

**MERCHANT SHIPPING (SAFETY) ORDINANCE 1981**

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**HONG KONG**

No. 63 OF 1981

I assent.

L.S.

JACK CATER,

*Acting Governor.*

23 July 1981.

An Ordinance to consolidate and amend the law relating to the safety of merchant shipping and for purposes connected therewith.

[ 25 Nov., 1981 ]

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

## PART I

## PRELIMINARY

Short title and commencement.

1. This Ordinance may be cited as the Merchant Shipping (Safety) Ordinance 1981 and shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*, and notices under this section may appoint different dates for different provisions of this Ordinance.

Interpretation.

2. (1) In this Ordinance, unless the context otherwise requires—

“cargo ship construction and survey regulations” means the regulations made, or deemed to be made, under section 96;

“collision regulations” means the regulations made, or deemed to be made, under section 93;

“Convention” means the International Convention for the Safety of Life at Sea signed in London on 1 November 1974;

“court of survey” means a court of survey appointed under section 74;

“dangerous goods” means any of the goods or substances to which the Dangerous Goods Ordinance applies;

“Director” means the Director of Marine;

“fire-fighting appliances regulations” means the regulations made, or deemed to be made, under section 99;

“life-saving appliances regulations” means the regulations made, or deemed to be made, under section 99;

“master” includes every person (except a pilot) having command or charge of any ship;

“Merchant Shipping Acts” means the Merchant Shipping Acts 1894 to 1979 and any United Kingdom enactment amending or replacing those Acts;

“navigational equipment regulations” means the regulations made, or deemed to be made, under section 98;

“owner” includes a charterer by demise;

(Cap. 295.)

Ordinance not  
disallowed—see  
G.N. 2854/81

LW 366/81

“passenger” means any person carried in a ship, except—

- (a) a person employed or engaged in any capacity on board the ship on the business of the ship;
- (b) a person on board the ship either in pursuance of the obligation laid upon the master to carry ship-wrecked, distressed or other persons, or by reason of any circumstances which neither the master nor the owner could have prevented or forestalled; and
- (c) a child under 1 year of age;

“passenger ship” means a ship carrying more than 12 passengers;

“passenger ship construction regulations” means the regulations made, or deemed to be made, under section 94;

“radio regulations” means the regulations made, or deemed to be made, under section 97;

“ship” includes any vessel used in navigation other than a vessel propelled by oars or a junk;

“tons” and “tonnage” mean tons and tonnage as calculated according to British measurement of registered tonnage;

“waters of Hong Kong” means all tidal waters, navigable or not, within the boundaries of Hong Kong specified in the Second Schedule to the Interpretation and General Clauses Ordinance.

(Cap. 1.)

(2) If any amendment or any Protocol to the Convention, or the Convention of 1966 referred to in Part IV, comes into force or if any Convention replaces either Convention references in this Ordinance to those Conventions shall, unless the context otherwise requires, be construed as references to the Conventions as amended or replaced.

3. This Ordinance shall apply to all ships except—

Application.

- (a) ships of war;
- (b) fishing vessels;
- (c) pleasure vessels; and
- (d) vessels required to be licensed under Part IV of the Shipping and Port Control Ordinance.

(Cap. 313.)

## PART II

### SURVEY AND CERTIFICATES

#### *Preliminary*

4. (1) In this Part, unless the context otherwise requires—

Interpretation.

“accepted Convention certificate” means a certificate in the form prescribed by the Convention or by the Protocol of 1978 relating to the Convention;

“cargo ship safety construction certificate” means a certificate issued under section 21(1);

“cargo ship safety equipment certificate” means a certificate issued under section 17(1);

“cargo ship safety radio certificate” means a certificate issued under section 18(1);

“Convention country” means—

- (a) a country the government of which has been declared by Her Majesty in Council to have accepted the Convention, and has not been so declared to have denounced the Convention; or
- (b) a territory to which it has been so declared that the Convention extends, not being a territory to which it has been so declared that the Convention has ceased to extend;

“Convention ship” means a ship registered in a Convention country and “Convention passenger ship” shall be construed accordingly;

“declaration of survey” means a declaration under section 10 or 11;

“general safety certificate” means a certificate issued under section 15(1) in respect of a passenger ship registered in Hong Kong;

“international voyage” means a voyage from a port in one country to a port in another country, either of those countries being a Convention country;

“passenger certificate” means a certificate issued under section 14;

“qualified cargo ship safety construction certificate” means a certificate issued under section 21(3)(a)(ii) or 21(3)(b);

“qualified cargo ship safety radio certificate” means a certificate issued under section 18(2)(i);

“qualified safety certificate” and “qualified short voyage safety certificate” mean a certificate issued under section 15(2)(ii);

“qualified cargo ship safety equipment certificate” means a certificate issued under section 17(2)(ii);

“short international voyage” means an international voyage—

- (a) in the course of which a ship is not more than 200 nautical miles from a port or place in which the passengers and crew could be placed in safety; and
- (b) which does not exceed 600 nautical miles in length between the last port of call in the country in which the voyage begins and the final port of destination;

“short voyage safety certificate” means a certificate issued under the proviso to section 15(1).

(2) For the purposes of the definitions of “international voyage” and “short international voyage”—

- (a) no account shall be taken of any deviation by a ship from its intended voyage due solely to stress of weather or any other circumstances that neither the master nor the owner of the ship could have prevented or forestalled; and
- (b) every colony, overseas territory, protectorate or other territory for whose international relations a government is responsible or for which the United Nations are the administering authority shall be deemed to be a separate country.

Appointment  
of Government  
surveyors.

5. (1) The Secretary for Economic Services may appoint persons to be Government surveyors for the purposes of this Ordinance.

(2) Persons appointed as Government surveyors may be appointed as ship surveyors, nautical surveyors, engineer surveyors or radio surveyors, or in more than one of such capacities.

Powers and  
duties of  
Government  
surveyors.

6. (1) For the purpose of ensuring that this Ordinance has been complied with, a Government surveyor may at all reasonable times go on board a ship and inspect the ship and its equipment or any part thereof, any articles on board, and any document carried in the ship in pursuance



of this Ordinance, the Merchant Shipping Acts or rules or regulations made thereunder.

(2) In making an inspection under this section, a Government surveyor shall have all the powers conferred by section 115.

(3) A Government surveyor may inspect any ship under this section notwithstanding that it may be exempt from any provision of this Ordinance.

7. (1) A Government surveyor shall make such returns to the Director as he may require with respect to the build, dimensions, draught, cubic capacity, speed, fuel capacity, and the nature and particulars of machinery and equipment, and specifying the number of the certificated officers and seamen of ships surveyed by him.

Returns by Government surveyors.

(2) The owner, master and engineer of any ship so surveyed shall, on demand, give to the surveyor all such information and assistance within his power as he may require for the purpose of a return under subsection (1).

(3) Any owner, master or engineer who fails without reasonable excuse to comply with a demand under subsection (2) commits an offence and is liable to a fine of \$5,000.

8. (1) The Secretary for Economic Services may approve any organization for the purposes of surveying ships and issuing certificates under this Part.

Approval of organizations to survey ships and issue certificates.

(2) Every certificate issued by any organization approved by the Secretary for Economic Services under subsection (1) shall have effect for the purposes of this Ordinance as if it had been issued by the Director.

### Surveys

9. (1) Subject to subsection (2), every passenger ship shall be surveyed at intervals of not more than 12 months in the manner provided in this Part.

Annual survey of passenger ship.

(2) Subsection (1) shall not apply to Convention passenger ships plying on international voyages which hold accepted Convention certificates.

(3) No passenger ship shall clear outwards or proceed on any voyage from Hong Kong unless the master has the certificates as to survey required under this Part which are in force and applicable to the voyage on which the ship is about to proceed.

(4) Any passenger ship attempting to go to sea may be detained until the certificates mentioned in subsection (3) are produced to the Director.

10. (1) The owner or master of a passenger ship to which section 9 applies shall have the ship surveyed by a Government surveyor.

Mode of survey and declaration of survey.

(2) The surveyor conducting a survey under subsection (1) shall, if satisfied that he can properly do so, complete a declaration of survey in such form as the Director may approve and forward the completed declaration to the Director.

(3) A declaration of survey under subsection (2) shall state—

- (a) the limits, if any, beyond which the ship is not fit to ply; and
- (b) the number of passengers which the ship is fit to carry, distinguishing, if necessary, the numbers to be carried on the deck and in the cabins,

and shall, if the circumstances so require, state any conditions and variations, according to the time of year, the nature of the voyage, the cargo carried, or other circumstances to which that number is subject.

(4) If in the opinion of the surveyor a passenger ship is fit to ply on international voyages while engaged in a special trade for the carriage of large numbers of special trade passengers, such as the pilgrim trade, his declaration of survey under subsection (2) shall so state.

Survey of ships other than passenger ships.

11. (1) The owner or master of a ship to which this section applies shall have the ship surveyed to such extent, in such manner and at such intervals as may be prescribed by the cargo ship construction and survey regulations.

(2) The surveyor conducting a survey under subsection (1) shall, if satisfied that he can properly do so, complete a declaration of survey and forward the completed declaration to the Director.

(3) This section applies to—

(a) ships of not less than 500 tons gross tonnage;

(b) ships of not less than such lower tonnage and of such description as the Governor with the consent of the Secretary of State for Trade may by order specify;

(c) ships not registered in Hong Kong only while they are in the waters of Hong Kong and are not exempt from the cargo ship construction and survey regulations,

other than passenger ships.

Appeal to court of survey.

12. (1) If an owner or master is aggrieved—

(a) by a declaration of a surveyor under this Part, or by the refusal of a surveyor to give the said declaration; or

(b) by the refusal of a certificate of clearance under this Ordinance, the owner or master may appeal, in the manner prescribed by regulations, to a court of survey, and upon the constitution thereof by the Governor such court may make such order with respect to the costs of any such investigation as it thinks fit, and such costs shall be paid accordingly, and shall be recoverable in the same manner as costs in summary proceedings before any magistrate.

(2) On such appeal, the court of survey shall report to the Governor on the question raised by the appeal, and the Governor, when satisfied that the requirements of the report and this Ordinance and any other enactment have been complied with, may require the Director to give the certificates required.

No appeal in certain cases.

13. Where the survey of a ship is made for the purpose of a declaration under this Part, the person appointed to make the survey shall, if so required by the owner or master, be accompanied on the survey by some competent person appointed by the owner or master, to be approved by the Director, and in such case, if those 2 persons agree, there shall be no appeal to the court of survey as provided by section 12.

#### *Issue of certificates*

Issue of passenger certificate.

14. If the Director, on receipt of a declaration of survey under section 10 in respect of a passenger ship, is satisfied that this Part has been complied with, he shall, on the application of the owner, agent or master, issue a passenger certificate stating such compliance and stating the terms of the declaration in accordance with section 10(3) and (4).

15. (1) If the Director, on receipt of a declaration of survey in respect of a passenger ship registered in Hong Kong is satisfied—

Issue for passenger ships of safety certificates and exemption certificates.

- (a) that the ship complies with the passenger ship construction regulations, the life-saving appliances regulations, the fire-fighting appliances regulations, the radio regulations and the navigational equipment regulations applicable to the ship and to such international voyages as it is to be engaged on; and
- (b) that it is properly provided with the lights, shapes and means of making sound signals required by the collision regulations,

He shall, on the application of the owner, agent or master, issue in respect of the ship a general safety certificate showing that the ship complies with the requirements of the Convention applicable to such ship and such voyage:

Provided that if the voyages on which the ship is to be engaged are short international voyages and it complies only with such of those regulations as are applicable to those voyages, the certificate shall show that the ship complies with the requirements of the Convention applicable to it as a ship plying on short international voyages.

(2) If the Director, on receipt of a declaration of survey in respect of a passenger ship to which subsection (1) applies, is satisfied that—

- (a) the ship is exempt, by virtue of any exercise by him of a power in that behalf conferred on him by this Ordinance or conferred on him by regulations made under this Ordinance, from any of the requirements of the passenger ship construction regulations, the life-saving appliances regulations, the fire-fighting appliances regulations, the radio regulations or the navigational equipment regulations applicable to the ship and to such international voyages as it is to be engaged on, whether short voyages or otherwise;
- (b) it complies with the rest of those requirements; and
- (c) it is properly provided with the lights, shapes and means of making sound signals required by the collision regulations,

He shall, on the application of the owner, agent or master, issue in respect of the ship—

- (i) an exemption certificate stating which of the requirements of the Convention applicable as aforesaid the ship is exempt from and that the exemption is conditional on the ship's plying only on the voyages and being engaged only in the trades and complying with the other conditions (if any) specified in the certificate; and
- (ii) a qualified safety certificate or a qualified short voyage safety certificate, as the case may be, showing that the ship complies with the rest of those requirements.

16. (1) If, on any international voyage, a passenger ship registered in Hong Kong in respect of which a safety certificate is in force has on board a total number of persons less than the number stated in that certificate to be the number for which the life-saving appliances on the ship provide, the Director may, at the request of the owner, agent or master of the ship, issue a memorandum stating—

Modification of safety certificate in respect of life-saving appliances.

- (a) the total number of persons carried on the ship on that voyage; and
- (b) the consequent modification which may be made for the purpose of that voyage in the particulars with respect to life-saving appliances stated in the certificate.

- (2) Any memorandum issued under subsection (1) shall—
- (a) be annexed to the certificate to which it relates; and
  - (b) be submitted to the Director at the end of the voyage to which it relates.

(3) If a memorandum issued under subsection (1) is not submitted to the Director at the end of the voyage to which it relates the master of the ship commits an offence and is liable to a fine of \$2,000.

Issue for cargo ships of safety equipment certificates and exemption certificates.

**17.** (1) If the Director, on receipt of a declaration of survey in respect of a ship registered in Hong Kong not being a passenger ship, is satisfied—

- (a) that the ship complies with the life-saving appliances regulations and the fire-fighting appliances regulations applicable to the ship and to such international voyages as it is to be engaged on; and
- (b) that it is properly provided with the lights, shapes and means of making sound signals required by the collision regulations,

he shall, on the application of the owner, agent or master, issue in respect of the ship a cargo ship safety equipment certificate showing that the ship complies with such of the requirements of the Convention relating to those matters as are applicable as aforesaid.

(2) If the Director, on receipt of a declaration of survey in respect of a ship to which subsection (1) applies, is satisfied that—

- (a) the ship is exempt, by virtue of any exercise by him of a power in that behalf conferred on him by this Ordinance or conferred on him by the life-saving appliances regulations and the fire-fighting appliances regulations, from any of the requirements of those regulations applicable to the ship and to such international voyages as it is to be engaged on;
- (b) it complies with the rest of those requirements; and
- (c) it is properly provided with the lights, shapes and means of making sound signals required by the collision regulations,

he shall, on the application of the owner, agent or master, issue in respect of the ship—

- (i) an exemption certificate stating which of the requirements of the Convention, being requirements the subject of the life-saving appliances regulations and the fire-fighting appliances regulations and applicable as aforesaid, the ship is exempt from, and that the exemption is conditional on the ship's plying only on the voyages and complying with the other conditions (if any) specified in the certificate; and
- (ii) a qualified cargo ship safety equipment certificate showing that the ship complies with the rest of those requirements.

