STATUTORY INSTRUMENTS

2003 No. 3049

The Merchant Shipping (Working Time: Inland Waterways) Regulations 2003

PART 1

GENERAL

Citation and Commencement

1. These Regulations may be cited as the Merchant Shipping (Working Time: Inland Waterways) Regulations 2003 and shall come into force on 24th December 2003.

Interpretation

2.—(1) In these Regulations—

"collective agreement" means a collective agreement within the meaning of section 178 of the Trade Union and Labour Relations (Consolidation Act 1992 [M1], the trade union parties to which are independent trade unions within the meaning of section 5 of that Act;

"employer", in relation to a worker, means the person by whom the worker is (or, where the employment has ceased, was) employed;

"employment", in relation to a worker, means employment under his contract, and "employed shall be construed accordingly;

[[F1]"free health assessment" means a health assessment which is free of charge to the worker to whom it relates;**]**

"MCA" means the Maritime and Coastguard Agency, an executive agency of the Department for Transport;

"Merchant Shipping Notice" means a Notice described as such and issued by the MCA; and any reference to a particular Merchant Shipping Notice includes a reference to any document amending or replacing that Notice which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice;

[[F2]"night time" means the period between 11 p.m. and 6 a.m.;**]**

"night work" means work during night time;

"night worker" means a worker—

(a) who, as a normal course, works at least three hours of his daily working time during night time, or

(b) who is likely, during night time, to work at least such proportion of his annual working time as may be specified for the purposes of these Regulations in a collective agreement or a workforce agreement,

and, for the purpose of paragraph (a) of this definition, a person works hours as a normal course (without prejudice to the generality of that expression) if he works such hours on the majority of days on which he works;

[[F1]"passenger" means any person carried in a vessel other than—

(a) the master, a member of the crew or other person employed or engaged in any capacity on board the vessel on the business of the vessel,

(b) a person on board the vessel in pursuance of an obligation laid upon the master to carry shipwrecked, distressed or other persons or by reason of any circumstance that neither the master nor the owner could have prevented or forestalled, and

(c) a child under one year old;**]**

[[F1]"passenger ship" means a vessel carrying more than 12 passengers;**]**

[[F1]"pleasure vessel" means—

(a) any vessel which at the time it is being used is—

(i) in the case of a vessel wholly owned by—

(aa) an individual or individuals, used only for the sport or pleasure of the owner or the immediate family or friends of the owner; or

(bb) a body corporate, used only for sport or pleasure and on which the persons on board are employees or officers of the body corporate, or their immediate family or friends; and

(ii) on a voyage or excursion which is one for which the owner does not receive money for or in connection with operating the vessel or carrying any person, other than as a contribution to the direct expenses of the operation of the vessel incurred during the voyage or excursion; or

(b) any vessel wholly owned by or on behalf of a members' club formed for the purpose of sport or pleasure which, at the time it is being used, is used only for the sport or pleasure of members of that club or their immediate family, and for the use of which any charges levied are paid into club funds and applied for the general use of the club,

where, in the case of any vessel referred to in paragraph (a) or (b), no other payments are made by or on behalf of users of the vessel, other than by the owner; and in this definition "immediate family" means, in relation to an individual, the spouse or civil partner of the individual, and a relative of the individual or the individual's spouse or civil partner; and "relative" means brother, sister, ancestor or lineal descendant;;**]**

[[F1]"reference period" means—

(a) 52 weeks, or

(b) where the duration of the worker's employment relationship is less than 52 weeks, the length of the worker's employment relationship;**]**

"relevant agreement", in relation to a worker, means a workforce agreement which applies to him, any provision of a collective agreement which forms part of a contract between him and his employer, or any other agreement in writing which is legally enforceable as between the worker and his employer;

"relevant training" means work experience provided pursuant to a training course or programme, training for employment, or both, other than work experience or training—

(a) the immediate provider of which is an educational institution or a person whose main business is the provision of training, and

(b) which is provided on a course run by that institution or person;

[[F1]"rest day" means an uninterrupted rest period of 24 hours which the worker spends in a place of the worker's own choosing;**]**

"rest period" means a period which is not working time, other than a rest break or leave to which the worker is entitled under these Regulations;

"sail training vessel" means a sailing vessel which is being used either—

(a) to provide instruction in the principles of responsibility, resourcefulness, loyalty and team endeavour and to advance education in the art of seamanship; or

(b) to provide instruction in navigation and seamanship for yachtsmen;

and to which one of the following codes applies [M2]—

The Code of Practice for the Safety of Small Commercial Sailing Vessels [M3];

