

**L.N. 214 of 2018**

**Merchant Shipping (Safety) (INF Cargo) Regulation**

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## Merchant Shipping (Safety) (INF Cargo) Regulation

(Made by the Secretary for Transport and Housing under sections 101, 107 and 112B of the Merchant Shipping (Safety) Ordinance (Cap. 369))

### Part 1

#### Preliminary

##### 1. Commencement

This Regulation comes into operation on 9 January 2019.

##### 2. Interpretation

In this Regulation—

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

**anniversary date** (周年日期), in relation to an INF Cargo Certificate that is 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;

**cargo ship** (貨船) means a ship other than a passenger ship;

**company** (公司), in relation to a ship, means any person 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;

**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;

**Hong Kong ship** (香港船舶) means a ship that is registered in Hong Kong;

**IMO** means the International Maritime Organization;

**INF cargo** (輻照核燃料貨物) means an INF cargo as defined in Chapter 1 of the INF Code;

**INF Cargo Certificate** (輻照核燃料貨物證書) means—

- (a) in relation to a Hong Kong ship, an International Certificate of Fitness for the Carriage of INF Cargo issued by the Director under section 8; and
- (b) in relation to a non-Hong Kong ship, a certificate issued in conformity with Chapter 1 of the INF Code by or under the authority of an Administration;

**INF Code** (《輻照核燃料規則》) means the International Code for the Safe Carriage of Packaged Irradiated Nuclear Fuel, Plutonium and High-Level Radioactive Wastes on Board Ships adopted by IMO by resolution MSC.88(71), as from time to time revised or amended by any revision or amendment that applies to Hong Kong;

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

**surveyor** (驗船師) means a Government surveyor appointed under section 5 of the Ordinance.

### 3. Application

- (1) This Regulation applies to the following ships which are engaged in international voyages—
  - (a) a Hong Kong ship carrying INF cargo wherever it may be; and
  - (b) a non-Hong Kong ship carrying INF cargo which is within the waters of Hong Kong.
- (2) This Regulation does not apply to—
  - (a) a warship or troopship;
  - (b) a naval auxiliary; or
  - (c) a ship owned or operated by the Government, or by the government of a Convention country, and engaged only on governmental non-commercial service.

- (3) In this section—

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

**international voyage** (國際航程) means—

- (a) a voyage between Hong Kong and a port outside the People's Republic of China; or
  - (b) a voyage between a port in a Convention country and a port outside that country (whether in another Convention country or not).
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## **Part 2**

### **Ships to Comply with INF Code**

#### **4. Duty to comply with INF Code**

- (1) A ship must be constructed and equipped in accordance with the applicable requirements in Chapters 2, 3, 4, 5, 6.1, 6.3, 7 and 8 of the INF Code.
- (2) The requirements in Chapter 4.1.3 of the INF Code in relation to the provision of items essential to the operation of a ship are complied with in relation to a ship if—
  - (a) the items referred to in that Chapter are provided in duplicate for each cargo space on the ship; and
  - (b) the spare parts for such items are made available on the ship.
- (3) The requirements in Chapter 8 of the INF Code in relation to the provision to be made for radiological protection are complied with in relation to a ship if the Regulations for the Safe Transport of Radioactive Material published by the International Atomic Energy Agency in 2012 are complied with in relation to the ship.
- (4) If a Class INF 1 ship is a passenger ship—
  - (a) the ship complies with the requirements on damage stability in Chapter 2.1 of the INF Code if the requirements on damage stability set out in the Merchant Shipping (Safety) (Passenger Ship Construction and Survey) (Ships Built On or After 1 September 1984) Regulations (Cap. 369 sub. leg. AM) are complied with in relation to the ship;