Issue for cargo ships of radio certificates and exemption certificates.

**18.** (1) If the Director, on receipt of a declaration of survey in respect of a ship registered in Hong Kong not being a passenger ship, is satisfied that the ship complies with the radio regulations and the navigational equipment regulations applicable to the ship and to such international voyages as it is to be engaged on, he shall, on the application of the owner, agent or master, issue in respect of the ship a cargo ship safety radio certificate showing that the ship complies with such of the requirements of the Convention relating to radiotelegraphy, radiotelephony, radio navigational aids and direction-finders as are applicable.

(2) If the Director, on receipt of a declaration of survey in respect of a ship to which subsection (1) applies, is satisfied—

- (a) that the ship is exempt, by virtue of any exercise by him of a power in that behalf conferred on him by this Ordinance or conferred on him by the regulations in question, from any of the requirements of the radio regulations or the navigational equipment regulations applicable to the ship and to such international voyages as it is to be engaged on; and
- (b) that it complies with the rest of the requirements of those regulations,

he shall, on the application of the owner, agent or master, issue in respect of the ship—

- (i) an exemption certificate stating which of the requirements of the Convention relating to radiotelegraphy, radiotelephony, radio navigational aids and direction-finders, being requirements applicable as aforesaid, the ship is exempt from, and that the exemption is conditional on the ship's plying only on the voyages and complying with the other conditions (if any) specified in the certificate; and
- (ii) a qualified cargo ship safety radio certificate showing that the ship complies with the rest of those requirements.

(3) Where any ship registered in Hong Kong is wholly exempt from the requirements of the radio regulations and the navigational equipment regulations, the Director shall, on the application of the owner, agent or master, issue an exemption certificate stating that the ship is wholly exempt from the requirements of the Convention relating to radiotelegraphy, radiotelephony, radio navigational aids and direction-finders and specifying the voyages on which, and conditions (if any) on which, the ship is so exempt.

19. Where a cargo ship safety radio certificate or qualified cargo ship safety radio certificate is in force in respect of a ship of less than 500 tons gross tonnage, other than a passenger ship, and the ship is surveyed by a Government surveyor at a time not earlier than 2 months before the end of the period for which the certificate is in force, then, if on receipt of the declaration of survey a new certificate is issued before the end of that period—

- (a) the current certificate may be cancelled; and
- (b) the new certificate may, notwithstanding anything in section 26, be issued for a period ending not later than 12 months after the end of the first-mentioned period.

20. Where a ship complies with all the requirements of the passenger ship construction regulations, the life-saving appliance regulations, the fire-fighting appliances regulations, the radio regulations and the navigational equipment regulations applicable to the ship and to the voyages on which it is to be engaged so far as those requirements are requirements of the Convention applicable as aforesaid, the Director may issue in respect of the ship a general safety certificate, short voyage safety certificate, cargo ship safety equipment certificate or cargo ship safety radio certificate, as the case may be, notwithstanding that it is exempt from, or for some other reason does not comply with, any requirements of those regulations which are not applicable requirements of the Convention.

Renewal of radio certificates for small cargo ships.

Issue of general safety certificates, etc. on partial compliance with regulations.

Cargo ship  
safety construc-  
tion certificates  
and exemption  
certificates.

21. (1) If the Director is satisfied, on receipt of a declaration of survey in respect of a ship to which section 11 applies and which is registered in Hong Kong, that the ship complies with the cargo ship construction and survey regulations applicable to the ship and such voyages as it is to be engaged on, he shall, on the application of the owner, agent or master, issue in respect of the ship—

- (a) if the ship is of not less than 500 tons gross tonnage and is to be engaged on international voyages, a cargo ship safety construction certificate in the form prescribed by the Convention or by the Protocol of 1978 relating to the Convention;
- (b) in any other case, a cargo ship safety construction certificate showing that it complies with the said regulations.

(2) If the Director, on receipt of a declaration of survey in respect of such a ship, is satisfied that—

- (a) the ship is exempt, by virtue of any exercise by him of a power in that behalf conferred on him by this Ordinance or the cargo ship construction and survey regulations, from any of the requirements of those regulations applicable to the ship and to such voyages as it is to be engaged on; and
- (b) it complies with the rest of those requirements,

he shall, on the application of the owner, agent or master, issue specified certificates in respect of the ship.

(3) The specified certificates referred to in subsection (2) shall be—

- (a) if the ship is of not less than 500 tons gross tonnage and is to be engaged on international voyages—
  - (i) an exemption certificate stating which of the requirements of the Convention, being requirements implemented by the regulations and applicable as aforesaid, the ship is exempt from and that the exemption is conditional on the ship's plying on the voyages and complying with the other conditions (if any) specified in the certificate; and
  - (ii) a qualified cargo ship safety construction certificate showing that the ship complies with the rest of those requirements;
- (b) in any other case, a qualified cargo ship safety construction certificate showing that the ship complies with such of the requirements of the cargo ship construction and survey regulations applicable to the ship and to the voyages it is to be engaged on as it is not exempt from.

Delivery of  
certificate and  
declarations.

22. (1) The Director shall, upon the completion of any certificate under this Part, deliver such certificate in duplicate to the owner, agent or master applying for the certificate upon the payment of such fees as may be prescribed.

(2) Any declaration of survey shall be produced for the inspection of the owner, agent or master of the ship to which the declaration relates.

Notice of  
alterations and  
additional  
surveys.

23. (1) The owner or master of a ship in respect of which any certificate issued under this Part is in force shall, as soon as possible, after any alteration is made—

- (a) in the ship's hull, equipment or machinery affecting the efficiency thereof or the seaworthiness of the ship; or
- (b) in the appliances or equipment required by the life-saving appliances regulations, the fire-fighting appliances regulations, the

radio regulations, the navigational equipment regulations or the collision regulations to be carried by the ship, being an alteration affecting the efficiency or completeness of those appliances or equipment,

given written notice to the Director containing full particulars of the alteration.

(2) If notice of any alteration is not given as required by this section, the owner or master of the ship commits an offence and is liable to a fine of \$10,000 and to imprisonment for 6 months.

(3) If the Director has reason to believe that since the making of the last declaration of survey in respect of any ship to which subsection (1) applies—

- (a) any such alteration has been made as is mentioned in subsection (1);
- (b) the hull, equipment or machinery of the ship have sustained any damage or are otherwise insufficient; or
- (c) the appliances or equipment of the ship referred to in subsection (1)(b) have sustained any damage or are otherwise insufficient,

he may, without prejudice to his powers under section 27, require the ship to be surveyed again as he thinks fit, and, if such requirement is not complied with, may cancel any certificate issued in respect of the ship under this Part.

(4) The power of the Director under subsection (3) to cancel a certificate shall be exercisable also where a ship has not been submitted for survey as required by the cargo ship construction and survey regulations.

(5) For the purposes of this section, "alteration" in relation to anything includes the renewal of any part of it.

24. (1) The owner or master of every ship shall forthwith on the receipt by him of a certificate under this Part cause one of the duplicates to be exhibited in some conspicuous part of the ship so as to be visible to all persons on board and shall cause it to continue to be exhibited so long as it remains in force and such ship is in use.

Certificates to be exhibited.

(2) If subsection (1) is not complied with, the owner or master concerned commits an offence unless he has a reasonable excuse, and is liable to a fine of \$5,000.

(3) For the purposes of subsection (2)—

- (a) compliance by the owner or master shall be deemed to be compliance by both of them; and
- (b) an owner or master does not have a reasonable excuse by reason only that he has delegated his responsibility to his agent.

25. (1) No ship registered in Hong Kong shall proceed to sea on an international voyage unless there is in force in respect of the ship—

- (a) if it is a passenger ship, a passenger certificate, a general safety certificate, a short voyage safety certificate, a qualified safety certificate or a qualified short voyage safety certificate which, subject to subsection (5), is applicable to the voyage on which the ship is about to proceed and to the trade in which it is for the time being engaged;

Prohibition on proceeding to sea without appropriate certificates.

- (b) if it is a ship to which section 11 applies—
- (i) a cargo ship safety equipment certificate or a qualified cargo ship safety equipment certificate; and
  - (ii) a cargo ship safety radio certificate or a qualified cargo ship safety radio certificate or an exemption certificate stating that it is wholly exempt from the requirements of the Convention relating to radiotelegraphy, radiotelephony, radio navigational aids and direction-finders; and
  - (iii) a cargo ship safety construction certificate or a qualified cargo ship safety construction certificate, applicable to the ship and the voyage on which it is about to proceed.
- (2) For the purposes of subsection (1)—
- (a) subsection (1)(b) shall not prohibit a ship from proceeding to sea if there is in force in respect of the ship such certificate or certificates as would be required if it were a passenger ship;
  - (b) a qualified certificate shall not be deemed to be in force in respect of a ship unless there is also in force in respect of the ship the corresponding exemption certificate; and an exemption certificate shall be of no effect unless it is by its terms applicable to the voyage on which the ship is about to proceed.
- (3) If any ship proceeds, or attempts to proceed to sea in contravention of this section the owner or master of the ship, without prejudice to any other penalty under this Ordinance, commits an offence and is liable to a fine of \$10,000.

(4) The owner, agent or master of any ship to which this section applies shall produce to the Director, at the time a clearance for the ship is demanded for an international voyage, the certificate or certificates required under this section to be in force when the ship proceeds to sea; and a clearance shall not be granted, and the ship may be detained, until such certificate or certificates are produced.

(5) Where the Director permits any passenger ship in respect of which there is in force a short voyage safety certificate, whether qualified or not, to proceed to sea on an international voyage from Hong Kong not exceeding 1,200 nautical miles in length between Hong Kong and the final port of destination, the certificate shall for the purposes of this section be deemed to be applicable to the voyage on which the ship is about to proceed notwithstanding that the voyage exceeds 600 nautical miles between Hong Kong and such port.

(6) Where an exemption certificate issued in respect of any ship registered in Hong Kong specifies any conditions on which the certificate is issued and any of those conditions is not complied with, the owner or master of the ship commits an offence and is liable to a fine of \$10,000.

Duration of certificates.

26. (1) A passenger certificate, a general safety certificate, a radio certificate or an exemption certificate under section 18(3) shall remain in force for 1 year from the date of its issue or for such shorter period as may be specified in the certificate.

(2) A cargo ship safety equipment certificate shall remain in force for 2 years from its date of issue or for such shorter period as may be specified in the certificate.

(3) A cargo ship safety construction certificate shall remain in force for 5 years from its date of issue or for such shorter period as may be specified in the certificate.



(4) Notwithstanding subsections (1), (2) and (3), no certificate referred to in those subsections shall remain in force after notice is given by the Director to the owner or master of the ship in respect of which it has been issued that the Director has cancelled the certificate.

(5) An exemption certificate, other than one under section 18(3), shall remain in force for the same period as the corresponding qualified certificate.

(6) If any ship is absent from Hong Kong at the time of expiry of any certificate issued under this Part, no penalty shall be incurred until the ship commences a voyage after the next departure from any port.

27. (1) The Director may cancel any certificate issued in respect of any ship under this Part, where he has reason to believe that— Cancellation of certificates.

- (a) any declaration of survey on which the certificate was founded has in any material particular been made fraudulently or erroneously;
- (b) the certificate has been issued upon false or erroneous information;
- (c) since the making of the declaration of survey, the hull, equipment or machinery of the ship has or have sustained any damage or is or are otherwise insufficient;
- (d) any condition on which the certificate has been issued has been contravened;
- (e) the master of the ship is not exercising, or is not permitted to exercise, proper control of the ship.

(2) Where a certificate is cancelled under subsection (1) the Director may require the owner or master of the ship to which the certificate referred to have the hull, equipment or machinery of the ship again surveyed and may require the surveyor to complete a further declaration of survey before he re-issues the certificate or issues a fresh one in place thereof.

28. (1) The Director may require any certificate issued under this Part which has expired or has been cancelled to be delivered up as he directs. Delivery up of certificates.

(2) Any owner or master who fails, without reasonable excuse, to comply with a requirement under subsection (1) commits an offence and is liable to a fine of \$5,000.

29. (1) Subject to subsection (2) the Director may grant an extension of any certificate issued under this Part in respect of a ship registered in Hong Kong for a period not exceeding 1 month from the date when the certificate would, but for the extension, have expired, or, if the ship is absent from Hong Kong on that date, for a period not exceeding 5 months from that date. Extension of certificates.

(2) Without prejudice to subsection (1), where a certificate under section 21 is in force in respect of a ship and the certificate was issued for a shorter period than is allowed under section 26(3), the Director may, if satisfied on receipt of a declaration of survey in respect of the ship that it is proper to do so, grant an extension of the certificate for a period not exceeding 1 year, and not exceeding, together with the period for which it was issued and any period by which it has been previously extended under this subsection, the longest period for which it could have been issued under section 26(3).

Miscellaneous provisions.

**30.** (1) Any general safety certificate or short voyage safety certificate, whether qualified or not, may be combined in one document with a passenger certificate.

(2) Any certificate issued by the Director under this Part may be signed on his behalf by any person authorized by him for the purpose, and a certificate purporting to be so signed shall be admissible in evidence in like manner as if it had been signed by the Director.

Issue of certificate at request of Director.

**31.** (1) The Director may request the government of a country to which the Convention applies to issue in respect of a ship registered in Hong Kong any certificate the issue of which is authorized under this Ordinance; and a certificate issued in pursuance of such a request and containing a statement that it has been so issued shall have effect for the purposes of this Part as if it had been issued by the Director and not by the government of that country.

(2) Where a government is willing to issue, pursuant to a request under subsection (1), a qualified certificate in respect of a ship but is not willing to issue the corresponding exemption certificate, the Director may issue that exemption certificate in respect of the ship.

Forgery of certificates.

**32.** If any person—

- (a) knowingly and wilfully makes, or assists in making, or procures to be made, a false or fraudulent declaration or certificate required by or under this Ordinance; or
- (b) forges, assists in forging, procures to be forged, fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any such declaration or certificate, or anything contained in, or any signature to any such declaration or certificate,

he commits an offence and is liable to a fine of \$50,000 and to imprisonment for 2 years.

*Convention ships of other countries*

Certificates of Convention ships not registered in Hong Kong.

**33.** (1) The Director may, at the request of the government of a country to which the Convention applies, issue in respect of a ship registered in that country any certificate the issue of which in respect of ships registered in Hong Kong is authorized under this Part if he is satisfied that it is proper for him to do so; and a certificate issued in pursuance of such a request and containing a statement that it has been so issued shall have effect for the purposes of this Part as if it had been issued by that government and not by the Director.

(2) A Government surveyor, for the purpose of verifying—

- (a) that there is in force in respect of a Convention ship not registered in Hong Kong an accepted Convention certificate; or
- (b) that the condition of the hull, equipment and machinery of any such Convention ship corresponds substantially with the particulars shown in such a certificate; or
- (c) except where such a certificate states that the ship is wholly exempt from the provisions of the Convention relating to radiotelegraphy, radiotelephony and navigational equipment, that the number, grades and qualifications of radio officers or operators on board correspond with those shown in the certificate; or

- (d) that any conditions on which such a certificate, being the equivalent of an exemption certificate, is issued are complied with,

shall have all the powers conferred by section 115.