The Code of Practice for Safety of Large Commercial Sailing and Motor Vessels [M4];

The Code of Practice for the Safety of Small Commercial Motor Vessels [M5]; or

The Code of Practice for the Safety of Small Vessels in Commercial Use for Sport or Pleasure Operating from a Nominated Departure Point [M6];

[[F1]"shift work" means any method of organising work in shifts whereby workers succeed each other at the same workstations according to a certain pattern, including a rotating pattern, and which may be continuous or discontinuous, entailing the need for workers to work at different times over a given period of days or weeks;**]**

[[F1]"shift worker" means any worker whose work involves shift work;**]**

"ship" includes hovercraft;

[[F1]"work schedule" means a document containing the planned working days and rest days which is communicated to the worker in advance by the employer;**]**

[[F3]"worker" means a person employed (or, where the employment has ceased, who was employed) as a member of the travelling personnel of a ship to which these Regulations apply by an undertaking which operates services for passengers or goods but does not include a person who—

(a) owns a business operating such services, or

(b) is training in a sail training vessel or a person who is not engaged in the navigation of, or has no emergency safety responsibilities on, such a vessel;**]**

[[F4]"workforce agreement**]**" means an agreement between an employer and workers employed by him or their representatives in respect of which the conditions set out in Schedule 1 to these Regulations are satisfied; and

[[F1]"working day" means any 24 hour period that includes working time;**]**

"working time", in relation to a worker, means—

(a) any period **[**[F5], including overtime,**]** during which he is working, at his employer's disposal and carrying out his activity or duties,

(b) any period during which he is receiving relevant training, and

(c) any additional period which is to be treated as working time for the purpose of these Regulations under a relevant agreement,

and "work" shall be construed accordingly.

[[F1]"workstation" means any place where the worker carries out the worker's duties.**]**

[F6](2) . . . . . .

Textual Amendments

F1 Words in reg. 2(1) inserted (5.1.2018) by The Merchant Shipping (Working Time Inland Waterways) (Amendment) Regulations 2017 (S.I. 2017/1149), regs. 1(2), **3(1)**

F2 Words in reg. 2(1) substituted (5.1.2018) by The Merchant Shipping (Working Time Inland Waterways) (Amendment) Regulations 2017 (S.I. 2017/1149), regs. 1(2), **3(2)**

F3 Words in reg. 2(1) substituted (5.1.2018) by The Merchant Shipping (Working Time Inland Waterways) (Amendment) Regulations 2017 (S.I. 2017/1149), regs. 1(2), **3(3)**

F4 Words in reg. 2(1) substituted (5.1.2018) by The Merchant Shipping (Working Time Inland Waterways) (Amendment) Regulations 2017 (S.I. 2017/1149), regs. 1(2), **3(4)**

F5 Words in reg. 2(1) inserted (5.1.2018) by The Merchant Shipping (Working Time Inland Waterways) (Amendment) Regulations 2017 (S.I. 2017/1149), regs. 1(2), **3(5)**

F6 Reg. 2(2) omitted (5.1.2018) by virtue of The Merchant Shipping (Working Time Inland Waterways) (Amendment) Regulations 2017 (S.I. 2017/1149), regs. 1(2), **4**

Marginal Citations

M1 1992 c. 52.

M2 Certain vessels are required to comply with the codes by the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998, S.I. 1998/2771, amended by S.I. 2000/482 and S.I. 2002/1473.

M3 Published by The Stationery Office in 1993 (ISBN 0-11-551184-9).

M4 Published by The Stationery Office in 1997 (ISBN 0-11-551911-4).

M5 Published by The Stationery Office in 1993 (ISBN 0-11-551185-7).

M6 Published by The Stationery Office in 2000 (ISBN 0-11-551812-6).

Application

[[F7]3.—(1) These Regulations apply to any ship which—

(a) ordinarily operates in, and does not ordinarily go beyond the limits of waters of category A, B, C or D (as categorised in Merchant Shipping Notice MSN 1837(M), Amendment 1), and

(b) is not a pleasure vessel.

