

L.N. 133 of 2016

**Merchant Shipping (Seafarers) (Certification of Officers)
(Amendment) Regulation 2016**

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Merchant Shipping (Seafarers) (Certification of Officers) (Amendment) Regulation 2016

(Made by the Secretary for Transport and Housing under sections 72, 73, 96, 119 and 134 of the Merchant Shipping (Seafarers) Ordinance (Cap. 478))

1. Commencement

This Regulation comes into operation on 1 December 2016.

2. Merchant Shipping (Seafarers) (Certification of Officers) Regulation amended

The Merchant Shipping (Seafarers) (Certification of Officers) Regulation (Cap. 478 sub. leg. J) is amended as set out in sections 3 to 19.

3. Section 2 amended (interpretation)

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

Repeal the semicolon

Substitute a full stop.

(2) Section 2(1)—

(a) definition of *GRT*;

(b) definition of *registered power*;

(c) definition of *tons* and *tonnage*—

Repeal the definitions.

(3) Section 2(1)—

Add in alphabetical order

“*company* (公司), in relation to a ship, means—

Section 4

- (a) the registered owner of the ship; or
- (b) a person who has assumed responsibility for the operation of the ship from the owner and who, on assuming the responsibility, has agreed to take over the obligations imposed on the owner of the ship under the Convention;

Convention (《公約》) means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as from time to time revised or amended by any revision or amendment to any provision of such Convention that applies to Hong Kong;

gross tonnage (總噸), in relation to a ship, means the gross tonnage of the ship determined in accordance with regulation 6 of the Merchant Shipping (Registration) (Tonnage) Regulations (Cap. 415 sub. leg. C);”.

- (4) Section 2(2), after “, III”—

Add

“, IIIA”.

4. Section 3 amended (application)

- (1) Section 3(1)—

Repeal

“This Regulation shall apply”

Substitute

“Subject to subsection (1A), this Regulation applies”.

- (2) After section 3(1)—

Add

“(1A) This Regulation does not apply to—

Section 5

- (a) ships owned or operated by a government and engaged only on governmental non-commercial service;
- (b) fishing vessels;
- (c) pleasure yachts not engaged in trade; or
- (d) wooden ships of primitive build.”.

5. Section 4 amended (qualified deck officers and classes of certificates)

- (1) Section 4(1A)—

Repeal paragraphs (a), (b) and (c)

Substitute

- “(a) holds a certificate of competency as a deck officer issued by, or under the authority of, the government of a state party to the Convention;
- (b) has satisfied the requirements for the issue of a licence referred to in subsection (1)(a)(iii); and
- (c) has applied for the issue of the licence.”.

- (2) Section 4(1A)—

Repeal

“a licence under Part V is”

Substitute

“the licence is”.

- (3) Section 4(6)—

Repeal

“GRT”

Substitute

“gross tonnage”.

Section 6

(4) Section 4—

Repeal subsection (7)

Substitute

“(7) A certificate of competency as a deck officer is subject to any conditions endorsed on the certificate.”.

6. Section 6 amended (qualified engineer officers and classes of certificates)

(1) Section 6(1A)—

Repeal paragraphs (a), (b) and (c)

Substitute

“(a) holds a certificate of competency as an engineer officer issued by, or under the authority of, the government of a state party to the Convention;
(b) has satisfied the requirements for the issue of a licence referred to in subsection (1)(a)(iii); and
(c) has applied for the issue of the licence.”.

(2) Section 6(1A)—

Repeal

“a licence under Part V is”

Substitute

“the licence is”.

(3) Section 6(6)—

Repeal

“GRT”

Substitute

“gross tonnage”.

Section 7

(4) Section 6—

Repeal subsection (7)

Substitute

“(7) A certificate of competency as an engineer officer is subject to any conditions endorsed on the certificate.”.

7. Part IIIA added

After Part III—

Add

“Part IIIA

Certification of Electro-technical Officers

7A. Qualified electro-technical officers

- (1) For the purposes of this Regulation, an electro-technical officer is qualified if—
 - (a) the officer holds—
 - (i) a certificate of competency as an electro-technical officer issued under this Regulation; or
 - (ii) a licence which is under Part V to be treated as equivalent to such a certificate of competency; and
 - (b) such certificate or licence is in force.
- (2) Despite subsection (1), if any person—

- (a) holds a certificate of competency as an electro-technical officer issued by, or under the authority of, the government of a state party to the Convention;
 - (b) has satisfied the requirements for the issue of a licence referred to in subsection (1)(a)(ii); and
 - (c) has applied for the issue of the licence,
the person is to be treated as a qualified electro-technical officer for the purposes of this Regulation for a period of 3 months from the date on which the application made by such person for the issue of the licence is received by the Authority.
- (3) A certificate of competency as an electro-technical officer issued by the Authority is of the class of Certificate of Competency (Electro-technical Officer) Class ETO.
 - (4) A certificate of competency as an electro-technical officer is subject to any conditions endorsed on the certificate.”.

