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## STATUTORY INSTRUMENTS

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# 2010 No. 2987

## The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Artificial Optical Radiation) Regulations 2010

### PART 2

#### DUTIES OF EMPLOYERS AND OTHERS

##### Assessment of health risks

6.—(1) Where work is to be carried out which could expose any worker to levels of artificial optical radiation that create a reasonably foreseeable risk of an adverse health effect on that worker, the employer must, in carrying out the risk assessment required by regulation 7 (risk assessment) of the General Duties Regulation—

- (a) assess and, if necessary, measure the levels of exposure to which workers are likely to be exposed, so that the measures needed to limit exposure below the exposure limit values can be identified and put into effect; and
- (b) preserve the data obtained from the assessment, including those obtained from the measurement of the levels of exposure referred to in sub-paragraph (a), so as to permit their consultation at a later stage.

(2) In carrying out the assessment and measurement in accordance with paragraph (1)(a) the employer must follow the following standards or recommendations—

- (a) for laser radiation, the standards of the IEC; or
- (b) for non-coherent radiation, the standards of the IEC and the recommendations of the CIE and the CEN.

(3) Where there is a risk of exposure which is not covered by the standards and recommendations set out in paragraph (2), and appropriate EU standards or recommendations are not available, the assessment and measurement may be carried out using any available national or international science-based guidelines.

(4) The assessment in accordance with paragraph (1)(a) may take account of data provided by the manufacturers of equipment which is a source of optical radiation, where such equipment is covered by relevant European Union Directives.

(5) The employer must ensure that the assessment and measurement referred to in paragraph (1) (a)—

- (a) are planned and carried out at suitable intervals and by competent persons, appointed in accordance with regulation 14 (protective and preventive services) of the General Duties Regulations, subject to consultation with workers in accordance with regulation 20 (consultation with workers) of those Regulations;
- (b) are updated, if there have been significant changes which may affect workers' exposure or if the results of health surveillance show this to be necessary; and
- (c) give particular attention to—

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- (i) the level, wavelength range and duration of exposure;
- (ii) the exposure limit values;
- (iii) any effects concerning the health and safety of workers belonging to particularly sensitive risk groups;
- (iv) any possible effects on workers' health and safety resulting from workplace interactions between optical radiation and photosensitising chemical substances;
- (v) any indirect effects such as temporary blinding, explosion or fire;
- (vi) the existence of alternative equipment designed to reduce the levels of exposure;
- (vii) appropriate information obtained from health surveillance, including, as far as possible, published information;
- (viii) multiple sources of exposure;
- (ix) a classification applied to a laser as defined in accordance with the relevant IEC standard and, in relation to any artificial source likely to cause damage similar to that of a laser of class 3B or 4, any similar classification; and
- (x) information provided by the manufacturers of optical radiation sources and associated work equipment in accordance with the relevant European Union Directives.

(6) Before the commencement of any activity with the potential to involve exposure, the employer must be in possession of a record in a suitable medium of the risk assessment, if any, required to be carried out in accordance with this regulation.

(7) The risk assessment may include a justification by the employer that the nature and extent of the risks related to optical radiation make a more detailed risk assessment unnecessary.

(8) An assessment carried out in accordance with this regulation, whether for the first time or by way of renewal, is in these Regulations called a regulation 6 assessment and is to be used by the employer to identify which measures must be taken in accordance with regulation 7.

#### **Commencement Information**

**II** Reg. 6 in force at 10.1.2011, see [reg. 1](#)

### **General principles for prevention of risks**

7.—(1) So far as is reasonably practicable, taking account of technical progress and of the availability of measures to control the risk at source, the employer must eliminate or reduce to a minimum the risk to the health and safety of workers arising from exposure, using the principles for prevention of risk set out in the General Duties Regulations.

(2) Where the regulation 6 assessment indicates any possibility that the exposure limit values may be exceeded, the employer must devise and implement an action plan comprising, as appropriate, technical and organisational measures designed to prevent, so far as is reasonably practicable, the exposure exceeding the limit values, taking into account in particular—

- (a) alternative working methods that reduce the risk from optical radiation;
- (b) the choice of alternative equipment emitting less optical radiation, taking account of the work to be done;
- (c) technical measures to reduce the emission of optical radiation including, where necessary, the use of interlocks, shielding or similar health protection mechanisms;

- (d) appropriate maintenance programmes for work equipment, workplaces and workstation systems;
  - (e) the design and layout of workplaces and workstations;
  - (f) limitation of the duration and level of exposure;
  - (g) the availability of appropriate personal protective equipment;
  - (h) the instructions of the manufacturer of equipment which is a source of optical radiation, where such equipment is covered by relevant European Union Directives; and
  - (i) the requirements of workers belonging to particularly sensitive risk groups.
- (3) Where the regulation 6 assessment indicates the possibility that workers could be subject to exposure exceeding the exposure limit values, the employer must—
- (a) place appropriate signs in the workplace, in accordance with the Merchant Shipping and Fishing Vessels (Safety Signs and Signals) Regulations 2001(1), which identify the areas where the exposure limit values may be exceeded; and
  - (b) where this is technically possible, limit access to the areas where the exposure limit values may be exceeded.
- (4) If, despite the measures taken by the employer in accordance with this regulation, the exposure limit values are exceeded, the employer must—
- (a) take immediate action to reduce exposure below the exposure limit values;
  - (b) identify the reasons why the exposure limit values have been exceeded; and
  - (c) adapt the protection and prevention measures accordingly in order to prevent the exposure limit values being exceeded again.

