”

Substitute

“by the owner, the master or the operator”.

- (4) Section 30(4) —

Repeal

“against the owner or the master”

Substitute

“against the owner, 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 Pollution by Sewage) Regulation (Cap. 413 sub. leg. K) (*principal Regulation*) to give effect to certain revisions made to Annex IV to the International Convention for the Prevention of Pollution from Ships, 1973 (*Annex IV*) by the International Maritime Organization Resolution MEPC.330(76).

2. Under the revised Annex IV, an unmanned non-self-propelled (UNSP) barge may be exempted from certain survey and certification requirements by applying for an International Sewage Pollution Prevention Exemption Certificate for Unmanned Non-self-propelled (UNSP) Barges (*Certificate*).
3. The Regulation amends the principal Regulation 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 Regulation comes into operation on 1 November 2022.