

**L.N. 154 of 2022**

**Merchant Shipping (Prevention of Oil Pollution)  
(Amendment) Regulation 2022**

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## **Merchant Shipping (Prevention of Oil Pollution) (Amendment) Regulation 2022**

(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**

- (1) Subject to subsection (2), this Regulation comes into operation on 1 November 2022.
- (2) Section 12 comes into operation on 1 July 2024.

### **2. Merchant Shipping (Prevention of Oil Pollution) Regulations amended**

The Merchant Shipping (Prevention of Oil Pollution) Regulations (Cap. 413 sub. leg. A) are amended as set out in sections 3 to 15.

### **3. Regulation 1 amended (citation and interpretation)**

- (1) Regulation 1(2)—

#### **Add in alphabetical order**

“*International Oil Pollution Prevention Exemption Certificate* (國際防油污免除證書) means—

- (a) an IOPPE Certificate;
- (b) an International Oil Pollution Prevention Exemption Certificate for Unmanned Non-self-propelled (UNSP) Barges issued by a recognized organization in conformity with Annex I; or

- (c) an International Oil Pollution Prevention Exemption Certificate for Unmanned Non-self-propelled (UNSP) Barges issued by or under the authority of an Administration in conformity with Annex I;

***IOPPE Certificate*** (IOPPE證書) means a certificate issued under regulation 7EB;

***UNSP barge*** (無人非自航駁船) means an unmanned non-self-propelled (UNSP) barge as defined in Regulation 1 of Annex I;”.

- (2) After regulation 1(3)—

**Add**

“(4) In these Regulations, in relation to a barge that does not have a master, a reference to the master is a reference to the operator of the barge.”.

**4. Regulation 2 amended (applications and exemptions)**

- (1) Regulation 2(3)—

**Repeal**

“to 30 of these Regulations”

**Substitute**

“and Parts III, IIIA, IV, V and VI”.

- (2) Regulation 2(3), Chinese text—

**Repeal**

“不切實”

**Substitute**

“並非切實”.

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- 5. Regulation 3B amended (Director may recognize organizations to survey ships and issue certificates etc.)**
- (1) Regulation 3B(b)(i)—  
**Repeal**  
“or”.
- (2) Regulation 3B(b)(ii), after “Certificates;”—  
**Add**  
“or”.
- (3) After regulation 3B(b)(ii)—  
**Add**  
“(iii) International Oil Pollution Prevention Exemption Certificates;”.
- (4) Regulation 3B(c)—  
**Repeal**  
“paragraph (b)”  
**Substitute**  
“paragraph (b)(i) or (ii)”.
- 6. Regulation 3D amended (Director may at request of Convention countries survey non-Hong Kong ships and issue or endorse certificates)**
- (1) Regulation 3D—  
**Renumber the regulation as regulation 3D(1).**
- (2) After regulation 3D(1)—  
**Add**

“(2) However, no IOPP Certificate may be issued under paragraph (1)(b)(i) in respect of a non-Hong Kong ship entitled to fly the flag of a country that is not a Convention country.”.

**7. Part II, Division 1 heading added**

Before regulation 4—

**Add**

**“Division 1—Specified Certificates and Related Surveys”.**

**8. Regulation 7 amended (issue and duration of IOPP and HKOPP Certificate)**

Regulation 7(7)—

**Repeal**

“An”

**Substitute**

“Subject to regulation 10A, an”.

**9. Regulation 7EA, Part II, Division 2 and Part II, Division 3 heading added**

After regulation 7E—

**Add**

**“7EA. Exemption for UNSP barges**

A UNSP barge in respect of which an International Oil Pollution Prevention Exemption Certificate is in force is exempted from this Division.

## **Division 2—International Oil Pollution Prevention Exemption Certificates and Related Surveys**

### **7EB. Issue of IOPPE Certificate**

- (1) Subject to paragraphs (3) and (4), the Director may, on application of the owner of a barge (being a Hong Kong ship) that is of 400 GT and above and that is engaged in a voyage to a port or an offshore terminal within the jurisdiction of another Convention country, issue an IOPPE Certificate in respect of the barge.
- (2) The application must be accompanied by the prescribed fee for the issue of the certificate.
- (3) The Director must not issue an IOPPE Certificate in respect of the barge unless the Director is satisfied—
  - (a) if—
    - (i) no International Oil Pollution Prevention Exemption Certificate is in force in respect of the barge—that an initial survey of the barge has been carried out in accordance with regulation 7EC; or
    - (ii) an International Oil Pollution Prevention Exemption Certificate is in force in respect of the barge—that a renewal survey of the barge has been carried out in accordance with regulation 7EC; and
  - (b) on evidence of a declaration of survey forwarded under regulation 7EC(3), that the barge is a UNSP barge.

