



MERCHANT SHIPPING ACT 1985

THE MERCHANT SHIPPING (SAFETY OFFICIALS, GENERAL DUTIES, AND PROTECTIVE EQUIPMENT) REGULATIONS 2001

Coming into Operation : 1st February, 2002

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

PART I. INTRODUCTION

Citation, commencement, interpretation and revocation

1. (1) These Regulations may be cited as the Merchant Shipping (Safety Officials, General Duties and Protective Equipment) Regulations 2001 and shall come into operation on 1st February 2002.

(2) In these Regulations -

“accident” has the meaning given to it by the Merchant Shipping (Accident Reporting and Investigation) Regulations 2001^(b);

“Department” means the Department of Trade and Industry;

“Code of Safe Working Practices” means the version of the publication entitled “Code of Safe Working Practices for Merchant Seamen” which is required at any time to be carried in Manx ships;

(a) 1985 c.3 Functions now transferred to the Department of Trade and Industry by the Transfer of Functions (Marine Administration) Order 1997, SD 51/97

(b) SD 815/01

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“crew” means all persons, including the master, employed or engaged by the operator or

by any employer in any capacity on board a ship;

“employer” means any natural or legal person other than the operator who has an employment relationship with any person on a ship;

“Department” means the Department of Trade and Industry;

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

“incapacity” means inability to undertake any of the activities normally undertaken and incapacity from work shall be construed accordingly;

“incident” has the same meaning as in the Merchant Shipping (Accident Reporting and Investigation) Regulations 2001;

“master” includes the skipper of a fishing vessel;

“Manx ship” has the same meaning as in section 1 of the Merchant Shipping Registration Act 1991^(c) and includes any ship registered on the demise charter register established under section 60 of the Merchant Shipping Registration Act 1991.

“non-sea-going ship” includes any ship, except a passenger ship, which normally remains within the seaward limits of a port or, if she goes outside those seaward limits, returns to her port of departure within 24 hours without having called at any other port;

“occupational health and safety” means the health and safety of the crew whilst on board the ship and whilst boarding or leaving the ship;

“offshore installation” has the same meaning as in the Offshore Installation (Health, Safety and Management)(No. 2) Regulations 1995^(d);

“operator” means the owner, manager, demise charterer, or any other person other than the master having immediate control over the day to day employment and operation of the ship;

“personal protective equipment” means all clothing and equipment designed to be worn, held or used by a person for protection against one or more hazards likely to endanger the person’s health or safety at work, and any addition or accessory designed for this purpose excluding;

- (a) ordinary working clothes and uniforms which are not specifically designed to protect the person’s health and safety;
- (b) equipment provided for the purposes of fire fighting or lifesaving;

(c) 1991 c.15

(d) SD 342/95

“Shipping Notice” means any Manx Shipping Notice issued by the Department or any similar document issued by the UK Maritime Safety Agency and providing guidance and advice on safety related issues;

“tanker” means a cargo ship constructed or adapted for the carriage in bulk of oil, chemicals or gas.

(3) The public documents mentioned in the Schedule are revoked to the extent specified in the third column of that Schedule

Application

2. These Regulations apply to all Manx ships *except for those to which the Merchant Shipping (Maritime Labour Convention) Regulations 2013 apply*.

PART II [Revoked by SD0234/13]

PART III.

HEALTH AND SAFETY: GENERAL DUTIES

General Duties of Operators and employers

10. (1) It shall be the duty of the operator of any ship to which these regulations apply and of the employer of any crew member employed in the ship to ensure as far as is reasonably practicable, the health and safety of crew members aboard the ship.

(2) In performance of the duty referred to in sub paragraph (1) the operator and any employers shall apply the following principles -

- (a) precedence to the safety of life and of the ship;
- (b) the avoidance of risks;
- (c) evaluation and action to minimise unavoidable risks;
- (d) the adoption of work practices and procedures which minimise any adverse effect on the health of crew members;
- (e) the adoption of procedures to take account of new technology, changes in working practices, equipment and other factors which may affect the health and safety of crew members;

- (f) the adoption of a coherent approach to management of the vessel taking into account health and safety at every level of the management;
- (g) the provision of appropriate and relevant information and instruction for crew members.

