

L.N. 92 of 2018

**Merchant Shipping (Control of Pollution by Noxious
Liquid Substances in Bulk) (Amendment) Regulation
2018**

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Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) (Amendment) Regulation 2018

(Made by the Secretary for Transport and Housing under sections 3 and 3A of the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413))

1. Commencement

This Regulation comes into operation on 17 July 2018.

2. Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) Regulations amended

The Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) Regulations (Cap. 413 sub. leg. B) are amended as set out in sections 3 to 30.

3. Part I heading amended (general)

Part I, heading—

Repeal

“GENERAL”

Substitute

“PRELIMINARY”.

4. Regulation 1 amended (citation and interpretation)

(1) Regulation 1(2), definition of *BCH Code*—

Repeal

everything after “Bulk”

Substitute

Section 4

“published by IMO, as from time to time revised or amended by any revision or amendment that applies to Hong Kong;”.

- (2) Regulation 1(2)—

Repeal the definition of *BCH Code Certificate*

Substitute

“*BCH Code Certificate* (散化規則證書) means a Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk as defined by regulation 1(2) of the BCH Code Regulations;”.

- (3) Regulation 1(2)—

Repeal the definition of *chemical tanker*

Substitute

“*chemical tanker* (化學品液貨船) has the same meaning as in Annex II;”.

- (4) Regulation 1(2)—

Repeal the definition of *HKNLS Certificate*

Substitute

“*HKNLS Certificate* (HKNLS 證書) means a certificate issued under regulation 24(1)(a);”.

- (5) Regulation 1(2), definition of *IBC Code*—

Repeal

everything after “Bulk”

Substitute

“published by IMO, as from time to time revised or amended by any revision or amendment that applies to Hong Kong;”.

- (6) Regulation 1(2)—

Repeal the definition of *IBC Code Certificate*

Substitute

“*IBC Code Certificate* (國際散化規則證書) means an International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk as defined by regulation 1(2) of the IBC Code Regulations;”.

- (7) Regulation 1(2)—

Repeal the definition of *INLS Certificate*

Substitute

“*INLS Certificate* (INLS 證書) means a certificate issued under regulation 24(1)(b);”.

- (8) Regulation 1(2)—

Repeal the definition of *liquid substance*

Substitute

“*liquid substance* (液體物質) has the same meaning as in Annex II;”.

- (9) Regulation 1(2)—

Repeal the definition of *Marpol surveyor*

Substitute

“*Marpol surveyor* (防污公約驗船師) means a Government surveyor or a surveyor appointed by or on behalf of a Convention country;”.

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(10) Regulation 1(2)—

Repeal the definition of *noxious liquid substance*

Substitute

“*noxious liquid substance* (有毒液體物質) has the same meaning as in Annex II;”.

(11) Regulation 1(2), Chinese text, definition of 海、海域—

Repeal

“指所有海船均可航行的”

Substitute

“包括海船可航行的所有”.

(12) Regulation 1(2)—

- (a) definition of *Cargo Record Book*;
- (b) definition of *Category A substance*, *Category B substance*, *Category C substance* and *Category D substance*;
- (c) definition of *class-approved*;
- (d) definition of *clean ballast*;
- (e) definition of *constructed*;
- (f) definition of *high residue substance*;
- (g) definition of *HKOPP Certificate*;
- (h) definition of *IMO Standards*;
- (i) definition of *IOPP Certificate*;
- (j) definition of *MARPOL 1973/78*;
- (k) definition of *Merchant Shipping Notice*;
- (l) definition of *nearest land*;
- (m) definition of *non-polluting substance*;
- (n) definition of *oil tanker*;

- (o) definition of *oil-like substance*;
- (p) definition of *Prevention of Oil Pollution Regulations*;
- (q) definition of *pre-washed*;
- (r) definition of *Procedures and Arrangements Manual*;
- (s) definition of *provisionally listed*;
- (t) definition of *reception facility*;
- (u) definition of *residual mixture*;
- (v) definition of *segregated ballast*;
- (w) definition of *ship*;
- (x) definition of *Special Area*;
- (y) definition of *unassessed liquid substance*—

Repeal the definitions.

