

2006 No. 2183

MERCHANT SHIPPING

**The Merchant Shipping and Fishing Vessels (Provision and Use
of Work Equipment) Regulations 2006**

<i>Made</i>	- - - -	<i>8th August 2006</i>
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CONTENTS

**PART 1
GENERAL**

1. Citation, commencement and revocation
2. Interpretation
3. Meaning of “worker”
4. Application

**PART 2
DUTIES OF EMPLOYERS**

5. Persons on whom duties are imposed
6. Suitability of work equipment
7. Maintenance
8. Inspection
9. Specific risks
10. Information and instructions
11. Training
12. Conformity with Community requirements
13. Dangerous parts of work equipment
14. Electrical equipment
15. Protection against specified hazards
16. High or very low temperature
17. Controls for starting or making a significant change in operating conditions
18. Stop controls
19. Emergency stop controls
20. Controls
21. Control systems
22. Isolation from sources of energy

23. Stability of work equipment
24. Lighting
25. Maintenance operations
26. Markings
27. Warnings

PART 3
MOBILE WORK EQUIPMENT

28. Workers carried on mobile work equipment
29. Overturning of fork-lift trucks
30. Use of mobile work equipment
31. Self-propelled work equipment
32. Remote-controlled self-propelled work equipment
33. Drive units and power take-off shafts

PART 4
DUTY OF WORKERS

34. Duty of workers

PART 5
PENALTIES, OFFENCES, INSPECTIONS AND DETENTIONS

35. Penalties
36. Offences by bodies corporate and partnerships
37. Onus of proving what is reasonably practicable
38. Inspection and detention of a United Kingdom ship
39. Inspection and other measures in respect of ships registered outside the United Kingdom
40. Enforcement of detention
41. Compensation

SCHEDULE — INSTRUMENTS WHICH GIVE EFFECT TO COMMUNITY
DIRECTIVES CONCERNING THE SAFETY OF PRODUCTS

The Secretary of State makes the following Regulations in exercise of the powers conferred on him by section 2(2) of the European Communities Act 1972(a) (“the 1972 Act”) and by sections 85(1)(a) and (b), (3) and (7) and 86(1) of the Merchant Shipping Act 1995(b) (“the 1995 Act”).

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- (a) 1972 c.68; by virtue of the amendment of section 1(2) of the European Communities Act by section 1 of the European Economic Area Act 1993 (c.51) regulations may be made under section 2(2) of the European Communities Act to implement obligations of the United Kingdom created or arising by or under the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (Cm 2073) as adjusted by the Protocol to the Agreement signed at Brussels on 17th March 1993 (Cm 2183).
 - (b) 1995 c.21; sections 85 and 86 were amended by the Merchant Shipping and Maritime Security Act 1997 (c.28), section 8, and are applied to hovercraft by the Hovercraft (Application of Enactments) Order 1989 (S.I. 1989/1350) to which there are amendments not relevant to these Regulations.

The Secretary of State is a Minister designated(a) for the purposes of section 2(2) of the 1972 Act in relation to measures relating to the safety of ships and the health and safety of persons on them.

In accordance with section 86(4) of the 1995 Act the Secretary of State has consulted the persons referred to in that section.

PART 1 GENERAL

Citation, commencement and revocation

1.—(1) These Regulations may be cited as the Merchant Shipping and Fishing Vessels (Provision and Use of Work Equipment) Regulations 2006 and shall come into force on 24th November 2006.

(2) The following provisions are hereby revoked—

- (a) the Merchant Shipping (Guarding of Machinery and Safety of Electrical Equipment) Regulations 1988(b);
- (b) regulation 10 of the Merchant Shipping (Safe Movement on Board Ship) Regulations 1988(c);
- (c) regulation 2 of the Merchant Shipping (Safety at Work Regulations)(Non-UK Ships) Regulations 1988(d).

Interpretation

2.—(1) In these Regulations—

“the Act” means the Merchant Shipping Act 1995;

“CE marking” means a marking signifying compliance with the basic requirements of design and manufacture of, and the specifications and test methods applicable to, a piece of work equipment which have been adopted by the appropriate authorities in the European Economic Area;

“competent person” means a person possessing the knowledge or experience necessary for the performance of the duties under these Regulations;

“contract of employment” means a contract of employment, whether express or implied, and if express, whether oral or in writing;

“employer” means a person by whom a worker is employed under a contract of employment and (except in regulation 4(4) and (5)) includes a self-employed person to whom the requirements imposed by these Regulations apply by virtue of regulation 4(5);

“fishing vessel” means a vessel for the time being used for, or in connection with, fishing for sea fish other than a vessel used for fishing otherwise than for profit; and for the purposes of this definition “sea fish” includes shellfish, salmon and migratory trout (as defined by section 44 of the Fisheries Act 1981(e));

“Government ship” has the meaning given in section 308(4) of the Act;

“health and safety” includes the occupational health and safety of persons whilst on board the ship and whilst boarding or leaving the ship;

(a) S.I. 1993/595.
(b) S.I. 1988/1636.
(c) S.I. 1988/1641.
(d) S.I. 1988/2274.
(e) 1981 c.29.