#### Commencement Information

**I2** Reg. 7 in force at 10.1.2011, see [reg. 1](#)

### Information and training for workers

**8.** Without prejudice to the provisions of the General Duties Regulations covering information and training for workers, the employer must ensure that workers who are likely to be subject to exposure, or their representatives, receive appropriate information and training, concerning in particular—

- (a) measures to reduce exposure taken in accordance with regulation 7;
- (b) the exposure limit values and associated potential risks;
- (c) the results of the regulation 6 assessment, with an explanation of their significance and potential risks;
- (d) how to detect adverse health effects of exposure and report them;
- (e) the circumstances in which workers are entitled to health surveillance;
- (f) safe working practices to minimise risks from exposure; and
- (g) proper use of appropriate personal protective equipment.

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### Commencement Information

**I3** Reg. 8 in force at 10.1.2011, see [reg. 1](#)

### Health surveillance

**9.—(1)** The employer must ensure that there are arrangements whereby workers for whom a regulation 6 assessment reveals a risk to health and safety are kept under appropriate health surveillance by a health authority.

(2) The arrangements referred to in paragraph (1) must be sufficient to enable a worker to undergo, if appropriate, relevant health surveillance before exposure and at regular intervals thereafter.

(3) The employer must ensure that the health authority carrying out health surveillance of workers has access to the results of the regulation 6 assessment, where those results may be relevant to the health surveillance.

(4) The employer must ensure that a medical examination is made immediately available to any worker who—

- (a) has, to the employer's knowledge, been subject to exposure in excess of the exposure limit values; or
- (b) is found, as a result of health surveillance, to have an identifiable disease or adverse health effect which is considered by a health authority to be the result of exposure.

(5) Where a medical examination made available under paragraph (4) is carried out in respect of a worker, the health authority must give that worker—

- (a) the result of the medical examination which relates to that worker; and
- (b) information and advice regarding—
  - (i) any health surveillance which that worker should undergo following the end of exposure; and
  - (ii) any protective or preventive measures to be taken in respect of that individual worker.

(6) A health authority which carries out a medical examination—

- (a) must inform the employer of any significant findings of the health surveillance, to the extent that this is consistent with confidentiality; and
- (b) may advise that any other worker who has been similarly exposed should be offered a medical examination.

(7) On being informed of the findings of the health surveillance in accordance with subparagraph (6)(a), the employer must—

- (a) review the regulation 6 assessment and the measures taken to eliminate or reduce risks pursuant to regulation 7;
- (b) take into account the advice of the health authority in implementing any measures to eliminate or reduce risk in accordance with regulation 7; and
- (c) arrange, in respect of any worker who has been similarly exposed—
  - (i) continued health surveillance; and
  - (ii) a review of that worker's health status.

(8) The employer must—

- (a) ensure that for each worker who undergoes health surveillance, an individual health record containing a summary of the results of the health surveillance is made and kept up to date;

- (b) keep all health records in a form suitable for consultation at a later date, taking into account any confidentiality;
- (c) supply copies of those health records to a relevant health authority and the Secretary of State on request; and
- (d) on reasonable notice being given, allow a worker access to that worker's individual health record.

(9) In this regulation "health authority" means a doctor, occupational health professional or other authority suitably qualified to undertake the requirements of this regulation.

**Commencement Information**

**I4** Reg. 9 in force at 10.1.2011, see [reg. 1](#)

**Consultation with and participation of workers**

**10.** The employer must consult workers or their representatives about matters covered by these Regulations in accordance with regulation 20 (consultation of workers) of the General Duties Regulations.

**Commencement Information**

**I5** Reg. 10 in force at 10.1.2011, see [reg. 1](#)

**Duties of other persons**

**11.—(1)** Where a person on whom a duty is imposed by any of the preceding provisions of these Regulations does not have control of the matter to which that provision relates because responsibility for the operation of the ship falls upon another person, that duty also extends to any other person who has control of that matter.

- (2) It is the duty of every worker performing activities to which these Regulations apply to—
  - (a) make full and proper use of all clothing and equipment provided by the employer to that worker in pursuance of these Regulations; and
  - (b) give effect to all information and training provided to that worker under regulation 8.

**Commencement Information**

**I6** Reg. 11 in force at 10.1.2011, see [reg. 1](#)

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**Changes to legislation:**

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