
STATUTORY INSTRUMENTS

1998 No. 1838

MERCHANT SHIPPING

The Merchant Shipping (Code of Safe Working Practices for Merchant Seamen) Regulations 1998

<i>Made</i>	- - - -	<i>27th July 1998</i>
<i>Laid before Parliament</i>		<i>4th August 1998</i>
<i>Coming into Operation</i>		<i>1st September 1998</i>

The Secretary of State, after consulting with the persons mentioned in subsection (4) of section 86 of the Merchant Shipping Act 1955(1), in the exercise of powers conferred by sections 85(1)(a), (5) (a), and (7)(c) and (d) of that Act and of all other powers enabling him on that behalf, hereby makes the following Regulations:

Citation, commencement and revocations

1.—(1) These Regulations may be cited as the Merchant Shipping (Code of Safe Working Practices for Merchant Seamen) Regulations 1998 and shall come into force on 1st September 1998.

(2) The Merchant Shipping (Code of Safe Working Practices) Regulations 1980(2) are hereby revoked.

Interpretation

2.—(1) In these Regulations, except where the context otherwise requires:

“the Act” means the Merchant Shipping Act 1995;

“Company”, in relation to a ship to which these Regulations apply, means the owner of a ship or any other organisation or person such as the manager, or bareboat charterer, who has assumed the responsibility for operation of the ship from the owner;

“contract of employment” means a contract of employment, whether express or implied, and if express, whether oral or in writing;

“employer” means a person by whom a worker is employed under a contract of employment;

(1) 1995 c. 21; sections 85 and 86 were amended by the Merchant Shipping and Security Act 1997 (c. 28), section 8 and are applied to hovercraft by virtue of the Hovercraft (Application of Enactments) Order 1989 (S.I. 1989/135).
(2) S.I. 1980/686.

“Marine Information Notice” means a Notice described as such and issued by the Maritime and Coastguard Agency, an executive agency of the Department of the Environment, Transport and the Regions;

“pleasure vessel” means a pleasure vessel as defined in regulation 3(1) of the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1993⁽³⁾;

“safety officer”, and “safety representative” shall have the same meaning as in the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997⁽⁴⁾;

“sail training vessel” means a sail training vessel as defined in the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997;

“the Code” means the “The Code of Safe Working Practices for Merchant Seamen”⁽⁵⁾, and any subsequent amendments and revisions to that publication, which the Secretary of State considers relevant from time to time and which shall be notified in a Marine Information Notice;

“United Kingdom ship” means a ship which—

- (a) is a United Kingdom ship within the meaning of section 85(2) of the Merchant Shipping Act 1995; or
- (b) is a hovercraft registered under the Hovercraft Act 1968⁽⁶⁾;

“worker” means any person employed by an employer under a contract of employment including trainees or apprentices other than trainees who are training on a sail training vessel.

Application

3. These Regulations shall apply to all United Kingdom ships except fishing vessels and pleasure vessels.

Carriage of the Code

4.—(1) In every ship to which these Regulations apply, and on which five or less workers are employed, the Company shall ensure that there is carried at least one copy of the Code, in the custody of the master, which shall be easily accessible and readily available to workers.

(2) In every ship to which these Regulations apply, and on which more than five and no more than twenty workers are employed, the Company shall ensure that there are carried a suitable number of copies of the Code of which—

- (a) one copy shall be kept in the custody of the master;
- (b) one copy shall be kept in the custody of the safety officer;
- (c) one copy shall be provided for each safety representative, where elected; and in addition
- (d) one or more copies shall be kept in a place readily accessible to other workers;

provided that no person shall be required to hold more than one copy of the Code.

(3) In every ship to which these Regulations apply, and on which more than twenty workers are employed, the Company shall ensure that there are carried a suitable number of copies of the Code of which—

- (a) one copy shall be kept in the custody of the master;
- (b) one copy shall be kept in the custody of the chief officer;

(3) S.I. 1993/1072.

(4) S.I. 1997/2962.

(5) Published by The Stationery Office in 1998; ISBNNo. 011 5518 36 3.

(6) 1968 c. 59.

- (c) one copy shall be kept in the custody of the chief engineer;
- (d) one copy shall be kept in the custody of either the purser or the catering officer;
- (e) one copy shall be kept in the custody of the safety officer;
- (f) one copy shall be kept in the custody of each safety representative, where elected; and in addition
- (g) a number of copies which is adequate for the number of other workers employed, taking account of the nature of their duties, shall be readily available and kept in a place or places readily accessible to those workers;

provided that no person shall be required to hold more than one copy of the Code.

(4) Where, as the case may be, no safety officer or safety representative is appointed for the ship, any requirement in this regulation for a safety officer or safety representative to keep a copy of the Code shall not apply, and in either case the number of copies which the Company is required by this regulation to ensure are carried may also be reduced, as long as the total number carried will not be less than a suitable number.

(5) No person shall knowingly remove a copy of the Code, carried in compliance with these Regulations, from the ship without the consent of the Company or the master.

Penalties

5.—(1) Any contravention of regulation 4(1) to (4) of these Regulations shall be an offence punishable on summary conviction by a fine not exceeding level 3 on the standard scale.

(2) Any contravention of regulation 4(5) of these Regulations shall be an offence punishable on summary conviction by a fine not exceeding level 1 on the standard scale.

(3) It shall be a defence for a person charged under paragraph (1) of this regulation to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

Glenda Jackson
Parliamentary Secretary of State
Department of the Environment, Transport and
the Regions

27th July 1998

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which revoke and replace The Merchant Shipping (Code of Safe Working Practices) Regulations 1980 (S.I.1980/686), require the owner (or other person assuming responsibility for ownership) of each UK ship, other than fishing vessels or pleasure vessels, to carry on board and make available to workers “The Code of Safe Working Practices for Merchant Seamen” (published in 1998 and obtainable from The Stationery Office) (“the Code”).

The Regulations amend the thresholds for the carriage of specified numbers of copies of the Code, which has the effect of increasing by one the minimum number of copies to be carried on ships with between five and 15 workers, but decreasing the number of copies to be carried on ships with larger crews.

The Regulations provide that—

- (i) ships on which five or less workers are employed shall carry at least one copy (regulation 4(1));
- (ii) ships with more than five and less than 20 workers shall carry one copy which is in the custody of the master, one copy which is in the custody of the safety officer, one copy which is in the custody of the safety representative (where elected), and in addition one or more copies kept in a place accessible to other workers (regulation 4(2));
- (iii) ships with more than 20 workers shall carry an adequate number for the workers employed as well as requiring one copy to be kept in the custody of the master, the chief officer, the chief engineer, the purser or catering officer, safety officer and any safety representative (regulation 4(3)).

The Regulations allow that these minimum numbers may be reduced where no safety officer or safety representative is appointed or elected on board ship (regulation 4(4)).

The Regulations prohibit removal of the Code from the ship without consent (regulation 4(5)).

The Regulations make contravention of the requirement to carry copies of the Code an offence with a maximum penalty of £1000 (regulation 5(1)) and contravention of the prohibition on removal of a copy of the Code from the ship an offence with a maximum penalty of £200 (regulation 5(2)).

The Code of Safe Working Practices for Merchant Seamen is obtainable from the Stationery Office Publications Centre, PO Box 276, London SW8 5DT (tel: 0171–873 9090).