- (13) Regulation 1(2)—

Add in alphabetical order

“**Administration** (主管機關), in relation to a ship, means the government of any place outside Hong Kong whose flag the ship is entitled to fly;

Annex II (《附則II》) means Annex II to the Convention as from time to time revised or amended by any revision or amendment that applies to Hong Kong;

anniversary date (周年日期), in relation to a specified Certificate in force in respect of a ship, means the day and month of each year which corresponds to the date of expiry of the Certificate;

Convention (《公約》) means the International Convention for the Prevention of Pollution from Ships, 1973, including its protocols and appendices, and Annex II (but no other Annex), as from time to time revised or amended by any revision or

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amendment to any provision of such Convention that applies to Hong Kong;

Convention country (公約國) means a country which is a party to the Convention;

Government surveyor (政府驗船師) means a person appointed under regulation 2A(1) to be a Government surveyor;

Hong Kong Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk (香港有毒液體物質證書) means—

- (a) a HKNLS Certificate; or
- (b) a Hong Kong Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk issued by a recognized organization;

in bulk (散裝) means directly and without intermediate form of containment in a tank forming an integral part of, or permanently located on, a ship;

International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk (國際有毒液體物質證書) means—

- (a) an INLS Certificate;
- (b) an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk issued by a recognized organization; or
- (c) an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk issued by or under the authority of an Administration;

recognized organization (認可機構) means an organization recognized under regulation 2AB;

specified Certificate (指明證書) means an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk or a Hong Kong Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk.”.

5. Regulation 1A added

After regulation 1—

Add

“1A. Interpretation: construction of ship

- (1) For the purposes of these regulations, a ship is constructed if—
 - (a) its keel is laid; or
 - (b) it is at the stage at which—
 - (i) construction identifiable with the ship begins; and
 - (ii) its assembly has commenced comprising at least 50 tonnes, or 1% of the estimated mass of all structural material, whichever is less.
- (2) Despite paragraph (1), a ship that has been converted into a chemical tanker is, irrespective of the date of construction, to be treated as a chemical tanker constructed on the date on which the conversion commenced.
- (3) Paragraph (2) does not apply to a ship that has been converted if—
 - (a) the ship is constructed before 1 July 1986; and

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- (b) the ship is certified under the BCH Code to carry only those products identified by the Code as substances with only pollution hazards.”.

6. Regulation 2 amended (application)

- (1) Regulation 2(1)—

Repeal

everything after “ships”

Substitute

“engaged in the carriage of noxious liquid substances in bulk.”.

- (2) After regulation 2(2)—

Add

- “(3) However, in the case of a ship registered in a country that is not a Convention country, these regulations do not apply by reason of its being within the waters of Hong Kong if it would not have been there but for stress of weather or any circumstances which could not have been prevented by the owner, master or charterer (if any).

- (4) These regulations do not apply to—

- (a) a warship;
- (b) a naval auxiliary; or
- (c) any other ship owned or operated by a government and used only on government non-commercial service.”.

7. Regulation 2A amended (power of Director in respect of appointments and delegations)

- (1) Regulation 2A(1)—

Section 8

Repeal

“surveyors or Marpol”

Substitute

“Government”.

(2) Regulation 2A—

Repeal paragraph (2).

8. Regulations 2AB, 2AC and 2AD added

After regulation 2A—

Add

“2AB. Director may recognize organizations to survey ships and issue certificates etc.

The Director may recognize an organization for—

- (a) carrying out surveys of Hong Kong ships;
- (b) issuing the following certificates in respect of Hong Kong ships—
 - (i) International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk; or
 - (ii) Hong Kong Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk;
- (c) making endorsements on the Certificates referred to in subparagraph (b) that are issued by the organization in conformity with Regulation 9 of Annex II;

- (d) with the prior written consent of the Director, granting extensions of the validity periods of the Certificates referred to in subparagraph (b) that are issued by the organization;
- (e) altering any particulars contained in the Certificates referred to in subparagraph (b) that are issued by the organization;
- (f) issuing certified true copies of the Certificates referred to in subparagraph (b) that are issued by the organization; and
- (g) specifying any corrective actions which the organization considers necessary to be taken in respect of Hong Kong ships.

