
STATUTORY INSTRUMENTS

2003 No. 3049

**The Merchant Shipping (Working Time:
Inland Waterways) Regulations 2003**

PART 1

GENERAL

Citation and Commencement

1. These Regulations may be cited as the Merchant Shipping (Working Time: Inland Waterways) Regulations 2003 and shall come into force on 24th December 2003.

Interpretation

2.—(1) In these Regulations—

“collective agreement” means a collective agreement within the meaning of section 178 of the Trade Union and Labour Relations (Consolidation Act 1992⁽¹⁾), the trade union parties to which are independent trade unions within the meaning of section 5 of that Act;

“employer”, in relation to a worker, means the person by whom the worker is (or, where the employment has ceased, was) employed;

“employment”, in relation to a worker, means employment under his contract, and “employed” shall be construed accordingly;

“MCA” means the Maritime and Coastguard Agency, an executive agency of the Department for Transport;

“Merchant Shipping Notice” means a Notice described as such and issued by the MCA; and any reference to a particular Merchant Shipping Notice includes a reference to any document amending or replacing that Notice which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice;

“night time” means a period—

- (a) the duration of which is not less than seven hours, and
- (b) which includes the period between midnight and 5 a.m. (local time),

which is determined for the purposes of these Regulations by a relevant agreement, or, in default of such a determination, the period between 11 p.m. and 6 a.m. (local time);

“night work” means work during night time;

“night worker” means a worker—

- (a) who, as a normal course, works at least three hours of his daily working time during night time, or

- (b) who is likely, during night time, to work at least such proportion of his annual working time as may be specified for the purposes of these Regulations in a collective agreement or a workforce agreement,

and, for the purpose of paragraph (a) of this definition, a person works hours as a normal course (without prejudice to the generality of that expression) if he works such hours on the majority of days on which he works;

“relevant agreement”, in relation to a worker, means a workforce agreement which applies to him, any provision of a collective agreement which forms part of a contract between him and his employer, or any other agreement in writing which is legally enforceable as between the worker and his employer;

“relevant training” means work experience provided pursuant to a training course or programme, training for employment, or both, other than work experience or training—

- (a) the immediate provider of which is an educational institution or a person whose main business is the provision of training, and
- (b) which is provided on a course run by that institution or person;

“rest period” means a period which is not working time, other than a rest break or leave to which the worker is entitled under these Regulations;

“sail training vessel” means a sailing vessel which is being used either—

- (a) to provide instruction in the principles of responsibility, resourcefulness, loyalty and team endeavour and to advance education in the art of seamanship; or
- (b) to provide instruction in navigation and seamanship for yachtsmen;

and to which one of the following codes applies⁽²⁾—

The Code of Practice for the Safety of Small Commercial Sailing Vessels⁽³⁾;

The Code of Practice for Safety of Large Commercial Sailing and Motor Vessels⁽⁴⁾;

The Code of Practice for the Safety of Small Commercial Motor Vessels⁽⁵⁾; or

The Code of Practice for the Safety of Small Vessels in Commercial Use for Sport or Pleasure Operating from a Nominated Departure Point⁽⁶⁾;

“ship” includes hovercraft;

“worker” means a person employed (or, where the employment has ceased, who was employed) as a member of the travelling personnel of a ship to which these Regulations apply by an undertaking which operates services for passengers or goods, but does not include persons who are training in a sail training vessel or persons who are not engaged in the navigation of, or have no emergency safety responsibilities on, such a vessel;

“workforce agreement” means an agreement between an employer and workers employed by him or their representatives in respect of which the conditions set out in Schedule 1 to these Regulations are satisfied; and

“working time”, in relation to a worker, means—

- (a) any period during which he is working, at his employer’s disposal and carrying out his activity or duties,
- (b) any period during which he is receiving relevant training, and

(2) Certain vessels are required to comply with the codes by the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998, [S.I. 1998/2771](#), amended by [S.I. 2000/482](#) and [S.I. 2002/1473](#).

(3) Published by The Stationery Office in 1993 (ISBN 0-11-551184-9).

