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

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《2016年商船（海員）（高級船員資格證明）（修訂）規例》

(由運輸及房屋局局長根據《商船（海員）條例》(第478章)第72、73、96、119及134條訂立)

1. 生效日期
本規例自2016年12月1日起實施。

2. 修訂《商船（海員）（高級船員資格證明）規例》
《商船（海員）（高級船員資格證明）規例》(第478章，附屬法例J)現予修訂，修訂方式列於第3至19條。

3. 修訂第2條 (釋義)
(1) 第2(1)條，英文文本，service endorsement的定義——
廢除分號
代以句點。

(2) 第2(1)條——
(a) 總註冊噸位的定義；
(b) 註冊動力的定義；
(c) 噸及噸位的定義——
廢除該等定義。

(3) 第2(1)條——
按筆劃數目順序加入
“公司(company)就某船舶而言，指——
4. Section 2(2), after "III"—
   Add
   "IIIA".

4. Section 3 amended (application)
   (1) Section 3(1)—
   Repeal
   "This Regulation shall apply"
   Substitute
   "Subject to subsection (1A), this Regulation applies".
   (2) After section 3(1)—
   Add
   "(1A) This Regulation does not apply to—"
5. 修訂第 4 條 (符合資格的甲板高級船員及各級別的證書)

(1) 第 4(1A) 條——
廢除 (a), (b) 及 (c) 段
代以
“(a) 持有《公約》締約成員國的政府所發出的，或在其授權下發出的甲板高級船員適用證書；
(b) 已符合發出第 (1)(a)(iii) 款提述的執照的規定；及
(c) 已申請發出該執照，”。

(2) 第 4(1A) 條——
廢除
“第 V 部所指的執照的”
代以
“該執照的”。

(3) 第 4(6) 條——
廢除
“總註冊噸位”
代以
“總噸”。

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

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

(1) Section 4(1A)—
Repeal paragraphs (a), (b) and (c)
Substitute
“(a) holds a certificate of competency as a deck officer issued by, or under the authority of, the government of a state party to the Convention;
(b) has satisfied the requirements for the issue of a licence referred to in subsection (1)(a)(iii); and
(c) has applied for the issue of the licence,”.

(2) Section 4(1A)—
Repeal
“a licence under Part V is”
Substitute
“the licence is”.

(3) Section 4(6)—
Repeal
“GRT”
Substitute
“gross tonnage”.

(a) 由某政府擁有或營運的、僅從事政府的非商業服務的船舶；
(b) 漁船；
(c) 並非從事業務的遊艇；或
(d) 構造簡單的木船。”。
(4) Section 4—
Repeal subsection (7)
Substitute
“(7) A certificate of competency as a deck officer is subject to any conditions endorsed on the certificate.”.

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

(1) Section 6(1A)—
Repeal paragraphs (a), (b) and (c)
Substitute
“(a) holds a certificate of competency as an engineer officer issued by, or under the authority of, the government of a state party to the Convention;
(b) has satisfied the requirements for the issue of a licence referred to in subsection (1)(a)(iii); and
(c) has applied for the issue of the licence,”.

(2) Section 6(1A)—
Repeal
“the licence is”.
Substitute
“gross tonnage”.

(3) Section 6(6)—
Repeal
“GRT”
Substitute
“gross tonnage”.

6. 修訂第 6 條（符合資格的輪機師及各級別的證書）

(1) 第 6(1A) 條——
廢除 (a)、(b) 及 (c) 段
代以
“(a) 持有《公約》締約成員國的政府所發出的，或在其授權下發出的輪機師適任證書；
(b) 已符合發出第 (1)(a)(iii) 款規定的執照的規定；及
(c) 已申請發出該執照，”。

(2) 第 6(1A) 條——
廢除
“第 V 部所指的執照的”
代以
“該執照的”。

(3) 第 6(6) 條——
廢除
“總註冊噸位”
代以
“總噸”。

(4) 第 4 條——
廢除第 (7) 款
代以
“(7) 甲板高級船員適任證書，受證書上批註的條件所規限。”。
(4) Section 6—
Repeal subsection (7)
Substitute
“(7) A certificate of competency as an engineer officer is subject to any conditions endorsed on the certificate.”.

