
STATUTORY INSTRUMENTS

1997 No. 1320

MERCHANT SHIPPING

SAFETY

The Merchant Shipping (Safe Manning, Hours of Work and Watchkeeping) Regulations 1997

<i>Made</i>	- - - -	<i>19th May 1997</i>
<i>Laid before Parliament</i>		<i>29th May 1997</i>
<i>Coming into force</i>	- -	<i>20th June 1997</i>

The Secretary of State for Transport, after consulting the persons referred to in section 86(4) of the Merchant Shipping Act 1995(1), in exercise of the powers conferred by subsections (1)(a) and (b), (3), and (5) to (7) of section 85 and subsections (1) and (2) of section 86 of that Act, and of all other powers enabling him in that behalf, hereby makes the following regulations:—

Citation, commencement and revocation

1.—(1) These Regulations may be cited as the Merchant Shipping (Safe Manning, Hours of Work and Watchkeeping) Regulations 1997 and shall come into force on 20th June 1997.

(2) The following Regulations are hereby revoked:

The Merchant Shipping (Certification and Watchkeeping) Regulations 1982(2);

The Merchant Shipping (Safe Manning Document) Regulations 1992(3);

The Merchant Shipping (Hours of Work) Regulations 1995(4).

Interpretation

2.—(1) In these Regulations,

“appropriate certificate” means in relation to United Kingdom ships an appropriate certificate as defined in the Training and Certification Regulations, and in relation to other ships, an appropriate certificate as defined in the STCW Convention;

(1) 1995 c. 21; Sections 85 and 86 were amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28), section 8.
(2) S.I. 1982/1699.
(3) S.I. 1992/1564.
(4) S.I. 1995/157.

“authorised person” means a person authorised by the Secretary of State for the purposes of these Regulations;

“company” includes an individual, and in relation to a ship means the owner of the ship or any other organisation or person such as the manager, or the bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed on the company by the Regulations annexed to the STCW Convention;

“GT” means gross tons; and the gross tonnage of a ship having alternative gross tonnage shall be the larger of those tonnages; for a ship having its tonnage determined both under Part II and regulation 16 of the Merchant Shipping (Tonnage) Regulations 1982⁽⁵⁾ its gross tonnage shall be that determined under regulation 16;

“hazardous cargo” means cargo which is or may be explosive, flammable, toxic, health-threatening or environment-polluting;

“Merchant Shipping Notice” means a Notice described as such and issued by the MSA;

“MSA” means the Marine Safety Agency, an executive agency of the Department of Transport;

“safe manning document” means a document, described as such, issued, in the case of a United Kingdom ship by the Secretary of State, and in the case of any other ship by or on behalf of the government of the State whose flag the ship is entitled to fly;

“safety committee” means a safety committee set up pursuant to the Merchant Shipping (Safety Officials and Reporting of Accidents and Dangerous Occurrences) Regulations 1982⁽⁶⁾;

“sea-going” means going beyond the limits of waters of category A, B, C and D (as categorised in Merchant Shipping Notices No. M1504 and No. M1569);

“STCW Code” means the Seafarers' Training, Certification and Watchkeeping Code adopted by the 1995 Conference of Parties to the International Convention on the Standards of Training, Certification and Watchkeeping for Seafarers, 1978;

“STCW Convention” means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended on 7th July 1995;

“specified by the Secretary of State” means specified in Merchant Shipping Notice MSN 1682;

“Training and Certification Regulations” means the Merchant Shipping (Training and Certification) Regulations 1997⁽⁷⁾.

(2) Any reference to the STCW Code, the STCW Convention or a particular Merchant Shipping Notice includes any amendment to that Convention or Notice which the Secretary of State considers relevant from time to time and specifies in a Merchant Shipping Notice.

(3) In these Regulations, unless the context otherwise requires:—

- (a) a reference to a numbered regulation is a reference to the regulation of that number in these Regulations; and
- (b) a reference to a numbered paragraph is a reference to the paragraph of that number in that regulation.

Application

3. These Regulations apply to sea-going ships which are:

- (a) United Kingdom ships wherever they are; and
- (b) other ships when in United Kingdom waters,

⁽⁵⁾ S.I. 1982/841, to which there are amendments not relevant to these Regulations.

