



# MGN 636 (M) Amendment 1

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## Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997

Notice to all Owners, Managers, Employers of Seafarers, Masters, Officers and Seafarers

*This notice should be read in conjunction with the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 as amended and replaces MGN 20 (M+F) for the Merchant Navy and MGN 636 (M).*

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### Summary

This Notice contains information and guidance on responsibilities of the shipowner (which includes the ship manager), master, officers and seafarers for health and safety on board UK ships under UK Regulations.

- The shipowner and employer must ensure the health and safety of all seafarers and others working on board (both employed and self-employed).
- A health and safety policy should be in place.
- Risk assessment should underpin all safety measures put in place.
- Employers should provide health surveillance to workers where a risk to their health is identified as a result of their work activities.
- All seafarers must be trained so that they can work safely on board, including familiarization with on-board equipment and procedures, including emergency procedures.
- The shipowner should consult with those working on the vessel on the health and safety measures on board.
- Each seafarer has a duty to look after their own health and safety and that of others working with them and comply with the measures put in place for their safety.
- Health and safety measures should be provided free of charge to workers.
- MGN 587(F) provides guidance for fishing vessels on the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations.

Amendment 1 does not contain any alteration to content, only editorial updates to references.

## 1. Introduction

- 1.1 The Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 (S.I. [1997/2962](#)) (“the Regulations”) implement Council Directive 89/391/EC on the introduction of measures to encourage improvements in safety and health of workers at work (the “Framework Directive”). They lay down the framework governing health and safety on board ships, in parallel to similar legislation ashore and in the offshore sector (in particular the Health and Safety at Work etc. Act 1974 and the Management of Health and Safety at Work Regulations) which is enforced by the Health and Safety Executive.



The Regulations are also part of the UK's implementation of the Maritime Labour Convention, 2006 and the scope of the Regulations was extended in 2014 to place duties on the shipowner in addition to those on employers, and to protect and place a duty of care on all seafarers regardless of their employment status.

- 1.2 Employer duties under the regulations listed in Annex 1 are also extended to shipowners and the protection provided is extended to all seafarers, regardless of employment status.

## **2. Application (Regs 2 and 3)**

- 2.1 The Regulations apply to work activities on United Kingdom ships anywhere in the world, and to non-UK ships when they are in United Kingdom waters. They apply to all work activities, with very limited exceptions.

- 2.2 The Regulations do not apply to work activities on a public service vessel engaged in search and rescue, when (and only when) the characteristics of that activity inevitably conflict with a provision of these regulations. This recognises that the safety of life overrides the specific provisions of the Regulations. However, the employer must still seek to ensure the health and safety of any person performing such duties.

- 2.3 The Regulations relate to shipowners, employers, seafarers and workers.

*“employer” means a person by whom a worker is employed under a contract of employment;*

*“shipowner” means*

- (a) in relation to a ship which has a valid Maritime Labour Certificate or interim Maritime Labour Certificate, the person identified as the shipowner on that Certificate;*
- (b) in relation to any other ship, the owner of the ship or, if different, any other organisation or person such as the manager, or the bareboat charterer, that has assumed the responsibility for the operation of the ship from the owner;*

*“worker” means any person employed by an employer under a contract of employment, including trainees or apprentices;*

*“seafarer” means any person, including a master, who is employed or engaged in any capacity on board a ship which is not a fishing vessel and whose normal place of work is on such a ship;*

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

*For more guidance on the definitions of “seafarer” and “shipowner”, see MGN 471(M).*

*There are also duties placed on the Company, defined as*

*“Company”, in relation to a ship to which these Regulations apply, means the owner of the ship or any other organisation or person such as the manager, or bareboat charterer, who has assumed the responsibility for operation of the ship from the owner.*

Where the ISM Code applies, this is the “Company” named on the Safety Management Certificate. On other vessels, it is the “shipowner” as defined for the purposes of the MLC.

- 2.4 A worker or seafarer includes a cadet, trainee or apprentice. However, trainees on sail training vessels are excluded from the definition of “worker”. This addresses the specific context of sail training vessels, where trainees are on board for a short period of time in order to gain new experiences, but are not there in any vocational capacity. A sail training vessel is defined in the Regulations:



*“sail training vessel” means a sailing 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.*

- 2.5 This does not mean that the shipowner, employer, or the company operating the vessel has no health and safety responsibilities towards such trainees. On the contrary, the Regulations require the shipowner or employer to ensure the health and safety of “workers and other persons”. The trainees in this context are “other persons” affected by the employer’s undertaking. The same level of duty of care therefore applies, although some of the specific duties explained in the following paragraphs may not always be appropriate.
- 2.6 The Regulations also specify that where a duty holder under the Regulations does not have control of the matter to which the regulation relates, then any duty imposed by that regulation shall also extend to any natural or legal person who has control of that matter.
- 2.7 However, see section 8 below on the duties of the Company, which always has a co-ordinating role.

