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Merchant Shipping (Seafarers) (Working and Living Conditions) Regulation

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Merchant Shipping (Seafarers) (Working and Living Conditions) Regulation

(Made by the Secretary for Transport and Housing under sections 86, 96, 97, 119 and 134 of the Merchant Shipping (Seafarers) Ordinance (Cap. 478))

Part 1

Preliminary

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. Interpretation

(1) In this Regulation—

Accommodation Regulation (《艙房規例》) means the Merchant Shipping (Seafarers) (Crew Accommodation) Regulation (Cap. 478 sub. leg. I);

anniversary date (周年日期), in relation to a maritime labour certificate or preliminary certificate, means the day and month of each year which corresponds to the date of expiry of the certificate;

approved training programme (認可訓練課程) means a training programme for seafarers approved by the Superintendent;

commencement date (生效日期) means the date on which Part 3 comes into operation;

competent authority (主管當局), in relation to a ML Convention country, or a country that is a party to the Ships' Cooks

Convention, means the authority with the power to enforce, in the country, the law for implementing the Convention concerned;

complaint procedures (投訴程序), in relation to a ship, means the procedures for dealing with complaints from seafarers working on board the ship regarding alleged breaches of the Part 2 requirements applicable to the ship;

compliance measures (合規措施), in relation to a ship, means the measures set out in Part II of the declaration of maritime labour compliance issued in respect of the ship;

compliance report (合規報告) means a compliance report issued—

- (a) by the Authority under section 91; or
- (b) by a recognized organization;

Convention-related document (《公約》相關文件) means—

- (a) a maritime labour certificate;
- (b) an interim maritime labour certificate;
- (c) a compliance report; or
- (d) a declaration of maritime labour compliance;

declaration of maritime labour compliance (海事勞工合規聲明) means a declaration of maritime labour compliance comprising—

- (a) Part I which is issued by the Authority under section 82(1) or 93(1); and
- (b) Part II which is issued—
 - (i) by the Authority under section 82(3) or 93(3);
 - (ii) by the competent authority of a ML Convention country under section 115; or
 - (iii) by a recognized organization;

endorsement for intermediate inspection (中期檢查批註) means an endorsement for an intermediate inspection that is made on the maritime labour certificate of a ship—

- (a) by the Authority under section 74;
- (b) by the competent authority of a ML Convention country under section 115; or
- (c) by a recognized organization;

function (職能) includes power and duty;

Government surveyor (政府驗船師) means a person appointed to be a Government surveyor under section 110;

gross tonnage (總噸位), 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);

Hong Kong ship (香港船舶) means a ship registered in Hong Kong under the Merchant Shipping (Registration) Ordinance (Cap. 415);

hours of rest (休息時間) means any period of time outside working hours, but does not include short breaks within working hours;

interim maritime labour certificate (臨時海事勞工證書) means an interim maritime labour certificate issued—

- (a) by the Authority under section 78;
- (b) by the competent authority of a ML Convention country under section 115; or
- (c) by a recognized organization;

intermediate inspection (中期檢查) means an intermediate inspection carried out in respect of a ship under section 73(1);

maritime labour certificate (海事勞工證書) means a maritime labour certificate issued or renewed—

- (a) by the Authority under section 69, 70 or 72;
- (b) by the competent authority of a ML Convention country under section 115; or
- (c) by a recognized organization;

medical care (醫療照顧) includes dental care;

medical fitness certificate (健康證明書) has the meaning given by section 2(1) of the Merchant Shipping (Seafarers) (Medical Examination) Regulation (Cap. 478 sub. leg. O);

ML Convention (《海事勞工公約》) means the Maritime Labour Convention, 2006, adopted by the International Labour Conference of the International Labour Organization on 23 February 2006, as from time to time revised or amended by any revision or amendment to any provision of the Convention that applies to Hong Kong;

ML Convention country (《海事勞工公約》國) means a country that is a party to the ML Convention, and includes a place to which the Convention applies;

non-Hong Kong ship (非香港船舶) means a ship other than a Hong Kong ship;

official log book (正式航海日誌) means an official log book kept on a Hong Kong ship under section 119 of the Ordinance;

Part 2 requirement (第2部規定) means a requirement relating to the working and living conditions of seafarers specified in Divisions 2 to 17 of Part 2;

port authority (港口當局)—

- (a) in relation to the port of Hong Kong, means the Director of Marine; and

(b) in relation to a port outside Hong Kong, means the person having control of the operation of the port;

preliminary certificate (初步證書) means a preliminary certificate referred to in section 70(2)(a)(ii);

recognized organization (認可機構) means an organization recognized under section 111;

regulated ship (受管制船舶) means a seagoing ship, whether publicly or privately owned, that is engaged in commercial activities, but does not include—

(a) a fishing vessel;

(b) a ship of traditional build, including a dhow or a junk; or

(c) a warship or naval auxiliary;

seagoing ship (海域航行船舶) means a ship other than one which navigates exclusively in one or more of the following areas—

(a) inland waters;

(b) waters within, or closely adjacent to, sheltered waters;

(c) areas where port regulations apply;

shipowner (船東)—

(a) in relation to a Hong Kong ship in respect of which a maritime labour certificate or compliance report is in force, means the person identified as the shipowner of the ship on the certificate or report; or

(b) in relation to any other Hong Kong ship—

(i) means the person registered as the owner of the ship under the Merchant Shipping (Registration) Ordinance (Cap. 415); or

(ii) means a person who has assumed responsibility for the operation of the ship from the owner of

the ship and who, on assuming the responsibility, has agreed to take over the obligations imposed on the owner of the ship under the ML Convention;

Ships' Cooks Convention (《船上廚師公約》) means the Certification of Ships' Cooks Convention, 1946, adopted by the General Conference of the International Labour Organization on 27 June 1946;

STCW Code (《培訓規則》) means the Seafarers' Training, Certification and Watchkeeping Code published by the International Maritime Organization, as from time to time revised or amended by any revision or amendment that applies to Hong Kong;

STCW Convention (《培訓公約》) 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 the Convention that applies to Hong Kong;

young seafarer (青年海員) means a seafarer who is under the age of 18.

- (2) For the purposes of this Regulation, a ship is constructed when—
- (a) its keel is laid; or
 - (b) it is at a similar stage of construction.
-

Part 2

Requirements Relating to Working and Living Conditions of Seafarers

Division 1—General

3. Application

This Part applies to a regulated ship that is a Hong Kong ship, wherever it may be.

4. Working and living conditions of seafarers

The working and living conditions of seafarers employed to work on board a ship must comply with the requirements specified in Divisions 2 to 17.

Division 2—Minimum Age and Other Age-related Requirements

5. Minimum age

A seafarer who works on board a ship must be at least 17 years of age.

6. Young seafarers must not work during night period

- (1) Subject to subsection (2), a young seafarer employed to work on board a ship must have a night rest period that—
 - (a) lasts at least 9 consecutive hours; and
 - (b) includes the hours between midnight and 5 a.m.
- (2) The seafarer must not work during the period unless—

- (a) the training for the seafarer in accordance with an approved training programme would be impaired; or
- (b) the specific nature of the duty of the seafarer or of an approved training programme requires the seafarer to work during the period and the work to be carried out—
 - (i) falls within Regulations II/1 and II/3 of the STCW Convention;
 - (ii) forms part of the training for engineer officer under Regulation III/1 of the STCW Convention;
 - (iii) forms part of the training for navigational watch rating under Regulation II/4 of the STCW Convention;
 - (iv) forms part of the training for engine room watch rating under Regulation III/4 of the STCW Convention;
 - (v) forms part of the training for rating as able seafarer deck under Regulation II/5 of the STCW Convention;
 - (vi) forms part of the training for rating as able seafarer engine under Regulation III/5 of the STCW Convention;
 - (vii) forms part of the training for electro-technical officer under Regulation III/6 of the STCW Convention;
 - (viii) forms part of the training for electro-technical rating under Regulation III/7 of the STCW Convention;

- (ix) forms part of the training for radio personnel under Regulation IV/2 of the STCW Convention;
- (x) forms part of the training for alternative certification under Regulation VII of the STCW Convention.

7. Young seafarers must not carry out certain types of work

- (1) A young seafarer employed to work on board a ship must not carry out any work—
 - (a) that has to be carried out in a high-pressure atmosphere and that would expose the seafarer to risks of high pressure and decompression;
 - (b) that involves taking care of or coming into contact with patients on board the ship;
 - (c) that would expose the seafarer to electrical voltage of over 1 000 volts;
 - (d) that would expose the seafarer to—
 - (i) shocks that could cause back pain to, or damage to the spine of, the seafarer; or
 - (ii) low-frequency vibration; or
 - (e) that involves the handling of—
 - (i) any substance listed in the Dangerous Goods List of the IMDG Code; or
 - (ii) any noxious liquid listed in Chapter 17 of the IBC Code.

(2) In this section—

IBC Code (《國際散裝化學品規則》) means the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk published by the International Maritime Organization, as from time to time revised or amended by any revision or amendment that applies to Hong Kong;

IMDG Code (《危險貨物守則》) means the International Maritime Dangerous Goods Code published by the International Maritime Organization, as from time to time revised or amended by any revision or amendment that applies to Hong Kong.

8. Young seafarers must not carry out certain types of work without training etc.

(1) A young seafarer employed to work on board a ship must not carry out any work specified in subsection (2) unless—

- (a) the seafarer has completed a relevant approved training programme; or
- (b) the seafarer is provided with appropriate supervision and instruction by an officer on board the ship for carrying out the work.

(2) The work is—

- (a) lifting, moving or carrying heavy loads or objects;
- (b) work that involves entry into boilers, tanks and cofferdams;
- (c) work that involves exposure to harmful noise and vibration levels;
- (d) operating hoisting and other power machinery or tools, or acting as signallers to operators of the machinery or tools;

- (e) handling mooring or tow lines or anchoring equipment;
- (f) rigging;
- (g) working aloft or on deck in heavy weather;
- (h) nightwatch duties;
- (i) servicing electrical equipment;
- (j) work that involves exposure to potentially harmful materials, or harmful physical agents, including dangerous or toxic substances and ionizing radiations;
- (k) cleaning catering machinery;
- (l) handling or taking charge of ship's boats.