⁽⁶⁾ S.I. 1982/876, to which there are amendments not relevant to these Regulations.

⁽⁷⁾ S.I. 1997/348.

except—

- (i) fishing vessels;
- (ii) pleasure craft as defined in regulation 3 of the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1993⁽⁸⁾;
- (iii) vessels referred to in regulation 16(2) of the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1993.

Responsibilities of companies, masters and others

4.—(1) This regulation applies only to United Kingdom ships.

(2) Every company shall ensure that:—

- (a) every seaman assigned to any of its ships holds an appropriate certificate in respect of any function he is to perform on that ship;
- (b) every seaman on any of its ships has had training specified in the Training and Certification Regulations in respect of any function he is to perform on that ship; and
- (c) documentation and data relevant to all seamen employed on its ships are maintained and readily available for inspection and include, without being limited to, documentation and data on their experience, training, medical fitness and competency in assigned duties.

(3) Nothing in paragraph (2) shall prohibit the allocation of tasks for training under supervision or in case of force majeure.

(4) The company shall provide written instructions to the master of each of its ships setting out the policies and the procedures to be followed to ensure that all seamen who are newly employed on board the ship are given a reasonable opportunity to become familiar with the shipboard equipment, operating procedures and other arrangements needed for the proper performance of their duties, before being assigned to those duties.

(5) The policies and procedures referred to in paragraph (4) shall include:

- (a) allocation of a reasonable period of time during which each newly employed seaman will have an opportunity to become acquainted with—
 - (i) the specific equipment the seaman will be using or operating; and
 - (ii) ship-specific watchkeeping, safety, environmental protection and emergency procedures and arrangements the seafarer needs to know to perform the assigned duties properly; and
- (b) designation of a knowledgeable crew member who will be responsible for ensuring that an opportunity is provided to each newly employed seaman to receive essential information in a language the seaman understands.

(6) It shall be the duty of any master and any member of a crew designated with an obligation under paragraph (4) to carry out that obligation.

Safe manning document

5.—(1) It shall be the duty of the company to ensure that in relation to every ship of 500 GT or more—

- (a) a safe manning document is in force in respect of the ship and the manning of the ship;
- (b) the safe manning document is kept on board the ship at all times; and

(8) S.I. 1993/1072.

- (c) the manning of the ship is maintained at all times to at least the levels specified in the safe manning document.
- (2) The master of any ship to which this regulation applies shall ensure that the ship does not proceed to sea unless there is on board a valid safe manning document issued in respect of the ship and the manning of the ship complies with that document.
 - (a) (3) (a) It shall be the duty of a company applying for a safe manning document in respect of any United Kingdom ship to submit to the MSA proposals as to the numbers and grade of personnel it considers should be carried so that the ship would be safely manned if it proceeded to sea on any intended voyages.
 - (b) In preparing such proposals the company shall take into account any guidance issued by the MSA.
 - (c) It shall be the duty of the company after the issue of a safe manning document to inform the MSA as soon as any of the circumstances which are pertinent to that safe manning document change, for the purpose of enabling the MSA to review the document's continuing validity or approve fresh proposals from the company.
- (4) Notwithstanding the revocation in regulation 1(2) of the Merchant Shipping (Safe Manning Document) Regulations 1992, a safe manning document issued pursuant to those Regulations shall continue to be valid (subject to paragraph (3)(c)) until 1st February 2002.

Hours of work

- 6. Regulations 7 to 10 apply only to United Kingdom ships.

General duty of company, employers and masters

7.—(1) Subject to regulation 10, it shall be the duty of every company in respect of a ship, and of every employer, to ensure, so far as is reasonably practicable, that the master and seamen do not work more hours than is safe in relation to the safety of the ship and the master's and the seamen's performance of their duties.

(2) Subject to regulation 10, it shall be the duty of every master of a ship to ensure, so far as is reasonably practicable, that seamen do not work more hours than is safe in relation to the safety of the ship and seamen's performance of their duties.

Duties of master and seamen

8. Every master and seaman shall, so far as is reasonably practicable, ensure that he is properly rested when commencing duty on a ship and that he obtains adequate rest during periods when he is off duty.

Schedules of duties, and need to record

9.—(1) It shall be the duty of the company to produce a schedule of duties complying with this regulation.

