
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which revoke the Merchant Shipping (Employment of Young Persons) Regulations 1995 (S.I.1995/972), give effect as respects shipping activities in the United Kingdom both to Council Directive 94/33/EC on the protection of young people at work (O.J. L216 20.8.94 p.12), and in part to The Merchant Shipping (Minimum Standards) Convention 1976 (*International Labour Organisation Convention 147*) (Cmnd 7183). Young persons are defined as persons who are under 18 but over compulsory school leaving age (*regulation 2(2)*).

The Regulations apply to all United Kingdom ships (*regulation 3(1)*), and ships which are not United Kingdom ships when in United Kingdom waters are subject to regulations covering inspection and detention (*regulations 3(2) and 14–16*). The Regulations do not apply if the Health and Safety (Young Persons) Regulations 1997 (S.I. 1997/135) or the Health and Safety (Young Persons) Regulations (Northern Ireland) 1997 (S.R. 1997 No. 387) cover the matter (*regulation 3(3)(a)*), or if the work carried out is exceptional in various respects and equivalent compensatory rest time will be allowed in the next 3 weeks (*regulation 3(3)(b)*).

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 ship (*regulation 4(1) and (2)*).

In addition to general duties required by the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 (S.I. 1997/2962) the employer shall take appropriate measures to protect young persons at work (*regulation 5(1)*). This includes making an assessment of the risks to their health and safety in accordance with the provision of this regulation (*regulation 5(2) and (5) and the Schedule*). He shall inform young persons of identified risks and protective measures (*regulation 5(3)*), and shall ensure that they are not engaged in certain specified work (*regulation 5(4)*). Where the assessment shows the young person's safety or health is at risk, or the young person will be regularly required to work at night, free health monitoring shall be provided (*regulation 7*).

The employer shall provide the young person with specific minimum daily and weekly rest periods, and the Company (owner) is required to ensure that the employer meets that obligation (*regulation 6*).

Except in specific circumstances no young person shall be employed on ship without an appropriate medical certificate (*regulation 8*).

A record shall be kept of the young persons engaged as workers and providing a short summary of the provisions of these Regulations (*regulation 9*).

Contravention of each separate duty provided for in these Regulations is a criminal offence with a maximum penalty of £1000 (*regulation 10*).

Provision is made for corporate and partnership offences (*regulation 11*) and the burden of showing that failure to comply with a duty in these Regulations was not reasonably practicable is on the defendant (*regulation 12*).

Inspection and detention of United Kingdom and non-United Kingdom ships are separately provided for (*regulations 13 and 14*), and sections in the Merchant Shipping Act 1995 dealing with arbitration and compensation are applied (*regulation 16*).

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)

Various matters in the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 are amended including providing for partnership offences in Scotland (*regulation 17*).

These regulations are made under powers contained in the Merchant Shipping Act 1995, except in respect of their application to Government ships (*regulation 2(2)*).

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