



MERCHANT SHIPPING ACT 1985

MERCHANT SHIPPING (HATCHES, HOLD ACCESS AND LIFTING PLANT) REGULATIONS 1989

1. The Merchant Shipping (Hatches, Hold Access and Lifting Plant) Regulations 1989, a copy of which is attached, were made by the Department of Highways, Ports and Properties on the 25th. July, 1989 in exercise of its powers conferred by sections 1 and 2 of the Merchant Shipping Act 1985.

2. These Regulations require that hatch coverings are soundly constructed and used in a safe manner. The Regulations also require the sound construction of lifting plant and equipment for supporting loads, lifting attachments which form an integral part of the load or slings, and the safe use of lifting plant by trained operators. They provide for the testing and thorough examination of lifting plant with the retention of appropriate certificates as well as the relevant marking of plant and lifting gear. The Regulations, additionally, include provisions relating to safety in gaining access to holds for new ships only. The Regulations apply to Manx Ships and other ships, while they are within the Isle of Man, except Fishing Vessels, Yachts or Offshore Installations.

3. The Regulations prescribe that ships, (including non-Manx ships while they are within Manx ports), which do not conform to the standards of health and safety required by the regulations may be detained.

4. The Regulations came into operation on the 1st September, 1989.

5. This text includes the amendments (indicated by ***bold italics***) made to the 1989 Regulations by the following -

- (a) The Merchant Shipping Registration Act 1991 [c. 15].
- (b) The Merchant Shipping (Safety Provisions) (Amendment) Regulations 1992 (GC 392/92).
- (c) The Merchant Shipping (Yachts in Commercial Use) Regulations 1993 (SD 248/93).
- (d) The Criminal Justice (Penalties Etc.) Act 1993 [c. 18].
- (e) The Transfer of Functions (Marine Administration) Order 1997 (SD 51/97)
- (f) Merchant Shipping (Pleasure Vessel) Regulations 2003 (SD396/03)

PRICE : £1.50

MERCHANT SHIPPING ACT 1985

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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 and commencement

1. These Regulations may be cited as the Merchant Shipping (Hatches, Hold Access and Lifting Plant) Regulations 1989 and shall come into operation on 1st. September 1989.

Interpretation

2. In these Regulations -

“competent person” means a person over the age of 18 possessing the knowledge and experience required for the performance of thorough examinations and tests of ships' lifting plant;

“fishing vessel” means a vessel for the time being employed in fishing but does not include a vessel used otherwise than for profit;

“freight container” means an article of transport equipment which is

- (a) of a permanent character and accordingly strong enough for repeated use, and
- (b) designed to facilitate the transport of goods by one or more modes of transport without intermediate reloading, and
- (c) designed to be secured or readily handled or both, having corner fittings for these purposes, and
- (d) of a size that the area enclosed by the outer bottom corners is either
 - (i) if the container is fitted with top corner fittings, at least 7 square metres, or
 - (ii) in any other case, at least 14 square metres,

and includes a container when carried on a chassis but does not include a vehicle or packaging, or any article of transport equipment designed solely for use in air transport, or a swap body except when it is carried by or on board a sea-going ship and is not mounted on a road vehicle or rail wagon;

(a) Functions Transferred to the Department of Trade and Industry by the Transfer of Functions (Marine Administration) Order 1997 (SD 51/97)

(b) 1985 c.3.

“hatch covering” includes hatch covers, beams and attached fixtures and fittings;

“lifting appliance” means any ship's stationary or mobile appliance (and every part thereof including attachments used for anchoring, fixing or supporting that appliance but not including vehicle coupling arrangements) which is used on a ship for the purpose of suspending, raising or lowering loads or moving them from one position to another whilst suspended and includes ship's lift trucks and similar vehicles; it does not include -

- (a) pipes, or gangways; or
- (b) screw, belt, bucket or other conveyors;

used for the continuous movement of cargo or people but does include the lifting appliances used to suspend, raise, lower or move any of these items;

- (c) survival craft or rescue boat launching and recovery appliances or arrangements; or
- (d) pilot hoists.

