

MERCHANT SHIPPING ACT 1985

MERCHANT SHIPPING (CODE OF SAFE WORKING PRACTICES) REGULATIONS 1989

- 1. The Merchant Shipping (Code of Safe Working Practices) Regulations 1989, a copy of which is attached, were made by the Department of Highways, Ports and Properties on the 26th. April, 1989 in exercise of powers conferred by sections 1 and 2 of the Merchant Shipping Act 1985.
- 2. These Regulations require masters and other specified persons in Manx ships (other than pleasure craft and fishing vessels) to make available to any seaman in the ship who requests it, a copy of the Department of Trade publication entitled "Code of Safe Working Practices for Merchant Seamen" obtainable from Her Majesty's Stationery Office. The Regulations require the master of any ship employing more than 15 persons to display notices on the ship specifying the places where copies of the Code are kept. The Regulations also require the owner to take all reasonable steps to ensure that the ship is provided with sufficient copies of the Code. Contravention of these requirements is made an offence.
- 3. The Regulations came into operation on the 1st. May, 1989.
- 4. This text includes the amendments (indicated by *bold italics*) made to the 1989 Regulations by the following -
 - (a) The Merchant Shipping (Safety Provisions) (Amendment) Regulations 1992 (GC 392/92).
 - (b) The Merchant Shipping (Yachts in Commercial Use) Regulations 1993 (SD 248/93).
 - (c) The Criminal Justice (Penalties Etc) Act 1993 [c.18].
 - (d) The Transfer of Functions (Marine Administration) Order 1997 (SD 51/97)
 - (e) Merchant Shipping (Pleasure Vessel) Regulations 2003 (SD396/03)

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THE MERCHANT SHIPPING (CODE OF SAFE WORKING PRACTICES) REGULATIONS 1989

In exercise of the powers conferred on the Department of Highways, Ports and Properties ^(a) by sections 1 and 2 of the Merchant Shipping Act 1985 ^(b), after consultation with the Secretary of State and those persons referred to in section 2(2) of that Act, and of all other powers enabling it in that behalf, the following Regulations are hereby made:-

Citation, commencement, interpretation and revocation

- 1. (1) These Regulations may be cited as the Merchant Shipping (Code of Safe Working Practices) Regulations 1989 and shall come into operation on 1st. May, 1989.
 - (2) In these Regulations -
 - "the Code" means the Department of Trade publication entitled "Code of Safe Working Practices for Merchant Seamen" published in 1991 by Her Majesty's Stationery Office;

"fishing vessel" means a vessel which is for the time being employed in sea fishing;

"Manx Shipping Notice" means a Notice described as such issued and published by the *Department of Trade and Industry*;

Definition of Pleasure Vessel as amended by SD 396/03 MS (Pleasure Vessel) Regulations 2003

"Pleasure Vessel" means any vessel which at the time it is being used:

- (a) is wholly owned by an individual or individuals, and is used only for the sport or pleasure of the owner or the immediate family or friends of the owner; or
- (b) is owned by a body corporate, and is carrying only such persons as are the employees or officers of the body corporate, or their immediate family or friends; and
- (c) is on a voyage or excursion which is one for which the owner does not receive money or money's worth for or in connection with the operation of the vessel or the carrying of any person other than as a contribution to the direct expenses of the operation of the vessel incurred during the voyage or excursion, and no other payments are made by, on behalf of, or for the benefit of users of the vessel, other than by the owner; or
- (d) is owned by a body corporate but pursuant to a long term lease agreement, is used only for the sport or pleasure of the lessee, and the immediate friends or family of the lessee, if an individual, or the employees or officers and their immediate friends and family, if a corporate lessee.
- (a) Functions now transferred to the Department of Trade and Industry by the Transfer of Functions (Marine Administration) Order 1997 (SD 51/97)
- (b) 1985 c. 3

Such lease agreement must specify that:

- (i) the vessel may only be used for private purposes and must not be used for commercial purposes;
- (ii) the vessel must not be sub-leased or chartered, and
- (iii) no other payments are made by, on behalf of, or for the benefit of users of the vessel, other than by the lessee.
- (e) is wholly owned by or on behalf of a members' club formed for the purpose of sport or pleasure, and 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 any charges levied in respect of that use are paid into club funds and applied for the general use of the club, and no other payments are made by, on behalf of, or for the benefit of users of the vessel, other than by the club.

