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**Merchant Shipping (Prevention of Air Pollution)
(Amendment) Regulation 2019**

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Merchant Shipping (Prevention of Air Pollution) (Amendment) Regulation 2019

(Made by the Secretary for Transport and Housing under section 3 of the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413))

1. Commencement

This Regulation comes into operation on 31 May 2019.

2. Merchant Shipping (Prevention of Air Pollution) Regulation amended

The Merchant Shipping (Prevention of Air Pollution) Regulation (Cap. 413 sub. leg. P) is amended as set out in sections 3 to 22.

3. Section 2 amended (interpretation)

- (1) Section 2(1), English text, definition of *specified non-conventional propulsion ship*, paragraph (b)—

Repeal the full stop

Substitute a semicolon.

- (2) Section 2(1)—

Add in alphabetical order

“*calendar year* (公曆年) means a period of 12 months beginning on 1 January;

consumption data (耗油數據) means the data specified in Appendix IX to Annex VI, other than the identification data;

Fuel Oil Consumption Reporting Compliance Statement (遵行規定證明(耗油報告)) means—

- (a) a Statement of Compliance; or
- (b) a document entitled “Statement of Compliance – Fuel Oil Consumption Reporting”—
 - (i) issued by a recognized organization; or
 - (ii) issued by or under the authority of an Administration;

identification data (識別數據), in relation to a ship, means the data specified in Appendix IX to Annex VI for identifying the ship;

Statement of Compliance (遵規證明) means a Statement of Compliance issued under section 60A.”.

4. Section 6A added

Part 2, Division 1, after section 6—

Add

“6A. Ships engaged in international voyages must have Fuel Oil Consumption Reporting Compliance Statements

- (1) This section applies to a ship—
 - (a) that is of 5 000 gross tonnage or above;
 - (b) that is not a non-Chapter 4 ship; and
 - (c) that is engaged in an international voyage.
- (2) A ship must have in force in respect of it a Fuel Oil Consumption Reporting Compliance Statement.
- (3) If a ship is put into service on or before 31 May 2019, subsection (2) applies to it with effect from 1 June 2020.

- (4) If a ship is put into service on a day in a calendar year (being a day after 31 May 2019), subsection (2) applies to it with effect from 1 June of the next calendar year.”.

5. Section 14A added

After section 14—

Add

“14A. Duty to keep records for certain diesel engines

- (1) This section applies to a ship that has installed on it a regulated diesel engine certified to meet the NO_x emission standards that are referred to in Regulation 13.5.3 of Annex VI in relation to a marine diesel engine.
- (2) There must be kept on board a ship a record showing the information required in relation to a marine diesel engine by Regulation 13.5.3 of Annex VI that is recorded whenever—
- (a) the ship enters an NO_x Tier III emission control area;
 - (b) the ship leaves an NO_x Tier III emission control area; or
 - (c) the on/off status of the regulated diesel engine of the ship changes within an NO_x Tier III emission control area.
- (3) In this section—

NO_x Tier III emission control area (氮氧化物第III層排放控制區) means an area specified in Regulation 13 of Annex VI as an emission control area.”.

6. Part 2, Division 9A added

Part 2, after Division 9—

Add

“Division 9A—Collecting and Reporting Consumption Data

30A. Application of this Division

This Division applies to a Hong Kong ship—

- (a) that is of 5 000 gross tonnage or above; and
- (b) that is not a non-Chapter 4 ship.

30B. Collecting consumption data and way of collecting

For the purposes of sections 30C, 30D, 30E and 30F, the consumption data of a ship must be collected in accordance with the methodology specified in the Ship Energy Efficiency Management Plan required by section 30 to be kept on board the ship.

30C. Reporting consumption data—general

- (1) Subject to subsection (3), this section applies to a ship—
 - (a) that is registered in Hong Kong throughout a calendar year after 2018; or
 - (b) that becomes registered in Hong Kong on a day in a calendar year after 2018 and remains so on 31 December of the year.

(2) The owner of a ship—

- (a) must aggregate by item the consumption data of the ship collected for a calendar year;

- (b) must report the data aggregated under paragraph (a), together with the identification data of the ship, to the Director or a recognized organization by electronic means in the form specified in Appendix IX to Annex VI by 31 March of the next calendar year;
 - (c) must keep the consumption data of the ship collected for a calendar year until the expiry of 31 December of the next calendar year; and
 - (d) must report the data mentioned in paragraph (c) to the Director or a recognized organization at the Director's or the organization's request made during the period the data is required to be kept under that paragraph.
- (3) This section does not apply to a ship if section 30E or 30F applies in relation to the ship.

