STATUTORY INSTRUMENTS

1965 No. 2011

MERCHANT SHIPPING

The Merchant Shipping (Safety Convention) (Hong Kong) Order 1965

Made - - - -	*29th November* 1965
Laid before Parliament	*3rd December* 1965
Coming into Operation	*7th December* 1965

At the Court at Buckingham Palace, the 29th day of November 1965

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 36 of the Merchant Shipping (Safety and Load Line Conventions) Act 1932(a) as amended by section 30 of the Merchant Shipping (Safety Convention) Act 1949(b) and by section 1 of the Merchant Shipping Act 1964(c), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. The provisions of the Merchant Shipping Act 1964 except those of sections 9, 17, 19(1), (3) and (4), adapted and modified as set out in Schedule 1 hereto, shall extend to the Colony of Hong Kong.

2. The Merchant Shipping Safety Convention (Hong Kong) No. 1 Order 1953(d) shall have effect subject to the amendments specified in Schedule 2 hereto.

3. This Order may be cited as the Merchant Shipping (Safety Convention) (Hong Kong) Order 1965 and shall come into operation on 7th December 1965.

W. G. Agnew.

(a) 22 & 23 Geo. 5. c. 9.
(b) 12, 13 & 14 Geo. 6. c. 43.
(c) 1964 c. 47.
(d) S.I. 1953/592 (1953 I, p. 1173).

SCHEDULE 1

MERCHANT SHIPPING ACT 1964

Application of Act of 1949 to new Convention

Application of Act of 1949 to Convention of 1960.

12, 13 & 14 Geo. 6. c. 43.

1. For the purpose of enabling effect to be given to the International Convention for the Safety of Life at Sea signed in London on 17th June 1960 (in this Act referred to as "the Convention") which replaces the International Convention for the Safety of Life at Sea signed in London on 10th June 1948 (in this Act referred to as "the Safety Convention") the Merchant Shipping (Safety Convention) Act 1949 as extended to Hong Kong by the Merchant Shipping Safety Convention (Hong Kong) No. 1 Order 1953 (which Act as so extended is in this Act referred to as "the Act of 1949") shall have effect as if—

(*a*) for references therein, except in the preamble, to the Safety Convention there were substituted references to the Convention; and

(*b*) references therein to that Act, except in subsections (1) and (4) of section 37 (commencement and citation), included references to this Act.

New requirements for cargo ships

Cargo ship construction and survey rules.

2.—(1) The Governor in Council may make rules (in this Act referred to as "cargo ship construction and survey rules") prescribing requirements for the hull, equipment and machinery of ships to which this section 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 rules.

(2) The said rules shall include such requirements as appear to the Governor in Council to implement the provisions of the Convention relating to the hull, equipment and machinery of such ships, except so far as those provisions are implemented by any other rules or regulations made under the Merchant Shipping Acts.

(3) This section applies to—

(*a*) sea-going ships of not less than five hundred tons gross tonnage; and

(*b*) sea-going ships of not less than such lower tonnage and of such description as the Governor with the consent of the Board of Trade may by order specify;

other than passenger steamers, troopships, pleasure yachts, fishing vessels and ships not propelled by mechanical means; except that it applies to ships not registered in Hong Kong only while they are within a port in Hong Kong and are not exempted from the cargo ship construction and survey rules under the following provisions of this Act.

(4) The matters with regard to which fees may be prescribed by regulations under section 33 of the Act of 1949 shall include surveys required by the cargo ship construction and survey rules, and the provisions applied by section 13(2) of that Act (which relate to the delivery of declarations of survey and appeals to the court of survey) shall apply to such surveys whether or not they are made for the purpose of the issue of any certificate.

(5) In relation to surveys required by the cargo ship construction and survey rules which are carried out otherwise than by a Government surveyor appointed under the Hong Kong Merchant Shipping Ordinance 1953 (in this Order referred to as "the Ordinance")—

(*a*) so much of the said section 33 as requires fees to be paid to the Government of Hong Kong shall not apply; and

(*b*) the provisions applied by the said section 13(2) shall apply with such modifications as may be prescribed by the cargo ship construction and survey rules; and

(*c*) the definiton of "declaration of survey" in section 36(1) of the Act of 1949 shall not apply.

(6) An order under subsection (3)(*b*) of this section may be varied or revoked by a subsequent order.

(7) For the purposes of this section and without prejudice to the generality of the powers therein contained the cargo ship construction and survey rules made from time to time by the Board of Trade under the Merchant Shipping Acts shall unless varied by or repugnant to the cargo ship construction and survey rules made under this section be deemed to be cargo ship construction and survey rules made under this section.

