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Merchant Shipping (Safety) (Navigational Equipment and Safety of Navigation) Regulation

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Merchant Shipping (Safety) (Navigational Equipment and Safety of Navigation) Regulation

(Made by the Secretary for Transport and Housing under sections 98, 99, 100, 107, 108, 112 and 112B of the Merchant Shipping (Safety) Ordinance (Cap. 369) and section 3 of the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413))

Part 1

Preliminary

1. Commencement

This Regulation comes into operation on 1 December 2016.

2. Interpretation

(1) In this Regulation—

Administration (主管機關) means—

- (a) in relation to a Hong Kong ship, the Director;
- (b) in relation to a non-Hong Kong ship, the government of the State whose flag the ship is entitled to fly;

Chapter V (《第V章》) means Chapter V of the Annex to the Convention, as from time to time revised or amended by any revision or amendment that applies to Hong Kong;

constructed (建造), in relation to a ship, means the stage at which—

- (a) the keel of the ship is laid;
- (b) construction identifiable with the ship begins; or

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- (c) assembly of the ship has commenced comprising at least 50 tonnes or 1% of the estimated mass of all structural material, whichever is less;

Convention (《公約》) means the International Convention for the Safety of Life at Sea signed in London on 1 November 1974, or any convention that replaces that Convention or any successor convention, as amended from time to time and as applicable to Hong Kong;

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

gross tonnage (總噸), in relation to a ship, means the gross tonnage of the ship determined in accordance with 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;

IMO means the International Maritime Organization;

international voyage (國際航程) means a voyage between—

- (a) Hong Kong and a port outside the People's Republic of China; or
- (b) a port in a Convention country and a port outside that Convention country (whether in a Convention country or not);

master (船長) has the meaning given by section 2(1) of the Ordinance;

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

Ordinance (《條例》) means the Merchant Shipping (Safety) Ordinance (Cap. 369);

river trade limits (內河航限) has the meaning given by section 2 of the Shipping and Port Control Ordinance (Cap. 313);

ship (船、船舶) has the meaning given by section 2(1) of the Ordinance.

- (2) A rigidly connected composite unit of a pushing vessel and associated pushed vessel, if designed as a dedicated and integrated tug and barge combination, is to be regarded as a single ship for the purposes of this Regulation.

3. Application

- (1) This Regulation applies to—
- (a) a Hong Kong ship wherever it may be; and
 - (b) a non-Hong Kong ship within the waters of Hong Kong.
- (2) This Regulation does not apply to—
- (a) a fishing vessel;
 - (b) a pleasure vessel;
 - (c) a local vessel within the meaning of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548);
 - (d) a warship;
 - (e) a naval auxiliary;
 - (f) a ship owned or operated by the Government, or by the government of a Convention country, and engaged only on governmental non-commercial service; or
 - (g) a non-Hong Kong ship flying the flag of a State that is not a Convention country, if the ship is within the waters of Hong Kong due to—
 - (i) stress of weather; or

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- (ii) any other circumstances that could not have been prevented or forestalled by the owner or the master of the ship.
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Part 2

Navigational Systems and Equipment

4. Electromagnetic compatibility

- (1) This section does not apply to—
 - (a) a ship that operates exclusively within the river trade limits; or
 - (b) a ship of less than 150 gross tonnage.
- (2) The owner of a ship constructed on or after 1 July 2002 must ensure that all electrical or electronic equipment installed on or near the bridge of the ship is tested for electromagnetic compatibility before its installation, after taking into account the requirements set out in the resolution of IMO on the general requirements for electromagnetic compatibility for all electrical and electronic ship's equipment that is in force at the time of the installation.
- (3) The owner of a ship must ensure that all electrical or electronic equipment is installed on the ship in such a manner that the proper functioning of the navigational systems and equipment on the ship is not affected by electromagnetic interference.
- (4) A person must not operate any portable electrical or electronic equipment on or near the bridge of a ship if the operation affects the proper functioning of the navigational systems and equipment on the ship.
- (5) The owner of a ship who contravenes subsection (2) or (3) commits an offence and is liable to a fine at level 3.
- (6) A person who contravenes subsection (4) commits an offence and is liable to a fine at level 3.

