

1989 No. 320**HEALTH AND SAFETY****Docks Regulations (Northern Ireland) 1989**

Made *2nd August 1989*

Coming into operation—

for the purposes of all regulations

except regulations 14(2) and 16(7) 1st December 1989

for the purposes of regulation 14(2) 1st January 1993

for the purposes of regulation 16(7) 1st December 1990

ARRANGEMENT OF REGULATIONS

1. Citation and commencement.
2. Interpretation.
3. Application of the Regulations.
4. Persons upon whom duties are imposed.
5. Planning and execution of work.
6. Lighting.
7. Access.
8. Transport by water.
9. Rescue, life-saving and fire-fighting equipment, and means of escape.
10. Hatches, ramps and car-decks.
11. Drivers of vehicles and operators of lifting appliances.
12. Use of vehicles.
13. Use of lifting plant.
14. Testing of lifting plant.
15. Examination of lifting plant.
16. Markings and indicators on lifting plant.
17. Certificates and reports.
18. Confined spaces.
19. Welfare amenities and protective clothing.
20. Duty to report defective plant.
21. Exemption certificates.
22. Enforcement.
23. Modifications to the Factories Act (Northern Ireland) 1965.
24. Revocations and transitional provisions.

The Department of Agriculture, the Department of Economic Development, the Department of the Environment and the Department of Health and Social Services acting jointly as the Department concerned(a), in exercise of the powers conferred by Articles 17(1) to (5), and 55(2) of, and paragraphs 1(1), (2), (3), 8, 9, 10, 11, 13, 14(1), 15 and 17(a) of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978(b) and of every other power enabling them in that behalf, after consultation in accordance with Article 46(1) of that Order with the Health and Safety Agency for Northern Ireland and such other bodies as appeared to them to be appropriate, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Docks Regulations (Northern Ireland) 1989 and shall come into operation on 1st December 1989, except that regulation 14(2) shall come into operation on 1st January 1993 and regulation 16(7) shall come into operation on 1st December 1990.

Interpretation

2.—(1) In these Regulations—

“the 1978 Order” means the Health and Safety at Work (Northern Ireland) Order 1978;

“access to” includes egress from;

“Department” means the Department of Economic Development;

“dock gate” means any lock gate or other gate which can close off the entrance to the dock or part of the dock from the sea or other waterway but does not include any gate on land which controls access by vehicles or pedestrians;

“dock operations” means—

(a) the loading or unloading of goods on or from a ship at dock premises;

(b) the embarking or disembarking of passengers on or from a ship at dock premises;

(c) any activity incidental to the activities in sub-paragraphs (a) and (b) of this definition which takes place on dock premises, including any of the following activities specified in this sub-paragraph if they are so incidental and take place on dock premises—

(i) the fuelling and provisioning of a ship,

(ii) the mooring of a ship,

(iii) the storing, sorting, inspecting, checking, weighing or handling of goods,

(iv) the movement of goods, passengers or vehicles,

(a) See Article 2(2) of S.I. 1978/1039 (N.I. 9)

(b) S.I. 1978/1039 (N.I. 9) to which there are amendments not relevant to these Regulations

- (v) the use of welfare amenities in relation to the carrying out of activities referred to in sub-paragraphs (a), (b) and (c)(i) to (iv),
 - (vi) attending dock premises for the purposes referred to in sub-paragraphs (a), (b) and (c)(i) to (v); or
- (d) the embarking or disembarking on or from a ship of its crew at dock premises;

but does not include—

- (e) a fish loading process within the meaning of the Loading and Unloading of Fishing Vessels Regulations (Northern Ireland) 1989(a),
- (f) the loading or unloading of goods, or embarking or disembarking of persons, from a pleasure craft or any activity incidental to those activities; or
- (g) beach landing operations wholly carried out by serving members of Her Majesty's Forces or visiting forces within the meaning of the provisions of Part I of The Visiting Forces Act 1952(b) or a combination of both;

“dock premises” means any dock, wharf, quay, jetty or other place at which ships load or unload goods or embark or disembark passengers, together with neighbouring land or water which is used or occupied, or intended to be used or occupied, for those or incidental activities, and any part of a ship when used for those or incidental activities;

“freight container” means a container as defined in Article II of the International Convention for Safe Containers (CSC);