“public service vessel” means any vessel operated by and on behalf of a public body while it is carrying out the authorised functions of that body;

“relevant inspector” means a person mentioned in paragraph (a), (b) or (c) of section 258(1) of the Act;

“ship” includes hovercraft;

“United Kingdom ship” means a ship which—

(a) is a United Kingdom ship within the meaning of section 85(2) of the Act; or

(b) is a Government ship; or

(c) is a hovercraft registered under the Hovercraft Act 1968(a);

“United Kingdom waters” means the sea or other waters within the seaward limits of the territorial sea of the United Kingdom;

“use” in relation to work equipment, means any activity involving work equipment and includes starting, stopping, programming, setting, transporting, repairing, modifying, maintaining and servicing, including cleaning;

“work equipment” means any machinery, appliance, apparatus, tool or installation for use at work (whether exclusively or not).

(2) Subject to paragraph (1), words and expressions used in these Regulations shall have the same meaning as in Council Directive 89/655/EEC(b), as amended by Council Directive 95/63/EC(c), concerning the minimum health and safety requirements for the use of work equipment by workers at work.

Meaning of “worker”

3.—(1) In these Regulations “worker” means any person employed under a contract of employment, including a trainee or apprentice other than a person who is training in a 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 which is operating under a relevant code.

(2) In this regulation “relevant code” means—

(a) the Large Commercial Yacht Code as set out in Merchant Shipping Notice No. 1792(M), issued by the Maritime and Coastguard Agency, an executive agency of the Department for Transport;

(b) the Code of Practice for the Safety of Small Commercial Sailing Vessels(d);

(c) the Code of Practice for the Safety of Small Commercial Motor Vessels(e); or

(d) the Code of Practice for the Safety of Small Vessels in Commercial Use for Sport or Pleasure Operating from a Nominated Departure Point(f).

(3) In paragraph (2) each reference to a Code includes a reference to any document containing an amendment or replacement of that Code which is considered by the Secretary of State to be relevant from time to time.

(a) 1968 c.59. S.I.1989/1350, as amended by S.I. 1990/2594, applies various merchant shipping enactments to hovercraft, with modifications.

(b) O.J. L393, 30.12.89, p.13.

(c) O.J. L335, 30.12.95, p.28.

(d) Published by the Stationery Office in 1993 (ISBN 0-11-551184-9).

(e) Published by the Stationery Office in 1993 (ISBN 0-11-551185-7).

(f) Published by the Stationery Office in 1999 (ISBN 0-11-551812-6).

Application

4.—(1) These Regulations shall apply to the use of work equipment by a worker or by the person mentioned in paragraph (6) on United Kingdom ships except when—

- (a) the use of work equipment by a worker is on a public service vessel or a vessel engaged in search and rescue; and
- (b) characteristics of that use of work equipment inevitably conflict with a provision of these Regulations,

and in such a case there shall be a duty on the employer so far as is reasonably practicable to ensure the health and safety of workers when using that work equipment.

(2) Regulations 4(1), (4) to (6), 13, 14, 24 and 39 to 41 apply in relation to ships other than United Kingdom ships when they are in United Kingdom waters.

(3) Regulation 8(5)(b) shall not apply in relation to a Government ship unless it is commercially managed, and for these purposes “commercially managed” means the management of which is entrusted by the owner to some other person pursuant to a contract.

(4) The duties imposed by these Regulations on an employer in respect of work equipment shall apply in relation to such equipment provided for use or used by a worker who is an employee of his.

(5) The duties imposed by these Regulations on an employer shall also apply to a self-employed person in respect of work equipment on a ship, which he—

- (a) provides for use and uses himself, or
- (b) provides for use by another person (whether self-employed or not).

(6) In respect of his own use of work equipment on a ship, whether provided by him or not, a self-employed person shall be treated as a worker and shall ensure that the requirements of these Regulations in relation to a worker are met.

(7) These Regulations shall not apply in relation to the activities of a worker which are covered by the Provision and Use of Work Equipment Regulations 1998(a) or the Provision and Use of Work Equipment (Northern Ireland) Regulations 1999(b).

(8) The provisions of the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997(c) shall continue to apply, but without prejudice to any more stringent or specific provisions contained in these Regulations.

