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L.N. 56 of 2012

# Dangerous Goods (Shipping) Regulation 2012

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## **Dangerous Goods (Shipping) Regulation 2012**

(Made by the Chief Executive in Council under section 5 of the Dangerous Goods Ordinance (Cap. 295))

### **Part 1**

#### **Preliminary**

##### **1. Commencement**

This Regulation comes into operation on a day to be appointed by the Secretary for Security by notice published in the Gazette, which must not be before the day appointed for the commencement of section 4 of the Dangerous Goods (Amendment) Ordinance 2002 (4 of 2002).

##### **2. Interpretation**

In this Regulation—

*approved container terminal* (認可貨櫃碼頭) means a container terminal specified in Schedule 2;

*approved petroleum wharf* (認可油品碼頭) means a wharf specified in Schedule 1;

*certificate of registry* (註冊證明書) means—

- (a) a certificate of registry or certificate of provisional registry granted under the Merchant Shipping (Registration) Ordinance (Cap. 415); or
- (b) a certificate of registry or other document granted in a place outside Hong Kong and similar or equivalent in effect to a certificate referred to in paragraph (a);

*Class 1 dangerous goods* (第1類危險品) means any substance or article falling within the class known as “Class 1—Explosives” in the IMDG Code;

***Class 2 dangerous goods*** (第 2 類危險品)—

- (a) in Parts 2 and 3, means any substance or article falling within the class known as “Class 2—Gases” in the IMDG Code; and
- (b) in Part 4, means—
  - (i) any substance or article falling within the class known as “Class 2—Gases” in the IMDG Code; or
  - (ii) Class 2 dangerous goods as defined by section 2 of the Dangerous Goods (Application and Exemption) Regulation 2012;

***Class 3 dangerous goods*** (第 3 類危險品)—

- (a) in Parts 2 and 3, means any substance or article falling within the class known as “Class 3—Flammable liquids” in the IMDG Code; and
- (b) in Part 4, means—
  - (i) any substance or article falling within the class known as “Class 3—Flammable liquids” in the IMDG Code; or
  - (ii) Class 3 dangerous goods as defined by section 2 of the Dangerous Goods (Application and Exemption) Regulation 2012;

***Class 3A dangerous goods*** (第 3A 類危險品) has the meaning given by section 2 of the Dangerous Goods (Application and Exemption) Regulation 2012;

***consumer packs*** (消費裝) has the meaning given by section 2 of the Dangerous Goods (Application and Exemption) Regulation 2012;

***conveyance permit*** (運送許可證) means a permit granted under section 19;

***dangerous goods anchorage*** (危險品碇泊處) has the meaning given by regulation 2(1) of the Shipping and Port Control Regulations (Cap. 313 sub. leg. A);

***Director*** (處長) means the Director of Marine;

***entertainment special effects*** (娛樂特別效果) has the meaning given by section 2 of the Entertainment Special Effects Ordinance (Cap. 560);

***freight container*** (貨櫃) has the meaning given by section 2(1) of the Freight Containers (Safety) Ordinance (Cap. 506);

***handle*** (處理), in relation to dangerous goods, includes—

- (a) loading, unloading, discharging and transferring the dangerous goods; and
- (b) cleaning, purging, gas freeing, ullaging, sounding, sampling and similar operations required for the carriage of the dangerous goods by a vessel;

***in bulk*** (散裝), in relation to dangerous goods, means carried directly and without intermediate form of containment in a hold, tank or cargo space fitted into or forming part of the construction of a vessel;

***master*** (船長)—

- (a) in relation to a type 1 or type 2 vessel, means the person for the time being in charge or command of the vessel; and
- (b) in relation to a type 3 vessel, means—
  - (i) the person for the time being in charge or command of the vessel; or
  - (ii) in the absence of such a person or if the vessel is for the time being in the charge or command of a person under the age of 16, the owner of the vessel;

***non-pyrotechnic special effects material*** (非煙火特別效果物料) means any dangerous goods that are materials within the meaning of non-pyrotechnic special effects material under section 2 of the Entertainment Special Effects Ordinance (Cap. 560);

***owner*** (船東)—

- (a) in relation to a type 1 or type 2 vessel, includes—
  - (i) the person named as the owner of the vessel in the certificate of registry issued in respect of the vessel;
  - (ii) if the vessel is chartered by demise, the demise charterer and any person acting as the agent of the charterer; and
  - (iii) if the vessel is managed by a vessel management company, the company and any person acting as the agent of the company; and
- (b) in relation to a type 3 vessel, includes the person named as the owner of the vessel in a certificate of ownership issued in respect of the vessel under the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548 sub. leg. D);

***passenger*** (乘客) means any person carried on board a vessel except—

- (a) a person employed or engaged in any capacity on board the vessel on the business of the vessel;
- (b) a person on board the vessel either in pursuance of the obligation laid on the master to carry shipwrecked, distressed or other persons, or by reason of any circumstances that neither the master nor the owner could have prevented;
- (c) a person who handles or supervises the handling of any dangerous goods, carried in or on a motor vehicle on board the vessel; and



- (d) a public officer who, in carrying out his or her duties, handles or supervises the handling of any dangerous goods on board the vessel;

***pyrotechnic special effects material*** (煙火特別效果物料) means any dangerous goods that are materials within the meaning of pyrotechnic special effects material under section 2 of the Entertainment Special Effects Ordinance (Cap. 560);

***Schedule 1 dangerous goods*** (附表 1 危險品) has the meaning given by section 2 of the Dangerous Goods (Application and Exemption) Regulation 2012;

