

1989 No. 102

**MERCHANT SHIPPING**

**SAFETY**

**The Merchant Shipping (Provisions and Water)  
Regulations 1989**

<i>Made</i> - - - -	<i>24th January 1989</i>
<i>Laid before Parliament</i>	<i>8th February 1989</i>
<i>Coming into force</i>	<i>1st March 1989</i>

Whereas insofar as these Regulations are made under section 21(1)(b) of the Merchant Shipping Act 1979(a) they relate to an international agreement laid before Parliament before 4th April 1979, namely the Merchant Shipping (Minimum Standards) Convention 1976 (International Labour Organisation Convention 147)(b), which was laid before Parliament on 24th April 1978 and ratified by the United Kingdom on 28th November 1980 and is in force internationally and which requires provisions to be made substantially equivalent to those of (amongst other Conventions) the Food and Catering (Ships' Crews) Convention 1946 (International Labour Organisation Convention 68)(c) which is in force and has been ratified by the United Kingdom:

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

**Citation, revocation and modification of existing legislation**

1.—(1) These Regulations may be cited as the Merchant Shipping (Provisions and Water) Regulations 1989 and shall come into force on 1st March 1989.

(2) The following Regulations are hereby revoked:—

- the Merchant Shipping (Provisions and Water) Regulations 1972(d);
- the Merchant Shipping (Provisions and Water) (Fishing Vessels) Regulations 1972(e);
- the Merchant Shipping (Provisions and Water) (Fishing and Other Vessels) (Amendment) Regulations 1975(f);
- the Merchant Shipping (Provisions and Water) Regulations 1978(g).

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(a) 1979 c.39; section 21(6) was amended by the Criminal Justice Act 1982 (c.48), section 49(3), and section 49 was amended by the Safety at Sea Act 1986 (c.23), section 11. (b) Cmnd 7163. (c) Cmnd 7273.  
(d) S.I.1972/1871. (e) S.I.1972/1872. (f) S.I.1975/733. (g) S.I.1978/36.

(3) In the Merchant Shipping Act 1970(a):—

- (a) section 21 is hereby repealed;
- (b) in sections 22(1) and 76(3) for the words “regulations made under section 21 of this Act” there shall be substituted “Safety regulations made under section 21 of the Merchant Shipping Act 1979 containing requirements as to the provisions and water to be provided on ships”.

### **Interpretation**

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 sea fishing but does not include a vessel used otherwise than for profit;
- “length” in relation to a registered ship means registered length, and in relation to an unregistered ship means the length from the fore part of the stem to the aft side of the head of the stern post or, if no stern post is fitted to take the rudder, to the fore side of the rudder stock at the point where the rudder passes out of the hull;
- “offshore installation” means any offshore installation within the meaning of section 1 of the Mineral Workings (Offshore Installations) Act 1971(b);
- “pleasure craft” means a vessel primarily used for sport or recreation;
- “submersible craft” means submersible craft as defined in the Merchant Shipping (Submersible Craft Construction and Survey) Regulations 1981(c).

### **Application**

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

- (a) these Regulations other than regulation 9 apply to sea-going United Kingdom ships; and
- (b) regulations 1, 2, 3, 9 and 10 apply to non-United Kingdom sea-going ships (except fishing vessels) when in a United Kingdom port.

(2) These Regulations do not apply to —

- (a) ships under 24 metres in length;
- (b) pleasure craft;
- (c) submersible craft; or
- (d) offshore installations whilst on or within 500 metres of their working stations.

(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.

### **Duties of Employers and Master**

4. It shall be the duty of the employer and master of every ship to ensure that there shall be provided on their ship provisions and water which

- (a) are suitable in respect of quantity, nutritive value, quality and variety having regard to the size of the crew and the character and nature of the voyage;
- (b) do not contain anything which is likely to cause sickness or injury to health or which renders any provision or water unpalatable; and
- (c) are otherwise fit for consumption.

5. It shall be the duty of the master to ensure that he, or a person authorised by him, together with a member of the crew employed in catering on the ship, inspects not less than once a week provisions and water for the purpose of checking whether the provisions and water still comply with sub-paragraphs (a) to (c) of regulation 4 above. The results of such inspections shall be recorded in the Official Log Book of the ship.

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(a) 1970c.36. (b) 1971 c.61; section 1 was substituted by section 24 of the Oil and Gas (Enterprise) Act 1982 (c.23). (c) S.I.1981/1098, as amended by S.I.1987/306.

## **Offences and Penalties**

6.—(1) Contravention of regulation 4 by an employer shall be an offence punishable only on summary conviction by a fine not exceeding level four on the standard scale.

(2) Contravention of regulation 4 or 5 by a master shall be an offence punishable only on summary conviction by a fine not exceeding level four on the standard scale.

(3) 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 7, to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

7. Where an offence under any of these Regulations is committed, or would have been committed except for the operation of regulation 6(3), by any person due to the act or default of some other person, that other person shall be guilty of an 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**

8. Any person duly authorised by the Secretary of State may inspect any ship to which these Regulations apply 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.**

9.—(1) Any person duly authorised by the Secretary of State may inspect any ship which is not 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 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 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 exercise of his powers under this regulation detain or delay the ship unreasonably.

## **Compensation and Enforcement of Detention**

10. Section 460(1) and section 692(1) to (3) 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 –

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(a) 1894 c.60.

- (1) 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

(2) 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 (Provisions and Water) Regulations 1989”.

Signed by authority of the Secretary of State  
24th January 1989

*Michael Portillo*  
Minister of State,  
Department of Transport

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#### EXPLANATORY NOTE

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

These Regulations supersede existing Regulations laying down the requirements as to provisions and water to be provided for seamen employed in ships (including fishing vessels). The Regulations differ from earlier requirements in that –

- (i) they include only a general duty to provide adequate provision and water instead of laying down detailed scales;
- (ii) the substance of the Regulations applies also to non-United Kingdom ships other than fishing vessels, when in United Kingdom ports.

The command papers containing I.L.O. Conventions 147 and 68, Cmnd. 7163 and Cmnd. 7273 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., Vincent House, Vincent Square, London SW1P 2NB.

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