“lifting gear” means any gear by means of which a load can be attached to a lifting appliance and which does not form an integral part of that appliance or load but does not include pallets, one-trip slings and pre-slung cargo slings, and freight containers;

“lifting plant” includes any lifting appliance or lifting gear;

“manager” means a ship's manager or managing owner appointed under section 59 of the Merchant Shipping Act 1894 ^(c) and resident in the Island;

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

“master” includes any person in charge of a vessel during the absence of the master but excludes a watchman;

“offshore installation” means any offshore installation within the meaning of section 1 of the Mineral Workings (Offshore Installations) (Isle of Man) Act 1974 ^(d);

“one-trip sling” means a sling which has not previously been used for lifting any other load and is fitted to the load at the commencement of the journey and intended to be disposed of at the destination of that journey;

“owner” means the person registered as the owner of the ship and includes a disponent owner;

(c) 1894 c. 60 (now superseded by the Merchant Shipping Registration Act 1991 [c. 15])

(d) 1974 c. 33

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.

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.

Application and Exemptions

3. (1) Subject to paragraph (2) below -

(a) these Regulations other than regulation 15 apply to Manx ships; and

(b) these Regulations, other than regulation 14, apply to ships other than Manx ships when they are in a port in the Island.

(2) These Regulations do not apply to -

(a) fishing vessels;

(b) pleasure craft;

(c) offshore installations whilst on or within 500 metres of their working stations; or

(d) ships on which there is for the time being no master or crew or watchman.

(3) The **Department of Trade and Industry** may grant exemptions from all or any of the provisions of these Regulations (as may be specified in the exemption) for classes of cases or individual cases on such terms (if any) as it may so specify and may, subject to

giving reasonable notice, alter or cancel any such exemption.

Hatches

4. (1) Every owner, manager, master and person carrying out the obligations contained in this regulation shall take full account of the principles of good safe working practices as stated in *chapters 9 and 18 of the Code of Safe Working Practices as required to be carried on board a Manx ship by the Merchant Shipping (Code of Safe Working Practices) Regulations 1989* ^(e).

(2) The owner and manager shall ensure that any hatch covering used on a ship is of sound construction and material, of adequate strength for the purpose for which it is used, and free from defect.

(3) The owner, manager and master shall ensure that any hatch covering is properly maintained.

(4) The master shall ensure that -

- (a) a hatch covering is not used unless it can be removed and replaced, whether manually or with mechanical power, without endangering any person, and
- (b) information showing the correct replacement position is clearly marked, except in so far as hatch coverings are interchangeable or incapable of being incorrectly replaced.

(5) The master shall ensure that a hatch is not used unless the hatch covering has been completely removed, or if not completely removed, is properly secured.

(6) Except in the event of an emergency endangering health or safety, no person shall operate a ship's ramp, a retractable car-deck or a hatch covering which is power-operated, unless authorised to do so by a responsible ship's officer.

Hold access

5. Where the keel of a ship is laid, or at a similar stage of construction, after 1st July 1989 the following standards of hold access shall be provided -

(e) GC 152/89

- (a) The access shall be separate from the hatchway opening;
- (b) Neither a fixed ladder, nor a line of fixed rungs, shall form a reverse slope at any point;
- (c) The rungs of a fixed ladder shall be at least 300 mm wide, and so shaped or arranged that a person's foot cannot slip off the ends. Rungs shall be evenly spaced at intervals of not more than 300 mm and there shall be at least 150 mm clear space behind each rung;
- (d) There shall be at least 75 mm space outside the stiles to allow a person to grip them;
- (e) There shall be a space at least 760 mm wide for the user's body, except that at a hatchway this space may be reduced to a clear space of at least 660 mm by 600 mm.
- (f) Fixed vertical ladders shall be provided with safe intermediate landing platforms in accordance with the following -
 - (i) at intervals of not more than 9 metres; and
 - (ii) where vertical ladders are not in a direct line.

Lifting plant

6. Every owner, manager, master and any person in carrying out the obligations contained in regulations 7 to 10 of these Regulations shall take full account of the principles of good safe working practices as stated in *chapter 17 of the Code of Safe Working Practices as required to be carried on board a Manx ship by the Merchant Shipping (Code of Safe Working Practices) Regulations 1989*.