7. Part IIIA added
After Part III—
Add

“Part IIIA
Certification of Electro-technical Officers

7A. Qualified electro-technical officers
(1) For the purposes of this Regulation, an electro-technical officer is qualified if—
(a) the officer holds—
(i) a certificate of competency as an electro-technical officer issued under this Regulation; or
(ii) a licence which is under Part V to be treated as equivalent to such a certificate of competency; and
(b) such certificate or licence is in force.
(2) Despite subsection (1), if any person—

第 IIIA 部
電子技術高級船員的資格證明

7A. 符合資格的電子技術高級船員
(1) 就本規例而言，凡以下條件獲符合，電子技術高級船員即屬符合資格——
(a) 該船員持有——
(i) 根據本規例發出的電子技術高級船員適任證書；或
(ii) 根據第 V 部視為等同於上述適任證書的執照；及
(b) 該證書或執照是有效的。
(2) 儘管有第 (1) 款的規定，如任何人——
(a) holds a certificate of competency as an electro-technical officer issued by, or under the authority of, the government of a state party to the Convention;

(b) has satisfied the requirements for the issue of a licence referred to in subsection (1)(a)(ii); and

(c) has applied for the issue of the licence, the person is to be treated as a qualified electro-technical officer for the purposes of this Regulation for a period of 3 months from the date on which the application made by such person for the issue of the licence is received by the Authority.

(3) A certificate of competency as an electro-technical officer issued by the Authority is of the class of Certificate of Competency (Electro-technical Officer) Class ETO.

(4) A certificate of competency as an electro-technical officer is subject to any conditions endorsed on the certificate.”.

8. Part IV heading substituted

Part IV heading—

Repeal the heading

Substitute

“Part IV

Application for and Issue of Certificates of Competency”.

“Part IV

Application for and Issue of Certificates of Competency”.

Part IV, heading—

Repeal the heading

Substitute

“Part IV

Application for and Issue of Certificates of Competency”.

“Part IV

Application for and Issue of Certificates of Competency”.
9. 加入第 7B 及 7C 條

第 IV 部，在第 8 條之前——

加入

“7B. 申請發出適任證書及將其續期

(1) 任何人可向監督提出申請，要求發出適任證書，或
要求將適任證書續期。
(2) 上述申請須附有——
   (a) 所需證據，以確立發出所申請的證書的規定已
       獲符合，或將有關證書續期的條件已獲符合；
及
   (b) 訂明費用。
(3) 監督在接獲上述申請後——
   (a) 如信納申請人有權獲發所申請的證書，可向申
       請人發出該證書；
   (b) 如信納申請將證書續期的申請人有權獲得將該
       證書續期，可將該證書續期；或
   (c) 如不信納申請人如上述般有權獲發證書或獲續
       期，須以書面通知申請人有關申請遭拒絕，並
       述明拒絕原因。

7C. 發出適任證書的規定

(1) 除非申請人符合發出第 (2) 款所述的適任證書的規
   定，否則監督不得向申請人發出該證書。

9. Sections 7B and 7C added

Part IV, before section 8—

Add

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

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

7C. Requirements for issue of certificates of competency

(1) The Authority must not issue a certificate of competency referred to in subsection (2) to an
applicant unless the requirements for the issue of the certificate are satisfied.
(2) The requirements are—
(a) for a Certificate of Competency (Deck Officer) Class 1 (Master Mariner) or a Certificate of Competency (Deck Officer) Class 2, the applicant has met the requirements specified in Regulation II/2, paragraph 2 of the Convention;
(b) for a Certificate of Competency (Deck Officer) Class 3, the applicant has met the requirements specified in Regulation II/1, paragraph 2 of the Convention;
(c) for a Certificate of Competency (Marine Engineer Officer) Class 1 or a Certificate of Competency (Marine Engineer Officer) Class 2, the applicant has met the requirements specified in Regulation III/2, paragraph 2 of the Convention;
(d) for a Certificate of Competency (Marine Engineer Officer) Class 3, the applicant has met the requirements specified in Regulation III/1, paragraph 2 of the Convention;
(e) for a Certificate of Competency (Electro-technical Officer) Class ETO, the applicant has met the requirements specified in Regulation III/6, paragraph 2 of the Convention.”.

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

Section 8(1)(c)—

Repeal

“an extension of the validity”

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

Section 9, Table, after item 6—

Add

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

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

(1) Section 10(1)(a), after "Part;"—

Add

"and".

(2) Section 10(1)—

Repeal paragraphs (b) and (c).

(3) Section 10(2)—

Repeal paragraph (a)

Substitute

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

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

(1) Section 11, heading—

"a renewal".
14. 修訂第 12 條 (證書遺失等)
第 12(1) 條，在“繳付後，”之後——
加入
“撤銷該證書，並”。

15. 修訂第 13 條 (船舶的人手配置)
(1) 第 13(1) 條，表 A，第 2 及 3 項——
廢除
“總註冊噸位為 1 600 噸”
代以
“總噸為 3 000 噸”。
(2) 第 13(1) 條，表 A，第 4 項——
廢除
“註冊動力”
代以
“註冊動力”

Repeal
“Form, validity”
Substitute
“Validity”.

(2) Section 11—
Repeal subsection (1).
(3) Section 11(2)—
Repeal
“an extension of its validity”
Substitute
“a renewed certificate”.

14. Section 12 amended (lost, etc., certificates)
Section 12(1), after “prescribed fee,”—
Add
“cancel the certificate and”.

