
STATUTORY INSTRUMENTS

1988 No. 1638

**MERCHANT SHIPPING
SAFETY**

**The Merchant Shipping (Entry into
Dangerous Spaces) Regulations 1988**

<i>Made</i>	- - - -	<i>21st September 1988</i>
<i>Laid before Parliament</i>		<i>30th September 1988</i>
<i>Coming into force</i>	- -	<i>1st January 1989</i>

The Secretary of State for Transport, after consulting with the persons referred to in section 22(2) of the Merchant Shipping Act 1979(1), in exercise of powers conferred on him by section 21(1)(a) and (b), (3) to (6) and section 22(1) of that Act(2), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, Commencement and Interpretation

1. These Regulations may be cited as the Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988 and shall come into force on 1st January 1989.

Interpretation

2. In these Regulations:

“Code” means Chapter 10 of the Code of Safe Working Practices for Merchant Seamen published in 1978 by Her Majesty’s Stationery Office and any document amending or replacing it which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice;

“dangerous space” means any enclosed or confined space in which it is foreseeable that the atmosphere may at some stage contain toxic or flammable gases or vapours, or be deficient in oxygen, to the extent that it may endanger the life or health of any person entering that space;

“employer” means the person for the time being employing the master;

“fishing vessel” means a vessel which is for the time being employed in fishing but does not include a vessel used otherwise than for profit;

(1) 1979 c. 39.

(2) Section 21 was amended by section 49(3) of the Criminal Justice Act 1982 (c. 48).

“gas carrier” means any ship constructed or adapted for the carriage in bulk of any liquefied gas;

“master” includes any person in charge of the vessel during the absence of the master but excludes a watchman;

“Merchant Shipping Notice” means a Notice described as such issued by the Secretary of State;

“offshore installation” means any offshore installation within the meaning of section 1 of the Mineral Workings (Offshore Installations) Act 1971(3);

“pleasure craft” means a vessel primarily used for sport or recreation;

“tanker” means any ship constructed or adapted for the carriage in bulk of oil or chemicals;

“tons” means gross registered tons, and the gross registered tonnage of a ship having alternative gross tonnages shall be taken to be the larger of those tonnages.

Application

3.—(1) Subject to paragraph (2) of this regulation,

- (a) these Regulations except regulation 11 apply to United Kingdom ships; and
- (b) regulations 1, 2, 3, 11 and 12 apply to ships other than United Kingdom ships while they are in a United Kingdom port.

(2) These Regulations do not apply to:—

- (a) fishing vessels;
- (b) pleasure craft;
- (c) offshore installations whilst or within 500 metres of their working stations; or
- (d) ships in which there is for the time being no master or crew or watchman.

Entrances to dangerous spaces

4. Except when necessary for entry thereto, the master of a ship shall ensure that all entrances to unattended dangerous spaces on the ship are either kept closed or otherwise secured against entry.

Entry into dangerous spaces

- (i) The employer shall ensure that procedures for ensuring safe entry and working in dangerous spaces are clearly laid down; and
- (ii) the master shall ensure that such procedures are observed on board the ship.

(2) No person shall enter or remain in a dangerous space except in accordance with the procedures laid down pursuant to paragraph (1) of this regulation.

(3) In fulfilling their duties under paragraph (1) and (2) above the employer, master and any other person shall take full account of the principles and guidance contained in the Code.

Drills

6. The master of:

- (a) any tanker or gas carrier of 500 tons and over, and
- (b) any other ship of 1000 tons and over

(3) 1971 c. 61; section 1 was substituted by section 24 of the Oil and Gas (Enterprise) Act 1982 (c. 23).

shall ensure that drills simulating the rescue of a crew member from a dangerous space are held at intervals not exceeding two months, and that a record of such drills is entered in the official log book.

Testing equipment

7. The employer shall ensure that each ship where entry into a dangerous space may be necessary shall carry or otherwise have available an oxygen meter and such other testing device as is appropriate to the hazard likely to be encountered in any dangerous space on board. The master shall ensure that such meter and any such other testing device are maintained in good working order and, where applicable, regularly serviced and calibrated according to the manufacturers' recommendations.

Penalties

8.—(1) Contravention of regulations 5 or 7 by an employer shall be an offence punishable on summary conviction by a fine not exceeding #2,000 or on conviction on indictment by imprisonment for a term not exceeding 2 years or a fine or both.