7. (1) The owner and manager shall ensure that any ship's lifting plant is of good design, of sound construction and material, of adequate strength for the purpose for which it is used, free from defect and properly installed or assembled.

(2) The owner, manager and master shall ensure that any ship's lifting plant is properly maintained.

(3) The master shall ensure that any pallet or similar piece of equipment for supporting loads or lifting attachment which forms an integral part of the load or one-trip sling or pre-slung cargo sling is not used on a ship unless it is of good construction, of adequate strength for the purpose for which it is used and free from patent defect.

(4) The owner, manager and master shall ensure that lifting plant is not used other than in a safe and proper manner.

(5) Without prejudice to the generality of paragraph (4) of this regulation, the owner, manager and master shall ensure that except for the purpose of carrying out a test under regulation 8, the lifting plant is not loaded in excess of its safe working load.

(6) No person shall operate any lifting plant unless he is trained and competent to do so and has been authorised by a responsible ship's officer.

8. (1) The owner, manager and the master shall ensure that no lifting plant is used -
- (a) after manufacture or installation, or
 - (b) after any repair or modification which is likely to alter the safe working load or affect the lifting plant's strength or stability,

without first being suitably tested by a competent person except in the case of a rope sling which has been manufactured from rope which has been tested by a competent person and spliced in a safe manner.

(2) After 1 January 1993 the owner and manager shall ensure that a lifting appliance is not used unless it has been suitably tested by a competent person within the preceding five years.

9. After 1 January 1990 the owner, manager and master shall ensure that any lifting plant is not used unless it has been thoroughly examined by a competent person:

- (a) at least once in the preceding 12 month period; and
- (b) following a test in accordance with regulation 8.

10. (1) The owner, manager and the master shall ensure that each lifting appliance is clearly and legibly marked with its safe working load and a means of identification.

(2) The owner, manager and master shall ensure that any crane that is carried on the ship and whose safe working load varies with its operating radius is fitted with an accurate indicator, clearly visible to the driver, showing the radius of the load lifting attachment at any time and the safe working load corresponding to that radius.

(3) The owner, manager and master shall ensure that each item of lifting gear is clearly and legibly marked with its safe working load and a means of identification, except where such marking is not reasonably practicable, but in such a case a safe working load shall be readily ascertainable by any user.

(4) The owner, manager and master shall ensure that each item of lifting gear which weighs a significant proportion of the safe working load of any lifting appliance with which it is intended to be used is, in addition to the requirement in paragraph (3) of this regulation, clearly marked with its weight.

11. (1) The owner, manager and master shall ensure that a certificate or report is obtained within 28 days following any test under regulation 8 or examination under regulation 9 and is kept in a safe place on board ship for a period of at least 2 years from receipt of the certificate or report of the next following test or examination.

(2) In relation to Manx ships, the certificate or report required by paragraph (1) shall be in a form approved by the Department.

(3) Any approval given under paragraph (2) shall be in writing and shall specify the date on which it takes effect and the conditions (if any) on which it is given.

Penalties

12. (1) An owner or manager who contravenes any of these Regulations shall be guilty of an offence and liable on summary conviction to a fine not exceeding **£5,000**, or on conviction on information to imprisonment for a term not exceeding 2 years or a fine, or both.

(2) A master who contravenes any of these Regulations shall be guilty of an offence and liable on summary conviction to a fine not exceeding **£2,500**.

(3) Any person who contravenes any of these Regulations shall be guilty of an offence and liable on summary conviction to a fine not exceeding **£1,000**.

(4) It shall be a defence for a person charged in respect of a contravention of any of these Regulations, including a person charged by virtue of regulation 13, to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Offences by third parties

13. Where an offence under any of these Regulations is committed, or would have been committed except for the operation of regulation 12(4), by any person due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this regulation whether or not proceedings are taken against the first-mentioned person.

Inspection and detention of a Manx ship

14. Any person duly authorised by the Department may inspect any Manx 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 he may detain the ship until the health and safety of all employees and other persons aboard ship is secured, but shall not in the exercise of these powers detain or delay the ship unreasonably.