- (4) The Director must not issue an IOPPE Certificate in respect of the barge if the barge has any means (whether temporary or permanent) of generating oil residues.

**7EC. Initial survey and renewal survey**

- (1) An initial survey or renewal survey of a barge for the purposes of regulation 7EB is to be carried out by a Government surveyor.
- (2) The owner of the barge must provide the Government surveyor with the information and drawings in respect of the barge requested by the surveyor for the survey.
- (3) If, after having carried out an initial survey or renewal survey of the barge, the Government surveyor is satisfied that the barge is a UNSP barge, the surveyor must—
  - (a) make a declaration of survey to that effect; and
  - (b) forward the declaration to the Director.

**7ED. Director may require additional survey**

- (1) The Director may, by written notice to the owner of a barge in respect of which an International Oil Pollution Prevention Exemption Certificate is issued, require an additional survey of the barge to be carried out by a Government surveyor within a reasonable period specified in the notice.
- (2) The additional survey may be general or partial as the Director thinks fit.



- (3) The Director may exercise the power under paragraph (1) only if the Director has reasonable grounds to believe that the barge is no longer a UNSP barge.
- (4) On receiving a notice under paragraph (1), the owner of the barge must cause an additional survey to be carried out.
- (5) The owner of the barge must provide the Government surveyor with the information and drawings in respect of the barge requested by the surveyor for the survey.
- (6) If, after having carried out an additional survey of the barge, the Government surveyor is satisfied that the barge is a UNSP barge, the surveyor must—
  - (a) make a declaration of survey to that effect; and
  - (b) forward the declaration to the Director.

**7EE. Validity period of International Oil Pollution Prevention Exemption Certificate**

- (1) Subject to paragraph (2), an International Oil Pollution Prevention Exemption Certificate issued in respect of a UNSP barge is valid for such period as may be specified in the certificate.
- (2) The period specified in an International Oil Pollution Prevention Exemption Certificate issued on the basis of the result of an initial survey or renewal survey must not exceed 5 years beginning on the date of completion of the survey.

**7EF. When International Oil Pollution Prevention Exemption Certificate ceases to be valid**

An International Oil Pollution Prevention Exemption Certificate issued in respect of a UNSP barge (being a Hong Kong ship) ceases to be valid if—

- (a) the barge is no longer a UNSP barge; or
- (b) the barge ceases to be registered in Hong Kong.

**Division 3—Supplementary Provisions”.**

**10. Regulation 7F amended (cancellation of specified Certificate)**

- (1) Regulation 7F, heading—

**Repeal**

“specified”.

- (2) Regulation 7F(1), after “Certificate”—

**Add**

“or an International Oil Pollution Prevention Exemption Certificate”.

**11. Regulation 10A added**

Part II, after regulation 10—

**Add**

**“10A. Certificate for UNSP barge to be kept on towing or pushing vessels**

- (1) This regulation applies to a UNSP barge that is engaged in a towing or pushing operation during a voyage to a port or an offshore terminal within the jurisdiction of another Convention country.

- (2) The following certificate in force in respect of the UNSP barge must be made available to the towing or pushing vessel during the towing or pushing operation—
  - (a) if the barge is exempted under regulation 7EA—the International Oil Pollution Prevention Exemption Certificate; or
  - (b) otherwise—the International Oil Pollution Prevention Certificate.
- (3) During the towing or pushing operation, the certificate mentioned in paragraph (2)(a) or (b) must be kept on board the towing or pushing vessel.”.