9. Offences

- (1) If section 5 is contravened, the shipowner of the ship concerned commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 2 years.
- (2) If section 6, 7 or 8 is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction—
 - (a) for the shipowner, to a fine at level 6;
 - (b) for the master, to a fine at level 4.

Division 3—Medical Certification

10. Seafarer must hold medical fitness certificate

A seafarer employed to work on board a ship must hold a valid medical fitness certificate.

Division 4—Qualifications of Seafarers

11. Qualifications and training

- (1) A seafarer must not work in any capacity on board a ship unless the seafarer complies with the requirements in respect of that capacity imposed by the subsidiary legislation made under the Ordinance for implementing the STCW Convention.
- (2) A seafarer must not work on board a ship unless the seafarer has completed the training for personal safety in compliance with the STCW Code.

Division 5—Seafarers’ Employment Agreements

12. Seafarers must have entered into employment agreements

- (1) A seafarer working on board a ship must have entered into a written employment agreement with the employer of the seafarer.
- (2) The seafarer must be given—
 - (a) an opportunity to examine and seek advice on the agreement before entering into it; and
 - (b) any facilities that are necessary to ensure that the seafarer—
 - (i) has a sufficient understanding of the seafarer’s rights and obligations under the agreement before entering into it; and
 - (ii) freely enters into the agreement.
- (3) The seafarer must be given a signed original of the agreement.

- (4) If the agreement is not in English, a copy of a standard form of the agreement adopted for seafarers on board the ship in English must be made available to the seafarer.

13. Requirements for employment agreement

An employment agreement of a seafarer must comply with Schedule 1.

14. Employment agreement to be made available for review

A copy of the employment agreement between a seafarer and the employer of the seafarer must, on request, be made available for review by the competent authority of a ML Convention country.

15. Record of employment

- (1) A seafarer must, before being discharged from the ship on which the seafarer has worked, be given a record of the seafarer's employment on board the ship that complies with subsection (2).
- (2) The record of employment—
 - (a) must contain sufficient information to facilitate the seafarer to acquire further work, or to satisfy the sea-service requirements for the seafarer's upgrading or promotion; but
 - (b) must not contain any statement as to the wages of the seafarer or quality of the seafarer's work.

16. Offences

- (1) If section 12(2) is contravened, the employer of the seafarer concerned commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.

- (2) If section 12(3) or (4) is contravened, the employer of the seafarer concerned commits an offence and is liable on conviction to a fine at level 3.
- (3) If section 13 is contravened, the employer of the seafarer concerned commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.
- (4) If section 14 or 15(1) is contravened, the employer of the seafarer concerned 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 (1) or (2) to show that the person had taken all reasonable steps to prevent the commission of the offence.

Division 6—Use of Recruitment and Placement Services

17. Recruitment and placement agent in ML Convention country

If the shipowner of a ship engages an agent operating in a ML Convention country to recruit and place seafarers to work on board the ship, the shipowner must ensure that the agent is permitted to do so under the law of the country.

18. Recruitment and placement agent in other countries

- (1) If the shipowner of a ship engages an agent operating in a country, not being a ML Convention country, to recruit and place seafarers to work on board the ship, the shipowner must, as far as practicable, ensure that the agent complies with all the requirements specified in subsection (2).
- (2) The requirements are—
 - (a) the agent must not use any means, mechanism or list to prevent or deter a seafarer from gaining employment for which the seafarer is qualified;

- (b) the agent must not require a seafarer to bear, whether directly or indirectly, in part or in whole, any fees or charges for arranging employment for the seafarer;
- (c) the agent must maintain an up-to-date register of all seafarers recruited or placed by it;
- (d) the agent must have measures in place to ensure that—
 - (i) a seafarer to be employed is informed of the seafarer's rights and obligations under the employment agreement to be entered into;
 - (ii) the agreement complies with Schedule 1;
 - (iii) the seafarer may examine the agreement before it is signed; and
 - (iv) the seafarer receives a copy of the agreement after it has been signed;
- (e) the agent must have measures in place to verify that a seafarer recruited or placed by it to take up a position on board the ship is qualified for, and holds the documents necessary for, the position;
- (f) the agent must have measures in place to ensure, as far as practicable, that the shipowner has the means to protect a seafarer employed or placed from being stranded in a foreign port;
- (g) the agent must have measures in place, whether by way of insurance or otherwise, to compensate a seafarer employed for any monetary loss that the seafarer may incur as a result of the failure of the agent or the shipowner to meet its obligation to the seafarer.

- (3) For the purposes of subsection (2)(b), the fees or charges for arranging employment for a seafarer does not include the cost of obtaining—
- (a) the seafarer’s medical fitness certificate;
 - (b) the seafarer’s record of employment; and
 - (c) the seafarer’s passport or other similar personal travel documents, other than a visa required for travelling to a place in the course of employment.

19. Offences

- (1) The shipowner of a ship who contravenes section 17 or 18(1) commits an offence and is liable on conviction to a fine at level 5.
- (2) It is a defence for a person charged under subsection (1) to show that the person had taken all reasonable steps to prevent the commission of the offence.

Division 7—Hours of Rest

20. Minimum hours of rest

- (1) Subject to subsection (2) and section 21, a seafarer employed to work on board a ship must have at least—
 - (a) 10 continuous hours of rest in any 24-hour period; and
 - (b) 77 hours of rest in any 7-day period.
- (2) The hours of rest in a 24-hour period may be divided into 2 periods if—
 - (a) one of them is at least 6 hours in duration; and
 - (b) the interval between 2 consecutive periods of rest does not exceed 14 hours.

- (3) Emergency drills on board the ship must be conducted in a manner—
 - (a) that minimizes the disruption of any rest period; and
 - (b) that does not induce fatigue to any seafarer on board the ship.

21. Authority may permit exceptions

The Authority may, in accordance with Standard A2.3 of the ML Convention and Section A-VIII/1 of the STCW Convention, permit an exception to the requirements on hours of rest under section 20(1) and (2).

22. Schedules of service and records of rest

- (1) The master of a ship must—
 - (a) compile a table that complies with subsection (2); and
 - (b) display the table in a conspicuous position on board the ship, which is accessible to the seafarers on it.
- (2) The table must—
 - (a) contain, in respect of each seafarer on board the ship—
 - (i) a schedule of service at sea and service in port; and
 - (ii) the minimum hours of rest; and
 - (b) be presented—
 - (i) in the working language of the crew of the ship; and
 - (ii) if the working language is not English, also in English.

- (3) The master may require a seafarer to work during the hours of rest shown in the schedule of service for—
 - (a) ensuring the immediate safety of the ship, or a person or cargo on board the ship; or
 - (b) giving assistance to any other ship or a person in distress at sea.
- (4) If a seafarer has worked pursuant to subsection (3), the seafarer must be provided with a compensatory rest period.
- (5) The master must—
 - (a) maintain a record of daily hours of rest of every seafarer on board the ship that is endorsed by—
 - (i) the master or a person authorized by the master; and
 - (ii) the seafarer; and
 - (b) provide each seafarer with a copy of the record relating to the seafarer.

23. Working hours of young seafarers

- (1) The following requirements must be complied with in relation to a young seafarer employed to work on board a ship—
 - (a) the working hours of the seafarer must not exceed—
 - (i) 8 hours in any 24-hour period; and
 - (ii) 40 hours in any 7-day period;
 - (b) there must be—
 - (i) sufficient time for meals; and
 - (ii) a break of at least 1 hour for the main meal of a day; and

- (c) there must be a 15-minute rest period as soon as practicable after every 2 hours of continuous work.
- (2) Subsection (1) does not apply if—
 - (a) the seafarer is assigned to watchkeeping duties or working on a rostered shiftwork system in the deck department, engine room department or catering department, and it is impracticable for the requirements to be complied with;
 - (b) it is necessary for the seafarer to work for extra working hours to—
 - (i) ensure the immediate safety of the ship, or a person or cargo on board the ship; or
 - (ii) give assistance to any other ship or a person in distress at sea; or
 - (c) the training for the seafarer in accordance with an approved training programme would be impaired.
- (3) If any of the requirements specified in subsection (1) is not complied with in relation to a seafarer because of subsection (2), the master of the ship concerned must compile and sign a record containing the following particulars—
 - (a) the duration of the extra working hours; and
 - (b) the circumstances under which the working hours of the seafarer are exceeded.

24. Offences

- (1) If section 20(1) or (3) or 22(4) is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction—
 - (a) for the shipowner, to a fine at level 5;

- (b) for the master, to a fine at level 3.
- (2) The master of a ship who contravenes section 22(1) or (5) or 23(3) commits an offence and is liable on conviction to a fine at level 1.
- (3) If section 23(1) is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction—
 - (a) for the shipowner, to a fine at level 5;
 - (b) for the master, to a fine at level 3.
- (4) It is a defence for a person charged under subsection (1), (2) or (3) to show that the person had taken all reasonable steps to prevent the commission of the offence.

Division 8—Manning Levels

25. Sufficient number of seafarers to ensure safety of ship etc.

- (1) Without prejudice to the requirements on manning of ships under the Merchant Shipping (Seafarers) (Certification of Officers) Regulation (Cap. 478 sub. leg. J)—
 - (a) there must be a sufficient number of seafarers on board a ship to ensure that the ship is operated safely and efficiently, with due regard to security; and
 - (b) the ship must be manned by a crew that is adequate, in terms of size and qualifications, to ensure the safety and security of the ship and all the persons on board the ship under all operating conditions.
- (2) A ship issued with a Minimum Safe Manning Certificate under the Merchant Shipping (Safety) (Minimum Safe Manning Certificate) Regulation (Cap. 369 sub. leg. AS) is taken to have complied with subsection (1) if the ship is manned in accordance with the Certificate.