(3) Where there is attached to an accepted Convention certificate in respect of a Convention passenger ship not registered in Hong Kong a memorandum which—

- (a) has been issued by or under the authority of the government of the country in which the ship is registered; and  
 (b) modifies for the purpose of any particular voyage, in view of the number of persons carried on that voyage, the particulars stated in the certificate with respect to life-saving appliances,

the certificate shall have effect for the purpose of that voyage as if it were modified in accordance with the memorandum.

(4) Where an accepted Convention certificate is produced in respect of a Convention passenger ship not registered in Hong Kong—

- (a) the ship shall not be required to be surveyed under this Ordinance by a Government surveyor except for the purpose of determining the number of passengers that it is fit to carry;  
 (b) on receipt of any declaration of survey for the purpose aforesaid, the Director shall issue a certificate containing only the statement of the particulars relating to the number of passengers the ship is fit to carry; and a certificate so issued shall have effect as a passenger certificate.

(5) Where there is produced in respect of any such passenger ship as aforesaid an accepted Convention certificate, and also a certificate issued by or under the authority of the government of the country in which the ship is registered showing the number of passengers that the ship is fit to carry, and the Director is satisfied that that number has been determined substantially in the same manner as in the case of a passenger ship registered in Hong Kong, he may if he thinks fit dispense with any survey of the ship for the purpose of determining the number of passengers that it is fit to carry and direct that the last-mentioned certificate shall have effect as a passenger certificate.

34. (1) The master of every Convention ship not registered in Hong Kong shall produce to the Director, at the time a clearance for the ship is demanded in respect of an international voyage from Hong Kong, accepted Convention certificates that are the equivalent of the certificates issued by the Director under this Ordinance that would be required to be in force in respect of the ship if it were a ship registered in Hong Kong; and a clearance shall not be granted, and the ship may be detained, until such certificates are so produced.

Further provisions as to the production of Convention certificates.

(2) For the purposes of section 33 an accepted Convention certificate being the equivalent of—

- (a) a qualified certificate; or  
 (b) an exemption certificate, other than a certificate under section 18(3),

shall not be accepted unless there is also produced the corresponding exemption certificate or qualified certificate, as the case may be.

*Exemption of certain ships from this Part*Exemption of  
certain ships.**35. (1) Nothing in this Part—**

- (a) prohibiting or preventing a ship from proceeding to sea unless there are in force in relation to the ship, or are produced, the appropriate certificates issued by the Director under this Part or the appropriate accepted Convention certificates; or
- (b) conferring powers on a Government surveyor for the purpose of verifying the existence, validity or correctness of any Convention certificate or that the conditions on which any such certificate was issued are complied with,

shall apply to any ship of less than 500 tons gross tonnage other than a passenger ship.

**(2) Subsection (1) shall not prevent the application—**

- (a) to any ship of 300 tons gross tonnage or above, of so much of the provisions referred to in paragraphs (a) and (b) of that subsection as relates to certificates issued under section 18 or equivalent accepted Convention certificates;
- (b) to any ship to which section 11 applies and which is registered in Hong Kong, of so much of the provisions referred to in paragraph (a) of that subsection as relates to certificates issued under section 21,

by reason only that it is of less than 500 tons gross tonnage.

(3) Notwithstanding that any provision of this Part is expressed to apply to ships not registered in Hong Kong while they are within the waters of Hong Kong, that provision shall not apply to a ship that would not be within such waters but for stress of weather or any other circumstance that neither the master nor the owner of the ship could have prevented or forestalled.

**PART III****EQUIPMENT OF SHIPS AND EXCESS PASSENGERS**Equipment of  
passenger ships.**36. (1) Every passenger ship to which section 9 applies shall—**

- (a) have the ship's compasses properly adjusted from time to time, to the satisfaction of a Government surveyor and in accordance with regulations or such directions as may be issued by the Director; and
- (b) be provided with such shelter for the protection of deck passengers, if any, as the Director, having regard to—
  - (i) the nature of the passage;
  - (ii) the number of deck passengers to be carried;
  - (iii) the season of the year;
  - (iv) the safety of the ship; and
  - (v) any other circumstance,
 may require.

(2) If any passenger ship to which section 9 applies goes to sea from Hong Kong without having its compasses adjusted or without protection for deck passengers in contravention of subsection (1), the owner or the master commits an offence and is liable—

- (a) in the case of the owner, to a fine of \$50,000 and to imprisonment for 2 years; and
- (b) in the case of the master, to a fine of \$20,000 and to imprisonment for 6 months.

(3) If any requirement of this section or of regulations as to the number of permissible passengers is not complied with in the case of any passenger ship, the Director shall not grant a clearance and if any such ship attempts to go to sea without a clearance, the Director may detain it.

37. (1) A ship shall not carry passengers on more than one deck below the water line.

Restriction to decks on which passengers may be carried.

(2) The owner and master of any ship which carries passengers in contravention of subsection (1) commits an offence and is liable to a fine of \$10,000.

38. (1) A ship shall not within the waters of Hong Kong carry any passengers in excess of the number allowed by the passenger certificate, or, where the ship has no passenger certificate, the ship shall not—

Excess passengers.

- (a) carry any passengers if the ship is not fit to do so under the provisions of this Ordinance, or would not be fit to do so under those provisions if they applied to the ship;
- (b) carry any passengers in excess of the maximum number which the ship is fit to carry under the provisions of this Ordinance, or would be fit to carry under those provisions if they applied to the ship.

(2) The owner, agent and master of any ship which carries passengers in contravention of subsection (1) commits an offence and is liable—

- (a) on conviction upon indictment to imprisonment for 4 years and to a fine of \$10,000 and an additional fine of \$5,000 for each excess passenger; and
- (b) on summary conviction to imprisonment for 2 years and to a fine of \$10,000 and an additional fine of \$5,000 for each excess passenger.

(3) For the purposes of this section every person carried in a ship, other than—

- (a) a person employed or engaged in any capacity on board the ship on the business of the ship; and
- (b) a child under 1 year of age,

shall, until the contrary is proved, be presumed to be a passenger on that ship.

(4) Where the Director for the purpose of enabling persons to be moved from any place in consequence of a threat to their lives has permitted more persons to be carried on board a ship than are permitted under this Ordinance other than this section, the carriage of that excess of persons shall not be an offence under this Ordinance.

(5) The owner or agent of any ship shall not be guilty of an offence under subsection (2) if he proves that—

- (a) the passengers involved in the offence were shipped without his knowledge or consent; and
- (b) he derived no profit, benefit or advantage from the shipping of the passengers.

(6) In any proceedings for an offence under this section, a certificate purporting to be signed and issued by the Director for the purposes of this subsection shall be admitted in evidence on its production without further proof; and unless it is proved that the certificate has not been signed by the Director, it shall be presumed until the contrary is proved that any statement therein to the following effect is true, that is to say a statement that a ship is not fit to carry passengers under the provisions of this Ordinance or would not be fit to do so under those provisions if they applied to the ship, or a statement of the maximum number of passengers a ship is fit to carry under the provisions of this Ordinance or would be fit to do so under those provisions if they applied to the ship.

Director may refuse clearance of ship carrying excess passengers.

**39.** (1) The master of every ship shall, on application to the Director for a port clearance, state the number of passengers he proposes to carry on the voyage; and if such number is in excess of the number allowed by the passenger certificate or exceeds 12 in the case of a ship which is not provided with a passenger certificate, the Director may refuse clearance.

(2) Any master of a ship who—

- (a) in an application under subsection (1) for a port clearance intentionally misrepresents the number of passengers proposed to be carried; or
- (b) leaves or attempts to leave any port in Hong Kong without a clearance,

commits an offence and is liable to a fine of \$20,000 and to imprisonment for 6 months.

(3) The master of any ship who, after having obtained a port clearance, leaves or attempts to leave the waters of Hong Kong with any number of passengers greater than that allowed by the clearance commits an offence and is liable to imprisonment for 6 months and to a fine of \$10,000 and an additional fine of \$5,000 in respect of each passenger in excess of the number permitted by the clearance.

(4) Whenever the master of a ship is guilty of an offence under subsection (3), the owner and agent (if any) of the ship shall each be guilty of the same offence and shall each be liable to the same penalty as is prescribed for that offence, unless he proves that—

- (a) the passengers involved in the offence were shipped without his knowledge or consent; and
- (b) he derived no profit, benefit or advantage from the shipping of the passengers.

(5) The Director may refuse a clearance to any ship carrying more than 12 passengers, except on the production of the passenger certificate, being a certificate in force and applicable to the voyage on which the ship is about to proceed; and he may detain such ship until such certificate is produced.

(6) The Director may by order prohibit the conveyance of deck passengers by any ship.

Prohibition on increasing weight on safety valve.

**40.** Any person who places an undue weight on the safety valve of any steamship or increases the weight on such safety valve beyond the limits fixed by a Government surveyor commits an offence and is liable to a fine of \$50,000 and to imprisonment for 2 years.

Signalling lamps.

**41.** (1) No ship registered in Hong Kong, being a ship over 150 tons gross tonnage, shall proceed to sea on an international voyage unless the ship is provided with an efficient signalling lamp.

(2) If any ship proceeds or attempts to proceed to sea in contravention of this section, the owner or master thereof commits an offence and is liable to a fine of \$2,000.

**42.** (1) No ship registered in Hong Kong shall have on board as part of its equipment an anchor or cable unless— Anchors and cables.

- (a) the anchor or cable has been marked, and a certificate in respect of it has been issued, in accordance with the regulations made under section 103; or
- (b) the anchor or cable is one to which those regulations do not apply by virtue of any regulation made under paragraph (e) of section 103(1).

(2) If subsection (1) is contravened in respect of any ship the owner or master of the ship commits an offence and is liable to a fine of \$5,000.

(3) If any person applies to any anchor or cable which has not passed the tests prescribed by regulations made under section 103 any mark prescribed by those regulations for denoting that it has passed those tests, or any other mark calculated to suggest that it has passed those tests, he commits an offence and is liable to a fine of \$5,000.

(4) In this section, “anchor” and “cable” have the meanings assigned to them by section 103(2).

**43.** It shall be the duty of the owner and master of every ship registered in Hong Kong to ensure that such ship is provided with such life-saving appliances and fire-fighting appliances as may be prescribed by the life-saving appliances regulations and the fire-fighting appliances regulations. Duties of owners and masters as to carrying life-saving appliances and fire-fighting appliances.

**44.** In the case of any ship—

- (a) if the ship is required to be provided with life-saving appliances or fire-fighting appliances and proceeds on any voyage without being so provided in the manner prescribed;
- (b) if any of the appliances with which the ship is so provided are lost or rendered unfit for service in the course of the voyage through the wilful fault or negligence of the owner or master;
- (c) if the master wilfully neglects to replace or repair, on the first opportunity, any such appliance lost or damaged in the course of the voyage;
- (d) if such appliances are not kept so as to be at all times fit and ready for use; or
- (e) if any provision of the life-saving appliances regulations or the fire-fighting appliances regulations is contravened or not complied with,

Penalty for breach of life-saving appliances regulations and fire-fighting appliances regulations.

then the owner of the ship (if at fault) commits an offence and is liable to a fine of \$50,000 and to imprisonment for 2 years and the master of the ship (if at fault) commits an offence and is liable to a fine of \$10,000 and to imprisonment for 6 months.

**45.** (1) The master of every ship to which this section applies shall enter in the official log-book a statement, or, if there is no official log-book, keep some other record, of every occasion on which boat-drill or fire-drill is practised on board ship, or on which the appliances and equipment required to be carried by virtue of the life-saving appliances regulations Entry in log-book of boat-drill.

and the fire-fighting appliances regulations are examined to see whether they are fit and ready for use and of the result of any such examination; and if—

- (a) in the case of a passenger ship, boat-drill or fire-drill is not practised on board the ship in any week;
- (b) in the case of any other ship, boat-drill or fire-drill is not practised on board ship in any month;
- (c) in the case of any ship, the appliances and equipment are not examined in any such period as may be prescribed,

the master shall enter a statement or keep some other record of the reasons why the drill was not practised or the appliances and equipment were not examined in that week, month or period.

(2) The master shall, if so required by an officer of the Marine Department, produce for inspection any such entry or record.

(3) If a master fails to comply with any requirement of this section, he commits an offence and is liable to a fine of \$5,000.

(4) Subject to section 46, this section applies to—

- (a) any ship registered in Hong Kong; and
- (b) other ships while they are within the waters of Hong Kong.

Application to  
foreign ships.

**46.** Sections 43 and 44 shall apply to all ships not registered in Hong Kong while within the waters of Hong Kong to the same extent as they apply to ships registered in Hong Kong:

Provided that such sections and section 45 shall not apply—

- (a) to any Convention ship which carries an accepted Convention certificate; or
- (b) to any other foreign ship by reason of its being within the waters of Hong Kong if it would not have been within such waters but for stress of weather or any other circumstance that neither the master nor the owner of the ship could have prevented or forestalled.

## PART IV

### LOAD LINES

#### *Preliminary*

Interpretation.

**47.** (1) In this Part, unless the context otherwise requires—

“alteration” includes deterioration;

“conditions of assignment” means such provisions relating to the assignment of freeboards as are contained in the load line regulations;

“Contracting Government” means any such government as is referred to in paragraph (a) of the definition of “Convention country”;

“Convention country” means a country or territory which is—

- (a) a country the government of which has been declared by Her Majesty by Order in Council made under section 31 of the Merchant Shipping (Load Lines) Act 1967 to have accepted or acceded to the Convention of 1966, and has not been so declared to have denounced that Convention; or

(1967, c. 27.)



- (b) a territory to which it has been so declared that the Convention of 1966 extends, not being a territory to which it has been so declared that the Convention has ceased to extend;

“Convention of 1966” means the International Convention on Load Lines signed in London on 5 April 1966;

“deck-line” means such mark as may be prescribed which indicates on each side of a ship the position of the freeboard deck of that ship;

“existing ship” means any ship which is not a new ship;

“international voyage” means, subject to subsection (2), a voyage between—

- (a) Hong Kong and a port outside Hong Kong; or  
(b) a port in a country (other than Hong Kong) and a port in any other country or territory (whether a Convention country or not) which is outside Hong Kong;

“load lines” means such lines as may be prescribed which indicate on each side of a ship the various maximum depths to which the ship may be loaded in such circumstances as may be prescribed;

“new ship” means a ship whose keel is laid, or which is at a similar stage of construction on or after—

- (a) in relation to a ship whose parent country is a Convention country other than the United Kingdom, the date from which it is declared under section 31 of the Merchant Shipping (Load Lines) Act 1967 either that the government of that country has accepted or acceded to the Convention of 1966 or that it is a territory to which that Convention extends; (1967, c. 27.)  
(b) in relation to any other ship, 21 July 1968;

“parent country” means, in relation to a ship, the country or territory in which the ship is registered, or, if the ship is not registered anywhere, means the country or territory whose flag the ship flies;

“valid Convention certificate” means a certificate which—

- (a) has been issued under section 57(2) and is for the time being in force; or  
(b) is produced in circumstances in which it is required by the load line regulations to be recognized for the purposes of this Part.