(2) Where the company is not also the employer of the master and all the seamen, it shall consult any other person who is an employer of the master or of any of the seamen before production of the schedule.

(3) The company may arrange with any such employer that the employer is to produce a schedule of duties complying with this regulation. In such a case that employer shall also be subject to the duties of the company under this regulation.

(4) Before producing a schedule the company shall seek the views of the master, and the master shall seek, and convey to the company, the views of—

- (a) the ship's safety committee; or
- (b) the seamen or their representatives; or
- (c) a trade union with one or more members on board ship.

(5) A schedule complies with this regulation if—

- (a) it sets out the hours of work for—
 - (i) masters and seamen whose work includes regular watchkeeping duties or ship handling; and
 - (ii) the ship's chief engineer, chief officer and second engineer officer,
so as to provide that they do not work more hours than is safe in relation to the safety of the ship and the master's and seamen's performance of their duties;
- (b) it specifies the maximum period of continuous watchkeeping, the minimum rest period between watches, and the total daily, weekly and monthly hours of work; and
- (c) it provides a minimum of ten hours of rest in any 24-hour period, which may be divided into no more than two periods, one of which shall be at least six hours in length: Provided that the minimum period of ten hours may be reduced to not less than six consecutive hours on condition that any such reduction shall not extend beyond two days and not less than seventy hours of rest are provided in each seven day period.

(6) The company shall give consideration to the category of shipping operation undertaken in arranging the hours of work.

(7) The schedule may be changed by the company, or by an employer who by virtue of paragraph (3) is subject to the duties of the company, on condition that—

- (a) other employers and the company (as the case may be) have been consulted;
- (b) the company or the employer has sought the views of the master on the proposed changes and the master has sought and conveyed to the company the views of persons mentioned in paragraph (4)(a), (b) or (c); and
- (c) the schedule as changed complies with paragraph (5).

(8) The company shall ensure that the schedule is displayed prominently in the crew accommodation for the information of all the seamen.

(9) It shall be the duty of the master to ensure, as far as reasonably practicable, that the hours of work specified in the schedule are not exceeded.

- (a) (10) (a) The company and the master shall maintain on the ship a copy of the schedule, and a record of all deviations from its requirements.
- (b) The company for the time being shall ensure that a copy of the schedule and of the record of all deviations from its requirements are preserved for five years from the date the schedule was introduced, and that they are available for inspection by a Superintendent, a proper officer within the meaning of section 313(1) of the Merchant Shipping Act 1995, a surveyor of ships, or an inspector appointed under section 256(1) of that Act. If during the five year period there ceases to be a company in relation to the ship, the duty to preserve the copies of the schedule and of the record shall remain with the last such company.

Exception for emergencies

10.—(1) The requirements for rest periods specified in regulation 9(5)(c) need not be maintained in case of any emergency or drill or in other overriding operational conditions.

(2) Without prejudice to the generality of paragraph (1), a master of a ship or seaman may participate in a navigational, engine room or machinery watch although he has not had the rest period provided by the schedule produced in pursuance of regulation 9, and the master may exceed, and a seaman may be required to exceed, the schedule's work or duty periods, when in the opinion of the master it is necessary to meet one of the following situations—

- (a) an emergency threatening the safety of the ship or the life of any person or threatening damage to the environment;
- (b) employment of the ship in the service of the Ministry of Defence at a time when the ship is operating in direct support of Her Majesty's armed forces, or in direct support of the forces of any foreign power to which the United Kingdom is bound by any Treaty to provide operational support.

(3) When in pursuance of paragraph (1) the master or a seaman has worked within a rest period provided for by the schedule, his name shall be entered in the record required to be maintained by regulation 9(10), together with the reason why he so worked.

Watchkeeping arrangements

11.—(1) The master of any ship shall ensure that the watchkeeping arrangements for the ship are at all times adequate for maintaining safe navigational and engineering watches having regard to Chapter VIII of section A of the STCW Code.

(2) Without prejudice to the duties of the master provided by paragraph (1) the master shall give directions to the deck watchkeeping officers responsible for navigating the ship safely during their periods of duty, in accordance with Part 3—1 of Section A VIII/2 of the STCW Code and any requirements specified by the Secretary of State.