8. Part IV heading substituted

Part IV, heading—

Repeal the heading

Substitute

“Part IV

**Application for and Issue of Certificates of
Competency”.**

9. Sections 7B and 7C added

Part IV, before section 8—

Add

“7B. Application for issue and renewal of certificates of competency

- (1) A person may apply to the Authority for the issue or renewal of a certificate of competency.
- (2) The application must be accompanied by—
 - (a) any evidence as may be necessary to establish that the requirements for the issue or the conditions for renewal of the certificate being applied for have been satisfied; and
 - (b) the prescribed fee.
- (3) On receipt of the application, the Authority—
 - (a) if satisfied that the applicant is entitled to the issue of the certificate being applied for, may issue the certificate to the applicant;
 - (b) if satisfied that the applicant is entitled to the renewal of the certificate being applied for, may renew the certificate; or
 - (c) if not satisfied that the applicant is so entitled, must inform the applicant in writing that the application is refused, stating the reasons for the refusal.

7C. Requirements for issue of certificates of competency

- (1) The Authority must not issue a certificate of competency referred to in subsection (2) to an applicant unless the requirements for the issue of the certificate are satisfied.

- (2) The requirements are—
- (a) for a Certificate of Competency (Deck Officer) Class 1 (Master Mariner) or a Certificate of Competency (Deck Officer) Class 2, the applicant has met the requirements specified in Regulation II/2, paragraph 2 of the Convention;
 - (b) for a Certificate of Competency (Deck Officer) Class 3, the applicant has met the requirements specified in Regulation II/1, paragraph 2 of the Convention;
 - (c) for a Certificate of Competency (Marine Engineer Officer) Class 1 or a Certificate of Competency (Marine Engineer Officer) Class 2, the applicant has met the requirements specified in Regulation III/2, paragraph 2 of the Convention;
 - (d) for a Certificate of Competency (Marine Engineer Officer) Class 3, the applicant has met the requirements specified in Regulation III/1, paragraph 2 of the Convention; and
 - (e) for a Certificate of Competency (Electro-technical Officer) Class ETO, the applicant has met the requirements specified in Regulation III/6, paragraph 2 of the Convention.”.

10. Section 8 amended (general standards and conditions for the issue of certificates)

Section 8(1)(c)—

Repeal

“an extension of the validity”

Substitute

“a renewal”.

11. Section 9 amended (classes of licences, etc.)

Section 9, Table, after item 6—

Add

“7. Licence (Electro-technical Officer) Class ETO Certificate of Competency (Electro-technical Officer) Class ETO”.

12. Section 10 amended (general standards and conditions for the issue of licences)

(1) Section 10(1)(a), after “Part;”—

Add

“and”.

(2) Section 10(1)—

Repeal paragraphs (b) and (c).

(3) Section 10(2)—

Repeal paragraph (a)

Substitute

“(a) a holder of a certificate issued by, or under the authority of, the government of a state party to the Convention and such certificate is issued not on the basis of recognition by such a government of any certificate issued by another government; and”.

13. Section 11 amended (form, validity, record and surrender of certificates)

(1) Section 11, heading—

Section 14

Repeal

“Form, validity”

Substitute

“Validity”.

(2) Section 11—

Repeal subsection (1).

(3) Section 11(2)—

Repeal

“an extension of its validity”

Substitute

“a renewed certificate”.

14. Section 12 amended (lost, etc., certificates)

Section 12(1), after “prescribed fee,”—

Add

“cancel the certificate and”.

15. Section 13 amended (manning of ships)

(1) Section 13(1), Table A, items 2 and 3—

Repeal

“1 600 GRT”

Substitute

“3 000 gross tonnage”.

(2) Section 13(1), Table A, item 4—

Repeal

“registered”

Substitute

“propulsion”.

- (3) Section 13(1), Table A, item 4, column 3, Class 3—

Repeal

“2”

Substitute

“1”.