“goods” includes—

- (a) pallets and freight containers,
- (b) waste,
- (c) solid ballast, and
- (d) vehicles which are being transported as cargo;

“hatch” means a ship's hatch;

“hatch covering” includes hatch covers, hatch beams and attached fixtures and fittings;

“lifting appliance” means any stationary or mobile appliance (and every part thereof including attachments used for anchoring, fixing or supporting that appliance but not including vehicle coupling arrangements) which is used on dock premises for the purpose of suspending, raising or lowering loads or moving them from one position to another whilst suspended and includes lift trucks; it does not include—

- (a) pipes, roadways or gangways, or
- (b) screw, belt, bucket or other conveyors,

(a) S.R. 1989 No. 321

(b) 1952 c. 67

used for the continuous movement of goods or people, but does include the lifting appliance used to suspend, raise, lower or move any of those items;

“lifting gear” means any gear by means of which a load can be attached to a lifting appliance and which does not form an integral part of that appliance or load but does not include pallets, one-trip slings, pre-slung cargo slings and freight containers;

“lifting plant” means any lifting appliance or lifting gear;

“maintained” means maintained in an efficient state, in efficient working order and in good repair;

“one-trip sling” means a sling which has not previously been used for lifting any other load and is fitted to the load at the commencement of the journey and intended to be disposed of at the destination of that journey;

“pleasure craft” means any description of vessel when used solely for sport or recreation, other than for carrying fare paying passengers;

“pre-slung cargo sling” means a sling which was in position round the goods before they were handled in the course of dock operations;

“safe working load” in relation to lifting plant means—

(a) the safe working load for that plant specified in the latest certificate or report of examination obtained pursuant to regulation 17, except that where the safe working load so specified is restricted to one particular operation, then for the purposes of regulation 16(1) to (5) only (which relates to markings and indicators on lifting plant), the safe working load shall be that appropriate to the plant under normal use; or

(b) where no certificate or report has been obtained pursuant to regulation 17 but a certificate of examination of the plant has been obtained pursuant to the Docks Regulations (Northern Ireland) 1926(a) or the Docks Regulations (Northern Ireland) 1934(b) which specifies the safe working load, the safe working load specified in the latest certificate so obtained; or

(c) where neither sub-paragraph (a) nor (b) applies, the safe working load specified by the manufacturer of the plant in any written information supplied with the plant;

“ship” (except in regulation 4(4)) includes all vessels and hovercraft which operate on water or land and water;

“vehicle” includes all lift trucks, locomotives and rolling-stock, and trailers and semi-trailers and other mechanical plant which moves on wheels, tracks, skids or any combination thereof;

“vessel” means any description of craft used for the transport of goods or passengers or the storage of goods or the accommodation of passengers on water, whether used in navigation or not;

“welfare amenities” means—

(a) S.R. & O. (N.I.) 1926 No. 107 (p. 184)

(b) S.R. & O. (N.I.) 1934 No. 37 (p. 145)

- (a) sanitary conveniences;
- (b) baths and shower baths;
- (c) washing facilities (including wash basins, hot and cold running water and soap and clean towels or other suitable means of cleaning and drying);
- (d) a supply of wholesome drinking water;
- (e) a supply of protective clothing, that is to say, clothing suitable for the protection of the wearer in refrigerated spaces or against dirt from handling dirty goods or against inclement weather;
- (f) accommodation and facilities for changing into clothing worn during working hours and for storing and drying clothing so worn and clothing not so worn;
- (g) canteens or accommodation and facilities (including facilities for heating food and boiling water) for workers employed at dock premises to partake of meals provided by themselves;
- (h) shelters for use during inclement weather.

(2) Where a person supplies plant to another ("the customer") under a hire purchase agreement, conditional sale agreement or lease and—

- (a) he carries on the business of financing the acquisition of goods by others by means of such agreements, or, if financing by means of leases, the use of goods by others, and
- (b) in the course of that business he acquired an interest in the plant supplied to the customer as a means of financing its acquisition by that customer (or, in the case of a lease, its provision to that customer), and
- (c) in the case of a lease he or his agent either has not had physical possession of that plant, or has had physical possession of it only for the purpose of passing it on to the customer;

the customer and not the person who provided the finance shall be treated for the purposes of these Regulations as being the owner of the plant, and duties placed on owners in these Regulations shall accordingly fall on the customer and not on the person providing the finance.