15. Section 13 amended (manning of ships)
(1) Section 13(1), Table A, items 2 and 3—
Repeal
“1 600 GRT”
Substitute
“3 000 gross tonnage”.
(2) Section 13(1), Table A, item 4—
Repeal
“registered”
Substitute
Section 15

“propulsion”.

(3) Section 13(1), Table A, item 4, column 3, Class 3—
Repeal
“2”
Substitute
“1”.

(4) Section 13(1), Table A, item 5—
Repeal
“350”
Substitute
“750”.

(5) Section 13(1), Table A, item 5—
Repeal
“registered”
Substitute
“propulsion”.

(6) Section 13(1), Table A, item 5, column 3, Class 3—
Repeal
“3”
Substitute
“2”.

(7) Section 13(1), Table B, item 2(a)—
Repeal
“registered”
Substitute
“propulsion”.

(3) 第 13(1) 條，表 A，第 4 項，第 3 欄，三級——
廢除
“2”
代以
“1”。

(4) 第 13(1) 條，表 A，第 5 項——
廢除
“350”
代以
“750”。

(5) 第 13(1) 條，表 A，第 5 項——
廢除
“註冊動力”
代以
“推進功率”。

(6) 第 13(1) 條，表 A，第 5 項，第 3 欄，三級——
廢除
“3”
代以
“2”。

(7) 第 13(1) 條，表 B，第 2(a) 項——
廢除
“註冊動力”
代以
“推進功率”。“
Section 16

(8) Section 13(1), Table B, item 2(a), column 3, Class 3—
Repeal
“2”
Substitute
“1”.

(9) Section 13(1), Table B, item 2(b)—
Repeal
“registered”
Substitute
“propulsion”.

(10) Section 13(1), Table B, item 2(b), column 3, Class 3—
Repeal
“1”.

(11) Section 13—
Repeal subsections (2), (3), (4), (5) and (6).

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

Section 15—
Repeal the section.

17. Section 17 amended (offences and penalties)

(1) Section 17(1)—
Repeal
“or in connection with the endorsement, or extension of the validity”
Substitute
第17条

(1) 任何人就适用证书（或合格证书）或执照的申请或发出，或就适用证书（或合格证书）或服务资历证书的准证或续期——
   (a) 作出虚假陈述；或
   (b) 提供虚假资料，
       並且明知该陈述或资料是虚假的，或不置信该陈述
       或资料是真实的，即屬犯罪，一經定罪，可處第5
       級罰款及監禁2年。”。

(2) 第17条——
    廢除第(2)款
    代以
    “(2) 任何人——
       (a) 准许另一人使用該另一人無權持有的適任證書
           （或合格證書）或服務資歷證書或執照；或
       (b) 假裝有權持有某適任證書（或合格證書）或服
           務資歷證書或執照，
           即屬犯罪，一經定罪，可處第5級罰款及監禁
           2年。”。

(3) 第17(3)条——
    廢除
    所有“合格證書”
    代以
    “適任證書（或合格證書）”。

(4) 第17(3)条——
    廢除
    所有“或服務資歷證書”
    代以
    “服務資歷證書或執照”。

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

(2) Section 17(2)(a) and (b)—
    Repeat
    “or of service”
    Substitute
    “, certificate of service or licence”.

(3) Section 17(3)—
    Repeat
    “or a certificate of service” (wherever appearing)
    Substitute
    “, certificate of service or licence”.

(4) Section 17(3)—
    Repeat
    “or certificate of service”
    Substitute
    “, certificate of service or licence”.
18. Section 18—

Repeal subsection (4)

Substitute

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

18. Section 18 amended (appeals)

Section 18—

Repeal

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

Substitute

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

19. “適任” substituted for “合格”

(1) The following provisions, Chinese text—

(a) Section 2(1), definition of 服務資歷認可證明;
(b) Section 2(3)(b)(i) and (ii);
(c) Section 4(1)(a)(i), (ii) and (iii), (2), (3), (4), (5) and (6)(a);
(d) Section 5(5) and (7);
(e) Section 6(1)(a)(i), (ii) and (iii), (2), (3), (4), (5), (6)(a) and (8);
(f) Section 7(5) and (7);
Section 19

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

Repeal

“合格” (wherever appearing)

Substitute

“適任”.

(2) The following provisions, Chinese text—

(a) Section 5, heading;
(b) Section 7, heading;
(c) Section 16, heading—

Repeal

“合格” (wherever appearing)

Substitute

“適任”.

(3) The following provisions, Chinese text—

(a) Section 5(3);
(b) Section 7(3)—

Repeal

“) 合格” (wherever appearing)

Substitute

“) 適任”.

(4) The following provisions, Chinese text—

(a) Section 5(4);
(b) Section 7(4)—
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Section 19

Repeal
“合格證書。” (wherever appearing)

Substitute
“適任證書。”.

Anthony B. L. CHEUNG
Secretary for Transport and Housing

30 September 2016
Explanatory Note

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

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