

L.N. 73 of 2016

**Merchant Shipping (Seafarers) (Crew Accommodation)
(Amendment) Regulation 2016**

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Merchant Shipping (Seafarers) (Crew Accommodation) (Amendment) Regulation 2016

(Made by the Secretary for Transport and Housing under sections 97 and 134 of the Merchant Shipping (Seafarers) Ordinance (Cap. 478))

1. Commencement

This Regulation comes into operation on a day to be appointed by the Secretary for Transport and Housing by notice published in the Gazette.

2. Merchant Shipping (Seafarers) (Crew Accommodation) Regulation amended

The Merchant Shipping (Seafarers) (Crew Accommodation) Regulation (Cap. 478 sub. leg. I) is amended as set out in sections 3 to 14.

3. Part I heading amended (requirements to be complied with by Hong Kong ships on or after 1 July 1979)

Part I, heading—

Repeal

“TO BE COMPLIED WITH BY HONG KONG SHIPS ON OR AFTER 1 JULY 1979”

Substitute

“FOR CERTAIN HONG KONG SHIPS CONSTRUCTED ON OR AFTER 1 JULY 1979 ETC.”.

4. Section 2 amended (interpretation)

Section 2—

Repeal the definition of *controlled drugs*.

5. Section 3 amended (application)

(1) Section 3—

Repeal paragraph (a).

(2) Section 3(b)—

Repeal

“on or after 1 July 1979;”

Substitute

“between—

(i) 1 July 1979; and

(ii) the date on which the Merchant Shipping (Seafarers) (Crew Accommodation) (Amendment) Regulation 2016 comes into operation (*commencement date*);”.

(3) Section 3(c)—

Repeal

“1 July 1979 and which was re-registered in Hong Kong on”

Substitute

“the commencement date and which was re-registered in Hong Kong, whether on, before”.

6. Section 36 amended (medical cabinet)

Section 36(2)(b)—

Repeal

“controlled drugs”

Substitute

“dangerous drugs within the meaning of section 2(1) of the Dangerous Drugs Ordinance (Cap. 134)”.

Section 7

7. Part II heading amended (requirements to be complied with by ships registered in Hong Kong before 1 July 1979)

Part II, heading—

Repeal

“TO BE COMPLIED WITH BY SHIPS REGISTERED IN HONG KONG”

Substitute

“FOR CERTAIN HONG KONG SHIPS CONSTRUCTED”.

8. Section 41A added

Part II, after section 41—

Add

“41A. Offences

- (1) If any of the requirements in sections 6 to 37, and Schedules 1, 2, 3, 4 and 5 is not complied with in relation to a Part I ship, the shipowner and the master of the ship each commits an offence and is liable on conviction to a fine at level 5.
- (2) A Part I ship that complies with the requirements set out in Schedule 2 to the Working and Living Conditions Regulation is to be regarded as having complied with the requirements referred to in subsection (1).
- (3) If any of the requirements in Schedule 6 is not complied with in relation to a Part II ship, the shipowner and the master of the ship each commits an offence and is liable on conviction to a fine at level 5.

Section 9

- (4) If section 38(1) or (2) is not complied with in relation to a Part I ship, the master of the ship commits an offence and is liable on conviction to a fine at level 3.
- (5) It is a defence for a person charged under subsection (4) to show that the person had taken all reasonable steps to prevent the commission of the offence.
- (6) In this section—

Part I ship (第 I 部船舶) means a ship to which Part I and Schedules 1, 2, 3, 4 and 5 apply under section 3;

Part II ship (第 II 部船舶) means a ship to which Part II and Schedule 6 apply under section 40;

shipowner (船東) has the meaning given by section 2(1) of the Working and Living Conditions Regulation;

Working and Living Conditions Regulation (《工作及生活條件規例》) means the Merchant Shipping (Seafarers) (Working and Living Conditions) Regulation.”.

9. **Schedule 1 amended (deck coverings)**

Schedule 1—

Repeal

“& 42]”

Substitute

“, 41A & 42]”.

10. **Schedule 2 amended (insulating material for the underside of decks)**

Schedule 2—

Repeal

“& 42]”

Substitute

“, 41A & 42]”.

11. Schedule 3 amended (electric lighting)

Schedule 3—

Repeal

“& 42]”

Substitute

“, 41A & 42]”.

12. Schedule 4 amended (trunked mechanical ventilation systems)

Schedule 4—

Repeal

“& 42]”

Substitute

“, 41A & 42]”.

13. Schedule 5 amended (marking)

Schedule 5—

Repeal

“& 42]”

Substitute

“, 41A & 42]”.

14. Schedule 6 amended (crew accommodation requirements for ships registered in Hong Kong before 1 July 1979)

(1) Schedule 6, heading—

Repeal

“FOR SHIPS REGISTERED IN HONG KONG”

Substitute

“FOR CERTAIN HONG KONG SHIPS CONSTRUCTED”.

(2) Schedule 6—

Repeal

“& 42]”

Substitute

“, 41A & 42]”.

Anthony B. L. CHEUNG
Secretary for Transport and
Housing

16 May 2016

Explanatory Note

The Maritime Labour Convention, 2006 (*Convention*) was adopted by the International Labour Conference of the International Labour Organization in 2006. It sets out a comprehensive set of global standards for the working and living conditions of seafarers on seagoing ships and seeks to protect the right of seafarers to decent employment. The Convention will apply to Hong Kong after China has ratified the Convention and extended it to Hong Kong.

2. The Convention provides for new requirements relating to the accommodation and recreational facilities for seafarers. The requirements will be implemented by the Merchant Shipping (Seafarers) (Working and Living Conditions) Regulation and will only apply to Hong Kong ships constructed on or after the date on which this Regulation comes into operation (*commencement date*).
3. The main purposes of this Regulation are to amend the Merchant Shipping (Seafarers) (Crew Accommodation) Regulation (Cap. 478 sub. leg. I) (*principal Regulation*)—
 - (a) to provide that the existing requirements relating to the accommodation and recreational facilities for seafarers under the principal Regulation will apply to, among others, Hong Kong ships constructed before the commencement date; and
 - (b) to provide for offence provisions regarding the contravention of the existing requirements.