

1988 No. 1636

MERCHANT SHIPPING

SAFETY

**The Merchant Shipping (Guarding of Machinery and
Safety of Electrical Equipment) Regulations 1988**

Made - - - - 21st September 1988

Laid before Parliament 30th September 1988

Coming into force 1st January 1989

The Secretary of State for Transport, after consulting with the persons referred to in section 22(2) of the Merchant Shipping Act 1979(a) in exercise of powers conferred on him by sections 21(1)(a) and (b), (3), (4) (5) and (6) and 22(1) of that Act(b), and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Merchant Shipping (Guarding of Machinery and Safety of Electrical Equipment) Regulations 1988 and shall come into force on 1st January 1989.

(2) In these Regulations:

“employer” means the person for the time being employing the master;

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

“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(4) of the Mineral Workings (Offshore Installations) Act 1971(c);

“pleasure craft” means a vessel primarily used for sport or recreation.

(3) For the purposes of these Regulations, machinery is securely guarded if it is protected by a properly installed guard or device of a design and construction which prevents foreseeable contact between any person or anything worn or held by any person and any dangerous part of the machinery.

Application

2.—(1) Subject to paragraph (2) of this regulation,

(a) these Regulations except regulation 8 apply to United Kingdom ships; and

(b) regulations 1, 2, 8 and 9 apply to ships other than United Kingdom ships when they are in a United Kingdom port.

(a) 1979 c.39.

(b) Section 21(6) was amended by section 49(3) of the Criminal Justice Act 1982 (c.48).

(c) 1971 c.61; section 1 was substituted by section 24 of the Oil and Gas (Enterprise) Act 1982 (c.23).

(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 Secretary of State 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 he may so specify and may, subject to giving reasonable notice, alter or cancel any such exemption.

Guarding of Machinery

3.—(1) Subject to paragraph (2) of this regulation, the employer and the master shall ensure that every dangerous part of the ship's machinery is securely guarded unless that part is of such construction or is so positioned or is otherwise safeguarded so as to be as safe to anyone on board as if it were securely guarded.

(2) It shall be a defence for any person charged in respect of a contravention of paragraph (1) of this regulation to show that it was necessary for the dangerous part of machinery to be in motion whilst it was not securely guarded to ensure the safety of the ship or for the purposes of an examination and any adjustment, lubrication or test shown by that examination to be immediately required provided that:—

- (a) exposure of the dangerous part was the minimum that was necessary;
- (b) exposure was authorised by a responsible ship's officer or other responsible person;
- (c) examination was carried out only by a competent person;
- (d) any person who was required to be close to the machinery had, so far as was reasonably practicable, an area which was of adequate size, properly illuminated and clear of obstructions and loose material in which to work;
- (e) any person operating or close to the machinery had been instructed as necessary in the safe systems of work for that machinery and in the dangers arising from and the precautions to be observed while the machinery was operating; and
- (f) a conspicuous notice warning of the danger was exhibited on or close to the machinery.

(3) The employer and the master shall ensure that all guards and other devices provided in pursuance of these regulations are of substantial construction and properly maintained and, subject to paragraph (2) above, kept in position whilst the parts to be guarded are in motion.

(4) The employer and master shall ensure that there is a means for taking prompt action to stop any machinery and for cutting off the power in the event of an emergency.

Electrical Equipment

4. The employer and the master shall ensure that all ship's electrical equipment and installations are so constructed, installed, operated and maintained that the ship and all persons are protected against electrical hazards.

Penalties

5.—(1) Contravention of regulation 3(1), (3), (4) or 4 by an employer shall be an offence punishable on summary conviction by a fine not exceeding £2,000 or on conviction on indictment by imprisonment for a term not exceeding two years or a fine or both.

(2) Contravention of regulation 3(1), (3), (4) or 4 by a master shall be an offence punishable only on summary conviction by a fine not exceeding £1,000.

(3) It shall be a defence for a person charged under these Regulations, including a person charged by virtue of regulation 6, to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

6. Where an offence under any of these Regulations is committed, or would have been committed except for the operation of regulation 5(3), 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 United Kingdom ship

7. Any person duly authorised by the Secretary of State may inspect any United Kingdom 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 United Kingdom

8.—(1) Any person duly authorised by the Secretary of State may inspect any ship other than a United Kingdom ship when the ship is in a United Kingdom port and if he is satisfied that the ship does not conform to the standards of health and safety required of United Kingdom 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:

Provided that the measures specified in sub-paragraphs (a) and (b) may be taken only when the ship has called at a United Kingdom port in the normal course of business or for operational reasons.

(2) If he takes either of the measures specified in paragraph (1)(b) above 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.

(3) 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

9. Section 460(1) and section 692(1) to (3) and (5) of the Merchant Shipping Act 1894(a) (which relate respectively to liability for costs and compensation for 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 section 460(1) the following words shall be omitted:—
 - “by reason of the condition of the ship or the act or default of the owner”
 - “provisional”
 - “as an unsafe ship”
 - “and survey”
 - “or survey”; and
- (b) for the words “this Part of this Act” in section 460(1) and “this Act” wherever they appear in section 692(1) to (3), there shall be substituted “the Merchant Shipping (Guarding of Machinery and Safety of Electrical Equipment) Regulations 1988”.

Signed by authority of the Secretary of State.

21st September 1988

Michael Portillo
Minister of State, Department of Transport

(a) 1894 c.60; section 692 was amended by Schedule 6 to the Merchant Shipping Act 1988 (c.12).

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. 7163), laid before Parliament on 24th April 1978 and ratified by the United Kingdom on 28th November 1980 which 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, Article 4) (Cmnd. 4800) which is in force but has not been ratified by the United Kingdom. The Regulations, with other provisions, will also allow ratification by the United Kingdom of the Convention and a recommendation concerning occupational safety and health in dock work (International Labour Organisation Convention 152) (Cmnd. 8118) laid before Parliament in December 1980 and in force internationally.

These Regulations will with others also allow the repeal of the Docks Regulations 1934 (S.R. & O. 1934 No. 279) in respect of those provisions relating to dock operations by ships crews.

The Regulations require the employer and master of a United Kingdom ship (other than a fishing vessel, pleasure craft, or offshore oil installation on site) to ensure the secure guarding of ships machinery, except in prescribed circumstances (regulation 3), and the provisions of ships electrical equipment and installations in a way that protects all persons against electrical hazards.

In the case of ships not registered in the United Kingdom the Regulations require that ships which do not conform to the standards of safety required by these Regulations may be detained.

The Regulations come into force on 1st January 1989.

The command papers containing I.L.O. Conventions 147 and 134, Cmnd. 7163 and Cmnd. 4800 are no longer in print, but photocopies of them may be obtained through Her Majesty's Stationery Office. Copies of I.L.O. Conventions may also be obtained from the United Kingdom Office of the I.L.O., 96/98 Marsham Street, London SW1P 4YL.

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