(3) The chief engineer officer of any ship shall ensure that the engineering watchkeeping arrangements for the ship are at all times adequate for maintaining a safe watch, in accordance with Part 3-2 of section A-VIII/2 of the STCW Code, and when deciding the composition of the watch the chief engineer officer shall observe the principles set out in Part 3-2 of that section and the requirements specified by the Secretary of State.

Watchkeeping arrangements in port

12. The master of any ship which is safely moored or safely at anchor under normal circumstances in port shall arrange for an appropriate and effective watch to be maintained for the purposes of safety. Such arrangements shall be in accordance with Part 4 of section A-VIII/2 of the STCW Code and any operational guidance specified by the Secretary of State.

Watchkeeping arrangements in port for ships carrying hazardous cargo

13.—(1) The master of any ship which is carrying hazardous cargo and which is in port, even when safely moored or safely at anchor, shall in addition to any watchkeeping arrangements required under regulation 12, in the case of:

- (a) a ship carrying hazardous cargo in bulk, ensure that a safe deck watch and safe engineering watch are maintained by the ready availability on board of a duly qualified officer or officers, and where appropriate ratings; and
- (b) a ship carrying hazardous cargo other than in bulk ensure that in organising safe watchkeeping arrangements he takes account of the nature, quantity, packing and stowage of the hazardous cargo and of any special conditions on board, afloat and ashore.

(2) Such watchkeeping arrangements shall take full account of the principles and requirements specified by the Secretary of State.

Carriage of documents

14. Without prejudice to regulation 4, the company and the master shall ensure that there are carried at all times on board ship all original certificates and other documents issued pursuant to the STCW Convention indicating the qualification of any member of the crew to perform functions which they are required to perform aboard ship in the course of their designated duties.

Inspection of non-United Kingdom ships

15.—(1) An authorised person may inspect any ship which is not a United Kingdom ship for the purposes of—

- (a) verifying that all seamen serving on board who are required to be certificated hold valid appropriate certificates; and
- (b) assessing the ability of the seamen in the ship to maintain the watchkeeping standards required by these Regulations where there are grounds for believing that such standards are not being maintained because, while in a port in the United Kingdom or in the approaches to that port, any of the following have occurred—
 - (i) the ship has been involved in a collision, grounding or stranding;
 - (ii) there has been an unlawful discharge of substances from the ship when underway, at anchor or at a berth;
 - (iii) the ship has been manoeuvred in an erratic or unsafe manner, or navigational course markers or traffic separation schemes have not been followed; or
 - (iv) the ship has otherwise been operated in such a manner as to pose a danger to persons, property or the environment.

(2) If an authorised person finds on inspection any deficiency of a kind specified in paragraph (3) he shall notify in writing the master of the ship and in the case of a ship registered outside the United Kingdom, the nearest maritime, consular or diplomatic representative of the flag State.

(3) Deficiencies referred to in paragraph (2) are—

- (a) a failure of any seaman, required to hold an appropriate certificate, to have a valid appropriate certificate or a valid exemption from that requirement;
- (b) a failure to comply with the safe manning document;
- (c) a failure of navigational or engineering watch arrangements to conform to the requirements specified for the ship by the competent authority of the country in which the ship is registered;
- (d) an absence on a watch of a person qualified to operate equipment essential to safe navigation, safety radio communications or the prevention of marine pollution;
- (e) an inability of the master to provide adequately rested persons for the first watch at the commencement of a voyage and for subsequent relieving watches.

Power to detain

16.—(1) In any case where it is found—

- (a) in relation to a ship which is a United Kingdom ship, that there is any contravention of these Regulations; or
- (b) in relation to a ship which is not a United Kingdom ship, that there is—
 - (i) any contravention of regulation 5, 11, 12 or 13; or

(ii) a failure to correct a deficiency of a kind specified in regulation 15(2) after notification to the master pursuant to regulation 15(2), and there is in consequence a danger to persons, property or the environment,

the ship may be detained, and section 284 of the Merchant Shipping Act 1995⁽⁹⁾ (detention of a ship) shall apply as if for the words “the Act”, whenever they appear, there were substituted the words “the Merchant Shipping (Safe Manning, Hours of Work and Watchkeeping) Regulations 1997”.

(2) Regulations 10, 11 and 12 (right of appeal, arbitration and compensation) of the Merchant Shipping (Port State Control) Regulations 1995⁽¹⁰⁾ shall apply in relation to a detention order under these Regulations as they apply to a detention order under those Regulations.

