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STATUTORY INSTRUMENTS

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**2006 No. 2184**

**The Merchant Shipping and Fishing Vessels (Lifting Operations and Lifting Equipment) Regulations 2006**

**PART 1**

**GENERAL**

**Citation, commencement and revocation**

1.—(1) These Regulations may be cited as the Merchant Shipping and Fishing Vessels (Lifting Operations and Lifting Equipment) Regulations 2006 and shall come into force on 24th November 2006.

(2) The Merchant Shipping (Hatches and Lifting Plant) Regulations 1988<sup>(1)</sup> are hereby revoked.

**Interpretation**

2.—(1) In these Regulations—

“accessory for lifting” means lifting equipment for attaching loads to machinery for lifting;

“the Act” means the Merchant Shipping Act 1995;

“the Code” means the Code of Safe Working Practices for Merchant Seamen<sup>(2)</sup>, including any annexes to it, and any subsequent amendments and revisions to the Code in so far as they—

- (a) relate to all or any of the purposes set out in section 85(1) of the Act,
- (b) are considered by the Secretary of State to be relevant from time to time, and
- (c) are specified in a Marine Information Note issued by the Maritime and Coastguard Agency and described as such;

“competent person” means a person possessing the knowledge or experience necessary for the performance of the duties under these Regulations;

“contract of employment” means a contract of employment, whether express or implied, and if express, whether oral or in writing;

“employer” means a person by whom a worker is employed under a contract of employment and (except in regulation 4(3) and (4)) includes a self-employed person to whom the requirements imposed by these Regulations apply by virtue of regulation 4(4);

“fishing vessel” means a vessel for the time being used for, or in connection with, fishing for sea fish other than a vessel used for fishing otherwise than for profit; and for the purposes of this definition “sea fish” includes shellfish, salmon and migratory trout (as defined by section 44 of the Fisheries Act 1981<sup>(3)</sup>);

“Government ship” has the meaning given in section 308(4) of the Act;

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(1) S.I. 1988/1639.

(2) Published by the Stationery Office in 1998 (ISBN 0-11-551836-3).

(3) 1981 c.29.

- “hatch covering” includes hatch covers, beams and attached fixtures and fittings;
- “health and safety” includes the occupational health and safety of persons whilst on board the ship and whilst boarding or leaving the ship;
- “lifting equipment” means work equipment used for lifting or lowering loads and includes its attachments used for anchoring, fixing or supporting it;
- “load” includes a person;
- “loose gear” means any gear by means of which a load can be attached to lifting equipment but which does not form an integral part of either the lifting equipment or the load;
- “Marine Guidance Note” means a Note described as such and issued by the Maritime and Coastguard Agency; and any reference to a particular Marine Guidance Note includes a reference to any document amending or replacing that Note which is considered by the Secretary of State to be relevant from time to time;
- “Maritime and Coastguard Agency” means the executive agency so named of the Department for Transport;
- “operator” means the worker or workers operating the lifting equipment;
- “public service vessel” means any vessel operated by and on behalf of a public body while it is carrying out the authorised functions of that body;
- “relevant inspector” means a person mentioned in paragraph (a), (b) or (c) of section 258(1) of the Act;
- “ship” includes hovercraft;
- “thorough examination” means a thorough examination by a competent person, and “thoroughly examined” shall be construed accordingly;
- “United Kingdom ship” means a ship which—
- (a) is a United Kingdom ship within the meaning of section 85(2) of the Act; or
  - (b) is a Government ship; or
  - (c) is a hovercraft registered under the Hovercraft Act 1968(4);
- “United Kingdom waters” means the sea or other waters within the seaward limits of the territorial sea of the United Kingdom;
- “use” in relation to work equipment, including lifting equipment, means any activity involving work equipment, and includes starting, stopping, programming, setting, transporting, repairing, modifying, maintaining and servicing, including cleaning;
- “work equipment” means any machinery, appliance, apparatus, tool or installation for use at work (whether exclusively or not).

(2) Subject to paragraph (1), words and expressions used in these Regulations shall have the same meaning as in Council Directive [89/655/EEC\(5\)](#), as amended by Council Directive [95/63/EC\(6\)](#), concerning the minimum health and safety requirements for the use of work equipment by workers at work.

