
STATUTORY INSTRUMENTS

1995 No. 157

**MERCHANT SHIPPING
SAFETY**

The Merchant Shipping (Hours of Work) Regulations 1995

<i>Made</i>	- - - -	<i>20th January 1995</i>
<i>Laid before Parliament</i>		<i>7th February 1995</i>
<i>Coming into force</i>	- -	<i>28th February 1995</i>

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

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Merchant Shipping (Hours of Work) Regulations 1995 and shall come into force on 28th February 1995.

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

“employer” means, in relation to any master or seaman, the employer of that master or seaman;

“fishing vessel” means a vessel for the time being employed in sea fishing, but does not include a vessel used otherwise than for profit;

“operator”, in relation to a ship, includes the owner, and any demise charterer or manager;

“passenger ship” means a ship carrying more than 12 passengers;

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

“safety committee” means a safety committee set up pursuant to the Merchant Shipping (Safety Officials and Reporting of Accidents and Dangerous Occurrences) Regulations 1982(3).

(3) A reference in these Regulations to a ship is to a sea-going United Kingdom ship, but does not include a reference to a fishing vessel, a pleasure vessel, a sail training vessel having a gross tonnage of less than 80 tons, a lifeboat or a passenger ship of Classes VI or VI(A) within the meaning of the Merchant Shipping (Passenger Ship Construction and Survey) Regulations 1984(4).

(1) 1979 c. 39.

(2) Subsection (6) was amended by the Criminal Justice Act 1982 (c. 48), section 49(3).

(3) S.I.1982/876, to which there are amendments not relevant to these Regulations.

(4) S.I. 1984/1216; relevant amendment is S.I. 1992/2358.

General duty of operators, employers and masters

2.—(1) Subject to regulation 6 below it shall be the duty of every operator of a ship, and of every employer, to ensure, so far as is reasonably practicable, that the master and seamen do not work more hours than is safe in relation to the safety of the ship and the master's and the seamen's performance of their duties.

(2) Subject to regulation 6, it shall be the duty of every master of a ship to ensure, so far as is reasonably practicable, that the seamen do not work more hours than is safe in relation to the safety of the ship and the seamen's performance of their duties.

Duties of master and seamen

3. Every master and seaman shall, so far as is reasonably practicable, ensure that he is properly rested when commencing duty on a ship and that he obtains adequate rest during periods when he is off-duty.

Schedules of duties, and need to record

4.—(1) It shall be the duty of the operator of a ship to produce a schedule of duties complying with this regulation.

(2) Where the operator is not also the employer of the master and all the seamen, he shall consult any other person who is an employer of the master or of any of the seamen before production of the schedule.

(3) The operator may arrange with any such employer that the employer is to produce a schedule of duties complying with this regulation. In such a case that employer shall also be subject to the duties of the operator under this regulation.

(4) Before producing a schedule the operator shall seek the views of the master, and the master shall seek and convey to the operator the views of:

- (a) the ship's safety committee; or
- (b) the seamen or their representatives; or
- (c) a trade union with one or more members on board ship.

(5) A schedule complies with this regulation if—

- (a) it sets out the hours of work for—
 - (i) masters and seamen whose work includes regular watchkeeping duties or ship handling; and
 - (ii) the ship's chief engineer, chief officer and second engineer officer,

so as to provide that they do not work more hours than is safe in relation to the safety of the ship and the master's and seamen's performance of their duties;

- (b) it specifies the maximum period of continuous watchkeeping, the minimum rest period between watches, and the total daily, weekly and monthly hours of work; and
- (c) it provides that an uninterrupted period of at least 7 hours off-duty in each 24 hour period is normally available for rest, or that, if this is not practicable, periods of rest aggregating at least 16 hours off-duty are normally available in each 48 hours period having regard to the provisions of regulation 2.

(6) The operator shall give consideration to the category of shipping operation undertaken in arranging the hours of work.