2AC. Director may request Convention countries to survey Hong Kong ships and issue or endorse certificates

The Director may request any Convention country—

- (a) to carry out a survey of a Hong Kong ship on behalf of the Director in conformity with Annex II; and
- (b) to do the following—
 - (i) issue an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk in respect of the ship in conformity with Annex II; or
 - (ii) endorse on an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk issued in respect of the ship in conformity with Annex II.

2AD. Director may at request of Convention countries survey non-Hong Kong ships and issue or endorse certificates

The Director may, at the request of any Convention country—

- (a) cause a non-Hong Kong ship that is within the waters of Hong Kong to be surveyed under Part V as if the ship were a Hong Kong ship; and
- (b) do the following—
 - (i) issue an INLS Certificate in respect of the ship under Part V as if the ship were a Hong Kong ship; or
 - (ii) endorse on an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk issued in respect of the ship in conformity with Annex II.”.

9. Regulation 2B amended (fees)

- (1) Regulation 2B—

Repeal

everything after “provided” and before “shall be determined”

Substitute

“by the Director or a Government surveyor under these regulations and”.

- (2) Regulation 2B—

Repeal

“(Fees) Regulations (Cap. 281 sub. leg.)”

Substitute

“(Prevention and Control of Pollution) (Fees) Regulation
(Cap. 413 sub. leg. L)”.

(3) Regulation 2B, English text—

Repeal

“those regulations”

Substitute

“the Regulation”.

10. Regulation 2C repealed (transitional)

Regulation 2C—

Repeal the regulation.

11. Regulation 3 substituted

Regulation 3—

Repeal the regulation

Substitute

**“3. Control of discharges of residues of noxious liquid
substances**

(1) The control of discharges of residues of noxious liquid substances or ballast water, tank washings or other mixtures containing the substances from a ship must comply with Regulation 13 of Annex II.

(2) The discharges are subjected to verification by a Marpol surveyor in accordance with Regulation 13 of Annex II with a view to ensuring the compliance with that Regulation.

(3) In paragraph (1)—

residue (殘餘物) has the same meaning as in Annex II.”.

Section 12

12. Regulations repealed

Regulations 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15—

Repeal the regulations.

13. Regulation 16 amended (emergency discharges)

(1) Regulation 16, heading—

Repeal

“Emergency discharges”

Substitute

“Exceptions”.

(2) Regulation 16—

Repeal

“Regulations 3, 5, 6 and 11 to 14”

Substitute

“Regulation 3”.

(3) Regulation 16—

Repeal

“unassessed liquid substance or mixture containing any such substance”

Substitute

“mixture containing any such substance from a ship”.

(4) Regulation 16(a) and (b)—

Repeal

“a ship”

Substitute

“the ship”.

Section 14

14. Regulations 17 and 18 repealed

Regulations 17 and 18—

Repeal the regulations.

15. Regulation 19 amended (Procedures and Arrangements Manual)

(1) Regulation 19(1)—

Repeal

“complying with the IMO Standards”

Substitute

“that complies with Regulation 14 of Annex II”.

(2) Regulation 19—

Repeal paragraphs (2) and (3).

(3) Regulation 19(4), after “inspection”—

Add

“at all reasonable times”.

(4) Regulation 19—

Repeal paragraph (5).

16. Regulation 20 amended (Cargo Record Book)

(1) Regulation 20(1)—

Repeal

everything after “Book”

Substitute

“that complies with Regulation 15.1 of Annex II.”.

(2) Regulation 20—

Repeal paragraph (2)

Substitute

“(2) A record of the operations of the ship and the accidental discharges from the ship referred to in Regulation 15 of Annex II must be kept in accordance with the requirements in that Regulation.”.

(3) Regulation 20—

Repeal paragraphs (3) and (4).

(4) Regulation 20(5), after “inspection”—

Add

“at all reasonable times”.

17. Regulation 20A added

Part III, after regulation 20—

Add

“20A. Shipboard marine pollution emergency plan for noxious liquid substances

(1) A ship of 150 gross tonnage or above must carry on board a shipboard marine pollution emergency plan for noxious liquid substances that complies with Regulation 17 of Annex II.