(4) Published by The Stationery Office in 1997 (ISBN 0-11-551911-4).

(5) Published by The Stationery Office in 1993 (ISBN 0-11-551185-7).

(6) Published by The Stationery Office in 2000 (ISBN 0-11-551812-6).

(c) any additional period which is to be treated as working time for the purpose of these Regulations under a relevant agreement,
and “work” shall be construed accordingly.

(2) Subject to paragraph (1), words and expressions used in these Regulations shall have the same meaning as in Council Directive 93/104/EC concerning certain aspects of the organization of working time(7).

Application

3.—(1) These Regulations apply to any United Kingdom ship, wherever it may be, which—

- (a) operates, or ordinarily operates, under a certificate which does not allow the ship to go beyond the limits of waters of category A, B, C or D (as categorised in Merchant Shipping Notice No.MSN 1776 (M)), or
- (b) is not required to be certificated.

(2) These Regulations apply to any ship, other than a United Kingdom ship, which operates in the United Kingdom and does not go beyond the limits of waters of categories A, B, C and D, as categorised in Merchant Shipping Notice No. MSN 1776 (M).

Northern Ireland

4. These Regulations apply to Northern Ireland with the following modifications—

- (a) for any reference to any employment tribunal there shall be substituted a reference to an industrial tribunal within the meaning of section 42(5) of the Interpretation Act (Northern Ireland) 1954(8);
- (b) in regulation 2(1) for the definition of “collective agreement” there shall be substituted the following definition—

““collective agreement” means a collective agreement within the meaning of Article 2(2) of the Industrial Relations (Northern Ireland) Order 1992(9), the trade union parties to which are independent trade unions within the meaning of that Article;”;
- (c) in regulation 19(2)(a) for the words “a conciliation officer has taken action under section 18 of the Employment Tribunals Act 1996 (conciliation)” there shall be substituted the words “the Labour Relations Agency has taken action under Article 20 of the Industrial Tribunals (Northern Ireland) Order 1996(10) (conciliation)”;
- (d) in regulation 19(2)(b) for the words “section 18(1)(m) of the Employment Tribunals Act 1996” there shall be substituted the words “Article 20(1)(k) of the Industrial Tribunals (Northern Ireland) Order 1996”.

(7) OJ No. L 307, 13.12.1993, p.18; amended by Directive 2000/34/EC of the European Parliament and of the Council, OJ No. L 195 1.8.2000, p.41

(8) 1954 c. 33 (N.I.); section 42(5) was substituted by paragraph 1 of Schedule 1 to the Industrial Tribunals (Northern Ireland) Order 1996, S.I. 1996/1921 (N.I. 18).

(9) S.I. 1992/807 (N.I. 5); the definition of “collective agreement” was amended by Schedule 2 to the Trade Union and Labour Relations (Northern Ireland) Order 1995, S.I. 1995/1980 (N.I. 12).

(10) S.I. 1996/1921 (N.I. 18); Article 20 was amended by paragraph 10 of Schedule 2 to the Race Relations (Northern Ireland) Order 1997, S.I. 1997/869 (N.I. 6); by paragraph 20 of Schedule 1 to the Employment Rights (Dispute Resolution) (Northern Ireland) Order 1998, S.I. 1998/1265 (N.I. 8); by section 30(2) of the National Minimum Wage Act 1998 (c. 39); by paragraph 5 of Schedule 2 to the Employment (Northern Ireland) Order 2002, S.I. 2002/2836 (N.I. 2); by regulation 33 of the Working Time Regulations (Northern Ireland) 1998, S.R. (N.I.) 1998 No. 386; by regulation 33(2) of the Transnational Information and Consultation of Employees Regulations 1999, S.I. 1999/3233; by paragraph 2 of the Schedule to the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2000, S.R. (N.I.) 2000 No. 219; by paragraph 3 of Part I of Schedule 2 to the Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2002, S.R. (N.I.) 2002 No. 298; and by paragraph 5 of Schedule 2 to these Regulations.

Status: *This is the original version (as it was originally made).*
