

**MERCHANT SHIPPING  
SAFETY**

**The Merchant Shipping (Means of Access)  
Regulations 1988<sup>168</sup>**

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

**Citation [and commencement]**

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

(2) [omitted]

**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 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;

“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;

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

“offshore installation” means any installation within the meaning of section 1 of the Mineral Workings (Offshore Installations Act 1971<sup>(a)</sup> <sup>169</sup>;

“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 [Bahamian] ships; and

(b) these Regulations, other than regulations 5, 6, 7(c) and 13, apply to ships other than [Bahamian] ships when they are in a port in [the Bahamas].<sup>170</sup>

(2) These Regulations do not apply to—

(a) fishing vessels,

(b) pleasure craft,

<sup>168</sup> applied in the Bahamas from UK SI 1637/1988 by SI 54/1988

<sup>(a)</sup> 1971 [UK] c.61 was substituted by section 24 of the [UK] Oil and Gas (Enterprise) Act 1982 (c.23).

<sup>169</sup> see Appendix III for excerpt and definition

<sup>170</sup> words substituted by regulation 3 of 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

- (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 [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. 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.

#### **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<sup>171</sup>.

### **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 similar device 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 where 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. Where 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 such 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

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<sup>171</sup> UK SI 1987/1961 formally applied in the Bahamas and repealed by Merchant Shipping (Amendment) Act 2000 (34 of 2000). see now Regulation 17 of Chapter V of SOLAS 74/88. For definition of "SOLAS 74/88" see section 185 of the Merchant Shipping Act.

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.

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

13. 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 be in exercise of these powers detain or delay the ship unreasonably.

**Inspection, 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 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**

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

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**EXPLANATORY NOTE**

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

<sup>172</sup>These Regulations give effect in part to the Merchant Shipping (Minimum Standards) Convention 1976 (International Labour Organisation Convention 147)<sup>173</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>174</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>175</sup> 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 and ILO Conventions may be obtained as detailed in Appendix VII].

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<sup>172</sup> words omitted.

<sup>173</sup> words omitted.

<sup>174</sup> words omitted.

<sup>175</sup> words omitted.