- (3) If subsection (1) is contravened, the shipowner of the ship concerned commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 2 years.

Division 9—Accommodation

26. Interpretation

In this Division—

special purpose ship (特殊用途船舶) means a ship that complies with the requirements for special purpose ships set out in the Code of Safety for Special Purpose Ships adopted by the International Maritime Organization by Resolution A.534(13), as amended from time to time.

27. Accommodation and related requirements

- (1) Subject to sections 29, 30 and 31, a ship constructed on or after the commencement date must comply with Schedule 2.
- (2) A ship constructed before the commencement date must comply with the accommodation and related requirements that apply to it under the Accommodation Regulation.

28. Regular inspections to be carried out regarding accommodation and related facilities

- (1) The master of a ship constructed on or after the commencement date must carry out an inspection of the ship once every week to ensure that the accommodation and related facilities for seafarers are clean and maintained in a good state of repair.
- (2) The master may appoint an officer on board the ship to carry out the inspection on behalf of the master.

- (3) The master must ensure that the master or the officer appointed is accompanied by another seafarer on board the ship during the inspection.
- (4) The master must ensure that, for each inspection, a record that complies with subsection (5)—
 - (a) is entered in the ship's official log book; and
 - (b) is, on request, made available for review by a port authority.
- (5) The record of inspection must contain the following information—
 - (a) the time and date of the inspection;
 - (b) the name and rank of each seafarer—
 - (i) who carried out the inspection; or
 - (ii) who was present during the inspection under subsection (3); and
 - (c) the items inspected and details of non-compliance with Schedule 2, if any.

29. Exemptions for ships of less than 200 gross tonnage

- (1) The Authority may, after consulting the Advisory Board, exempt a ship constructed on or after the commencement date that is of less than 200 gross tonnage from any of the requirements specified in subsection (2).
- (2) The requirements are those under Standard A3.1 of the ML Convention relating to—
 - (a) air conditioning;
 - (b) washbasins in sleeping rooms;
 - (c) laundry facilities;
 - (d) the floor area of sleeping rooms for seafarers.

- (3) The Authority may only grant an exemption under subsection (1) if the Authority considers it reasonable to do so, having regard to—
 - (a) the size of the ship; and
 - (b) the number of persons to be carried on board the ship.

30. Exemptions for ships of less than 3 000 gross tonnage and special purpose ships

- (1) The Authority may, after consulting the Advisory Board, exempt a ship constructed on or after the commencement date that is of less than 3 000 gross tonnage from any of the requirements specified in subsection (2).
- (2) The requirements are those under Standard A3.1 of the ML Convention relating to—
 - (a) the provision of individual sleeping room for each seafarer;
 - (b) the provision of adjoining sitting rooms, day rooms or equivalent additional spaces to the master, chief engineer and chief navigating officer;
 - (c) the location of mess rooms;
 - (d) the provision of sanitary facilities within easy access of the navigating bridge and the machinery space or near the engine room control centre;
 - (e) the provision of separate offices or a common ship's office for use by the deck department and engine room department.
- (3) The Authority may, after consulting the Advisory Board, exempt a ship constructed on or after the commencement date that is a special purpose ship from the requirement relating to the provision of individual sleeping room for

each seafarer under Standard A3.1 of the ML Convention.

- (4) The Authority may only grant an exemption under subsection (1) or (3) if the Authority considers it reasonable to do so, having regard to—
 - (a) the space available on the ship;
 - (b) the effect of the exemption on the structure of the ship; and
 - (c) the effect of the exemption on the safety of the persons on board the ship.

31. Variations in requirements set out in Schedule 2

- (1) This section applies to a ship that is constructed on or after the commencement date.
- (2) The Authority may allow a reduction in the minimum permitted headroom in the accommodation for seafarers on board a ship required under Standard A3.1 of the ML Convention, if the Authority is satisfied that the reduction—
 - (a) is reasonable; and
 - (b) will not result in discomfort to the seafarers.
- (3) The Authority may allow the sleeping rooms on a passenger ship or special purpose ship to be located below the load line (but not to be located immediately beneath working alleyways), if satisfactory arrangements are made for the lighting and ventilation of the ship.
- (4) The Authority may, for providing single berth sleeping rooms on board a ship that is of less than 3 000 gross tonnage, allow the floor area of such a sleeping room to be less than 4.5 m².

- (5) The Authority may allow a reduction in the number of sanitary facilities required of a ship under Standard A3.1 of the ML Convention, if the ship is a passenger ship normally engaged in voyages of not more than 4 hours' duration.

32. Offences

- (1) If section 27(1) is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction to a fine at level 5.
- (2) The master of a ship who contravenes section 28(1), (3) or (4) commits an offence and is liable on conviction to a fine at level 3.
- (3) It is a defence for a person charged under subsection (2) to show that the person had taken all reasonable steps to prevent the commission of the offence.

Division 10—Recreational and Communications Facilities

33. Requirements for recreational and communications facilities

- (1) A ship constructed on or after the commencement date must comply with Schedule 3.
- (2) A ship constructed before the commencement date must comply with the requirements for recreational and communications facilities that apply to it under the Accommodation Regulation.

34. Regular inspections to be carried out regarding recreational and communications facilities

- (1) The master of a ship constructed on or after the commencement date must carry out an inspection of the ship once every week to ensure that the recreational and communications facilities for seafarers are clean and maintained in a good state of repair.
- (2) The master may appoint an officer on board the ship to carry out the inspection on behalf of the master.
- (3) The master must ensure that the master or the officer appointed is accompanied by another seafarer on board the ship during the inspection.
- (4) The master must ensure that, for each inspection, a record that complies with subsection (5)—
 - (a) is entered in the ship’s official log book; and
 - (b) is, on request, made available for review by a port authority.
- (5) The record of inspection must contain the following information—
 - (a) the time and date of the inspection;
 - (b) the name and rank of each seafarer—
 - (i) who carried out the inspection; or
 - (ii) who was present during the inspection under subsection (3); and
 - (c) the items inspected and details of non-compliance with Schedule 3, if any.

35. Offences

- (1) If section 33(1) is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction to a fine at level 5.
- (2) The master of a ship who contravenes section 34(1), (3) or (4) commits an offence and is liable on conviction to a fine at level 3.
- (3) It is a defence for a person charged under subsection (2) to show that the person had taken all reasonable steps to prevent the commission of the offence.

Division 11—Food and Catering

36. Sufficient provisions and drinking water to be provided

- (1) The shipowner of a ship must ensure that the seafarers working on board the ship are provided with provisions and drinking water in compliance with subsection (2).
- (2) The provisions and drinking water must—
 - (a) be suitable in quantity, nutritional value, quality and variety, having regard to the number of seafarers on board the ship, their religious and cultural background, and the duration and nature of the voyage; and
 - (b) be provided free of charge.

37. Staffing requirements for catering department

The shipowner of a ship must ensure that the catering department of the ship is staffed in compliance with Schedule 4.

38. Organization and equipment of catering department

The master of a ship must ensure that the catering department of the ship is so organized and equipped that—

- (a) adequate, nutritious and varied meals may be prepared; and
- (b) meals may be served in hygienic conditions.

39. Regular inspections to be carried out regarding provisions, drinking water, etc.

- (1) The master of a ship must ensure that an inspection is carried out once every week in compliance with subsection (2) regarding—
 - (a) the supply of provisions and drinking water referred to in section 36;
 - (b) the space and equipment used for storing and handling provisions and drinking water; and
 - (c) the galley and other equipment used for preparing and serving meals.
- (2) The inspection must be carried out by—
 - (a) the master or a person authorized by the master; and
 - (b) a seafarer employed in the catering department of the ship.
- (3) The master must ensure that—
 - (a) the result of each inspection is entered in the ship's official log book; and
 - (b) each entry in the book is signed by all the persons who carried out the inspection.

40. Offences

- (1) The shipowner of a ship who contravenes section 36 or 37 commits an offence and is liable on conviction to a fine at level 5.
- (2) The master of a ship who contravenes section 38 commits an offence and is liable on conviction to a fine at level 5.
- (3) The master of a ship who contravenes section 39(1) or (3) commits an offence and is liable on conviction to a fine at level 3.
- (4) It is a defence for a person charged under subsection (1), (2) or (3) to show that the person had taken all reasonable steps to prevent the commission of the offence.

Division 12—Health, Safety and Accident Prevention

41. Health and safety of seafarers

Sections 4 and 6 of the Merchant Shipping (Seafarers) (Health and Safety: General Duties) Regulation (Cap. 478 sub. leg. C) must be complied with in relation to a ship.

42. Appointment of safety officials and reporting of accidents etc.

Sections 4, 12 and 12A of the Merchant Shipping (Seafarers) (Safety Officials and Reporting of Accidents, Dangerous Occurrences and Occupational Diseases) Regulation (Cap. 478 sub. leg. R) must be complied with in relation to a ship.

Division 13—On Board Medical Care

43. Interpretation

In this Division—

qualified dentist (合資格牙醫) means—

- (a) a registered dentist as defined by section 2(1) of the Dentists Registration Ordinance (Cap. 156); or
- (b) a person who is qualified to practise dentistry in a country that is a party to the STCW Convention;

qualified medical practitioner (合資格醫生) means—

- (a) a registered medical practitioner as defined by section 2(1) of the Medical Registration Ordinance (Cap. 161); or
- (b) a person who is qualified to practise medicine in a country that is a party to the STCW Convention.

44. Qualified medical practitioner to be carried on ship

A qualified medical practitioner must be carried on board a ship if the ship—

- (a) carries 100 or more persons; and
- (b) is engaged in a voyage—
 - (i) that is of more than 3 days' duration; and
 - (ii) that is wholly or partly outside the river trade limits.