***Schedule 2 dangerous goods*** (附表 2 危險品) has the meaning given by section 2 of the Dangerous Goods (Application and Exemption) Regulation 2012;

***tropical cyclone warning signal*** (熱帶氣旋警告訊號) means a tropical cyclone warning signal issued by the Hong Kong Observatory;

***type 1 vessel*** (第 1 類船隻) means any vessel other than a type 2 or type 3 vessel;

***type 2 vessel*** (第 2 類船隻) means any vessel that is specifically designed or constructed for the carriage of Class 2, 3 or 3A dangerous goods in bulk but excludes a type 3 vessel;

***type 3 vessel*** (第 3 類船隻) means any vessel, whether or not specifically designed or constructed for the carriage of Class 2, 3 or 3A dangerous goods in bulk, that is—

- (a) used solely within the waters of Hong Kong, whether registered under the Merchant Shipping (Registration) Ordinance (Cap. 415) or in a place outside Hong Kong;
- (b) regularly employed in trading to or from Hong Kong unless registered in a place outside Hong Kong;
- (c) possessed or used for pleasure purposes in the waters of Hong Kong; or

- (d) employed in sea fishing plying regularly in the waters of Hong Kong, or using the waters of Hong Kong as a base;

*western dangerous goods anchorage* (西面危險品碇泊處) means the area of the waters of Hong Kong specified as the western dangerous goods anchorage in the Seventh Schedule to the Shipping and Port Control Regulations (Cap. 313 sub. leg. A).

### 3. Meaning of *dangerous goods* in this Regulation

- (1) In this Regulation, subject to subsection (2), *dangerous goods* (危險品) means—
  - (a) any substance or article falling within a class in the IMDG Code;
  - (b) Schedule 1 dangerous goods;
  - (c) Schedule 2 dangerous goods; or
  - (d) any empty receptacle or any residue in a hold, tank or cargo space fitted into or forming part of the construction of a vessel, that has been used previously for the carriage of any dangerous goods mentioned in paragraph (a), (b) or (c), unless after having been so used, the receptacle, hold, tank or cargo space has been—
    - (i) cleaned and dried;
    - (ii) gas freed or ventilated where appropriate; or
    - (iii) if the previous contents were radioactive, cleaned and adequately closed.
- (2) In this Regulation, dangerous goods does not include any dangerous goods referred to in subsection (1) that form part of the equipment, stores or fuel of a vessel.

**4. Meaning of carrying on board Class 2, 3 or 3A dangerous goods in relation to type 2 or type 3 vessels**

- (1) For the purposes of this Regulation, a type 2 or type 3 vessel that has carried on board Class 2, 3 or 3A dangerous goods in bulk is to be regarded as carrying those dangerous goods on board the vessel until a gas-free certificate is issued in respect of the vessel by a person approved by the Director.
- (2) A certificate issued under subsection (1) must be in a form specified by the Director.
- (3) The Director may approve a person for the purposes of subsection (1) if satisfied that the person possesses the necessary qualifications and competence to issue a gas-free certificate.

(4) In this section—

*gas-free certificate* (氣體清除證明書) means a certificate certifying that a vessel is free of gas.

**5. Conveyance of dangerous goods by type 1 or type 2 vessels exempted from operation of section 6 of Ordinance**

Section 6 of the Ordinance does not apply to the conveyance of dangerous goods by a type 1 or type 2 vessel.

**6. Dangerous goods for personal medical use exempted**

Dangerous goods of any reasonable quantity carried by a person for personal medical use on board a vessel are exempt from the operation of this Regulation.

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## Part 2

### Provisions Relating to Type 1 Vessels

#### 7. Submission of dangerous goods manifests

- (1) A type 1 vessel carrying on board dangerous goods must not enter the waters of Hong Kong unless—
  - (a) a manifest in the form specified by the Director containing the particulars of the dangerous goods has first been submitted to the Director; or
  - (b) the Director grants permission for the vessel to enter those waters without a manifest having been submitted in accordance with paragraph (a) subject to the requirement which may be imposed by the Director under subsection (2).
- (2) For the purposes of subsection (1)(b), the Director may require the owner or master of the vessel to submit the manifest in accordance with subsection (1)(a) as soon as reasonably practicable after the vessel has entered the waters of Hong Kong.
- (3) A person must not include any particulars in the manifest which the person knows or has reason to believe to be—
  - (a) false in any material particular; or
  - (b) misleading by reason of the omission of any material particular.
- (4) If subsection (1)(a) is contravened, both the owner and the master of the vessel commit an offence and each is liable on conviction to a fine at level 3 and to imprisonment for 2 months.
- (5) A person who fails to comply with the requirement imposed on that person under subsection (2) commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 2 months.

- (6) A person who contravenes subsection (3) commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 2 months.

**8. Anchoring and berthing of type 1 vessels carrying Class 1 dangerous goods**

- (1) Unless the Director otherwise permits, a type 1 vessel carrying on board Class 1 dangerous goods must not anchor or berth at any place within the waters of Hong Kong other than at—
- (a) the western dangerous goods anchorage; or
  - (b) a place that the Director may from time to time direct.
- (2) A type 1 vessel carrying on board Class 1 dangerous goods that has anchored or berthed in accordance with subsection (1) must remain anchored or berthed unless the Director permits or directs otherwise.
- (3) Subsection (2) does not apply if there is an emergency situation or if, to ensure the safety of persons on board the vessel or at the berth, it becomes necessary to move the vessel.
- (4) If subsection (1) or (2) is contravened, the master of the vessel commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 3 months.
- (5) It is a defence to a charge under subsection (4) if the person charged proves that—
- (a) the offence was committed without the person's consent or connivance; and
  - (b) having regard to all the circumstances, the person exercised all the due diligence that the person ought to have exercised to prevent the commission of the offence.