Penalties

17.—(1) Any company which contravenes regulation 4(2) or (4), 5(1) or (3), 9(1), (2), (8) or (10) or 14 shall be guilty of an offence punishable on summary conviction by a fine not exceeding the statutory maximum, or on indictment by a fine, or (in the case of an individual) by imprisonment not exceeding 6 months, or both.

(2) Any master who contravenes regulation 4(b), 5(2), 7(2), 11(1) or (2), 12, 13 or 14 shall be guilty of an offence punishable on summary conviction by a fine not exceeding the statutory maximum, or on indictment by a fine, or by imprisonment not exceeding 6 months, or both.

(3) Any member of the crew who contravenes regulation 4(6) shall be guilty of an offence, punishable on summary conviction by a fine not exceeding level 3 on the standard scale.

(4) Any chief engineer who contravenes regulation 11(3) shall be guilty of an offence punishable on summary conviction by a fine not exceeding level 5 on the standard scale.

(5) Any company which contravenes regulation 7(1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(6) Any employer who contravenes regulation 7(1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(7) Any master who contravenes regulation 8, 9(9) or (10) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(8) Any seaman who contravenes regulation 8 shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(9) It shall be a defence for a person charged with an offence under these Regulations to prove that he took all reasonable steps to avoid commission of the offence.

(10) In any proceedings for an offence under 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 accused to prove that it was not reasonably practicable to do more than was in fact done to satisfy the duty or requirement.

Exemptions

18. The Secretary of State may grant, on such terms, if any, as he may specify, exemptions from all or any provisions of these Regulations for classes of cases or individual cases.

⁽⁹⁾ Section 284 was awarded by The Merchant Shipping and Maritime Security Act 1997.

⁽¹⁰⁾ S.I. 1995/3128.

Signed by authority of the Secretary of State for Transport

19th May 1997

Glenda Jackson
Parliamentary Under-Secretary of State,
Department of Transport

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations give effect to the International Convention on Standards of Training, Certification and Watchkeeping (STCW) for Seafarers', 1978, as amended on 7th July 1995.

The Regulations revoke the Merchant Shipping (Certification and Watchkeeping) Regulations 1982, the Merchant Shipping (Safe Manning Document) Regulations 1992 and the Merchant Shipping (Hours of Work) Regulations 1995 (regulation 1).

The Regulations define the responsibility of owners and others responsible for the operation of ships in relation to the certification and training of the seamen working on their ships, the availability of relevant documentation and the provision of instructions on familiarisation of seamen who are newly-appointed to their ships (regulation 4).

Provision is made for ships to carry Safe Manning Documents, and for submitting proposals for the manning of their ships to the Marine Safety Agency (regulation 5).

The Merchant Shipping (Hours of Work) Regulations 1995 are re-enacted with amendments to bring them into line with the revised STCW Convention (regulations 6 to 10). The major amendments are:—

- (a) an increase in the minimum hours of rest from seven to 10 in any 24-hour period (with the possibility of the 10 being reduced to six for no more than two days);
- (b) replacement of the alternative requirement of a minimum of 16 hours of rest in any 48-hour period by not less than 70 hours in each seven-day period.

Provision is made requiring the master to ensure that watchkeeping arrangements on the ship both at sea and in port are adequate and take account of the relevant parts of the STCW Code which is annexed to the revised STCW Convention and any guidance issued by the Secretary of State (regulations 11 to 13).

Other provisions deal with the carriage of documents on board ship (regulation 14), the inspection of non-UK ships (regulation 15) and the power to detain ships which are found to be in contravention of the Regulations (regulation 16).

The penalties for contravening the Regulations are prescribed (regulation 17).

There is a provision for the Secretary of State to grant exemptions, with conditions which he may specify, from all or any of the provisions of these Regulations (regulation 18).

The Merchant Shipping Notices setting out the matters specified by the Secretary of State under these Regulations are obtainable from Eros Marketing Support Services, Unit B, Imber Court Trading Estate, Orchard Lane, East Molesey, Surrey KT8 0BN.

Copies of the revised STCW Convention and the STCW Code annexed to it are obtainable from the International Maritime Organisation, 4 Albert Embankment, London SE1 7SR.