5. Installation of navigational systems and equipment

- (1) This section does not apply to a high speed craft within the meaning of section 2(1) of the Merchant Shipping (Safety) (High Speed Craft) Regulation (Cap. 369 sub. leg. AW).
- (2) Subject to subsection (3), all navigational systems and equipment that comply with regulation 19 of Chapter V (except for the specified publications) must be installed on a ship in accordance with that regulation not later than the specified date.
- (3) The Director may, on application of the owner of a Hong Kong ship, approve any other navigational system or equipment to be installed on the ship as a substitute for an item of navigational system or equipment referred to in regulation 19 of Chapter V, if such other system or equipment—
 - (a) is not less effective than the system or equipment referred to in that regulation; and
 - (b) conforms to the performance standards that are not inferior to those adopted by IMO under regulation 18 of Chapter V.
- (4) All navigational systems and equipment mentioned in this section and regulation 19 of Chapter V are the navigational equipment referred to in section 98 of the Ordinance.
- (5) In this section—

specified date (指定日期), in relation to any navigational system or equipment that is required by regulation 19 of Chapter V to be installed on a ship not later than a date, means—

 - (a) if such date is earlier than 1 December 2016, 1 December 2016; or

- (b) if such date is on or after 1 December 2016, the date set out in that regulation;

specified publications (指定刊物) means the nautical charts in paper form and the publications mentioned in paragraphs 2.14 and 2.15 of regulation 19 of Chapter V.

6. Approval and performance standards of navigational systems and equipment

- (1) This section applies to the navigational systems and equipment mentioned in section 5.
- (2) Any navigational system or equipment installed on a ship must be of a type approved by the Administration after taking into account the relevant performance standards adopted by IMO.
- (3) Subject to subsection (5), all navigational systems and equipment (including their associated back-up arrangement) installed on a ship on or after 1 July 2002 must conform to the applicable Chapter V performance standards or any performance standards that are not inferior to the applicable Chapter V performance standards.
- (4) All navigational systems and equipment (including their associated back-up arrangement) installed on a ship before 1 July 2002 must conform to the relevant performance standards adopted by IMO that were in force at the time of installation.
- (5) Any replacement of or additions to the navigational system or equipment installed on a ship constructed before 1 July 2002 must conform to—
 - (a) the applicable Chapter V performance standards or any performance standards that are not inferior to the applicable Chapter V performance standards; or

- (b) if the Administration considers that it is not reasonable or practicable for the ship to conform to the performance standards stipulated in paragraph (a), the performance standards stipulated in subsection (4).
- (6) All navigational systems and equipment (and their replacement and addition) mentioned in this section and regulation 18 of Chapter V are the navigational equipment referred to in section 98 of the Ordinance.
- (7) In this section—
- applicable Chapter V performance standards*** (適用的《第V章》性能標準), in relation to any navigational system or equipment, means the performance standards applicable to the system or equipment, or its replacement or addition, referred to in paragraphs 2 and 4 of regulation 18 of Chapter V as adopted and amended from time to time by IMO.

7. Testing of ship's automatic identification systems

- (1) A ship's automatic identification system must be tested annually in accordance with paragraph 9 of regulation 18 of Chapter V to ensure that the system complies with the requirements of that paragraph.
- (2) The master of the ship must ensure that a copy of the test report issued after the test under subsection (1) is kept on board the ship.
- (3) If subsection (1) or (2) is contravened, the master of the ship concerned commits an offence and is liable to a fine at level 3.