45. Seafarers to be in charge of medical care on board etc.

- (1) If a ship is not required to have a qualified medical practitioner on board the ship under section 44, the shipowner of the ship must ensure that there is—
 - (a) at least one seafarer on board the ship who—
 - (i) is responsible for providing medical care and administering medicine; and
 - (ii) is a qualified seafarer; or
 - (b) at least one seafarer on board the ship who is competent to provide medical first aid.

- (2) For the purposes of subsection (1)(a)(ii), a seafarer is a qualified seafarer if the seafarer—
 - (a) meets the standard of competence in medical care specified in section A-VI/4, paragraphs 4, 5 and 6 of the STCW Code; and
 - (b) has taken a refresher course on medical care, which had been approved by the Authority or the competent authority of a ML Convention country, within the previous 5 years.
- (3) For the purposes of subsection (1)(b), a seafarer is competent to provide medical first aid if the seafarer—
 - (a) meets the standard of competence in medical first aid specified in section A-VI/4, paragraphs 1, 2 and 3 of the STCW Code; and
 - (b) has taken a refresher course on medical first aid, which had been approved by the Authority or the competent authority of a ML Convention country, within the previous 5 years.
- (4) The Authority may approve a refresher course referred to in subsection (2)(b) or (3)(b) if the Authority is satisfied that the course may—
 - (a) refresh seafarers' knowledge and skills on medical care or medical first aid; and
 - (b) provide seafarers with information on new developments in medical care or medical first aid.

46. Shipowner to ensure medical care

- (1) The shipowner of a ship must ensure that a seafarer working on board the ship is provided with medical care that complies with all the requirements specified in subsection (2).

- (2) The requirements are—
- (a) the medical care must be appropriate, having regard to the duties to be carried out by the seafarer and the special requirements related to working on board the ship;
 - (b) the medical care must be as comparable as possible to that which is generally made available to workers ashore, including prompt access to—
 - (i) the necessary medicines, medical equipment and facilities for diagnosis and treatment; and
 - (ii) medical information and expertise;
 - (c) where practicable, the seafarer may visit a qualified medical practitioner or qualified dentist without delay in a port of call;
 - (d) the medical care must be provided free of charge.

47. Medicines, medical stores and medical guides, etc.

- (1) Sections 4, 6, 7 and 8 of the Merchant Shipping (Seafarers) (Medical Stores) Regulation (Cap. 478 sub. leg. X) must be complied with in relation to a ship.
- (2) The shipowner of a ship must ensure that a copy of each of the following publications, as amended from time to time, is carried on board the ship—
 - (a) the “International Medical Guide for Ships” published by the World Health Organization;
 - (b) the “Medical First Aid Guide for Use in Accidents Involving Dangerous Goods” published by the International Maritime Organization;
 - (c) the STCW Convention;

- (d) the medical section of the “International Code of Signals” published by the International Maritime Organization.

48. Regular inspections to be carried out regarding medicines, medical stores, etc.

- (1) The master of a ship must ensure that—
 - (a) the following are inspected once every year—
 - (i) the medicines and medical stores required to be kept on board the ship under section 4 of the Merchant Shipping (Seafarers) (Medical Stores) Regulation (Cap. 478 sub. leg. X); and
 - (ii) the publications required to be carried on board the ship under section 47; and
 - (b) for each inspection, a record containing the information specified in subsection (2) is compiled and maintained.
- (2) The information is—
 - (a) the date of inspection and recording;
 - (b) the name and rank of the person who carried out the inspection; and
 - (c) the result of the inspection.

49. Medical information relating to seafarers

If the shipowner or the master of a ship receives any medical information relating to a seafarer working on board the ship, the shipowner or the master must ensure that the information—

- (a) is kept confidential; and
- (b) may only—

- (i) be used to facilitate the treatment of the seafarer; or
- (ii) be used for other purposes that are permitted by law.

50. Offences

- (1) The shipowner or the master of a ship who authorizes or permits the ship to proceed to sea in contravention of section 44, whether or not the ship so proceeds, commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 2 years.
- (2) The shipowner of a ship who contravenes section 45(1) or 46(1) commits an offence and is liable on conviction to a fine at level 4.
- (3) The shipowner of a ship who contravenes section 47(2) commits an offence and is liable on conviction to a fine at level 3.
- (4) The master of a ship who contravenes section 48(1) commits an offence and is liable on conviction to a fine at level 3.
- (5) The shipowner or the master of a ship who contravenes section 49 commits an offence and is liable on conviction to a fine at level 3.

Division 14—On Board Complaint Procedures

51. Procedures for dealing with complaints

- (1) The master of a ship must ensure that the on board complaint procedures adopted for the ship comply with all the requirements specified in subsection (2).
- (2) The requirements are—

- (a) the complaint procedures seek to resolve the complaint at the lowest level of ranking;
- (b) despite paragraph (a), the complaint procedures also allow the complainant to complain directly to the master;
- (c) the complainant may be accompanied or represented by another seafarer chosen by the complainant during the complaint process;
- (d) there are safeguards to protect the complainant from any adverse action that may be taken by a person against the complainant for lodging the complaint.

52. Provision of impartial advice

The master of a ship must appoint a person on board the ship who may, on a confidential basis—

- (a) provide a complainant with impartial advice on the complaint lodged; and
- (b) assist the complainant in dealing with the complaint procedures.

53. Copies of complaint procedures etc. to be provided to seafarers

The master of a ship must ensure that each seafarer on board the ship is provided with—

- (a) a copy of the complaint procedures;
- (b) the name of the person appointed under section 52; and
- (c) the contact information of—
 - (i) the Superintendent; or

- (ii) for a seafarer who does not reside in Hong Kong, the competent authority of the seafarer's country of residence.

54. Offences

- (1) The master of a ship who contravenes section 51(1) or 52 commits an offence and is liable on conviction to a fine at level 3.
- (2) The master of a ship who contravenes section 53 commits an offence and is liable on conviction to a fine at level 2.

Division 15—Payment of Wages

55. Wages to be paid in full and at regular intervals

The employer of a seafarer working on board a ship must pay, in accordance with the employment agreement entered into with the seafarer, the wages and any additional payments due to the seafarer—

- (a) in full; and
- (b) at regular intervals not exceeding 1 month.

56. Monthly account to be provided to seafarers

The employer of a seafarer working on board a ship must provide the seafarer with a written account each month setting out—

- (a) the amount of wages and any additional payments payable and paid to the seafarer during the month;
- (b) details of all deductions from the amount payable; and

- (c) if the seafarer is paid in a currency or at a rate of exchange other than that agreed to in the employment agreement concerned, the currency or rate of exchange for the payment.

57. Allotment of seafarers' wages

- (1) The employer of a seafarer working on board a ship must, subject to the Merchant Shipping (Seafarers) (Allotments) Regulation (Cap. 478 sub. leg. A), ensure that the seafarer may allot all or a part of the seafarer's wages to a person nominated by the seafarer.
- (2) The employer of a seafarer working on board a ship must ensure that—
 - (a) the charge for the allotment, if any, is reasonable in amount; and
 - (b) if applicable, the rate of exchange for the allotment is—
 - (i) the rate agreed between the employer and the seafarer; or
 - (ii) the prevailing market rate.

58. Offences

- (1) The employer of a seafarer who contravenes section 55 commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 2 years.
- (2) The employer of a seafarer who contravenes section 56 commits an offence and is liable on conviction to a fine at level 1.
- (3) The employer of a seafarer who contravenes section 57(1) commits an offence and is liable on conviction to a fine at level 2.

- (4) The employer of a seafarer who contravenes section 57(2) commits an offence and is liable on conviction to a fine at level 6.
- (5) It is a defence for a person charged under subsection (2) or (3) to show that the person had taken all reasonable steps to prevent the commission of the offence.

Division 16—Financial Security for Repatriation

59. Financial security to provide assistance to seafarers when abandoned

- (1) A financial security must be in force in respect of a ship to ensure that any seafarer employed to work on board the ship is provided with assistance when the seafarer is abandoned.
- (2) The financial security—
 - (a) must be in the form of an insurance policy;
 - (b) must comply with the requirements set out in paragraphs 4, 8, 9, 10 and 12 of Standard A2.5.2 of the ML Convention;
 - (c) must not be terminated before the expiry date of the security, unless the provider of the security has given to the Authority at least 30 days prior notice in writing; and
 - (d) must not prejudice any right of recourse of the provider of the security against third parties.
- (3) A seafarer is regarded to be abandoned under the circumstances listed in paragraph 2 of Standard A2.5.2 of the ML Convention.

- (4) If subsection (1) or (2) is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 2 years.

60. Documentary evidence of financial security to be carried on ship

- (1) A ship must—
 - (a) carry on board, in respect of the financial security referred to in section 59(1), a certificate or other documentary evidence issued by each provider of the security; and
 - (b) have a copy of the certificate or other documentary evidence displayed in a conspicuous position on board the ship, which is accessible to the seafarers on it.
- (2) The certificate or other documentary evidence—
 - (a) must contain the particulars and information set out in Appendix A2-I to the ML Convention; and
 - (b) must be in English or accompanied by an English translation.
- (3) If subsection (1) or (2) is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction to a fine at level 3.