- (b) the ship complies with the requirements in relation to fire safety measure in Chapter 3.1 of the INF Code if the requirements in relation to fire safety measure set out in the Merchant Shipping (Safety) (Fire Protection) (Ships Built On or After 1 September 1984) Regulations (Cap. 369 sub. leg. Y) are complied with in relation to the ship; and
  - (c) the ship complies with the requirements on electrical power supplies in Chapter 7.1 of the INF Code if the requirements on electrical power supplies set out in the Merchant Shipping (Safety) (Passenger Ship Construction and Survey) (Ships Built On or After 1 September 1984) Regulations (Cap. 369 sub. leg. AM) are complied with in relation to the ship.
- (5) If a Class INF 1 ship is a cargo ship—
- (a) the ship complies with the requirements on damage stability in Chapter 2.1 of the INF Code if the requirements on damage stability set out in the Merchant Shipping (Safety) (Subdivision and Damage Stability of Cargo Ships) Regulation (Cap. 369 sub. leg. AT) are complied with in relation to the ship;
  - (b) the ship complies with the requirements in relation to fire safety measure in Chapter 3.1 of the INF Code if the requirements in relation to fire safety measure set out in the Merchant Shipping (Safety) (Fire Protection) (Ships Built On or After 1 September 1984) Regulations (Cap. 369 sub. leg. Y) are complied with in relation to the ship; and
  - (c) the ship complies with the requirements on electrical power supplies in Chapter 7.1 of the INF Code if the requirements on electrical power supplies set out



in the Merchant Shipping (Safety) (Cargo Ship Construction and Survey) (Ships Built On or After 1 September 1984) Regulations (Cap. 369 sub. leg. S) are complied with in relation to the ship.

- (6) For the purposes of subsections (4) and (5)—
- (a) **Class INF 1 ship** (1 類輻照核燃料運輸船) means a Class INF 1 ship as defined in Chapter 1 of the INF Code; and
  - (b) a cargo ship of less than 500 gross tonnage is to be regarded as a cargo ship of 500 gross tonnage.

## 5. Shipboard Emergency Plan

- (1) A ship must keep on board a Shipboard Emergency Plan in respect of the ship and the Plan must comply with the requirements in this section.
- (2) The Plan must be written in a working language of the ship.
- (3) The Plan must be approved by—
  - (a) for a Hong Kong ship—the Director in accordance with the guidelines issued by IMO; or
  - (b) for a non-Hong Kong ship—an Administration in accordance with the guidelines issued by IMO.

## 6. Restriction on passenger ships

- (1) A passenger ship may carry INF cargo only if the cargo is—
  - (a) an INF cargo the aggregate activity of which is less than 4 000 TBq;
  - (b) an INF cargo of irradiated nuclear fuel or high-level radioactive wastes with an aggregate activity of less than  $2 \times 10^6$  TBq; or

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- (c) an INF cargo of plutonium with an aggregate activity of less than  $2 \times 10^5$  TBq.
- (2) In this section, each of the following terms has the same meaning as in Chapter 1 of the INF Code—
- (a) high-level radioactive wastes;
  - (b) irradiated nuclear fuel;
  - (c) plutonium.
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## **Part 3**

### **INF Cargo Certificates**

#### **Division 1—Requirement for INF Cargo Certificates**

##### **7. Ships to have INF Cargo Certificates**

A ship must have an INF Cargo Certificate in force in respect of the ship.

#### **Division 2—Issue and Duration of INF Cargo Certificates**

##### **8. Issue of INF Cargo Certificates**

- (1) The owner of a Hong Kong ship may apply to the Director for an INF Cargo Certificate in respect of the ship.
- (2) The application must be accompanied by the prescribed fee for the Certificate.
- (3) The Director must not issue an INF Cargo Certificate in respect of a ship unless the Director is satisfied—
  - (a) that—
    - (i) if an INF Cargo Certificate has never been issued in respect of the ship—an initial survey of the ship has been carried out in accordance with section 18 or 20; or
    - (ii) if an INF Cargo Certificate has been issued in respect of the ship—a renewal survey of the ship has been carried out in accordance with section 19 or 21; and

- (b) that, on the evidence of a declaration of survey forwarded to the Director under section 18(2) or 20(2) (or section 19(3) or 21(3)), the structure, machinery and equipment of the ship comply with the applicable requirements in Chapters 2, 3, 4, 5, 6.1, 6.3, 7 and 8 of the INF Code.