Inspection, detention and other measures in respect of ships registered outside the Isle of Man

15. (1) Subject to paragraphs (2) and (3), any person duly authorised by the Department may inspect any ship which is not a Manx ship when the ship is in a port in the Island, and if he is satisfied that the ship does not conform to the standards required by these Regulations, he 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 safety or health;
 - (i) take such measures as are necessary to rectify those conditions;
 - (ii) detain the ship.

(2) The measures specified in paragraph (1)(a) and (b) may be taken only when the ship has called at a port in the Island in the normal course of business or for operational reasons.

(3) If he takes either of the measures specified in paragraph (1)(b), the person duly authorised shall forthwith notify the nearest maritime, consular or diplomatic representative of the State whose flag the ship is entitled to fly.

(4) The person duly authorised shall not in exercise of his powers under this regulation detain or delay the ship unreasonably.

Compensation and enforcement of detention

16. Section 3(1) of the Merchant Shipping (Detention of Ships) Act 1979 ^(f) and *section 74 of the Merchant Shipping Registration Act 1991* ^(g) (which relate respectively to liability for cost and compensation for the detention of a ship and enforcing the detention of a ship) shall have effect in relation to a ship detained under these Regulations subject to the following modifications -

- (a) in the said section 3(1) the following words shall be omitted-
 - “by reason of the condition of the ship or the act or default of the owner”
 - “provisional”
 - “this Act as an unsafe ship”
 - “and survey”
 - “or survey”; and
- (b) for the words “this Act” wherever they appear in section 74, there shall be substituted “the Merchant Shipping (Hatches, Hold Access and Lifting Plant) Regulations 1989”.

Dated this 25th. July, 1989

A. Arnold Callin,
Minister for Highways, Ports and Properties

(f) 1979 c. 13

(g) 1991 C. 15

EXPLANATORY NOTE

(This Note is not part of the Regulations)

These Regulations give effect in part to the Merchant Shipping (Minimum Standards) Convention 1976 (International Labour Organisation Convention 147)(Cmnd 7183) which is in force internationally and was extended to the Isle of Man on 1st. July, 1985. This convention requires provisions to be made substantially equivalent to those of (amongst other Conventions) the Prevention of Accidents (Seafarers) Convention 1970 (International Labour Organisation Convention 134, Article 4)(Cmnd 4800) which is in force but has not been ratified by the United Kingdom nor extended to the Isle of Man. The Regulations, with other provisions, will also allow ratification and extension of the Convention to the Isle of Man, and implementation of a recommendation concerning occupational safety and health in dock work (International Labour Organisation Convention 152)(Cmnd 8118) which is in force internationally.

The Regulations require that hatch coverings are soundly constructed and used in a safe manner (Regulation 4). The Regulations also require the sound construction of lifting plant and equipment for supporting loads, lifting attachments which form an integral part of the load or slings, and the safe use of lifting plant by trained operators (Regulation 6). They provide for the testing (Regulation 8) and thorough examination (Regulation 9) of lifting plant with the retention of appropriate certificates (Regulation 11) as well as the relevant marking of plant and lifting gear (Regulation 10).

In the case of ships not registered in the Isle of Man the Regulations require that ships which do not conform to the standards of health and safety required by these regulations may be detained.

Copies of Manx Shipping Notices are obtainable from the Department of Trade and Industry, Marine Administration, "Peregrine House", Peel Road, Douglas, Isle of Man IM1 5EH. Copies of International Labour Organisation Conventions may be obtained from the U.K. Office of the I.L.O., Milton Towers, 21-24 Millbank, LONDON SW1P 4QP.

Amendment:

This text includes the amendments (indicated by ***bold italics***) made to the 1989 Regulations by the following -

- (a) The Merchant Shipping Registration Act 1991 [c. 15].
- (b) The Merchant Shipping (Safety Provisions) (Amendment) Regulations 1992 (GC 392/92).
- (c) The Merchant Shipping (Yachts in Commercial Use) Regulations 1993 (SD 248/93).
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