Division 17—Financial Security Relating to Shipowners’ Liability

61. Financial security to ensure compensation for liability claims

- (1) A financial security must be in force in respect of a ship to ensure the payment of compensation for any liability claim brought in respect of any seafarer employed to work on board the ship under—
 - (a) the law of Hong Kong;
 - (b) the seafarer’s employment agreement; or
 - (c) any agreement voluntarily entered into between one or more shipowners’ organizations and one or more seafarers’ organizations that satisfies the following conditions—
 - (i) the agreement relates to the working and living conditions of seafarers;
 - (ii) the shipowner of the ship is a member of the shipowners’ organization or at least one of the shipowners’ organizations, as the case requires; and
 - (iii) the seafarer is a member of the seafarers’ organization or at least one of the seafarers’ organizations, as the case requires.
- (2) The financial security—
 - (a) must be in the form of an insurance policy;
 - (b) must comply with the requirements set out in paragraphs 8(a), (b), (c), (d) and (e) and 13 of Standard A4.2.1 of the ML Convention; and

- (c) must not be terminated before the expiry date of the security, unless the provider of the security has given to the Authority at least 30 days prior notice in writing.
- (3) If a financial security referred to in subsection (1) is to be cancelled or terminated, the provider of the security must give the seafarers employed to work on board the ship at least 30 days prior notice in writing.
- (4) If a financial security referred to in subsection (1) is cancelled or terminated, the provider of the security must, by written notice within 30 days of the cancellation or termination, inform the Authority of the cancellation or termination.
- (5) If subsection (1), (2), (3) or (4) is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction to a fine at level 5.
- (6) In this section—
liability claim (責任索償) means a claim in respect of the death or long-term disability of a seafarer due to an occupational injury, illness or hazard.

62. Documentary evidence of financial security to be carried on ship

- (1) A ship must—
 - (a) carry on board, in respect of the financial security referred to in section 61(1), a certificate or other documentary evidence issued by each provider of the security; and
 - (b) have a copy of the certificate or other documentary evidence displayed in a conspicuous position on board the ship, which is accessible to the seafarers on it.

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- (2) The certificate or other documentary evidence—
 - (a) must contain the particulars and information set out in Appendix A2-I to the ML Convention; and
 - (b) must be in English or accompanied by an English translation.
 - (3) If subsection (1) or (2) is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction to a fine at level 3.
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Part 3

Certification Requirements for Regulated Ships of 500 Gross Tonnage or above

Division 1—Application

63. Application

This Part applies to a regulated ship—

- (a) that is a Hong Kong ship; and
- (b) that is of 500 gross tonnage or above,

wherever it may be.

Division 2—Certificates etc. to be Carried on Ships

64. Ships must not proceed to sea without maritime labour certificate etc.

- (1) A ship must not proceed to sea unless there is in force in respect of it—
 - (a) a maritime labour certificate; or
 - (b) an interim maritime labour certificate.
- (2) The ship must—
 - (a) carry on board the certificate; and
 - (b) have a copy of the certificate displayed in a conspicuous position on board the ship, which is accessible to the seafarers on it.
- (3) The maritime labour certificate of a ship must have the ship's declaration of maritime labour compliance attached to it.

65. Copies of maritime labour certificates etc. to be made available on request

- (1) If the shipowner or the master of a ship receives a request from any of the persons specified in subsection (2) for a copy of the maritime labour certificate or interim maritime labour certificate of the ship, the shipowner or the master must provide the copy as requested.
- (2) The persons are—
 - (a) a seafarer on board the ship or the seafarer's representative;
 - (b) the Authority or a Government surveyor;
 - (c) an authorized officer in a port of a ML Convention country;
 - (d) the shipowner's representative.

66. Copy of ML Convention to be displayed on ship

A ship must have a copy of the ML Convention displayed in a conspicuous position on board the ship, which is accessible to the seafarers on it.

67. Offences

- (1) If section 64(1) is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 2 years.
- (2) If section 64(2) or (3) is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction to a fine at level 3.
- (3) The shipowner or the master of a ship who contravenes section 65 commits an offence and is liable on conviction to a fine at level 3.

- (4) If section 66 is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction to a fine at level 1.

Division 3—Maritime Labour Certificate

Subdivision 1—Application for Maritime Labour Certificate

68. Application for maritime labour certificate

- (1) The shipowner of a ship may, by written application, request the Authority to issue a maritime labour certificate in respect of the ship.
- (2) The shipowner must provide to the Authority the documents and information specified by the Authority.

69. Authority may issue maritime labour certificates

- (1) Subject to section 70, the Authority may issue a maritime labour certificate in respect of a ship if the Authority is satisfied—
- (a) that an inspection of the ship has been carried out by a Government surveyor; and
 - (b) based on the result of the inspection, that all the Part 2 requirements applicable to the ship are complied with.
- (2) Subject to section 75, a maritime labour certificate issued under subsection (1) is valid for the period specified on the certificate, which must not exceed 5 years.

70. Recognition of inspection carried out before commencement date

- (1) If all the conditions specified in subsection (2) are satisfied in relation to a ship, the Authority may issue a maritime labour certificate in respect of the ship even though no inspection of the ship referred to in section 69(1) has been carried out.
- (2) The conditions are—
 - (a) an authorized organization had, before the commencement date—
 - (i) carried out an inspection of the ship; and
 - (ii) based on the result of the inspection, issued a preliminary certificate certifying that the requirements under the ML Convention for each of the items specified in Appendix A5-I to the Convention are complied with in relation to the ship;
 - (b) if the preliminary certificate was issued more than 3 years before the date of application for the maritime labour certificate, the preliminary certificate bears an endorsement by an authorized organization, indicating that the organization—
 - (i) has inspected the ship between the second anniversary date and third anniversary date of the preliminary certificate; and
 - (ii) is satisfied, based on the result of the inspection, that the requirements under the ML Convention for each of the items specified in the Appendix are complied with in relation to the ship;

- (c) the Authority is satisfied, based on the preliminary certificate and any other documents and information provided by the shipowner of the ship, that all the Part 2 requirements applicable to the ship are complied with.
- (3) Subject to section 75, a maritime labour certificate issued under subsection (1) is valid for the period specified on the certificate, which must not exceed 5 years from the date of the preliminary certificate.
- (4) In this section—
authorized organization (獲授權機構) means a member of the International Association of Classification Societies authorized by the Authority to issue preliminary certificates in respect of Hong Kong ships before the commencement date.

Subdivision 2—Renewal of Maritime Labour Certificate

71. Application for renewal of maritime labour certificate

- (1) The shipowner of a ship issued with a maritime labour certificate may, by written application before the certificate expires, request the Authority to issue a new maritime labour certificate in respect of the ship.
- (2) The shipowner must provide to the Authority the documents and information specified by the Authority.

72. Renewal of maritime labour certificate

- (1) The Authority may issue a new maritime labour certificate in respect of a ship if the Authority is satisfied—
 - (a) that an inspection of the ship has been carried out by a Government surveyor; and

- (b) based on the result of the inspection, that all the Part 2 requirements applicable to the ship are complied with.
- (2) Subject to section 75, a maritime labour certificate issued under subsection (1) is valid for the period specified on the certificate, which must not exceed 5 years from—
 - (a) if the inspection is completed within 3 months before the date of expiry of the current maritime labour certificate, the date of expiry of the current certificate;
 - (b) if the inspection is completed more than 3 months before the date of expiry of the current maritime labour certificate, the date of completion of the inspection.

Subdivision 3—Intermediate Inspection

73. Intermediate inspection

- (1) The shipowner of a ship issued with a maritime labour certificate must ensure that an intermediate inspection of the ship is carried out—
 - (a) if the certificate is issued under section 69 or 72, between the second anniversary date and third anniversary date of the certificate;
 - (b) if the certificate is issued under section 70, during the period for carrying out an intermediate inspection specified on the certificate.
- (2) Subsection (1) does not apply if—
 - (a) the maritime labour certificate is issued under section 70; and

- (b) the preliminary certificate issued in respect of the ship bears an endorsement as described in section 70(2)(b).

74. Endorsement for intermediate inspection

- (1) The shipowner of a ship issued with a maritime labour certificate may, by written application, request the Authority to make an endorsement for intermediate inspection on the certificate.
- (2) The Authority may make such an endorsement if the Authority is satisfied—
 - (a) that an intermediate inspection of the ship has been carried out by a Government surveyor; and
 - (b) based on the result of the inspection, that all the Part 2 requirements applicable to the ship are complied with.

Subdivision 4—Circumstances under which Maritime Labour Certificate Ceases to be Valid

75. Circumstances under which maritime labour certificate ceases to be valid

- (1) The maritime labour certificate of a ship ceases to be valid under any of the circumstances specified in subsection (2).
- (2) The circumstances are—
 - (a) the ship ceases to be registered in Hong Kong;
 - (b) the person identified on the certificate as the shipowner of the ship ceases to assume responsibility for the operation of the ship;

- (c) a substantial change has been made to the structure or equipment of the accommodation for seafarers, the recreational and communications facilities for seafarers, or the food and catering facilities of the ship;
- (d) the certificate does not bear an endorsement for intermediate inspection—
 - (i) if the certificate is issued under section 69 or 72, on the third anniversary date of the certificate;
 - (ii) if the certificate is issued under section 70, on the date immediately after the period for carrying out an intermediate inspection specified on the certificate.

Division 4—Interim Maritime Labour Certificate

76. Circumstances under which shipowners may apply for interim maritime labour certificate

The shipowner of a ship may request an interim maritime labour certificate to be issued in respect of the ship if—

- (a) the ship is a new ship on delivery;
- (b) the ship has changed its flag and has just been registered in Hong Kong; or
- (c) the shipowner assumes responsibility for the operation of the ship for the first time.

77. Application for interim maritime labour certificate

- (1) The shipowner of a ship may, by written application, request the Authority to issue an interim maritime labour certificate in respect of the ship.

- (2) The shipowner must provide to the Authority the documents and information specified by the Authority.

78. Authority may issue interim maritime labour certificates

The Authority may issue an interim maritime labour certificate in respect of a ship if the Authority is satisfied—

- (a) that an inspection of the ship has been carried out by a Government surveyor; and
- (b) based on the result of the inspection, that—
 - (i) the ship has adequate measures in place to comply with all the Part 2 requirements applicable to the ship;
 - (ii) the master of the ship is familiar with those requirements and the responsibilities for complying with those requirements; and
 - (iii) the shipowner of the ship has submitted an application for a declaration of maritime labour compliance in respect of the ship.