Cargo ship safety construction certificates and exemption certificates.

3.—(1) If the Governor or such person as he may authorise for the purpose is satisfied, on receipt of declarations of survey in respect of a ship to which section 2 of this Act applies and which is registered in Hong Kong, that the ship complies with the cargo ship construction and survey rules applicable to the ship and such voyages as she is to be engaged on he shall, on the application of the owner, issue in respect of the ship—

(*a*) if the ship is of not les than five hundred tons gross tonnage and is to be engaged on international voyages, a certificate in the form prescribed by the Convention ;

(*b*) in any other case, a certificate showing that she complies with the said rules ;

and any such certificate is in this Act referred to as a cargo ship safety construction certificate.

(2) If the Governor, on receipt of declarations of survey in respect of such a ship, is satisfied that the ship is exempt, by virtue of any exercise by him of a power conferred on him by section 28 of the Act of 1949 or the cargo ship construction and survey rules, from any of the requirements of those rules applicable to the ship and to such voyages as she is to be engaged on, and that she complies with the rest of those requirements, he shall, on the application of the owner, issue in respect of the ship—

(*a*) if she is of not less than five hundred 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 rules 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 certificate showing that the ship complies with the rest of those requirements ;

(*b*) in any other case, a certificate showing that the ship complies with such of the requirements of the cargo ship construction and survey rules applicable to the ship and to the voyages she is to be engaged on as she is not exempt from ;

and any certificate issued under paragraph (*a*)(ii) or paragraph (*b*) of this subsection is in this Act referred to as a qualified cargo ship safety construction certificate.

(3) A certificate issued under this section, other than an exemption certificate, shall remain in force for five years or such shorter period as may be specified in it, but without prejudice to the Governor's power to cancel it ; and an exemption certificate issued under this section shall remain in force for the same period as the corresponding qualified certificate.

(4) The Governor with the consent of the Board of Trade may by order extend the period for which a certificate under this section may be issued to a period not exceeding six years.

(5) Without prejudice to the power of extension conferred by section 13(5) of the Act of 1949, where a certificate under this section is in force in respect of a ship and the certificate was issued for a shorter period than is allowed under the foregoing provisions of this section, the Governor or any person authorised by him for the purpose may, if satisfied on receipt of declarations 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 one 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 this section.

(6) In relation to a certificate issued or extended under this section by a person authorised by the Governor—

(*a*) the provisions applied by section 13(8) of the Act of 1949 (which relate to the transmission, cancellation, surrender, posting-up and falsification of certificates issued by the Governor) except section 10(11) of the Hong Kong Merchant Shipping Ordinance 1899 (transmission of certificates) as amended by the Ordinance; and

(*b*) section 33 of the Act of 1949 (fees);

shall apply as they apply in relation to certificates issued by the Governor, except that so much of the said section 33 as requires fees to be paid to the Government of Hong Kong shall not apply.

(7) An order under subsection (4) of this section may be varied or revoked by a subsequent order.

Notice of alterations and additional surveys.

4.—(1) The duty of the owner or master of a ship under subsection (2) of section 11 of the Act of 1949 to notify alterations and renewals shall extend, in relation to any ship in respect of which a certificate under section 3 of this Act is in force, to the hull, machinery and any equipment other than that mentioned in that subsection, but may, if the certificate was issued by a person authorised under the said section 3, be discharged by notifying him instead of the Governor.

(2) Subsection (4) of the said section 11 (additional survey and cancellation of certificates) shall have effect, in relation to any such ship, as if—

(*a*) paragraph (*a*) thereof extended to any alteration or renewal which is notifiable by virtue of this section; and

(*b*) paragraph (*b*) and not paragraph (*c*) thereof were applicable, notwithstanding that the ship is not a passenger steamer;

and the power of the Governor under that subsection to cancel such a certificate shall be exercisable also where the ship has not been submitted for survey as required by the cargo ship construction and survey rules.

Prohibition on proceeding to sea without appropriate certificates.

5.—(1) No ship to which section 2 of this Act applies and which is registered in Hong Kong shall proceed to sea unless there is in force in respect of the ship either—

(*a*) a cargo ship safety construction certificate; or

(*b*) a qualified cargo ship safety construction certificate and, if the ship is about to proceed on an international voyage, a corresponding exemption certificate; or

(*c*) such certificate or certificates as would be required if she were a passenger steamer,

applicable to the ship and to the voyage on which she is about to proceed.

(2) If any ship proceeds, or attempts to proceed, to sea in contravention of this section the owner or master of the ship shall be liable to a fine not exceeding $2,000.