(2) The plan must be kept on board the ship and must be readily available for inspection at all reasonable times.”.

18. Regulation 21 substituted

Regulation 21—

Repeal the regulation

Substitute

“21. Pumping and piping arrangements

The pumping and piping arrangement of a ship must comply with the applicable requirements under Regulation 12 of Annex II.”.

19. Regulation 22 amended (equipment and arrangements)

Regulation 22—

Repeal

everything after “in”

Substitute

“the Procedures and Arrangements Manual relating to the ship that is required to be provided under regulation 19.”.

20. Regulation 23 amended (survey requirements)

(1) Regulation 23(1)(a)—

Repeal

everything before “; an”

Substitute

“(a) an initial survey before the ship is put in service or before the specified Certificate is issued in respect of the ship for the first time”.

(2) Regulation 23(1)(a)—

Repeal

“comply with the applicable provisions of these regulations”

Substitute

“fully comply with the applicable provisions of Annex II”.

(3) Regulation 23(1)(b)—

Repeal

“periodical”

Substitute

“renewal”.

- (4) Regulation 23(1)(b)—

Repeal

“comply with the applicable provisions of these regulations”

Substitute

“fully comply with the applicable provisions of Annex II”.

- (5) Regulation 23(1)(c)—

Repeal

everything before “; intermediate”

Substitute

- “(c) an intermediate survey within the period commencing 3 months before and ending 3 months after the second anniversary date of the specified Certificate issued in respect of the ship or within the period commencing 3 months before and ending 3 months after the third anniversary date of the specified Certificate issued in respect of the ship”.

- (6) Regulation 23(1)(c)—

Repeal

“comply with the applicable provisions of these regulations”

Substitute

“fully comply with the applicable provisions of Annex II”.

- (7) Regulation 23(1)(c)—

Repeal

Section 20

“V of Annex II to MARPOL 1973/78 shall be endorsed by the surveyor on the INLS or HKNLS”

Substitute

“3 to Annex II must be endorsed by the surveyor on the specified”.

- (8) Regulation 23(1)(d)—

Repeal

everything after “within“and before “satisfactory”

Substitute

“the period commencing 3 months before and ending 3 months after each anniversary date of the specified Certificate issued in respect of the ship which is to include a general inspection of the structure, equipment, systems, fittings, arrangements and materials referred to in subparagraph (a) to ensure that they have been maintained in accordance with regulation 25 and that they remain”.

- (9) Regulation 23(1)(d)—

Repeal

“V of Annex II to MARPOL 1973/78 shall be endorsed by the surveyor on the INLS or HKNLS”

Substitute

“3 to Annex II must be endorsed by the surveyor on the specified”.

- (10) Regulation 23(1)(e)—

Repeal

everything after “such repairs or renewals are”

Substitute

“in all respects satisfactory, and that the ship complies in all respects with the requirements of Annex II.”.

- (11) Regulation 23—

Repeal paragraph (2)

Substitute

“(2) If an intermediate survey of the ship has been carried out by reference to an anniversary date, the annual survey of the ship by reference to the anniversary date for the relevant year is not required to be carried out.”.

- (12) Regulation 23(3)—

Repeal

“periodical“(wherever appearing)

Substitute

“renewal”.

- (13) Regulation 23(3)—

Repeal

“INLS Certificate or HKNLS”

Substitute

“specified”.

21. Regulation 24 amended (issue of INLS and HKNLS Certificates)

- (1) Regulation 24, Chinese text, heading—

Repeal

“國際有毒液體物質證書及香港有毒液體物質”

Substitute

“INLS 證書及 HKNLS”.

Section 21

- (2) Regulation 24(1)—

Repeal

“of an initial or periodical survey”

Substitute

“by a Government surveyor of an initial or renewal survey under regulation 23,”.

- (3) Regulation 24(1)—

Repeal

“these regulations”

Substitute

“Annex II”.

- (4) Regulation 24(1)—

Repeal

everything after “is to be”

Substitute

“issued)—

(a) in the case of a Hong Kong-trading ship—a HKNLS Certificate; or

(b) in the case of any other ship—an INLS Certificate.”.