**9. Movement of type 1 vessels carrying Class 1 dangerous goods during tropical cyclone**

- (1) Unless the Director otherwise permits, a type 1 vessel carrying on board Class 1 dangerous goods must not enter the harbour when a tropical cyclone warning signal higher than No. 3 is in force.
- (2) If a tropical cyclone warning signal higher than No. 3 is issued, unless the Director otherwise permits, a type 1 vessel that is in the harbour and is carrying on board Class 1 dangerous goods must, without delay, leave the harbour.
- (3) If subsection (1) or (2) is contravened, the master of the vessel commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 3 months.
- (4) It is a defence to a charge under subsection (3) if the person charged proves that—
  - (a) the offence was committed without the person's consent or connivance; and
  - (b) having regard to all the circumstances, the person exercised all the due diligence that the person ought to have exercised to prevent the commission of the offence.

**10. Manifests required for loading dangerous goods onto type 1 vessels**

- (1) Subject to subsection (2), dangerous goods must not be loaded onto a type 1 vessel unless a manifest in the form specified by the Director containing the particulars of the dangerous goods has first been submitted to the Director.
- (2) If, for any reasonable cause, it is not possible to submit a manifest in accordance with subsection (1), the manifest must be submitted to the Director within 48 hours after the dangerous goods are loaded onto the vessel or before the vessel departs the place at which the dangerous goods are loaded, whichever is the earlier.

- (3) A person must not include any particulars in the manifest which the person knows or has reason to believe to be—
  - (a) false in any material particular; or
  - (b) misleading by reason of the omission of any material particular.
- (4) If subsection (1) or (2) is contravened, both the owner and the master of the vessel commit an offence and each is liable on conviction to a fine at level 3 and to imprisonment for 2 months.
- (5) A person who contravenes subsection (3) commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 2 months.

**11. Loading or unloading Class 1 dangerous goods onto or from type 1 vessels**

- (1) Unless the Director otherwise permits, Class 1 dangerous goods must not be loaded onto or unloaded from a type 1 vessel at any place within the waters of Hong Kong other than at—
  - (a) the western dangerous goods anchorage; or
  - (b) a place that the Director may from time to time direct.
- (2) If subsection (1) is contravened, the master of the vessel commits an offence and is liable on conviction to a fine at level 4 or to imprisonment for 3 months.
- (3) It is a defence to a charge under subsection (2) if the person charged proves that—
  - (a) the offence was committed without the person's consent or connivance; and
  - (b) having regard to all the circumstances, the person exercised all the due diligence that the person ought to have exercised to prevent the commission of the offence.

**12. Loading or unloading of freight containers containing dangerous goods (other than Class 1 dangerous goods) onto or from type 1 vessels**

- (1) Unless the Director otherwise permits, freight containers containing dangerous goods (other than Class 1 dangerous goods) must not be loaded onto or unloaded from a type 1 vessel at any place within the waters of Hong Kong other than at—
    - (a) an approved container terminal; or
    - (b) a place that the Director may from time to time direct.
  - (2) If subsection (1) is contravened, the master of the vessel commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 3 months.
  - (3) It is a defence to a charge under subsection (2) if the person charged proves that—
    - (a) the offence was committed without the person's consent or connivance; and
    - (b) having regard to all the circumstances, the person exercised all the due diligence that the person ought to have exercised to prevent the commission of the offence.
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## Part 3

### Provisions Relating to Type 2 Vessels

#### 13. Movement generally of type 2 vessels carrying Class 2, 3 or 3A dangerous goods

- (1) Unless the Director otherwise permits, a type 2 vessel carrying on board Class 2, 3 or 3A dangerous goods—
  - (a) must not proceed otherwise than directly to or from—
    - (i) an approved petroleum wharf;
    - (ii) a dangerous goods anchorage (other than the western dangerous goods anchorage); or
    - (iii) a place that the Director may from time to time direct; and
  - (b) must not enter or remain in the part of the harbour that is bounded—
    - (i) on the east, by a straight line drawn on a bearing of 333° True from the position on Hong Kong Island at latitude 22° 17.665' North, longitude 114° 11.977' East to the mainland; and
    - (ii) on the west, by a straight line drawn from the westernmost point of Hong Kong Island to the westernmost point of Green Island, and from there along the west coast of Green Island to the north-westernmost point of Green Island, and then from there to the position on Stonecutters Island at latitude 22° 19.052' North, longitude 114° 07.768' East.
- (2) If subsection (1) is contravened, the master of the vessel commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 3 months.

- (3) It is a defence to a charge under subsection (2) if the person charged proves that—
  - (a) the offence was committed without the person's consent or connivance; and
  - (b) having regard to all the circumstances, the person exercised all the due diligence that the person ought to have exercised to prevent the commission of the offence.
- (4) In this section, a reference to the co-ordinates of a point is a reference to the co-ordinates of that point based on the World Geodetic System 1984 (WGS 84).

