



## MERCHANT SHIPPING ACT 1985

### MERCHANT SHIPPING (MEANS OF ACCESS) REGULATIONS 1989

1. The Merchant Shipping (Means of Access) 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 under sections 1 and 2 of the Merchant Shipping Act 1985. The Regulations replace, and re-enact with amendments the Merchant Shipping (Means of Access) Regulations 1981 which were originally applied to the Isle of Man by the Merchant Shipping (Masters and Seamen) (Application) Order 1982 (GC 170/82).

2. The Regulations, which apply to Merchant Ships only, prescribe that, in the interests of safety, access to ships shall be mainly by gangways and accommodation ladders. In certain cases the use of portable and rope ladders is permissible. Requirements are also prescribed for associated safety equipment - lifebuoys, and safety nets. Exemptions can now be granted from all the provisions of the Regulations. There is now a general duty on the owner, the manager and master to ensure safe means of access to a ship. The owner, the manager and master are required to take full account of the principles and guidelines set out in Chapter 8 of the Code of Safe Working Practices published by HMSO in 1991. There is a new regulation regarding the use of rope ladders and there is also an obligation on any person boarding a ship to use the access equipment provided.

3. The penalties have been increased and the defences available to a person under the Regulations have been augmented. Ships, (including non-Manx ships while they are within Manx ports), which do not conform to the safety standards required by the Regulations may be detained. The Regulations came into operation on the 1st September, 1989.

5. This text includes the amendments (indicated by *bold italics*) made to the 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 (S.D. 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 by sections 1 and 2 of the Merchant Shipping Act 1985 <sup>(a)</sup> 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 and revocation

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

(2) The Regulations mentioned in the Schedule are revoked to the extent specified in column 3 of that Schedule.

#### Interpretation

2. In these Regulations -

"access" means embarking on or disembarking from a ship;

"the Act" means the Merchant Shipping Act 1985;

"BS" means a British Standard prepared under the direction of the relevant Standards Committee; and "BSMA" refers to a particular British Standard Marine Series;

***"Department" means the Department of Trade and Industry;***

"Equivalent Standard" means a standard not less than that specified and which has been approved to a recognised Code or Standard, or found acceptable by a National Administration.

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

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(a) 1985

c.3.

"manager" means a ship's manager or managing owner appointed under section 59 of the Merchant Shipping Act 1894 <sup>(b)</sup> (An Act of Parliament), and resident in the Island;

"Manx Shipping Notice" means a notice described as such issued by the Department;

"master" includes any person in charge of a ship 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 <sup>(c)</sup>;

***"owner" means the person registered as the owner of the ship and includes a disponent owner;***

***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.***

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

(c) 1974 c. 33

*(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.*

"SIS" means a Shipbuilding Industry Standard prepared by the British Research Association.

### **Application**

3. (1) Subject to paragraph (2) -
  - (a) these Regulations except regulation 14 apply to Manx ships; and
  - (b) these Regulations, other than regulations 5, 6, 7(1)(c) and 13, 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 in which there is for the time being no master or crew or watchman.

(3) The Department 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.

(4) Any exemption given pursuant to the Regulations revoked by these Regulations shall continue in effect as if made under these Regulations; and any reference in such an exemption to a provision of those Regulations shall be construed as referring to the corresponding provision in these Regulations.

### **General duties concerning access arrangements**

4. (1) The owner, the manager and the master shall ensure that there is a safe means of access between the ship and any quay, pontoon or similar structure or another ship alongside which the ship is secured and in particular (and without prejudice to the generality of such duty) the owner, the manager and the master shall ensure that -

- (a) any equipment necessary to provide a safe means of access is placed in position promptly after the ship has been so secured and remains in position while the ship is so secured;
- (b) access equipment which is in use -
  - (i) is properly rigged, secured, deployed, and is safe to use; and
  - (ii) is so adjusted from time to time as to maintain safety of access;
- (c) access equipment and immediate approaches thereto are adequately illuminated;

(2) The owner and manager shall ensure that any equipment used for means of access and any safety net is of good construction, of sound material, and of adequate strength for the purposes for which it is used and free from defect.

(3) The owner, manager and master shall ensure that any equipment used for means of access is properly maintained.

(4) When access is necessary between ship and shore, and the ship is not secured alongside, the owner, the manager and master shall ensure that such access is provided in a safe manner.

(5) The owner, the manager and the master in carrying out the obligations contained in this regulation shall take full account of the principles of good safe working practices, as stated in *chapter 8 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 (GC 152/89)*.

## **Gangways**

5. (1) In every ship of 30 metres or more registered length (or, in the case of an unregistered ship, of 30 metres or more overall length) the owner and manager shall ensure that a gangway is carried on the ship which is appropriate to the deck layout, size, shape and maximum freeboard of the ship and which complies with the standard set out in Standard BSMA 78 : 1978, but excluding the maximum overall widths specified in Table 2, or be of an equivalent standard and shall be fitted with suitable fencing along its entire length.

(2) Each gangway shall be clearly marked with the manufacturer's name, the model number, the maximum designed angle of use and the maximum safe loading both by number of person and by total weight.