**9. Duration of INF Cargo Certificates issued after initial surveys**

- (1) Subject to this Division and Division 3—
  - (a) an INF Cargo Certificate issued as a result of an initial survey of a passenger ship under section 18 is valid for the period specified by the Director in the Certificate, which must not exceed 1 year beginning on the date of completion of the initial survey of the ship; and
  - (b) an INF Cargo Certificate issued as a result of an initial survey of a cargo ship under section 20 is valid for the period specified by the Director in the Certificate, which must not exceed 5 years beginning on the date of completion of the initial survey of the ship.
- (2) For the purposes of this Division, an INF Cargo Certificate is to be regarded as the following certificate—
  - (a) if the Certificate is issued in respect of a passenger ship—a passenger ship safety certificate referred to in Regulation 14 of Chapter I of the Convention;
  - (b) if the Certificate is issued in respect of a cargo ship—a cargo ship safety construction certificate referred to in Regulation 14 of Chapter I of the Convention.

**10. Duration of INF Cargo Certificates issued after renewal surveys**

A new INF Cargo Certificate issued in respect of a ship as a result of a renewal survey under section 19 or 21 is valid for the period specified by the Director in the Certificate in accordance with Regulation 14 of Chapter I of the Convention.

**11. Duration of INF Cargo Certificates after early completion of certain surveys of cargo ships**

- (1) This section applies if—
  - (a) an intermediate survey of a cargo ship is completed before the period within which the survey is required to be completed under section 22; or
  - (b) an annual survey of a cargo ship is completed before the period within which the survey is required to be completed under section 23.
- (2) After a survey of a ship is completed as described in subsection (1), the existing INF Cargo Certificate issued in respect of the ship must be endorsed to show a date described on the endorsement as the “new anniversary date” (*new anniversary date*), which must be a date that is within 3 months from the date of completion of the survey.
- (3) For the purposes of any intermediate survey or annual survey to be carried out in respect of the ship under section 22 or 23 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 the existing INF Cargo Certificate issued in respect of the ship may be varied by the Director in accordance with Regulation 14 of Chapter I of the Convention.

**12. Extension of validity period of INF Cargo Certificates in certain circumstances**

The Director may extend the validity period of an existing INF Cargo Certificate issued in respect of a ship in accordance with Regulation 14 of Chapter I of the Convention if—

- (a) the ship—
  - (i) is a passenger ship and the Certificate is valid for a period of less than 1 year; or
  - (ii) is a cargo ship and the Certificate is valid for a period of less than 5 years;
- (b) a new INF Cargo 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.

**Division 3—Cessation and Cancellation of INF Cargo Certificates**

**13. INF Cargo Certificates cease to be valid**

An INF Cargo Certificate issued in respect of a Hong Kong ship ceases to be valid if—

- (a) a survey referred to in the following Division is not carried out in relation to the ship before the expiry of the period specified for the survey in that Division—
  - (i) for a passenger ship—Division 1 of Part 4;
  - (ii) for a cargo ship—Division 2 of Part 4;

- (b) in the case of a cargo ship—
  - (i) the Certificate is not endorsed under section 22 after an intermediate survey of the ship is carried out; or
  - (ii) the Certificate is not endorsed under section 23 after an annual survey of the ship is carried out; or
- (c) the ship is transferred to the registry of a place outside Hong Kong.

#### **14. Cancellation of INF Cargo Certificates**

- (1) The Director may, by written notice to the owner and the master of a Hong Kong ship, cancel an INF Cargo Certificate issued in respect of the ship in the circumstances set out in subsection (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.
- (4) On receiving the notice, the owner and the master of the ship must deliver the Certificate to the Director immediately.