(2) In determining, for the purposes of an international voyage, what are the ports between which a voyage is made, no account shall be taken of any deviation by a ship from her intended voyage which is due solely to stress of weather or any other circumstances which neither the master nor the owner of the ship could have prevented or forestalled; and for the purposes of determining whether a voyage is an international voyage any colony, protectorate or other dependency, any territory for whose international relations a government is separately responsible and any territory for which the United Nations are the administering authority, shall be taken to be a separate territory.

(3) Any reference in this Part to the gross tonnage of a ship shall be construed as a reference to the tonnage of a ship as ascertained in accordance with the tonnage regulations made under the Merchant Shipping Acts; and where in accordance with those regulations alternative tonnages are assigned to a ship, the gross tonnage of the ship shall, for the purposes of this Part be taken to be the larger of those tonnages.

(4) Any reference in this Part to any provision of the Convention of 1966 shall, in relation to any time after that provision has been amended in pursuance of Article 29 of that Convention, be construed as a reference to that provision as so amended.

*Ships registered in Hong Kong*

Compliance  
with load line  
regulations.

48. (1) Subject to any exemption conferred by or under this Ordinance, no ship registered in Hong Kong shall proceed or attempt to proceed to sea unless—

- (a) the ship has been surveyed in accordance with the load line regulations;
- (b) the ship is marked with a deck-line and with load lines in accordance with those regulations;
- (c) the ship complies with the condition of assignment; and
- (d) the information required by those regulations to be provided for the guidance of the master of the ship has been so provided.

(2) If any ship proceeds or attempts to proceed to sea in contravention of subsection (1), the owner or master of the ship commits an offence and is liable to a fine of \$10,000.

(3) Any ship which in contravention of subsection (1) attempts to proceed to sea without being surveyed and marked as mentioned in paragraphs (a) and (b) of that subsection may be detained until it has been so surveyed and marked.

(4) Any such ship as is mentioned in subsection (1) which does not comply with the conditions of assignment shall be deemed to be unsafe for the purposes of section 67.

Submersion of  
load lines.

49. (1) A ship registered in Hong Kong shall not be so loaded that its condition at any time is such that—

- (a) if the ship is in salt water and has no list, the appropriate load line on each side of the ship is submerged; or
- (b) in any other case, the appropriate load line on each side of the ship would be submerged if the ship were in salt water and had no list.

(2) If any ship is loaded in contravention of subsection (1), the owner or master of the ship, subject to subsection (5), commits an offence and is liable—

- (a) to a fine of \$10,000; and
- (b) to such additional fine, not exceeding an amount calculated in accordance with subsection (3), as the court thinks fit to impose, having regard to the extent to which the earning capacity of the ship was increased by reason of the contravention.

(3) Any additional fine imposed under subsection (2)(b) shall not exceed \$6,000 for every 25 millimetres and for any fraction of 25 millimetres over and above one or more complete multiple of 25 millimetres, by which—

- (a) in a case falling within subsection (1)(a), the appropriate load line on each side of the ship was submerged; or

- (b) in a case falling within subsection (1)(b), the appropriate load line on each side of the ship would have been submerged as therein mentioned,

and, if the amount by which that load line was or would have been submerged was less than 25 millimetres, any such additional fine shall be \$6,000.

(4) If the master of a ship takes the ship to sea when it is loaded in contravention of subsection (1), or if any other person, having reason to believe that the ship is so loaded, sends or is party to sending it to sea when it is loaded in contravention of that subsection, then (without prejudice to any fine to which he may be liable in respect of an offence under subsection (2)) he commits an offence and is liable to a fine of \$20,000.

(5) Where a person is charged with an offence under subsection (2), it shall be a defence to prove that the contravention was due solely to deviation or delay and that the deviation or delay was caused solely by stress of weather or other circumstances which neither the master nor the owner could have prevented or forestalled.

(6) Without prejudice to any proceedings under the preceding provisions of this section, any ship which is loaded in contravention of subsection (1) may be detained until it ceases to be so loaded.

(7) For the purposes of the application of this section to a ship in any circumstances prescribed by the load line regulations "the appropriate load line" means the maximum depth to which the ship may, in accordance with those regulations, be loaded in salt water in those circumstances.

50. Where a ship registered in Hong Kong is marked in accordance with any requirements as to marking imposed by or under this Part, then if—

Miscellaneous offences in relation to marks.

- (a) the owner or master of the ship fails without reasonable cause to keep the ship so marked; or
- (b) any person conceals, removes, alters, defaces or obliterates, or causes or permits any person under his control to conceal, remove, alter, deface or obliterate, any mark with which the ship is so marked, except where he does so under the authority of a person empowered under the load line regulations to authorize him in that behalf,

he commits an offence and is liable to a fine of \$10,000.

51. (1) Where a ship registered in Hong Kong has been surveyed and marked in accordance with the load line regulations, an International Load Line Certificate (1966) shall be issued to the owner, agent or master of the ship on his application.

Issue of load line certificate.

(2) Subject to subsection (3), any certificate required by subsection (1) of this section to be issued—

- (a) shall be issued by the Director; and
- (b) shall be in such form, and shall be issued in such manner, as may be prescribed by the load line regulations.

(3) The Director may request a Contracting Government to issue an International Load Line Certificate (1966) in respect of any ship to which this Part applies which is a ship registered in Hong Kong; and the following provisions of this Part shall have effect in relation to such a certificate so issued, which contains a statement that it has been issued at the request of the Government of Hong Kong, as they have effect in relation to any International Load Line Certificate (1966) issued by the Director.

Effect of load line certificate.

**52.** Where a certificate, issued in pursuance of section 51 and for the time being in force, is produced in respect of the ship to which the certificate relates—

- (a) the ship shall be deemed to have been surveyed in accordance with the load line regulations, and
- (b) if lines are marked on the ship corresponding in number and description to the deck-line and load lines as required by the load line regulations, and the positions of those lines so marked correspond to the positions of the deck-line and load lines as specified in the certificate, the ship shall be deemed to be marked as required by those regulations.

Endorsement of load line certificates.

**53.** While any certificate issued under section 51 is in force in respect of a ship, there shall be endorsed on the certificate such information relating to—

- (a) periodical inspections of the ship in accordance with the load line regulations; and
- (b) any extension of the period for which the certificate was issued, as may be prescribed by the regulations.

Ship not to proceed to sea without load line certificate.

**54.** (1) Subject to any exemption conferred by or under this Part, no ship registered in Hong Kong shall proceed or attempt to proceed to sea unless an International Load Line Certificate (1966) is in force in respect of the ship.

(2) Before any such ship proceeds to sea, the master of the ship shall produce the certificate to the Director; and a clearance shall not be granted, and the ship may be detained, until the certificate is so produced.

(3) If any ship proceeds or attempts to proceed to sea in contravention of this section, the master of the ship commits an offence and is liable to a fine of \$10,000.

Display of load line certificate and entry of particulars in official log-book.

**55.** (1) Where a certificate is issued in respect of a ship under section 51—

- (a) the owner or master of the ship shall forthwith on receipt of the certificate cause it to be framed and posted up in some conspicuous place on board the ship, and shall cause it to be kept so framed and posted up and legible so long as the certificate remains in force and the ship is in use; and
- (b) the master of the ship, before making any other entry in any official log-book relating to the ship, shall enter in it the particulars as to the positions of the deck-line and the load lines which are specified in the certificate.

(2) Before any ship registered in Hong Kong leaves any dock, wharf, harbour or other place for the purpose of proceeding to sea, the master of the ship—

- (a) shall enter in the official log-book such particulars relating to the depth to which the ship is for the time being loaded as may be prescribed by the load line regulations;
- (b) shall cause a notice, in such form and containing such of those particulars as may be specified in the regulations for the purposes of this paragraph, to be posted up in some conspicuous place on board the ship,

and, where such a notice has been posted up, the master of the ship shall cause it to be kept so posted up and legible until the ship arrives at some other dock, wharf, harbour or place.

(3) If the owner or master of a ship fails to comply with any requirement imposed on him by this section, he commits an offence and is liable to a fine of \$2,000.

**56.** (1) A Government surveyor may inspect any ship registered in Hong Kong, for the purpose of seeing that the provisions of this Part have been complied with in respect of the ship. Inspection of ships.

(2) For the purposes of any such inspection any such surveyor shall have all the powers conferred by section 115.

*Ships not registered in Hong Kong*

**57.** (1) This section applies to any ship not registered in Hong Kong, which— Valid Convention certificates.

(a) is registered in a Convention country or, not being registered in any such country or elsewhere, flies the flag of a Convention country; and

(b) is either an existing ship of not less than 150 tons gross tonnage or a new ship of not less than 24 metres in length.

(2) The Director may, at the request of the government of the parent country of a ship to which this section applies, issue in respect of the ship a certificate in such form as may be prescribed by the load line regulations, if he is satisfied that he could properly issue a certificate in respect of the ship under section 51 if the ship were registered in Hong Kong.

(3) Certificates issued as mentioned in subsection (2) shall be included among the certificates to be called "International Load Line Certificates (1966)".

**58.** (1) Subject to subsection (2), and to any exemption conferred by or under this Ordinance, no ship not being a ship registered in Hong Kong shall proceed, or attempt to proceed, to sea from Hong Kong unless— Compliance with load line regulations.

(a) the ship has been surveyed in accordance with the load lines regulations;

(b) the ship is marked with a deck-line and with load lines in accordance with those regulations;

(c) the ship complies with the conditions of assignment; and

(d) the information required by those regulations to be provided for the guidance of the master of the ship has been so provided.

(2) Subsection (1) does not apply to a ship in respect of which a valid Convention certificate is produced.

(3) If any ship proceeds or attempts to proceed to sea in contravention of subsection (1) the owner or master of the ship commits an offence and is liable to a fine of \$10,000.

(4) Any ship which in contravention of this section attempts to proceed to sea without being surveyed and marked as mentioned in subsection (1)(a) and (b) may be detained until it has been so surveyed and marked.

(5) If any such ship as is mentioned in subsection (1), not being a ship in respect of which a valid Convention certificate is produced, does not comply with the conditions of assignment, then—

- (a) if the ship is a British ship, it shall be deemed to be unsafe for the purposes of section 67; or
- (b) if the ship is a foreign ship, section 72 shall have effect in relation to the ship as if it were unsafe for the purposes of that section.

Submersion of load lines.

**59.** (1) Where a ship not registered in Hong Kong is within the waters of Hong Kong, the ship shall not be so loaded that its condition at any time is such that—

- (a) if the ship is in salt water and has no list, the appropriate load line on each side of the ship is submerged; or
- (b) in any other case, the appropriate load line on each side of the ship would be submerged if the ship were in salt water and had no list.

(2) Subsections (2), (3), (5) and (6) of section 49 shall have effect for the purposes of this section as if any references in those subsections to subsection (1) of that section, or to paragraph (a) or paragraph (b) of the said subsection (1), were a reference to subsection (1), or (as the case may be) to the corresponding paragraph of subsection (1), of this section:

Provided that, in the case of a ship to which section 57 applies, the ship shall not be detained, and no proceedings shall be brought by virtue of this subsection, unless the ship has been inspected by a Government surveyor in pursuance of section 61.

(3) In relation to a ship in respect of which a valid Convention certificate is produced, "load line" in subsection (1) means a line marked on the ship in the position of a load line specified in that certificate; and for the purposes of the application of the relevant provisions to such a ship in any circumstances for which a particular load line is specified in the certificate, the "appropriate load line" means the maximum depth to which the ship may, in accordance with the certificate, be loaded in salt water in those circumstances.

(4) Where a valid Convention certificate is not produced in respect of a ship, then, for the purposes of the application of the relevant provisions to that ship in any circumstances prescribed by the load line regulations "the appropriate load line" means the maximum depth to which the ship may, in accordance with those regulations, be loaded in salt water in those circumstances.

(5) In subsections (3) and (4) "the relevant provisions" means the provisions of subsection (1) and any provisions of section 49 as applied by subsection (2).

Production of certificate to Director.

**60.** Subject to any exemption conferred by or under this Part, before a ship to which section 57 applies proceeds to sea from Hong Kong on an international voyage, the master of the ship shall produce a valid Convention certificate to the Director; and a clearance shall not be granted, and the ship may be detained, until such a certificate is so produced.

Provisions as to inspection.

**61.** (1) Subject to this section, a Government surveyor may inspect any ship not registered in Hong Kong while the ship is within the waters of Hong Kong and for the purposes of any such inspection he shall have all the powers conferred by section 115.

(2) Any such Government surveyor may go on board any ship to which section 57 applies, while the ship is within the waters of Hong Kong, for the purpose of demanding production of any International Load Line Certificate (1966) for the time being in force in respect of the ship.

(3) If on any such demand a valid Convention certificate is produced to the surveyor in respect of the ship, the powers of the surveyor under subsection (1) shall be limited to seeing that—

- (a) the ship is not loaded beyond the limits allowed by the certificate;
- (b) lines are marked on the ship in the positions of the load lines specified in the certificate;
- (c) no material alterations have taken place in the hull or superstructures of the ship which affect the position in which any of those lines ought to be marked; and
- (d) the fittings and appliances for the protection of openings, the guard rails, the freeing ports and the means of access to the crew's quarters have been maintained on the ship in as effective a condition as they were in when the certificate was issued.

(4) If on an inspection of a ship under this section the ship is found to have been so materially altered in respect of the matters referred to in paragraph (c) or paragraph (d) of subsection (3) that the ship is manifestly unfit to proceed to sea without danger to human life, then—

- (a) if the ship is a British ship, it shall be deemed to be unsafe for the purposes of section 67; or
- (b) if the ship is a foreign ship, section 72 shall have effect in relation to the ship as if it were unsafe for the purposes of that section.

(5) Where a ship is detained under the provisions applied under subsection (4), the Director shall order the ship to be released as soon as he is satisfied that the ship is fit to proceed to sea without danger to human life.

#### *Exemptions*

**62.** (1) The Director may exempt any ship or class of ships from this Part or the load line regulations if he is satisfied that the sheltered nature and conditions of voyages undertaken by such ships make it unreasonable or impracticable to apply this Part or the load line regulations. Power to exempt.

(2) The Director may exempt any ship which embodies features of a novel kind from any of the provisions of this Part or the load line regulations the application of which may seriously impede research into the development of such features and their incorporation in ships engaged on international voyages.

(3) The Director may, in relation to a ship which does not normally ply on international voyages but is, in exceptional circumstances, required to undertake a single international voyage, exempt the ship from this Part and the load line regulations while the ship is engaged on that voyage; but no exemption shall be conferred unless the Director is satisfied that the ship complies with such safety requirements as are, in his opinion, adequate for the voyage which is to be undertaken by the ship.

(4) Any exemption conferred under this section may be conferred subject to such conditions as the Director thinks fit; and where any such exemption is conferred subject to conditions, the exemption shall not have effect unless those conditions are complied with.

**63.** (1) Where the Director exempts a ship under section 62 he shall issue an International Load Line Exemption Certificate to the owner or master of the ship. Issue of exemption certificates.

(2) Any certificate issued under this section shall be in such form, and shall be issued in such manner, as may be prescribed by the load line regulations.

Endorsement  
of exemption  
certificates.

64. While any certificate issued under section 63 is in force in respect of a ship, there shall be endorsed on the certificate such information relating to—

- (a) periodical inspections of the ship in accordance with the load line regulations; and
- (b) any extension of the period for which the certificate was issued, as may be prescribed by the regulations.