8. Long-range identification and tracking of ships

- (1) This section applies to the following ships engaged in an international voyage—
 - (a) a passenger ship;
 - (b) a cargo ship of 300 gross tonnage or above;
 - (c) a mobile offshore drilling unit.
- (2) This section does not apply to a ship referred to in paragraph 4.2 of regulation 19-1 of Chapter V.
- (3) A system for transmitting information for long-range identification and tracking of a ship must be installed on a ship in accordance with regulation 19-1 of Chapter V.
- (4) The system must be of a type approved by the Administration after taking into account the relevant performance standards adopted by IMO.
- (5) The system must conform to the performance standards and comply with the functional requirements referred to in regulation 19-1 of Chapter V.
- (6) The master of a ship must ensure that information for long-range identification and tracking of the ship is automatically transmitted in accordance with regulation 19-1 of Chapter V.
- (7) If subsection (3), (4) or (5) is contravened, the owner and the master of the ship concerned each commits an offence and is liable to a fine at level 3.
- (8) The master of a ship who contravenes subsection (6) commits an offence and is liable to a fine at level 3.
- (9) In this section—

mobile offshore drilling unit (移動式近海鑽井裝置) means a ship that is—

 - (a) mechanically propelled;

- (b) capable of engaging in drilling operations for the exploration for or exploitation of resources beneath the sea-bed; and
- (c) not on location.

9. Voyage data recorders

- (1) This section does not apply to a high speed craft within the meaning of section 2(1) of the Merchant Shipping (Safety) (High Speed Craft) Regulation (Cap. 369 sub. leg. AW).
- (2) The following ships must be fitted with a voyage data recorder—
 - (a) a passenger ship engaged in an international voyage;
 - (b) any other ship of 3 000 gross tonnage or above constructed on or after 1 July 2002 and engaged in an international voyage.
- (3) A cargo ship of 3 000 gross tonnage or above constructed before 1 July 2002 and engaged in an international voyage must be fitted with—
 - (a) a voyage data recorder; or
 - (b) a simplified voyage data recorder that conforms to the performance standards set out in the resolution of IMO on performance standards for shipborne simplified voyage data recorders as adopted and amended from time to time by IMO.
- (4) The voyage data recorder fitted on a ship must conform to the performance standards referred to in regulation 18 of Chapter V.

- (5) The voyage data recorder or simplified voyage data recorder fitted on a ship must be of a type approved by the Administration after taking into account the relevant performance standards adopted by IMO.
- (6) The voyage data recorder or simplified voyage data recorder fitted on a ship must be tested annually in accordance with paragraph 8 of regulation 18 of Chapter V to ensure that the recorder complies with the requirements of that paragraph.
- (7) The master of a ship must ensure that a copy of the certificate of compliance referred to in paragraph 8 of regulation 18 of Chapter V issued after the test under subsection (6) is kept on board the ship.
- (8) If subsection (2), (3), (4), (5) or (6) is contravened, the owner and the master of the ship concerned each commits an offence and is liable to a fine at level 3.
- (9) The master of a ship who contravenes subsection (7) commits an offence and is liable to a fine at level 3.

10. Maintenance of systems and equipment

- (1) If a ship is required to install or be fitted with any of the systems and equipment referred to in subsection (2) under this Regulation, the owner and the master of the ship must make adequate arrangements to ensure that the systems and equipment are maintained in an efficient working condition.
- (2) The systems and equipment are—
 - (a) the navigational systems and equipment referred to in section 5;
 - (b) the system for transmitting information for long-range identification and tracking of a ship referred to in section 8;

(c) the voyage data recorder or simplified voyage data recorder referred to in section 9.

(3) If—

(a) any of the systems and equipment referred to in subsection (2) fails to function properly; and

(b) the ship is going to sea from a port where prompt repair of the system or equipment is not available or practicable without delaying the ship,

the master of the ship must, after taking into account the fact referred to in paragraph (a) or the fact that certain information is not available, make suitable arrangements in planning and executing a safe voyage of the ship to a port where the system or equipment can be repaired.

(4) If subsection (1) is contravened, the owner and the master of the ship concerned each commits an offence and is liable to a fine at level 3.

(5) The master of a ship who contravenes subsection (3) commits an offence and is liable to a fine at level 3.

11. Use of heading and track control systems

(1) If a ship uses heading control system or track control system or both in any of the circumstances set out in subsection (2), the master of the ship must ensure that—

(a) manual control of the ship's steering can be established immediately; and

(b) services of a qualified helmsperson who is ready at all times to take over steering control are available without delay to the officer in charge of the navigational watch.