PART 2

DUTIES OF EMPLOYERS

Persons on whom duties are imposed

5. Where a person on whom a duty is imposed by any provision of these Regulations does not have control of the matter to which the provision relates because he does not have responsibility for the operation of the ship, then any duty imposed by that provision shall also extend to any person who has control of that matter.

Suitability of work equipment

6.—(1) The employer shall ensure that the work equipment made available to workers on the ship—

- (a) is suitable for the work to be carried out, or

(a) S.I. 1998/2306, amended by S.I. 2002/2174.

(b) S.R. 1999 No.305.

(c) S.I. 1997/2962, amended by S.I. 1998/2411 and S.I. 2001/54.

- (b) is properly adapted for that purpose, and
- (c) may be used by workers without impairment to their health or safety.

(2) In selecting work equipment, every employer shall have regard to the working conditions and characteristics and to the risks to the health and safety of workers which exist in the particular ship where that equipment is to be used and any additional risk posed by the use of that work equipment.

(3) The employer shall ensure that work equipment is used only for operations, and under conditions, for which it is suitable.

(4) In this regulation “suitable” means suitable in any respect which it is reasonably foreseeable will affect the health and safety of any worker.

(5) In this regulation, the duty to ensure work equipment can be used without impairment to health or safety includes ensuring that the working posture and position are consistent with ergonomic principles.

Maintenance

7.—(1) The employer shall ensure that work equipment is maintained in an efficient state, in efficient working order and in good repair.

(2) The employer shall ensure that where any machinery has a maintenance log, the log is kept up to date.

Inspection

8.—(1) The employer shall ensure that, where the safety of work equipment depends on the installation conditions, it is inspected by a competent person—

- (a) after installation and before being put into service for the first time; or
- (b) after assembly at a new site or in a new location,

to ensure that it has been installed correctly, in accordance with any manufacturer’s instructions, and is both safe to operate and capable of operating safely.

(2) The employer shall ensure that work equipment exposed to conditions causing deterioration which is liable to result in dangerous situations is inspected by a competent person—

- (a) at suitable intervals; and
- (b) each time that exceptional circumstances which are liable to jeopardise the safety of work equipment have occurred,

to ensure that health and safety conditions are maintained and that any deterioration can be detected and remedied in good time.

(3) In sub-paragraph (2)(b), “exceptional circumstances” shall include modification work, accidents, natural phenomena and prolonged periods of inactivity.

(4) The employer shall ensure that the result of an inspection made under this regulation is recorded, retained and readily available for inspection until the next inspection has been made and recorded.

(5) The employer shall ensure that no work equipment—

- (a) if obtained from on board the ship, is used outside the ship, or
- (b) if obtained from outside the ship, is used in the ship,

unless it is accompanied by physical evidence that the last inspection required to be carried out under this regulation has been carried out.

(6) In paragraph (5) “used outside the ship” means both—

- (a) used anywhere outside the ship (including on board another ship); and
- (b) operated by workers who are employed by another person.

(7) This regulation does not apply to work equipment used for lifting loads, including persons.

- (8) In relation to an inspection under this regulation, “inspection”—
- (a) means such visual or more rigorous inspection by a competent person as is appropriate for the purpose described;
 - (b) where it is appropriate to carry out testing for the purpose, includes testing the nature and extent of which are appropriate for that purpose.

Specific risks

9.—(1) Where the use of work equipment is likely to involve a specific risk to health or safety, the employer shall ensure that—

- (a) the work equipment is used only by those persons given the task of using it; and
- (b) any repair, modification, maintenance or servicing of that work equipment is carried out only by those persons who have been specifically designated to perform operations of that description (whether or not also authorised to perform other operations).

(2) The employer shall ensure that the persons designated for the purposes of sub-paragraph (b) of paragraph (1) have received adequate training related to any operations in respect of which they have been so designated.

Information and instructions

10.—(1) The employer shall ensure that all workers who use work equipment have available to them adequate health and safety information and, where appropriate, written instructions pertaining to the use of that work equipment.

(2) For the purposes of paragraph (1) the employer shall ensure that any person who supervises or manages the use of work equipment is provided with adequate health and safety information and, where appropriate, written instructions pertaining to the use of that work equipment.

(3) Without prejudice to the generality of paragraphs (1) and (2), the information and instructions required by either of those paragraphs shall include information and, where appropriate, written instructions on—

- (a) the conditions in which, and the methods by which, the work equipment may be used;
- (b) foreseeable abnormal situations and the actions to be taken if such a situation were to occur; and
- (c) any conclusions to be drawn from experience in using the work equipment.

