

1988 No. 1641

**MERCHANT SHIPPING**

**SAFETY**

**The Merchant Shipping (Safe Movement on Board Ship)  
Regulations 1988**

*Made - - - - - 21st September 1988*

*Laid before Parliament 30th September 1988*

*Coming into force 1st January 1989*

The Secretary of State for Transport, after consulting with the persons referred to in section 22(2) of the Merchant Shipping Act 1979(a) in exercise of powers conferred on him by section 21(1)(a) and (b), (3), (4), (5) and (6) and section 22(1) of that Act(b), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Merchant Shipping (Safe Movement on Board Ship) Regulations 1988 and shall come into operation on 1st January 1989.

**Interpretation**

2. In these Regulations:-

“BS 5378 Part I” means Standard Number BS 5378 Part 1 1980 issued by the British Standards Institution on 31st July 1980 and any document amending or replacing the same which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice;

“Code” means Chapter 9 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;

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

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

“master” includes any person in charge of a ship 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;

“new ship” means a ship the keel of which is laid, or where construction identifiable with the ship begins on or after 1st January 1989, and in the latter case where assembly has commenced comprising at least 50 tonnes or 1% of the estimated mass of all structural material, whichever is less;

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

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

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(a) 1979 c.39.

(b) Section 21(6) was amended by section 49(3) of the Criminal Justice Act 1982 (c.48).

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

### **Application**

- 3.—(1) Subject to paragraph (2) of this regulation,
- (a) these Regulations except regulation 15 apply to United Kingdom ships and
  - (b) regulations 1, 2, 3, 15 and 16 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 on or within 500 metres of their working stations;  
or
  - (d) ships on which there is for the time being no master or crew or watchman.
- (3) The Secretary of State may grant exemptions from all or any of the provisions of these Regulations (as may be specified in the exemption) for classes of cases or individual cases on such terms (if any) as he may so specify and may, subject to giving reasonable notice, alter or cancel any such exemption.

### **General**

- 4.—(1) The employer and master shall ensure that safe means of access is provided and maintained to any place on the ship to which a person may be expected to go.
- (2) The employer and master in carrying out the obligations contained in this regulation shall take full account of the principles and the guidance in the Code.

### **Transit Areas**

5. The employer and master shall ensure that all deck surfaces used for transit about the ship, and all passageways, walkways and stairs, are properly maintained and kept free from materials or substances liable to cause a person to slip or fall.

### **Lighting**

6. The employer and master shall ensure that those areas of the ship being used for the loading or unloading of cargo or for other work processes or for transit are adequately and appropriately illuminated.

### **Safety Signs**

7. The employer and master shall ensure that any permanent safety signs used on board the ship for the purpose of giving health or safety information or instruction comply with BS 5378, Part I or with any equivalent standard.

### **Guardrails**

- 8.—(1) Subject to paragraph (2) of this regulation, the employer and master shall ensure that any opening, open hatchway or dangerous edge into, through, or over which a person may fall is fitted with secure guards or fencing of adequate design and construction, which shall be kept in a good state of repair.
- (2) The requirements of paragraph (1) of this regulation do not apply:—
- (a) where any opening affords a permanent means of transit about the ship, to the side of the opening used for access;
  - (b) where, and to the extent that, the person upon whom a duty is imposed is able to show that the work process being carried out or about to be carried out makes the provision of such guards or fencing not reasonably practicable.

### **Ladders**

9. The employer and the master shall ensure that all ship's ladders are of good construction and sound material, of adequate strength for the purpose for which they are used, free from patent defect and properly maintained.

### **Movement of vehicles**

10.—(1) The employer and master shall ensure that:—

- (a) no ship's powered vehicle or powered mobile lifting appliance is driven in the course of a work process except by a competent person who is authorised to do so;
- (b) danger from use or movement of all such vehicles and mobile lifting appliances is so far as is reasonably practicable prevented;
- (c) all ship's vehicles and mobile lifting appliances are properly maintained.

(2) In this regulation "lifting appliance" has the same meaning as in the Merchant Shipping (Hatches and Lifting Plant) Regulations 1988(a).

### **Access ladders to ship's holds**

11. The owner shall ensure that in a new ship, ladders providing access to the hold comply with the requirement specified in paragraph 6.4 of the Code.

### **Penalties**

12.—(1) Contravention of regulation 4, 5, 6, 7, 8(1), 9 or 10 by an employer shall be an offence punishable on summary conviction by a fine not exceeding £2000 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, 7, 8(1), 9 or 10 by a master shall be an offence punishable only on summary conviction by a fine not exceeding £1000.

(3) Contravention of regulation 11 by an owner shall be an offence punishable on summary conviction by a fine not exceeding £2000 or on conviction on indictment by imprisonment for a term not exceeding 2 years or a fine, or both.

(4) It shall be a defence for a person charged in respect of a contravention of regulations 4(1), so far as it relates to access by means of a transit area referred to in regulation 5, or 5 to show that the requirements of the relevant regulation were complied with so far as was reasonably practicable.

(5) It shall be a defence for a person charged in respect of a contravention of any of these Regulations, including a person charged by virtue of regulation 13, to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

13. Where an offence under any of these Regulations is committed, or would have been committed except for the operation of regulation 12(5), 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 the 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**

14. 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 all employees and other persons aboard ship is secured, but shall not in the exercise of these powers detain or delay the ship unreasonably.

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

15.—(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,

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(a) S.I. 1988/1639.

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 the exercise of his powers under this Regulation unreasonably detain or delay the ship.

#### **Compensation and Enforcement of Detention**

16. Section 460(1) and section 692(1) to (3) and (5) of the Merchant Shipping Act 1894(a) (which relate respectively to liability for costs and compensation for the 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 (Safe Movement on Board Ship) Regulations 1988.”.

Signed by authority of the  
Secretary of State  
21st September 1988

*Michael Portillo*  
Minister of State,  
Department of Transport

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

## EXPLANATORY NOTE

*(This 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 24 April 1978 and ratified by the United Kingdom on 28 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 allow ratification by the UK of the Convention and 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. These Regulations will with others also allow the repeal of the Docks Regulations 1934 (S.R. & O. 1934 No. 279) in respect of those provisions relating to dock operations by ship's crews.

The Regulations require that safe means of access is maintained to any place on the ship where a person may be expected to be (regulation 4), that transit areas are kept free from materials or substances likely to cause a person to slip or fall (regulation 5), that adequate lighting is provided (regulations 6) and standard safety signs used (regulation 7), that guard rails are provided where appropriate (regulation 8), that ladders are soundly constructed (regulation 9), and vehicle movements carried out safely (regulation 10). Regulation 11 requires that in a new ship ladders to ship's holds comply with the requirements specified in Chapter 9 of the Code of Safe Working Practices.

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 the Regulations may be detained.

The British Standards Institution Standard mentioned in regulation 7 is obtainable from the British Standards Institution, 2 Park Road, London W1. Chapter 9 of the Code of Safe Working Practices, referred to in regulations 4(2) and 11, is set out in Merchant Shipping Notice No. M1344. Merchant Shipping Notices are obtainable from the Department of Transport Marine Library, Sunley House, 90 High Holborn, London WC1 and from any Department of Transport Marine Office. The command papers containing ILO Conventions 134 and 147, Cmnd 4800 and Cmnd 7163, 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 I.L.O., 96/98 Marsham Street, London SW1P 4YL.