(4) [1968 c.59, S.I. 1989/1350](#), as amended by [S.I. 1990/2594](#), applies various merchant shipping enactments to hovercraft, with modifications.

(5) [O.J. L393, 30.12.89, p.13](#).

(6) [O.J. L335, 30.12.95, p.28](#).

### Meaning of “worker”

3.—(1) In these Regulations “worker” means any person employed under a contract of employment, including a trainee or apprentice other than a person who is training in a vessel which is being used either—

- (a) to provide instruction in the principles of responsibility, resourcefulness, loyalty and team endeavour and to advance education in the art of seamanship; or
- (b) to provide instruction in navigation and seamanship for yachtsmen,

and which is operating under a relevant code.

(2) In this regulation “relevant code” means—

- (a) the Large Commercial Yacht Code as set out in Merchant Shipping Notice No. 1792(M), issued by the Maritime and Coastguard Agency;
- (b) the Code of Practice for the Safety of Small Commercial Sailing Vessels(7);
- (c) the Code of Practice for the Safety of Small Commercial Motor Vessels(8); or
- (d) the Code of Practice for the Safety of Small Vessels in Commercial Use for Sport or Pleasure Operating from a Nominated Departure Point(9).

(3) In paragraph (2) each reference to a Code includes a reference to any document containing an amendment or replacement of that Code which is considered by the Secretary of State to be relevant from time to time.

### Application

4.—(1) These Regulations shall apply to the use of lifting equipment by a worker or by the person mentioned in paragraph (5) on United Kingdom ships except when—

- (a) the lifting equipment is on a public service vessel or a vessel engaged in search and rescue; and
- (b) characteristics of the activity of the vessel inevitably conflict with a provision of these Regulations,

and in such a case there shall be a duty on the employer so far as is reasonably practicable to ensure the health and safety of workers when using the lifting equipment.

(2) These Regulations, other than regulation 21, apply in relation to ships other than United Kingdom ships when they are in United Kingdom waters.

(3) The duties imposed by these Regulations on an employer in respect of lifting equipment shall apply in relation to such equipment provided for use or used by a worker who is an employee of his.

(4) The duties imposed by these Regulations on an employer shall also apply to a self-employed person in respect of lifting equipment on a ship which he—

- (a) provides and uses himself, or
- (b) provides for use at work by another person (whether self-employed or not).

(5) In respect of his own use of lifting equipment on a ship, whether provided by him or not, a self-employed person shall be treated as a worker and shall ensure that the requirements of these Regulations in relation to a worker are met.

(6) Regulations 6(1), 6(2)(b), 9(1)(c), 9(3), 11, 12(7), 13 and 16 shall not apply in relation to a fishing vessel or Government ship unless, in the case of a Government ship, it is commercially

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(7) Published by the Stationery Office in 1993 (ISBN 0-11-551184-9).

(8) Published by the Stationery Office in 1993 (ISBN 0-11-551185-7).

(9) Published by the Stationery Office in 1999 (ISBN 0-11-551812-6).

managed, and for these purposes “commercially managed” means the management of which is entrusted by the owner to some other person pursuant to a contract.

(7) Regulation 12(5)(b) shall not apply to a Government ship unless it is commercially managed as mentioned in paragraph (6).

(8) These Regulations shall not apply in relation to the activities of a worker which are covered by the Lifting Operations and Lifting Equipment Regulations 1998(10) or the Lifting Operations and Lifting Equipment (Northern Ireland) Regulations 1999(11).

(9) The provisions of the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997(12) shall continue to apply and the provisions of the Merchant Shipping and Fishing Vessels (Provision and Use of Work Equipment) Regulations 2006(13) shall apply to the provision and use of work equipment for lifting to which these Regulations apply, but without prejudice to any more stringent or specific provisions contained in these Regulations.

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(10) S.I. 1998/2307, amended by S.I. 2002/2174.

(11) S.R. 1999 No.304.

(12) S.I. 1997/2962, amended by S.I. 1998/2411 and S.I. 2001/54.

(13) S.I. 2006/2183.