(4) The employer shall ensure that every worker is made aware of—

- (a) any dangers relevant to him;
- (b) work equipment present in the work area or site; and
- (c) any changes affecting him, in as much as those changes affect work equipment situated in his immediate work area or site, even if he does not use such equipment directly.

(5) Information and instructions required by this regulation shall be readily available and comprehensible to a worker who is, or may be, about to use the work equipment and to any worker supervising or managing him.

Training

11.—(1) The employer shall ensure—

- (a) that all workers who use work equipment have received adequate training for the purposes of health and safety, including training in the methods which may be adopted when using the work equipment, any risks which such use may entail and precautions to be taken; and
- (b) that specifically designated persons carrying out a function referred to in regulation 9(1)(b) have received adequate training for that specific function.

(2) For the purposes of paragraph (1) the employer shall ensure that any person who supervises or manages the use of work equipment has received adequate training for purposes of health and safety, including training in the methods which may be adopted when using the work equipment, the risks which such use may entail and precautions to be taken and, where applicable, training specific to a function referred to in regulation 9(1)(b).

Conformity with Community requirements

12.—(1) The employer shall ensure that an item of work equipment conforms at all times with any essential requirements, other than requirements which, at the time of its being first supplied or put into service on a ship to which these Regulations apply, did not apply to work equipment of its type.

(2) In this regulation “essential requirements”, in relation to an item of work equipment, means requirements relating to the design and construction of work equipment of its type in any of the instruments listed in the Schedule (being instruments which give effect to Community directives concerning the safety of products).

(3) Work equipment which carries a CE marking shall be taken to comply with the provisions of a Community directive, provided that the CE marking is relevant for the purpose for which the equipment is to be used.

(4) In paragraph (3), reference to a CE marking shall include the marking for an alternative standard which provides, in use, equivalent levels of safety, suitability and fitness for purpose.

Dangerous parts of work equipment

13.—(1) The employer shall ensure that every dangerous part of the ship’s work equipment is provided with guards or protection devices to prevent access to danger zones or to halt movements of dangerous parts before the danger zones are reached.

(2) The employer shall ensure that all guards and protection devices provided in pursuance of these Regulations—

- (a) are of substantial construction and properly maintained;
- (b) do not give rise to any additional hazard;
- (c) are not easily removed, by-passed or disabled;
- (d) are situated at a sufficient distance from the danger zone;
- (e) do not restrict the view of the operating cycle of the equipment more than is necessary;
- (f) are so constructed or adapted that they allow operations necessary to fit or replace parts and for maintenance work, restricting access so that it is allowed only to the area where the work is to be carried out and, if possible, without having to dismantle the guard or protection device.

(3) In this regulation, “danger zone” means a zone within or around work equipment in which the presence, whether in whole or in part, of any worker would expose him to a risk to his health or safety.

Electrical equipment

14. The employer shall ensure that all ship’s electrical equipment and installations are so constructed, installed, operated and maintained that the ship and all workers are protected against electrical hazards.

Protection against specified hazards

15.—(1) Where a worker using work equipment is exposed to one or more of the hazards specified in paragraph (2), the employer shall ensure that any risk to his health and safety is either prevented by the provision of the appropriate work equipment or protective devices, or, where that is not reasonably practicable, adequately controlled by any appropriate means.

- (2) The hazards referred to in paragraph (1) are—
- (a) any article or substance falling or being ejected from work equipment;
 - (b) rupture or disintegration of parts of work equipment;
 - (c) work equipment catching fire or overheating;
 - (d) the unintended or premature discharge of any article or of any gas, dust, liquid, vapour or other substance which, in each case, is produced, used or stored in the work equipment;
 - (e) the unintended or premature explosion of the work equipment or any article or substance produced, used or stored in it; or
 - (f) work equipment being struck by lightning while being used.

(3) For the purposes of this regulation “adequately” means adequately having regard only to the nature of the hazard and the nature and degree of exposure to the risk.

High or very low temperature

16. The employer shall ensure that work equipment, parts of work equipment and any article or substance produced, used or stored in work equipment which, in each case, is at a high or very low temperature shall have protection where appropriate so as to prevent injury to any worker.

Controls for starting or making a significant change in operating conditions

17.—(1) The employer shall ensure that, where appropriate, work equipment is provided with one or more controls for the purpose of—

- (a) starting the work equipment (including re-starting after a stoppage for any reason); or
- (b) controlling any change in the speed, pressure or other operating conditions of the work equipment where such conditions after the change result in risk to health and safety which is greater than, or of a different nature from, such risk before the change.

(2) Subject to paragraph (3), the employer shall ensure that, where a control is required by paragraph (1), it shall not be possible to perform any operation mentioned in sub-paragraph (a) or (b) of that paragraph, except by deliberate action on such control.