Application of the Regulations

3. These Regulations shall apply to and in relation to all dock operations.

Persons upon whom duties are imposed

4.—(1) Subject to paragraphs (3) and (4), it shall be the duty of every—

- (a) employer;
- (b) self-employed person; and
- (c) other person on whom a duty is imposed by Article 6 of the 1978 Order,

to comply with all provisions of these Regulations, but such a duty shall extend only to matters within his control.

(2) Subject to paragraphs (3) and (4), it shall be the duty of every employee to comply with such of these Regulations as relate to the performance of or the refraining from an act by him in the course of a dock operation.

(3) Paragraphs (1) and (2) shall not apply to regulations 8(4), 11(5), 17, 19(2) to (5) and 20, which expressly say on whom the duties are imposed.

(4) No duty imposed by these Regulations shall be placed upon—

(a) the master or crew of a ship, or

(b) any person employing the persons in sub-paragraph (a),

in relation to plant which remains on board the ship and any dock operation carried out on the ship solely by the master or crew of the ship; and in this paragraph “master” and “ship” have the meanings assigned to them by section 742 of the Merchant Shipping Act 1894(a).

Planning and execution of work

5. Dock operations shall be planned and executed in such a manner as to ensure so far as is reasonably practicable that no person will be exposed to danger.

Lighting

6.—(1) Each part of dock premises which is being used for dock operations shall be suitably and adequately lighted.

(2) Every obstacle or hazard in dock premises which is likely to be dangerous when vehicles, lifting appliances or people move shall be made conspicuous by means of colouring, marking, lighting, or any combination thereof.

Access

7.—(1) Subject to paragraph (2), there shall be provided and properly maintained safe means of access to every part of dock premises which any person has to visit for the purpose of dock operations, and in particular floors, decks, surfaces, stairs, steps, passages and gangways comprised in dock premises shall not be used unless they are of adequate strength for the purpose required, of sound construction and properly maintained.

(2) So far as is reasonably practicable, all floors, decks, surfaces, stairs, steps, passages and gangways in dock premises shall be kept free from any substance or obstacle likely to cause persons to slip or fall or vehicles to skid.

(3) Portable ladders shall not be used as a means of access to—

(a) ships;

(b) holds;

(c) freight container stacks on board ships; or

(d) a vertical stack of three or more freight containers on dock premises which are not part of a ship,

except where no other safer means of access is reasonably practicable.

(4) All ladders (whether portable or not) shall be of good construction, sound material, of adequate strength for the purpose for which they are used, free from patent defect and properly maintained.

(5) A ladder shall not be used unless—

- (a) effective measures are taken to prevent it from slipping or falling; and
- (b) it extends to at least 1 metre above the place of landing to which it provides access, or there is other adequate handhold.

(6) There shall be secure and adequate fencing at the following places where persons are engaged in dock operations, that is to say—

- (a) every break, dangerous corner and other dangerous part or edge of a dock, wharf, quay or jetty;
- (b) every open side of a gangway, footway over a bridge, caisson or dock gate; and
- (c) any other place not being a quay or jetty where any person working or passing might fall a distance of more than 2 metres,

except in so far as such fencing is impracticable because of the nature of work carried out there and either the work is in progress or there is a short interruption for a meal or other purpose.

Transport by water

8.—(1) A vessel shall not be used to transport a person at work to or from any working place unless the vessel is safe.

(2) Without prejudice to the generality of paragraph (1) vessels used for this purpose shall be—

- (a) of a sound and suitable construction;
- (b) properly equipped;
- (c) properly maintained;
- (d) in the charge of a competent person;
- (e) neither overcrowded nor overloaded; and
- (f) subject to paragraph (3), currently certified as suitable by a competent person in a form containing such particulars as are approved in writing for the time being by the Department for the purposes of this regulation.

(3) Paragraph (2)(f) shall not apply to a vessel in respect of which there is in force a certificate as to a survey carried out pursuant to section 271 of the Merchant Shipping Act 1894(a).

(4) The current certificate referred to in paragraph 2(f) shall be kept by the owner of the vessel.

