
STATUTORY INSTRUMENTS

1998 No. 2411

The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Employment of Young Persons) Regulations 1998

Citation, commencement and revocations

1.—(1) These Regulations may be cited as the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Employment of Young Persons) Regulations 1998 and shall come into force on 30th October 1998.

(2) The Merchant Shipping (Employment of Young Persons) Regulations 1995⁽¹⁾ are hereby revoked.

Commencement Information

II [Reg. 1](#) in force at 30.10.1998, see [reg. 1\(1\)](#)

Interpretation

- 2.—(1) In these Regulations, except where the context otherwise requires, any reference to—
- (a) a numbered regulation is a reference to the regulation bearing that number in these Regulations; and
 - (b) a numbered paragraph or sub-paragraph is a reference to the paragraph or, as the case may be, sub-paragraph bearing that number in the regulation or Schedule, as the case may be, in which the reference appears.

(2) In these Regulations—

“the Act” means the Merchant Shipping Act 1995;

[^{F1}“the CLP Regulation means Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC and amending Regulation (EC) No. 1907/2006, of which Articles 6(5), 11(3), 12, 14, 18(3)(b), 23, 25 to 29, 35(2) second and third sub-paragraphs and Annexes I to VII are to be read as amended from time to time;]

“collective agreement” means a collective agreement within the meaning of section 178 of the Trade Union and Labour Relations (Consolidation) Act 1992⁽²⁾, the trade union parties to which are independent trade unions within the meaning of section 5 of that Act;

“Company” in relation to a ship to which these Regulations apply, means the owner of the ship or any other organisation or person such as the manager, or bareboat charterer, who has assumed the responsibility for operation of the ship from the owner;

(1) S.I.1995/972.

(2) 1992 c. 52.

“competent person” means a person who has sufficient training and experience or knowledge and other qualities, to enable him properly to undertake the duty imposed under the relevant provision in these Regulations;

“contract of employment” means a contract of employment, whether express or implied, and if express, whether oral or in writing;

“crew agreement” means a crew agreement made under section 25 of the Act;

“employer” means a person by whom a worker is employed under a contract of employment;

“the General Duties Regulations” means the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997(3);

“health and safety” includes the occupational health and safety of persons whilst on board the ship and whilst boarding or leaving the ship;

“master” includes the skipper of a fishing vessel;

“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 inspector” means a person mentioned in paragraphs (a), (b) or (c) of section 258(1) of the Act;

“rest period” means any period which is not working time;

“sail training vessel” means a 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 is operating under a statutory code;

“statutory code” means–

The Code of Practice for the Safety of Small Commercial Sailing Vessels(4);

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

The Code of Practice for Safety of Large Commercial Sailing and Motor Vessels(6);

“trainees and apprentices” does not include trainees on a sail training vessel;

“United Kingdom ship” means a ship which–

(a) is a United Kingdom ship within the meaning of section 85(2) of the Act; or

(b) is a Government ship within the meaning of section 308(4) of the Act; or

(c) is a hovercraft registered under the Hovercraft Act 1968(7);

“week” means a period of 7 days starting at midnight on Sunday;

“worker” means any person who is employed by an employer under a contract of employment, including trainees and apprentices;

“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 the Schedule to the Working Time Regulations 1998(8) are satisfied;

(3) S.I. 1997/2962.

(4) Published by The Stationery Office in 1993 (ISBN 0–11–551184–9).

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

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

(7) 1968 c. 59.

(8) S.I. 1998/1833.

“working time” means—

- (a) any period during which the worker is working, at his employer’s disposal and carrying out his activity or duties; and
- (b) 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;

[^{F2}“young person” means—

- (a) in relation to employment on a sea-going United Kingdom ship, any person who is of the age of 16 or 17; or
- (b) in relation to employment on any other United Kingdom ship, any person who is under the age of 18 and, in Great Britain is over school-leaving age for the purposes of section 55 of the Act or, in Northern Ireland, is over compulsory school age within the meaning in Article 46 of the Education and Libraries (Northern Ireland) Order 1986.]