(3) Paragraph (1) shall not apply to re-starting or changing operating conditions as a result of the normal operating cycle of an automatic device.

Stop controls

18.—(1) The employer shall ensure that, where appropriate, work equipment is provided with one or more readily accessible controls the operation of which will bring the work equipment to a safe condition in a safe manner.

(2) The requirement in paragraph (1) shall include the provision of controls which are capable of bringing the work equipment to a complete stop as well as switching off all sources of energy to, and from, the work equipment.

(3) Any control required by paragraph (1) shall operate in priority to any control which starts or changes the operating conditions of the work equipment.

Emergency stop controls

19.—(1) The employer shall ensure that, where appropriate, work equipment is provided with one or more readily accessible emergency stop controls.

(2) Any control required by paragraph (1) shall operate in priority to any control required by regulation 18(1).

Controls

20.—(1) The employer shall ensure that all controls for work equipment are clearly visible and identifiable, including by appropriate marking where necessary.

(2) Except where necessary, the employer shall ensure that no control for work equipment is in a position where any worker operating the control is exposed to a risk to his health or safety, including any risk as a result of unintentional operation.

(3) The employer shall, so far as is reasonably practicable, ensure that the user of any controls for work equipment can ensure from the position of those controls that no other worker would be exposed to any risk to health or safety as a result of the starting up or use of that work equipment.

(4) If compliance with the requirement in paragraph (3) is not reasonably practicable, the employer shall ensure that the systems of work are such that no worker is in a place where he would be exposed to any risk to his health or safety as a result of the starting up or use of the work equipment.

(5) The system of work referred to in paragraph (4) may include an audible, visible or other suitable warning device required under regulation 27, which device shall enable all workers affected, or likely to be affected, to know that use of the work equipment is about to start.

(6) The employer shall take appropriate measures to ensure that any worker who is in a place where he would be exposed to a risk to his health or safety as a result of the starting or stopping of work equipment has sufficient time and suitable means to avoid that risk.

Control systems

21.—(1) The employer shall ensure that all control systems of work equipment are safe, taking into account any risks to health or safety which might result from damage to, or breakdown of, the control system.

(2) Without prejudice to the generality of paragraph (1), a control system is not safe unless—

- (a) its operation does not create any increased risk to health or safety;
- (b) it ensures, so far as is reasonably practicable, that any fault in or damage to any part of the control system or the loss of supply of any source of energy used by the work equipment cannot result in additional or increased risk to health or safety;
- (c) it does not impede the operation of any control required by regulation 18 or 19.

Isolation from sources of energy

22.—(1) The employer shall ensure that, where appropriate, work equipment is provided with suitable means to isolate it from all its sources of energy.

(2) Without prejudice to the generality of paragraph (1), the means mentioned in that paragraph shall not be suitable unless they are clearly identifiable and readily accessible.

(3) The employer shall take appropriate measures to ensure that re-connection of any energy source to work equipment does not expose any worker using the work equipment to any risk to his health or safety.

Stability of work equipment

23. The employer shall ensure that work equipment or any part of work equipment is stabilised by clamping or by some other means where necessary for purposes of health and safety.

Lighting

24. The employer shall ensure that suitable and sufficient lighting, which takes account of the operations to be carried out, is provided at any place where a worker uses work equipment.

Maintenance operations

25. The employer shall take appropriate measures to ensure that—
- (a) work equipment is so constructed or adapted that, so far as is reasonably practicable, maintenance operations which involve a risk to health or safety can be carried out while the work equipment is shut down, and
 - (b) in other cases, appropriate protection can be provided to avoid exposing the worker carrying them out to a risk to his health or safety.

Markings

26. The employer shall ensure that work equipment is marked in a clearly visible manner with any marking appropriate for reasons of health and safety.

Warnings

27.—(1) The employer shall ensure that work equipment incorporates any warnings or warning devices which are appropriate for reasons of health and safety.

(2) Without prejudice to the generality of paragraph (1), warnings given by warning devices on work equipment shall not be appropriate unless they are unambiguous, easily perceived and easily understood.

PART 3

MOBILE WORK EQUIPMENT

Workers carried on mobile work equipment

28.—(1) The employer shall ensure that no mobile work equipment is used to carry any worker, unless it is—

- (a) suitable for that purpose; and
- (b) fitted out in such a way as to minimise risks to his safety, including risks from wheels or tracks.

(2) The employer shall ensure that mobile work equipment which is used to carry any worker is designed to restrict, under the actual conditions of use, the risks arising from the work equipment rolling over.