- (4) Section 13(1), Table A, item 5—

Repeal

“350”

Substitute

“750”.

- (5) Section 13(1), Table A, item 5—

Repeal

“registered”

Substitute

“propulsion”.

- (6) Section 13(1), Table A, item 5, column 3, Class 3—

Repeal

“3”

Substitute

“2”.

- (7) Section 13(1), Table B, item 2(a)—

Repeal

“registered”

Substitute

“propulsion”.

Section 16

- (8) Section 13(1), Table B, item 2(a), column 3, Class 3—

Repeal

“2”

Substitute

“1”.

- (9) Section 13(1), Table B, item 2(b)—

Repeal

“registered”

Substitute

“propulsion”.

- (10) Section 13(1), Table B, item 2(b), column 3, Class 3—

Repeal

“1”.

- (11) Section 13—

Repeal subsections (2), (3), (4), (5) and (6).

16. Section 15 repealed (additional requirements in respect of certain ships)

Section 15—

Repeal the section.

17. Section 17 amended (offences and penalties)

- (1) Section 17(1)—

Repeal

“or in connection with the endorsement, or extension of the validity”

Substitute

Section 17

“or licence, or in connection with the endorsement, or renewal”.

- (2) Section 17(2)(a) and (b)—

Repeal

“or of service”

Substitute

“, certificate of service or licence”.

- (3) Section 17(3)—

Repeal

“or a certificate of service” (wherever appearing)

Substitute

“, certificate of service or licence”.

- (4) Section 17(3)—

Repeal

“or certificate of service”

Substitute

“, certificate of service or licence”.

Section 18

(5) Section 17—

Repeal subsection (4)

Substitute

“(4) The company or master of a ship who authorizes or permits the ship to proceed to sea in contravention of section 13, whether or not the ship so proceeds, commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 2 years.”.

18. Section 18 amended (appeals)

Section 18—

Repeal

“8(2) or 10(2) to refuse to issue him a certificate or licence”

Substitute

“7B to refuse to issue or renew a certificate of competency or under section 10(2) to refuse to issue a licence”.

19. “適任” substituted for “合格”

(1) The following provisions, Chinese text—

- (a) Section 2(1), definition of 服務資歷認可證明;
- (b) Section 2(3)(b)(i) and (ii);
- (c) Section 4(1)(a)(i), (ii) and (iii), (2), (3), (4), (5) and (6)(a);
- (d) Section 5(5) and (7);
- (e) Section 6(1)(a)(i), (ii) and (iii), (2), (3), (4), (5), (6)(a) and (8);
- (f) Section 7(5) and (7);

Section 19

- (g) Section 8(1)(a) and (b);
- (h) Section 9(2) and (3) and Table;
- (i) Section 10(1)(a);
- (j) Section 11(2), (3), (4) and (5)—

Repeal

“合格” (wherever appearing)

Substitute

“適任”.

- (2) The following provisions, Chinese text—
 - (a) Section 5, heading;
 - (b) Section 7, heading;
 - (c) Section 16, heading—

Repeal

“合格” (wherever appearing)

Substitute

“適任”.

- (3) The following provisions, Chinese text—
 - (a) Section 5(3);
 - (b) Section 7(3)—

Repeal

“) 合格” (wherever appearing)

Substitute

“) 適任”.

- (4) The following provisions, Chinese text—
 - (a) Section 5(4);
 - (b) Section 7(4)—

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Section 19

Repeal

“合格證書。” (wherever appearing)

Substitute

“適任證書。”.

Anthony B. L. CHEUNG
Secretary for Transport and
Housing

30 September 2016

Explanatory Note

The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (*Convention*) sets out a comprehensive set of global standards on the training and certification of seafarers and watchkeeping, in order to promote the safety of life and property at sea and the protection of the marine environment. The latest substantial amendments to the Convention were adopted by the International Conference on Training and Certification of Seafarers in Manila, the Philippines in 2010 (*Manila Amendments*) and are to be implemented by 1 January 2017. The Convention as revised by the Manila Amendments applies to Hong Kong.

2. The main purpose of this Regulation is to amend the Merchant Shipping (Seafarers) (Certification of Officers) Regulation (Cap. 478 sub. leg. J) to implement the requirements relating to the certification of electro-technical officers under the Convention as revised by the Manila Amendments. New provisions are also added to expressly provide for the application and requirements for the issue of certificates of competency.