(3) Without prejudice to the generality of the operator's and any employer's duty under paragraph (1) the duty shall, in particular, extend to -

- (a) the making of a sufficient assessment of the risks to health and safety of crew members arising from the normal course of their duties or in connection with any shipboard activities such as to identify crew members at particular risk in the performance of their duties and any measures required to be taken to comply with the operator's or employers duties under these regulations;
- (b) the making of appropriate arrangements, having regard to the nature of the activities for the effective planning, organisation, control, monitoring and review of preventative and protective measures;
- (c) the provision of such health surveillance as may be appropriate having regard to any risks identified in sub-paragraph (a);
- (d) maintaining and revising as appropriate a written statement of general policy with respect to health and safety and making that statement and any revisions available to crew members;
- (e) the recording of significant findings in the assessment of risks and making those findings available to crew members;
- (f) the provision for crew members of any information, instructions, training, and supervision as is necessary to ensure as far as is reasonably practicable their health and safety;
- (g) the maintenance so far as is reasonably practicable of all places of work in the ship in a condition that is safe and without risk to health;
- (h) the maintenance so far as is reasonably practicable of an environment for persons aboard the ship that is safe and without risk to health;
- (i) ensuring that no crew member has access to any area of the ship to which it may be necessary to restrict access on grounds of health or safety unless that crew member has received adequate training or instruction appropriate to the entry into that area;
- (j) collaboration so far as is reasonably practicable with others who employ persons on board the ship at any time engaged in loading or unloading activities to protect the health and safety of all persons aboard the ship.

Consultation between employers

11. (1) Where there are self employed persons or crew members on board a Manx ship who are employed by an employer who is not the operator, then the operator shall :-

- (a) consult with any other employer or self employed person regarding the arrangements in regulation 10(3);
- (b) co-ordinate arrangements for the protection of all crew members and the prevention of risk to their health and safety; and
- (c) ensure that all crew members and self employed persons are informed so far as is practicable, of the risks to health arising on board ship and of the arrangements for co-ordination referred to in sub-paragraph (b).

(2) Every employer of crew members who is not the operator of the ship, and every self employed person on board the ship, shall inform the operator of any risks to health and safety arising out of or in connection with the conduct of his own undertaking.

General Duties of Crew Members

12. (1) It shall be the duty of every crew member aboard a Manx ship to :-

- (a) take care for the health and safety of himself and of any other person aboard the ship who may be affected by his actions or omissions;
- (b) co-operate with the operator or his employer so far as is necessary to ensure that the duties and requirements laid on the operator or his employer with regard to health and safety can be complied with;
- (c) make proper use of any personal protective equipment provided for his use.

(2) No crew member shall use any machinery, equipment, dangerous substance, safety device or other equipment provided in the ship except in accordance with the instructions provided for its use and the training and instruction provided by the operator or employer.

(3) Every crew member shall inform the master or the safety officer of any matter, or work situation, which has come to his attention and which he considers to be a risk to health and safety.

Prohibitions

13. No operator or employer shall levy or permit to be levied on any crew member any charge in respect of anything done or provided in pursuance of any requirement of these regulations.

14. No person shall intentionally or recklessly interfere with or misuse anything provided on board a Manx ship for the safety or health of persons on board the ship.

PART IV.

PERSONAL PROTECTIVE EQUIPMENT

Provision of personal protective equipment

15. Every operator or employer shall provide suitable personal protective equipment to be used by crew members when risks cannot be avoided or sufficiently limited by means of organisation of work procedures or collective protection measures. Personal protective equipment provided under this regulation shall be :-

- (a) appropriate for the risks to which the crew member is exposed and to the task which he is performing;
- (b) of a suitable size for the crew member who is to use it;
- (c) manufactured to an appropriate international standard recognised by the Department;
- (d) practical and effective, taking into account any constraints imposed by the place of work; and
- (e) compatible with any other equipment which the crew member has to use at the same time.

16. Personal protective equipment carried aboard ships for the use of more than one person shall be :-

- (a) adjustable to fit all sizes;
- (b) kept in an easily accessible and clearly marked place; and
- (c) kept in a hygienic condition and inspected repaired and maintained as necessary.