(3) The design features to restrict the risks referred to in paragraph (2) shall include—

- (a) stabilisation of the work equipment to prevent it rolling over; or
- (b) a protection structure so that the work equipment cannot fall on its side; or
- (c) a structure giving sufficient clearance around the workers being carried if the work equipment can overturn further than that; or
- (d) another device which is equally effective in providing protection for the workers being carried.

(4) Where there would otherwise be a risk of any worker being carried by mobile work equipment being crushed by its rolling over, the employer shall ensure that it has a restraining system for him.

(5) This regulation shall not apply to a fork-lift truck having a structure described in paragraph (3)(b) or (c).

Overturning of fork-lift trucks

29. The employer shall ensure that a fork-lift truck to which regulation 28(5) refers which carries a worker is adapted or equipped to minimise the risk to safety from its overturning.

Use of mobile work equipment

30.—(1) The employer shall ensure that—

- (a) no ship's powered vehicle or powered mobile lifting appliance shall be driven in the course of a work activity except by a competent person who is authorised to do so;
- (b) where work equipment is moving around in a work area, appropriate traffic rules are drawn up and followed for the safety of workers and others;
- (c) subject to sub-paragraph (d), workers on foot are, so far as is reasonably practicable, prevented from coming within the area of operation of self-propelled work equipment;
- (d) where work cannot be done properly unless workers on foot are present, appropriate measures are in place to prevent them from being injured by the work equipment.

(2) The employer shall ensure that workers are carried on mechanically driven mobile work equipment only where safe facilities are provided for this purpose.

(3) Where workers are required to work while being carried on mechanically driven mobile work equipment, the employer shall ensure that the speed of the work equipment is adjusted as necessary for the safety of the workers.

(4) The employer shall ensure that mobile work equipment with a combustion engine is not used in working areas, unless sufficient quantities of air can be guaranteed, such that the operation of the combustion engine presents no risk to the health or safety of workers.

Self-propelled work equipment

31. The employer shall ensure that, where self-propelled work equipment involves a risk to the safety of workers and others while in motion—

- (a) it has facilities for preventing its being started by an unauthorised person;
- (b) it has appropriate facilities for minimising the consequences of a collision where there is more than one item of rail-mounted work equipment in motion at the same time;
- (c) it has a device for braking and stopping;
- (d) where safety constraints so require, there are emergency facilities operated by a readily accessible control or automatic system for braking and stopping it if the main device fails;
- (e) where the driver's direct field of vision is inadequate to ensure safety, there are adequate devices for improving his vision;
- (f) if used in the dark—
 - (i) it is equipped with lighting appropriate to the work to be carried out; and
 - (ii) is otherwise sufficiently safe for such use;
- (g) if it or anything carried or towed by it involves a risk from fire and is liable to injure workers, it carries appropriate fire-fighting appliances, unless such appliances are kept sufficiently close to it.

Remote-controlled self-propelled work equipment

32. The employer shall ensure that, where remote-controlled self-propelled work equipment involves a risk to the safety of workers while in motion—

- (a) it stops automatically once it leaves its control range; and
- (b) in the case of work equipment which in normal conditions could involve risk to safety from crushing or other impact, it incorporates features to guard against such risk, unless other appropriate devices are able to do so.

Drive units and power take-off shafts

33.—(1) Where the seizure of the drive shaft between mobile work equipment and its accessories or anything towed might create a specific risk, the employer shall—

- (a) ensure that the equipment has a means of preventing such seizure; or
- (b) where such seizure cannot be avoided, take every possible measure to avoid any adverse effect on a worker.

(2) The employer shall ensure that, where necessary to prevent the drive shaft becoming soiled or damaged by trailing on the ground, a means is provided for safeguarding the shaft.

(3) In paragraph (2) “drive shaft” means the drive shaft for the transmission of energy between mobile items of work equipment.

PART 4

DUTY OF WORKERS

Duty of workers

34. Without prejudice to the general duties imposed upon him by the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997, every worker while at work shall comply with any instruction or training, provided under regulations 9, 10 or 11.

PART 5

PENALTIES, OFFENCES, INSPECTIONS AND DETENTIONS

Penalties

35.—(1) Any contravention of regulations 6, 7(1), 13, 14, 17 to 21, 25, 28, 29 or 31 to 33 shall be an offence punishable on summary conviction by a fine not exceeding the statutory maximum or on conviction on indictment, by imprisonment for a term not exceeding two years or a fine or both.

(2) Any contravention of regulations 7(2), 8 to 12, 15, 16, 22, 26, 27 or 30 shall be an offence punishable on summary conviction by a fine not exceeding level 4 on the standard scale.

(3) Any contravention of regulations 23 or 24 shall be an offence punishable on summary conviction by a fine not exceeding level 3 on the standard scale.

