

SECTION 14

TITLE 1.1 MINIMUM AGE

Introduction

15.1 This section seeks your views on the Maritime and Coastguard Agency's (MCA) proposals for the new Regulations to give effect to the provisions of Regulation 1.1 and Standard A1.1 of the ILO Maritime Labour Convention 2006 (MLC) relating to the employment of young persons as seafarers on seagoing ships.

The current provisions relating to young persons are set out in:

- s55 and particularly 55(1)(A) of the Merchant Shipping Act 1995 (minimum age for seafarers) . *A copy of the Merchant Shipping Act 1995 can be found on the UK Government legislation website at www.legislation.gov.uk/ukpga/1995/21/introduction*
- the Merchant Shipping and Fishing Vessels (Health and Safety at Work)(Employment of Young Persons) Regulations 1998 (SI 1998/2411) – for health and safety protection for young persons; *A copy of the Regulations can be found on the UK Government legislation website at: www.legislation.gov.uk/uksi/1998/2411/made*
- the Merchant Shipping (Hours of Work) Regulations 2002 (S.I. 2002/2125) for prohibition on night work. *A copy of these Regulations can be found on the UK Government legislation website at: www.legislation.gov.uk/uksi/2002/2125/contents/made*

15.2 The proposed Merchant Shipping (Maritime Labour Convention) (Minimum Age) Regulations 20XX (the "Minimum Age Regulations 20XX) would amend or replace the current legislation so that the requirements of Title 1.1 are fully implemented. S55, and the unamended 1998 regulations will remain in place for non-MLC ships

Application

15.3 The following changes will be made to the application of UK legislation

15.3.1 The Merchant Shipping Act 1995, Section 55(1A) (minimum age) applies to all United Kingdom merchant ships, but not to government ships. It prohibits those under the age of 16 being employed on a sea-going ship. The new Minimum Age Regulations would apply the minimum age of 16 years for seafarers to all ships ordinarily engaged in commercial operations – including government ships - in line with the minimum requirements of the MLC. The minimum age would apply regardless of whether a person is employed or working as a self-employed person.

15.3.2 The Merchant Shipping (Hours of Work) Regulations 2002, which contain a prohibition on night work for those under 18 years, apply to employed persons on merchant ships. That prohibition would be revoked and replaced by a provision in the Minimum Age Regulations extending that prohibition to government ships as well and to seafarers whether they are employed or self-employed.

15.3.3 The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Employment of Young Persons) Regulations 1998, provide protection for workers under the age of 18 years on the basis of a risk assessment. "Worker" is defined as any person employed by an employer under a contract of employment, including trainees or apprentices. Those regulations are being amended by other MLC-related legislation¹ so as to extend the protection owed to employed workers to all seafarers (including the self-employed). The regulations therefore apply to

¹ See draft regulation 13 of the Merchant Shipping (Maritime Labour Convention)(Health and Safety) Regulations – MLC Title 4.3

employed or self-employed young persons on all ships, including government ships and to employed workers on fishing vessels Their requirements continue to apply in order to ensure that young persons do not do work likely to jeopardise their health or safety.

15.4 Whilst the UK is not applying the MLC itself to ships operating on domestic voyages of no more than 60 miles from a safe haven in the United Kingdom, the changes introduced by these Regulations are not considered to introduce new burdens for shipowners as it is understood they represent normal practice on most ships, and so in the interests of consistency and to avoid confusion for both shipowners and seafarers, we propose that these regulations should apply to all sea-going merchant ships, including those operating within the 60 mile limit above.

N.B. The new Minimum Age Regulations would **NOT** apply to fishing vessels, ships of traditional build, warships, naval auxiliaries or pleasure vessels.

Consultees are invited to comment on any elements of the proposed regulations which would not be appropriate where they apply to vessels on domestic voyages, with evidence of any unreasonable costs or burdens.

Summary of Provisions

15.5 Regulation 1.1 and Standard A1.1 of the Maritime Labour Convention 2006 revise the international requirements on the minimum age and the protection of young seafarers. In the main these requirements are already covered by existing UK legislation.

15.6 There are however some areas where changes will be required to the existing legislation in order to give effect to the revised MLC requirements. These are the requirements:

(i) Minimum Age

The MLC requires that no-one under the minimum age set by the MLC should be allowed to work in any capacity on a ship to which the Convention applies; the minimum age under the MLC is 16 years;

The proposed regulations (Regulation 8) will prohibit any person under the age of 16 from being employed or working on sea-going ships which operate commercially. (For such ships this effectively supersedes section 55(1A) of the Merchant Shipping Act 1995 – see above)

Those working on fishing vessels and inland waterways will remain under the scope of section 55(1) which prohibits those under school leaving age being employed on sea-going ships. Those provisions will be kept under review.