**14. Anchoring and berthing of type 2 vessels carrying Class 2, 3 or 3A dangerous goods**

- (1) Unless the Director otherwise permits, a type 2 vessel carrying on board Class 2, 3 or 3A dangerous goods must not anchor or berth at any place within the waters of Hong Kong other than at—
  - (a) an approved petroleum wharf;
  - (b) a dangerous goods anchorage (other than the western dangerous goods anchorage); or
  - (c) a place that the Director may from time to time direct.
- (2) A type 2 vessel carrying on board Class 2, 3 or 3A dangerous goods that has anchored or berthed in accordance with subsection (1) must remain anchored or berthed unless the Director permits or directs otherwise.
- (3) Subsection (2) does not apply if there is an emergency situation or if, to ensure the safety of persons on board the vessel or at the berth, it becomes necessary to move the vessel.
- (4) If subsection (1) or (2) is contravened, the master of the vessel commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 3 months.

- (5) It is a defence to a charge under subsection (4) if the person charged proves that—
  - (a) the offence was committed without the person's consent or connivance; and
  - (b) having regard to all the circumstances, the person exercised all the due diligence that the person ought to have exercised to prevent the commission of the offence.

**15. Movement of type 2 vessels carrying Class 2, 3 or 3A dangerous goods during tropical cyclone**

- (1) Unless the Director otherwise permits, a type 2 vessel carrying on board Class 2, 3 or 3A dangerous goods must not enter the harbour when a tropical cyclone warning signal higher than No. 3 is in force.
- (2) If a tropical cyclone warning signal higher than No. 3 is issued, unless the Director otherwise permits, a type 2 vessel that is in the harbour and is carrying on board Class 2, 3 or 3A dangerous goods must, without delay, leave the harbour.
- (3) If subsection (1) or (2) is contravened, the master of the vessel commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 3 months.
- (4) It is a defence to a charge under subsection (3) if the person charged proves that—
  - (a) the offence was committed without the person's consent or connivance; and
  - (b) having regard to all the circumstances, the person exercised all the due diligence that the person ought to have exercised to prevent the commission of the offence.

**16. Precautions to be taken when Class 3 or 3A dangerous goods in bulk are being handled on board type 2 vessels**

- (1) Subject to subsection (2), when Class 3 or 3A dangerous goods in bulk are being handled on board a type 2 vessel, all openings in the cargo tanks of the vessel with direct access to the open air, except those forming part of the ventilation system of the vessel, must be kept closed.
  - (2) Subsection (1) does not prevent the opening of any ullage or sighting port in the cargo tanks for so long as is necessary to take dips or samples or make observations on condition that the ullage or sighting port is adequately protected by a flame screen that may only be removed for taking dips or samples or making observations.
  - (3) If subsection (1) is contravened, the master of the vessel commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 3 months.
  - (4) It is a defence to a charge under subsection (3) if the person charged proves that—
    - (a) the offence was committed without the person's consent or connivance; and
    - (b) having regard to all the circumstances, the person exercised all the due diligence that the person ought to have exercised to prevent the commission of the offence.
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## Part 4

### Provisions Relating to Type 3 Vessels

#### 17. Application

Sections 18, 20, 23, 25 and 29 do not apply to pyrotechnic special effects materials conveyed in accordance with the requirements specified in the Entertainment Special Effects Ordinance (Cap. 560) by type 3 vessels.

#### 18. Permits required for conveyance of dangerous goods by type 3 vessels

- (1) Except under the authority of a permit granted under section 19, a type 3 vessel must not convey any dangerous goods.
- (2) Subsection (1) does not apply to the conveyance, by type 3 vessels of—
  - (a) any Schedule 2 dangerous goods in packaged form not exceeding the exempt quantity;
  - (b) any Schedule 2 dangerous goods in consumer packs;
  - (c) any Schedule 1 or 2 dangerous goods that are exempt by virtue of the Dangerous Goods (Application and Exemption) Regulation 2012 from the operation of section 6 of the Ordinance in respect of conveyance at sea;
  - (d) any Class 2, 3 or 3A dangerous goods in bulk; or
  - (e) any radioactive substances that are subject to regulation 7 of the Radiation (Control of Radioactive Substances) Regulations (Cap. 303 sub. leg. A).
- (3) If subsection (1) is contravened, the owner of the vessel commits an offence and is liable on conviction to—

- (a) if the dangerous goods being conveyed in contravention of subsection (1) are Class 1 or Schedule 1 dangerous goods, a fine at level 6 and to imprisonment for 3 months; and
- (b) if the dangerous goods being conveyed in contravention of subsection (1) are other dangerous goods, a fine at level 3 and to imprisonment for 2 months.

(4) In this section—

*exempt quantity* (豁免量) means the quantity of Schedule 2 dangerous goods in packaged form that is exempt by virtue of the Dangerous Goods (Application and Exemption) Regulation 2012 from the operation of section 6 of the Ordinance in respect of conveyance at sea;

*packaged form* (有包裝) has the meaning given by section 2 of the Dangerous Goods (Application and Exemption) Regulation 2012.

#### **19. Granting of permit by Director**

- (1) The Director may, on application and payment of the fee specified in Schedule 3, grant to any person a permit authorizing the conveyance of dangerous goods by a type 3 vessel.
- (2) A permit under subsection (1) may be granted in respect of any dangerous goods or any class of dangerous goods.

#### **20. Type 3 vessels carrying Class 1, 2, 3 or 3A or Schedule 1 dangerous goods must not carry other dangerous goods**

- (1) Unless the Director otherwise permits, a type 3 vessel carrying on board Class 1, 2, 3 or 3A or Schedule 1 dangerous goods must not carry any other dangerous goods.

- (2) If without reasonable excuse subsection (1) is contravened, the master of the vessel commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 3 months.