30D. Reporting consumption data on transfer of registry

- (1) This section applies if a ship ceases to be registered in Hong Kong and is registered in another place instead on a day (*transfer day*) in a calendar year.
- (2) The owner of the ship—
 - (a) must aggregate by item the consumption data of the ship collected for the part of the year during which the ship is registered in Hong Kong (*registered period*);
 - (b) must report the data aggregated under paragraph (a), together with the identification data of the ship, to the Director or a recognized organization by electronic means in the form specified in Appendix IX to Annex VI within 30 days beginning on the transfer day;

- (c) must keep the consumption data of the ship collected for the registered period until the expiry of 12 months after the transfer day; and
- (d) must report the data mentioned in paragraph (c) to the Director or a recognized organization at the Director's or the organization's request made during the period the data is required to be kept under that paragraph.

30E. Reporting consumption data on change of owner

- (1) This section applies if a person (*new owner*) replaces another person (*original owner*) as the owner of a ship on a day (*replacement day*) in a calendar year.
- (2) The original owner—
 - (a) must aggregate by item the consumption data of the ship collected for the part of the year during which the original owner is the owner of the ship (*period A*);
 - (b) must report the data aggregated under paragraph (a), together with the identification data of the ship, to the Director or a recognized organization by electronic means in the form specified in Appendix IX to Annex VI within 30 days beginning on the replacement day;
 - (c) must keep the consumption data of the ship collected for period A until the expiry of 12 months after the replacement day; and
 - (d) must report the data mentioned in paragraph (c) to the Director or a recognized organization at the Director's or the organization's request made during the period the data is required to be kept under that paragraph.

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- (3) The new owner—
- (a) must aggregate by item the consumption data of the ship collected for the part of the year during which the new owner is the owner of the ship (*period B*);
 - (b) must report the data aggregated under paragraph (a), together with the identification data of the ship, to the Director or a recognized organization by electronic means in the form specified in Appendix IX to Annex VI—
 - (i) if the new owner is subsequently replaced by another person as the owner of the ship on a day in the year—within 30 days beginning on that day; or
 - (ii) otherwise—by 31 March of the next calendar year;
 - (c) must keep the consumption data of the ship collected for period B—
 - (i) if the new owner is subsequently replaced by another person as the owner of the ship on a day in the year—until the expiry of 12 months after that day; or
 - (ii) otherwise—until the expiry of 31 December of the next calendar year; and
 - (d) must report the data mentioned in paragraph (c) to the Director or a recognized organization at the Director's or the organization's request made during the period the data is required to be kept under that paragraph.

30F. Reporting consumption data on change of company

- (1) This section applies if an organization or person (*new company*) replaces another organization or person (*original company*) as the company of a ship on a day (*replacement day*) in a calendar year.
- (2) The original company—
 - (a) must aggregate by item the consumption data of the ship collected for the part of the year during which the original company is the company of the ship (*period A*);
 - (b) must report the data aggregated under paragraph (a), together with the identification data of the ship, to the Director or a recognized organization by electronic means in the form specified in Appendix IX to Annex VI within 30 days beginning on the replacement day;
 - (c) must keep the consumption data of the ship collected for period A until the expiry of 12 months after the replacement day; and
 - (d) must report the data mentioned in paragraph (c) to the Director or a recognized organization at the Director's or the organization's request made during the period the data is required to be kept under that paragraph.
- (3) The new company—
 - (a) must aggregate by item the consumption data of the ship collected for the part of the year during which the new company is the company of the ship (*period B*);

- (b) must report the data aggregated under paragraph (a), together with the identification data of the ship, to the Director or a recognized organization by electronic means in the form specified in Appendix IX to Annex VI—
 - (i) if the new company is subsequently replaced by another organization or person as the company of the ship on a day in the year—within 30 days beginning on that day; or
 - (ii) otherwise—by 31 March of the next calendar year;
 - (c) must keep the consumption data of the ship collected for period B—
 - (i) if the new company is subsequently replaced by another organization or person as the company of the ship on a day in the year—until the expiry of 12 months after that day; or
 - (ii) otherwise—until the expiry of 31 December of the next calendar year; and
 - (d) must report the data mentioned in paragraph (c) to the Director or a recognized organization at the Director's or the organization's request made during the period the data is required to be kept under that paragraph.
 - (4) In this section—

company (公司), in relation to a ship, means an organization or person, such as the manager, or the bareboat charterer, of the ship, who—

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

7. Section 31 amended (offences and penalties)

- (1) Section 31(1), after “5(1) or (3),”—

Add

“6A(2),”.

