

2015 No. 1692

MERCHANT SHIPPING

**The Merchant Shipping (Code of Safe Working Practices)
(Amendments and Revocation) Regulations 2015**

<i>Made</i>	- - - -	<i>15th September 2015</i>
<i>Laid before Parliament</i>		<i>23rd September 2015</i>
<i>Coming into force</i>	- -	<i>20th October 2015</i>

The Secretary of State, in exercise of the powers conferred by section 85(1)(a), (3)(q), (5)(a) and (7)(c) and (d) of the Merchant Shipping Act 1995(a), makes the following Regulations.

The Secretary of State has consulted such persons in the United Kingdom as the Secretary of State considers will be affected by the exercise of powers in this instrument in accordance with section 86(4) of the Merchant Shipping Act 1995.

Citation and commencement

1. These Regulations may be cited as the Merchant Shipping (Code of Safe Working Practices) (Amendments and Revocation) Regulations 2015 and come into force on 20th October 2015.

Amendment of Regulations

2.—(1) The Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997(b) are amended as follows.

(2) In regulation 2(2) (interpretation) for the definition of “the Code” substitute—

““the Code” means the “Code of Safe Working Practices for Merchant Seafarers” published by the Maritime and Coastguard Agency, an executive agency of the Department for Transport, in September 2015, including any subsequent amendment, revision or replacement of that Code which the Secretary of State considers relevant from time to time and which is notified in a Marine Information Notice, described as such and issued by the Maritime and Coastguard Agency;”.

(3) In regulation 3(2)(a) (application)—

- (a) after the words “all of the provisions” insert “, with the exception of regulation 12A,”; and
- (b) for the words “regulations 7(4A) and 11A” substitute “regulations 7(4A), 11A and 12A”.

(a) 1995 c. 21; section 85 enables the Secretary of State to make regulations, referred to in that Act as “safety regulations”. There are amendments to this section which are not relevant to this instrument.

(b) S.I. 1997/2962. Regulations 2, 3 and 24 are amended by S.I. 2014/1616, regulation 2(1) - (5), (15) and (16). Regulation 2 is also amended by S.I. 1998/2411, regulation 17(a) and (b), and S.I. 2015/21, regulation 5(1) and (2). There are other amendments which are not relevant to this instrument.

(4) After regulation 3(2) insert—

“(2A) Regulation 12A applies to all United Kingdom ships except—

- (a) fishing vessels;
- (b) pleasure vessels; and
- (c) any vessel to which—
 - (i) the Merchant Shipping (Passenger Ships) (Safety Code for UK Categorised Waters) Regulations 2010(a), or
 - (ii) the Merchant Shipping (Technical Requirements for Inland Waterway Vessels) Regulations 2010(b),apply.”.

(5) After regulation 12 (capabilities and training) insert—

“Code of Safe Working Practices

12A. The Company must ensure that there are sufficient copies of the Code on board a ship so that it is easily accessible and readily available to all workers and seafarers who are not workers.”.

(6) In regulation 24(4) (penalties), after “12,”, insert “12A,”.

(7) At the end of regulation 24 add—

“(6) It is a defence for a person charged with contravention of regulation 12A to show that all reasonable precautions were taken and all due diligence exercised to avoid commission of the offence.”.

Revocation

3. The Merchant Shipping (Code of Safe Working Practices for Merchant Seamen) Regulations 1998(c) are revoked.

Signed by authority of the Secretary of State for Transport

Robert Goodwill
Parliamentary Under Secretary of State
Department for Transport

15th September 2015

(a) S.I. 2010/680, amended by S.I. 2010/1075, Schedule 2 and S.I. 2011/3056, paragraph 6 of the Schedule.
(b) S.I. 2010/1075.
(c) S.I. 1998/1838, amended by S.I. 2010/680, the Schedule, and S.I. 2010/1075, Schedule 2.

EXPLANATORY NOTE

(This note is not part of the Regulations)

This instrument amends one set of Regulations and, as a consequence, revokes a further set relating to merchant shipping.

The Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 (S.I. 1997/2962) (“the Health and Safety Regulations”) prescribe requirements relating to the safety of ships and the health and safety of persons on them. The requirements include a list of general duties to which an employer must have regard, including the provision of appropriate and relevant information and instruction for workers.

The Merchant Shipping (Code of Safe Working Practices for Merchant Seamen) Regulations 1998 (S.I. 1998/1838) (“the Code Regulations”) prescribe the number of copies of the Code of Safe Working Practices for Merchant Seamen which must be carried on board UK ships (excluding fishing and pleasure vessels, and certain ships where alternative requirements apply). The number of copies and by whom they are kept is determined by the number of workers employed on the vessel. The Regulations also specify where copies must be kept. Failure to supply the correct number of copies of the Code, or to remove a copy of the Code from a vessel without consent, is a criminal offence.

These Regulations insert a new requirement into the Health and Safety Regulations under which the Company (the person or body responsible for operating a ship) must ensure that enough copies of a new Code, the Code of Safe Working Practices for Merchant Seafarers, are available on board a vessel so that it is easily accessible and readily available to all workers and seafarers. This Code was published by the Maritime and Coastguard Agency on 4th September 2015 and replaces the Code of Safe Working Practices for Merchant Seamen described in the Code Regulations. The reference to the Code includes any subsequent amended, revised or replacement edition of that Code. The amended requirement no longer prescribes the number of hard copies of the Code to be provided, as it is anticipated that it will be generally available in electronic format as well as hard copy. The obligation also extends to seafarers who are not workers, which is consistent with the Maritime Labour Convention, 2006 (Cm 7049). Failure to meet the requirement is a criminal offence.

As a consequence of this amendment the Code Regulations are spent and are revoked.

A full impact assessment of the effect that these Regulations will have on the costs of business and the voluntary sector is available and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.

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