(7) The schedule may be changed by the operator or by an employer who by virtue of paragraph (3) is subject to the duties of the operator under this regulation, on condition that—

- (a) other employers and the operator (as the case may be) have been consulted;
 - (b) the operator or the said employer has sought the views of the master on the proposed changes and the master has sought and conveyed to the operator the views of persons mentioned in paragraph (4)(a), (b) or (c);
 - (c) the schedule as changed complies with paragraph (5).
- (8) The operator shall ensure that the schedule—
- (a) is available to and brought to the attention of the master and of all the seamen on first signing on; and
 - (b) is displayed prominently in the crew accommodation for the information of all the seamen.
- (9) It shall be the duty of the master to ensure, as far as is reasonably practicable, that the hours of work specified in the schedule are not exceeded.
- (a) (10) (a) The operator and the master shall maintain on the ship a copy of the schedule, and a record of all deviations from its requirements.
 - (b) The operator for the time being shall ensure that a copy of the schedule and of the record of all deviations from its requirements are preserved for five years from the date the Schedule was introduced, and that they are available for inspection by a superintendent, a proper officer within the meaning of section 97(1) of the Merchant Shipping Act 1970⁽⁵⁾, a surveyor of ships, or an inspector appointed under section 728 of the Merchant Shipping Act 1894⁽⁶⁾. If during the five year period there ceases to be an operator in relation to the ship, the duty to preserve the copies of the Schedule and of the record shall remain with the last operator.

Onus of proving what is reasonably practicable

5. In any proceedings for an offence under any of these Regulations consisting of a failure to comply with a duty or requirement to do something so far as is reasonably practicable, it shall be for the accused to prove that it was not reasonably practicable to do more than was in fact done to satisfy the duty or requirement.

Exception for emergencies

6.—(1) A master of a ship or seaman may participate in a navigational, engine room or machinery watch although he has not had the rest period provided by the schedule produced in pursuance of regulation 4; and the master may exceed, and a seaman may be required to exceed, the schedule's work or duty periods, when in the opinion of the master it is necessary to meet one of the following situations—

- (a) an emergency threatening the safety of the ship or the life of any person or threatening damage to the environment;
- (b) employment of the ship in the service of the Ministry of Defence at a time when the ship is operating in direct support of Her Majesty's armed forces, or in direct support of the forces of any foreign power to which the United Kingdom is bound to provide operational support by any treaty.

(2) When in pursuance of paragraph (1) the master or a seaman has worked within a rest period provided for by the schedule, his name shall be entered in the record required to be maintained by regulation 4(10), together with the reason why he so worked.

(5) 1970 c. 36.

(6) 1894 c. 60.

Penalties

7.—(1) If an operator contravenes regulation 2(1) or 4, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) If an employer contravenes regulation 2(1) or 4, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) If a master contravenes regulation 2(2) he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) If a master contravenes regulation 3 or 4(9) or (10) he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(5) If a seaman contravenes regulation 3 he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(6) It shall be a good defence for a person charged with an offence involving contravention of regulation 4 to prove that he took all reasonable steps to avoid commission of the offence.

Detention

8. Any person duly authorised by the Secretary of State may inspect any 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 such that the ship is unsafe to go to sea or proceed on a voyage without danger to human life, he may detain the ship. He shall give notice to the master in writing stating the reasons for detention and the conditions that need to be met for release and shall not in the exercise of these powers detain or delay the ship unreasonably.

Enforcement of detention

9. Section 692 of the Merchant Shipping Act 1894(7) (which relates to enforcing the detention of a ship) shall have effect in relation to a ship detained under these Regulations subject to the modification that as if for the words “this Act”, wherever they appear, there were substituted the words “the Merchant Shipping (Hours of Work) Regulations 1995”.

Signed by authority of the Secretary of State for Transport

20th January 1995

Goschen
Parliamentary Under Secretary of State,
Department of Transport

(7) 1894 c. 60.

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) (Cmnd 7183) laid before Parliament on 24th April 1978 and ratified by the United Kingdom and which is in force internationally, which requires that safety standards regarding hours of work be established.

These Regulations place general duties on operators, employers and masters of United Kingdom sea-going merchant ships (excluding fishing vessels and pleasure craft) to ensure that masters and seamen do not work more hours than are safe for the ship.

Working hours and rest periods of masters and seamen, whose work includes regular watchkeeping or ship handling, and chief engineers, chief officers and second engineer officers are to be laid down in a schedule of duties to be produced and displayed on all vessels. The duties specified in the schedule of duties do not apply in certain emergency situations.

General duties are also placed on seamen to use their best endeavours to be adequately rested, before and during a voyage. Penalties are prescribed for breaches of the Regulations, and power to detain ships is provided.

A compliance cost assessment has been prepared and copies can be obtained from the Marine Safety Agency, Department of Transport, Spring Place, 105 Commercial Road, Southampton SO15 1EG. A copy has been placed in the library of each House of Parliament.