- (5) Regulation 24(2), Chinese text—

Repeal

“國際有毒液體物質證書或香港有毒液體物質”

Substitute

“INLS 證書或 HKNLS”.

- (6) Regulation 24—

Repeal paragraphs (3) and (4)

Substitute

“(3) The Certificate issued under paragraph (1) is valid for the period specified by the Director in the Certificate.

(4) The period specified by the Director must not exceed 5 years from the date of issue stated in the Certificate.”.

(7) Regulation 24(5)—

Repeal

“a state party to MARPOL 1973/78”

Substitute

“another Convention country”.

(8) Regulation 24(5)—

Repeal

“were not carried out by a surveyor appointed as required by regulation 23(2)(a)”

Substitute

“referred to in regulation 23 were not carried out by a Government surveyor”.

(9) Regulation 24(5)(a)—

Repeal

“already been subjected to a satisfactory initial or periodical”

Substitute

“, in conformity with Annex II, already been subjected to an initial or renewal”.

(10) Regulation 24(5)(b)—

Repeal

“government of that state with an INLS Certificate”

Substitute

“Convention country concerned with an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk”.

- (11) Regulation 24(5)(c)—

Repeal

“these regulations”

Substitute

“Annex II”.

- (12) Regulation 24(5)(d)—

Repeal

“government of that state”

Substitute

“Convention country concerned”.

- (13) Regulation 24(5)—

Repeal

everything after “ship an INLS”

Substitute

“Certificate or HKNLS Certificate.”.

- (14) Regulation 24—

Repeal paragraph (6)

Substitute

- “(6) The Certificate issued under paragraph (5) must not expire after the expiry date of the Certificate mentioned in subparagraph (b) of that paragraph.”.

Section 22

(15) Regulation 24—

Repeal paragraphs (7), (8) and (9).

22. Regulations 24A to 24K added

After regulation 24—

Add

“24A. Keeping and inspection of specified Certificates

A specified Certificate must be kept on board the ship and must be readily available for inspection at all reasonable times.

24B. Duration of specified Certificates issued after renewal survey

A new specified Certificate issued in respect of a ship as a result of a renewal survey under regulation 23 is valid for such period as may be specified by the Director in the Certificate in accordance with Regulation 10 of Annex II.

24C. Duration of specified Certificates after early completion of surveys

(1) This regulation applies if—

- (a) an intermediate survey of a ship is completed before the period within which the survey is required to be completed under regulation 23(1)(c); or
- (b) an annual survey of a ship is completed before the period within which the survey is required to be completed under regulation 23(1)(d).

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- (2) After a survey in respect of a ship is completed as described in paragraph (1), the existing specified Certificate issued in respect of the ship must be endorsed to show a date described on the endorsement as the “new anniversary date”, which must be a date that is within 3 months from the date of completion of the survey (*new anniversary date*).
- (3) For the purposes of any intermediate survey or annual survey to be carried out in respect of the ship under regulation 23(1)(c) or (d) in any year subsequent to the endorsement, the period within which the survey must be carried out is to be ascertained by reference to the new anniversary date.
- (4) The duration of an existing specified Certificate issued in respect of a ship may be varied by the Director in accordance with Regulation 10.8 of Annex II.

24D. Extension of validity period of specified Certificates in certain circumstances

The Director may extend the validity period of an existing specified Certificate issued in respect of a ship in accordance with Regulation 10 of Annex II if—

- (a) the Certificate is valid for a period of less than 5 years;
- (b) a new specified Certificate cannot be issued or placed on board the ship before the expiry of the Certificate;
- (c) the ship is not in the port in which it is to be surveyed when the Certificate expires; or
- (d) the ship is engaged in short voyages.

