

29 July 2016
Ref : Chans advice/187

To: Transport Industry Operators

VGM - HK laws

The VGM laws have come into operation in Hong Kong since 1/7/2016. They are mainly contained in Section 3 and Section 3A of the Merchant Shipping (Safety) (Carriage of Cargoes and Oil Fuel) Regulation (Chapter 369AV) as follows:

Chapter 369AV: MERCHANT SHIPPING (SAFETY) (CARRIAGE OF CARGOES AND OIL FUEL) REGULATION

Section 3: Cargo information to be furnished before loading

- (1) A-
 - (a) master or owner of a ship; or
 - (b) person assigned by the owner or master of a ship to take charge of loading cargoes on the ship, shall not accept for carriage by the ship any cargo unless the shipper of the cargo has, before the cargo is accepted, furnished such master, owner or person with information on the cargo in accordance with subsections (2), (3) and (3A).
- (2) Information on cargoes referred to in subsection (1) shall be-
 - (a) furnished-
 - (i) in writing; or
 - (ii) by means of transmission of electronic data which can be reproduced in a legible form; and
 - (b) furnished with adequate details regarding the cargoes so that their stowage may be properly planned for handling and transport for ensuring that-
 - (i) different commodities to be carried are compatible with each other or suitably separated;
 - (ii) the cargoes are suitable for being carried on the ship;
 - (iii) the ship is suitable for carrying the cargoes; and
 - (iv) the cargoes can be safely stowed and secured on board the ship and transported under all expected conditions during the intended voyage.
- (3) Information on cargoes referred to in subsection (1) must include-
 - (a) for a general cargo and a cargo carried in a cargo unit-
 - (i) a general description of the cargo;
 - (ii) the gross mass of the cargo or, if the cargo is carried in a cargo unit, the gross mass of such cargo unit; and
 - (iii) any properties of the cargo that are relevant to the safe carriage of the cargo by sea; or
 - (b) for a solid bulk cargo-
 - (i) the information required by section 4.2.2 of the IMSBC Code; and
 - (ii) if the cargo is carried in a bulk carrier of 150 metres or more in length, the additional information on the density of the cargo declared by the shipper of the cargo.
- (3A) If-
 - (a) a bulk carrier that carries a solid bulk cargo is a bulk carrier referred to in subsection (3B); and
 - (b) the density of the cargo declared under subsection (3)(b)(ii) is 1250 kg/cubic metre or above but is below 1780 kg/cubic metre,the shipper of the cargo must furnish information to show that the density of the cargo has been verified by an accredited testing organization.

- (3B) The bulk carrier is one-
- (a) to which regulation 6 of Chapter XII of the Convention applies; and
 - (b) which does not comply with the requirements of regulations 4.3, 6, 7.1 and 14 of Chapter XII of the Convention applicable to the carriage of solid bulk cargoes having a density of 1 780 kg/cubic metre or above.
- (4) Before the loading of any cargo unit on board a ship, the shipper of the cargo unit shall ensure that the gross mass of such unit shall be the same as that declared in respect of such unit on any shipping document.
 - (5) Any person who contravenes subsection (1) or (4) commits an offence and is liable to a fine of \$20000 and to imprisonment for 2 years.
 - (6) Any person who furnishes any information referred to in subsection (1) which-
 - (a) he knows to be false; or
 - (b) he has no reasonable grounds to believe to be true,
 commits an offence and is liable to a fine of \$20000 and to imprisonment for 2 years
 - (7) In this section-

general cargo means a cargo not being transported-

 - (a) in bulk;
 - (b) in a cargo unit; or
 - (c) in a cargo transport unit;

IMSBC Code means the International Maritime Solid Bulk Cargoes Code adopted by the IMO by resolution MSC.268(85) on 4 December 2008, as from time to time revised or amended by any revision or amendment that applies to Hong Kong.