(2) Contravention of regulation 4, 5, 6 or 7 by a master shall be an offence punishable on summary conviction by a fine not exceeding #1000.

(3) Contravention of regulation 5(2) or 5(3) by any person other than the employer or master shall be an offence punishable on summary conviction by a fine not exceeding #400.

(4) It shall be a defence for a person charged under this regulation, including a person charged by virtue of regulation 9, to show he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

9. Where an offence under any of these regulations is committed, or would have been committed save for the operation of regulation 8(4), by any person due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of an offence by virtue of this regulation whether or not proceedings are taken against the first mentioned person.

Inspection and detention of a United Kingdom ship

10. Any person duly authorised by the Secretary of State 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 he may detain the ship until the health and safety of those persons aboard ship is secured, but shall not in the exercise of these powers detain or delay the ship unreasonably.

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

11.—(1) Any person duly authorised by the Secretary of State may inspect any ship other than a United Kingdom ship when the ship is in a United Kingdom port and if he is satisfied that the ship does not conform to the standards of health and safety required of United Kingdom ships by these Regulations, he 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 safety or health:—
 - (i) take such measures as are necessary to rectify those conditions;
 - (ii) detain the ship.

Provided that the measures specified in sub-paragraphs (a) and (b) may be taken only when the ship has called at a United Kingdom port in the normal course of business or for operational reasons.

(2) If he takes either of the measures specified in paragraph (1)(b) the person duly authorised shall forthwith notify the nearest maritime, consular or diplomatic representative of the State whose flag the ship is entitled to fly.

(3) The person duly authorised shall not in exercise of his powers under this regulation unreasonably detain or delay the ship.

Compensation and enforcement of detention

12. Section 460(1) and section 692(1) to (3) and (5) of the Merchant Shipping Act 1894⁽⁴⁾ (which relate respectively to liability for costs and compensation for detention of a ship and enforcing the detention of a ship) shall have effect in relation to a ship detained under these Regulations subject to the following modifications:—

(a) in section 460(1) the following words shall be omitted:—

“by reason of the condition of the ship or the act or default of the owner”

“provisional”

“as an unsafe ship”

“and survey”

“or survey”; and

(b) for the words “this Part of this Act” in section 460(1) and “this Act” wherever they appear in section 692(1) to (3), there shall be substituted “the Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988”.

Signed by authority of the Secretary of State for Transport

21st September 1988

Michael Portillo
Minister of State
Department of Transport

(4) 1894 c. 60; section 692 was amended by Schedule 6 to the Merchant Shipping Act 1988 (c. 12).

EXPLANATORY NOTE

The note is not part of the Regulations)

These Regulations give effect in part to the Merchant Shipping (Minimum Standards) Convention 1976 (International Labour Organisation Convention 147) (Cmnd 7163), laid before Parliament on 24th April 1978 and ratified by the United Kingdom on 28th November 1980 which is in force internationally and requires provisions to be made substantially equivalent to those of (amongst other Conventions) the Prevention of Accidents (Seafarers) Convention 1970 (International Labour Organisation Convention 134, Article 4) (Cmnd 4800) which is in force but has not been ratified by the United Kingdom. The Regulations, with other provisions, will also allow ratification by the UK of the Convention, and implementation of a recommendation, concerning occupational safety and health in dock work (International Labour Organisation Convention 152) (Cmnd 8118) laid before Parliament in December 1980 and in force internationally.

The Regulations require that the entrances to unattended dangerous spaces are secured against entry (regulation 4), that procedures for entry into dangerous spaces are laid down and observed (regulation 5), that drills are periodically carried out on tankers of 500 GRT or over and on other ships of 1000 GRT or over (regulation 6) and that equipment for testing dangerous spaces is carried (regulation 7).

In the case of ships not registered in the United Kingdom the Regulations require that ships which do not conform to the standards of health and safety required by these Regulations may be detained.

Chapter 10 of the Code of Safe Working Practices, referred to in regulation 5(3), is set out in Merchant Shipping Notice No. M1345.

Merchant Shipping Notices are obtainable from the Department of Transport Marine Library, Sunley House, Holborn, London WC1V 6LP or from any Department of Transport Marine Office. The command papers containing ILO Conventions 147 and 134, Cmnd 7163 and Cmnd 4800, are no longer in print, but photocopies of them may be obtained through Her Majesty's Stationery Office. Copies of ILO Conventions may also be obtained from the UK Office of the ILO, Vincent House, Vincent Square, London SW1P 2NB.