
STATUTORY INSTRUMENTS

1997 No. 2962

The Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997

Part II

General duties

Persons on whom duties are imposed

4.—(1) It shall be the duty of every—

- (a) employer; and
- (b) any other natural or legal person upon whom a duty is imposed by these Regulations,

to comply with the provisions of these Regulations.

(2) Where a person in paragraph (1) does not have control of the matter to which the regulation relates because he does not have responsibility for the operation of the ship, then any duty imposed by that regulation shall also extend to any natural or legal person who has control of that matter.

General duties

5.—(1) The employer shall ensure the health and safety of workers and other persons so far as is reasonably practicable, which duty shall be met by the application of the following principles—

- (a) the avoidance of risks, which among other things include the combating of risks at source and the replacement of dangerous practices, substances or equipment by non-dangerous or less dangerous practices, substances or equipment;
- (b) the evaluation of unavoidable risks and the taking of action to reduce them;
- (c) adoption of work patterns and procedures which take account of the capacity of the individual, especially in respect of the design of the workplace and the choice of work equipment, with a view in particular to alleviating monotonous work and to reducing any consequent adverse effect on workers' health and safety;
- (d) adaptation of procedures to take account of new technology and other changes in working practices, equipment, the working environment and any other factors which may affect health and safety;
- (e) adoption of a coherent approach to management of the vessel or undertaking, taking account of health and safety at every level of the organisation;
- (f) giving collective protective measures priority over individual protective measures; and
- (g) the provision of appropriate and relevant information and instruction for workers.

(2) Without prejudice to the generality of the duties under paragraph (1), the matters to which those duties extend shall include in particular—

- (a) provision and maintenance of plant, machinery and equipment and systems of work that are, so far as is reasonably practicable, safe and without risk to health;

- (b) arrangements for ensuring, so far as is reasonably practicable, safety and absence of risk to health in connection with the use, handling, stowage and transport of articles and substances;
- (c) such arrangements as are appropriate, having regard to the nature of, and the substances used in, the activities and and size of the operation, for the effective planning, organisation, control, monitoring and review of preventive and protective measures;
- (d) provision of such information, instruction, training and supervision as is necessary to ensure the health and safety of workers and that of other persons aboard ship who may be affected by their acts or omissions;
- (e) maintenance of all places of work in the ship in a condition that is, so far as is reasonably practicable, safe and without risk to health;
- (f) arrangements to ensure, so far as is reasonably practicable, that no person has access to any area of the ship to which it is necessary to restrict access on grounds of health and safety unless the individual concerned has received adequate and appropriate health and safety instruction;
- (g) provision and maintenance of an environment for persons aboard ship that is, so far as is reasonably practicable, safe and without risk to health;
- (h) collaboration with any other persons covered by regulation 4 to protect, so far as is reasonably practicable, the health and safety of all authorised persons aboard the ship or engaged in loading or unloading activities in relation to that ship.

Health and safety policy

6.—(1) Subject to paragraph (2), a written statement shall be prepared and, as often as may be appropriate, revised, of the employer's general policy with respect to health and safety and the organisation and arrangements for the time being in force for carrying out that policy, and this and any revisions to it shall be brought to the notice of the workers.

(2) The written statement referred to in paragraph (1) shall not apply where five or less workers in aggregate are employed by the same employer, or by associated employers, in a United Kingdom ship.

(3) For the purposes of this regulation associated employers shall be interpreted in accordance with section 231 of the 1996 Act.

Risk assessment

7.—(1) A suitable and sufficient assessment shall be made of the risks of the health and safety of workers arising in the normal course of their activities or duties, for the purpose of identifying—

- (a) groups of workers at particular risk in the performance of their duties; and
- (b) the measures to be taken to comply with the employer's duties under these Regulations,

and any significant findings of the assessment and any revision of it shall be brought to the notice of workers.

(2) This assessment shall extend to the risks to the health and safety of other persons on board ship in so far as they may be affected by the acts and omissions of the employer.

(3) The assessment referred to in paragraphs (1) and (2) shall be reviewed if—

- (a) there is reason to suspect that it is no longer valid; or
- (b) there has been a significant change in the matters to which it relates,

and where such a review identifies a need for any changes to procedures or practices, those changes shall be made.

(4) Every employer and every self-employed person on board ship shall inform the Company of any relevant risks to health and safety arising out of or in connection with the conduct of his own undertaking.