**21. Type 3 vessels must not carry passengers and dangerous goods at same time**

- (1) Subject to subsection (2), unless the Director otherwise permits, a type 3 vessel must not carry passengers and dangerous goods at the same time.
- (2) Subsection (1) does not apply in relation to—
- (a) any dangerous goods mentioned in section 22(2), if section 22(1) does not apply to the possession of those dangerous goods by virtue of section 22(2);
  - (b) Schedule 2 dangerous goods in consumer packs;
  - (c) non-pyrotechnic special effects materials, if section 18(1) does not apply to the conveyance of those materials by virtue of section 18(2)(c) and the requirements in subsection (3) have been complied with;
  - (d) liquefied petroleum gas contained in a cylinder having a water capacity of less than 130 litres or in a combination of cylinders having a combined water capacity of less than 130 litres, if—
    - (i) the conveyance of such liquefied petroleum gas is for and incidental to the production of entertainment special effects within the meaning of the Entertainment Special Effects Ordinance (Cap. 560); and
    - (ii) the requirement in subsection (3)(b) has been complied with; and
  - (e) pyrotechnic special effects materials, if the requirements in subsection (3) have been complied with.

- (3) The requirements mentioned in subsection (2)(c), (d)(ii) and (e) are—
  - (a) the conveyance of the non-pyrotechnic special effects materials or pyrotechnic special effects materials is for and incidental to the production of entertainment special effects; and
  - (b) each passenger on board the vessel is a holder of a special effects operator licence issued under the Entertainment Special Effects Ordinance (Cap. 560).
- (4) If without reasonable excuse subsection (1) is contravened, the master of the vessel commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 3 months.

**22. Passengers on board type 3 vessels used for franchised or licensed service must not possess Class 1 or Schedule 1 dangerous goods**

- (1) A passenger on board a type 3 vessel used for a franchised or licensed service under the Ferry Services Ordinance (Cap. 104) must not possess any Class 1 or Schedule 1 dangerous goods.
- (2) Subsection (1) does not apply to—
  - (a) the possession of manufactured fireworks belonging to Group 7 (firework) specified in Part 1 of Schedule 1 to the Dangerous Goods (Application and Exemption) Regulation 2012 in a quantity not exceeding 5 kilograms; or
  - (b) the possession of safety cartridges, cartridges for small arms or cartridges for any cartridge-operated fixing tool, the conveyance of which is exempt by virtue of the Dangerous Goods (Application and Exemption) Regulation 2012 from the operation of section 6 of the Ordinance.



- (3) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 1 month.
- (4) In this section—  
*cartridge-operated fixing tool* (彈藥筒推動打釘工具) has the meaning given by regulation 2 of the Factories and Industrial Undertakings (Cartridge-Operated Fixing Tools) Regulations (Cap. 59 sub. leg. R).

**23. Type 3 vessels carrying Class 1 or Schedule 1 dangerous goods must not be towed**

- (1) Unless the Director otherwise permits, a vessel must not tow a type 3 vessel that is carrying on board Class 1 or Schedule 1 dangerous goods.
- (2) If without reasonable excuse subsection (1) is contravened, the master of the towing vessel commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 3 months.

**24. Movement of type 3 vessels carrying Class 1, 2, 3, or 3A or Schedule 1 dangerous goods**

- (1) Unless the Director otherwise permits, a type 3 vessel carrying on board Class 1, 2, 3 or 3A or Schedule 1 dangerous goods must not—
  - (a) enter a dock; or
  - (b) carry out in the harbour any repairs, other than running repairs to machinery for the safe operation of the vessel.
- (2) Unless the Director otherwise permits, a type 3 vessel carrying on board Class 1 or Schedule 1 dangerous goods must not be underway in the harbour between the hours of sunset and sunrise, except by reason of stress of weather or other unforeseen circumstances beyond the control of the owner or master of the vessel.

- (3) If subsection (1) or (2) is contravened, the master of the vessel commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 3 months.

**25. Anchoring and berthing of type 3 vessels carrying Class 1 or Schedule 1 dangerous goods**

- (1) Unless the Director otherwise permits, a type 3 vessel carrying on board Class 1 or Schedule 1 dangerous goods must not anchor or berth at any place within the waters of Hong Kong other than at—
- (a) a place authorized by a conveyance permit granted in respect of the dangerous goods or explosives;
  - (b) the western dangerous goods anchorage; or
  - (c) a place that the Director may from time to time direct.
- (2) Despite subsection (1), unless the Director otherwise permits, a type 3 vessel carrying on board freight containers containing Class 1 or Schedule 1 dangerous goods must not anchor or berth at any place within the waters of Hong Kong other than at—
- (a) a place authorized by a conveyance permit granted in respect of the dangerous goods or explosives;
  - (b) the western dangerous goods anchorage;
  - (c) an approved container terminal; or
  - (d) a place that the Director may from time to time direct.
- (3) Unless the Director otherwise permits, a type 3 vessel carrying on board Class 1 or Schedule 1 dangerous goods must not berth alongside another vessel except for the purpose of loading or unloading the dangerous goods or explosives, and then only between the hours of sunrise and sunset and for the period reasonably required for that purpose.

- (4) If subsection (1), (2) or (3) is contravened, the master of the vessel commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 3 months.