[^{F3}(3) Subject to paragraph (2), words and expressions used in the Regulations shall have the same meaning as in Council Directive 94/33/EC on the protection of young people at work, as it had effect immediately before IP completion day.]

Textual Amendments

- F1** Words in [reg. 2\(2\)](#) inserted (1.6.2015) by [The Classification, Labelling and Packaging of Chemicals \(Amendments to Secondary Legislation\) Regulations 2015 \(S.I. 2015/21\)](#), [regs. 1\(3\)](#), [7\(2\)](#)
- F2** Words in [reg. 2\(2\)](#) substituted (7.7.2002) by [The Merchant Shipping \(Hours of Work\) Regulations 2002 \(S.I. 2002/2125\)](#), [reg. 1](#), [Sch. 2 para. 4\(a\)](#) (with [reg. 3](#))
- F3** [Reg. 2\(3\)](#) substituted (31.12.2020) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1202\)](#), [regs. 1\(2\)](#), [5\(2\)](#) (as amended by [S.I. 2020/1000](#), [regs. 1, 2](#)); [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)

Commencement Information

- I2** [Reg. 2](#) in force at 30.10.1998, see [reg. 1\(1\)](#)

Application and exemption

3.—(1) Subject to paragraph (3), these Regulations shall apply to all activities of young persons engaged as workers on United Kingdom ships.

(2) Subject to paragraph (3), Regulations 1, 2, 3, 14, 15 and 16 shall apply to all activities of young persons engaged as workers on ships other than United Kingdom ships which are in United Kingdom waters.

(3) These Regulations shall not apply to or in relation to—

- (a) the activities of a worker which are covered by [The Health and Safety \(Young Persons\) Regulations 1997\(9\)](#) or [The Health and Safety \(Young Persons\) Regulations \(Northern Ireland\) 1997\(10\)](#); or
- (b) any work carried out in circumstances which are unusual and unforeseeable, beyond the employer’s control or due to exceptional events, where—
 - (i) that work is of a temporary nature and must be performed immediately, and
 - (ii) adult workers are not available, and

(9) S.I. 1997/135.

(10) S.R. 1997 No. 387.

- (iii) the young persons affected are allowed equivalent compensatory rest time within the following three weeks.

Commencement Information

I3 Reg. 3 in force at 30.10.1998, see **reg. 1(1)**

Persons on whom duties are imposed

4.—(1) Except where a duty is imposed on any other person, it shall be the duty of every employer to comply with the provisions of these Regulations.

(2) Where a person on whom a duty is imposed by any provision of these Regulations 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 person who has control of that matter.

Commencement Information

I4 Reg. 4 in force at 30.10.1998, see **reg. 1(1)**

Additional general duties

5.—(1) In addition to the duties contained in the General Duties Regulations, appropriate measures shall be taken to protect young persons at work from the risks to their health and safety which are a consequence of their lack of experience, or absence of awareness of existing or potential risks or the fact that young persons have not yet fully matured.

(2) No young person shall be permitted to begin work in a ship unless an assessment has first been made, either separately or as an addition to the assessment made under regulation 7 of the General Duties Regulations, of the risks to the health and safety of young persons which might arise during the normal course of their working time taking into account the inexperience, lack of awareness of risks and immaturity of young persons, and paying particular attention to—

- (a) the fitting out and layout of working areas;
- (b) the nature, degree and duration of exposure to physical, biological and chemical agents;
- (c) the form, range and use of work equipment and the way in which it is handled;
- (d) the organisation of processes and activities;
- (e) the extent of the health and safety training provided or to be provided to the young persons concerned; and
- (f) risks from agents, processes and work listed in the Schedule to these Regulations.

(3) Young persons shall be informed of possible risks to their health and safety identified by the assessment under paragraph (2), and of all measures adopted for their protection.