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- (2) The circumstances are that the system or systems are—
 - (a) used in an area of high traffic density;
 - (b) used under conditions of restricted visibility;
 - (c) used in any other hazardous navigational situations.
- (3) The master of a ship must ensure that the change-over from automatic to manual steering and vice versa is made by, or under the supervision of, the master or the officer in charge of the navigational watch.
- (4) The master of a ship must ensure that manual steering is tested—
 - (a) after the continuous use of heading control system or track control system or both for 24 hours; and
 - (b) before the ship enters an area where navigation demands special caution.
- (5) A person (other than the master of a ship and the officer in charge of the navigational watch of the ship) must not make the change-over from automatic to manual steering or vice versa without the supervision mentioned in subsection (3).
- (6) The master of a ship who contravenes subsection (1) or (3) commits an offence and is liable to a fine at level 3 and to imprisonment for 6 months.
- (7) The master of a ship who contravenes subsection (4) commits an offence and is liable to a fine at level 2 and to imprisonment for 3 months.
- (8) A person who contravenes subsection (5) commits an offence and is liable to a fine at level 3 and to imprisonment for 6 months.

12. Operation of steering gear

- (1) If a ship has 2 or more steering gear power units that are capable of simultaneous operation, the master of the ship must ensure that all the power units are in operation if the ship is in an area where navigation demands special caution.
- (2) The master of a ship who contravenes subsection (1) commits an offence and is liable to a fine at level 3 and to imprisonment for 6 months.

13. Steering gear: checking, testing and drills

- (1) Subject to subsection (2), the master of a ship must ensure that regulation 26 of Chapter V is complied with in relation to the ship's steering gear.
- (2) The steering gear of any of the following ships is not required to be checked and tested at the interval stipulated in paragraph 1 of regulation 26 of Chapter V, if the ship's steering gear is checked and tested at least once a week in accordance with that regulation—
 - (a) a Hong Kong ship that regularly makes more than one voyage a week to or from the same port;
 - (b) any other ship whose Administration has exempted it from the requirements of that regulation.
- (3) If subsection (1) is contravened in relation to the record of a ship's checks, tests or emergency steering drills, the master of the ship concerned commits an offence and is liable to a fine at level 1.

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- (4) If subsection (1) is contravened (other than in relation to the record of a ship's checks, tests or emergency steering drills), the master of the ship concerned commits an offence and is liable to a fine at level 3 and to imprisonment for 6 months.
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Part 3

Safety of Navigation

14. Plans for cooperation with search and rescue services

- (1) A passenger ship engaged in an international voyage must have on board the ship a plan that complies with the requirements of subsections (2) and (3) for cooperation with the appropriate search and rescue services.
- (2) The plan must be prepared by the owner or the company of the ship—
 - (a) in cooperation with the appropriate search and rescue services; and
 - (b) based on the guidelines issued by IMO for preparing plans for cooperation between search and rescue services and passenger ships.
- (3) The plan must include provisions for periodic exercises to be undertaken to test the effectiveness of the plan in accordance with the guidelines mentioned in subsection (2)(b).
- (4) If subsection (1) is contravened, the owner and the company of the ship concerned each commits an offence and is liable to a fine at level 3.
- (5) If a passenger ship engaged in an international voyage proceeds, or attempts to proceed, to sea without carrying on board the plan referred to in subsection (1), the master of the ship commits an offence and is liable to a fine at level 3.
- (6) In this section—
appropriate search and rescue services (適當的搜索和救援機構)—

- (a) in relation to a ship navigating through 2 or more search and rescue regions, means the search and rescue data provider which a rescue coordination centre may contact to obtain data to support the search and rescue operations of the ship; or
- (b) in relation to any other ship, means the search and rescue services responsible for the initiation and coordination of all search and rescue activities for the area of operation of the ship;

company (公司), in relation to a ship, means any person (other than the owner of the ship) who—

- (a) has assumed responsibility for the operation of the ship; and
- (b) on assuming that responsibility, has agreed to take over all the duties and responsibilities imposed in respect of the ship by the International Management Code for the Safe Operation of Ships and for Pollution Prevention adopted by IMO, as from time to time revised or amended by any revision or amendment that applies to Hong Kong.

