
STATUTORY INSTRUMENTS

2012 No. 1844

MERCHANT SHIPPING

The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Chemical Agents) (Amendment) Regulations 2012

<i>Made</i>	- - - -	<i>12th July 2012</i>
<i>Laid before Parliament</i>		<i>17th July 2012</i>
<i>Coming into force</i>	- -	<i>10th August 2012</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(1) and sections 85(1)(a) and (b) and (3) and 86(1) of the Merchant Shipping Act 1995(2) as read with paragraph 1A of Schedule 2 to the European Communities Act 1972(3).

The Secretary of State is a Minister designated(4) for the purposes of section 2(2) of the European Communities Act 1972 in relation to matters relating to the safety of ships, and the health and safety of persons on them.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Secretary of State that it is expedient for references to provisions of the following Directives to be construed as references to those provisions as amended from time to time—

Commission Directive [2000/39/EC](#) establishing a first list of indicative limit values in implementation of Council Directive [98/24/EC](#) on the protection of the health and safety of workers from the risks related to chemical agents at work(5);

Commission Directive [2006/15/EC](#) establishing a second list of indicative occupational exposure limit values in implementation of Council Directive [98/24/EC](#) and amending Directives [91/322/EEC](#) and [2000/39/EC](#)(6); and

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- (1) [1972 c.68](#); by virtue of the amendment of section 1(2) of the European Communities Act 1972 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 1972 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) and the Protocol adjusting the Agreement signed at Brussels on 17th March 1993 (Cm 2183).
- (2) [1995 c.21](#); sections 85 and 86 were amended by the Merchant Shipping and Maritime Security Act [1997 \(c. 28\)](#) sections 8 and 29, Schedule 7, Part I 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.
- (3) Paragraph 1A was inserted by the Legislative and Regulatory Reform Act [2006 \(c.51\)](#) section 28.
- (4) [S.I. 1993/595](#).
- (5) O.J. No. L 142, 16.6.2000, p.47.
- (6) O.J. No. L 38, 9.2.2006, p.36.

Commission Directive 2009/161/EU establishing a third list of indicative occupational exposure limit values in implementation of Council Directive [98/24/EC](#) and amending Commission Directive [2000/39/EC](#)(7).

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

Citation and commencement

1.—(1) These Regulations may be cited as the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Chemical Agents) (Amendment) Regulations 2012.

(2) They come into force on 10th August 2012.

Amendment of the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Chemical Agents) Regulations 2010

2. In regulation 2(1) of the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Chemical Agents) Regulations 2010(8), for paragraphs (b) and (c) of the definition of “national occupational exposure limit value” substitute—

- “(b) any indicative occupational exposure limit value established for that agent in the Annex to Commission Directive [2000/39/EC](#) establishing a first list of indicative limit values in implementation of Council Directive [98/24/EC](#) on the protection of the health and safety of workers from the risks related to chemical agents at work, as amended from time to time;
- (c) any indicative occupational exposure limit value established for that agent in the Annex to Commission Directive [2006/15/EC](#) establishing a second list of indicative occupational exposure limit values in implementation of Council Directive [98/24/EC](#) and amending Directives [91/322/EEC](#) and [2000/39/EC](#), as amended from time to time;
- (d) any indicative occupational exposure limit value established for that agent in the Annex to Commission Directive 2009/161/EU establishing a third list of indicative occupational exposure limit values in implementation of Council Directive [98/24/EC](#) and amending Commission Directive [2000/39/EC](#), as amended from time to time; or
- (e) where more stringent, any workplace exposure limit established for that agent in document EH40;”.

Review of the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Chemical Agents) Regulations 2010

3. After regulation 23 of the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Chemical Agents) Regulations 2010, insert—

“Review

24.—(1) The Secretary of State must from time to time—

- (a) carry out a review of these Regulations;
- (b) set out the conclusions of the review in a report; and

(7) O.J. No. L 338, 19.12.2009, p.87.

(8) [S.I. 2010/330](#), amended by regulation 5 of [S.I. 2010/1110](#).

- (c) publish the report.
- (2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the Directive (in so far as it is implemented in the United Kingdom by means of these Regulations) is implemented in other member States.
- (3) The report must in particular—
 - (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;
 - (b) assess the extent to which those objectives are achieved; and
 - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.
- (4) The first report under this regulation must be published before the end of the period of five years beginning with 10th August 2012.
- (5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.”.

Signed by authority of the Secretary of State for Transport

12th July 2012

Mike Penning
Parliamentary Under Secretary of State
Department for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Commission Directive 2009/161/EU (O.J. No. L 338, 19.12.2009, p.87) which establishes a third list of indicative occupational exposure limit values for exposure to chemical agents at work. They do so by amending the definition of “national occupational exposure limit value” in the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Chemical Agents) Regulations 2010 (“the 2010 Regulations”) so that it includes a reference to the list of indicative occupational exposure limit values in the Annex to that Directive (*regulation 2, new paragraph (d)*).

The Regulations also include in that definition a reference to an earlier list of indicative occupational exposure limit values set out in Commission Directive 2000/39/EC (O.J. No. L 142, 16.6.2000, p.47) (*regulation 2, new paragraph (b)*).

Regulation 3 inserts into the 2010 Regulations a provision requiring the Secretary of State to review those Regulations and publish a report within the five years after these Regulations come into force and every five years after that. Following a review it will fall to the Secretary of State to consider whether the 2010 Regulations should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke the 2010 Regulations or to amend them.

The Regulations are made under powers contained 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.

An impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector and a transposition note have been prepared. A copy of each has been placed in the library of each House of Parliament. Copies are available from the Maritime and Coastguard Agency, Spring Place, 105 Commercial Road, Southampton SO15 1EG (telephone number 02380 329100). They are also published with the Explanatory Memorandum alongside the instrument on www.legislation.co.uk.