(4) No young persons shall be engaged in—

- (a) work which is objectively beyond their physical or psychological capacity;
- (b) work involving harmful exposure to agents which are toxic, carcinogenic, cause heritable genetic damage, or harm to the unborn child or which in any other way chronically affect human health;
- (c) work involving harmful exposure to radiation;

- (d) work involving the risk of accidents which it may be assumed cannot be recognised or avoided by young persons owing to their insufficient attention to safety or lack of experience or training; or
 - (e) work in which there is a risk to health from—
 - (i) extreme cold or heat, or
 - (ii) noise, or
 - (iii) vibration.
- (5) In determining whether the work will involve harm or risk for the purposes of this regulation, regard shall be had to—
- (a) the findings of the assessment carried out under paragraph (2); and
 - (b) the list of agents, processes and work contained in the Schedule to these Regulations.
- (6) Nothing in paragraph (4) shall prevent the employment of a young person to perform any activity where that activity—
- (a) is indispensable for their vocational training; and
 - (b) is performed under the supervision of a competent person,
- and in such a case the duty shall be to ensure so far as is reasonably practicable the health and safety of the young person when performing that activity.

Commencement Information

I5 Reg. 5 in force at 30.10.1998, see **reg. 1(1)**

Rest periods for young persons

- 6.—(1) Where a young person is engaged as a worker on any ship, he shall be provided with—
- (a) a rest period of at least 12 consecutive hours in every 24 hour period; and
 - (b) a rest period of at least 2 days, which shall be consecutive if possible, in every week.
- (2) Where a young person’s daily working time is more than four and a half hours, he shall be provided with a rest break of at least 30 minutes which shall be consecutive if possible.
- (3) Time spent on training by a young person, whether under a theoretical or practical or combined theoretical and practical work training scheme shall be counted as working time.
- (4) Where a young person is engaged as a worker by more than one employer, working days and working hours shall be cumulative.
- (a) (5) (a) The minimum daily rest period provided for in paragraph (1)(a) may be interrupted in the case of activities involving periods of work that are split up over the day or of short duration.
 - (b) The minimum weekly rest period provided for in paragraph (1)(b)
 - (i) may be interrupted in the case of activities involving periods of work that are split up over the day or of short duration; and
 - (ii) may be reduced to a period which is not less than 36 hours where this is justified by technical or organisational reasons.
- ^{F4}(6)
- (7) ^{F5}... young persons may be permitted to work during the rest periods required by paragraph (1) (b) provided that—

- (a) such hours are provided for in a relevant agreement;
- (b) they are allowed compensatory rest time; and
- (c) measures are taken to ensure that there is no risk to their health and safety.

(8) The Company shall ensure that the duties placed on the employer or other person in control of the matter are complied with.

(9) Where a young person is engaged as a worker on a fishing vessel, paragraphs (1) to (8) shall not apply, but he shall be provided with compensatory rest periods which are as long as those that the young person would have been entitled to had paragraph (1) applied to him.

Textual Amendments

- F4** Reg. 6(6) omitted (7.7.2002) by virtue of The Merchant Shipping (Hours of Work) Regulations 2002 (S.I. 2002/2125), reg. 1, **Sch. 2 para. 4(b)(i)** (with reg. 3)
- F5** Words in reg. 6(7) omitted (7.7.2002) by virtue of The Merchant Shipping (Hours of Work) Regulations 2002 (S.I. 2002/2125), reg. 1, **Sch. 2 para. 4(b)(ii)** (with reg. 3)
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Commencement Information

- I6** Reg. 6 in force at 30.10.1998, see **reg. 1(1)**

Health assessment

7.—(1) Without prejudice to regulation 11 of the General Duties Regulations—

- (a) where the assessment of risk under regulation 5(2) shows that there is a risk to the safety, the physical or mental health or development of young people; or
- (b) where a young person is likely to be required to work at night,

no young person shall be engaged as a worker unless he has been provided with a free assessment of his health and capacities before he starts work, and monitoring of his health at regular intervals thereafter.

(2) The requirement for health assessments in the case within paragraph (1)(b) shall not apply where the only night work carried out is of an exceptional nature.