15. **Mandatory ships' routeing systems**

- (1) The master of a ship must ensure that an applicable mandatory ships' routeing system is used.
- (2) The master of a ship who contravenes subsection (1) commits an offence and is liable to a fine at level 4.
- (3) It is a defence for a master charged with an offence under subsection (2) to prove that—
 - (a) the applicable mandatory ships' routeing system was not used for compelling reasons of safety of life at sea or protection of the marine environment; and

(b) the reasons were recorded in the ship's log-book.

(4) In this section—

applicable mandatory ships' routeing system (適用的強制船舶定線系統), in relation to a ship, means a mandatory ships' routeing system adopted and amended from time to time by IMO as a system that is required for the category of ship to which the ship belongs or for the type of cargo carried by the ship.

16. Ship reporting systems

- (1) If a ship reporting system has been adopted by IMO for use in an area, the master of a ship in that area must comply with all the requirements of the system.
- (2) The master of a ship who contravenes subsection (1) commits an offence and is liable to a fine at level 4.

17. Vessel traffic services

- (1) If vessel traffic services have been established for an area by a port, the master of a ship in that area must comply with all the requirements of the services.
- (2) The master of a ship who contravenes subsection (1) commits an offence and is liable to a fine at level 4.

18. Pilot transfer equipment and arrangements

- (1) This section applies to a ship engaged in a voyage in the course of which a pilot is employed.
- (2) This section does not apply to a ship that operates exclusively within the river trade limits.

- (3) The owner and the master of a ship must ensure that all the equipment and arrangements for pilot transfer that comply with regulation 23 of Chapter V are provided on the ship in accordance with that regulation.
- (4) All equipment and arrangements for pilot transfer mentioned in subsection (3) and regulation 23 of Chapter V are the life-saving appliances referred to in section 44 of the Ordinance, and this section is a life-saving appliances regulation referred to in section 44 of the Ordinance.

19. Supervising pilot transfer equipment and arrangements etc.

- (1) This section applies to a ship engaged in a voyage in the course of which a pilot is employed.
- (2) This section does not apply to a ship that operates exclusively within the river trade limits.
- (3) An officer appointed by the master of a ship or, in the absence of such appointment, the duty officer of the ship, must supervise the rigging of the equipment and arrangements for pilot transfer and the embarkation and disembarkation of a pilot.
- (4) An officer or the duty officer of the ship concerned who contravenes subsection (3) commits an offence and is liable to a fine at level 1 and to imprisonment for 3 months.

20. Nautical charts and nautical publications etc.

- (1) This section does not apply to—
 - (a) a ship of less than 150 gross tonnage; or
 - (b) a ship that operates exclusively within the river trade limits.
- (2) A Hong Kong ship must carry on board the ship—

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- (a) the following charts and publications in compliance with paragraphs 2.1.4 and 2.1.5 of regulation 19 of Chapter V—
 - (i) the nautical charts and nautical publications referred to in those paragraphs; and
 - (ii) the nautical charts and nautical publications specified in subsection (4); and
 - (b) a copy of Volume III of the International Aeronautical and Maritime Search and Rescue (IAMSAR) Manual as adopted and amended from time to time by IMO and the International Civil Aviation Organization.
- (3) The owner and the master of a Hong Kong ship must ensure that the nautical charts, nautical publications and manual carried on board the ship are kept up to date.
- (4) The nautical charts and nautical publications are—
- (a) Merchant Shipping Notices;
 - (b) Mariners Handbook;
 - (c) Notices to Mariners;
 - (d) Nautical Almanac;
 - (e) Navigational Tables;
 - (f) Lists of Radio Signals;
 - (g) Lists of Lights;
 - (h) Sailing Directions;
 - (i) Tide Tables;
 - (j) Tidal Stream Atlases; and
 - (k) Operating and maintenance instructions for the navigational aids carried by the ship.

