
STATUTORY INSTRUMENTS

2010 No. 332

The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Work at Height) Regulations 2010

PART 1

GENERAL

Citation and commencement

1. These Regulations may be cited as the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Work at Height) Regulations 2010 and shall come into force on 6th April 2010.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Merchant Shipping Act 1995;

“access” and “egress” include ascent and descent;

“collective safeguard” means a system or device to prevent or arrest workers in general from falling while working at height, including a guardrail, barrier or safety net but excluding equipment for preventing or arresting the fall of an individual worker;

“the Directive” means Directive [2001/45/EC](#) of the European Parliament and of the Council amending Council Directive [89/655/EEC](#) 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](#))(1);

“the General Duties Regulations” means the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997(2);

“employer” means a means a person by whom a worker is employed under a contract of employment;

“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 a ship and whilst boarding or leaving a ship;

“ladder” means any ladder, including a fixed ladder, a grappling ladder, a stepladder, a pilot ladder and a rope ladder;

“personal suspension equipment” means suspended access equipment for use by an individual, and includes a bosun’s chair and abseiling equipment;

“rope” includes a line, wire, chain or webbing;

(1) OJ No L 195, 19.7.2001, p. 46. The application of the Directive was extended to the EEA from 20th April 2002 by virtue of Decision No. 39/2002 of the EEA Joint Committee (O.J. No L 154, 13.6.2002, p. 25) which inserted a reference to the Directive in point 10 of Annex XVIII to the EEA Agreement.

(2) [S.I. 1997/2962](#), as amended by [S.I. 1998/2411](#) and [S.I. 2001/54](#).

“rope access and positioning techniques” includes personal suspension equipment;

“ship” includes hovercraft;

“surveyor of ships” has the meaning given by section 256(9) of the Act;

“United Kingdom ship” means a ship which—

- (a) is a United Kingdom ship within the meaning of section 85(2) of the Act;
- (b) is a Government ship; or
- (c) is a hovercraft registered under the Hovercraft Act 1968⁽³⁾;

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

“work at height” means—

- (a) work in any place on a ship, including—
 - (i) work alongside an open hatch or other opening in the ship’s structure;
 - (ii) work in close proximity to, or supported from, the ship’s side;
 - (iii) work on a permanent stairway, gangway, or companionway in or on the ship (other than where that permanent stairway, gangway or companionway is used as a means of obtaining access to or egress from any place on the ship); or
- (b) obtaining access to or egress from any place on a ship while at work except by a permanent stairway, gangway or companionway in or on the ship where that permanent stairway, gangway or companionway is used for the purpose it was designed for;

where, if the measures required by these Regulations were not taken, a person could fall a distance liable to cause personal injury;

“work equipment” means any machinery, appliance, apparatus, tool or installation for use at work (whether exclusively or not) and includes a working platform, means of preventing or arresting falls, personal suspension equipment and anything to which any provision of regulations 12 to 15 and Schedules 1 to 3 applies;

“the Work Equipment Regulations” means the Merchant Shipping and Fishing Vessels (Provision and Use of Work Equipment) Regulations 2006⁽⁴⁾ and the Merchant Shipping and Fishing Vessels (Lifting Operations and Lifting Equipment) Regulations 2006⁽⁵⁾;

“the Work Equipment Directive” means Council Directive 89/655/EEC 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)⁽⁶⁾, as amended by Council Directive 95/63/EC⁽⁷⁾;

“working platform” in relation to a ship, means any platform used as a place of work on the ship or as a means of access to or egress from a place of work on the ship, and—

- (a) includes any scaffold, scaffolding tower, suspended scaffold, cradle, mobile platform, trestle, gangway, run, gantry, stairway and crawling ladder (whether or not permanently attached to a ship);
- (b) does not include personal suspension equipment;
- (c) does not include a ship itself.

(3) 1968 c.59.

(4) S.I. 2006/2183.

(5) S.I. 2006/2184.

(6) O.J. No L 393, 30.12.1989, p. 13.

(7) O.J. No L 335, 30.12.1995, p. 28.

(2) A reference in these Regulations to “application of the regulation 8 criteria” is a reference to following the process provided for in regulation 8.

(3) Subject to paragraph (1) and regulation 3, words and expressions used in these Regulations have the same meaning as in the Directive and the Work Equipment Directive.

(4) In the application of these Regulations to a hovercraft, a reference to the master of a ship includes a reference to the captain of that hovercraft.

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—

- (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 paragraph (1) “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(8);
- (c) the Code of Practice for the Safety of Small Commercial Motor Vessels(9); 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(10).

(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.

Application

4.—(1) Without prejudice to regulation 5 of the General Duties Regulations, and subject to paragraphs (2) to (4), and regulation 5(1), these Regulations apply in relation to United Kingdom ships.

(2) Where—

- (a) a ship is being used in the course of public service activities or activities for the purposes of the civil protection services; and
- (b) characteristics peculiar to those activities inevitably conflict with a provision of these Regulations,

that provision does not apply in relation to that ship to the extent of that conflict.

(3) To the extent that a provision of these Regulations does not apply in relation to a ship because of paragraph (2), there is in relation to that ship a duty on the employer to ensure, so far as is reasonably practicable, the health and safety of workers carrying out work at height.

(4) This regulation (other than paragraph (1)) and regulations 5, 21 and 23 apply in relation to ships other than United Kingdom ships when they are in United Kingdom waters.

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

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

(10) Published by the Stationery Office in 1999 (ISBN 9-11-551812-6).

(5) In paragraph (2)—

“civil protection services” includes the fire and rescue and ambulance services and search and rescue services provided by any other person;

“public service activities” includes the activities of the armed forces, HM Coastguard, HM Revenue and Customs, immigration officers, police, prison officers and the security and intelligence services.

Application of related legislation

5.—(1) These Regulations do not apply to the activities of a worker which are covered by the Work at Height Regulations 2005(11) or the Work at Height (Northern Ireland) Regulations 2005(12).

(2) The General Duties Regulations and the Work Equipment Regulations continue to apply to the provision and use of work equipment to which these Regulations apply; where these Regulations contain more stringent or specific provisions then such provisions apply.

(3) Where applicable—

- (a) the Merchant Shipping (Means of Access) Regulations 1988(13);
- (b) the Merchant Shipping (Safe Movement on Board Ship) Regulations 1988(14);
- (c) the Merchant Shipping (Life Saving Appliances For Ships Other Than Ships Of Classes III To VI(A) Regulations 1999(15);
- (d) the Merchant Shipping (Life Saving Appliances For Passenger Ships Of Classes III To VI(A) Regulations 1999(16); and
- (e) the Merchant Shipping (Safety of Navigation) Regulations 2002(17),

continue to apply to equipment provided and used in accordance with those Regulations, but without prejudice to any more stringent or specific provisions contained in these Regulations where such equipment is used for the carrying out of work at height.

(11) S.I. 2005/735.

(12) S.R. (NI) 2005 No 279.

(13) S.I. 1988/1637, as amended by S.I. 1988/2274, S.I. 1993/1072 and S.I. 2005/2114.

(14) S.I. 1988/1641, as amended by S.I. 1988/2274, S.I. 1993/1072 and S.I. 2005/2114.

(15) S.I. 1999/2721, as amended by S.I. 2000/2687, S.I. 2005/2114 and other amendments not relevant to these Regulations.

(16) S.I. 1999/2723, as amended by S.I. 2000/2687 and S.I. 2001/2642.

(17) S.I. 2002/1473, as amended by S.I. 2004/302, S.I. 2004/2110 and S.I. 2005/2114.