## **Accommodation ladders**

6. (1) In every ship of 120 metres or more in registered length (or, in the case of an unregistered ship, of 120 metres or more overall length) the owner and manager shall ensure that an accommodation ladder is carried on the ship, which is appropriate to the deck layout, size, shape and maximum freeboard of the ship and which complies with the specifications set out in Standard BSMA 89 : 1980 or be of an equivalent standard and shall be fitted with suitable fencing along its entire length, except that fencing at the bottom platform may allow access from the outboard side.

(2) Each accommodation ladder shall be clearly marked with the manufacturer's name, the model number, the maximum designed angle of use and the maximum safe loading both by number of persons and by total weight.

## **Portable and rope ladders**

7. (1) The owner, the manager and the master shall ensure that -

(a) a portable ladder is used for the purpose of access to the ship only where no safer means of access is reasonably practicable;

- (b) a rope ladder is used only for the purpose of access between a ship with high freeboard and a ship with low freeboard or between a ship and a boat if no safer means of access is reasonably practicable;
- (c) Any rope ladder used for the purpose of access to a ship shall be of adequate width and length and so constructed that it can be efficiently secured to the ship. The steps shall provide a slip resistant foothold of not less than 400mm × 115mm and shall be so secured that they are firmly held against twist, turnover, or tilt. The steps shall be equally spaced at intervals not less than 305mm or exceeding 315mm. Ladders of more than 1.5 metres in length shall be fitted with spreaders not less than 1.8 metres long. The lowest spreader shall be on the fifth step from the bottom and the interval between spreaders shall not exceed nine steps.
- (d) Any portable ladder used shall comply with the specifications set out in Standard BS.1129 : 1982 for a timber ladder or in Standard BS.2037 : 1984 for an aluminium ladder or be of an equivalent standard.
- (e) Any bulwark ladder used shall comply with the specifications set out in Standard SIS No.7, or be of an equivalent standard. Adequate fittings shall be provided to enable the bulwark ladder to be properly and safely secured.

(2) This regulation shall not affect the requirements of the Merchant Shipping (Pilot Ladders and Hoists) Regulations 1988 <sup>(d)</sup>.

### **Life-buoys**

8. The owner, the manager and the master shall ensure that a life-buoy with a self-activating light and also a separate safety line attached to a quoit or some similar device is provided ready for use at the point of access aboard the ship.

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(d) G.C. 151/88



## **Safety nets**

9. (1) The owner and the manager shall ensure that an adequate number of safety nets is carried on the ship or is otherwise readily available.

(2) The master shall ensure that when access equipment is in use and there is a risk of a person falling from that access equipment or from the ship or from the quayside immediately adjacent to the access equipment, a safety net is mounted in order to minimise the risk of injury.

## **Use of equipment**

10. When access equipment is provided in accordance with these Regulations any person boarding or leaving the ship shall use that equipment except in emergencies.

## **Penalties**

11. (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 two 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 other 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 these Regulations to show that the requirements of the relevant regulation were complied with so far as was reasonably practicable.

(5) It shall be a defence for a person charged under these Regulations, including a person charged by virtue of regulation 12, to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

## **Offences by third parties**

12. Where an offence under any of these Regulations is committed, or would have been committed except for the operation of regulation 11(5), 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**

13. 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**

14. (1) Subject to paragraph (2), any person duly authorised by the Department may inspect any ship other than 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 of health and safety required of Manx ships 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 paragraphs (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 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 the exercise of his powers under this regulation unreasonably detain or delay the ship.

### **Compensation and enforcement of detention**

15. Section 3(1) of the Merchant Shipping (Detention of Ships) Act 1979 <sup>(e)</sup> *and section 74 of the Merchant Shipping Registration Act 1991* (which relate respectively to liability for costs 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 (Means of Access) Regulations 1989".

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(e) 1979 c. 13.

regulation 1(2)

### REVOCATION

GC No.	Title	Extent of Revocation
170/82	The Merchant Shipping (Masters and Seamen) (Application) Order 1982	In Schedule 1, entry 4. Schedule 6.
176/83	The Merchant Shipping (Masters and Seamen) (Application) Order 1983	In Schedule 1, entry 3 Schedule 5.

Dated this 25th day of July, 1989

*A. Arnold Callin*

MINISTER for Highways, Ports and Properties

## EXPLANATORY NOTE

*(This note is not Part of the Regulations)*

These Regulations replace, and re-enact with amendments the Merchant Shipping (Means of Access) Regulations 1981 as amended and applied to the Isle of Man by the Merchant Shipping (Masters and Seamen) (Application) Order 1982 (GC 170/82). The 1981 Regulations laid down requirements for the safe access to ships.

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.

Exemptions can now be granted from all the provisions of the Regulations (regulation 3(3)); there is now a general duty on the owner, the manager and master to ensure safe means of access to a ship (regulation 4(1)); the owner, the manager and master are required to take full account of the principles and guidelines set out in Chapter 8 of the Code of Safe Working Practices published by HMSO in 1991. There is a new regulation regarding the use of rope ladders (regulation 7) and there is also an obligation on any person boarding a ship to use the access equipment provided (regulation 10). The penalties have been increased and the defences available to a person under the Regulations have been augmented.

Amendments:

This text includes the amendments (indicated by *bold italics*) made to the 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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