- (2) Section 31(3), after “section”—

Add

“14A(2) or”.

8. Part 4 heading amended (IAPP Certificates, HKAPP Certificates and IEE Certificates)

Part 4, heading—

Repeal

“and IEE Certificates”

Substitute

“, IEE Certificates and Statements of Compliance”.

9. Section 60 amended (issue of IEE Certificates)

Section 60(4)(b)—

Repeal

everything after “concerned is satisfied that”

Substitute

“the Ship Energy Efficiency Management Plan required by section 30 to be kept on board the ship is placed on board the ship.”.

10. Section 60A added

Part 4, Division 2, after section 60—

Add

“60A. Issue of Statements of Compliance

- (1) The owner of a ship of 5 000 gross tonnage or above (other than a non-Chapter 4 ship) engaged in an international voyage may apply to the Director for a Statement of Compliance in respect of the ship.
- (2) The application must be accompanied by the prescribed fee for the Statement.
- (3) The Director may issue a Statement of Compliance in respect of a ship on an application made in a calendar year if—
 - (a) the Director is satisfied that section 30C(2)(b), 30D(2)(b), 30E(2)(b) or (3)(b) or 30F(2)(b) or (3)(b) (as the case requires) has been complied with in respect of the ship in the year; and
 - (b) the data reported under that section in respect of the ship in the year has been verified by the Director.
- (4) If the Director decides, on the basis of the consumption data and identification data reported under section 30C(2)(b), 30E(3)(b)(ii) or 30F(3)(b)(ii) in respect of a ship for a calendar year, to issue a

Statement of Compliance in respect of the ship, the Director must issue the Statement by 31 May of the next calendar year.

- (5) If the Director decides, on the basis of the consumption data and identification data reported under section 30D(2)(b), 30E(2)(b) or (3)(b)(i) or 30F(2)(b) or (3)(b)(i) in respect of a ship, to issue a Statement of Compliance in respect of the ship, the Director must issue the Statement as soon as practicable.”.

11. Section 62 amended (cancellation of Certificates)

- (1) Section 62, heading, after “**Certificates**”—

Add

“etc.”.

- (2) Section 62(1)—

Repeal

“certificates”.

- (3) Section 62(1)(c)—

Repeal the full stop

Substitute a semicolon.

- (4) After section 62(1)(c)—

Add

“(d) a Fuel Oil Consumption Reporting Compliance Statement.”.

- (5) Section 62(2)—

Repeal

“concerned was issued, or any endorsement on it”

Substitute

“or Statement concerned was issued, or any endorsement on the Certificate concerned”.

(6) Section 62(3) and (4), after “Certificate”—

Add

“or Statement”.

12. Section 63 amended (offences and penalties)

Section 63(1), after “61(4)”—

Add

“or 62(4)”.

13. Section 64A added

After section 64—

Add

“64A. Duration of Fuel Oil Consumption Reporting Compliance Statement

A Fuel Oil Consumption Reporting Compliance Statement issued in a calendar year has effect from the date of issue until—

- (a) if it is issued in compliance with section 60A(4)—the expiry of 31 May of the next calendar year (*second year*); or
- (b) if it is issued in compliance with section 60A(5)—the expiry of 31 May of the calendar year immediately after the second year.”.

14. Section 70 amended (form of Certificates)

(1) Section 70, heading, after “Certificates”—

Add

“etc.”.

- (2) Section 70—

Repeal

everything after “specified Certificate”

Substitute

“, an International Energy Efficiency Certificate or a Fuel Oil Consumption Reporting Compliance Statement.”.

15. Section 71 amended (alteration of Certificates)

- (1) Section 71, heading, after “**Certificates**”—

Add

“etc.”.

- (2) Section 71(1)—

Repeal

everything after “HKAPP Certificate”

Substitute

“, an IEE Certificate or a Statement of Compliance has been issued may request the Director to alter any of the particulars contained in the Certificate or Statement.”.

- (3) Section 71(3)—

Repeal

“Certificate”

Substitute

“Certificate or Statement”.

16. Section 72 amended (certified true copies of Certificates)

- (1) Section 72, heading, after “**Certificates**”—

Add

“etc.”.

- (2) Section 72(1)—

Repeal

everything after “HKAPP Certificate”

Substitute

“, an IEE Certificate or a Statement of Compliance has been issued may apply to the Director for the issue of a certified true copy of the Certificate or Statement.”.

17. Section 81 amended (initial surveys)

- (1) Section 81(3)(a)—

Repeal

everything after “that” and before “is”

Substitute

“the Ship Energy Efficiency Management Plan required by section 30 to be kept on board the ship (*SEEM Plan*)”.