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- (5) If a ship is required to carry a radio installation under the radio regulations, the owner and the master of the ship must ensure that a copy of the International Code of Signals as adopted and amended from time to time by IMO is carried on board the ship.
- (6) The following are the charts, directions or information that are necessary or expedient for the safe operation of ships referred to in section 108 of the Ordinance—
 - (a) the nautical charts, nautical publications and manual mentioned in subsection (2);
 - (b) the International Code of Signals mentioned in subsection (5).
- (7) The owner and the master of a non-Hong Kong ship must ensure that the nautical charts and nautical publications required by the Administration to be carried on board the ship are carried on board and kept up to date.
- (8) If subsection (7) is contravened, the owner and the master of the ship concerned each commits an offence and is liable to a fine at level 2.

21. Records of navigational activities and daily reporting

- (1) The master of a ship engaged in an international voyage must ensure that a record of navigational activities and incidents that are of importance to the safety of navigation—
 - (a) contains the details as set out in the Annex to IMO Resolution A.916(22) to enable the restoration of a complete record of the voyage;
 - (b) is maintained in the ship's log-book or in another form approved by the Administration; and
 - (c) is kept on board the ship.

- (2) The master of a ship must ensure that the ship complies with the requirements of paragraph 2 of regulation 28 of Chapter V if the ship—
 - (a) is of 500 gross tonnage or above; and
 - (b) is engaged in an international voyage of more than 48 hours in duration.
- (3) The master of a ship who contravenes subsection (1) or (2) commits an offence and is liable to a fine at level 3.

22. Life-saving signals to be used by ships

- (1) The owner and the master of a ship must ensure that—
 - (a) the ship carries on board a table of life-saving signals that complies with the requirements of regulation 29 of Chapter V; and
 - (b) the table is readily available to the officer of the watch on the ship.
- (2) If subsection (1) is contravened, the owner and the master of the ship concerned each commits an offence and is liable to a fine at level 3.

23. Operational limitations

- (1) The owner of a passenger ship engaged in an international voyage must ensure that a list of all the limitations on the operation of the ship that complies with the requirements of subsection (2)—
 - (a) is compiled and recorded in a form approved by the Administration before the ship is put in service;
 - (b) is provided in English or French;
 - (c) is kept up to date; and

- (d) is kept on board the ship and is readily available to the master of the ship.
- (2) The list must include—
 - (a) the following exemption—
 - (i) if the ship is a Hong Kong ship, any exemption from any requirement under the Ordinance granted by the Administration;
 - (ii) if the ship is a non-Hong Kong ship, any exemption from any requirement under the Convention granted by the Administration; and
 - (b) the following restrictions and limitations established during the design or construction of the ship or imposed by the Administration—
 - (i) restrictions in the operating areas of the ship;
 - (ii) weather restrictions;
 - (iii) sea state restrictions;
 - (iv) restrictions in permissible loads, trim and speed;
 - (v) any other limitations in relation to the operation of the ship.
- (3) The owner of a passenger ship who contravenes subsection (1) commits an offence and is liable to a fine at level 3.
- (4) If a passenger ship engaged in an international voyage proceeds, or attempts to proceed, to sea without carrying on board the list referred to in subsection (1), the master of the ship commits an offence and is liable to a fine at level 3.

24. Information on navigational dangers

- (1) This section applies to a ship that meets with—
 - (a) dangerous ice;

- (b) a dangerous derelict;
 - (c) a tropical storm;
 - (d) subfreezing air temperatures associated with gale force winds causing severe ice accretion on superstructures;
 - (e) winds of force 10 or above on the Beaufort Scale for which no storm warning has been received; or
 - (f) any other direct danger to navigation.
- (2) The master of a ship must, by all means of communication at the master's disposal, communicate the information referred to in paragraphs 1, 2, 4 and 5 of regulation 32 of Chapter V to—
- (a) all the ships in the vicinity; and
 - (b) the nearest coastal authority with which the master can communicate.
- (3) The information must be communicated in English or by means of the International Code of Signals.
- (4) The master of a ship must ensure that the ship complies with the requirements of paragraph 4 of regulation 31 of Chapter V when communicating the information by means of radio.
- (5) If subsection (2), (3) or (4) is contravened, the master of the ship concerned commits an offence and is liable to a fine at level 4.

25. Distress situations: obligations and procedures

- (1) This section applies to a ship at sea when it is in a position to provide assistance on receiving information from any source that a person is in distress at sea.