*Subdivision load lines*

Subdivision  
load lines.

65. (1) Where in pursuance of the passenger ship construction regulations a passenger ship registered in Hong Kong is marked with subdivision load lines, and the lowest of those lines is lower than the line which, apart from this subsection, would be the appropriate load line for the purposes of section 49, that section shall have effect as if that subdivision load line were the appropriate load line for the purposes of that section.

(2) Where in pursuance of the passenger ship construction regulations, or in pursuance of the Convention or any law of any country made for the purpose of giving effect to the Convention, a passenger ship, not being a ship registered in Hong Kong, is marked with subdivision load lines, and the lowest of those load lines is lower than the line which, apart from this subsection, would be the appropriate load line for the purposes of section 59, that section shall have effect as if that subdivision load line were the appropriate load line for the purposes of that section.

*Miscellaneous and supplementary provisions*

Miscellaneous  
and  
supplementary  
provisions.

66. (1) Section 28 and section 32 shall have effect in relation to any certificate which can be issued under this Part as they have effect in relation to a certificate under Part II.

(2) Any certificate issued under this Part shall be admissible in evidence.

PART V

UNSAFE SHIPS AND DETENTION

Offence in  
respect of  
dangerously  
unsafe ship.

67. (1) If—

- (a) a ship in Hong Kong; or
- (b) a ship registered in Hong Kong which is in any other port,

is, having regard to the nature of the service for which the ship is intended, unfit by reason of the condition of the ship's hull, equipment or machinery or by reason of undermanning or by reason of overloading or improper loading to go to sea without serious danger to human life, then, subject to subsection (2), the master and the owner shall each commit an offence and be liable to a fine of \$500,000 and to imprisonment for 2 years.

(2) It shall be a defence in proceedings for an offence under subsection (1) to prove that at the time of the alleged offence—

- (a) arrangements had been made which were appropriate to ensure that before the ship went to sea it was made fit to do so without serious danger to human life by reason of the matters set out in subsection (1) which are specified in the charge; or
- (b) it was reasonable not to have made such arrangements.



(3) A prosecution under this section may only be commenced by or with the consent of the Attorney General.

68. (1) Any ship registered in Hong Kong or any other British ship for the time being in the waters of Hong Kong which is unsafe within the meaning of section 67(1) may be detained in accordance with this section.

Power to detain unsafe ships, and procedure for detention.

(2) If the Director has reason to believe that a ship is unsafe, he may appoint a surveyor to survey the ship and report to him.

(3) If, on receipt of a report under subsection (2), the Director is of the opinion that the ship to which the report relates is unsafe, he may order that the ship be detained.

(4) Where an order for the detention of a ship is made under subsection (3)—

(a) the Director shall serve on the owner, agent or master of the ship a copy of the report submitted to him under subsection (2);

(b) within 7 days after the service of the survey report under paragraph (a), the owner, agent or master of the ship may—

(i) apply to the Director to order that the ship be re-surveyed in accordance with subsection (5); or

(ii) appeal against the detention order to a court of survey.

(5) Where the Director orders that a ship be re-surveyed following an application under subsection (4)(b), the ship shall be re-surveyed by the surveyor who made the survey under subsection (2) and shall, if so required by the owner, agent or master of the ship, be accompanied when carrying out the re-survey by an assessor, being a person of nautical, engineering or other special skill—

(a) nominated by the owner, agent or master of the ship; and

(b) approved by the Director.

(6) On completion of the re-survey of a ship under subsection (5)—

(a) if the surveyor and the assessor are in agreement, the Director shall, on receipt of the surveyor's report, order that the ship be released or continued to be detained; or

(b) if the surveyor and the assessor are not in agreement, the ship shall continue to be detained and the owner, agent or master shall have the same right of appeal to a court of survey against the re-survey report as is provided in subsection (4)(b)(ii).

(7) Where, following the making of an order for the detention of a ship under subsection (3), the owner, agent or master carries out work to make the ship fit to proceed to sea, the owner, agent or master may apply to the Director to have the ship re-surveyed; and if, on a re-survey, the Director is satisfied that the ship is fit to proceed to sea he shall, subject to subsection (8), order it to be released.

(8) The Director shall not order a ship to be released under subsection (7) until all the costs of and incidental to detention and survey and re-survey have been paid.

(9) Where a ship has been detained under this section, the Director may, at any time—

(a) refer the matter to a court of survey; or

(b) order the ship to be released upon such conditions as he may specify.

Liability for costs and damages.

**69.** (1) If a court of survey is satisfied that a ship detained under section 68 was not unsafe at the time of detention the Crown shall be liable to pay to the owner of the ship—

- (a) his costs of and incidental to the detention and survey of the ship; and
- (b) compensation for any loss or damage sustained by him by reason of such detention and survey.

(2) If a court of survey is satisfied that a ship detained under section 68 was unsafe at the time of detention the owner, agent or master of the ship shall be liable to pay to the Crown the costs of and incidental to such survey and detention.

(3) For the purposes of this section the costs of and incidental to the detention and survey of a ship shall include—

- (a) a reasonable amount in respect of remuneration of—
  - (i) the surveyor appointed under section 68(2); and
  - (ii) the assessor (if any) approved under section 68(5); and
- (b) the costs of proceedings before a court of survey, to be determined, in case of any dispute, by the Registrar of the Supreme Court.

Power to require security for costs from complainant.

**70.** Where a complaint is made to the Director that a ship for the time being in Hong Kong is unsafe within the meaning of section 67 he may require the complainant to give such security as the Director may determine for such costs and compensation as the Crown may become liable to pay in respect of the detention and survey of the ship:

Provided that where the complaint is made by one-fourth, not being less than 3, of the seamen belonging to the ship and is not, in the opinion of the Director, frivolous or vexatious—

- (a) such security shall not be required to be given; and
- (b) the Director shall cause the complaint to be investigated to determine whether he should make an order for the detention of the ship under section 68.

General provisions in respect of detention order.

**71.** (1) A copy of any order for the detention of a ship made under section 68 and a copy of any order varying or adding to such order shall be served by the Director as soon as possible on the owner, agent or master of the ship.

(2) For the purposes of any survey of a ship ordered under section 68, any person authorized to make the survey shall have all the powers conferred by section 115.

Application of detention provisions to foreign ships.

**72.** (1) When a foreign ship for the time being in the waters of Hong Kong is found to be unsafe within the meaning of section 67, the provisions of this Part relating to the detention of ships shall, subject to the modifications contained in this section, apply to that ship as if it were a ship registered in Hong Kong.

(2) A copy of the order for the detention of the ship shall be served forthwith on the consular officer (if any) in Hong Kong representing the country to which the ship belongs, or if there is no such consular officer, on the owner, agent or master of the ship.

(3) Where a ship has been detained, the consular officer on the request of the owner, agent or master of the ship and, if there is no consular officer, the owner, agent or master of the ship, may require that

the person, if any, appointed by the Director to survey the ship shall be accompanied by such person as such officer, or owner, agent or master, as the case may be, may nominate; and, in such case, if the surveyor and such person agree the Director shall order that the ship be released or continues to be detained, but if they differ, the ship shall continue to be detained and the owner, agent or master shall have the same right of appeal to a court of survey against the report of the surveyor as is provided in section 68(4)(b)(ii).

(4) Where the owner, agent or master of the ship appeals to the court of survey, the consular officer on the request of such owner, agent or master, or, if there is no such consular officer, the owner, agent or master may nominate not more than 2 competent persons to be members of the court of survey.

(5) Notwithstanding that this section is expressed to apply to any foreign ship while within the waters of Hong Kong, this section shall not apply to a ship that would not be within such waters but for stress of weather or any other circumstance that neither the master nor the owner of the ship could have prevented or forestalled.

**73.** (1) In every contract of service, express or implied, between the owner of a ship registered in Hong Kong and the master or any seaman thereof, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner of the ship that—

Owners' obligation to secure safety of ships.

- (a) the owner of the ship;
- (b) the master of the ship; and
- (c) every agent of the owner of the ship charged with—
  - (i) the loading of the ship;
  - (ii) the preparing of the ship for sea; or
  - (iii) the sending of the ship to sea,

shall use all reasonable means to ensure the safety of the ship for the voyage at the time when the voyage commences and to keep it in a safe condition during the voyage.

(2) Nothing in this section shall subject the owner of a ship to any liability by reason of the ship being sent to sea in an unseaworthy state where, owing to special circumstances, the sending of the ship to sea in such a state was reasonable and justifiable.

## PART VI

### COURTS OF SURVEY

**74.** (1) The Governor may, whenever the occasion may arise, appoint by warrant under his hand and the seal of Hong Kong a court of survey.

Appointment of courts of survey.

(2) A court of survey shall consist of not less than 3 nor more than 5 members, of whom—

- (a) one shall be a judge, district judge or magistrate, who shall preside over the court; and
- (b) the remainder shall be masters of the British mercantile marine or persons of nautical, engineering or other special skill or knowledge.

**75.** (1) All proceedings before a court of survey shall be heard in open court.

Procedure in respect of courts of survey.

(2) Every member of the court may survey the ship subject of the proceedings and, for that purpose, shall have all of the powers conferred by section 115.

(3) The court may order a ship to be surveyed and, for that purpose, may appoint, by majority vote in case of disagreement, any competent person to survey the ship and report thereon to the court.

(4) The court shall have the same powers as are vested in the Director under this Ordinance to order that a ship be released or detained:

Provided that unless a majority of the members of the court concur in an order for the detention of the ship the court shall order that the ship be released.

(5) The owner, agent and master of any ship subject of the proceedings and any person appointed by the owner, agent or master of the ship may attend at any inspection or survey of a ship made or ordered by the court.

(6) The court may make such order with respect to the costs of—

(a) any proceedings before the court; and

(b) any inspection or survey of a ship made or ordered by the court, which costs shall be recoverable as a civil debt.

(7) The presiding officer of the court shall send to the Governor such report as may be directed by regulations made under section 109 and each other member of the court shall either sign the report or report to the Governor the reasons for his dissent.

Nothing to  
affect admiralty  
jurisdiction of  
Supreme Court.

76. Nothing in this Part shall either affect, or be deemed to affect, the admiralty jurisdiction of the Supreme Court.

## PART VII

### SAFETY OF NAVIGATION

Observance  
of collision  
regulations.

77. (1) The owner and master of a ship registered in Hong Kong—

(a) shall comply with the collision regulations; and

(b) shall not—

(i) carry or exhibit any other lights; or

(ii) use any other sound-signals,

other than such as are required by those regulations.

(2) If a contravention of the collision regulations is caused by the wilful default of the master or owner of a ship or of the person in charge of the deck of the ship, that master or owner commits an offence and is liable to a fine of \$10,000.

(3) If any injury to a person or damage to property arises from a contravention by any ship of any of the collision regulations, the injury or damage shall be deemed to have been caused by the wilful default of the person in charge of the deck of the ship at the time, unless it is shown to the satisfaction of a magistrate or court that the circumstances of the case made a departure from the regulations necessary.

(4) The Director shall furnish a copy of the collision regulations to any master or owner of a ship who applies for it upon payment of the prescribed fee.

78. (1) Where two ships collide and either of those ships is registered in Hong Kong it shall be the duty of the master or person in charge of the ship registered in Hong Kong involved in the collision, if and so far as he can do so without danger to his own ship, crew and passengers (if any)—

Assistance to be rendered in the event of collisions.

- (a) to render to the other ship, the master, crew and passengers (if any) such assistance as may be practicable and may be necessary to save them from any danger caused by the collision, and to stay by the other ship until he has ascertained that there is no need of further assistance; and
- (b) to give to the master or person in charge of the other ship—
  - (i) the name of his own ship;
  - (ii) the name of the port to which it belongs; and
  - (iii) the names of the ports from which it comes and to which it is bound.

(2) If the master or person in charge of any ship involved in a collision fails without reasonable cause to comply with subsection (1)—

- (a) he commits an offence and is liable to a fine of \$50,000; and
- (b) if he is a certificated officer, an inquiry into his conduct may be held.

79. (1) The master of any ship registered in Hong Kong involved in a collision shall, where it is practicable to do so, immediately after the occurrence of the collision, cause a statement thereof and the circumstances under which it occurred to be entered in the official log-book (if any) of the ship.

Collision to be entered in official log-book.

(2) The entry referred to in subsection (1) shall be signed by the master and also by the mate or one of the crew.

(3) If the master of a ship involved in a collision contravenes subsection (1) he commits an offence and is liable to a fine of \$1,000.

80. (1) Where any of the following casualties has occurred—

- (a) the loss or presumed loss, stranding, grounding, abandonment of or damage to a ship;
- (b) a loss of life or serious personal injury caused by fire on board or by any accident to a ship or a ship's boat, or by any accident occurring on board a ship or ship's boat; or
- (c) any damage caused by a ship,

Report to Director of accidents to ships.

and, at the time it occurred, the ship was registered in Hong Kong, the owner or master of the ship shall, as soon as practicable, and in any case not later than 24 hours after the ship's arrival at the next port, submit to the Director a written report of the accident or damage.

(2) The report referred to in subsection (1) shall—

- (a) give a brief description of the accident or damage;
- (b) state the time and place where it occurred;
- (c) state the name of the ship and its official number, its position at the time of the report and the next port of call; and
- (d) give the particulars of any other ship involved in the accident.

(3) If the owner or master of a ship fails without reasonable excuse to comply with this section he commits an offence and is liable to a fine of \$10,000.

Notice of loss of Hong Kong ship to be given to the Director.

**81.** (1) If the owner or agent of any ship registered in Hong Kong has reason, owing to the non-appearance of the ship or to any other circumstance, to believe that the ship has been wholly lost he shall, as soon as practicable, submit a written report of the loss to the Director.

(2) The written report referred to in subsection (1) shall specify—

- (a) the probable cause of the loss of the ship; and
- (b) the name of the ship and its official number.

(3) Any owner or agent who fails to comply with this section commits an offence and is liable to a fine of \$2,000.

Report of dangers to navigation.

**82.** (1) The master of any ship registered in Hong Kong shall, on meeting with—

- (a) dangerous ice;
- (b) a dangerous derelict;
- (c) air temperatures below freezing point associated with gale force winds causing severe ice accretion on the superstructure of ships;
- (d) winds of force 10 or above on the Beaufort Scale for which no storm warning has been received;
- (e) a tropical storm; or
- (f) any other direct danger to navigation,

send information accordingly, by all means of communication at his disposal and in accordance with the regulations made under the Merchant Shipping Acts with respect to navigational warnings, to ships in the vicinity and to such authorities on shore as may be prescribed by those regulations.

(2) If the master of a ship fails without reasonable excuse to comply with subsection (1) he commits an offence and is liable to a fine of \$20,000.

(3) Every person in charge of a wireless telegraph station which is under the control of the Postmaster General, or which is established or installed under a licence issued by the Postmaster General, shall, on receiving the signal prescribed by the regulations for indicating that a message is about to be sent under this section—

- (a) refrain from sending messages for a time sufficient to allow other stations to receive the message; and
- (b) if so required by the Director transmit the message in such manner as may be required by the Director.

(4) Compliance with subsection (3) shall be deemed to be a condition of every licence issued by the Postmaster General under the Telecommunications Ordinance in respect of the establishment or installation of a wireless telegraph station.

