

**EXPLANATORY MEMORANDUM TO**  
**THE MERCHANT SHIPPING AND FISHING VESSELS (HEALTH AND SAFETY**  
**AT WORK) (MISCELLANEOUS AMENDMENTS) REGULATIONS 2010**

**2010 No. 1110**

1. This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 The Regulations correct an error identified by the Joint Committee on Statutory Instruments in the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Chemical Agents) Regulations 2010 (S.I. 2010/330) by deleting the word “where” at the start of paragraph (6)(b) in regulation 11 (prohibited activities) of those Regulations.

2.2 The Regulations also make minor drafting amendments to the Merchant Shipping and Fishing Vessels (Control of Noise at Work) Regulations 2007 (S.I. 2007/3075), the Merchant Shipping and Fishing Vessels (Control of Vibration at Work) Regulations 2007 (S.I. 2007/3077) and the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Carcinogens and Mutagens) Regulations 2007 (S.I. 2007/3100). The amendments clarify that those Regulations apply to hovercraft as they do to ships, and that any reference in those Regulations to the master of a ship means, in the case of a hovercraft, the captain of that hovercraft. Putting express provisions to this effect into these Regulations brings them into line with the drafting of other more recent Regulations relating to health and safety issues on merchant ships and fishing vessels.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 Regulation 5 fulfils the commitment given to the Joint Committee, in the Department for Transport’s Memorandum of 15th March 2010, to correct the error in regulation 11(6)(b) of S.I. 2010/330 by making an amending instrument at the earliest opportunity. That instrument comes into force on 6th April 2010, so regulations 1 and 5 of the present Regulations will come into force on 5th April before they have been laid before Parliament for the normal minimum period of 21 days, in order that the instrument being amended is correct as soon as it takes effect.

3.2 The remaining provisions of the Regulations, which implement the changes referred to in paragraph 2.2 above, will come into force on 26th April 2010 after having been laid before Parliament for more than 21 days.

#### **4. Legislative Context**

4.1 The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Chemical Agents) Regulations 2010 come into force on 6 April 2010 and implement Council Directive 98/24/EC of 7 April 1998 (as supplemented by Commission Directives 91/322/EC and 2006/15/EC) on the protection of the health and safety of workers from the risks related to chemical agents at work (fourteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC).

4.2 The Merchant Shipping and Fishing Vessels (Control of Noise at Work) Regulations 2007 came into force on 23 February 2008 except:-

- (a) in relation to noise arising from the provision of music and entertainment on ships, when the Regulations came into force on 6 April 2008; and
- (b) in relation to sea-going ships, as regards which regulations 7(4) and (5) do not come into force until 6 April 2011.

The Regulations implemented Directive 2003/10/EC of the European Parliament and of the Council of 6 February 2003 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (noise) (seventeenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC).

4.3 The Merchant Shipping and Fishing Vessels (Control of Vibration at Work) Regulations 2007 came into force on 23 February 2008 and implemented Directive 2002/44/EC of the European Parliament and of the Council of 25 June 2002 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (vibration) (sixteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC).

4.4 The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Carcinogens and Mutagens) Regulations 2007 came into force on 1 March 2008 and implemented Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (sixth individual Directive within the meaning of Article 16(1) of Council Directive 89/391/EEC).

#### **5. Territorial Extent and Application**

5.1 This instrument has the same extent as the instruments it amends. Those Regulations generally apply to activities on United Kingdom ships whether in the United Kingdom or anywhere else in the world, but certain provisions apply to non-UK ships when in UK waters.

#### **6. European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

- *What is being done and why*

7.1 The Regulations correct an error identified by the Joint Committee on Statutory Instruments in the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Chemical Agents) Regulations 2010 by deleting the word “where” at the start of paragraph (6)(b) in regulation 11 (prohibited activities) of those Regulations.

7.2 The Regulations also make minor drafting amendments to the Merchant Shipping and Fishing Vessels (Control of Noise at Work) Regulations 2007, the Merchant Shipping and Fishing Vessels (Control of Vibration at Work) Regulations 2007 and the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Carcinogens and Mutagens) Regulations 2007. The amendments make explicit that those Regulations apply to hovercraft as they do to ships, and that any reference in those Regulations to the master of a ship means, in the case of a hovercraft, the captain of that hovercraft. Putting express provisions to this effect into these Regulations brings them into line with the drafting of other more recent Regulations relating to health and safety issues on merchant ships and fishing vessels

- *Consolidation*

7.3 As these Regulations only correct one very small error in one set of Regulations and make very minor drafting amendments to three other sets of Regulations, it is not considered necessary or appropriate to produce consolidated Regulations at this time.

## **8. Consultation outcome**

8.1 As this instrument corrects an error in the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Chemical Agents) Regulations 2010 and makes minor drafting changes to other Regulations, which have no substantive effect on the application of those Regulations, full public consultation was not considered necessary. The representative organisations of shipowners (the Chamber of Shipping) and seafarers (Nautilus International, RMT and Unite) were consulted however, in accordance with section 86(4) of the Merchant Shipping Act 1995 which requires consultation of such persons (if any) whom the Secretary of State considers will be affected by the proposed Regulations. The Chamber of Shipping and Nautilus International advised they had no comments to make. No response was received from RMT or Unite.

## **9. Guidance**

9.1 As the changes to the Regulations do not impact upon guidance already issued, it is not proposed to issue any updated guidance.

## **10. Impact**

10.1 There will be no impact on businesses, charities, voluntary bodies or the public sector as the Regulations merely correct an error in one set of Regulations and make minor drafting changes to clarify the application of three other sets.

10.2 An impact assessment has not been prepared.

## **11. Regulating small business**

11.1 The legislation applies to small business, but as it only corrects a drafting error in one set of Regulations and makes minor drafting changes to others, it is not envisaged that the Regulations will have any significant effect on small businesses.

## **12. Monitoring & review**

12.1 The Maritime and Coastguard Agency will evaluate the effect of these Regulations at the same time as the legislation they amend. In this context all health and safety Directives are also subject to a regular review by the European Commission to which MCA will contribute as appropriate. The next European Commission review for the Chemical Agents Directive is due in 2013.

## **13. Contact**

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