
EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations (“the Regulations”) give effect as respects shipping activities in the United Kingdom to—

- (a) Council Directive [89/391/EEC](#) on the introduction of measures to encourage improvements in the safety and health of workers at work (*OJNo. L 183, 29.6.89, p. 1*);
- (b) Council Directive [91/383/EEC](#) supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship (*OJNo. L206 29.7.91 p. 19*), and
- (c) Council Directive [92/85/EEC](#) on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (*OJ No. L. 348 28.11.92, p. 1*).

2. The Regulations revoke and replace The Merchant Shipping (Health and Safety: General Duties) Regulations 1984 (*SI 1984/408*), and The Merchant Shipping (Safety Officials and Reporting of Accidents and Dangerous Occurrences) Regulations 1982 (*SI 1982/987*), which gave effect in part to The Merchant Shipping (Minimum Standards) Convention 1976 (*International Labour Organisation Convention 147*) (*Cmnd. 7183*) (*regulation 1(2)*).

3. The Regulations apply to all United Kingdom ships (other than a public service vessel or ship involved in search and rescue) (*regulation 3(1)*). Ships which are not United Kingdom ships but are in United Kingdom waters are subject to the regulations covering inspection and detention (*regulations 3(2), and 28–30*). The Regulations do not apply if The Management of Health and Safety at Work Regulations 1992 (*SI 1992/2051*) cover the matter (*regulation 3(3)*).

4. An obligation is placed on the employer to comply with the requirements of the Regulations as well as on any person specifically named in the provision. There is facility to extend the employer’s duty to another person if the employer is not in control of the particular matter because he does not have responsibility for the operation of the ship (*regulation 4(1) and (2)*).

5. A general duty to ensure the health and safety of workers, which includes provision and maintenance of safe plant and equipment, safe arrangements for handling, storage, and transportation of articles, provision of safety information, training and supervision, restriction on access and collaboration between duty-holders, is imposed (*regulation 5*).

6. An up to date health and safety policy statement must be written down and supplied to workers (*regulation 6*); risk assessments must be made and drawn to the notice of workers (*regulation 7*); health surveillance appropriate to the risk must be provided (*regulation 11*).

7. The particular risks of a new or expectant mother must be included in the risk assessment, and her working conditions or hours must be altered if necessary. If that is impossible she shall be suspended subject to her overriding statutory rights regarding the offer of alternative work and remuneration (*regulations 8 and 9*). Notification that the worker is a new or expectant mother is necessary for her rights under these Regulations to accrue (*regulation 10*).

8. The capability and training of a worker shall be ascertained and taken into account before a task is assigned to him, and adequate and appropriate training supplied to him (*regulation 12*).

9. Competent persons are to be appointed to enable the employer to provide protective and preventative services (*regulation 14*). On sea-going ships (other than fishing vessels) safety officers

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are to be appointed (*regulation 15*) and their duties are set down (*regulation 16*). Companies which are not the employers are required to consult the employers and to co-ordinate health and safety arrangements (*regulation 13*).

10. Rules for the election of safety representatives and safety committees and their powers as well as the duties of the Company and master in this regard are also provided for (*regulations 17 to 19*).

11. Workers or their elected representatives shall be consulted by employers, given access to specific information, allowed facility time and not placed at a career disadvantage; employers must implement health and safety measures agreed with representatives as soon as is reasonably practicable (*regulation 20*).

12. Workers are required to take care of themselves and other workers, and to inform the employer, master, safety officer or other competent person of any deficiency or danger (*regulation 21*).

13. No charge arising from the requirements of these Regulations may be levied on a worker (*regulation 22*) and no person shall recklessly interfere or misuse anything provided in the interests of health and safety (*regulation 23*).

14. Contravention of each separate duty provided for in this regulation is a criminal offence and punishable in accordance with the appropriate maximum penalty set out in regulation 24.

15. Provision is made for corporate offences (*regulation 25*) and the burden of showing that failure to comply with a duty in these Regulations was not reasonably practicable is on the defendant (*regulation 26*).

16. Inspection and detention of United Kingdom and non-United Kingdom ships are separately provided for (*regulations 26 and 27*), and sections in the Merchant Shipping Act 1995 dealing with arbitration and compensation are applied (*regulation 30*).

17. These Regulations are made under the powers contained in the Merchant Shipping Act 1995 except in respect of their application to Government ships (*regulation 2(2)*) and in respect of the provision of benefits to new or expectant mothers contained in Regulations 8 and 9, where the power is provided by section 2(2) of the European Communities Act 1972.

18. Merchant Shipping Notices are obtainable from EROS Marketing Support services, Unit B, Imber Court Trading Estate, Orchard Lane, East Molesey, Surrey KT8 0BN (tel: 0181-957 5008) and the Code of Safe Working Practices for Merchant Seamen is obtainable from the Stationery Office Publications Centre, PO Box 276, London SW8 5DT (tel: 0171-873 0011).

19. A copy of the compliance cost assessment for these Regulations can be obtained from the Marine Information Centre of the Marine Safety Agency, Spring Place, 105 Commercial Road, Southampton SO15 1EG.