### **3. Responsibilities**

- 3.1 The following high-level responsibilities underpin the specific duties laid out in the Regulations.
- 3.2 Shipowners should ensure that masters have adequate support to carry out their responsibility for health and safety management effectively while on board. Sections 4 to 9 of this notice set out specific duties of shipowners and employers.
- 3.3 The ship’s master should ensure that the shipowner’s health and safety policy and procedures are implemented on board ship and clearly communicated to all those working on board. The master sets the tone for the safety culture on board, and so it is particularly important that they are seen to prioritise health and safety and to encourage others to do the same. The day to day implementation of many of the specific duties set out in this notice will be delegated to the master. The master may in turn delegate duties but retains overall responsibility on board.
- 3.4 Seafarers and other workers must cooperate with the master and the shipowner to implement prescribed health and safety policies and other measures. They should take advantage of opportunities offered to participate actively in developing and promoting risk assessments and safe and healthy working practices and working conditions.

### **4. General Duties (Reg 5)**

- 4.1 Under the Regulations, it is the duty of shipowners and employers to protect the health and safety of workers and others affected by their activities so far as is reasonably practicable. The principles for ensuring health and safety are:

*(a) the avoidance of risks, which among other things includes the combating of risks at source and the replacement of dangerous practices, substances or equipment by non-dangerous or less dangerous practices, substances or equipment;*

*(b) the evaluation of unavoidable risks and the taking of action to reduce them;*

*(c) adoption of work patterns and procedures which take account of the capacity of the individual, especially in respect of the design of the workplace and the choice of work equipment, with a view in particular to alleviating monotonous work and to reducing any consequent adverse effect on workers’ health and safety; See also the Merchant Shipping (Maritime Labour Convention) (Hours of Work) Regulations 2018, MSN 1877 Amendment 1 and MGN 505(M).*



(d) adaptation of procedures to take account of new technology and other changes in working practices, equipment, the working environment and any other factors which may affect health and safety;

(e) adoption of a coherent approach to management of the vessel or undertaking, taking account of health and safety at every level of the organisation;

(f) giving collective protective measures priority over individual protective measures; and

(g) the provision of appropriate and relevant information and instruction for workers.

4.2 Following these principles, risk assessment forms the basis of all safety measures.

4.3 Shipowners and employers are required to do what is “reasonably practicable” to ensure the health and safety of seafarers, workers and other persons. This means balancing the level of risk against the measures needed to control the real risk in terms of money, time or trouble. A particular course of action may not be required if it would be grossly disproportionate to the level of risk<sup>1</sup>. However, the greater the risk, the less weight will be given to the cost incurred to remove, avoid or mitigate it.

4.4 Within the broad duty of care to ensure health and safety, the following general duties are included:

(a) provision of and maintenance of safe plant, machinery and equipment; *See also the Merchant Shipping and Fishing Vessels (Provision and Use of Work Equipment) Regulations 2006 and MGN 352, and the Merchant Shipping and Fishing Vessels (Lifting Operations and Lifting Equipment) Regulations 2006 and MGN 351.*

(b) arrangements to ensure that articles and substances can be used, handled, stowed or transported safely; This includes hazardous substances. *See also the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Biological Agents) Regulations 2010 as amended, the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Chemical Agents) Regulations 2010 as amended, and the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Carcinogens and Mutagens) Regulations 2007 as amended.*

(c) provision of information, instruction, training and supervision as necessary to ensure the safety of workers and other persons on board ship; see also section 8 below.