Rescue, life-saving and fire fighting equipment, and means of escape

9. All dock premises shall be provided with adequate and suitable—

- (a) rescue and life saving equipment;
- (b) means to effect escape from danger; and
- (c) fire-fighting equipment,

(a) 1894 c. 60; subsections (1) and (3) of section 271 were substituted by section 17(1) of the Merchant Shipping Act 1964 (c. 47) and paragraph 3 Part VII of Schedule 6 to the Merchant Shipping Act 1979 (c. 39), respectively, and subsection (2) was amended by section 17(1) of the said 1964 Act.

which shall be spaced at intervals that are reasonable in all the circumstances and be properly maintained.

Hatches, ramps and car decks

10.—(1) A hatch covering shall not be used unless it is of sound construction and material, of adequate strength for the purpose for which it is used, free from patent defect and properly maintained.

(2) A hatch covering shall not be used unless—

(a) it can be removed and replaced, whether manually or with mechanical power, without endangering any person; and

(b) information showing the correct replacement position is clearly marked, except in so far as hatch coverings are interchangeable or incapable of being incorrectly replaced.

(3) A hatch shall not be used unless either the hatch covering has been completely removed or, if not completely removed, it is secure.

(4) A hatch covering shall not be replaced contrary to information showing the correct replacement position.

(5) A load shall not be placed on a hatch covering if it is likely to affect the safety of the hatch covering or endanger any person.

(6) Except in the event of an emergency endangering health or safety, no—

(a) ship's ramp or door associated with a ship's ramp;

(b) power operated hatch covering;

(c) retractable car-deck; or

(d) shore-based ramp,

shall be operated in the course of a dock operation except by a person authorised to do so by the person in control of that operation.

Drivers of vehicles and operators of lifting appliances

11.—(1) Subject to paragraph (6), a powered vehicle shall not be driven, nor a powered lifting appliance operated, by an employee in the course of dock operations on dock premises unless he is authorised to do so by his employer.

(2) A person shall not be authorised under paragraph (1) to drive a vehicle or operate a lifting appliance unless he is fit to do so.

(3) Without prejudice to the generality of the preceding paragraph a person shall be deemed to be unfit for the purpose specified in that paragraph if he is certified as so unfit by a registered medical practitioner.

(4) A person shall not be authorised under paragraph (1) to drive a vehicle or operate a lifting appliance unless—

(a) he is competent to do so;

(b) he has been appropriately trained; and

—(c) in the case of a lifting appliance, he is over 18 years of age or is a serving member of Her Majesty's Forces,

except where he is undergoing a suitable course of training under the proper supervision of a competent instructor.

(5) Every employer shall keep a record of the names of his employees who drive powered vehicles or operate powered lifting appliances in the course of dock operations, and such a record shall contain particulars of any relevant training provided by that employer.

(6) This regulation shall not apply to employees who drive vehicles on dock premises only in the course of visiting or passing through the premises or for the purpose of travelling on board a ship with that vehicle.

Use of vehicles

12.—(1) Vehicles used by employees or self-employed persons in the course of dock operations shall be properly maintained.

(2) Danger from use and movement of all vehicles on dock premises shall so far as is reasonably practicable be prevented and the means of preventing such danger shall where applicable include—

- (a) safe and adequate railways, roadways and parking facilities;
- (b) adequate arrangements for traffic control which shall include proper signs and markings informing and warning drivers;
- (c) safe arrangements for operating and moving vehicles where the driver's field of view is not sufficient to carry out the required operation or movement without risk of danger to any person;
- (d) safe arrangements for refuelling vehicles;
- (e) suitable barriers;
- (f) safe arrangements for the movement and stacking of freight containers; and
- (g) safe arrangements for coupling of vehicles.

(3) A vehicle used by an employee or a self-employed person in the course of dock operations shall not—

- (a) carry any passenger except—
 - (i) where proper passenger seating is available for and used by him, or other safe arrangements are made; and
 - (ii) it is appropriate and necessary for the work being carried out;
- (b) be driven in an unsafe manner; or
- (c) carry any load which is insecure.

Use of lifting plant

13.—(1) Lifting plant shall not be used unless it is—

- (a) of good design and construction;
- (b) of adequate strength for the purpose for which it is used;
- (c) of sound material and free from patent defect;
- (d) properly installed or assembled; and
- (e) properly maintained.

