

L.N. 156 of 2022

**Merchant Shipping (Control of Harmful Anti-Fouling
Systems on Ships) (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 January 2023.

**2. Merchant Shipping (Control of Harmful Anti-Fouling Systems
on Ships) Regulation amended**

The Merchant Shipping (Control of Harmful Anti-Fouling
Systems on Ships) Regulation (Cap. 413 sub. leg. N) is amended
as set out in sections 3, 4 and 5.

3. Section 2 amended (interpretation)

(1) Section 2—

Renumber the section as section 2(1).

(2) Section 2(1), English text, definition of *ship*—

Repeal

“unit.”

Substitute

“unit;”.

(3) Section 2(1)—

Add in alphabetical order

“*pre-amended form* (修訂前格式) means the form of the International Anti-Fouling System Certificate specified in Appendix 1 to Annex 4 to the Convention as in force immediately before the Appendix was amended by International Maritime Organization Resolution MEPC.331(76);

specified pre-2023 ship (指明2023年前船舶) means a ship that bore an anti-fouling system containing cybutryne in the external coating layer of the hulls, external parts or surfaces of the ship immediately before 1 January 2023.”

- (4) After section 2(1)—

Add

“(2) To avoid doubt, a certificate mentioned in paragraph (b) or (c) of the definition of *International Anti-Fouling System Certificate* in subsection (1) that was issued before 1 January 2023 is not to be regarded as not being issued in conformity with Annex 4 to the Convention only because the certificate is in the pre-amended form.”

4. Section 4 amended (controls on anti-fouling systems)

- (1) After section 4(3)—

Add

“(3A) An anti-fouling system containing cybutryne must not be applied or reapplied to any ship.

(3B) Subject to subsection (3D), a specified pre-2023 ship that is engaged in an international voyage must not bear an anti-fouling system containing cybutryne unless it bears a coating that forms a barrier to cybutryne leaching from the ship’s anti-fouling system.

Section 4

- (3C) Subsection (3B) applies to the specified pre-2023 ship as from—
- (a) unless paragraph (b) applies—the date of expiry of the 60 months after the last application to the ship of an anti-fouling system containing cybutryne before 1 January 2023; or
 - (b) if—
 - (i) the ship is dry-docked during a period ending on a date (*end date*) falling on or after 1 January 2023 but before the date specified in paragraph (a); and
 - (ii) while the ship is so dry-docked, it is reasonably practicable to change or replace the ship’s anti-fouling system to secure the ship’s compliance with subsection (3B)—
the day after the end date.
- (3D) Subsection (3B) does not apply to the following platform or unit that was constructed before 1 January 2023 and has not been in dry-dock on or after that date—
- (a) a fixed or floating platform;
 - (b) a floating storage unit; or
 - (c) a floating production storage and off-loading unit.”.

- (2) Section 4(4)—

Repeal

“If subsection (1) is contravened or subsection (2) is not complied with”

Substitute

“If subsection (1), (2), (3A) or (3B) is contravened”.

5. Section 6 amended (ships must have International Anti-Fouling System Certificates)

After section 6(3)—

Add

- “(4) For subsection (1) and despite section 2(2), an International Anti-Fouling System Certificate issued in the pre-amended form before 1 January 2023 is to be regarded as invalid as from—
- (a) if it was issued in respect of a specified pre-2023 ship, the earlier of—
 - (i) the date when the specified circumstances first arise in respect of the ship on or after 1 January 2023; or
 - (ii) 1 January 2025; or
 - (b) if it was issued in respect of any other ship—the date when the specified circumstances first arise in respect of the ship on or after 1 January 2023.
- (5) For subsection (4)(a)(i) and (b), the specified circumstances arise in respect of the ship when 25% or more of the ship’s anti-fouling system has been changed or replaced or has been affected by a repair after the International Anti-Fouling System Certificate was issued.
- (6) After an International Anti-Fouling System Certificate becomes regarded as invalid under subsection (4), even if the Certificate is endorsed as described in section 8(1), the endorsement does not render the Certificate valid.”.

Merchant Shipping (Control of Harmful Anti-Fouling Systems on Ships)
(Amendment) Regulation 2022

L.N. 156 of 2022
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Frank CHAN Fan
Secretary for Transport and
Housing

24 June 2022

Explanatory Note

This Regulation amends the Merchant Shipping (Control of Harmful Anti-Fouling Systems on Ships) Regulation (Cap. 413 sub. leg. N) (*principal Regulation*) to give effect to certain revisions made to the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001 (*Convention*) by the International Maritime Organization Resolution MEPC.331(76).

2. The revised Annex 1 to the Convention imposes certain control measures in relation to a ship's anti-fouling system containing cybutryne (*control measures*).
3. The revised Annex 4 to the Convention contains a new model form for the International Anti-Fouling System Certificates that replaces the existing model form (*pre-amended form*).
4. Accordingly, the Regulation amends the principal Regulation to provide for—
 - (a) the requirements to comply with the control measures and the related offence; and
 - (b) the invalidation, as from certain dates, of the International Anti-Fouling System Certificates in the pre-amended form.
5. The Regulation comes into operation on 1 January 2023.