(5) Measures shall be taken, and if necessary protective equipment supplied, to ensure an improvement in the health and safety of workers and other persons in respect of those risks identified.

(6) Workers shall be informed of the measures taken for their protection.

New or expectant mothers

8.—(1) Where—

- (a) the workers include women with potential for child-bearing; and
- (b) the work is of a kind which could involve risk, by reason of her condition, to the health and safety of a new or expectant mother, or to that of her baby, from any process or working conditions, or physical, biological or chemical agents, including those specified in Annexes I and II of Council Directive [92/85/EEC](#) on the introduction of measures to encourage improvements in the health and safety at work of pregnant workers who have recently given birth or are breast-feeding⁽¹⁾,

the assessment required by regulation 7(1) shall include the assessment of such risk.

(2) Where, in the case of an individual worker, any other action required to be taken by the employer under these Regulations would not avoid the risk referred to in paragraph (1), if it is reasonable to do so, and would avoid such risk, her working conditions or hours of work shall be altered.

(3) If it is not reasonable to alter the working conditions or hours of work, or if it would not avoid such risk, the employer shall, without prejudice to the rights of an employee under sections 66 to 68 of the 1996 Act, suspend the worker from work for so long as is necessary to avoid such risk.

(4) In paragraphs (1) to (3) references to risk, in relation to risk from any infectious or contagious disease are references to a level of risk at work which is in addition to the level to which a new or expectant mother may be expected to be exposed outside the workplace.

Night work

9.—(1) Where—

- (a) a new or expectant mother works at night; and
- (b) a certificate from a registered medical practitioner or registered midwife shows that it is necessary for her health or safety that she should not be at work for any period of such work identified in the certificate,

the worker shall be offered suitable alternative daytime work, if any is available.

(2) Subject to paragraph (1), where no such alternative daytime work is available the worker shall, without prejudice to the rights of an employee under sections 66 to 68 of the 1996 Act, be suspended from her work for so long as is necessary for her health or safety.

Notification of pregnancy

10.—(1) Nothing in paragraphs (2) or (3) of regulation 8 shall require any action to be taken in relation to a worker until she has notified the employer or the Company, as the case may be, in writing that she is pregnant, has given birth within the previous six months or is breast-feeding.

(1) OJNo. L348, 28.11.92, p. 1.

(2) Nothing in paragraph (2) or (3) of regulation 8 or in regulation 9 shall require action to be maintained in relation to a worker—

- (a) in a case—
 - (i) to which regulation 8(2) or (3) relates, and
 - (ii) where the worker has notified her employer that she is pregnant, where she has failed, within a reasonable time of being requested to do so in writing by her employer, to produce for the employer's inspection a certificate from a registered medical practitioner or a registered midwife showing that she is pregnant;
- (b) once the employer knows that she is no longer a new or expectant mother; or
- (c) if the employer cannot establish whether she remains a new or expectant mother.

Health surveillance

11. Workers shall be provided with such health surveillance as is appropriate having regard to the risks to their health and safety which are identified by the assessment undertaken in accordance with regulation 7.

Capabilities and training

12.—(1) In entrusting tasks to workers, account shall be taken of their capabilities as regards health and safety.

(2) Workers shall be provided with adequate and appropriate health and safety training and instruction—

- (a) before being assigned to shipboard duties;
- (b) on their being exposed to new or increased risks because of—
 - (i) being transferred or given a change of responsibilities,
 - (ii) the introduction of new equipment or a change to equipment already in use,
 - (iii) the introduction of new technology, or
 - (iv) the introduction of new shipboard practices, a new system of work or a change to a system of work already in use.
- (3) The training referred to in paragraph (2) shall—
 - (a) be repeated periodically where appropriate;
 - (b) be adapted to take account of any new or changed risks to the health or safety of the workers concerned; and
 - (c) take place during the working hours of the worker concerned.
- (4) Every person carrying on the activity of an employment agency whose employee is to carry out work aboard a ship to which these Regulations apply shall be provided by the Company with information on—
 - (a) any special occupational qualifications required by workers to carry out their work safely;
 - (b) the specific features of the jobs to be filled by those workers (in so far as those features are likely to affect their health and safety); and
 - (c) any health surveillance required to be provided to workers under these or other relevant regulations,

and the employment agency concerned shall ensure that the information so provided is given to the said workers.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
