

**SAFETY**

**Merchant Shipping (Guarding of Machinery and  
Safety of Electrical Equipment) Regulations 1988<sup>136</sup>**  
*as amended<sup>137</sup>*

The [Minister], in exercise of powers conferred on him, by [section 187 of the Merchant Shipping Act]<sup>138</sup> and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Citation, commencement and interpretation**

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 1<sup>st</sup> January 1989.

(2) In these Regulations:

“employer” means the person for the time being employed 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<sup>(c)139</sup>

“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 [Bahamian] ships; and

(b) these Regulations other than regulation 7 apply to ships other than [Bahamian] ships when they are in a port in [the Bahamas].<sup>140</sup>

(2) These Regulations do not apply to:—

(a) fishing vessels,

(b) pleasure craft,

(c) offshore installation whilst on or within 500 metres of their working stations,  
or

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<sup>136</sup> applied in the Bahamas from UK SI 1636/1988 by SI 54/1988.

<sup>137</sup> by the Merchant Shipping (Safety at Work Regulations)(Non-Bahamian Ships) Regulations applied in the Bahamas by SI 31/1989 from UK SI 2274/1988.

<sup>138</sup> ch. 246; 16 of 1976 as amended.

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

<sup>139</sup> see Appendix III for excerpt and definition

<sup>140</sup> paragraph substituted by the Merchant Shipping (Safety at Work Regulations)(Non-Bahamian Ships) Regulations applied in the Bahamas by SI 31/1989 from UK SI 2274/1988.

(d) ships in which there is for the time being no master or crew or watchman

(3) [The Minister] 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 of 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 obstruction 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 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 any 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 first-mentioned person.

**Inspection and detention of a [Bahamian] ship**

7. Any person duly authorised by [the Minister] may inspect any [Bahamian] 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 and detention and other measures in respect of ships registered outside [the Bahamas]**

8.—(1) Any person duly authorised by [the Minister] may inspect any ship other than a [Bahamian ship] when the ship is in a [Bahamian] port and if he is satisfied that the ship does not conform to the standards of health and safety required of [Bahamian] 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 [Bahamian] 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**

9. *[Regulation 9 is not reproduced here, as it is unlikely that it is applied under the MSA. However, for compensation provisions please see section 211, MSA.]*

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**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)<sup>141</sup> 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)<sup>142</sup>. The Regulations, with other provisions, will also allow ratification by [the Bahamas] of the Convention, and implementation of a recommendation, concerning occupational safety and health in dock work (International Labour Organisation Convention 152)<sup>143</sup> in force internationally.<sup>144</sup>

The Regulations require the employer and a master of a [Bahamian] 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 Bahamas] 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 1<sup>st</sup> January, 1989.<sup>145</sup>

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<sup>141</sup> words omitted.

<sup>142</sup> words omitted.

<sup>143</sup> words omitted.

<sup>144</sup> paragraph omitted.

<sup>145</sup> paragraph omitted.