

# MERCHANT SHIPPING (SEAFARERS) (CERTIFICATION AND WATCHKEEPING) REGULATION

(Cap. 478 sections 72, 73, 96 and 134)

[2 September 1996] *L.N. 342 of 1996*

1. *(Omitted as spent)*

## 2. Interpretation

In this Regulation, unless the context otherwise requires—

“authorized person” (獲授權人) means a person authorized by the Authority for purposes of this Regulation;

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

- (a) the registered owner of the ship; or
- (b) a person who has assumed responsibility for the operation of the ship from the owner and who, on assuming the responsibility, has agreed to take over the obligations imposed on the owner of the ship under the Convention; (*L.N. 140 of 2016*)

**Convention** (《公約》) means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as from time to time revised or amended by any revision or amendment to any provision of such Convention that applies to Hong Kong; (*L.N. 140 of 2016*)

“court of survey” (驗船法庭) means a court of survey appointed under section 74 of the Merchant Shipping (Safety) Ordinance (Cap. 369);

**hours of rest** (休息時間) means any period of time outside working hours, but does not include short breaks within working hours; (*L.N. 140 of 2016*)

**seagoing ship** (海船) 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; (*L.N. 140 of 2016*)

**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 to any provision of such Code that applies to Hong Kong. (*L.N. 140 of 2016*)

(*L.N. 140 of 2016*)

## 3. Application

(1) Subject to subsection (2), this Regulation shall apply to—

- (a) all seagoing ships which are Hong Kong ships; and
- (b) all seagoing ships—
  - (i) which are not Hong Kong ships;

- (ii) while they are within the waters of Hong Kong; and
  - (iii) if they have entered those waters in the normal course of business or for operational reasons.
- (2) This Regulation does not apply to—
  - (a) ships owned or operated by a government and engaged only on governmental non-commercial service;
  - (b) fishing vessels;
  - (c) pleasure yachts not engaged in trade; or
  - (d) wooden ships of primitive build. (*L.N. 140 of 2016*)
- (3) The Authority may grant exemptions from all or any of the provisions of this Regulation for classes of cases or individual cases on such conditions, if any, as he thinks fit and may, subject to giving reasonable notice, alter or cancel any such exemption.

#### **4. Duties of company and master in relation to watchkeeping**

The company and the master of a ship must ensure that the watchkeeping arrangements for the ship meet the requirements specified in—

- (a) Regulation VIII/2, paragraph 2 of the Convention; and
- (b) section A-VIII/2, Parts 2 to 5 of the STCW Code.

*(L.N. 140 of 2016)*

#### **5. Duties of chief engineer officer in relation to watchkeeping**

The chief engineer officer of a ship must ensure that the engineering watchkeeping arrangements for the ship meet the requirements specified in section A-VIII/2, Part 4-2 of the STCW Code.

*(L.N. 140 of 2016)*

6. *(Repealed L.N. 140 of 2016)*

7. *(Repealed L.N. 140 of 2016)*

#### **7A. Miscellaneous duties of company**

- (1) The company of a ship must ensure that the requirements specified in Regulation I/14, paragraphs 1.3 to 1.6 of the Convention are met on the ship.
- (2) The company of a ship must ensure that the assignment of seafarers for service on the ship meets the requirements specified in section A-I/14 of the STCW Code.

*(L.N. 140 of 2016)*

#### **7B. Minimum hours of rest**

- (1) Subject to subsection (2) and section 7C, 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.

*(L.N. 140 of 2016)*

**7C. Authority may permit exceptions**

The Authority may, in accordance with section A-VIII/1 of the STCW Code, permit an exception to the requirements on hours of rest under section 7B(1) and (2).

*(L.N. 140 of 2016)*

**7D. 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.

*(L.N. 140 of 2016)*

## 8. Certificates

*(L.N. 140 of 2016)*

- (1) Any certificate (with or without endorsement) that is issued under any of the subsidiary legislation specified in subsection (5) or that is treated as equivalent to a certificate so issued, or any of the documents specified in subsection (9), must be kept available in its original form on board the ship on which the holder is serving. *(L.N. 140 of 2016)*

(2)-(4) *(Repealed L.N. 140 of 2016)*

- (5) The following subsidiary legislation is specified—
  - (a) the Merchant Shipping (Seafarers) (Certification of Officers) Regulation (Cap. 478 sub. leg. J);
  - (b) the Merchant Shipping (Seafarers) (Engine Room Watch Ratings and Electro-technical Ratings) Regulation (Cap. 478 sub. leg. V);
  - (c) the Merchant Shipping (Seafarers) (Passenger Ships—Training) Regulation (Cap. 478 sub. leg. AD);
  - (d) the Merchant Shipping (Seafarers) (Safety, Security and Designated Duties Training) Regulation;
  - (e) the Merchant Shipping (Seafarers) (Certificates of Proficiency for Able Seafarers) Regulation;
  - (f) the Merchant Shipping (Seafarers) (Navigational Watch) Regulation; and
  - (g) the Merchant Shipping (Seafarers) (Tankers) Regulation. *(L.N. 140 of 2016)*