### **Division 4—Form, Alteration and Certified True Copies of INF Cargo Certificates**

#### **15. Form of INF Cargo Certificates**

The Director may specify the form of an INF Cargo Certificate.

**16. Alteration of INF Cargo Certificates**

- (1) The owner of a Hong Kong ship in respect of which an INF Cargo 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.

**17. Certified true copies of INF Cargo Certificates**

- (1) The owner of a Hong Kong ship in respect of which an INF Cargo Certificate has been issued may apply to the Director for a certified true copy of the Certificate.
  - (2) The application must be accompanied by the prescribed fee for the certified true copy.
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## **Part 4**

### **Surveys**

#### **Division 1—Surveys for Passenger Ships**

##### **18. Initial surveys for passenger ships**

- (1) An initial survey of a passenger ship is to be carried out by a surveyor—
  - (a) before the ship is put into service; or
  - (b) before an INF Cargo Certificate is issued for the first time in respect of the ship.
- (2) If, after having carried out an initial survey of the ship, the surveyor is satisfied that the structure, machinery and equipment of the ship comply with the applicable requirements in Chapters 2, 3, 4, 5, 6.1, 6.3, 7 and 8 of the INF Code, the surveyor must make a declaration of survey to that effect and forward the declaration to the Director.

##### **19. Renewal surveys for passenger ships**

- (1) Subject to subsection (2), a renewal survey of a passenger ship is to be carried out by a surveyor within 1 year—
  - (a) from the date of completion of the initial survey of the ship; or
  - (b) if a renewal survey of the ship has been carried out, from the date of completion of the preceding renewal survey.

- (2) If the validity period of an INF Cargo Certificate issued in respect of the ship has been extended under section 12(c) or (d), the period of 1 year referred to in subsection (1) is to be extended by the period for which the Certificate is extended.
- (3) If, after having carried out a renewal survey of the ship, the surveyor is satisfied that the structure, machinery and equipment of the ship comply with the applicable requirements in Chapters 2, 3, 4, 5, 6.1, 6.3, 7 and 8 of the INF Code, the surveyor must make a declaration of survey to that effect and forward the declaration to the Director.

## **Division 2—Surveys for Cargo Ships**

### **20. Initial surveys for cargo ships**

- (1) An initial survey of a cargo ship is to be carried out by a surveyor—
  - (a) before the ship is put into service; or
  - (b) before an INF Cargo Certificate is issued for the first time in respect of the ship.
- (2) If, after having carried out an initial survey of the ship, the surveyor is satisfied that the structure, machinery and equipment of the ship comply with the applicable requirements in Chapters 2, 3, 4, 5, 6.1, 6.3, 7 and 8 of the INF Code, the surveyor must make a declaration of survey to that effect and forward the declaration to the Director.

### **21. Renewal surveys for cargo ships**

- (1) Subject to subsection (2), a renewal survey of a cargo ship is to be carried out by a surveyor within 5 years—

- (a) from the date of completion of the initial survey of the ship; or
  - (b) if a renewal survey of the ship has been carried out, from the date of completion of the preceding renewal survey.
- (2) If the validity period of an INF Cargo Certificate issued in respect of the ship has been extended under section 12(c) or (d), the period of 5 years referred to in subsection (1) is to be extended by the period for which the Certificate is extended.
- (3) If, after having carried out a renewal survey of the ship, the surveyor is satisfied that the structure, machinery and equipment of the ship comply with the applicable requirements in Chapters 2, 3, 4, 5, 6.1, 6.3, 7 and 8 of the INF Code, the surveyor must make a declaration of survey to that effect and forward the declaration to the Director.