(2) A—

- (a) pallet or other similar piece of equipment for supporting loads;
- (b) lifting attachment which forms an integral part of the load;

- (c) one-trip sling; or
- (d) pre-slung cargo sling,

shall not be used unless it is of good construction, of adequate strength for the purpose for which it is used and free from patent defect.

(3) Lifting plant shall not be used other than in a safe and proper manner.

(4) Without prejudice to the generality of paragraph (3), the manner of use shall be deemed not to be safe and proper if, except for the purpose of carrying out a test under regulation 14, the lifting plant is loaded in excess of its safe working load.

Testing of lifting plant

14.—(1) Subject to paragraph (3), lifting plant shall not be used—

- (a) after manufacture or installation; or
- (b) after any repair or modification which is likely to require an alteration to the safe working load or affect the lifting plant's strength or stability,

without first being suitably tested by a competent person except in the case of a rope sling manufactured from rope which has been tested by a competent person and spliced in a safe manner.

(2) Subject to paragraph (3), a lifting appliance which is on board a ship and is the property of the ship owner or is rented, leased or otherwise hired by him shall not be used unless it has been suitably tested by a competent person within the preceding five years.

(3) This regulation shall not apply in relation to the use of lifting plant which is subject to the requirements of regulation 7 of the Merchant Shipping (Hatches and Lifting Plant) Regulations 1988(a).

Examination of lifting plant

15.—(1) Subject to paragraph (2), lifting plant shall not be used unless it has been thoroughly examined by a competent person—

- (a) at least once in the preceding twelve month period or such shorter period as may have been specified by a competent person in—
 - (i) the latest certificate or report of examination of the plant obtained pursuant to regulation 17, or
 - (ii) where no such certificate or report has been obtained, the latest certificate of examination of the plant obtained pursuant to the Docks Regulations (Northern Ireland) 1926 or the Docks Regulations (Northern Ireland) 1934; and

(b) following a test in accordance with regulation 14.

(2) This regulation shall not apply in relation to the use of lifting plant which is subject to the requirements of regulation 8 of the Merchant Shipping (Hatches and Lifting Plant) Regulations 1988.

Markings and indicators on lifting plant

16.—(1) Every lifting appliance shall, subject to paragraph (2), be clearly and legibly marked with—

- (a) its safe working load or safe working loads, and
- (b) a means of identification.

(2) In the case of a lifting appliance having more than one safe working load, it shall be sufficient compliance with paragraph (1)(a) to have attached to the appliance tables setting out the safe working loads.

(3) Every crane whose safe working load varies with its operating radius shall, subject to paragraph (4), be fitted with an accurate indicator, clearly visible to the driver, showing the radius of the load lifting attachment at any time and the safe working load corresponding to that radius; and in this paragraph the reference to the radius of the load lifting attachment is, in a case where the attachment is suspended on the end of a rope, a reference to the radius of the attachment when it is vertically below the point at which the rope is suspended from the crane.

(4) In the case of a telescopic jib mobile crane operating with a fly jib or a locked jib extension, it shall be sufficient compliance with paragraph (3) for the said indicator to show the angle of inclination of the jib at any time and the safe working load corresponding to that angle; and in this paragraph “fly jib” means an accessory fitted to the jib to form an extended jib, and “locked jib extension” means a part of the crane extended from the jib manually to form an extended jib.

(5) Every item of lifting gear shall be clearly and legibly marked with its safe working load or safe working loads and a means of identification, except where such marking is not reasonably practicable, but in such a case the safe working load or loads shall be readily ascertainable by any user.

(6) Every item of lifting gear which weighs a significant proportion of the safe working load of any lifting appliance with which it is intended to be used shall, in addition to the requirement in paragraph (5), be clearly marked with its weight.

(7) Every mobile crane having either a fixed or a derricking jib shall, subject to paragraph (8), be fitted with an automatic safe load indicator of a type approved for the purposes of regulation 30 of the Construction (Lifting Operations) Regulations (Northern Ireland) 1963(a) which indicator shall be—

- (a) properly maintained; and
 - (b) tested and inspected by a competent person at appropriate intervals.
- (8) Paragraph (7) shall not apply to any crane which—
- (a) travels on a line of rails;
 - (b) has a safe working load of one tonne or less; or
 - (c) is fitted with a grab or magnet.