79. Period of validity of interim maritime labour certificate

- (1) Subject to subsection (2), an interim maritime labour certificate is valid for the period specified on the certificate, which must not exceed 6 months.
- (2) The interim maritime labour certificate of a ship ceases to be valid if—
 - (a) the ship ceases to be registered in Hong Kong;
 - (b) the person identified on the certificate as the shipowner of the ship ceases to assume responsibility for the operation of the ship; or

- (c) a substantial change has been made to the structure or equipment of the accommodation for seafarers, the recreational and communications facilities for seafarers, or the food and catering facilities of the ship.

80. Interim maritime labour certificate not renewable

An interim maritime labour certificate is not renewable.

Division 5—Declaration of Maritime Labour Compliance

81. Application for declaration of maritime labour compliance

- (1) The shipowner of a ship may, by written application, request the Authority to issue a declaration of maritime labour compliance in respect of the ship.
- (2) The shipowner must provide to the Authority—
 - (a) the documents and information specified by the Authority; and
 - (b) a proposal on the measures that the shipowner will adopt to ensure that all the Part 2 requirements applicable to the ship are complied with.

82. Authority may issue declaration of maritime labour compliance

- (1) The Authority may, on application, issue Part I of a declaration of maritime labour compliance in respect of a ship.
- (2) Part I of the declaration of maritime labour compliance must contain—
 - (a) the registration details of the ship; and
 - (b) any exemption from complying with any Part 2 requirement granted under section 114.

- (3) The Authority may issue Part II of the declaration of maritime labour compliance if the Authority is satisfied that the proposed measures referred to in section 81(2)(b) are sufficient to ensure that all the Part 2 requirements applicable to the ship are complied with.
- (4) Part II of the declaration of maritime labour compliance must contain—
 - (a) the proposed measures; and
 - (b) an endorsement by the Authority that the proposed measures are sufficient to ensure that all the Part 2 requirements applicable to the ship are complied with.

83. Results and reports of relevant inspections to be appended to declaration of maritime labour compliance

- (1) The shipowner of a ship must ensure that the results and reports of all relevant inspections carried out in respect of the ship are inscribed in or appended to the declaration of maritime labour compliance issued in respect of the ship.
- (2) In this section—

relevant inspection (有關檢查) means—

- (a) an inspection carried out for issuing a maritime labour certificate;
 - (b) an intermediate inspection; or
 - (c) an inspection carried out under Part 5.
-

Part 4

Compliance Reports for Regulated Ships of Less than 500 Gross Tonnage

Division 1—Application

84. Application

This Part applies to a regulated ship—

- (a) that is a Hong Kong ship; and
- (b) that is of less than 500 gross tonnage,

wherever it may be.

Division 2—Compliance Reports etc. to be Carried on Ships

85. Ships must not proceed to sea without compliance reports

- (1) Subject to section 87, a ship must not proceed to sea unless it carries on board a compliance report that—
 - (a) certifies that all the Part 2 requirements applicable to the ship are complied with; and
 - (b) was issued not more than 3 years ago.
- (2) A copy of the report must be displayed in a conspicuous position on board the ship, which is accessible to the seafarers on it.
- (3) The report must have the ship's declaration of maritime labour compliance attached to it.

86. Copies of compliance reports to be made available on request

- (1) If the shipowner or the master of a ship receives a request from any of the persons specified in subsection (2) for a copy of the compliance report carried on board the ship under section 85, the shipowner or the master must provide the copy as requested.
- (2) The persons are—
 - (a) a seafarer on board the ship or the seafarer's representative;
 - (b) the Authority or a Government surveyor;
 - (c) an authorized officer in a port of a ML Convention country;
 - (d) the shipowner's representative.

87. Exception to section 85

Section 85 does not prevent a ship from proceeding to sea if there is in force in respect of it a maritime labour certificate or an interim maritime labour certificate pursuant to section 95.

88. Copy of ML Convention to be displayed on ship

A ship must have a copy of the ML Convention displayed in a conspicuous position on board the ship, which is accessible to the seafarers on it.

89. Offences

- (1) If section 85(1) is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 2 years.

- (2) If section 85(2) or (3) is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction to a fine at level 3.
- (3) The shipowner or the master of a ship who contravenes section 86 commits an offence and is liable on conviction to a fine at level 3.
- (4) If section 88 is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction to a fine at level 1.

Division 3—Compliance Reports

90. Application for compliance reports

- (1) The shipowner of a ship may, by written application, request the Authority to issue a compliance report in respect of the ship.
- (2) The shipowner must provide to the Authority the documents and information specified by the Authority.

91. Authority may issue compliance reports

- (1) The Authority may issue a compliance report in respect of a ship if the Authority is satisfied—
 - (a) that an inspection of the ship has been carried out by a Government surveyor; and
 - (b) based on the result of the inspection, that all the Part 2 requirements applicable to the ship are complied with.
- (2) A compliance report must specify the date of inspection.

Division 4—Declaration of Maritime Labour Compliance

92. Application for declaration of maritime labour compliance

- (1) The shipowner of a ship may, by written application, request the Authority to issue a declaration of maritime labour compliance in respect of the ship.
- (2) The shipowner must provide to the Authority—
 - (a) the documents and information specified by the Authority; and
 - (b) a proposal on the measures that the shipowner will adopt to ensure that all the Part 2 requirements applicable to the ship are complied with.

93. Authority may issue declaration of maritime labour compliance

- (1) The Authority may, on application, issue Part I of a declaration of maritime labour compliance in respect of a ship.
- (2) Part I of the declaration of maritime labour compliance must contain—
 - (a) the registration details of the ship; and
 - (b) any exemption from complying with any Part 2 requirement granted under section 114.
- (3) The Authority may issue Part II of the declaration of maritime labour compliance if the Authority is satisfied that the proposed measures referred to in section 92(2)(b) are sufficient to ensure that all the Part 2 requirements applicable to the ship are complied with.
- (4) Part II of the declaration of maritime labour compliance must contain—
 - (a) the proposed measures; and

- (b) an endorsement by the Authority that the proposed measures are sufficient to ensure that all the Part 2 requirements applicable to the ship are complied with.

94. Results and reports of relevant inspections to be appended to declaration of maritime labour compliance

- (1) The shipowner of a ship must ensure that the results and reports of all relevant inspections carried out in respect of the ship are inscribed in or appended to the declaration of maritime labour compliance issued in respect of the ship.
- (2) In this section—
relevant inspection (有關檢查) means—
 - (a) an inspection carried out for issuing a compliance report; or
 - (b) an inspection carried out under Part 5.

Division 5—Miscellaneous

95. Shipowner may apply for maritime labour certificate etc.

- (1) The shipowner of a ship may apply for a maritime labour certificate or an interim maritime labour certificate to be issued in respect of the ship, as if the ship were one that falls within section 63.
 - (2) If a maritime labour certificate or an interim maritime labour certificate is issued and is in force in respect of a ship, Part 3 applies to the ship, as if the ship were one that falls within section 63.
-

Part 5

Enforcement

Division 1—Hong Kong Ships

96. Application

This Division applies to a regulated ship that is a Hong Kong ship, wherever it may be.

97. Authority may ascertain compliance with requirements under Parts 2, 3 and 4

The Authority may, at all reasonable times, board and inspect a ship for ascertaining whether the requirements under Part 2, 3 or 4 are complied with.

98. Investigations into non-compliance

- (1) On receiving a complaint or obtaining evidence on any of the matters specified in subsection (2) in relation to a ship, the Authority may board and inspect the ship for investigating into the matter.
- (2) The matters are—
 - (a) there is a deficiency in complying with any requirement under Part 2, 3 or 4;
 - (b) there is a serious deficiency in implementing the compliance measures.
- (3) The Authority must keep the source of the complaint or evidence confidential.

99. Powers of Authority in inspections

For the purposes of sections 97 and 98, the Authority may board and inspect a ship and—

- (a) carry out an examination or a test in respect of any part of, or any equipment or thing on, the ship;
- (b) require the shipowner or the master of the ship, or a seafarer on board the ship, to produce the documents and provide the information specified by the Authority;
- (c) examine and copy any document referred to in paragraph (b);
- (d) take measurements and photographs, and make records, as the Authority considers necessary; and
- (e) take or remove, for the purpose of analysis, samples of products, cargoes, provisions, drinking water, materials and substances on board the ship.

100. Authority may require rectification of deficiencies

- (1) This section applies if the Authority identifies, from an inspection of a ship—
 - (a) any deficiency in complying with any requirement under Part 2, 3 or 4; or
 - (b) any deficiency in implementing the compliance measures.
- (2) The Authority may, by written notice to the shipowner and the master of the ship, require the deficiency to be rectified within the time specified in the notice.
- (3) If the Authority is satisfied that the deficiency falls within subsection (4), the Authority may also—

- (a) by written notice to the shipowner and the master of the ship, direct that the ship must not proceed to sea until the deficiency has been rectified; and
 - (b) take steps to prohibit the ship from proceeding to sea in contravention of the direction.
- (4) The deficiency is one that—
- (a) constitutes a serious or repeated breach of any requirement under Part 2, 3 or 4; or
 - (b) represents a significant danger to the safety, health or security of the seafarers on board the ship.
- (5) If the shipowner of a ship is aggrieved by a decision of the Authority under subsection (2) or (3), the shipowner may, within 5 working days after receiving notice of the decision, appeal to the Administrative Appeals Board against the decision.
- (6) The appeal does not affect the operation of the decision unless the Authority directs otherwise in writing.

101. Authority may withdraw maritime labour certificate etc. if deficiency not rectified

- (1) This section applies if—
- (a) the Authority has issued a written notice in respect of a ship under section 100(2); and
 - (b) a deficiency specified in the notice is not rectified in accordance with the notice.
- (2) The Authority may, by written notice to the shipowner and the master of the ship, withdraw the maritime labour certificate, interim maritime labour certificate or compliance report issued in respect of the ship.