## **22. Intermediate surveys for cargo ships**

- (1) An intermediate survey of a cargo ship is to be carried out by a surveyor—
- (a) within the period commencing 3 months before, and ending 3 months after, the second anniversary date of the INF Cargo Certificate issued in respect of the ship; or
  - (b) within the period commencing 3 months before, and ending 3 months after, the third anniversary date of the INF Cargo Certificate issued in respect of the ship.
- (2) If, after having carried out an intermediate survey of the ship, the surveyor is satisfied that the structure, machinery and equipment of the ship comply with the applicable

requirements in Chapters 2, 3, 4, 5, 6.1, 6.3, 7 and 8 of the INF Code and are in good working order, the surveyor must make an endorsement to that effect on the Certificate.

**23. Annual surveys for cargo ships**

- (1) Subject to subsection (2), an annual survey of a cargo ship is to be carried out by a surveyor within the period commencing 3 months before, and ending 3 months after, each anniversary date of the INF Cargo Certificate issued in respect of the ship.
  - (2) If an intermediate survey of the ship has been carried out under section 22 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.
  - (3) If, after having carried out an annual survey of the ship, the surveyor is satisfied that the structure, machinery and equipment of the ship remain satisfactory for the service for which the ship is intended, the surveyor must make an endorsement to that effect on the Certificate.
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## Part 5

### Other Duties

#### 24. Duty to submit written reports

- (1) If any of the incidents set out in subsection (2) has occurred in relation to a Hong Kong ship, the company and the master of the ship must, without delay, cause a written report of the particulars of the incident to the fullest possible extent to be submitted to the Director and the nearest coastal state in accordance with the guidelines issued by IMO.
- (2) The incidents are—
  - (a) the loss or likely loss of INF cargo overboard;
  - (b) any incident that involves a release or probable release of INF cargo;
  - (c) any damage to the ship, any failure of any system, equipment or source of electrical power on the ship, or any breakdown of the ship, which affects the safety of the ship (including any damage, failure or breakdown caused by collision, grounding, fire, explosion, structural failure, flooding or cargo shifting); and
  - (d) any damage to the ship, any failure of any system, equipment or source of electrical power on the ship, or any breakdown of the ship, which results in the impairment of the safety of navigation of the ship (including any damage, failure or breakdown of any steering gear, propulsion system, electrical generating system or essential ship borne navigational aids).

**25. INF Cargo Certificates to be kept on board**

The owner and the master of a ship must ensure that the INF Cargo Certificate issued in respect of the ship which is in force—

- (a) is kept on board the ship; and
  - (b) is made available for inspection by a surveyor at all reasonable times.
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## **Part 6**

### **Offences**

#### **26. Offences**

- (1) If any of the requirements in section 4, 5, 6, 7 or 25 is contravened in respect of a ship, the owner and the master of the ship each commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 2 years.
- (2) If any of the requirements in section 24 is contravened in respect of a ship, the company and the master of the ship each commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 2 years.
- (3) It is a defence for a person charged under subsection (1) or (2) to show that the person had taken all reasonable steps to prevent the commission of the offence.

Frank CHAN Fan  
Secretary for Transport and  
Housing

2 November 2018

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### **Explanatory Note**

The object of this Regulation is to implement Part D of Chapter VII of the International Convention for the Safety of Life at Sea under which the International Code for the Safe Carriage of Packaged Irradiated Nuclear Fuel, Plutonium and High-Level Radioactive Wastes on Board Ships (*INF Code*) has been made mandatory.

2. Part 1 contains provisions that provide for the commencement and application of the Regulation, and the interpretation of words and expressions used in the Regulation.
3. Part 2 requires a ship to be constructed and equipped in accordance with the INF Code and keep on board a Shipboard Emergency Plan. And a passenger ship is only allowed to carry certain kinds of INF cargoes (as defined in Chapter 1 of the INF Code).
4. Ships to which the Regulation applies are required to have an INF Cargo Certificate. Part 3 governs the issue, duration, cessation and cancellation of the Certificate. Part 4 sets out the various types of surveys that are required to be carried out by a passenger ship and a cargo ship.
5. Part 5 sets out the duties to submit written reports in certain circumstances and to keep on board an INF Cargo Certificate. The offences are set out in Part 6.