Certificates and reports

17.—(1) A certificate or report containing particulars approved in writing for the time being by the Department for the purposes of this regulation shall be obtained from the competent person by the owner of the plant within 28 days following any test pursuant to regulation 14 or examination pursuant to regulation 15.

(2) A certificate or report of a test pursuant to regulation 14 shall be kept in a safe place by the owner until the plant is taken out of use, and a certificate or report of an examination pursuant to regulation 15 shall be kept by the owner in a safe place for a period of at least two years from receipt of the certificate or report of the next following examination.

(3) Where a test pursuant to regulation 14 or an examination pursuant to regulation 15 shows that a lifting appliance cannot be used with safety unless certain repairs are carried out immediately or within a specified time, a copy of the certificate or report completed in accordance with paragraph (1) shall be supplied by the competent person to the Department within 28 days of completion of the test or examination.

(4) The owner of the plant shall supply a copy of the latest certificate or report obtained under paragraph (1) to any employer or self-employed person hiring or using the plant, and any such hirer or user shall ensure that he receives it from the owner and consults it.

Confined spaces

18. A person shall not be permitted to enter or remain in any space if he is liable to be overcome by gases or fumes or incapacitated by oxygen deficiency unless—

- (a) it is necessary for him to do so; and
- (b) effective steps have been taken to protect him from such danger.

Welfare amenities and protective clothing

19.—(1) There shall be provided and maintained for the use of persons at work welfare amenities which are in all the circumstances adequate and suitable.

(2) If an employee is to work in a part of dock premises where there is a foreseeable risk of injury to the head and a suitable safety helmet would provide protection against that risk, his employer shall provide the employee with such a helmet, and the employee shall wear the helmet in a proper manner when working there.

- (3) If an employee is to work on foot in an area in dock premises—
- (a) where roll on and roll off operations are carried out,
 - (b) where work with straddle carriers is carried out, or
 - (c) which is a lorry park,

his employer shall provide the employee with a suitable high visibility garment, and the employee shall wear the garment in a proper manner when so working there; except that in the case of an area described in sub-paragraph (c), the garment need only be provided and worn if it is necessary for the employee's safety.

(4) In paragraph (3)(a) “roll on and roll off operations” means the driving of vehicles onto and off ships carried out on the shoreside approach to the ship, on the means of access to the ship, or on board the ship.

(5) Every self-employed person shall wear in a proper manner a suitable safety helmet or a suitable high visibility garment in the circumstances where an employee would be required by paragraphs (2) or (3), as the case may be, to wear such a helmet or garment provided to him under the appropriate paragraph.

Duty to report defective plant

20. Where a self-employed person or an employee discovers any defect in any plant which he is required to use in the course of dock operations which he cannot rectify he shall, without unreasonable delay, report that defect to the person in control of that plant, or in the case of an employee, to his employer or the person in control of the plant.

Exemption certificates

21.—(1) Subject to paragraph (2), the Department may, by certificate in writing, exempt any person or class of persons, or activity or class of activities to which these Regulations apply, from any requirement or prohibition imposed by these Regulations and any such exemption may be granted subject to conditions and to a limit of time and may be revoked by a certificate in writing at any time.

(2) The Department shall not grant any such exemption unless, having regard to the circumstances of the case, and in particular to—

- (a) the conditions, if any, which it proposes to attach to the exemption; and
- (b) any other requirements imposed by or under any enactment which apply to the case,

it is satisfied that the health and safety of persons who are likely to be affected by the exemption will not be prejudiced because of it.

(3) The Secretary of State for Defence may in the interests of national security, by a certificate in writing, exempt from all or any requirements or prohibitions imposed by these Regulations—

- (a) Her Majesty's Forces;
- (b) visiting forces within the meaning of any of the provisions of Part I of the Visiting Forces Act 1952(a); and
- (c) any headquarters or organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964(b),

and any such exemption may be granted subject to conditions and to a limit of time and may be revoked by a certificate in writing at any time.

(a) 1952 c. 67
(b) 1964 c. 5

Enforcement

22.—(1) Notwithstanding the provisions of regulation 3 of the Health and Safety (Enforcing Authority) Regulations (Northern Ireland) 1985(a), the Department shall, subject to paragraph (2), be responsible for the enforcement of the relevant statutory provisions in relation to any activity carried on in dock premises.