Section 3A: Verifying gross mass of cargoes and containers for purpose of section 3(3)(a)(ii)

- (1) This section applies to a cargo carried in a cargo unit that is a packed container.
- (2) For the purpose of section 3(3)(a)(ii), if a packed container is to be shipped from Hong Kong on a ship, a specified person must—
 - (a) verify the gross mass of the packed container in accordance with subsection (3);
 - (b) ensure that the verified gross mass is stated in a shipping document signed by a person duly authorized by the specified person; and
 - (c) deliver a copy of the shipping document in advance to the master of the ship or the master's representative and the terminal operator of the terminal, wharf or other similar facilities at which the container is to be loaded for the preparation of the ship's stowage plan.
- (3) The gross mass must be verified by one of the following methods—
 - (a) by weighing the packed container as a whole using an equipment that is acceptable to—
 - (i) the competent authority of the place at which the packing of the container was completed; or
 - (ii) the Director;
 - (b) by adding—
 - (i) the tare mass of the container; and
 - (ii) the mass of all the cargoes and packages (including the mass of pallets, dunnage, other packing materials and securing materials) to be packed into the container, that is obtained by weighing the content of the container by using a method approved by—
 - (A) the competent authority of the place at which the packing of the container was completed;
 - or
 - (B) the Director.
- (4) The master of the ship and the terminal operator must not load the container on the ship if the master or the terminal operator does not have the gross mass of the container verified under subsection (2).
- (5) The Director may, in relation to a packed container—
 - (a) request the gross mass of the container verified under subsection (2) to be checked before the loading of the container on a ship; and
 - (b) request the specified person concerned to provide documentary proof to show that subsection (2) has been complied with.
- (6) Subsection (2) does not apply to a container that—
 - (a) is carried on a chassis or trailer; and
 - (b) is driven on a ro-ro ship engaged in short international voyages as defined by regulation 3.22 of Chapter III of the Convention.
- (7) The Director may, by notice published in the Gazette, specify the specifications, standards or additional requirements on verifying gross mass for—
 - (a) acceptance of an equipment for the purpose of subsection (3)(a)(ii); or

- (b) approval of a method for the purpose of subsection (3)(b)(ii)(B).
- (8) A notice published under subsection (7) is not subsidiary legislation.
- (9) A specified person who contravenes subsection (2) commits an offence and is liable to a fine of \$20000 and to imprisonment for 2 years.
- (10) If subsection (4) is contravened, the master concerned and the terminal operator concerned each commits an offence and is liable to a fine of \$20000 and to imprisonment for 2 years.
- (11) In this section—
- competent authority*, in relation to a place outside Hong Kong, means the authority responsible, under the law of that place, for the regulation of carriage of cargoes in that place;
- packed container* means a container loaded with—
- (a) cargoes of liquids, gases, or solids, or cargoes packed and tied together in the form of packages; and
- (b) pallets, dunnage, other packing materials or securing materials;
- specified person*, in relation to a cargo packed in a packed container, means a person—
- (a) who is named in a bill of lading, a sea waybill or an equivalent multimodal transport document as the shipper of the cargo; and
- (b) who (or in whose name or on whose behalf) has concluded a contract of carriage with a shipping company in respect of the cargo;
- terminal operator*, in relation to a terminal, wharf or other similar facilities, means the person in charge of the operation of the terminal, wharf or facilities.

Should you have any questions on the VGM laws in Hong Kong, please feel free to contact us.

Simon Chan
Director
E-mail: simonchan@smicsl.com

Richard Chan
Director
E-mail: richardchan@smicsl.com

23/F, Excel Centre, 483A Castle Peak Road, Lai Chi Kok, Kowloon, Hong Kong
Tel: 2299 5566 Fax: 2866 7096

E-mail: gm@smicsl.com Website: www.sun-mobility.com
CIB A MEMBER OF THE HONG KONG CONFEDERATION OF INSURANCE BROKERS