**26. Anchoring and berthing of type 3 vessels carrying Class 3 or 3A dangerous goods**

- (1) Subject to subsection (3), unless the Director otherwise permits, a type 3 vessel carrying on board Class 3 or 3A dangerous goods in bulk must not anchor or berth at any place within the waters of Hong Kong other than at—
- (a) an approved petroleum wharf;
  - (b) a dangerous goods anchorage (other than the western dangerous goods anchorage); or
  - (c) a place that the Director may from time to time direct.
- (2) Unless the Director otherwise permits, a type 3 vessel carrying on board Class 3 or 3A dangerous goods in bulk must not berth alongside another vessel except for the purpose of transferring or receiving those dangerous goods as fuel or oily residue to or from the other vessel, and then only for the period reasonably required for that purpose.
- (3) Subsection (1) does not affect the application of section 91 of the Merchant Shipping (Local Vessels) (General) Regulation (Cap. 548 sub. leg. F) in relation to the anchoring, berthing and mooring of a vessel from which or to which bunker is delivered.
- (4) If subsection (1) or (2) is contravened, the master of the vessel commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 3 months.

**27. Movement of type 3 vessels carrying Class 1, 2, 3 or 3A or Schedule 1 dangerous goods during tropical cyclone**

- (1) If a tropical cyclone warning signal higher than No. 3 is issued, unless the Director otherwise permits, a type 3 vessel that is in the harbour and is carrying on board Class 1 or Schedule 1 dangerous goods must, without delay—
  - (a) leave the harbour; or
  - (b) proceed to and remain at the western dangerous goods anchorage until such tropical cyclone warning signal is cancelled.
- (2) If a tropical cyclone warning signal higher than No. 3 is issued, unless the Director otherwise permits, a type 3 vessel that is in the harbour and is carrying on board Class 2, 3 or 3A dangerous goods in bulk must, without delay—
  - (a) leave the harbour;
  - (b) proceed to and remain at a dangerous goods anchorage (other than the western dangerous goods anchorage) until such tropical cyclone warning signal is cancelled; or
  - (c) proceed to and remain at a private mooring laid for mooring a vessel during the passage of a tropical cyclone until such tropical cyclone warning signal is cancelled.
- (3) If subsection (1) or (2) is contravened, the master of the vessel commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 3 months.

**28. Precautions to be taken when Class 3 or 3A dangerous goods in bulk are being handled on board type 3 vessels**

- (1) Subject to subsection (2), when Class 3 or 3A dangerous goods in bulk are being handled on board a type 3 vessel, all openings in the cargo tanks of the vessel with direct

access to the open air, except those forming part of the ventilation system of the vessel, must be kept closed.

- (2) Subsection (1) does not prevent the opening of any ullage or sighting port in the cargo tanks for so long as is necessary to take dips or samples or make observations on condition that the ullage or sighting port is adequately protected by a flame screen that may only be removed for taking dips or samples or making observations.
- (3) If subsection (1) is contravened, the master of the vessel commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 3 months.
- (4) It is a defence to a charge under subsection (3) if the person charged proves that—
  - (a) the offence was committed without the person's consent or connivance; and
  - (b) having regard to all the circumstances, the person exercised all the due diligence that the person ought to have exercised to prevent the commission of the offence.

**29. Trained personnel required to handle dangerous goods on board type 3 vessels**

- (1) The owner of a type 3 vessel carrying dangerous goods must employ a person who holds a valid dangerous goods certificate to supervise the segregation, handling, labelling, securing or stowage of those dangerous goods.
- (2) Subsection (1) does not apply in respect of the dangerous goods or radioactive substances to which section 18(1) does not apply by virtue of section 18(2).
- (3) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 1 month.
- (4) In this section—

*valid dangerous goods certificate* (有效危險品證書) means a certificate granted in respect of a dangerous goods training course recognized by the Director under section 30 and that has not expired.

**30. Recognized training courses**

- (1) The Director may, by notice in writing published in any manner the Director thinks fit, recognize one or more training courses for the purposes of section 29.
  - (2) A person who organizes a training course recognized by the Director under subsection (1) may grant to a person who has satisfactorily completed the course a certificate to that effect.
  - (3) A certificate granted under subsection (2) must specify a date of expiry of the certificate, which date must not exceed 5 years after the date of issue.
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## **Part 5**

### **Miscellaneous**

#### **31. Permits required to discharge fireworks at sea**

- (1) Except under the authority of a permit granted under subsection (2), a person must not discharge or cause to be discharged any fireworks at sea.
- (2) The Director may, on application and payment of the fee specified in Schedule 3, grant to any person a permit authorizing the discharge of fireworks at sea.
- (3) A permit under subsection (2) may be granted in respect of any fireworks or any class of fireworks.
- (4) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 2.

#### **32. Contravention of Director's directions**

If a vessel to which this Regulation applies contravenes a direction given by the Director under section 8, 11, 12, 13, 14, 25 or 26, the master of the vessel commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 3 months.

#### **33. Power of Director to grant exemptions**

- (1) The Director may in respect of dangerous goods at sea, grant an exemption, in respect of a specific case or a specific person, from all or any of the provisions of this Regulation, subject to any conditions the Director specifies.
- (2) The Director may vary or revoke any exemption granted under subsection (1).

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Part 5  
Section 34

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**34. Dangerous Goods (Shipping) Regulations repealed**

The Dangerous Goods (Shipping) Regulations (Cap. 295 sub. leg. C) are repealed.

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## Part 6

### Savings and Transitional Provisions

#### 35. Interpretation

In this Part—

*commencement date* (生效日期) means the date of commencement of this Regulation;

*Repealed Regulations* (《被廢除規例》) means the Dangerous Goods (Shipping) Regulations (Cap. 295 sub. leg. C) as in force immediately before the commencement date.