(2) Paragraph (1) shall not apply to the extent that some other authority or class of authorities is made responsible for such enforcement by any of the relevant statutory provisions other than the said Regulations of 1985.

Modifications to the Factories Act (Northern Ireland) 1965

23. Section 123 of the Factories Act (Northern Ireland) 1965(b) shall be modified as follows—

(a) for subsection (4), substitute:

“(4) Nothing in this section shall apply to any machinery or plant which is on board a ship and is the property of the ship owner or charterer, or is rented, leased or hired by him or his agent, or is being purchased by him or his agent under a hire purchase agreement or a conditional sale agreement (each within the meaning of Article 2 of the Health and Safety at Work (Northern Ireland) Order 1978.”.

(b) at the end of subsection (6), substitute a comma for the full stop and add:

“except that this subsection shall not operate to apply the provisions to chains, ropes and lifting tackle, cranes and other lifting machines, or to the construction and maintenance of floors, passages and stairs, in warehouses which are dock premises.”.

(c) renumber subsection (7) as “(10)”;

(d) after subsection (6) add the following subsections:

“(7) The provisions of Part II of this Act, and any Regulations made under that Part, with respect to prime movers, transmission machinery, other machinery, provisions as to unfenced machinery, construction and maintenance of fencing, hoists and lifts shall apply to all dock premises as if the dock premises were a factory, and the person having the control of such matter were the occupier of the factory in respect of that matter.

(8) The provisions of section 173 of this Act (application to Crown) shall apply to all dock premises as if the dock premises were a factory, but only for the purpose of applying to the Crown such provisions of this Act as are applied to docks, wharfs, quays and dock premises by virtue of the foregoing provisions of this section.

(9) In subsections (6), (7) and (8) of this section “dock premises” means any dock, wharf, quay, jetty or other place at which ships load or unload goods or embark or disembark passengers, together with neighbouring land or water which is used or occupied, or intended to be used or occupied, for those or incidental activities, and any part of a ship when used for those or incidental activities.”.

(a) S.R. 1985 No. 103

(b) 1965 c. 20 (N.I.): section 123 was modified by S.R. 1979 No. 246

Revocations and transitional provisions

24.—(1) The Docks Regulations (Northern Ireland) 1926(a) and the Docks Regulations (Northern Ireland) 1934(b) are hereby revoked.

(2) Every certificate or register relating to a test or examination of plant carried out before the plant was taken into use, and which certificate or register was required to be kept in pursuance of any regulation revoked by these Regulations, shall, notwithstanding the revocation, continue to be kept for the same period and in the same manner as if these Regulations had not been made.

(3) Every certificate or register relating to a periodic thorough examination after the plant was taken into use, and which certificate or register was required to be kept in pursuance of any regulation revoked by these Regulations, shall, notwithstanding the revocation, continue to be kept for at least two years following the date of the examination, and shall be so kept in the same manner as if these Regulations had not been made.

Sealed with the Official Seal of the Department of Agriculture on 2nd August 1989.

(L.S.) *I. C. Henderson*
Assistant Secretary

Sealed with the Official Seal of the Department of Economic Development on 2nd August 1989.

(L.S.) *R. Gamble*
Assistant Secretary

Sealed with the Official Seal of the Department of the Environment on 2nd August 1989.

(L.S.) *Trevor Pearson*
Assistant Secretary

Sealed with the Official Seal of the Department of Health and Social Services on 2nd August 1989.

(L.S.) *J. Scott*
Assistant Secretary

(a) S.R. & O. (N.I.) 1926 No. 107 (p. 184)

(b) S.R. & O. (N.I.) 1934 No. 37 (p. 145)

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations impose health, safety and welfare requirements with respect to dock operations (as defined in regulation 2).

The Regulations apply to dock operations carried out in Northern Ireland. A "fish loading process" (within the meaning of the Loading and Unloading of Fishing Vessels Regulations (Northern Ireland) 1989), activities carried out in relation to pleasure craft and beach landing operations carried out by HM Forces or visiting forces are not "dock operations" for the purposes of the Regulations (regulation 2).