24E. Specified Certificates cease to be valid

- (1) A specified Certificate issued in respect of a Hong Kong ship ceases to be valid if—
 - (a) after a survey, without the sanction of the Director, a material change has been made to the structure, equipment, systems, fittings, arrangements or materials covered by the survey, other than the direct replacement of them;
 - (b) a survey referred to in regulation 23(1)(b), (c) or (d) is not carried out within the period specified for the survey in that regulation;
 - (c) an additional survey referred to in regulation 23(1)(e) is not carried out within such reasonable time as the Government surveyor or recognized organization may specify;
 - (d) the Certificate is not endorsed under regulation 23(1)(c) or under Regulation 9 of Annex II, after an intermediate survey of the ship is carried out;
 - (e) the Certificate is not endorsed under regulation 23(1)(d) or under Regulation 9 of Annex II, after an annual survey of the ship is carried out; or
 - (f) the ship is transferred to the registry of a place outside Hong Kong.
- (2) In any of the cases specified in paragraph (1)(b), (c), (d) or (e), the owner of the ship must deliver the Certificate to the Director on demand.

24F. Certificates issued under this Part regarded as International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk in Annex II

For the purposes of regulations 24B, 24C and 24D, an INLS Certificate or HKNLS Certificate issued under this Part is to be regarded as an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk referred to in Regulation 9 of Annex II.

24G. Withdrawal of specified Certificates

- (1) A Government surveyor may, by written notice, require the owner or master of a Hong Kong ship in respect of which a specified Certificate has been issued to take such corrective action which the surveyor considers necessary if on a survey (other than an initial survey) of the ship referred to in regulation 23, the surveyor determines that the condition of the ship or its equipment does not correspond substantially with the particulars in the Certificate.
- (2) The surveyor must, on giving notice under paragraph (1), inform the Director.
- (3) If the corrective action is not taken within the period specified by the surveyor, the surveyor must inform the Director and the Director may, by written notice to the owner and master of the ship, withdraw the Certificate.
- (4) On receiving a notice under paragraph (3), the owner and master of the ship must deliver the Certificate to the Director immediately.

- (5) The owner or master of the ship may, after the corrective action in respect of the ship has been taken, apply to the Director for the return of the Certificate.
- (6) On receiving an application under paragraph (5), if the Director is satisfied that the corrective action in respect of the ship has been taken, the Director must, by written notice to the owner or master of the ship, return the Certificate to the owner or master.

24H. Cancellation of specified Certificates

- (1) The Director may, by written notice to the owner and master of a Hong Kong ship, cancel a specified Certificate issued in respect of the ship in the circumstances set out in paragraph (2).
- (2) The circumstances are that the Director has reasonable grounds to believe that the Certificate was issued, or any endorsement on it was made, on the basis of false or erroneous information.
- (3) The Director must give reasons for cancelling the Certificate in the notice under paragraph (1).
- (4) On receiving a notice under paragraph (1), the owner and master of the ship must deliver the Certificate to the Director immediately.

24I. Form of specified Certificates

The Director may specify the form of a specified Certificate.

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24J. Alteration of INLS or HKNLS Certificate

- (1) The owner of a ship in respect of which an INLS Certificate or HKNLS Certificate has been issued may request the Director to alter any of the particulars contained in the Certificate.
- (2) The Director may refuse to make the alteration if the Director considers it to be a material alteration.
- (3) If the Director agrees to make the alteration, the Director must, on payment of the prescribed fee, alter the Certificate.

24K. Certified true copies of INLS or HKNLS Certificate

- (1) The owner of a ship in respect of which an INLS Certificate or HKNLS Certificate has been issued may apply to the Director for the issue of a certified true copy of the Certificate.
- (2) The application must be accompanied by the prescribed fee for the certified true copy.”.

23. Regulation 25 amended (maintenance of condition after survey)

- (1) Regulation 25(1)—

Repeal

“these regulations”

Substitute

“Annex II”.

- (2) Regulation 25(2)—

Repeal

“of the ship under regulation 23 has been completed”

Substitute

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“referred to in regulation 23 has been completed in respect of a Hong Kong ship”.

- (3) Regulation 25(3)—

Repeal

“the equipment required by these regulations”

Substitute

“its equipment covered by Annex II,”.

- (4) Regulation 25(3), before “determine”—

Add

“cause investigations to be initiated to”.

24. Part VI heading amended (offences and penalties)

Part VI, heading—

Repeal

“OFFENCES AND PENALTIES”

Substitute

“POWERS TO INSPECT AND PENALTIES ETC.”.