(6)-(8) *(Repealed L.N. 140 of 2016)*

- (9) The following documents are specified for a ship that is not a Hong Kong ship—
  - (a) a certificate of competency or certificate of service issued in relation to the implementation of the Convention by the appropriate authority of the country in which the ship is registered to a national of the country;
  - (b) a document treated by that authority as equivalent to such a certificate; and
  - (c) the documentary proof referred to in Regulation I/10, paragraph 5 of the Convention. *(L.N. 140 of 2016)*

*(L.N. 101 of 1998)*

9. *(Repealed L.N. 140 of 2016)*

## 10. Inspection

An authorized person may inspect a ship—

- (a) to carry out the verification or assessment specified in Regulation I/4, paragraphs 1.1, 1.2 and 1.3 of the Convention; or

- (b) if the ship is the subject of an exemption granted under this Regulation, or belongs to a class of ships that is granted an exemption under this Regulation—to verify that the conditions of the exemption have been complied with.

*(L.N. 140 of 2016)*

## **11. Procedure to be adopted when inspection reveals deficiencies**

If an authorized person finds on an inspection carried out under section 10—

- (a) that there is a deficiency as described in Regulation I/4, paragraph 2 of the Convention; or *(L.N. 140 of 2016)*
- (b) that the conditions of any exemption granted under this Regulation to the ship or to the class of ships to which it belongs have not been complied with, *(L.N. 140 of 2016)*
- (c)-(f) *(Repealed L.N. 140 of 2016)*

the authorized person must notify in writing the master of the ship and, in the case of a ship which is not a Hong Kong ship, the nearest maritime, consular or diplomatic representative of the country in which the ship is registered.

*(L.N. 140 of 2016)*

## **12. Power to detain**

- (1) If—
  - (a) an authorized person finds on an inspection carried out under section 10 any deficiency referred to in section 11(a); and
  - (b) the deficiency is not corrected within a reasonable time after notification of it under section 11,the authorized person may detain the ship until the deficiency has been corrected to an extent sufficient to remove any danger to persons, property or the environment. *(L.N. 140 of 2016)*
- (2) An authorized person shall not in exercise of his powers under this section unreasonably delay or detain a ship.
- (3) If on the application of the owner, agent of the owner or master of a ship detained under this section a court of survey is satisfied that the ship has been unreasonably delayed or detained, the Government shall be liable to pay to the owner of the ship—
  - (a) his costs of and incidental to the delay or detention of the ship; and
  - (b) compensation for any loss or damage sustained by him by reason of its delay or detention.
- (4) If on application made on behalf of the Government a court of survey is satisfied that a ship detained under this section was reasonably detained the owner, agent of the owner or master of the ship shall be liable to pay to the Government the costs of and incidental to the detention of the ship.

- (5) The provisions of the Merchant Shipping (Court of Survey) Regulations (Cap. 369 sub. leg. A) shall apply with necessary modifications to any proceedings before a court of survey under this section.

**13. Offences and penalties**

- (1) A company who contravenes section 4 or 7A commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 2 years. (*L.N. 101 of 1998; L.N. 140 of 2016*)
- (2) The master of a ship who contravenes section 4 commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 2 years. (*L.N. 101 of 1998; L.N. 140 of 2016*)
- (3) A chief engineer officer who contravenes section 5 commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 2 years.
- (3A) If section 7B(1) or (3) or 7D(4) is contravened, the company and the master of the ship concerned each commits an offence and is liable on conviction—
- (a) for the company, to a fine at level 5;
- (b) for the master, to a fine at level 3. (*L.N. 140 of 2016*)
- (3B) The master of a ship who contravenes section 7D(1) or (5) commits an offence and is liable on conviction to a fine at level 1. (*L.N. 140 of 2016*)
- (3C) It is a defence for a person charged under subsection (3A) or (3B) to show that the person had taken all reasonable steps to prevent the commission of the offence. (*L.N. 140 of 2016*)
- (4) Any person who obstructs an authorized person in the performance of his functions under section 10 or 12 commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 2 years.

- 14.** (*Repealed L.N. 140 of 2016*)

**SCHEDULE 1**

(*Repealed L.N. 140 of 2016*)

**SCHEDULE 2**

(*Repealed L.N. 140 of 2016*)

**SCHEDULE 3**

(*Repealed L.N. 140 of 2016*)

**SCHEDULE 4**

(*Repealed L.N. 140 of 2016*)