(4) Any contravention of regulation 34 shall be an offence punishable on summary conviction by a fine not exceeding level 2 on the standard scale.

Offences by bodies corporate and partnerships

36.—(1) Where a body corporate is guilty of an offence under these Regulations and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, the preceding paragraph shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where an offence under these Regulations committed by a Scottish partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the

part of, a partner, that partner as well as the partnership shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Onus of proving what is reasonably practicable

37. 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 defendant to prove that it was not reasonably practicable to do more than was in fact done to satisfy the duty or requirement.

Inspection and detention of a United Kingdom ship

38.—(1) A relevant inspector 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, may detain the ship until the health and safety of all workers aboard the ship is secured.

(2) The relevant inspector shall not in the exercise of his powers under this regulation detain or delay the ship unreasonably.

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

39.—(1) A relevant inspector may inspect any ship which is not a United Kingdom ship when the ship is in United Kingdom waters and, if satisfied that the ship does not conform to the standards required of United Kingdom ships by these Regulations, may—

- (a) send a report to the government of the country in which the ship is registered, and a copy thereof to the Director General of the International Labour Office; and
- (b) where conditions on board are clearly hazardous to health and safety—
 - (i) take such measures as are necessary to rectify those conditions, or
 - (ii) detain the ship,

when the ship has called at a United Kingdom port in the normal course of business or for operational reasons.

(2) If either of the measures specified in paragraph (1)(b) is taken, the relevant inspector shall forthwith notify the nearest maritime, consular or diplomatic representative of the State whose flag the ship is entitled to fly.

(3) The relevant inspector shall not in the exercise of his powers under this regulation detain the ship unreasonably.

Enforcement of detention

40. Where a ship is liable to be detained under these Regulations, section 284 (1) to (5) and (8)(a) of the Act (which relates to the detention of a ship) shall apply as if for the words “this Act”, wherever they appear, there were substituted “the Merchant Shipping and Fishing Vessels (Provision and Use of Work Equipment) Regulations 2006”.

Compensation

41. Sections 96 and 97 of the Act (arbitration and compensation) shall apply in relation to a detention notice or order under these Regulations as they apply to a detention notice under section 95(3) of the Act, and in such application, “relevant inspector” means a person making an inspection under these Regulations.

(a) Section 284 was amended by the Merchant Shipping and Maritime Security Act 1997, Schedule 1, paragraph 5.

Signed by authority of the Secretary of State for Transport

8th August 2006

S J Ladyman
Minister of State
Department for Transport

SCHEDULE

Regulation 12

INSTRUMENTS WHICH GIVE EFFECT TO COMMUNITY DIRECTIVES CONCERNING THE SAFETY OF PRODUCTS

<i>(1)</i> <i>Title</i>	<i>(2)</i> <i>Reference</i>
The Electro-medical Equipment (EEC Requirements) Regulations 1988	S.I. 1988/1586, amended by S.I. 1994/3017 and section 1(2)(a) of the Employment Rights (Dispute Resolution) Act 1998 (c.8)
The Low Voltage Electrical Equipment (Safety) Regulations 1989	S.I. 1989/728, amended by S.I. 1994/3260
The Construction Products Regulations 1991	S.I. 1991/1620, amended by S.I. 1994/3051 and section 1(2)(a) of the Employment Rights (Dispute Resolution) Act 1998 (c.8)
The Simple Pressure Vessels (Safety) Regulations 1991	S.I. 1991/2749, amended by S.I. 1994/3098 and S.I. 2003/1400
The Supply of Machinery (Safety) Regulations 1992	S.I. 1992/3073, amended by S.I. 1994/2063, S.I. 2004/693 and S.I. 2005/831
The Electrical Equipment (Safety) Regulations 1994	S.I. 1994/3260, amended by section 1(2)(a) of the Employment Rights (Dispute Resolution) Act 1998 (c.8) and S.I. 2000/730
The Gas Appliances (Safety) Regulations 1995	S.I. 1995/1629
The Equipment and Protective Systems Intended for Use in Potentially Explosive Atmospheres Regulations 1996	S.I. 1996/192, amended by S.I. 1998/81, S.I. 2001/3766 and S.I. 2005/830.
The Lifts Regulations 1997	S.I. 1997/831 amended by S.I. 2004/693 and S.I. 2005/831
The Merchant Shipping (Marine Equipment) Regulations 1999	S.I. 1999/1957, amended by S.I. 2001/1638, S.I. 2004/302 and S.I. 2004/1266
The Pressure Equipment Regulations 1999	S.I. 1999/2001, amended by S.I. 2002/1267 and S.I. 2004/693
The Merchant Shipping and Fishing Vessels (Personal Protective Equipment) Regulations 1999	S.I. 1999/2205