- (3) When deciding whether to withdraw the certificate or report issued in respect of the ship, the Authority must take into account the seriousness and frequency of occurrence of the deficiency.
- (4) On receiving a notice under subsection (2), the shipowner and the master of the ship must deliver the certificate or report to the Authority immediately.
- (5) The shipowner or the master of the ship may, after the deficiency has been rectified, apply to the Authority for the return of the certificate or report.
- (6) If the Authority is satisfied that the deficiency has been rectified, the Authority must, by written notice to the applicant, return the certificate or report to the applicant.
- (7) If subsection (4) is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction to a fine at level 6.

102. Preparation of reports

- (1) The Authority must prepare a report on an inspection carried out under section 97 or 98.
- (2) The report—
 - (a) must set out—
 - (i) the date of commencement and completion of the inspection; and
 - (ii) the details of any deficiency identified and the date when the deficiency is rectified; and
 - (b) must be in the Chinese or English language.
- (3) The Authority must furnish a copy of the report to the shipowner and the master of the ship concerned.
- (4) A copy of the report must—

- (a) be displayed in a conspicuous position on board the ship, which is accessible to the seafarers on it; and
 - (b) on request by a seafarer's representative, be provided to the representative.
- (5) If subsection (4) is contravened, the shipowner and the master of the ship concerned each commits an offence and is liable on conviction to a fine at level 3.

Division 2—Non-Hong Kong Ships

103. Application

This Division applies to a regulated ship—

- (a) that is a non-Hong Kong ship; and
- (b) that is within the waters of Hong Kong in the normal course of business or for operational reasons.

104. Authority may ascertain compliance with requirements under ML Convention

- (1) The Authority may, at all reasonable times, board and inspect a ship for ascertaining whether the requirements under the ML Convention are complied with.
- (2) Without limiting subsection (1), if the ship flies the flag of a ML Convention country, the Authority may examine any document certifying the ship's compliance with the requirements under the Convention, which are issued in accordance with the law of the country.

105. Investigations into non-compliance

- (1) On receiving a complaint or obtaining evidence that there is a deficiency in complying with any requirement under the ML Convention in relation to a ship, the Authority

may board and inspect the ship for investigating into the non-compliance.

- (2) The Authority must keep the source of the complaint or evidence confidential.

106. Powers of Authority in inspections

For the purposes of sections 104 and 105, the Authority may exercise any of the powers under section 99 in relation to a non-Hong Kong ship as if the ship were a Hong Kong ship.

107. Authority may require rectification of deficiencies

- (1) This section applies if the Authority identifies, from an inspection of a ship, any deficiency in complying with any requirement under the ML Convention.
- (2) The Authority may, by written notice to the master of the ship, require the deficiency to be rectified within the time specified in the notice.
- (3) If the Authority is satisfied that the deficiency falls within subsection (4), the Authority may also—
 - (a) by written notice to the master of the ship, direct that the ship must not proceed to sea until—
 - (i) the deficiency has been rectified; or
 - (ii) the submission by the master of the ship of a plan for rectifying the deficiency and of evidence that the plan will be implemented in an expeditious manner, both of which must be satisfactory to the Authority; and
 - (b) take steps to prohibit the ship from proceeding to sea in contravention of the direction.
- (4) The deficiency is one that—

- (a) constitutes a serious or repeated breach of any requirement under the ML Convention; or
- (b) represents a significant danger to the safety, health or security of the seafarers on board the ship.

Division 3—Miscellaneous

108. Authority may authorize Government surveyors

The Authority may authorize a Government surveyor to perform the Authority's functions under this Part.

109. Offence for obstructing Authority or Government surveyor

A person who obstructs the Authority or a Government surveyor in carrying out the functions under this Part commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 2 years.

Part 6

Miscellaneous

Division 1—Government Surveyors and Recognized Organizations

110. Authority may appoint Government surveyors

The Authority may appoint a person to be a Government surveyor for the purposes of this Regulation.

111. Authority may recognize organizations

- (1) The Authority may recognize an organization for carrying out any of the acts specified in subsection (2) in relation to a ship.
- (2) The acts are—
 - (a) to carry out an inspection of the ship and—
 - (i) to issue or renew a maritime labour certificate in respect of the ship;
 - (ii) to make an endorsement for intermediate inspection on the maritime labour certificate of the ship;
 - (iii) to issue an interim maritime labour certificate in respect of the ship; or
 - (iv) to issue a compliance report in respect of the ship;
 - (b) to consider the measures proposed by the shipowner of the ship to ensure compliance with all the Part 2 requirements applicable to the ship, and to issue Part II of the declaration of maritime labour compliance in respect of the ship;

- (c) to require the rectification of any deficiency in complying with any Part 2 requirement applicable to a ship identified from an inspection of the ship.

Division 2—Miscellaneous Powers and Duties of Authority

112. Authority may cancel Convention-related documents

- (1) If the Authority has reasonable ground to believe that a Convention-related document issued in respect of a ship was issued on the basis of false or erroneous information, the Authority may cancel the document by written notice to the shipowner of the ship.
- (2) The Authority must give reasons for cancelling a Convention-related document.
- (3) On receiving a notice under subsection (1), the shipowner of the ship must deliver the Convention-related document to the Authority immediately.
- (4) The shipowner of a ship who contravenes subsection (3) commits an offence and is liable on conviction to a fine at level 6.

113. Forms of Convention-related documents

The Authority may specify the form of a Convention-related document.

114. Authority may grant exemptions

- (1) Subject to sections 29 and 30, the Authority may exempt a Hong Kong ship or a class or description of Hong Kong ships from complying with any Part 2 requirement, subject to the conditions the Authority thinks fit.
- (2) The Authority may alter or cancel an exemption granted under subsection (1).

115. Authority may request ML Convention countries to inspect Hong Kong ships

- (1) The Authority may, while a Hong Kong ship is within the waters of a ML Convention country, request the competent authority of the country to carry out any of the acts specified in subsection (2) in relation to the ship on the Authority's behalf.
- (2) The acts are—
 - (a) to carry out an inspection of the ship and—
 - (i) to issue or renew a maritime labour certificate in respect of the ship;
 - (ii) to make an endorsement for intermediate inspection on the maritime labour certificate of the ship;
 - (iii) to issue an interim maritime labour certificate in respect of the ship; or
 - (iv) to issue a compliance report in respect of the ship;
 - (b) to consider the measures proposed by the shipowner of the ship to ensure compliance with all the Part 2 requirements applicable to the ship, and to issue Part II of the declaration of maritime labour compliance in respect of the ship.

116. Authority may on request of ML Convention countries carry out certain acts in relation to ships flying their flags

- (1) If a ship that flies the flag of a ML Convention country is within the waters of Hong Kong, the Authority may, on a written request of the competent authority of the country, carry out any of the acts specified in subsection (2) in relation to the ship on behalf of the authority.

Merchant Shipping (Seafarers) (Working and Living Conditions) Regulation

Part 6—Division 2
Section 116

L.N. 69 of 2016
B1697

- (2) The acts are—
- (a) to review the measures proposed by the shipowner of the ship to ensure compliance with the requirements under the ML Convention;
 - (b) to carry out an inspection of the ship;
 - (c) based on the result of the review or inspection, to make an endorsement or issue a certificate regarding the working and living conditions of seafarers on board the ship.
-

Schedule 1

[ss. 13 & 18]

Requirements for Employment Agreement

1. A seafarer's employment agreement must contain the following information and terms—
 - (a) the full name, date of birth or age, and birthplace of the seafarer;
 - (b) the name and address of the employer;
 - (c) the place and date of entering into the agreement;
 - (d) the capacity in which the seafarer is employed;
 - (e) the seafarer's wages or the formula for calculating the wages;
 - (f) the term of the agreement and—
 - (i) if the agreement is for an indefinite period, the period of notice to be given by the employer and the seafarer for terminating the agreement;
 - (ii) if the agreement is for a definite period, the date on which it expires; and
 - (iii) if the agreement is to cover a specific voyage, the port of destination and the time that has to lapse after the ship's arrival at the port before the seafarer is to be discharged;
 - (g) the grounds for early termination of the agreement and the period of notice to be given by the employer and the seafarer for early termination of the agreement;

- (h) the health and social security protection benefits to be provided to the seafarer by the employer, if any;
 - (i) the seafarer's entitlement to repatriation;
 - (j) the seafarer's entitlement to paid leave and, where the leave is not taken, the amount of payment in lieu or the formula for calculating the amount; and
 - (k) the seafarer's entitlement to shore leave, the duration of which is to be determined by reference to the operational requirements of the seafarer's capacity.
- 2. The employment agreement must not contain any provision that seeks to forgo the seafarer's entitlement to paid leave.
- 3. The employment agreement must contain provisions regarding the employer's liability for the seafarer's sickness or injury to the effect that—
 - (a) the employer must bear the costs in respect of any sickness or injury of the seafarer—
 - (i) occurring between the date of commencement of employment and the date on which the seafarer is repatriated; or
 - (ii) arising from the employment between those dates;
 - (b) the employer must provide financial security to ensure the payment of compensation for any claim in respect of the death or long-term disability of the seafarer due to an occupational injury, illness or hazard;

- (c) the employer must defray the expenses for the seafarer's medical care (including medical treatment and the supply of the necessary medicines and therapeutic appliances) and the seafarer's boarding and lodging away from home until whichever is the earliest of the following—
 - (i) the seafarer has recovered;
 - (ii) the sickness or incapacity suffered by the seafarer has been declared to be of a permanent character;
 - (iii) the expiry of 16 weeks from the commencement of sickness or the date of injury;
- (d) if the sickness or injury results in incapacity for work, the employer is liable to pay full wages to the seafarer as long as the seafarer remains on board the ship, or until the seafarer is repatriated;
- (e) if the sickness or injury results in incapacity for work, and the seafarer is repatriated, the employer is liable to pay 80% of the wages to the seafarer for the period beginning on the date after the repatriation until whichever is the earlier of the following—
 - (i) the date when the seafarer has recovered;
 - (ii) the expiry of 16 weeks from the commencement of sickness or the date of injury;
- (f) if the seafarer dies on board the ship or ashore in the course of employment, the employer must pay the burial or cremation expenses; and
- (g) if the seafarer leaves any property on board the ship following the seafarer's sickness, injury or death, the employer must take measures for safeguarding the property, and for returning the property to the seafarer or to the seafarer's next of kin.

