

# MERCHANT SHIPPING (SEAFARERS) (PROVISIONS AND WATER) REGULATION

(Cap. 478 sections 96 and 134)

[2 September 1996]

1. *(Omitted as spent)*

## 2. Interpretation

In this Regulation, unless the context otherwise requires—

“employer” (僱主) means the person for the time being employing the master;

“seagoing” (海域航行), in relation to a ship, means any ship other than a ship which navigates exclusively within inland waters or in areas where port regulations apply.

## 3. Application

(1) Subject to subsection (2) and section 4—

(a) this Regulation, except section 9, shall apply to a seagoing Hong Kong ship; and

(b) sections 2, 4 and 9 shall apply to a seagoing ship—

(i) which is not a Hong Kong ship;

(ii) while it is within the waters of Hong Kong; and

(iii) if it has entered those waters in the normal course of business or for operational reasons.

(2) This Regulation shall not apply to a fishing vessel except a trawler to which Part XII of the Merchant Shipping Ordinance (Cap. 281) applies.

## 4. Exemptions

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.

## 5. Duty of employers and masters to provide provisions and water

(1) It shall be the duty of the employer and master of every ship to ensure that there shall be provided on their ship provisions and water which—

(a) are suitable in respect of quantity, nutritive value, quality and variety having regard to the size of the crew and the character and nature of the voyage;

(b) do not contain anything which is likely to cause sickness or injury to health or which renders any provision or water unpalatable; and

(c) are otherwise fit for consumption.

- (2) The Superintendent may, for information, from time to time cause to be prepared and published in such manner as he thinks fit, for the guidance of employers and masters, guidelines not inconsistent with this Regulation, indicating what, in the opinion of the Superintendent, constitutes the proper discharge of the duty under subsection (1) in respect of any case or class of case.

## **6. Duty of master, etc. to inspect provisions and water**

- (1) It shall be the duty of the master of a ship to ensure that he, or a person authorized by him for the purposes of this section, together with a member of the crew employed in catering on the ship, inspects not less than once each week provisions and water provided on the ship for the purpose of checking whether they comply with section 5(1).
- (2) The results of each inspection carried out pursuant to subsection (1) shall be recorded by the master in the official log book and the entry shall be signed by him and a member of the crew employed in catering on the ship.

## **7. Offences**

- (1) An employer who contravenes section 5(1) commits an offence and is liable on conviction to a fine at level 3.
- (2) The master of a ship who contravenes section 5(1) or 6(1) of (2) commits an offence and is liable on conviction to a fine at level 2.
- (3) It shall be a defence for a person charged in respect of a contravention of this Regulation, including a person charged by virtue of subsection (4), to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (4) Where an offence under this Regulation is committed, or would have been committed except for the operation of subsection (3), by any person due to the act or default of some other person, that other person shall be guilty of the like offence, and a person may be charged with and convicted of the offence by virtue of this section whether or not proceedings are taken against that first-mentioned person.

## **8. Inspection and detention of Hong Kong ships**

- (1) The Authority, or a person authorized by him for the purposes of this section, may inspect a ship for the purpose of ascertaining whether it complies with the requirements of section 5(1).
- (2) Where the Authority or a person referred to in subsection (1) has carried out an inspection of a ship pursuant to that subsection and is not satisfied that the ship complies with the requirements of section 5(1), then the Authority or that person, as the case may be, may, if that ship is within the waters of Hong Kong, detain that ship until the Authority or that person, as the case may be, is satisfied that the ship complies with those requirements.
- (3) The Authority or a person referred to in subsection (1) shall not in the exercise of his powers under this section unreasonably delay or detain a ship.

**9. Inspection and detention of ships which are not Hong Kong ships**

- (1) The Authority, or a person authorized by him for the purposes of this section, may inspect a ship for the purpose of ascertaining whether, if that ship were a Hong Kong ship, it complies with the requirements of section 5(1).
- (2) Where the Authority or a person referred to in subsection (1) has carried out an inspection of a ship pursuant to that subsection and is not satisfied that the ship, if it were a Hong Kong ship, complies with the requirements of section 5(1), then—
  - (a) the Authority or that person, as the case may be, may send a report to that effect to the government of the country in which the ship is registered, and a copy of the report to the Director-General of the International Labour Office established by the International Labour Organization; and
  - (b) where, in the opinion of the Authority or that person, as the case may be, the ship does not comply with those requirements to such an extent that conditions on board the ship are clearly hazardous to the safety or health of seafarers employed in the ship, the Authority or that person, as the case may be, may detain the ship until measures are taken to rectify those conditions, for which purpose the Authority or that person, as the case may be, may take those measures.
- (3) Where the Authority or a person referred to in subsection (1) exercises any of his powers under subsection (2) in respect of a ship, he shall notify that he has done so to the nearest maritime, consular or diplomatic representative of the country in which the ship is registered.
- (4) The Authority or a person referred to in subsection (1) shall not in the exercise of his powers under this section unreasonably delay or detain a ship.