25. Regulations 27A and 27B added

Part VI, before regulation 28—

Add

“27A. General power of Government surveyors to inspect, examine etc. ships

- (1) Any of the powers conferred by this regulation may be exercised for ascertaining whether these regulations have been or are being complied with.
- (2) A Government surveyor may, at any reasonable time—

- (a) board a ship that is within the waters of Hong Kong; and
 - (b) take with the surveyor any other person and any equipment or materials required to assist the surveyor.
- (3) After boarding the ship, the surveyor may—
- (a) inspect the ship;
 - (b) make any examination and investigation as the surveyor considers necessary;
 - (c) take samples of any article or substance found on the ship that the surveyor may reasonably require for the inspection, examination or investigation;
 - (d) inspect, seize and remove from the ship any article or substance in respect of which the surveyor suspects on reasonable grounds that an offence under these regulations has been committed;
 - (e) detain the article or substance for so long as is necessary—
 - (i) for the inspection, examination or investigation; and
 - (ii) to ensure that it is available for use as evidence in any proceedings for an offence under these regulations;
 - (f) take any measurements and photographs and make any recordings that the surveyor may reasonably require for the inspection, examination or investigation;

- (g) require that the ship, or any part of the ship, or anything on the ship, is to be left undisturbed (whether generally or in particular respects) for so long as is necessary for the inspection, examination or investigation;
- (h) require any person who the surveyor reasonably believes is able to give any information relevant to the inspection, examination or investigation—
 - (i) to attend at a place and time specified by the surveyor;
 - (ii) to answer the questions that the surveyor thinks fit to ask; and
 - (iii) to sign a declaration of the truth of the person's answers;
- (i) require the production of, and inspect and take copies of or of any entry in—
 - (i) any certificates, books or documents that are required to be kept under these regulations; and
 - (ii) any other certificates, books or documents that the surveyor considers necessary for the inspection, examination or investigation; and
- (j) require any person to afford the surveyor such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as the surveyor considers necessary to enable the surveyor to exercise any power conferred by this regulation.

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- (4) If an inspection of a ship under paragraph (3) reveals a deficiency, the Director may give a direction to the master of the ship requiring the master to cause the ship not to proceed to sea until the deficiency is rectified.
 - (5) A master to whom a direction is given under paragraph (4) must—
 - (a) comply with the direction;
 - (b) take steps to rectify the deficiency; and
 - (c) inform the Director once the deficiency is rectified.
 - (6) If the ship is a Hong Kong ship and the deficiency is not rectified within the period specified by the Director, the Director may, by written notice to the owner and master of the ship, require the surrender of the specified Certificate issued in respect of the ship to the Director.
 - (7) On receiving a notice under paragraph (6), the owner and master of the ship must deliver the Certificate to the Director immediately.
 - (8) The owner or master of the ship may, after the deficiency in respect of the ship has been rectified, apply to the Director for the return of the Certificate.
 - (9) On receiving an application under paragraph (8), if the Director is satisfied that the deficiency in respect of the ship has been rectified, the Director must, by written notice to the applicant, return the Certificate to the applicant.

27B. Obstruction and non-compliance with requirements

- (1) A person must not—
 - (a) wilfully obstruct a Government surveyor in the exercise of any power conferred by regulation 27A; or
 - (b) make a statement or sign a declaration that the person knows is false, or recklessly make a statement or sign a declaration that is false, in purported compliance with a requirement under regulation 27A(3)(h).
- (2) A person must comply with a requirement imposed on the person under regulation 27A(3).”.

26. Regulation 28 amended (prohibition on uncertificated carriage)

- (1) Regulation 28(1)—

Repeal

“A, B, C or D”

Substitute

“X, Y or Z”.

- (2) Regulation 28(1)(a)(i)—

Repeal

everything after “valid”

Substitute

“specified Certificate or BCH Code Certificate or IBC Code Certificate, covering the substance in question; and”.

- (3) Regulation 28(1)(a)(ii)—

Repeal

“; and”

Substitute a full stop.

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- (4) Regulation 28(1)(a)—

Repeal sub-subparagraph (iii).

- (5) Regulation 28(1)—

Repeal subparagraph (b).

- (6) Regulation 28—

Repeal paragraph (2).