(5) For the purposes of this section—

- (a) the expression “tropical storm” means a hurricane, typhoon, cyclone or other storm of a similar nature; and
- (b) the master of a ship shall be deemed to have met with a tropical storm if he has reason to believe that there is such a storm in his vicinity.

(Cap. 106.)

Signals of distress.

**83.** (1) If the master of a ship uses or displays or causes or permits any person under his authority to use or display—

- (a) any signal prescribed by regulations made under section 100 except in the circumstances and for the purposes prescribed by those regulations; or
- (b) any private signal, whether registered or not, which is liable to be mistaken for any signal prescribed by those regulations,

he commits an offence and is liable to a fine of \$10,000 and shall further be liable to pay compensation for any labour undertaken, risk incurred or loss sustained in consequence of the signal having been supposed to be a signal of distress; and that compensation may, without prejudice to any other remedy, be recovered in the same manner as salvage.

(2) Nothing in section 82(3) shall interfere with the transmission of signals prescribed by regulations made under section 100.

**84.** (1) The master of a ship registered in Hong Kong, on receiving at sea a signal of distress or information from any source that a vessel or aircraft is in distress, shall proceed with all speed to the assistance of the persons in distress (informing them if possible that he is doing so) unless he is unable, or in the special circumstances of the case considers it unreasonable or unnecessary, to do so, or unless he is released under subsection (3) or (4).

Obligation to assist vessels, etc. in distress.

(2) Where the master of any ship in distress has requisitioned any ship registered in Hong Kong that has answered his call, it shall be the duty of the master of the requisitioned ship to comply with the requisition by continuing to proceed with all speed to the assistance of the persons in distress.

(3) A master shall be released from the obligation imposed by subsection (1) as soon as he is informed of the requisition of one or more ships other than his own and that the requisition is being complied with by the ship or ships requisitioned.

(4) A master shall be released from the obligation imposed by subsection (1) and, if his ship has been requisitioned, from the obligation imposed by subsection (2), if he is informed by the persons in distress, or by the master of any ship that has reached the persons in distress, that assistance is no longer required.

(5) If a master fails to comply with subsection (1) or subsection (2), he commits an offence and is liable to a fine of \$10,000.

(6) If the master of a ship registered in Hong Kong, on receiving at sea a signal of distress or information from any source that a vessel or aircraft is in distress, is unable, or in the special circumstances of the case considers it unreasonable or unnecessary, to go to the assistance of the persons in distress, he shall forthwith cause a statement to be entered in the official log-book, or if there is no official log-book cause other record to be kept, of his reasons for not going to the assistance of those persons.

(7) The master of every ship registered in Hong Kong for which an official log-book is required shall enter, or cause to be entered, in the official log-book every signal of distress or message that a vessel, aircraft or person is in distress at sea.

(8) Any master who fails to comply with subsection (6) or (7) commits an offence and is liable to a fine of \$2,000.

**85.** (1) The master of a ship registered in Hong Kong, when ice is reported on or near his course, shall at night either proceed at a safe speed or change his course so as to keep amply clear of the ice reported and of the area of danger.

Careful navigation near ice.

(2) The master of any ship who contravenes subsection (1) commits an offence and is liable to a fine of \$10,000.

Method of giving helm orders.

**86.** (1) No person on any ship registered in Hong Kong shall, when the ship is going ahead—

- (a) give a helm or steering order containing the word "starboard" or "right" or any equivalent of "starboard" or "right" unless he intends that the head of the ship shall move to the right; or
- (b) give a helm or steering order containing the word "port" or "left" or any equivalent of "port" or "left" unless he intends that the head of the ship shall move to the left.

(2) Any person who contravenes subsection (1) commits an offence and is liable to a fine of \$2,000.

## PART VIII

### DANGEROUS GOODS

Offences in respect of dangerous goods.

**87.** (1) Any person who sends by, or, not being the owner or master of the vessel, carries in, any ship any dangerous goods without—

- (a) marking distinctly their nature on the outside of the container or package containing them; and
- (b) giving written notice of
  - (i) the nature of such goods; and
  - (ii) the name and address of the sender or carrier thereof,

to the owner or master of the ship at or before the time of sending them to be shipped or taking the same on board the ship, commits an offence and is liable to a fine of \$20,000:

Provided that if any such person satisfies the magistrate or court that he—

- (i) was an agent in the shipment of the goods; and
- (ii) was not aware of, and had no reason to suspect, that the goods shipped by him were dangerous goods,

he is liable to a fine of \$5,000.

(2) Any person who—

- (a) knowingly sends by, or carries in, any ship any dangerous goods under a false description; or
- (b) falsely describes the sender or carrier of any dangerous goods, commits an offence and is liable to a fine of \$50,000.

Stowage of dangerous goods.

**88.** The owner or master of any ship may refuse to take on board any package or container which he suspects to contain dangerous goods and may require it to be opened to ascertain its contents.

Forfeiture of dangerous goods.

**89.** (1) Where any dangerous goods—

- (a) have been sent or carried, or attempted to be sent or carried, on board any ship without—
  - (i) being marked in accordance with section 87(1)(a); or
  - (ii) a notice having been given in accordance with section 87(1)(b);



- (b) have been sent or carried, or attempted to be sent or carried—
  - (i) under a false description; or
  - (ii) with the name of the sender or carrier falsely declared,

a magistrate or court may order that the dangerous goods be forfeited to the Crown and thereafter disposed of in such manner as he thinks fit.

(2) A magistrate or court may make an order under subsection (1) notwithstanding that—

- (a) the owner of the dangerous goods—
  - (i) may not have committed an offence under section 87 in respect of the dangerous goods; or
  - (ii) may not be before the magistrate or court and may not have notice of the proceedings; or
- (b) there may be no evidence before the magistrate or court in respect of the ownership of the dangerous goods:

Provided that the magistrate or court may require notice of such proceedings to be given to the owner or shipper of the dangerous goods before making an order for their forfeiture and disposal.

90. The Director may refuse a port clearance to any passenger ship if there are on board any dangerous goods which are not stowed to his satisfaction.

Director may refuse clearance.

91. When any dangerous goods, or any goods which in the opinion of the master or owner of the ship are dangerous goods, have been sent or brought aboard any ship without being marked in accordance with section 87(1)(a) or without any notice under section 87(1)(b) having been given, the master or owner may, having regard to all the circumstances, including the risk to persons and property on board the ship and the need to protect the marine environment, dispose of those goods together with any package or receptacle in which they are contained in such manner as he thinks fit; and neither the master nor the owner of the ship shall be subject to any liability, civil or criminal, for so disposing of the goods.

Power to deal with goods suspected of being dangerous.

92. The provisions of this Part relating to the carriage of dangerous goods shall be in addition to and not in substitution for, or in restraint of, any other enactment relating to the carriage of dangerous goods.

Saving for other enactments relating to dangerous goods.

## PART IX

### REGULATIONS

93. (1) The Governor in Council may make regulations for the prevention of collisions at sea.

Collision regulations.

(2) The collision regulations may—

(a) regulate—

- (i) the lights and shapes to be carried and exhibited;
- (ii) the sound signals to be carried and used; and
- (iii) the steering and sailing rules to be observed,

by all ships registered in Hong Kong, wherever they may be; and

(b) provide for the prevention of collisions at sea—

- (i) between seaplanes on the surface of the water; and
- (ii) between ships and seaplanes on the surface of the water.

Passenger ship  
construction  
regulations.

**94.** (1) The Governor in Council may make regulations prescribing the requirements with which the hull, equipment and machinery of and fuel used in passenger ships registered in Hong Kong shall comply.

(2) Without prejudice to the generality of the powers conferred on the Governor in Council under subsection (1), the passenger ship construction regulations—

(a) may require the provision in such ships—

(i) of plans exhibited as provided by or under the regulations, and of other information, relating to the boundaries of watertight compartments, the openings therein, the means of closing such openings and the arrangements for correcting any list due to flooding; and

(ii) of information necessary for the guidance of the master in maintaining sufficient stability to enable the ship to withstand damage; and

(b) shall include such requirements as appear to the Governor in Council to be necessary to implement the provisions of the Convention prescribing the requirements which the hull, equipment and machinery of passenger ships shall comply with, except so far as those provisions are implemented by any other regulations made under this Ordinance.

(3) The powers conferred on the Governor in Council by this section shall be in addition to the powers conferred by any other enactment enabling him to prescribe the requirements with which passenger ships shall comply.

(4) If the passenger ship construction regulations are contravened in any respect in relation to a ship the owner or master of the ship commits an offence and is liable to a fine of \$10,000.

Regulations  
in respect  
of openings  
in passenger  
ships' hulls and  
watertight  
bulkheads.

**95.** (1) The Governor in Council may make regulations in respect of passenger ships registered in Hong Kong for all or any of the following matters—

(a) for closing and keeping closed the openings in hulls and watertight bulkheads;

(b) for securing, keeping in place and inspecting contrivances for closing such openings;

(c) for operating the mechanisms or contrivances for closing any such openings and for drills in connexion with the operation thereof; and

(d) for requiring entry to be made in the official log-book or other record of passenger ships of any of such matters.

(2) If any regulation made under this section is contravened by any person the master of the passenger ship involved in the contravention commits an offence and is liable to a fine of \$10,000.

Cargo ship  
construction  
and survey  
regulations.

**96.** (1) The Governor in Council may make regulations prescribing the requirements for the hull, equipment and machinery of and the fuel used in ships to which section 11 applies and requiring any such ships which are registered in Hong Kong to be surveyed to such extent, in such manner and at such intervals as may be prescribed by the regulations.

(2) The cargo ship construction and survey regulations shall include such requirements as appear to the Governor in Council to be necessary to implement the provisions of the Convention relating to the hull, equip-

ment and machinery of such ships, except as far as those provisions are implemented by any other regulations made under this Ordinance.

(3) If the cargo ship construction and survey regulations are contravened in any respect in relation to a ship, the owner or master of the ship commits an offence and is liable to a fine of \$10,000.

**97.** (1) The Governor in Council may make regulations requiring ships to which this section applies to be provided with radio equipment of such a nature (but not including a radio navigational aid) as may be prescribed by the regulations and to maintain such a radio service and to carry such number of radio officers or operators, of such grades and possessing such qualifications, as may be so prescribed; and the regulations may contain provisions for preventing, so far as practicable, electrical interference by other apparatus on board with the equipment provided under the regulations.

Radio regulations.

(2) Regulations made under this section shall include such requirements as appear to the Governor in Council to implement such provisions of the Convention as relate to radiotelegraphy and radiotelephony.

(3) Without prejudice to the generality of this section, radio regulations may—

- (a) prescribe the duties of radio officers and operators, including the duty of keeping a radio log-book;
- (b) apply to any radio log-book required to be kept under the regulations any of the provisions of any regulations with respect to official log-books made under section 68 of the Merchant Shipping Act 1970;
- (c) prescribe requirements for such portable radio apparatus as boats or life rafts may be required to carry by the life-saving appliances regulations.

(4) If any radio officer or operator contravenes any regulations made in pursuance of subsection (3)(a), he commits an offence and is liable to a fine of \$1,000 and if the radio regulations are contravened in any other respect in relation to any ship, the owner or master of the ship commits an offence and is liable to a fine of \$5,000.

(5) This section applies to—

- (a) ships registered in Hong Kong; and
- (b) other ships while they are within the waters of Hong Kong.

**98.** (1) The Governor in Council may make regulations—

- (a) requiring ships to which this section applies to be provided with such navigational equipment as may be specified in the regulations and prescribing requirements which such navigational equipment is to comply with;
- (b) prescribing requirements which navigational equipment other than such as are provided in pursuance of regulations made under paragraph (a), are to comply with when carried in ships to which this section applies;
- (c) prescribing requirements which apparatus designed for the purpose of transmitting or reflecting signals to or from navigational equipment is to comply with if it is apparatus in Hong Kong or apparatus off the shores of Hong Kong but maintained from Hong Kong.

Navigational equipment regulations.

and the requirements prescribed under paragraph (a) or (b) may include requirements relating to the position and method of fitting the navigational equipment.

(2) If a ship to which this section applies proceeds, or attempts to proceed, to sea without carrying such navigational equipment as it is required to carry by regulations made under subsection (1) or carrying navigational equipment not complying with such regulations, the owner or master of the ship commits an offence and is liable to a fine of \$10,000.

(3) If any person establishes or operates any such apparatus as is mentioned in subsection (1)(c) and the apparatus does not comply with regulations made thereunder, he commits an offence and is liable to a fine of \$10,000.

(4) This section applies to—

(a) ships registered in Hong Kong; and

(b) other ships while they are within the waters of Hong Kong.

Regulations  
for life-saving  
and fire-fighting  
appliances.

99. (1) The Governor in Council may make regulations with respect to all or any of the following matters—

(a) the number, description and mode of construction of the boats, life rafts, line-throwing appliances, life-jackets and lifebuoys to be carried by ships, according to the classes in which the ships are arranged;

(b) the equipment to be carried by any such boats and rafts and the methods to be provided to get the boats and other life-saving appliances into the water, including oil for use in stormy weather;

(c) the provision in ships of a proper supply of lights and smoke signals, inextinguishable in water and fitted for attachment to lifebuoys;

(d) the quantity, quality and description of buoyant apparatus to be carried on board ships, either in addition to or in substitution for boats, life rafts, life-jackets and lifebuoys;

(e) the position and means of securing the boats, life rafts, life-jackets, lifebuoys and buoyant apparatus;

(f) the marking of the boats, life rafts and buoyant apparatus so as to show their dimensions and the number of persons authorized to be carried on them;

(g) the manning of the lifeboats and the qualifications and certificates of lifeboatmen;

(h) the provision to be made for mustering the persons on board and for embarking them in the boats, including provision for the lighting of, and the means of ingress to and egress from different parts of the ship;

(i) the provision of suitable means situated outside the engine-room whereby any discharge of water into the boats can be prevented;

(j) the assignment of specific duties to each member of the crew in the event of emergency;

(k) the methods to be adopted and the appliances to be carried in ships for the prevention, detection and extinction of fire;

(l) the provision in ships of plans or other information relating to the means of preventing, detecting, controlling and extinguishing outbreak of fire;

(m) the practice in ships of boat-drills and fire-drills;

- (n) the provision in ships of means of making effective distress-signals by day and by night;
- (o) the provision, in ships on voyages in which pilots are likely to be embarked, of suitable mechanical hoists, pilot-ladders, and of ropes, lights and other appliances designed to make the use of such hoists and ladders safe; and
- (p) the examination and maintenance at intervals to be prescribed by the regulations of any appliances or equipment required by the regulations to be carried.

(2) The life-saving appliances regulations and the fire-fighting appliances regulations shall include such requirements as appear to the Governor in Council to be necessary to implement the provisions of the Convention and the Simla Rules 1931 or any replacement of those Rules relating to the matters referred to in subsection (1).

(3) This section applies to—

- (a) ships registered in Hong Kong; and
- (b) other ships while they are within the waters of Hong Kong:

Provided that this section shall not apply to a ship by reason of its being within the waters of Hong Kong if it would not have been in such waters but for stress of weather or other circumstance which neither the master nor the owner of the ship could have prevented or forestalled.