(3) The master of every ship to which section 2 of this Act applies and which is registered in Hong Kong shall produce to the Director of Marine from whom a clearance for the ship is demanded the certificate

or certificates required by the foregoing provisions of this section; and the clearance shall not be granted, and the ship may be detained, until the said certificate or certificates are so produced.

Exemption of ships holding appropriate certificates.

6. Where there is produced in respect of a ship not registered in Hong Kong—

(*a*) an accepted Safety Convention certificate equivalent to a cargo ship safety construction certificate; or

(*b*) accepted Safety Convention certificates equivalent respectively to a qualified cargo ship safety construction certificate and to a corresponding exemption certificate;

the ship shall be exempt from the cargo ship construction and survey rules.

Penalty for non-compliance with rules and power to detain.

7.—(1) If the cargo ship construction and survey rules are contravened in any respect in relation to a ship, the owner or master of the ship shall be liable on conviction on indictment to a fine not exceeding $10,000 or on summary conviction to a fine not exceeding $2,000.

(2) A Government Surveyor may inspect any ship for the purpose of seeing that she complies with the provisions of the cargo ship construction and survey rules (other than those relating to survey) and for that purpose shall have all the powers of a Board of Trade inspector under the Merchant Shipping Acts; and if he finds that the ship fails to comply with those provisions he shall give to the owner or master notice in writing stating in what respect she fails to comply with them and what in his opinion is requisite to remedy the failure.

(3) Every notice under subsection (2) of this section shall be communicated in manner directed by the Governor to the Director of Marine; and the ship shall be detained until a certificate under the hand of a Government surveyor is produced to the effect that the failure has been remedied.

Damage control and life-saving appliances

Damage control plans and stability information for passenger steamers.

8. Construction rules (that is to say, rules made under section 1 of the Act of 1949 relating to the hull, equipment and machinery of British passenger steamers registered in Hong Kong) may require the provision in such ships—

(*a*) of plans exhibited as provided by or under the rules, 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

(*b*) of information necessary for the guidance of the master in maintaining sufficient stability to enable the ship to withstand damage.

Radio installations and certificates

Requirements for portable radio apparatus carried in survival craft.

10.—(1) Radio rules may prescribe requirements for such portable radio apparatus as boats or life rafts may be required to carry by the rules for life-saving appliances.

(2) Subsections (7) and (8) of section 3 of the Act of 1949 (which relate to the inspection and detention of ships to ensure conformity with the radio rules) shall apply in relation to the portable radio apparatus so required to be carried by the boats or life rafts on any ship as they apply in relation to the radio installation of the ship.

Radio installations.

11. For subsection (4) of section 3 of the Act of 1949 (which specifies the radio installations to be required under the radio rules) there shall be substituted the following subsection:—

"(4) The radio installation required under the said rules to be provided—

(*a*) for a passenger steamer of whatever tonnage, or for any ship of sixteen hundred tons gross tonnage or upwards which is neither a

passenger steamer nor a fishing vessel, shall be radiotelegraph installation; and

(*b*) for any other ship shall be either a radio telephone installation or a radiotelegraph installation, at the option of the owner."

Renewal of radio certificates for small cargo ships.

12. Where a radio certificate or qualified radio certificate is in force in respect of a ship of less than five hundred tons gross tonnage, other than a passenger steamer, and the ship is surveyed by a Government surveyor at a time not earlier than two 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 13(3) of the Act of 1949, be issued for a period ending not later than twelve months after the end of the first-mentioned period.

Miscellaneous

Issue of exemption certificates where Convention country issues corresponding qualified certificates.

13. Where the Governor, under section 13(9) of the Act of 1949, requests the government of a country to which the Convention applies to issue in respect of a ship such certificates as he is authorised to issue under subsection (2) of section 7, 8 or 9 of that Act or under paragraph (*a*) of section 3(2) of this Act, and that government is willing to issue, in pursuance of that request, a qualified certificate thereunder but is not willing to issue the corresponding exemption certificate, the Governor may issue that exemption certificate in respect of the ship.

Information about ship's stability.

14.—(1) The following provisions of this section shall have effect with respect to the information about a ship's stability which is required to be supplied under section 18 of the Act of 1949.

(2) Except as provided by the following subsection, the information shall, when first supplied, be based on the determination of the ship's stability by means of an inclining test and shall be replaced by fresh information whenever its accuracy is materially affected by alterations made to the ship; and in any such case the Governor may require a fresh inclining test.

(3) The Governor may—

(*a*) in the case of any ship, allow the information to be based on the determination, by means of an inclining test, of the stability of a sister ship;

(*b*) in the case of a ship specially designed for the carriage of liquids or ore in bulk, or of any class of such ships, dispense with an inclining test if satisfied from the information available in respect of similar ships that the ship's proportions and arrangements are such as to ensure more than sufficient stability in all probable loading conditions.