"reference copy" has the meaning given by regulation 3(2).

- (3) Any reference in these Regulations to the Code shall include references to any document amending the same which is considered by the *Department of Trade and Industry* to be relevant from time to time and notified in a Manx Shipping Notice.
- (4) The public document mentioned in the Schedule is revoked to the extent specified in the third column of that Schedule.

Application

2. These Regulations apply to all Manx ships except fishing vessels and pleasure craft.

Carriage of the Code of Safe Working Practices for Merchant Seamen

- 3. (1) In every ship to which these Regulations apply in which are employed a master and seamen not exceeding 15 persons in all, there shall be carried not less than two copies of the Code, of which one copy shall be kept in the custody of the master, and one copy in a place readily accessible to seamen in the ordinary course of their duties.
- (2) In every ship to which these Regulations apply in which are employed a master and seamen exceeding 15 persons in all, there shall be carried not less than one copy of the Code in the custody of each of the following persons -
 - (a) the master;
 - (b) the chief officer;
 - (c) the chief engineer;
 - (d) the purser or the catering officer;

- (e) where a safety officer has been appointed pursuant to the Merchant Shipping (Safety Officials and Reporting of Accidents and Dangerous Occurrences) Regulations 1982 ^(e), a statutory instrument made under the Merchant Shipping Act 1979 (an Act of Parliament) and applied to the Island by the Merchant Shipping (Masters and Seamen) (Application) Order 1983 ^(d), for that purpose, that officer;
- (f) where a safety representative has been appointed pursuant to the Regulations referred to in paragraph (e), that safety representative; and
- (g) where an accident prevention committee has been appointed pursuant to the Regulations referred to in paragraph (e), each member of that

committee who requests a copy;

and, in addition, there shall be carried in different places (which shall include the ship's library, if any), readily accessible to seamen in the ordinary course of their duties, not less than one copy of the Code (in these Regulations referred to as a "reference copy") for every 25 seamen employed in the ship.

(3) On being so requested by any seaman employed in the ship, the master or any of the persons referred to in paragraph (2)(b) to (f), as the case may be, shall make temporarily available to that seaman a copy of the Code.

Carriage of reference copies of the Code

4. Where reference copies of the Code are required by these Regulations to be carried in a ship, the master of the ship shall cause to be displayed in different places in the ship, being places to which each seaman has access in the ordinary course of his duties, not fewer than three clearly legible notices specifying the places where the reference copies are kept.

Carriage of copies of the Code

5. The owner of any ship to which these Regulations apply shall ensure that the ship carries sufficient copies of the Code as are required to be carried by regulation 3 (including one for each member of the Committee referred to in paragraph (2)(g) of that regulation).

Offences and penalties

6. (1) Any person who contravenes regulation 5 shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2,500 unless he proves that he has taken all reasonable steps to ensure that sufficient copies of the Code are on board.

- (c) S.I. 1982/876
- (d) GC 176/83

- (2) Any person who fails without reasonable cause to make available, in accordance with regulation 3(3), a copy of the Code to any seaman who requests it shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2,500.
- (3) If a master fails without reasonable cause to comply with regulation 4 he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.
- (4) Any person who knowingly removes a copy of the Code, carried in compliance with these Regulations, from the ship without the consent of the owner or master shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

SCHEDULE

REVOCATION

G.C. no	Title	Extent of Revocation
162/81	Merchant Shipping (Masters and Seamen) (Application) (Amendment) Order 1981	The whole Order

Dated this 26th. day of April, 1989

A.A. Callin

Minister for Highways, Ports and Properties

EXPLANATORY NOTE

(This Note is not part of the Regulations)

These Regulations require masters and other specified persons in Manx ships (other than pleasure craft and fishing vessels) to make available to any seaman in the ship who requests it, a copy of the Department of Trade publication entitled "Code of Safe Working Practices for Merchant Seamen" (published in 1978 and obtainable from Her Majesty's Stationery Office). The Regulations require the master of any ship employing more than 15 persons to display notices on the ship specifying the places where copies of the Code are kept. The Regulations also require the owner to take all reasonable steps to ensure that the ship is provided with sufficient copies of the Code. Contravention of these requirements is made an offence.

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