4. The employment agreement must contain a reference to any agreement voluntarily entered into between one or more shipowners' organizations and one or more seafarers' organizations (*relevant agreement*) that satisfies the following conditions—
 - (a) the relevant agreement relates to the working and living conditions of seafarers;
 - (b) the shipowner of the ship on which the seafarer is employed to work is a member of the shipowners' organization or at least one of the shipowners' organizations, as the case requires; and
 - (c) the seafarer is a member of the seafarers' organization or at least one of the seafarers' organizations, as the case requires.

5. For the purposes of section 1(f)(i) of this Schedule, the period of notice to be given by the employer for terminating the employment agreement must not be shorter than that to be given by the seafarer.

6. For the purposes of section 1(g) of this Schedule—
 - (a) the employer and the seafarer must give at least 7 days prior notice for early termination of the employment agreement; but
 - (b) the seafarer may give less than 7 days prior notice for early termination of the agreement—
 - (i) on compassionate grounds; or
 - (ii) on other urgent grounds as specified in the agreement.

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7. For the purposes of section 1(j) of this Schedule, the paid leave for the seafarer must not be less than 2.5 days per month of employment.
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Schedule 2

[ss. 27, 28 & 31]

Accommodation and Related Requirements

Part 1

Requirements for Accommodation

1. The accommodation for seafarers working on board a ship must comply with the requirements set out in Standard A3.1 and Guideline B3.1 of the ML Convention on the following areas—
 - (a) general requirements for accommodation;
 - (b) ventilation and heating;
 - (c) lighting;
 - (d) sleeping rooms;
 - (e) mess rooms;
 - (f) sanitary and laundry facilities; and
 - (g) prevention of noise and vibration.

2. The ventilation of the accommodation of the ship must comply with the requirements specified in the following provisions of the Accommodation Regulation—
 - (a) section 16(7); and
 - (b) if the ship falls within the description set out in section 16(2), (3) or (4) of the Regulation, section 16(2), (3) or (4) respectively.

3. If a heating system is required for the ship, the system must comply with the standard of heating as specified in section 14(1) of the Accommodation Regulation.
4. The accommodation of the ship must comply with the requirements on lighting set out in section 15 of the Accommodation Regulation.
5. If any of the employed seafarers is required to sleep on board the ship, sleeping accommodation must be provided on board the ship.

Part 2

Hospital Accommodation

6. If the ship carries 15 or more seafarers and is engaged in a voyage of more than 3 days' duration, there must be hospital accommodation on board the ship which is to be used exclusively for medical purpose.
7. The hospital accommodation must, in all weathers, be easily accessible, provide comfortable housing for the occupants and be conducive to their receiving prompt and proper attention.
8. The hospital accommodation must—
 - (a) comply with the relevant requirements set out in Guideline B3.1 of the ML Convention; and
 - (b) have at least one bed for every 50 seafarers working on board the ship.

Part 3

Bedding, Mess Utensils and Miscellaneous Provisions

9. The following provisions must be carried on board the ship and be made available to the seafarers working on it—
- (a) clean bedding of good quality;
 - (b) plates, cups and other mess utensils which are made of durable material and can be easily cleaned; and
 - (c) towels, soap and toilet paper.

Part 4

Prevention of Noise and Vibration

10. The ship must comply with the relevant requirements set out in the Code on Noise Levels on Board Ships published by the International Maritime Organization, as from time to time revised or amended by any revision or amendment that applies to Hong Kong.

Part 5

Miscellaneous Requirements

11. The ship must have a space on open deck—
- (a) which seafarers working on board the ship can have access to when off duty; and
 - (b) which must be of an adequate size, having regard to the size of the ship and the number of seafarers on board the ship.

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12. The ship must have separate offices or a common ship's office for use by the deck department and engine room department.
 13. If separate facilities are provided for engine department personnel to change their clothes, the facilities must—
 - (a) be located outside the machinery space but have easy access to it; and
 - (b) be fitted with individual clothes lockers, as well as with tubs or showers, or both, and washbasins having hot and cold running fresh water.
 14. If the ship is regularly engaged in voyages to mosquito-infested ports, the ship must be fitted with devices against admission of mosquitoes as set out in section 37 of the Accommodation Regulation.
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Schedule 3

[ss. 33 & 34]

Requirements for Recreational and Communications Facilities

Part 1

Recreational Facilities

1. Appropriate recreational facilities, spaces, amenities and services, as adapted to meet the special needs of seafarers on board the ship, must be provided on board the ship.
2. The following facilities must be available on board the ship—
 - (a) a television; and
 - (b) reading materials consisting of vocational and other books.

Part 2

Communications Facilities

3. Seafarers on board the ship must, if practicable, be provided with reasonable access to ship-to-shore telephone communications, and email and Internet facilities.
 4. The charges for the use of the communications facilities referred to in section 3 of this Schedule must be reasonable.
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Schedule 4

[s. 37]

Staffing Requirements for Catering Department

1. There must be a qualified cook in the catering department of a ship if the prescribed manning of the ship, as set out in the Minimum Safe Manning Certificate issued in respect of the ship under the Merchant Shipping (Safety) (Minimum Safe Manning Certificate) Regulation (Cap. 369 sub. leg. AS), is not less than 10 persons.
2. For the purposes of section 1 of this Schedule, a seafarer is a qualified cook if the seafarer is at least 18 years of age and—
 - (a) the seafarer has completed a training course—
 - (i) which covers practical cookery, food and personal hygiene, food storage, stock control, environmental protection and catering health and safety; and
 - (ii) which is recognized by the Authority as providing sufficient training for working as a ship's cook;
 - (b) the seafarer—
 - (i) has worked as a ship's cook on board a seagoing ship, whether a Hong Kong ship or not, for not less than 12 months, or has comparable experience; and
 - (ii) has completed a top-up course recognized by the Authority as providing sufficient supplementary training for working as a ship's cook; or

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- (c) the seafarer is issued with a certificate of qualification as a ship's cook by the competent authority of a country that is a party to the Ships' Cooks Convention, or of a ML Convention country.
- 3. If a ship is not required to have a qualified cook on board the ship under section 1 of this Schedule, each seafarer processing food in the galley must be trained or instructed in—
 - (a) food and personal hygiene; and
 - (b) the handling and storage of food.

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 main purpose of this Regulation is to implement the major requirements of the Convention. Some other requirements are implemented by the Merchant Shipping (Seafarers) (Amendment) Ordinance 2013 (16 of 2013) and by the amendments to various items of subsidiary legislation under the Merchant Shipping (Seafarers) Ordinance (Cap. 478).
3. The Regulation contains 6 Parts and 4 Schedules.

Part 1—Preliminary

4. Part 1 provides for the commencement of the Regulation and the interpretation of certain terms used in the Regulation, including *Hong Kong ship*, *regulated ship*, *seagoing ship* and *shipowner*.

Part 2—Requirements relating to working and living conditions of seafarers

5. Part 2 applies to seagoing ships registered in Hong Kong that are engaged in commercial activities (*regulated Hong Kong ships*), wherever they may be. It provides for the requirements

relating to the working and living conditions of seafarers employed to work on those ships under the Convention (**Part 2 requirements**). The Part 2 requirements relate to the following areas—

- (a) minimum age and other age-related requirements (Division 2);
- (b) medical certification (Division 3);
- (c) qualifications of seafarers (Division 4);
- (d) seafarers' employment agreements (Division 5 and Schedule 1);
- (e) use of recruitment and placement services (Division 6);
- (f) hours of rest (Division 7);
- (g) manning levels (Division 8);
- (h) accommodation (Division 9 and Schedule 2);
- (i) recreational and communications facilities (Division 10 and Schedule 3);
- (j) food and catering (Division 11 and Schedule 4);
- (k) health, safety and accident prevention (Division 12);
- (l) on board medical care (Division 13);
- (m) on board complaint procedures (Division 14);
- (n) payment of wages (Division 15);
- (o) financial security for repatriation (Division 16); and
- (p) financial security relating to shipowner's liability (Division 17).

Part 3—Certification requirements for regulated Hong Kong ships of 500 gross tonnage or above

6. Part 3 provides for the certification requirements for the working and living conditions of seafarers on regulated Hong Kong ships that are of 500 gross tonnage or above.
7. Division 2 provides that a ship must not proceed to sea unless there is in force in respect of it a maritime labour certificate (*ML certificate*) or an interim maritime labour certificate (*interim certificate*). Division 3 provides for the application and renewal of a ML certificate. Division 4 provides for the application for an interim certificate. Division 5 provides for the application for a declaration of maritime labour compliance which must be attached to a ML certificate.

Part 4—Compliance reports for regulated Hong Kong ships of less than 500 gross tonnage

8. Part 4 applies to regulated Hong Kong ships of less than 500 gross tonnage.
9. Division 2 provides that a ship must not proceed to sea unless it carries on board a report issued not more than 3 years ago, certifying that all the Part 2 requirements applicable to the ship are complied with (*compliance report*). Division 3 provides for the application for compliance reports. Division 4 provides for the application for a declaration of maritime labour compliance which must be attached to a compliance report.

Part 5—Enforcement

10. Division 1 provides for the enforcement powers of the Seafarers' Authority (*Authority*) in relation to regulated Hong Kong ships, wherever they may be. Division 2 provides for the Authority's enforcement powers in relation to seagoing ships engaged in commercial activities that are non-Hong Kong ships while they are within the waters of Hong Kong.

Part 6—Miscellaneous

11. Part 6 provides for miscellaneous matters, including the powers of the Authority to recognize organizations, to cancel, among others, ML certificates, interim certificates and compliance reports, and to grant exemptions to regulated Hong Kong ships from complying with any Part 2 requirement.