(ii) Protection for those under 18 years of age

The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Employment of Young Persons) Regulations 1998 continue in force. Their effect is that those under the age of 18 are not be allowed to carry out certain types of work which may jeopardise their health or safety. The relevant types of work will be set out in the Merchant Shipping Notice, which forms part of this consultation package. This list has been updated from the list included in Marine Guidance Notice 88(M+F), which will be re-issued for FVs and IW vessels only, in discussion with representatives of shipowners and seafarers through the MLC Tripartite Working Group, but under the proposed regulations will have mandatory status.

The Annex to the MSN sets out areas of work which involve risk to young persons and sets out mitigating measures to be applied. In most cases, training and supervision are essential.

In addition to the types of work set out in the Annex to the draft MSN, the following specific roles where a minimum age of greater than 16 years is set under international legislation or UK provisions are noted:

- operation of lifting equipment/cargo-handling appliance [ILO 152 – Article 38]
- ship's cook [minimum age of 20 years under the ILO Certification of Ship's Cooks Convention 1946 No. 69, changing to 18 years following formal training under the Maritime Labour Convention]
- Navigational Watch Certificate – 17 years
- Operation of laundry equipment (Code of Safe Working Practices for Merchant Seamen Section 20.12.1) – unless fully trained and if necessary supervised by a competent person;
- Operating of catering equipment with hazardous moving parts (Code of Safe Working Practices for Merchant Seamen Section 14.7.6) – unless properly supervised.

By virtue of the minimum age for working at sea, and the amount of sea-service required, there are also effective limits on when a seafarer can reach certain levels of responsibility on board.

If there are other roles or types of work where you think for safety reasons the MCA should consider setting a minimum age (normally 18 years), please provide details with supporting evidence.

(iii) Prohibition of night work for those under 18 years.

The MLC requires that those under the age of 18 should not to carry out work at night. Exceptions may be permitted by the competent authority in certain circumstances.

Although the Merchant Shipping (Hours of Work) Regulations 2002 (“the 2002 Regulations”) include a prohibition on night work for those under the age of 18, its scope does not fully reflect the MLC requirements or scope for exceptions. Therefore that provision (regulation 10) would be revoked and superseded by regulation 9 of the proposed Minimum Age Regulations applying to all ships and seafarers subject to the Convention.

Under the proposed Regulations, night work for under 18s on these ships will be prohibited:

- (i) except where night work is part of an established training regime; or
- (ii) except where the specific nature of the duty requires night work and it is agreed, after consultation with the social partners, that it is not detrimental to the young person's health and safety

The circumstances where such exceptions would be allowed will be specified in the merchant shipping notice which forms part of this consultation package. All night work required as part of officer training will fall under this exception.

INVITATION TO COMMENT

15.7 Your comments are invited on the proposed regulations, supporting MSN on the employment of young persons, and the draft impact assessment .

Draft Regulations and Merchant Shipping Notice

- Do you consider that, as drafted the proposed Merchant Shipping (Maritime Labour Convention) (Minimum Age) Regulations 201* , together with the supporting Merchant Shipping Notice, adequately cover the requirements of Regulation 1.1 and Standard A1.1 and where appropriate Guideline B1.1 of the Maritime Labour Convention. If not, it would be appreciated if you would indicate where any why you consider the requirements are not appropriately covered.

- Do you consider that the draft Merchant Shipping Notice provides adequate and appropriate information/guidance on the requirements of the Minimum Age Regulations? Should you consider amended, additional or different information/guidance would be helpful, it would be appreciated if you could please provide specific suggestions and details how you consider this could be achieved.

Draft Impact Assessment

- In producing the Impact Assessment in support of this consultation, we have sought to identify any possible costs and benefits likely to arise from the introduction of the proposed Minimum Age Regulations.
- Do you agree with the conclusions of the IA in respect of costs?
- Do you foresee any potential benefits to you or to seafarers as a result of the introduction of the proposed Minimum Age Regulations? If any benefits are envisaged it would be appreciated if these could be identified and costed in order that more detailed information can be included in the final impact assessment.

MCA's view, supported by discussions with industry through the TWG and the National Maritime Occupational Health and Safety Committee, are that there will be no changes to current costs or benefits as a result of these regulations, but we would welcome confirmation that this is indeed the case. In the event that you consider costs or benefits are likely to change we would welcome your comments together with any costing that is available.