Modification of s. 29 of Act of 1949.

15. Subsection (1) of section 29 of the Act of 1949 (which exempts certain ships from certain provisions) shall not prevent the application—

(*a*) to any ship of three hundred tons gross tonnage or upwards, of so much of the provisions mentioned in paragraphs (*a*) and (*b*) of that subsection as relates to certificates issued under section 9 of that Act or equivalent accepted Safety Convention certificates;

(*b*) to any ship to which section 2 of this Act applies and which is registered in Hong Kong, of so much of the provisions mentioned in paragraph (*a*) of that subsection as relates to certificates issued under section 3 of this Act;

by reason only that she is of less than five hundred tons gross tonnage.

Extension of duty to report dangers to navigation.

16. The matters of which information is to be sent by the master of a ship in accordance with rules under section 24 of the Merchant Shipping (Safety and Load Line Conventions) Act 1932 as applied to Hong Kong by the Merchant Shipping Safety Convention (Hong Kong) No. 1 Order 1935 shall include—

(*a*) air temperatures below freezing point associated with gale force winds causing severe ice accretion on the superstructure of ships; and

(*b*) winds of force 10 or above on the Beaufort Scale for which no storm warning has been received.

Supplementary

Transitional provisions.

18.—(1) Nothing in section 5 of this Act or section 17(1) of the Act of 1949 shall prohibit a ship from proceeding to sea without such a certificate as is required, or is equivalent to one required, under the said section 5, until the expiry of two years from the commencement of this Act.

(2) Nothing in section 15(*a*) of this Act or section 12(1)(*b*)(ii) or 17(1) of the Act of 1949 shall prohibit a ship of less than five hundred tons gross tonnage from proceeding to sea without such a certificate as is required, or is equivalent to one required, under the said section 12(1)(*b*)(ii), until the expiry of one year from the commencement of this Act.

(3) The Board of Trade may by regulations provide that for such purposes, for such a period and subject to such conditions as may be specified by or under the regulations—

(*a*) any country to which the Safety Convention applies shall be treated for the purposes of this Act as if it were a country to which the Convention applies; and

(*b*) any certificate which immediately before the commencement of this Act was an accepted Safety Convention certificate within the meaning of the Act of 1949 as originally enacted may be treated as if it were an accepted Safety Convention certificate within the meaning of that Act as amended by this Act;

and those regulations shall have effect for the colony of Hong Kong as for the United Kingdom.

Construction.

19.—(2) In the Act of 1949 "the Merchant Shipping Acts" shall mean the Merchant Shipping Acts 1894 to 1958 and this Act; and this Act shall be construed as one with those Acts.

SCHEDULE 2

AMENDMENT OF THE MERCHANT SHIPPING SAFETY CONVENTION (HONG KONG) NO. 1 ORDER 1953

1. In Article 1 of the Order, for the figure "33" there shall be substituted the word and figures "33(2) and (4)".

2. In the First Schedule to the Order—

(1) the following shall be inserted after section 32:—

"33.—(1) There shall be paid in respect of any certificate issued by the Governor under this Act, including a certificate issued by him under subsection (1) of section fourteen of this Act, and in respect of any inspection of a ship under this Act for the purpose of seeing that she is properly provided with a radio installation and radio officers or operators in conformity with the radio rules, such fees as may be prescribed by regulations made by the Governor in Council.

(3) Any fees payable under subsection (1) of this section shall be paid to the Government of Hong Kong."

(2) the following shall be omitted:—

in section 14(1), the words " the preceding provisions of " ;

in section 18(2), the words from " and shall be based " to the end of the subsection ;

in section 36(1), the definition of " The Merchant Shipping Acts " ;

in " The First Schedule to the Merchant Shipping (Safety Convention) Act 1949, Transitional Provisions ", paragraphs 2 to 4.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order extends to Hong Kong the provisions of the Merchant Shipping Act 1964 subject to a number of modifications and exceptions. The Act enables effect to be given to the International Convention for the Safety of Life at Sea 1960. In particular, it includes provisions which empower the making of cargo ship construction and survey rules and require such ships to have cargo ship safety construction certificates. The Act as extended to Hong Kong is set out in Schedule 1 to this Order.

The Order also amends the Merchant Shipping Safety Convention (Hong Kong) No. 1 Order 1953, by which provisions of the Merchant Shipping (Safety Convention) Act 1949 (which gave effect to the Safety Convention of 1948, now replaced by the 1960 Convention) were extended to the colony.