

1988 No. 1639

MERCHANT SHIPPING

SAFETY

**The Merchant Shipping (Hatches and Lifting Plant)
Regulations 1988**

Made - - - - 21st September 1988

Laid before Parliament 30th September 1988

Coming into force 1st January 1989

The Secretary of State for Transport, after consulting with the persons referred to in section 22(2) of the Merchant Shipping Act 1979^(a) in exercise of powers conferred on him by section 21(1)(a) and (b), (3), (4), (5) and (6) and section 22(1) of that Act^(b), 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.

Interpretation

2. In these Regulations:-

“Code” means the Code of Safe Working Practices for Merchant Seamen published in 1978 by Her Majesty’s Stationery Office and any document amending or replacing it which is considered by the Secretary of State 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 Containers (Safety Convention) Regulations 1984^(c);

“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 purpose 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

^(a) 1979 c.39.

^(b) Section 21(6) was amended by section 49(3) of the Criminal Justice Act 1982 (c.48).

^(c) S.I. 1984/1890.

(b) screw, belt, bucket or other conveyors;
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;

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

“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 United Kingdom ships; and

(b) regulations 1, 2, 3, 14 and 15 apply to other ships when in a United Kingdom port.

(2) These Regulations do not apply to—

(a) fishing vessels;

(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 Secretary of State 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 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 incapable 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.

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

(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 authorised 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 modification 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) After 1 January 1993 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:

(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) The employer and master shall ensure that a certificate or report in a form approved by the Secretary of State 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.

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 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 a United Kingdom ship

13. Any person duly authorised by the Secretary of State may inspect any 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 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, detention and other measures in respect of ships registered outside the United Kingdom

14.—(1) Any person duly authorised by the Secretary of State may inspect any ship which is not a United Kingdom ship when the ship is in a United Kingdom port, and if he is satisfied that the ship does not conform to the standards required of United Kingdom 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 United Kingdom 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 exercise of his powers under this regulation detain or delay the ship unreasonably.

Compensation and Enforcement of Detention

15. Section 460(1) and section 692(1) to (3) and (5) of the Merchant Shipping Act 1894(a) (which relate respectively to liability for costs and compensation for the detention of a ship and enforcing the detention of a ship) shall have effect in relation to a ship detained under these Regulations subject to the following modifications—

(a) in section 460(1) the following words shall be omitted—

“by reason of the condition of the ship or the act or default of the owner”

“provisional”

“as an unsafe ship”

“and survey”

“or survey”; and

(b) for the words “this Part of this Act” in section 460(1) and “this Act” wherever they appear in section 692(1) to (3), there shall be substituted “the Merchant Shipping (Hatches and Lifting Plant) Regulations 1988”.

Signed by authority
of the Secretary of State
21st September 1988

Michael Portillo
Minister of State,
Department of Transport

(a) 1894 c.60; section 692 was amended by Schedule 6 to the Merchant Shipping Act 1988 (c.12).

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 7163), laid before Parliament on 24th April 1978 and ratified by the United Kingdom on 28th November 1980 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) (Cmnd 4800) which is in force but has not been ratified by the United Kingdom. The Regulations, with other provisions, will also allow ratification by the UK of the Convention and a recommendation concerning occupational safety and health in dock work (International Labour Organisation Convention 152) (Cmnd 8118) laid before Parliament in December 1980 and in force internationally.

These Regulations will with others also allow the repeal of the Docks Regulations 1934 (S.R. & O. 1934 No. 279) in respect of those provisions relating to dock operations by ships crews. The Regulations 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 United Kingdom the Regulations require that ships which do not conform to the standards of health and safety required by these regulations may be detained.

Chapters 17 and 18 of the Code of Safe Working Practices, referred to in regulations 5 and 4(1) respectively, are set out in Merchant Shipping Notices Nos. M1347 and M1346. Merchant Shipping Notices are obtainable from the Department of Transport Marine Library, Sunley House, Holborn, London WC1V 6LP or from any Department of Transport Marine Office. The command papers containing I.L.O. Conventions 147 and 134, Cmnd 7163 and Cmnd 4800, are no longer in print, but photocopies of them may be obtained through Her Majesty's Stationery Office. Copies of I.L.O. Conventions may also be obtained from the U.K. Office of the I.L.O., 96/98 Marsham Street, London SW1P 4YL.

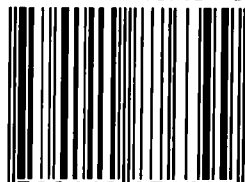
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