Certain activities carried out on board a ship are included within the scope of the Regulations but no duties are imposed on the master, crew or their employer in relation to plant which remains on board the ship or to any dock operation carried out on the ship solely by the master or crew (regulation 4(4)).

The Regulations:—

- (a) require dock operations to be planned and executed to avoid danger (regulation 5);
- (b) require the provision of suitable and adequate lighting and require dangerous obstacles to be made conspicuous (regulation 6);
- (c) impose requirements with respect to the provision and maintenance of means of access (regulation 7(1) and (2));
- (d) impose requirements with respect to the safety of ladders (regulation 7(3) to (5));
- (e) require fencing at specified places (regulation 7(6));
- (f) impose requirements with respect to the safety of vessels used for transporting persons to working places, including requiring such vessels to be certified as suitable by a competent person unless a certificate as to survey carried out under the Merchant Shipping Act 1894 is in force (regulation 8);
- (g) require the provision of rescue, life-saving and fire-fighting equipment and means to effect escape from danger, and require the proper maintenance thereof (regulation 9);
- (h) impose requirements with respect to the safety of ship's hatches and the operation of ramps and car-decks (regulation 10);
- (i) require that only employees who are authorised by their employers may drive powered vehicles or operate powered lifting appliances (regulation 11);
- (j) require vehicles to be properly maintained, and impose other requirements with respect to the use and movement of vehicles (regulation 12);
- (k) impose various requirements with respect to the safety of lifting plant including:

- requiring it to be of good design and construction, properly installed and maintained, and used safely (regulation 13);
 - requiring it to be marked with its safe working load or loads and means of identification; and requiring lifting appliances to be fitted with safe working load indicators in certain cases (regulation 16);
 - requiring it to be tested before being taken into use and after certain repairs, and to be examined after such a test and at yearly intervals (or sooner in certain circumstances), unless the plant is subject to the testing and examination requirements of the Merchant Shipping (Hatches and Lifting Plant) Regulations 1988 (regulations 14 and 15);
 - requiring owners to obtain and keep certificates or reports of tests and examinations and to provide copies to employers or self-employed persons using or hiring the plant (regulation 17);
 - requiring the person who made the test or examination to provide a copy of his certificate or report to the Department of Economic Development in specified circumstances (regulation 17);
- (l) impose requirements with respect to entry into confined spaces (regulation 18);
- (m) require the provision of welfare amenities, and the provision of protective helmets and high visibility clothing in specified circumstances (regulation 19);
- (n) require persons at work to report defective plant (regulation 20).

The Regulations provide for the issue of certificates of exemption by the Department of Economic Development or the Secretary of State for Defence (regulation 21), and provide for enforcement by the Department of these Regulations and the other “relevant statutory provisions” (within the meaning of the Health and Safety at Work (Northern Ireland) Order 1978) in relation to any activity in dock premises (regulation 22).

Regulation 23 modifies section 123 of the Factories Act (Northern Ireland) 1965 (which applies specified provisions of the Act to docks, warehouses, etc.) by:—

- (a) extending the exclusions in respect of ship’s plant;
- (b) restricting the range of provisions of the Act applied by section 123 to warehouses which are dock premises;
- (c) applying certain provisions of the Act to dock premises, and applying the Act to dock premises belonging to or in occupation of the Crown to the extent that it applies to other dock premises.

The Docks Regulations (Northern Ireland) 1926 and the Docks Regulations (Northern Ireland) 1934 are revoked by these Regulations, but there are transitional provisions for the keeping of certificates or registers relating to the testing and examination of plant under those Regulations (regulation 24).

A Code of Practice approved by the Health and Safety Agency for Northern Ireland under Article 18(1) of the Health and Safety at Work (Northern Ireland) Order 1978 will be published and will give guidance on the Regulations. This Code of Practice may be obtained from Her Majesty's Stationery Office, 80 Chichester Street, Belfast BT1 4JY.

Copies of the International Convention for Safe Containers (CSC) mentioned in regulation 2 (interpretation of "freight container") can be obtained from the Inter-Governmental Maritime Consultative Organisation, 101 Piccadilly, London W1.

A person who contravenes the Regulations is guilty of an offence under Article 31 of the Health and Safety at Work (Northern Ireland) Order 1978 and is liable, on summary conviction, to a fine not exceeding £2,000, or on conviction or indictment to a fine.