Commencement Information

- I7** Reg. 7 in force at 30.10.1998, see **reg. 1(1)**

Young persons' medical certificates

8.—(1) Without prejudice to the provisions of the Merchant Shipping (Medical Examination) Regulations 1983⁽¹¹⁾ and subject to paragraphs (2) and (3), no young person shall be engaged as a worker in any capacity in a ship unless there has been delivered to the master of the ship a certificate granted by a duly qualified medical practitioner certifying that the young person is fit to be engaged in that capacity.

In this paragraph, “duly qualified medical practitioner” means a person who is a fully registered person within the meaning of section 55 of the Medical Act 1983⁽¹²⁾^{F6} who holds a licence to practise].

⁽¹¹⁾ S.I. 1983/808.

⁽¹²⁾ 1983 c. 54.

(2) Paragraph (1) shall not apply in the case of engagement as a worker in a ship in which only members of the same family are employed.

(3) A superintendent or consular officer may on the ground of urgency authorise a young person to be engaged as a worker in a ship to which the Merchant Shipping (Medical Examination) Regulations 1983 do not apply, notwithstanding that no such certificate has been delivered to the master of the ship; but the young person shall not be engaged as a worker in reliance on any such authorisation beyond the first port at which the ship calls after he has embarked thereon.

(4) A certificate shall be effective for the purposes of this regulation for a period of twelve months from the date on which it is granted and no longer, but if the period of twelve months expires during a voyage in which the young person is engaged as a worker in the ship, the certificate shall remain effective until the next port of call where there is a duly qualified medical practitioner.

Textual Amendments

F6 Words in [reg. 8\(1\)](#) inserted (coming into force in accordance with art. 1(3) of the amending S.I.) by [The Medical Act 1983 \(Amendment\) Order 2002 \(S.I. 2002/3135\)](#), art. 1(2), [Sch. 1 para. 40](#) (with [Sch. 2](#))

Commencement Information

I8 [Reg. 8](#) in force at 30.10.1998, see [reg. 1\(1\)](#)

Record of young persons

9.—(1) There shall be included in every crew agreement a list of the young persons who are engaged as workers on the ship, together with particulars of their dates of birth.

(2) There shall be included in every crew agreement a short summary of the provisions of these Regulations.

(3) In the case of a ship in which there is no crew agreement, the master of the ship shall if young persons are engaged as workers on the ship, keep a register of those persons with particulars of their dates of birth and of the dates on which they became engaged as workers on the ship.

Commencement Information

I9 [Reg. 9](#) in force at 30.10.1998, see [reg. 1\(1\)](#)

Penalties

10. Any contravention of these Regulations shall be an offence punishable on summary conviction by a fine not exceeding level 3 on the standard scale.

Commencement Information

I10 [Reg. 10](#) in force at 30.10.1998, see [reg. 1\(1\)](#)

Offences by body corporate and partnerships

11.—(1) Where a body corporate is guilty of an offence under any of these Regulations and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer

of the body corporate or a person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, the preceding paragraph shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where an offence under any of these regulations committed by a Scottish partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership is guilty of an offence and liable to be proceeded against and punished accordingly.

Commencement Information

I11 [Reg. 11](#) in force at 30.10.1998, see [reg. 1\(1\)](#)

Onus of proving what is reasonably practicable

12. In any proceedings for an offence under any of these Regulations consisting of a failure to comply with a duty or requirement to do something so far as is reasonably practicable, it shall be for the defendant to prove that it was not reasonably practicable to do more than was in fact done to satisfy the duty or requirement.

Commencement Information

I12 [Reg. 12](#) in force at 30.10.1998, see [reg. 1\(1\)](#)

Inspection and detention of a United Kingdom ship

13. A relevant inspector may inspect any United Kingdom ship and if he is satisfied that there has been a failure to comply in relation to that ship with the requirements of these Regulations may detain the ship until the health and safety of all young persons aboard the ship is secured, but shall not in the exercise of these powers detain or delay the ship unreasonably.