<i>(1)</i> <i>Title</i>	<i>(2)</i> <i>Reference</i>
The Radio Equipment and Telecommunications Terminal Equipment Regulations 2000	S.I. 2000/730, amended by S.I. 2003/1903, S.I. 2003/3144 and S.I. 2005/281
The Noise Emission in the Environment by Equipment for Use Outdoors Regulations 2001	S.I. 2001/1701, amended by S.I. 2001/3958 and S.I. 2005/3525
The Medical Devices Regulations 2002	S.I. 2002/618, amended by S.I. 2003/1400, S.I. 2003/1697, S.I. 2005/2759 and S.I. 2005/2909
The Personal Protective Equipment Regulations 2002	S.I. 2005/1144, amended by S.I. 2004/693
The Electromagnetic Compatibility Regulations 2005	S.I. 2002/281, amended by S.I. 2006/1258 and S.I. 2006/1449

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations impose health and safety requirements with respect to the provision and use of work equipment on merchant ships and fishing vessels. In doing so they implement in respect of these vessels Council Directive 89/655/EEC (O.J. L393, 30.12.89, p.13) as amended by Council Directive 95/63/EC (O.J. L335, 30.12.95, p.28) concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC).

In addition, for purposes of consolidation and simplification, the Regulations revoke and replace the following:

The Merchant Shipping (Guarding of Machinery and Safety of Electrical Equipment) Regulations 1988 (S.I. 1988/1636) in their entirety;
regulation 10 of the Merchant Shipping (Safe Movement on Board Ships) Regulations 1988 (S.I. 1988/1641); and
regulation 2 of the Merchant Shipping (Safety at Work) (Non-UK Ships) Regulations 1988 (S.I. 1988/2274),

all of which gave effect in part to the Merchant Shipping (Minimum Standards) Convention 1976 (International Labour Organization Convention 147) (Cmnd. 7183).

The terms used in the Regulations are defined in *regulations 2 and 3* and the circumstances in which the Regulations apply are set out in *regulation 4*. This regulation creates a minor exemption from *regulation 8(5)(b)* in relation to non-commercially managed government ships, as well as placing certain duties (not required by the Directives) upon self-employed persons.

Regulation 5 extends the duties imposed by these Regulations to any person having control of a matter, e.g. by reason of having responsibility for operation of the ship.

Regulation 6 imposes requirements as to the suitability of work equipment.

Regulation 7 requires work equipment to be maintained in an efficient state and in good repair.

Regulation 8 deals with the inspection of work equipment where its safety depends on the installation conditions and *regulation 9* deals with the use of work equipment which involves a specific risk to health or safety.

Regulations 10 and 11 make provision for information and instructions and training in the use of work equipment.

Work equipment must be designed and constructed in accordance with specified requirements (*regulation 12*).

Provision is made for dangerous parts of ship's work equipment to have guards or protection devices (*regulation 13*) and for protection against electrical hazards (*regulation 14*).

Workers must be protected against specified hazards (*regulation 15*) and from injury as a consequence of high or very low temperatures (*regulation 16*).

Regulations 17 to 21 make provision for controls in relation to mobile work equipment.

The Regulations also make provision for:- isolation of work equipment from sources of energy (*regulation 22*); stability of work equipment (*regulation 23*); lighting (*regulation 24*); maintenance operations (*regulation 25*); markings (*regulation 26*); and warnings (*regulation 27*).

Regulations 28 to 33 make provision in relation to mobile work equipment.

Regulation 34 requires workers to comply with any instruction or training provided under the Regulations.

Regulations 35 to 41 concern penalties, offences, inspections and detentions as well as compensation.

These Regulations are made under the powers in the Merchant Shipping Act 1995 except in respect of their application to Government ships where the power is provided by section 2(2) of the European Communities Act 1972.

A Regulatory Impact Assessment and a Transposition Note have been prepared and a copy of each has been placed in the Library of each House of Parliament. Copies can be obtained from the Maritime and Coastguard Agency, Spring Place, 105 Commercial Road, Southampton, SO15 1EG (telephone number 02380 329100).

Merchant Shipping Notices can be obtained from Mail Marketing (Scotland), Unit 6, Blooms Grove Industrial Estate, Norton Street, Nottingham, NG7 3JG (telephone 0115 901 3336; fax 0115 901 3334; e-mail orders: mca@promo-solution.com). They may also be accessed via the Maritime and Coastguard Agency's website <http://www.mcga.gov.uk>.

International Labour Organization Conventions are published by the International Labour Office and copies may be obtained from ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland.

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MERCHANT SHIPPING

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