(d) providing a safe working environment on board ship; this includes considering ambient risks and restricting access to certain hazardous areas on board to those who have received appropriate instruction or training; *See also the Merchant Shipping and Fishing Vessels (Control of Noise at Work) Regulations 2007 as amended, the Merchant Shipping and Fishing Vessels (Control of Vibration at Work) Regulations 2007, the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Work at Height) Regulations 2010 and the Merchant Shipping and Fishing Vessels (Entry into Dangerous Spaces) Regulations 1988.*

(e) collaboration with other employers and with the Company to protect authorised persons on board or engaged in loading or unloading activities in relation to the ship. (See section 8)

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<sup>1</sup> <https://www.hse.gov.uk/risk/evaluate-the-risks.htm>



## **5. Health and Safety Policy (Reg 6)**

- 5.1 Each employer is required to produce a written statement of each employer's general policy with regard to health and safety, and the arrangements and organisation in place for carrying out that policy. The statement must be brought to the attention of that employer's workers. A joint statement of policy may be produced by associated employers.

### Associated employers

For these purposes any two employers shall be treated as associated if—

- (h) one is a company of which the other (directly or indirectly) has control, or  
(i) both are companies of which a third person (directly or indirectly) has control; and  
“associated employer” shall be construed accordingly.

## **6. Risk Assessment (Reg 7)**

- 6.1 Health and safety measures must be based on the findings of risk assessment. A risk assessment involves

- identification of hazards;
- an assessment of the likelihood of harm occurring;
- an assessment of the consequences;
- identification of safety measures to reduce the risks as far as is reasonably practicable.

- 6.2 There is no explicit requirement for a risk assessment to be written down. However, seafarers and workers should be consulted when preparing risk assessments and must be informed of the results. The risk assessment must be reviewed regularly and after any significant change in practices or circumstances. A written record will assist in this process. A written risk assessment also provides evidence of compliance with this requirement.

- 6.3 A risk assessment must in particular consider any risks to new or expectant mothers due to their particular risk profile (MGN 522(M+F)), and to young persons (see MSN 1838(M)) and temporary workers, who may not have as good an appreciation of risks and knowledge of safety measures as permanent staff.

- 6.4 Guidance on risk assessment, and simple model formats, are included in Chapter 1 of the Code of Safe Working Practices for Merchant Seafarers.

## **7. Health Surveillance (Reg 11)**

- 7.1 Employed workers must be provided with health surveillance where the risk assessment carried out under regulation 7 identifies that this is appropriate i.e. their work poses a risk to their health. There are specific examples under other health and safety legislation, for example under the Merchant Shipping and Fishing Vessels (Control of Noise at Work) Regulations 2007, and the Merchant Shipping and Fishing Vessels (Health and Safety) (Biological Agents) Regulations 2010. (This is an additional and separate requirement to the statutory requirement for a seafarers' medical examination, which certifies the seafarer medically fit to work at sea.)

- 7.2 Further guidance on health surveillance is in Chapter 7 of the Code of Safe Working Practices for Merchant Seafarers.

## **8. Capabilities and Training (Reg 12)**

- 8.1 Seafarers and workers must have adequate and appropriate health and safety training and instruction for the work that they are required to do. Before giving a task to a person, their



capabilities should be considered, to determine whether any additional training or instruction is needed to ensure their health and safety. This is relevant in particular where they are assigned to new duties or given a change of responsibilities, or when new or altered equipment, technology or shipboard practices are introduced.

- 8.2 Training should be repeated periodically if there is a risk that the individual will forget the training they have had and should be updated where appropriate to reflect any changes. Health and safety training must take place during working time.
- 8.3 Where seafarers or contractors are employed on a temporary basis, the agency employing them must be provided with information about
- 8.3.1 the occupational qualifications required for the role to enable them to carry out their work safely;
  - 8.3.2 any specific features of the job which may affect their health and safety; and
  - 8.3.3 any health surveillance required under these or similar regulations.
- 8.4 The agency employing them must ensure that the seafarers or contractors are given this information.
- 8.5 The shipowner and any employer has the same responsibilities for the health and safety of temporary staff as for permanent crew, and must assess the risks, and providing health and safety training, instruction or information.