- (2) The master of a Hong Kong ship must comply with the requirements of paragraph 6 of regulation 33 of Chapter V.
- (3) The master of a non-Hong Kong ship must, subject to paragraphs 3 and 4 of regulation 33 of Chapter V, comply with the requirements of paragraphs 1, 2 and 6 of that regulation.
- (4) The master of a Hong Kong ship who contravenes subsection (2) commits an offence and is liable to a fine at level 3.
- (5) The master of a non-Hong Kong ship who contravenes subsection (3) commits an offence and is liable to a fine at level 3.

26. Plan for intended voyage

- (1) This section does not apply to a ship that operates exclusively within the river trade limits.
- (2) The master of a ship must ensure that a plan for the intended voyage of the ship is prepared in compliance with paragraph 2 of regulation 34 of Chapter V before the ship proceeds to sea—
 - (a) by using the appropriate nautical charts and nautical publications for the area concerned; and
 - (b) by taking into account the guidelines and recommendations on voyage planning as adopted and amended from time to time by IMO.
- (3) The master of a ship who contravenes subsection (2) commits an offence and is liable to a fine at level 4 and to imprisonment for 2 years.

27. Master's discretion

- (1) A person must not prevent or restrict the master of a ship from taking or executing any decision that, in the master's professional judgement, is necessary for—
 - (a) the safety of life at sea;
 - (b) the protection of the marine environment; or
 - (c) the safety of life at sea and protection of the marine environment.
- (2) A person who contravenes subsection (1) commits an offence and is liable to a fine at level 4 and to imprisonment for 2 years.

Anthony B. L. CHEUNG
Secretary for Transport and
Housing

3 October 2016

Explanatory Note

The object of this Regulation is to implement the updated technical requirements for safety of navigation provided in Chapter V of the Annex to the International Convention for the Safety of Life at Sea signed in London on 1 November 1974, as amended and applicable to Hong Kong (*Chapter V*).

2. The Regulation also consolidates the relevant provisions in the following items of subsidiary legislation on their repeal—
 - (a) the Merchant Shipping (Safety) (Automatic Pilot and Testing of Steering Gear) Regulations (Cap. 369 sub. leg. L);
 - (b) the Merchant Shipping (Safety) (Carriage of Nautical Publications) Regulations (Cap. 369 sub. leg. M);
 - (c) the Merchant Shipping (Safety) (Navigational Equipment) Regulations (Cap. 369 sub. leg. AJ);
 - (d) the Merchant Shipping (Safety) (Navigational Warnings) Regulations (Cap. 369 sub. leg. AK);
 - (e) the Merchant Shipping (Safety) (Arrangements for Embarkation and Disembarkation of Pilots) Regulation (Cap. 369 sub. leg. AU).
3. Part 1 contains preliminary provisions that provide for the commencement and application of the Regulation and define various terms used in the Regulation.
4. Part 2 provides for the navigational systems and equipment that a ship must install or be fitted with.
5. Part 3 provides for the requirements for safety of navigation.

Merchant Shipping (Safety) (Navigational Equipment and Safety of Navigation)
Regulation

Explanatory Note
Paragraph 6

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6. Contravention of certain provisions of the Regulation are offences under the following provisions of the Merchant Shipping (Safety) Ordinance (Cap. 369) (*Ordinance*)—
- (a) it is an offence under section 98(2) of the Ordinance if the ship proceeds, or attempts to proceed, to sea—
 - (i) without carrying the navigational systems and equipment as required under section 5 of the Regulation; or
 - (ii) carrying any navigational system or equipment that does not comply with section 6 of the Regulation;
 - (b) it is an offence under section 44 of the Ordinance if section 18(3) of the Regulation is contravened;
 - (c) it is an offence under section 108(2) of the Ordinance if a ship goes to sea, or attempts to go to sea, without carrying the nautical charts or nautical publications etc. as required under section 20 of the Regulation.
7. In addition to section 25 of the Regulation, section 84 of the Ordinance has implemented some of the requirements of paragraphs 1 and 2 of regulation 33 of Chapter V where a Hong Kong ship is required to assist vessels or aircraft in distress.