**12. Regulation 16CA added**

Part III, after regulation 16C—

**Add**

**“16CA. Special requirements for carriage or use of heavy fuel oil in Arctic waters**

- (1) Subject to paragraphs (2) and (3), the following carriage or use of heavy fuel oil by a Hong Kong ship is prohibited in the Arctic waters—
  - (a) carriage of heavy fuel oil as fuel; and
  - (b) use of heavy fuel oil as fuel.
- (2) Subject to paragraph (3), paragraph (1) applies, as from 1 July 2029, to a Hong Kong ship to which Regulation 12A of Annex I or Regulation 1.2.1 of Chapter 1 of Part II-A of the Polar Code applies.
- (3) Paragraph (1) does not apply to a Hong Kong ship that is—
  - (a) engaged in securing the safety of a ship;

- (b) engaged in a search and rescue operation; or
- (c) dedicated to oil spill preparedness and response.

(4) In this regulation—

*heavy fuel oil* (重油) means oil (other than crude oil)—

- (a) having a density at 15°C higher than 900 kg/m<sup>3</sup>;  
or
- (b) having a kinematic viscosity at 50°C higher than 180 mm<sup>2</sup>/s.”.

**13. Regulation 35 amended (power to inspect specified Certificate, etc.)**

(1) Regulation 35, heading—

**Repeal**

“specified”.

(2) Regulation 35(1)—

**Repeal**

“specified Certificate” (wherever appearing)

**Substitute**

“specified Certificate or International Oil Pollution Prevention Exemption Certificate”.

**14. Regulation 36A amended (power to specify form)**

(1) Regulation 36A, heading—

**Repeal**

“Power to specify form”

**Substitute**

**“Form of Certificate”.**

- (2) Regulation 36A—

**Renumber the regulation as regulation 36A(1).**

- (3) After regulation 36A(1)—

**Add**

“(2) The Director may specify the form of an IOPPE Certificate, which must correspond to the Form of Certificate set out in Appendix IV to Annex I.”.

**15. Regulation 37 amended (penalties)**

- (1) Regulation 37, heading—

**Repeal**

**“Penalties”**

**Substitute**

**“Offences and penalties”.**

- (2) Regulation 37(1), after “than regulation”—

**Add**

**“10A,”.**

- (3) After regulation 37(1)—

**Add**

“(1A) If regulation 10A(2) is not complied with in respect of a UNSP barge, the owner and the operator of the barge each commits an offence and is liable—

- (a) on conviction on indictment—to a fine at level 6;  
or

- (b) on summary conviction—to a fine at level 3.

- (1B) If regulation 10A(3) is not complied with in respect of a towing or pushing vessel, the owner and the master of the vessel each commits an offence and is liable—
- (a) on conviction on indictment—to a fine at level 6;  
or
  - (b) on summary conviction—to a fine at level 3.”.
- (4) Regulation 37(4)—

**Repeal**

“or the master” (wherever appearing)

**Substitute**

“, the master or the operator”.

Frank CHAN Fan  
Secretary for Transport and  
Housing

24 June 2022

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## Explanatory Note

This Regulation amends the Merchant Shipping (Prevention of Oil Pollution) Regulations (Cap. 413 sub. leg. A) (*principal Regulations*) to give effect to certain revisions made to Annex I to the International Convention for the Prevention of Pollution from Ships, 1973 (*Annex I*) by the International Maritime Organization Resolution MEPC.329(76) and Resolution MEPC.330(76).

2. Under the revised Annex I, an unmanned non-self-propelled (UNSP) barge may be exempted from certain survey and certification requirements by applying for an International Oil Pollution Prevention Exemption Certificate for Unmanned Non-self-propelled (UNSP) Barges (*Certificate*).
3. The Regulation amends the principal Regulations to provide for—
  - (a) the issue of the Certificate by the Director of Marine (*Director*) and related surveys;
  - (b) the validity period of the Certificate;
  - (c) the requirement to keep the Certificate during a towing or pushing operation and related offences; and
  - (d) the powers exercisable by the Director and a Government surveyor in respect of the Certificate.
4. The amendments mentioned in paragraph 3 come into operation on 1 November 2022.

Merchant Shipping (Prevention of Oil Pollution) (Amendment) Regulation 2022

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Paragraph 5

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5. A new regulation 16CA is also added to the principal Regulations to provide for the prohibition on the carriage or use of heavy fuel oil as fuel by a Hong Kong ship in the Arctic waters. That new regulation comes into operation on 1 July 2024.