#### 36. Permissions and permits granted immediately before commencement date

If, immediately before the commencement date, there was in effect a permission or permit granted by the Director under the Repealed Regulations in respect of any substance, material or article, then, on and after that date, the permission or permit is, for the unexpired period of its validity and subject to the same conditions to which it was subject immediately before that date, to be regarded as a permission or permit granted by the Director under this Regulation in respect of the same substance, material or article.

#### 37. Dangerous goods manifests submitted in respect of type 1 vessels under Repealed Regulations

A manifest submitted to the Director immediately before the commencement date under regulation 4 of the Repealed Regulations is to be regarded as a manifest submitted to the Director under section 7 of this Regulation.

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**Schedule 1**

[s. 2]

**Approved Petroleum Wharves**

**Part 1**

**Wharves for Berthing of Type 2 and Type 3 Vessels**

1. The wharves at Tsing Yi Island (west) belonging to Chevron Hong Kong Limited (Tsuen Wan Permanent Pier No. 35).
2. The wharves at Tsing Yi Island (south) belonging to Castle Peak Power Co. Ltd. (Kwai Tsing Permanent Pier No. 36 and No. 37).
3. The wharf at Ap Lei Chau belonging to Shell Hong Kong Limited.
4. The wharf at Chai Wan operated by Sinopec (Hong Kong) Petroleum Holding Company Limited (CWML No. 2).
5. The discharge dolphins at Pak Sha Tau Chau in Tolo Harbour belonging to Hong Kong and China Gas Company Limited.
6. The wharves at Tsing Yi Island (west) belonging to Shell Hong Kong Limited (TYTL No. 108).
7. The wharf of Lok On Pai belonging to Hong Kong Petrochemical Company Limited. (STL No. 739).

8. The wharves at Tsing Yi Island (Southwest) belonging to Exxon Limited (TYTL No. 115).
9. The wharves at Tsing Yi Island belonging to Chevron Hong Kong Limited (Kwai Tsing Permanent Pier No. 34).
10. The wharves at Sha Chau operated by AFSC Operations Limited (TMTL No. 404).
11. The wharves at Tsing Yi Island operated by Sinopec (Hong Kong) Petroleum Holding Company Limited (TYTL No. 127).
12. The wharves at west quay of Hong Kong International Airport operated by AFSC Operations Limited (Chak Lap Kok Lot No. 1 and Extension).
13. The wharves at Tuen Mun belonging to ECO Aviation Fuel Services Limited (TMTL No. 471, Area 38).
14. The wharf at Po Lo Tsui on Lamma Island belonging to The Hongkong Electric Co. Ltd. (DD3 Lot No. 2200).

## **Part 2**

### **Wharves for Berthing of Type 3 Vessels**

1. The wharf at To Kwa Wan belonging to Hong Kong and China Gas Company Limited.
2. The wharf at Tai Tam Tuk Raw Water Pumping Station belonging to the Hong Kong SAR Government.

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3. The wharf at Hong Kong-Macau Ferry Terminal at Central belonging to the Hong Kong SAR Government.
  4. The wharf at Po Lo Tsui on Lamma Island belonging to The Hongkong Electric Co. Ltd.
  5. The wharf of the Castle Peak Power Station at Tap Shek Kok belonging to Castle Peak Power Co. Ltd.
  6. The wharf at Shau Kei Wan belonging to Chevron Hong Kong Limited.
  7. The wharf at Kennedy Town belonging to China Merchants Godown, Wharf and Transportation Company Limited.
  8. The wharf at China Ferry Terminal at Tsim Sha Tsui belonging to the Hong Kong SAR Government.
  9. The wharf at Nim Shue Wan in Discovery Bay operated by Sinopec (Hong Kong) Fuel Oil Company Limited.
  10. The jetty at Aberdeen Marina Club operated by Wah Fu Petroleum Co. Ltd.
  11. The wharf at the Ngong Shuen Chau Barracks.
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**Schedule 2**

[s. 2]

**Approved Container Terminals**

1. The Container Terminal at Tsim Sha Tsui belonging to Wharf (Holdings) Limited.
2. The Container Terminal at Kwai Chung belonging to Modern Terminals Limited.
3. The Container Terminal at Kwai Chung belonging to Hongkong International Terminals Ltd. or its subsidiaries.
4. The Container Terminal at Kwai Chung belonging to CSX World Terminals Hong Kong Limited.
5. The Container Terminal at Kwai Chung Container Terminal 8 (east) belonging to COSCO-HIT Terminals (Hong Kong) Ltd.
6. The Container Terminal at River Trade Terminal, Tuen Mun belonging to River Trade Terminal Co. Ltd. (TMTL No. 393).
7. The Container Terminal at Tsing Yi Container Terminal 9 (north) belonging to Hongkong International Terminals Ltd.
8. The Container Terminal at Tsing Yi Container Terminal 9 (south) belonging to Modern Terminals Limited.

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9. The Container Terminal at Kwai Chung Container Terminal 8 (west) belonging to Asia Container Terminals Ltd.
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Schedule 3

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**Schedule 3**

[ss. 19 & 31]

**Fees**

Item	Description	Amount
1.	Conveyance permit under section 19 for dangerous goods (other than Class 1 dangerous goods)	\$160
2.	Conveyance permit under section 19 for Class 1 dangerous goods	\$195
3.	Firework discharge permit under section 31	\$15

Manda CHAN  
Clerk to the Executive Council

COUNCIL CHAMBER

17 April 2012

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### **Explanatory Note**

The purpose of this Regulation is to provide for the control of dangerous goods conveyed at sea pursuant to the Dangerous Goods Ordinance (Cap. 295) (*Ordinance*).

