

SAFETY

Merchant Shipping (Hatches and Lifting Plant) Regulations 1988¹⁴⁶
as amended¹⁴⁷

[The Minister], in exercise of powers conferred on him, by [sections 187 and 293 of the Merchant Shipping Act]¹⁴⁸ and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Merchant Shipping (Hatches and Lifting Plant) Regulations 1988 and shall come into operation on 1st January 1989.

2. In these Regulations:

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

“competent person” means a person over the age of 18 possessing the knowledge and experience required for the performance of thorough examinations and tests of ships’ lifting plant;

“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;

“freight container” means a container as defined in regulation 2 of the Freight Container (Safety Convention) Regulations 1984^(c)¹⁴⁹

“hatch covering” includes hatch covers, beams and attached fixtures and fittings;

“lifting appliance” means any ship’s stationary or mobile appliance (and every part thereof including attachments used for anchoring, fixing or supporting that appliance but not including vehicle coupling arrangements) which is used on a ship for the purposes of suspending, raising or lowering loads or moving them from one position to another whilst suspended and includes ship’s lift trucks and similar vehicles; it does not include—

- (a) pipes, or gangways; or
- (b) screw, belt, bucket or other conveyors;

¹⁴⁶ applied in the Bahamas from UK SI 1639/1988 by SI 54/1988

¹⁴⁷ 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.

¹⁴⁸ ch. 246; 16 of 1976 as amended

^(c) [UK] S.I. 1984/1890

¹⁴⁹ i.e. “container” means an article of transport equipment which is—

- (a) of a permanent character and accordingly strong enough for repeated use, and
- (b) designed to facilitate the transport of goods by one or more modes of transport without intermediate reloading, and
- (c) designed to be secured and readily handled, having corner fittings for these purposes, and
- (d) of a size such that the area enclosed by the four outer bottom corners is either—
 - (i) if the container is fitted with top corner fittings, at least 7 square metres, or
 - (ii) in any other case, at least 14 square metres,

and includes a container when carried on a chassis but does not include a vehicle or packaging, or any article of transport equipment designed solely for use in air transport, or a swap body except when it is carried by or on board a sea-going ship and is not mounted on a road vehicle or rail wagon;’
per regulation 2 of the Freight Container (Safety Convention) Regulations 1984

used for the continuous movement of cargo or people but does include the lifting appliances used to suspend, raise, lower or move any of these items;

- (c) survival craft or rescue boat launching and recovery appliances or arrangements; or
- (d) pilot hoists;

“lifting gear” means any gear by means of which a load can be attached to a lifting appliance and which does not form an integral part of that appliance or load but does not include pallets, one-trip slings and pre-slung cargo slings, and freight containers;

“lifting plant” includes any lifting appliance or lifting gear;

“master” includes any person in charge of a vessel during the absence of the master but excludes a watchman;

“Merchant Shipping Notice” means a Notice described as such issued by the Secretary of State [of the United Kingdom responsible for Transport];

“offshore installation” means any offshore installation within the meaning of section 1 of the Mineral Workings (Offshore Installations) Act 1971^(a)¹⁵⁰;

“one-trip sling” means a sling which has not previously been used for lifting any other load and is fitted to the load at the commencement of the journey and intended to be disposed of at the destination of that journey;

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

Application

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

- (a) these Regulations other than regulation 14 apply to [Bahamian] ships; and
- (b) these Regulations other than regulation 13 apply to ships other than [Bahamian] ships when they are in a port in [the Bahamas].¹⁵¹

(2) These Regulations do not apply to—

- (a) fishing vessel;
- (b) pleasure craft;
- (c) offshore installations whilst on or within 500 metres of their working stations; or
- (d) ships on which there is for the time being no master or crew or watchman.

(2) [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.

Hatches

4.—(1) Every employer, master and person carrying out the obligations contained in this regulation shall take full account of the principles and guidance in chapter 18 of the Code.

(2) The employer and master shall ensure that any hatch covering used on a ship is of sound construction and material, of adequate strength for the purpose for which it is used, free from patent defect and properly maintained.

(3) The master shall ensure that

- (a) a hatch covering is not used unless it can be removed and replaced, whether

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

¹⁵⁰ see Appendix III for excerpt and definition.

¹⁵¹ paragraph substituted by the Merchant Shipping (Safety at Work Regulations) (Non-Bahamian Ships) Regulations applied in the Bahamas in 1989 by SI 31/1989 from UK SI 2274/1988.

manually or with mechanical power, without endangering any person, and
(b) information showing the correct replacement position is clearly marked, except in so far as hatch coverings are interchangeable or in capable of being incorrectly replaced.

(4) The master shall ensure that a hatch is not used unless the hatch covering has been completely removed, or if not completely removed is properly secured.

(5) Except in the event of an emergency endangering health or safety, no person shall operate a hatch covering which is power-operated or a ship's ramp or a retractable car-deck unless authorized to do so by a responsible ship's officer.

Lifting Plant

5. Every employer master and any person in carrying out the obligations contained in regulations 6 to 10 of these Regulations shall take full account of the principles and guidance in chapter 17 of the Code.

6.—(1) The employer and the master shall ensure that any ship's lifting plant is of good design, of sound construction and material, of adequate strength for the purpose for which it is used, free from patent defect, properly installed or assembled and properly maintained.

(2) The master shall ensure that any pallet or similar piece of equipment for supporting loads or lifting attachment which forms an integral part of the load or one-trip sling or pre-slung cargo sling is not used on a ship unless it is of good construction, of adequate strength for the purpose for which it is used and free from patent defect.

