

L.N. 102 of 2025

Merchant Shipping (Safety) (Ships Operating in Polar Waters) (Amendment) Regulation 2025

(Made by the Secretary for Transport and Logistics under sections 107 and 112B of the Merchant Shipping (Safety) Ordinance (Cap. 369))

1. Commencement

This Regulation comes into operation on 1 January 2026.

2. Merchant Shipping (Safety) (Ships Operating in Polar Waters) Regulation amended

The Merchant Shipping (Safety) (Ships Operating in Polar Waters) Regulation (Cap. 369 sub. leg. BF) is amended as set out in sections 3 to 6.

3. Section 2 amended (interpretation)

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

Repeal

“Convention.”

Substitute

“Convention;”.

(2) Section 2—

Add in alphabetical order

“*specified ship* (指明船舶) means—

Section 4

- (a) a cargo ship of 300 gross tonnage or above but below 500 gross tonnage determined in accordance with the Merchant Shipping (Registration) (Tonnage) Regulations (Cap. 415 sub. leg. C);
- (b) a vessel of 24 metres or more in length overall used for catching fish, whales, seals, walrus or other living resources of the sea; or
- (c) a vessel of 300 gross tonnage or above (other than a passenger ship) that—
 - (i) is primarily used for sport or recreation; and
 - (ii) is not engaged in trade.”.

4. Section 3 amended (application)

- (1) Section 3(2)(a)—

Repeal

“500”

Substitute

“300”.

- (2) Section 3(2)(d), after “vessel”—

Add

“of less than 24 metres in length overall”.

- (3) Section 3(2)(e), after “vessel”—

Add

“of less than 300 gross tonnage”.

- (4) After section 3(2)—

Add

“(3) Parts 2, 3, 4 and 5 do not apply to a specified ship.”.

5. Part 2A added

After Part 2—

Add

“Part 2A

Specified Ships: Duties

11A. Application of Part 2A

This Part applies to a specified ship.

11B. Duty to have voyage plans for specified ships

- (1) The master of a specified ship must have in place a voyage plan for each voyage in polar waters in compliance with Chapter 11-1 of Part I-A of the Polar Code when the ship enters polar waters, taking into account the Introduction and paragraphs 1.2, 1.4 and 1.5 of Chapter 1 of Part I-A of the Polar Code.
- (2) A master who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 2 years.

11C. Duty to comply with certain requirements in Polar Code in relation to specified ships

- (1) A specified ship must comply with the applicable requirements specified in Chapter 9-1 of Part I-A of the Polar Code when it is operating in polar waters, taking into account the Introduction and paragraphs 1.2, 1.4 and 1.5 of Chapter 1 of Part I-A of the Polar Code.

- (2) If subsection (1) is contravened, the owner and the master of the specified ship each commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 2 years.

11D. Defence for offences under Part 2A

- (1) It is a defence for a person charged with an offence under section 11B(2) or 11C(2) to show that the person had taken all reasonable steps to prevent the commission of the offence.
- (2) A person charged with an offence under section 11B(2) or 11C(2) is taken to have established a fact that needs to be established for a defence under subsection (1) if—
 - (a) there is sufficient evidence to raise an issue with respect to the fact; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.

11E. Transitional provision for specified ships

- (1) This Part does not apply in relation to a specified ship that is constructed before 1 January 2026 until 1 January 2027.
- (2) In this section—

constructed (建造), in relation to a specified ship, means the stage at which—

 - (a) the keel of the ship is laid; or

Section 6

- (b) construction identifiable with the ship begins and assembly of the ship has commenced comprising at least 50 tonnes or 1% of the estimated mass of all structural material, whichever is less.”.

6. Section 35 amended (defence)

- (1) Section 35, heading, after “**Defence**”—

Add

“for offences under Part 2”.

- (2) Section 35—

Renumber the section as section 35(1).

- (3) After section 35(1)—

Add

- “(2) A person charged with an offence under section 6(2), 7(2), 8(2), 9(2), 10(4) or 11(4) is taken to have established a fact that needs to be established for a defence under subsection (1) if—

- (a) there is sufficient evidence to raise an issue with respect to the fact; and
- (b) the contrary is not proved by the prosecution beyond reasonable doubt.”.

Mable CHAN
Secretary for Transport and
Logistics

21 May 2025

Explanatory Note

This Regulation amends the Merchant Shipping (Safety) (Ships Operating in Polar Waters) Regulation (Cap. 369 sub. leg. BF) (*principal Regulation*) to give effect to—

- (a) the amendments to Chapter XIV of the Annex to the International Convention for the Safety of Life at Sea, 1974 adopted by the Maritime Safety Committee of the International Maritime Organization (*Committee*) by Resolution MSC.532(107) on 8 June 2023; and
 - (b) the amendments to Part I-A of the International Code for Ships Operating in Polar Waters adopted by the Committee by Resolution MSC.538(107) on 8 June 2023.
2. Section 3 adds the definition of *specified ship* to the principal Regulation.
3. Section 5 adds a new Part 2A (consisting of the new sections 11A to 11E) to the principal Regulation to impose certain duties in relation to specified ships and to create new offences for the contravention of the new sections 11B(1) and 11C(1) under that Part.
4. Section 6 amends section 35 of the principal Regulation to provide for the burden of proof for defence for certain offences.