**100.** The Governor in Council may make regulations prescribing—

- (a) what signals shall be used by ships as signals of distress;
- (b) the circumstances in which, and the purposes for which, any such signal is to be used and the circumstances in which it is to be revoked; and
- (c) the circumstances and manner in which warnings of navigational dangers shall be reported.

Regulations in respect of distress signals and navigational warnings.

**101.** (1) The Governor in Council may make regulations for regulating in the interests of safety the carriage of dangerous goods in ships to which this section applies.

Regulations in respect of carriage of dangerous goods.

(2) If any of the regulations made under subsection (1) are not complied with—

- (a) the owner or master of the ship commits an offence and is liable to a fine of \$10,000; and
- (b) the ship shall be deemed for the purposes of section 67 to be unsafe by reason of improper loading.

(3) This section applies to—

- (a) ships registered in Hong Kong; and
- (b) other ships while they are within the waters of Hong Kong.

**102.** (1) The Governor in Council may make regulations—

Load line regulations.

- (a) for the surveying and periodic inspection of ships to which Part IV applies;
- (b) for determining freeboards to be assigned from time to time to such ships;
- (c) for ascertaining the length of a ship for the purposes of Part IV;
- (d) for determining, in relation to any such ship, the deck which is to be taken to be the freeboard deck of the ship, and for

requiring the position of that deck to be indicated on each side of the ship by a mark of description prescribed by the regulations;

- (e) for determining, by reference to that mark and the freeboard for the time being assigned to any such ship, the positions in which each side of the ship is to be marked with lines of a description prescribed by the regulations, indicating the various maximum depths to which the ship may be loaded in circumstances prescribed by the regulations;
- (f) specifying such requirements in respect of the hulls, superstructures, fittings and appliances of ships to which Part IV applies as appear to the Governor in Council to be relevant to the assignment of freeboards to such ships;
- (g) providing that, at the time when freeboards are assigned to a ship in accordance with these regulations, such particulars relating to those requirements as may be determined in accordance with the regulations are to be recorded in such manner as may be so determined;
- (h) for determining by reference to those requirements and that record whether, at any time after freeboards have been so assigned to a ship and while they continue to be so assigned the ship is for the purposes of this Part to be taken to comply, or not to comply, with the conditions of assignment;
- (i) requiring such information relating to the stability of any ship to which freeboards are assigned under the regulations, and such information relating to the loading and ballasting of any such ship, as may be determined in accordance with the regulations, to be provided for the guidance of the master of the ship in such manner as may be so determined;
- (j) for securing that certificates which are issued as International Load Line Certificates (1966) in respect of ships to which section 57 applies, and are so issued by governments, other than the Government of Hong Kong, shall be recognized for the purposes of Part IV in such circumstances as may be prescribed;
- (k) for securing that exemption certificates which, in accordance with the Convention of 1966, are issued in respect of ships to which section 57 applies, and are so issued by governments other than the Government of Hong Kong, shall in such circumstances as may be prescribed by the regulations have the like effect for the purposes of Part IV as if they were valid Convention certificates;
- (l) prescribing the period for which a certificate under section 51, an exemption under section 62 or a certificate under section 63 shall remain in force and for extensions of such period;
- (m) enabling a certificate under section 51, an exemption under section 62 or a certificate under section 63 to be extended within such limits and in such circumstances as may be prescribed by the regulations;
- (n) providing for the endorsement, termination or cancellation of a certificate under section 51, an exemption under section 62 or a certificate under section 63.

(2) In relation to any matter authorized or required by Part IV to be prescribed by the load line regulations, those regulations may make different provision by reference to, or to any combination of, any of the following—

- (a) different descriptions of ships;
- (b) different areas;
- (c) different seasons of the year; and
- (d) any other different circumstances.

**103.** (1) The Governor in Council may make regulations with respect to the testing of anchors and chain cables for use in ships registered in Hong Kong, and such regulations may in particular—

Regulations for testing anchor and chain cables.

- (a) prescribe the manner in which tests of anchors and cables are to be carried out, the tensile strains and breaking strains to be employed in such tests and the requirements to be fulfilled by equipment used for the purposes of such tests;
- (b) provide for the marking of anchors and cables which have passed such tests and for the issue of certificates in respect of such anchors and cables;
- (c) provide for the supervision of such tests and marking, and for the inspection of such equipment, by a Government surveyor appointed under section 5;
- (d) provide for the payment of fees in respect of such supervision and inspection and in respect of the issue of certificates under the regulations; and
- (e) provide that the regulations shall not apply to anchors or cables of such classes or descriptions as may be specified in the regulations or which are exempted therefrom by the Director in accordance with any power in that behalf contained in the regulations.

(2) In this section “anchor” and “chain cable” include any shackle attached to or intended to be used in connexion with the anchor or cable.

**104.** The Governor in Council may make regulations prescribing, in relation to the loading of ships generally or of ships of any class, any precautions which are necessary or reasonable precautions to prevent grain from shifting.

Regulations relating to carriage of grain.

**105.** (1) The Governor in Council may make regulations prescribing requirements to be complied with where cargo is carried in any uncovered space on the deck of a ship to which Part IV applies; and different requirements may be so prescribed in relation to different descriptions of ships, different descriptions of cargo, different voyages or classes of voyage, different seasons of the year or any other different circumstances.

Deck cargo regulations.

(2) If the load line regulations provide, either generally or in particular cases or classes of cases, for assigning special freeboards to ships which are to have effect only where a cargo of timber is carried, then, without prejudice to the generality of subsection (1), the deck cargo regulations may prescribe special requirements to be complied with in circumstances where any such special freeboard has effect.

(3) In prescribing any such special requirements as are mentioned in subsection (2), the Governor in Council shall have regard in particular to Chapter IV of the Convention of 1966.

(4) If the deck cargo regulations are contravened—

- (a) in the case of a ship registered in Hong Kong; or
- (b) in the case of any other ship while the ship is within the waters of Hong Kong,

the owner or master of the ship commits an offence and is liable to a fine of \$15,000.

(5) For the purpose of securing compliance with the deck cargo regulations any person authorized in that behalf by the Director may inspect any ship to which Part IV applies which is carrying cargo in any uncovered space on its deck; and for the purposes of any such inspection any such person shall have all the powers conferred by section 115.

**Nuclear ship regulations.**

106. The Governor in Council may make regulations with respect to ships provided with nuclear power plants for the purpose of enabling effect to be given to the provisions of Chapter VIII of the Annex to the Convention.

**General safety regulations.**

107. (1) The Governor in Council may make regulations—

- (a) for securing the safety of Hong Kong ships and persons on them and for protecting the health of persons on Hong Kong ships; and
- (b) for giving effect to any provisions of an international agreement applicable to Hong Kong so far as the agreement relates to the safety of other ships or persons on them or to the protection of the health of persons on other ships.

(2) Without prejudice to the generality of subsection (1), regulations made under that subsection may in particular provide for—

- (a) the design, construction, maintenance, repair, alteration, inspection, surveying and marking of ships and their machinery and equipment;
- (b) the packaging, marking, loading, placing, moving, inspection, testing and measuring of cargo and anything on a ship which is not cargo, machinery or equipment;
- (c) the carrying out of any operation involving a ship;
- (d) the use of the machinery and equipment of a ship and of anything on a ship which is not cargo, machinery or equipment;
- (e) the arrangements for ensuring communication between persons in different parts of a ship and between persons in the ship and other persons;
- (f) the access to, presence in and egress from a ship, and different parts of it, of persons of any description;
- (g) the ventilation, temperature and lighting of different parts of a ship;
- (h) the steps to be taken to prevent or control noise, vibration and radiation in and from a ship and the emission in or from a ship of smoke, gas and dust;
- (i) the steps to be taken to prevent, detect and deal with outbreaks of fire on a ship;
- (j) the steps to be taken to prevent any collision involving a ship and in consequence of any collision involving a ship;
- (k) the steps to be taken, in a case where a ship is in distress or stranded or wrecked, for the purpose of saving the ship and its machinery, equipment and cargo and the lives of persons on or from the ship, including the steps to be taken by other persons for giving assistance in such a case;



- (l) the removal, by jettisoning or otherwise, of its equipment and of other things from a ship for the purpose of avoiding, removing or reducing danger to persons or property;
  - (m) the steps to be taken, in a case where danger of any kind occurs or is suspected on a ship, for removing or reducing the danger and for warning persons who are not on the ship of the danger or suspected danger;
  - (n) the making of records and the keeping of documents relating to ships and the keeping and use on a ship of information to facilitate the navigation of the ship;
  - (o) the keeping of registers and the issue of certificates in cases for which registration or a certificate is required by virtue of the regulations;
  - (p) the furnishing of information;
  - (q) the granting by the Director on such terms (if any) as he may specify, of exemptions from specified provisions of the regulations for classes of cases or individual cases;
  - (r) the alteration or cancellation of any such exemption;
  - (s) the detention of any ship and the application of section 68, with such modifications (if any) as are prescribed, in relation to the ship;
  - (t) the granting of approvals by the Director and the terms thereof and the cancellation of any such approval or the alteration of the terms thereof;
  - (u) fees; and
  - (v) generally carrying into effect this Ordinance.
- (3) Regulations made under this section may—
- (a) make different provision for different circumstances and, in particular, make provision for an individual case;
  - (b) be made so as to apply only in such circumstances as are prescribed by the regulations;
  - (c) provide that the contravention of any particular regulation shall be an offence and may prescribe penalties for any such offence not exceeding a fine of \$10,000 or imprisonment for 1 year or both such fine and such imprisonment.

(4) In this section "Hong Kong ship" means a ship registered in Hong Kong.

108. (1) The Governor in Council may make regulations specifying such charts, directions or information as are necessary or expedient for the safe operation of ships, and those regulations may require ships registered in Hong Kong, or such class of ships registered in Hong Kong as may be specified in the regulations, to carry, either at all times or on such voyages as may be specified in the regulations, copies of the charts, directions or information so specified.

Nautical publications.

(2) If a ship goes to sea, or attempts to go to sea without carrying copies of the charts, directions or information which it is required to carry by regulations under this section, the owner or master of the ship commits an offence and is liable to a fine of \$5,000.

109. The Governor in Council may make regulations to provide for carrying into effect the provisions of this Ordinance with respect to a court of survey and appeals thereto, and in particular with respect to the summoning of and procedure before the court, the requiring of security for

Regulations as to procedure, fees, etc. in courts of survey.

costs and damages on an appeal under section 12 or section 68 and the amount and application of fees.

Regulations  
as to fees and  
surveys.

**110.** (1) The Governor in Council may make regulations prescribing the fees to be paid for any inspection carried out by a Government surveyor under any power conferred by this Ordinance and in respect of any certificate issued by the Director under this Ordinance.

(2) Any fees payable under regulations made under subsection (1) shall be paid to the Government of Hong Kong.

(3) Subsection (2) shall not apply to any fee paid in respect of—

(a) a survey or inspection which is carried out otherwise than by a Government surveyor; or

(b) a certificate issued otherwise than by the Director under this Ordinance.

(4) The Governor in Council may issue instructions to Government surveyors and may make regulations—

(a) specifying the manner in which surveys of ships are to be made;

(b) specifying the notice to be given to Government surveyors when surveys are required;

(c) prescribing the amount and payment of fees due and of any travelling or other expenses incurred by Government surveyors in the execution of their duties; and

(d) prescribing the persons by whom and the conditions under which any such payments as are mentioned in paragraph (c) shall be made.

(5) For the purposes of subsection (4) and without prejudice to the generality of the powers contained therein the instructions to surveyors of ships and the regulations relating to surveyor of ships issued or made from time to time under the Merchant Shipping Acts shall, unless varied by or repugnant to the instructions or regulations issued or made under subsection (4), shall be deemed to be instructions or regulations issued or made under subsection (4).

Adoption of  
regulations  
made under  
Merchant  
Shipping Acts.  
Schedule.

**111.** (1) For the purposes of this Ordinance, the rules and regulations shown in the second column of the Schedule and made from time to time under the Merchant Shipping Acts shall be deemed to be the regulations made under the relevant section shown in the third column of the Schedule, unless the first-mentioned rules or regulations are varied by or repugnant to those regulations; and any reference in the Schedule to rules and regulations shall include a reference to such rules and regulations as may from time to time be amended.

(2) Where in any rules or regulations shown in the second column of the Schedule any power is conferred on or any duty is to be performed by a Secretary of State, such power or duty shall, in relation to Hong Kong, be exercised or performed by the Governor or any person authorized by him.

(3) This section shall—

(a) be without prejudice to the generality of any powers conferred by this Ordinance to make regulations; and

(b) be in addition to and shall not derogate from section 75 of the Interpretation and General Clauses Ordinance.

(4) The Governor may by order amend the Schedule.

**112.** Save as otherwise provided, any regulations made under this Ordinance may provide that a contravention of specified provisions thereof shall be an offence and may prescribe penalties therefor not exceeding \$20,000 and 2 years imprisonment. Penalties under regulations.

## PART X

### MISCELLANEOUS PROVISIONS

**113.** (1) The Governor may give to the Director and to any public officer such directions as he thinks fit, either generally or in any particular case, with respect to the performance or exercise of their respective duties or powers under this Ordinance. Power of Governor to give directions.

(2) A person to whom a direction is given by the Governor under subsection (1) shall, in the performance or exercise of his duties or powers under this Ordinance, comply with that direction.

**114.** (1) The Secretary for Economic Services may exempt any ship or class of ships from any requirements of this Ordinance or any regulations made under this Ordinance, either absolutely or subject to such conditions as he thinks fit. Power to exempt.

(2) Where any exemption is conferred under subsection (1) subject to conditions, the exemption shall not have effect unless those conditions are complied with.

(3) Without prejudice to the generality of subsection (1), where a ship not normally engaged on international voyages is required to undertake a single international voyage, the Secretary for Economic Services may, if he is of the opinion that the ship complies with safety requirements that are adequate for that voyage, exempt the ship from any of the safety requirements imposed by or under the Merchant Shipping Acts or under this Ordinance.

(4) The Secretary for Economic Services may modify any requirement imposed by or under this Ordinance—

- (a) with regard to passenger ships plying on any international coasting voyage, if and to the extent that he is satisfied that the risks incurred by passenger ships plying on that voyage are such as to make it unreasonable or unnecessary to require ships so plying to comply with that requirement;
- (b) with regard to ships for the time being engaged in any passenger trade in which they are employed in the carriage of large numbers of unberthed passengers, if he is satisfied that compliance with that requirement by ships so engaged is impracticable and to the extent that he is so satisfied that modifications are required by the conditions of the trade.