- (7) Regulation 28(3)—

Repeal

“an unassessed liquid substance in bulk”

Substitute

“in bulk any liquid substance that is not listed in the Pollution Category column of the table in Chapter 17 or 18 of the IBC Code”.

- (8) Regulation 28(3)—

Repeal subparagraph (a)

Substitute

“(a) the following condition is met—

- (i) the Director has, under regulation 28A, provisionally assessed the substance and given written permission for its carriage in bulk; or
- (ii) an Administration has, with the concurrence of the Director, provisionally assessed the substance in accordance with Regulation 6.3 of Annex II and given written permission for its carriage in bulk; and”.

- (9) After regulation 28(3)—

Add

“(4) In paragraph (1)—

Category X, Y or Z substance (X、Y 或 Z 類物質) means a substance that is indicated in the Pollution Category column of the table in Chapter 17 or 18 of the IBC Code as falling into Category X, Y or Z.”.

27. Regulation 28A added

After regulation 28—

Add

“28A. Provisional assessment

- (1) This regulation applies to a liquid substance that is not listed in the Pollution Category column of the table in Chapter 17 or 18 of the IBC Code.
- (2) The Director may, in accordance with Regulation 6 of Annex II—
 - (a) provisionally assess a substance; and
 - (b) give written permission for a ship to carry the substance in bulk.”.

28. Regulation 29 amended (penalties)

After regulation 29(2)—

Add

- “(3) If an offence under this regulation is committed or would, but for the operation of paragraph (2), have been committed by the owner or master of a ship due to the act or omission of some other person, that other person also commits the offence and may be charged with and convicted of the offence whether or not proceedings are taken against the owner or master.”.

29. Regulation 31 added

After regulation 30—

Add

“31. Saving of Certificates and pending applications

- (1) An INLS Certificate issued under these regulations and in force immediately before the commencement date of the Amendment Regulation 2018 is taken as an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk issued in accordance with these regulations as amended by the Amendment Regulation 2018.
- (2) A HKNLS Certificate issued under these regulations and in force immediately before the commencement date of the Amendment Regulation 2018 is taken as a Hong Kong Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk issued in accordance with these regulations as amended by the Amendment Regulation 2018.
- (3) If an application for an INLS Certificate has been made before the commencement date of the Amendment Regulation 2018 for which a decision is pending, the application is to be regarded as an application for an INLS Certificate made under these regulations as amended by the Amendment Regulation 2018.
- (4) If an application for a HKNLS Certificate has been made before the commencement date of the Amendment Regulation 2018 for which a decision is pending, the application is to be regarded as an application for a HKNLS Certificate made under

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these regulations as amended by the Amendment Regulation 2018.

(5) In this regulation—

Amendment Regulation 2018 (《2018年修訂規例》) means the Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) (Amendment) Regulation 2018.”.

30. Third and Fourth Schedules repealed

Third and Fourth Schedules—

Repeal the Schedules.

Frank CHAN Fan
Secretary for Transport and
Housing

10 May 2018

Explanatory Note

This Regulation amends the Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) Regulations (Cap. 413 sub. leg. B) (*principal Regulations*) to give effect to certain changes made to Annex II (*MARPOL Annex II*) to the International Convention for the Prevention of Pollution from Ships, 1973.

2. Parts II, III, IV and V of the principal Regulations impose requirements on ships in relation to, respectively, the discharge and washing of tanks, documents, construction and equipment, and surveys and related matters. The Regulation amends those Parts to reflect the latest requirements of MARPOL Annex II.
3. New provisions have been introduced to provide for—
 - (a) the meaning of various new terms used in the principal Regulations;
 - (b) the power of the Director of Marine (*Director*) to recognize organizations to perform certain functions;
 - (c) the power of the Director to specify the form in relation to certain certificates;
 - (d) the power of the Director to conduct provisional assessment of a liquid substance; and
 - (e) the general power of Government surveyors to inspect or examine ships within the waters of Hong Kong.
4. The Regulation removes from the principal Regulations certain provisions that are obsolete or outdated, including some definitions and the Schedules.

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5. The Regulation also provides for the saving of INLS Certificates and HKNLS Certificates issued before its commencement.