(3) The employer and master shall ensure that lifting plant is not used other than in a safe and proper manner.

(4) Without prejudice to the generality of paragraph (3) of this regulation, the employer and master shall ensure that except for the purpose of carrying out a test under regulation 7, the lifting plant is not loaded in excess of its safe working load.

(5) No person shall operate any lifting plant unless he is trained and competent to do so and has been authorised by a responsible ship's officer.

7.—(1) The employer and the master shall ensure that no lifting plant is used:

(a) after manufacture or installation, or

(b) after any repair or modifications which is likely to alter the safe working load or affect the lifting plant's strength or stability,

without first being suitably tested by a competent person except in the case of a rope sling which has been manufactured from rope which has been tested by a competent person and spliced in a safe manner.

(2)¹⁵² the employer and the master shall ensure that a lifting appliance is not used unless it has been suitably tested by a competent person within the preceding five years.

8. The employer and the master shall ensure that any lifting plant is not used unless it has been thoroughly examined by a competent person:

¹⁵² words omitted, as spent.

- (a) at least once in the preceding 12 month period; and
- (b) following a test in accordance with regulation 7.

9.—(1) The employer and the master shall ensure that each lifting appliance is clearly and legibly marked with its safe working load and a means of identification.

(2) The employer and the master shall ensure that any crane that is carried on the ship and whose safe working load varies with its operating radius is fitted with an accurate indicator, clearly visible to the driver, showing the radius of the load lifting attachment at any time and the safe working load corresponding to that radius.

(3) The employer and the master shall ensure that each item of lifting gear is clearly and legibly marked with its safe working load and a means of identification, except where such marking is not reasonably practicable, but in such a case a safe working load shall be readily ascertainable by any user.

(4) The employer and the master shall ensure that each item of lifting gear which weighs a significant proportion of the safe working load of any lifting appliance with which it is intended to be used is, in addition to the requirement in paragraph (3) of this regulation, clearly marked with its weight.

10.—(1) Except in relation to ships other than [Bahamian] ships¹⁵³ the employer and master shall ensure that a certificate or report in a form approved by [the Minister] is obtained within 28 days following any test under regulation 7 or examination under regulation 8 and is kept in a safe place on board ship for a period of at least 2 years from receipt of the certificate or report of the next following test or examination.

(2) Any approval given in pursuance of this regulation shall be in writing and shall specify the date on which it takes effect and the conditions (if any) on which it is given.

(3) In relation to ships other than [Bahamian] ships, paragraph (1) above shall apply with the exclusion of the words “in a form approved by [the Minister]”¹⁵⁴.

11.—(1) Contravention of regulation 4(1), 4(2), 5, 6(1), 6(3), 6(4), 7, 8, 9 or 10 by an employer shall be an offence punishable on summary conviction by a fine not exceeding £2000 or on conviction on indictment by imprisonment for a term not exceeding 2 years or a fine, or both.

(2) Contravention of regulation 4(1), (2), (3) or (4), 5, 6(1), (2), (3), or (4), 7, 8, 9 or 10 by a master shall be an offence punishable only on summary conviction by a fine not exceeding £1000.

(3) Contravention of regulation 4(1), 4(5), 5 or 6(5) by any person 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 any of

¹⁵³ words inserted by the Merchant Shipping (Safety at Work Regulations) (Non-Bahamian Ships) Regulations applied in the Bahamas in 1989 by SI 31/1989 from UK SI 2274/1988.

¹⁵⁴ paragraph inserted by the Merchant Shipping (Safety at Work Regulations) (Non-Bahamian Ships) Regulations applied in the Bahamas in 1989 by SI 31/1989 from UK SI 2274/1988.

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(4), 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 [Bahamian] ships

13. Any person duly authorised by [the Minister] may inspect any [Bahamian] 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 that ship until the health and safety of those 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]

14.—(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 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 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 detain or delay the ship unreasonably.

Compensation and Enforcement of Detention

15. *[Regulation 15 is not reproduced here as it is unlikely that it is applied under the MSA. However, for compensation provisions please see section 211, MSA.]*

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)¹⁵⁵ 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)¹⁵⁶. The Regulations, with other provisions, will also allow ratification by [the Bahamas] of the Convention¹⁵⁷, and implementation of a recommendation, concerning occupational safety and health in dock work (International Labour Organisation Convention 152)¹⁵⁸ in force internationally.

The Regulations¹⁵⁹ require that hatch coverings are soundly constructed and used in a safe manner (Regulation 4). The Regulations also require the sound construction of lifting plant and equipment for supporting loads, lifting attachments which form an integral part of the load or slings, and the safe use of lifting plant by trained operators (Regulation 6). They provide for the testing (Regulation 7) and thorough examination (Regulation 8) of lifting plant with the retention of appropriate certificates (Regulation 10) as well as the relevant marking of plant and lifting gear (Regulation 9).

In the case of ships not registered in [the Bahamas] the Regulations require that ships which do not conform to the standards of health and safety required by these regulations may be detained.

Chapter 17 and 18 of the Code of Safe Working Practices, referred to in regulations 5 and 4(1) respectively, [were] set out in Merchant Shipping Notice Nos. M1347 and M1346. [The Code of Safe Working Practices, Merchant Shipping Notices and copies of I.L.O. Conventions can be obtained as detailed in Appendix VII to this publication.]

¹⁵⁵ words omitted.

¹⁵⁶ words omitted.

¹⁵⁷ words omitted.

¹⁵⁸ words omitted.

¹⁵⁹ words omitted.