**115.** (1) Any person empowered to exercise the powers contained in this section may— Powers of inspection.

- (a) at any reasonable time (or, in a situation which in his opinion is or may be dangerous, at any time)—
  - (i) enter any premises; or
  - (ii) board any ship which is registered in Hong Kong wherever it may be and any other ship which is in the waters of Hong Kong, if he has reason to believe that it is necessary for him to enter the premises or board the ship for the purpose of performing his functions;

- (b) on entering any premises by virtue of paragraph (a) or on boarding a ship by virtue of that paragraph, take with him any other person and any equipment or materials required to assist him in performing his functions;
- (c) make such examination and investigation as he considers necessary for the purpose of performing his functions;
- (d) as regards any premises or ship which he has power to enter or board, give a direction requiring that the premises or ship or any part of the premises or ship or any thing in the premises or ship or such a part shall be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purposes of any examination or investigation under paragraph (c);
- (e) take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under paragraph (c);
- (f) take samples of any articles or substances found in any premises or ship which he has power to enter or board and of the atmosphere in or in the vicinity of any such premises or ship;
- (g) in the case of any article or substance which he finds in any such premises or ship and which appears to him to have caused or to be likely to cause danger to health or safety, cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless that is in the circumstances necessary for the purpose of performing the said functions);
- (h) in the case of any such article or substance as is mentioned in paragraph (g), take possession of it and detain it for so long as is necessary for all or any of the following purposes—
  - (i) to examine it and do to it anything which he has power to do under that paragraph;
  - (ii) to ensure that it is not tampered with before his examination of it is completed;
  - (iii) to ensure that it is available for use as evidence in any proceedings for an offence under this Ordinance;
- (i) require any person who he has reasonable cause to believe is able to give any information relevant to any examination or investigation under paragraph (c)—
  - (i) to attend at a place and time specified by him; and
  - (ii) to answer (in the absence of persons other than any persons whom he may allow to be present and a person nominated to be present by the person on whom the requirement is imposed) such questions as he thinks fit to ask; and
  - (iii) to sign a declaration of the truth of his answer;
- (j) require the production of, and inspect and take copies of or of any entry in,—
  - (i) any books or documents which by virtue of any provision of this Ordinance or the Merchant Shipping Acts are required to be kept; and
  - (ii) any other books or documents which he considers it necessary for him to see for the purposes of any examination or investigation under paragraph (c);
- (k) require any person to afford him such facilities and assistance with respect to any matters or things within that person's control

or in relation to which that person has responsibilities as the inspector considers are necessary to enable him to exercise any of the powers conferred on him by this subsection.

(2) It is hereby declared that nothing in subsection (1) authorizes a person unnecessarily to prevent a ship from proceeding on a voyage.

(3) The Governor in Council may by regulations make provision as to the procedure to be followed in connexion with the taking of samples under subsection (1)(f) and subsection (6) and provision as to the way in which samples that have been so taken are to be dealt with.

(4) Where a person proposes to exercise the power conferred by subsection (1)(g) in the case of an article or substance found in any premises or ship, he shall, if so requested by a person who at the time is present in and has responsibilities in relation to the premises or ship, cause anything which is to be done by virtue of that power to be done in the presence of that person unless he considers that its being done in that person's presence would be prejudicial to the safety of that person.

(5) Before exercising the power conferred by subsection (1)(g), the person shall consult such other persons as appear to him appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which he proposes to do under that power.

(6) Where under the power conferred by subsection (1)(h) a person takes possession of any article or substance found in any premises or ship, he shall leave there, either with a responsible person or, if that is impracticable, fixed in a conspicuous position, a notice giving particulars of that article or substance sufficient to identify it and stating that he has taken possession of it under that power; and before taking possession of any such substance under that power he shall, if it is practicable for him to do so, take a sample of the substance and give to a responsible person at the premises or on board the ship a portion of the sample marked in a manner sufficient to identify it.

(7) No answer given by a person in pursuance of a requirement imposed under subsection (1)(i) shall be admissible in evidence against that person or the husband or wife of that person in any proceedings except proceedings in pursuance of section 116(c) in respect of a statement in or a declaration relating to the answer; and a person nominated as mentioned in subsection (1)(i) shall be entitled, on the occasion on which the questions there mentioned are asked, to make representations to the person exercising the powers under this section on behalf of the person who nominated him.

(8) Nothing in this section shall be taken to compel the production by any person of a document of which he would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the High Court.

**116. A person who—**

Obstruction.

- (a) wilfully obstructs any person in the exercise of any power conferred on him by section 115; or
- (b) without reasonable excuse, does not comply with a requirement imposed in pursuance of section 115 or prevents another person from complying with such a requirement; or
- (c) without prejudice to the generality of paragraph (b), makes a statement or signs a declaration which he knows is false, or

recklessly makes a statement or signs a declaration which is false, in purported compliance with a requirement made in pursuance of subsection (1)(i) of section 115,

commits an offence and shall be liable to a fine of \$10,000 and to imprisonment for 6 months.

Power to detain.

**117.** (1) A Government surveyor may inspect any ship for the purpose of seeing that it complies with this Ordinance or any regulations made thereunder; and if he finds that it does not comply with this Ordinance or regulations he shall give to the owner, agent or master notice in writing stating in what respect it fails to comply and what in his opinion is required to remedy the failure.

(2) Where a notice under subsection (1) has been given to the owner, agent or master of a ship, the ship shall be detained by the Director until a certificate by a Government surveyor is produced to the effect that the failure has been remedied.

Application of section 69.

**118.** Where a ship is detained under any provision of this Ordinance (other than Part V) which provides for the detention of a ship until an event specified in that provision occurs, section 69 shall apply as if the ship had been detained under section 68.

Notice to be given to consular officer where proceedings taken in respect of foreign ships.

**119.** Where any foreign ship is detained under this Ordinance, and where any proceedings are taken under this Ordinance against the owner, agent or master of any such ship, notice shall forthwith be served on the consular officer for the country to which the ship belongs, and such notice shall specify the grounds on which the ship has been detained or the proceedings have been taken.

Service of documents.

**120.** (1) Where, for the purposes of this Ordinance, any document is to be served on any person, that document may be served by any public officer of the Marine Department of the rank of Marine Inspector Class II or above or by any other person authorized in that behalf by the Director—

- (a) in any case by delivering the document personally to the person to be served, or by leaving it for him at his last place of business or residence;
- (b) if the document is to be served on the master of a ship, where there is one, by leaving it for him on board the ship with the person being or appearing to be in charge or command of the ship or a member of the crew of the ship;
- (c) if the document is to be served on a person belonging to a ship, by leaving it for him on board the ship with the master of the ship or with a person being or appearing to be in charge or command of the ship;
- (d) if the document is to be served on the master of a ship, where there is no master and the ship is in Hong Kong—
  - (i) by serving it on the owner of the ship or his agent residing in Hong Kong; or
  - (ii) where no such owner or his agent is known or can be found, by affixing the document to the mast or other prominent part of the ship;
- (e) if the document is to be served on the owner of a ship or his agent—

(i) by leaving the document for him on board the ship with some person being or appearing to be in charge or command of the ship or a member of the crew of the ship; or

(ii) by leaving the document for him at the office of the owner or his agent with some person being or appearing to be in charge of the office.

(2) Any document referred to in subsection (1) which is to be served on the owner or master of a ship may be addressed to the owner or master of the ship without specifying the name of the owner or master.

(3) Any person who obstructs the service under this Ordinance of a document on the master of a ship commits an offence and is liable to a fine of \$5,000.

(4) Any owner, agent or master of a ship who is party or privy to an offence under subsection (3) commits an offence and is liable to a fine of \$50,000 and to imprisonment for 2 years.

**121.** There shall be paid out of general revenue to any member of a court of survey, other than a public officer, or to any assessor, other than a public officer, such remuneration as may be prescribed in regulations made under this Ordinance or, if no such regulations have been made, as the Governor may direct.

Payment of remuneration to certain persons.

**122.** (1) In any legal proceedings for a contravention of this Ordinance, any entry in the official log-book of a ship, deck log-book, engine room log-book or other similar document, or any document purporting to be a copy of any such entry and to be certified as a true copy by any person specified in subsection (2) shall, until the contrary is proved—

Use of official log-book in evidence.

(a) be admitted in evidence and be sufficient evidence of the matters stated therein; and

(b) in the case of such a copy, be presumed that it is so certified.

(2) For the purposes of subsection (1), the persons who may certify copies of entries in an official log-book, deck log-book, engine room log-book or other similar document are—

(a) the Director or any person authorized by him in writing in that behalf;

(b) a magistrate;

(c) a justice of the peace;

(d) a notary public, as defined in the Legal Practitioners Ordinance; (Cap. 159.)  
or

(e) a consular officer.

**123.** (1) Any certificate referred to in subsection (2) which is in force in respect of any ship on the commencement of this Ordinance shall continue in force and have effect as if it were a certificate issued under this Ordinance.

Saving.

(2) For the purposes of subsection (1) the certificates are—

(a) a passenger certificate issued under section 28 of the Merchant Shipping Ordinance;

(Cap. 281.)

(b) the following certificates issued under the Merchant Shipping (Safety Convention) Act 1949 as extended to Hong Kong by the Merchant Shipping Safety Convention (Hong Kong) No. 1 Order 1953—

(S.I. 1953/592.)

- (i) a general safety certificate;
- (ii) a short voyage safety certificate;
- (iii) a qualified safety certificate;
- (iv) a qualified short voyage safety certificate;
- (v) a safety equipment certificate;
- (vi) a qualified safety equipment certificate;
- (vii) a radio certificate;
- (viii) a qualified radio certificate;
- (ix) any exemption certificate; and
- (x) any other certificate which the Governor has issued pursuant to powers conferred on him by the Act as so extended;

(S.I. 1965/  
2011.)

- (c) the following certificates issued under the Merchant Shipping Act 1964 as extended to Hong Kong by the Merchant Shipping (Safety Convention) (Hong Kong) Order 1965—

- (i) a cargo ship safety construction certificate;
- (ii) a qualified cargo ship safety construction certificate;
- (iii) any exemption certificate;

(1967 c. 27.)  
(S.I. 1970/  
285.)

- (d) the following certificates issued under the Merchant Shipping (Load Lines) Act 1967 as extended to Hong Kong by the Merchant Shipping (Load Lines) (Hong Kong) Order 1970—

- (i) an International Load Line Certificate (1966);
- (ii) an International Load Line Exemption Certificate;
- (iii) any other certificate which the Governor has issued pursuant to powers conferred on him by the Act as so extended.

(Cap. 281.)

(3) For the avoidance of doubt, it is hereby declared that notwithstanding the repeal of sections 59 and 60 and Parts VI and VII of the Merchant Shipping Ordinance, the following regulations (hereinafter referred to as the specified regulations)—

- (a) the Merchant Shipping (Court of Survey) Regulations;
- (b) the Merchant Shipping (Fire Appliances) Regulations;
- (c) the Merchant Shipping (Instructions to Surveyors) (Passenger Ships) Regulations;
- (d) the Merchant Shipping (Life Saving Appliances) Regulations; and
- (e) the Merchant Shipping (Minimum Passenger Space) Regulations,

(Cap. 281,  
sub. leg.)  
(Cap. 281,  
sub. leg.)  
(Cap. 281,  
sub. leg.)  
(Cap. 281,  
sub. leg.)  
(Cap. 281,  
sub. leg.)

shall, save in so far as they are inconsistent with any of the provisions of this Ordinance or any regulations made thereunder, continue in operation until such time as they are replaced by regulations made under this Ordinance which are expressed to be in substitution of the specified regulations, and shall be deemed for all purposes to have been made under the Ordinance and to be liable to amendment thereby or thereunder.

Repeals and  
consequential  
amendments.  
(Cap. 281.)

124. (1) Sections 59 and 60 and Part VI (other than sections 34A, 34B, 34C and 34D) and Part VII of the Merchant Shipping Ordinance are repealed.

(2) Section 34A(1) of the Merchant Shipping Ordinance is amended—

(a) by deleting “passenger ship” and substituting the following—  
“ship”; and

(b) by deleting “section 34” and substituting the following—

“section 38 of the Merchant Shipping (Safety) Ordinance 1981”.



(3) Section 34B(6) of the Merchant Shipping Ordinance is amended by deleting "section 34 of this Ordinance" and substituting the following—  
 "section 38 of the Merchant Shipping (Safety) Ordinance 1981".

## SCHEDULE

[s. 111.]

## UNITED KINGDOM REGULATIONS APPLICABLE TO HONG KONG

<i>Item</i>	<i>Regulations</i>	<i>Section of Ordinance under which deemed to be made</i>
1.	International Regulations for Preventing Collision at Sea 1972	93
2.	Merchant Shipping (Radio Installations) Regulations 1980 (S.I. 1980 No. 529)	97
3.	Merchant Shipping (Radio Installations Survey) Regulations 1981 (S.I. 1981 No. 583)	97 and 107
4.	Merchant Shipping (Navigational Equipment) Regulations 1980 (S.I. 1980 No. 530)	98
5.	Merchant Shipping (Safety Convention) (Transitional Provisions) Regulations 1980 (S.I. 1980 No. 531)	107
6.	Merchant Shipping (Navigational Warnings) Regulations 1980 (S.I. 1980 No. 534)	100
7.	Merchant Shipping (Signals of Distress) Rules 1977 (S.I. 1977 No. 1010)	100
8.	Merchant Shipping (Passenger Ship Construction) Regulations 1980 (S.I. 1980 No. 535)	94
9.	Merchant Shipping (Grain) Regulations 1980 (S.I. 1980 No. 536)	104
10.	Merchant Shipping (Cargo Ship Construction and Survey) Regulations 1981 (S.I. 1981 No. 572)	96
11.	Merchant Shipping (Cargo Ship Safety Equipment Survey) Regulations 1981 (S.I. 1981 No. 573)	96 and 107
12.	Merchant Shipping (Life-saving Appliances) Regulations 1980 (S.I. 1980 No. 538)	99
13.	Merchant Shipping (Closing of Openings in Hulls and in Watertight Bulkheads) Regulations 1980 (S.I. 1980 No. 540)	95
14.	Merchant Shipping (Fire Appliances) Rules 1965 and Merchant Shipping (Fire Appliances) (Amendment) Rules 1980 (S.I. 1965 No. 1106 and S.I. 1980 No. 541)	99

<i>Item</i>	<i>Regulations</i>	<i>Section of Ordinance under which deemed to be made</i>
15.	Merchant Shipping (Musters) Regulations 1980 (S.I. 1980 No. 542)	99
16.	Merchant Shipping (Pilot Ladders and Hoists) Regulations 1980 (S.I. 1980 No. 543)	99
17.	Merchant Shipping (Fire Appliances) Regulations 1980 (S.I. 1980 No. 544)	99
➤ 18.	Merchant Shipping (Dangerous Goods) Rules 1978 (S.I. 1978 No. 1543)	101
19.	Merchant Shipping (Load Line) Rules 1968 (S.I. 1968 No. 1053)	102
20.	Merchant Shipping (Load Lines) (Length of Ship) Regulations 1968 (S.I. 1968 No. 1072)	102
21.	Merchant Shipping (Load Lines) (Particulars of Depth of Loading) Regulations 1972 (S.I. 1972 No. 1841)	102
22.	Merchant Shipping (Load Lines) (Deck Cargo) Regulations 1968 (S.I. 1968 No. 1089)	105
23.	Anchors and Chain Cables Rules 1970 (S.I. 1970 No. 1453)	103
24.	Merchant Shipping (Carriage of Nautical Publications) Rules 1975 (S.I. 1975 No. 700)	108
25.	Merchant Shipping (Automatic Pilot and Testing of Steering Gear) Regulations 1981 (S.I. 1981 No. 571)	107

Passed by the Hong Kong Legislative Council this 22nd day of July 1981.

LORNA LEUNG,  
*Clerk to the Legislative Council.*

*This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.*

LORNA LEUNG,  
*Clerk to the Legislative Council.*