(2) Regulations 6, 6A, 6D, 10, 10A, 10B and 15A do not apply to workers under the age of 18.**]**

Textual Amendments

F7 Reg. 3 substituted (5.1.2018) by The Merchant Shipping (Working Time Inland Waterways) (Amendment) Regulations 2017 (S.I. 2017/1149), regs. 1(2), **5**

Northern Ireland

4. These Regulations apply to Northern Ireland with the following modifications—

(a) for any reference to any employment tribunal there shall be substituted a reference to an industrial tribunal within the meaning of section 42(5) of the Interpretation Act (Northern Ireland) 1954 [M7];

(b) in regulation 2(1) for the definition of "collective agreement" there shall be substituted the following definition—

""collective agreement" means a collective agreement within the meaning of Article 2(2) of the Industrial Relations (Northern Ireland) Order 1992 [M8], the trade union parties to which are independent trade unions within the meaning of that Article;";

[[F8](ba) in regulation 18A(1)(a) for the words "subsection (1) of section 18A of the Employment Tribunals Act 1996 (requirement to contact ACAS before instituting proceedings)" substitute "paragraph (1) of Article 20A of the Industrial Tribunals (Northern Ireland) Order 1996 (requirement to contact the Labour Relations Agency before instituting proceedings)";

(bb) in regulation 18A(1)(b) for the words "(by virtue of regulations made under subsection (11) of that section) the certificate issued under subsection (4) of that section" substitute "(by virtue of regulations made under paragraph (11) of that Article) the certificate issued under paragraph (4) of that Article";]

(c) in regulation 19(2)(a) for the words "a conciliation officer has taken action under [[F9]any of sections 18A to 18C] of the Employment Tribunals Act 1996 (conciliation)" there shall be substituted the words " the Labour Relations Agency has taken action under Article 20 of the Industrial Tribunals (Northern Ireland) Order 1996 [M9] (conciliation) ";

(d) in regulation 19(2)(b) for the words "[[F10]section 18(1)(p)] of the Employment Tribunals Act 1996" there shall be substituted the words " Article 20(1)(k) of the Industrial Tribunals (Northern Ireland) Order 1996 ".

[[F11](e) in regulation 19(2)(b) for the word "settlement" substitute "compromise";

(f) in regulation 19(3) for the word "settlement" substitute "compromise".]

Textual Amendments

F8 Reg. 4(ba)(bb) inserted (N.I.) (27.1.2020) by The Industrial Tribunals (1996 Order) (Application of Conciliation Provisions) Order (Northern Ireland) 2020 (S.R. 2020/4), art. 1, **Sch. para. 24(2)**

F9 Words in reg. 4(c) substituted (6.4.2014) by The Enterprise and Regulatory Reform Act 2013 (Consequential Amendments) (Employment) Order 2014 (S.I. 2014/386), art. 1, **Sch. para. 21**

F10 Words in reg. 4(d) substituted (E.W.S.) (6.4.2014) by The Employment Tribunals Act 1996 (Application of Conciliation Provisions) Order 2014 (S.I. 2014/431), art. 1, **Sch. para. 29(a)**

F11 Reg. 4(e)(f) inserted (5.1.2018) by The Merchant Shipping (Working Time Inland Waterways) (Amendment) Regulations 2017 (S.I. 2017/1149), regs. 1(2), **6**

Marginal Citations

M7 1954 c. 33 (N.I.); section 42(5) was substituted by paragraph 1 of Schedule 1 to the Industrial Tribunals (Northern Ireland) Order 1996, S.I. 1996/1921 (N.I. 18).

M8 S.I. 1992/807 (N.I. 5); the definition of "collective agreement" was amended by Schedule 2 to the Trade Union and Labour Relations (Northern Ireland) Order 1995, S.I. 1995/1980 (N.I. 12).

M9 S.I. 1996/1921 (N.I. 18); Article 20 was amended by paragraph 10 of Schedule 2 to the Race Relations (Northern Ireland) Order 1997, S.I. 1997/869 (N.I. 6); by paragraph 20 of Schedule 1 to the Employment Rights (Dispute Resolution) (Northern Ireland) Order 1998, S.I. 1998/1265 (N.I. 8); by section 30(2) of the National Minimum Wage Act 1998 (c. 39); by paragraph 5 of Schedule 2 to the Employment (Northern Ireland) Order 2002, S.I. 2002/2836 (N.I. 2); by regulation 33 of the Working Time Regulations (Northern Ireland) 1998, S.R. (N.I.) 1998 No. 386; by regulation 33(2) of the Transnational Information and Consultation of Employees Regulations 1999, S.I. 1999/3233; by paragraph 2 of the Schedule to the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2000, S.R. (N.I.) 2000 No. 219; by paragraph 3 of Part I of Schedule 2 to the Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2002, S.R. (N.I.) 2002 No. 298; and by paragraph 5 of Schedule 2 to these Regulations.

Changes to legislation:
There are currently no known outstanding effects for the The Merchant Shipping (Working Time: Inland Waterways) Regulations 2003, PART 1.