- (2) Section 81(3)(b)(ii)—

Repeal

“; and”

Substitute a semicolon.

- (3) After section 81(3)(b)(ii)—

Add

“(iia) (if the ship is of 5 000 gross tonnage or above and has undergone a major modification that affects the data collection methodology or reporting process of the ship) that the SEEM Plan required to be kept on board the ship has been revised appropriately to reflect the modification; and”.

- (4) Section 81(3)(b)(iii)—

Repeal

everything before “is placed”

Substitute

“(iii) that the SEEM Plan”.

18. Section 82 amended (additional survey)

- (1) Section 82(3)(b)—

Repeal

“; and”

Substitute a semicolon.

- (2) After section 82(3)(b)—

Add

“(ba) (if the ship is of 5 000 gross tonnage or above and the major modification affects the data collection methodology or reporting process of the ship) that the Ship Energy Efficiency Management Plan required by section 30 to be kept on board the ship (***SEEM Plan***) has been revised appropriately to reflect the modification; and”.

- (3) Section 82(3)(c)—

Repeal

everything before “is placed”

Substitute

“(c) that the SEEM Plan”.

19. Section 85 amended (certificates to be kept on board)

- (1) Section 85, heading, after “**Certificates**”—

Add

“etc.”.

(2) After section 85(3)—

Add

“(4) The owner and the master of a ship of 5 000 gross tonnage or above (other than a non-Chapter 4 ship) engaged in an international voyage must—

(a) keep on board the ship a Fuel Oil Consumption Reporting Compliance Statement that is in force in respect of the ship; and

(b) make the Statement available for inspection by a Government surveyor at all reasonable times.”.

20. Section 89 amended (offences and penalties)

Section 89(1)—

Repeal

“(2) or (3)”

Substitute

“(2), (3) or (4)”.

21. Section 95 amended (Director may recognize organizations to survey ships and issue certificates etc.)

(1) Section 95(b)—

Repeal

“the following certificates”

Substitute

“any of the following”.

(2) Section 95(b)(ii)—

Repeal

“or”.

- (3) After section 95(b)(iii)—

Add

“(iv) Fuel Oil Consumption Reporting Compliance Statements;”.

- (4) Section 95(e), after “Certificates”—

Add

“or Statements”.

- (5) Section 95(f)—

Repeal

everything after “Certificates”

Substitute

“or Statements referred to in paragraph (b) that are issued by the organization;”.

- (6) Section 95(g)—

Repeal the full stop

Substitute a semicolon.

- (7) After section 95(g)—

Add

“(h) receiving consumption data and identification data of Hong Kong ships reported under Division 9A of Part 2; and

(i) verifying the reported data mentioned in paragraph (h).”.

22. Certain Division headings amended

The following provisions, after “**Certificates**” (wherever appearing)—

- (a) Part 2, Division 1, heading;

- (b) Part 4, Division 2, heading;
- (c) Part 4, Division 3, heading;
- (d) Part 4, Division 4, heading;
- (e) Part 4, Division 6, heading—

Add

“etc.”.

Frank CHAN Fan
Secretary for Transport and
Housing

13 February 2019

Explanatory Note

This Regulation amends the Merchant Shipping (Prevention of Air Pollution) Regulation (Cap. 413 sub. leg. P) (*principal Regulation*) to give effect to International Maritime Organization Resolutions MEPC.271(69) and MEPC.278(70), which amend Annex VI to the International Convention for the Prevention of Pollution from Ships, 1973 (*Annex VI*).

2. Section 3 adds new definitions for the interpretation of the principal Regulation as amended by the Regulation.
3. Under Annex VI, as amended, a ship of 5 000 gross tonnage or above (other than a non-Chapter 4 ship) engaged in an international voyage must collect and report fuel oil consumption data for the issue of a Fuel Oil Consumption Reporting Compliance Statement (*Statement*), which must be kept on board the ship. Parts 2, 4 and 6 of the principal Regulation are amended to provide for these matters.
4. Part 4 of the principal Regulation is also amended to provide for the cancellation, duration, form, alteration and issue of certified true copies of a Statement.
5. New requirements for initial survey and additional survey are added for certain ships that have undergone major modifications that affect the data collection methodology or reporting process of the ships.

6. A new provision is added to Division 3 of Part 2 of the principal Regulation to provide that a ship engaged in an international voyage must keep a record for a specified regulated diesel engine installed on it, with a view to regulating emission of nitrogen oxides from ships in certain areas.
7. The offence and penalty provisions in the principal Regulation are amended accordingly.