

1988 No. 1637

MERCHANT SHIPPING
SAFETY

**The Merchant Shipping (Means of Access)
Regulations 1988**

<i>Made</i> - - - -	<i>21st September 1988</i>
<i>Laid before Parliament</i>	<i>30th September 1988</i>
<i>Coming into force</i>	<i>1st January 1989</i>

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 revocation

1.—(1) These Regulations may be cited as the Merchant Shipping (Means of Access) Regulations 1988 and shall come into force on 1st January 1989.

(2) The following Regulations are hereby revoked:

the Merchant Shipping (Means of Access) Regulations 1981(c)

the Merchant Shipping (Means of Access) (Amendment) Regulations 1983(d).

Interpretation

2. In these Regulations:

“access” means embarking on or disembarking from a ship;

“Code” means Chapter 8 of the Code of Safe Working Practices for Merchant Seamen published in 1978 by Her Majesty’s Stationery Office and any document amending or replacing it which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice;

“employer” means a 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;

(a) 1979 c.39.

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

(c) S.I. 1981/1729.

(d) S.I. 1983/117.

“Merchant Shipping Notice” means a Notice described as such issued by the Secretary of State;

“offshore installation” means any offshore installation within the meaning of section 1 of the Mineral Workings (Offshore Installations) Act 1971(a);

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

“portable ladder” does not include a rope ladder.

Application

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

(a) these Regulations except regulation 14 apply to United Kingdom ships; and

(b) regulations 1, 2, 3, 14 and 15 apply to other ships when they are in a United Kingdom port.

(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. 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 employer 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 employer 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;

(d) any equipment used for means of access and any safety net is of good construction, of sound material, of adequate strength for the purposes for which it is used, free from patent defect and properly maintained.

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

(3) The employer and the master in carrying out the obligations contained in this regulation shall take full account of the principles and guidance in the Code.

Gangways

5. 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 employer shall ensure that there is carried on the ship a gangway which is appropriate to the deck layout, size, shape and maximum freeboard of the ship and which complies with the specifications contained in section 2 of the Code.

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

Accommodation Ladders

6. 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 employer shall ensure that there is carried on the ship an accommodation ladder which is appropriate to the deck layout, size, shape and maximum freeboard of the ship and which complies with the specifications contained in section 2 of the Code.

Portable and Rope Ladders

7. The employer 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 complies with the specifications contained in section 2.6 of the Code;

provided that the requirements of this regulation shall not affect the requirements of the Merchant Shipping (Pilot Ladders, and Hoists) Regulations 1987(a).

Life-buoys

8. The employer 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.

Safety nets

9.—(1) The employer and master 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) Contravention of regulation 4, 5, 6, 7, 8 or 9 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 4, 7, 8 or 9 by a master shall be an offence punishable only on summary conviction by a fine not exceeding £1,000.

(3) Contravention of regulation 10 shall be an offence punishable only on summary conviction by a fine not exceeding £400.

(4) It shall be a defence for a person charged in respect of a contravention of regulation 4(1) or (2) or 9(2) 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.

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.

(a) S.I. 1987/1961.

Inspection and detention of a United Kingdom ship

13. 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

14.—(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) the person 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

15. 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 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 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, there shall be substituted “the Merchant Shipping (Means of Access) 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 replace, and re-enact with amendments, the Merchant Shipping (Means of Access) Regulations 1981 as amended, which 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) laid before Parliament on 24th April 1978 and ratified by the United Kingdom and 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 implementation of 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.

Exemptions can now be granted from all the provisions of the Regulations (regulation 3); there is now a general duty on the employer and master to ensure safe means of access to a ship (regulation 4(1)); the employer and master are required to take full account of the principles and guidelines set out in the revised Chapter 8 of the Code of Safe Working Practices for Merchant Seamen set out in Merchant Shipping Notice M1343. (This Code contains much of the requirement formerly detailed in the Regulations with regard to equipment specifications and the way the equipment is to be used) There is a new regulation regarding the use of rope ladders (regulation 7(b) and (c)) 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 charged under the Regulations have been augmented.

Merchant Shipping Notices are obtainable from the Department of Transport Marine Library, Sunley House, Holborn, London WC1V 6LP or from any Department of Transport Marine Office. 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 U.K. Office of the I.L.O., 96/98 Marsham Street, London SW1P 4YL.