2. The Regulation is divided into 6 Parts.

#### **Part 1**

3. Part 1 contains preliminary provisions. Section 1 provides for the commencement.
4. Section 2 contains the definitions of words and expressions used in the Regulation.
5. Section 3 defines the meaning of *dangerous goods* in the Regulation.
6. Section 4 provides what is meant by carrying on board Class 2, 3 or 3A dangerous goods (defined in section 2) in relation to type 2 or type 3 vessels (defined in section 2).
7. Section 5 exempts the conveyance of dangerous goods by type 1 (defined in section 2) or type 2 vessels from the operation of section 6 of the Ordinance.
8. Section 6 exempts dangerous goods for personal medical use from the operation of the Regulation.

#### **Part 2**

9. This Part contains provisions relating to type 1 vessels.
10. Section 7 provides that for a type 1 vessel carrying dangerous goods a manifest must be submitted containing the particulars of the dangerous goods to the Director of Marine (*Director*).



## Dangerous Goods (Shipping) Regulation 2012

Explanatory Note  
Paragraph 11

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11. Section 8 restricts the anchoring and berthing of type 1 vessels carrying on board Class 1 dangerous goods (defined in section 2).
12. Section 9 regulates the movement of type 1 vessels carrying on board Class 1 dangerous goods during a tropical cyclone.
13. Section 10 requires a manifest to be submitted to the Director for dangerous goods loaded onto type 1 vessels.
14. Section 11 allows the loading and unloading of Class 1 dangerous goods onto or from type 1 vessels only at specified places.
15. Section 12 allows the loading or unloading of freight containers containing dangerous goods (other than Class 1 dangerous goods) onto or from type 1 vessels only at specified places.

### **Part 3**

16. This Part contains provisions relating to type 2 vessels.
17. Section 13 regulates the movement of type 2 vessels carrying on board Class 2, 3 or 3A dangerous goods.
18. Section 14 restricts the anchoring and berthing of type 2 vessels carrying on board Class 2, 3 or 3A dangerous goods.
19. Section 15 regulates the movement of type 2 vessels carrying on board Class 2, 3 or 3A dangerous goods during a tropical cyclone.
20. Section 16 provides for precautions to be taken while Class 3 or 3A dangerous goods in bulk (defined in section 2) are handled (defined in section 2) on board type 2 vessels.

### **Part 4**

21. This Part contains provisions relating to type 3 vessels.

Dangerous Goods (Shipping) Regulation 2012

Explanatory Note  
Paragraph 22

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22. Section 17 provides that sections 18, 20, 23, 25 and 29 do not apply to pyrotechnic special effects materials (defined in section 2) conveyed in accordance with the requirements specified in the Entertainment Special Effects Ordinance (Cap. 560) by type 3 vessels.
23. Section 18 provides that a permit granted by the Director is required for a type 3 vessel conveying dangerous goods.
24. Section 19 provides that the Director may grant a conveyance permit.
25. Section 20 provides that type 3 vessels carrying on board Class 1, 2, 3 or 3A or Schedule 1 dangerous goods (defined in section 2) must not carry other dangerous goods at the same time.
26. Section 21 provides that type 3 vessels must not carry on board passengers and dangerous goods at the same time.
27. Section 22 provides that passengers on board a type 3 vessel used for a franchised or licensed service under the Ferry Services Ordinance (Cap. 104) must not possess any Class 1 or Schedule 1 dangerous goods.
28. Section 23 provides that a vessel must not tow type 3 vessels carrying on board Class 1 or Schedule 1 dangerous goods.
29. Section 24 restricts the movement of type 3 vessels carrying on board Class 1, 2, 3 or 3A or Schedule 1 dangerous goods.
30. Sections 25 and 26 restrict the anchoring and berthing of type 3 vessels carrying on board Class 1, 3 or 3A or Schedule 1 dangerous goods.
31. Section 27 regulates the movement of type 3 vessels carrying on board Class 1, 2, 3 or 3A or Schedule 1 dangerous goods during a tropical cyclone.

## Dangerous Goods (Shipping) Regulation 2012

Explanatory Note  
Paragraph 32

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32. Section 28 provides for precautions to be taken while Class 3 or 3A dangerous goods in bulk are handled on board type 3 vessels.
33. Section 29 requires the employment of trained personnel to supervise the handling of dangerous goods carried on board type 3 vessels.
34. Section 30 provides for the recognition of dangerous goods training courses.

### **Part 5**

35. This Part contains miscellaneous provisions.
36. Section 31 provides that a permit granted by the Director is required for the discharge of fireworks at sea.
37. Section 32 provides that any contravention of the Director's directions under the Regulation is an offence.
38. Section 33 empowers the Director to exempt a specific case or a specific person from the provisions of the Regulation.
39. Section 34 repeals the Dangerous Goods (Shipping) Regulations (Cap. 295 sub. leg. C).

### **Part 6**

40. Sections 35, 36 and 37 provide for savings and transitional provisions.

### **Schedules**

41. Part 1 of Schedule 1 provides for a list of approved petroleum wharves (defined in section 2), and Part 2 of the Schedule provides for a list of wharves for the berthing of type 3 vessels.

Dangerous Goods (Shipping) Regulation 2012

Explanatory Note  
Paragraph 42

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42. Schedule 2 provides for a list of approved container terminals (defined in section 2).
43. Schedule 3 provides for the amount of the fees payable under the Regulation.