Commencement Information

I13 [Reg. 13](#) in force at 30.10.1998, see [reg. 1\(1\)](#)

Inspection, detention and other measures in respect of ships registered outside the United Kingdom

14.—(1) A relevant inspector may inspect any ship which is not a United Kingdom ship when the ship is in United Kingdom waters, and if satisfied that the ship does not conform to the standards required of United Kingdom ships by these Regulations, may—

- (a) send a report to the government of the country in which the ship is registered, and a copy thereof to the Director General of the International Labour Office; and
- (b) where conditions on board are clearly hazardous to health and safety—
 - (i) take such measures as are necessary to rectify those conditions, or
 - (ii) detain the ship.

(2) The measures specified in paragraph (1) may be taken only when the ship has called at a United Kingdom port in the normal course of business for operational reasons.

(3) If either of the measures specified in paragraph (1)(b) are taken, the relevant inspector shall forthwith notify the nearest maritime, consular or diplomatic representative of the State whose flag the ship is entitled to fly.

(4) The relevant inspector shall not in exercise of his power under this regulation detain or delay the ship unreasonably.

Commencement Information

I14 Reg. 14 in force at 30.10.1998, see **reg. 1(1)**

Enforcement of detention

15. Where a ship is liable to be detained under these Regulations, section 284(1) to (5) and (8) of the Act (which relates to the detention of the ship) shall apply as if for the words “this Act”, wherever they appear, there were substituted “the Merchant Shipping and Fishing Vessels (Health and Safety) (Employment of Young Persons) Regulations 1998”.

Commencement Information

I15 Reg. 15 in force at 30.10.1998, see **reg. 1(1)**

Compensation

16. Sections 96 and 97 of the Act (Arbitration and Compensation) shall apply in relation to a detention notice or order under these Regulations as they apply to a detention notice under section 95(3) of the Act and in such application, “relevant inspector” means a person making an inspection under these Regulations.

Commencement Information

I16 Reg. 16 in force at 30.10.1998, see **reg. 1(1)**

Miscellaneous amendments

17. The General Duties Regulations shall be amended as follows—

- (a) in regulation 2(2) in respect of the definition of “sail training vessel” at the end there shall be inserted “and is operating under a statutory code”;
- (b) in regulation 2(2), after the definition of “sail training vessel” there shall be inserted “statutory Code” means—

The Code of Practice for the Safety of Small Commercial Sailing Vessels(**13**);

The Code of Practice for the Safety of Small Commercial Motor Vessels(**14**); or

The Code of Practice for Safety of Large Commercial Sailing and Motor Vessels(**15**);

(13) Published by The Stationery Office in 1993 (ISBN 0–11–551184–9).

(14) Published by The Stationery Office in 1993 (ISBN 0–11–551185–7).

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

Changes to legislation: There are currently no known outstanding effects for the The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Employment of Young Persons) Regulations 1998. (See end of Document for details)

- (c) in regulation 3(3) at the end there shall be inserted “or the Management of Health and Safety at Work Regulations (Northern Ireland) 1992”(16);
- (d) in regulation 4(1)(b) and (3) the words “natural or legal” shall be deleted;
- (e) in regulation 5(2) in each place where it occurs the word “duties” shall be substituted with “duty”;
- (f) in regulation 17(1) after “1977” there shall be inserted “or the Safety Representatives and Safety Committees Regulations (Northern Ireland) 1979”(17);
- (g) in regulation 25 after paragraph (2) there shall be inserted–

“(3) Where an offence under any of these Regulations committed by a Scottish partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership is guilty of an offence and liable to be proceeded against and punished accordingly.”

Commencement Information

I17 Reg. 17 in force at 30.10.1998, see **reg. 1(1)**

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

Glenda Jackson
Parliamentary Under Secretary of State,
Department of the Environment, Transport and
the Regions

(16) S.R. 1992 No. 459 amended by S.R. 1994 No. 478.

(17) S.R. 1979 No. 437.

Changes to legislation:

There are currently no known outstanding effects for the The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Employment of Young Persons) Regulations 1998.