17. Personal protective equipment shall be properly stored and maintained in accordance with the manufacturer's instructions and inspected and its operation checked at the intervals recommended by the manufacturer. In the case of respiratory protection equipment designed to protect against hazards including dust, toxic materials and atmospheres, and lack of oxygen. The equipment shall be inspected and its operation confirmed both before and after use.

18. (1) The operator shall provide instructions in the use of personal protective equipment and appropriate training in the use of the equipment and shall take all reasonable steps to ensure that protective equipment provided to crew members is correctly used.

(2) Crew members provided with protective equipment shall use it in accordance with these regulations and in accordance with any training, instruction, or operating instructions provided.

Contribution towards cost

19. Notwithstanding the provisions of Regulation 13, the operator may require crew members to contribute towards the cost of protective equipment whenever that equipment is provided for use in situations which are not exclusive to the workplace.

PART V. ENFORCEMENT.

Penalties

20. *[(1) to (3) omitted by SD0234/13]*

(4) Any operator who fails to carry out any of the duties specified in Regulations 10 or 11 shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2500.

(5) Any crew member who fails to carry out any of the duties specified in Regulation 12 shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2500.

(6) Any operator or employer who levies a charge in contravention of Regulation 13 shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2500.

(7) Any person who contravenes Regulation 14 shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2500.

(8) Any operator who fails to supply protective equipment in accordance with regulations 15, 16 or 17 shall be guilty of an offence and liable on summary conviction to a fine not exceeding £5000.

Offences due to fault of another person

21. Where the commission by any person of an offence under any of these regulations is 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 person.

Offences by body corporate

22. (1) Where an offence under any of these Regulations committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, the preceding paragraph shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) For the purposes of paragraphs (1) and (2), “body corporate” includes a limited liability company constituted under the Limited Liability Companies Act 1996^(e) and, in relation to such a company, any reference to a director or other officer of a body corporate is a reference to a member and to the company’s manager and registered agent.

Defence

23. It shall be a defence for a person charged under this regulation to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(e) 1996 c.19

SCHEDULE
REVOCATION

<i>Reference</i>	<i>Title</i>	<i>Extent of Revocation</i>
GC 176/83	Merchant Shipping (Masters and Seamen) (Application) Order 1983	The whole Order so far unrevoked
GC 152/84	Merchant Shipping (Masters and Seamen) (Application and Amendment) Order 1984	In Schedule 1, entry 2. Schedule 4.
GC 18/85	Merchant Shipping (Masters and Seamen)(Application No. 2) Order 1984.	In Schedule 1, entry 1 Schedule 3.
GC 332/88	Merchant Shipping (Masters and Seamen)(Application) Order 1988	Schedule 1, entry 3. Schedule 4.

Made : 12th December, 2001

Alex F. Downie,

Minister for Trade and Industry.

EXPLANATORY NOTE

(This Note is not part of the Regulations)

The Regulations give effect in part to the Merchant Shipping (Minimum Standards) Convention 1976 (International Labour Organisation Convention 147) (Cmnd. 7163) which was laid before Parliament on 24th April 1978, ratified by the United Kingdom on 28th November 1980, is in force internationally and 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) (Cmnd. 4800) which is in force but has not been ratified by the United Kingdom.

The Regulations also incorporate the requirements which were previously in the Merchant Shipping (Health and Safety: General Duties) Regulations 1984 (SI. 1984 No. 408) which had effect in the Isle of Man by virtue of the Merchant Shipping (Masters and Seamen)(Application No. 2) Order 1984, since revoked in the UK. The requirements have been brought up to date and are extended to cover fishing vessels.

The Regulations also incorporate the main requirements of EC Council Directive 89/656/EEC on the use by workers of personal protective equipment at work. These requirements also apply to fishing vessels.

These Regulations have been amended by:

SD 0234/13 Merchant Shipping (Maritime Labour Convention) Regulations 2013 which disapplies these regulations to ships to which the Maritime Labour Convention applies, revokes Part II and omits regulation 20(1) to (3).