## **9. Co-ordination duty of the company (Reg 13)**

- 9.1 Where there are seafarers or other workers on board a United Kingdom ship not employed by the Company, the Company must –
- (a) consult any other employer of those workers regarding the arrangements for health and safety on board;
  - (b) co-ordinate arrangements for the protection of all workers and the prevention of risk to their health and safety; and
  - (c) ensure that all seafarers and other workers are informed of the significant and relevant findings of the Company's risk assessment, and of other employers' risk assessments, and of the arrangements for their protection.
- 9.2 Employment relationships on board ship can be complex with several different employers as well as, or other than, the Company each employing workers on board.
- 9.3 Under the general duties discussed in section 3 of this MGN, each employer has a duty to ensure the health and safety of workers and other persons affected by their undertaking. This additional duty of co-ordination means that, in so far as the Company's "undertaking" is the operation of the ship, as well as carrying out risk assessments and putting in place remedial measures for its own workers, it has a duty to assess the risks to others affected by its activities.
- 9.4 The Company must also co-ordinate the control measures identified in the risk assessments of all other relevant employers on board, as appropriate. To a large extent this should be covered by the safety management system on board, but it may also mean ensuring that contractors and sub-contractors have conducted adequate risk assessments, consulting them about the risks they have identified and whether these may affect the health and safety of other people on board; informing them of any significant risks to the contracted staff arising from the ship as a workplace, or from the activities of other workers on board, and of the measures put in place for their protection.
- 9.5 As workers themselves, the master and the crew also have a responsibility to report any safety concerns (see section 10), and they should be encouraged to do so where such concerns arise



from the activities of contractors or sub-contractors as well as any deficiencies of on-board equipment or procedures relating to their own duties.

## **10. Safety Officials and other consultation with workers (Regs 14-20)**

- 10.1 On all seagoing ships on which there are five or more seafarers, other than fishing vessels, a safety officer must be appointed. The safety officer should be provided with sufficient resources to carry out their role effectively, including training. It is not advisable for either the Master or the officer with responsibility for medical care on board to be the ship's safety officer. A ship's safety officer training course accredited in line with MNTB course criteria is recognised by the MCA. Information and guidance on the duties of a safety officer are contained in Chapter 13 of the Code of Safe Working Practices for Merchant Seafarers.
- 10.2 On all seagoing ships on which there are five or more seafarers, a safety committee must be established. The Committee should consist of the master, the safety officer and any other representatives appointed or elected. Representatives should cover all departments on board. The Company must also have rules for the election of safety representatives, who must have at least 2 years of sea service since reaching the age of 18 years. To serve as a safety representative on board a tanker, a safety representative must have at least six months service on board a tanker within their two years sea service. Safety representatives must be given enough time off from their normal duties without loss of pay, and adequate access to safety information and accident records on board to perform their functions effectively. Training for safety representatives is important so that they understand their role, their powers and their duties. Further guidance is in Chapter 13 of the Code of Safe Working Practices for Merchant Seafarers.
- 10.3 In addition, there is provision for consultation with workers where the election of safety representatives does not apply (i.e. merchant vessels on which fewer than 5 workers are employed). No rules are laid down for consultation in these circumstances, as this will best be decided in the light of the operating patterns and crewing arrangements on the vessel. However, it is good practice to keep a record of consultation and decisions made in response to issues raised by seafarers.

## **11. Duties of seafarers and workers (reg 21)**

- 11.1 Workers are required to:
- take reasonable care for their own health and safety and that of others on board who may be affected by their acts or omissions;
  - co-operate with anyone else carrying out health and safety duties - including compliance with control measures identified during the employer's or Company's evaluation of risk;
  - report any identified serious hazards or deficiencies immediately to the appropriate officer or other authorised person;
  - make proper use of plant and machinery and treat any hazard to health or safety (such as a dangerous substance) with due caution.
- 11.2 Under the Regulations, it is also an offence for **any** person intentionally or recklessly to interfere with or misuse anything provided in the interests of health and safety.

## **12. Prohibition of levy (Reg 22)**

- 12.1 Workers may not be charged for any item or other provision made under these Regulations. That means that health and safety training, safety equipment including personal protective equipment or other measures necessary for workers' health and safety must be provided free of charge.



## More Information

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**Merchant Shipping Health and Safety Regulations containing duties in respect of workers which extend to all seafarers**

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

The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Asbestos) Regulations 2010

The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Work at Height) Regulations 2010

The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Chemical Agents) Regulations 2010

The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Biological Agents) Regulations 2010

The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Carcinogens and Mutagens) Regulations 2007

The Merchant Shipping and Fishing Vessels (Control of Vibration at Work) Regulations 2007

The Merchant Shipping and Fishing Vessels (Control of Noise at Work) Regulations 2007

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

The Merchant Shipping and Fishing Vessels (Provision and Use of Work Equipment) Regulations 2006

The Merchant Shipping and Fishing Vessels (Safety Signs and Signals) Regulations 2001

The Merchant Shipping and Fishing Vessels (Personal Protective Equipment) Regulations 1999

The Merchant Shipping and Fishing Vessels (Manual Handling Operations) Regulations 1998

The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Employment of Young Persons) Regulations 1998

