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## **The Merchant Shipping and Fishing Vessels (Control of Noise at Work) Regulations 2007 - Procedure for Seeking Exemptions**

**Notice to all Ship and Fishing vessel owners, Operators and Managers, other employers of seafarers; Masters, Officers and Ratings of Merchant Ships; Skippers and Crew of Fishing Vessels, Small commercially operated vessels and Yachts with paid Crew.**

*This notice should be read in conjunction with MGN 352 (M+F) The Merchant Shipping and Fishing Vessel (Control of Noise at Work) Regulations 2007 and MGN 20 (M+F) The Merchant Shipping and Fishing Vessel (Health and Safety at Work) Regulations 1997*

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**PLEASE NOTE:-**

Where this document provides guidance on the law it should not be regarded as definitive. The way the law applies to any particular case can vary according to circumstances - for example, from vessel to vessel and you should consider seeking independent legal advice if you are unsure of your own legal position.

**Summary**

This Marine Guidance note provides guidance on, and sets out the procedure for obtaining an exemption from the requirements of the Merchant Shipping and Fishing Vessel (Control of Noise at Work) Regulations 2007.

### **1. Introduction/ Background**

1.1 The Merchant Shipping and Fishing Vessel (Control of Noise at work) Regulations 2007 are intended to protect workers from the harmful effects of noise. Specifically Regulation 13 allows for an exemption to be granted by the MCA from the following requirements of the regulations.

1.1.1 The requirement that the employer shall ensure that workers are not exposed to noise levels exceeding the exposure levels detailed below;

Exposure limit values and exposure action values

<b>The lower exposure action values ;</b>
(a) a daily or weekly personal noise exposure of 80dB (A-weighted); and
(b) a peak sound pressure of 135 dB (C-weighted)
<b>The upper exposure action values;</b>
(a) a daily or weekly personal noise exposure of 85dB (A-weighted); and
(b) a peak sound pressure of 137dB (C-weighted)
<b>The exposure limit values;</b>
(a) a daily or weekly personal noise exposure of 87dB (A-weighted) and;
(b) a peak sound pressure of 140dB (C-weighted)

1.1.2 The requirement that following implementation of the organisational and technical measures taken in accordance with Reg 2 of the regulations; if exposure above the exposure limit value are detected, the employer shall:-

- (a) take such action as is necessary to reduce exposure to noise below the exposure limit value;
- (b) identify the reasons why the limit has been exceeded; and
- (c) amend the measures taken in accordance with paragraph (2) to ensure that the limit is not exceeded again.

1.1.3 The requirement is without prejudice to the legal requirements in respect of risk assessment, that the employer will make personal hearing protectors available to any worker who is likely to be exposed to noise above a lower exposure action value, and that as reasonably practicable the same provision of hearing protectors would also be made to workers exposed to noise which is at, or above an upper exposure action value.

1.2 The MCA may only grant such an exemption from the above requirements in respect of work on a particular ship, where, because of the nature of the work, the full and proper use of personal hearing protectors would be likely to cause greater risk to health and safety, than not using such protectors - for example; if it impairs the necessary communication between workers.

**2. Conditions for seeking exemptions**

2.1 In order that exemptions may be considered by the MCA, the applicant must first ensure the following conditions are met;

- (a) The employer or the person having control of the matter in question must make the application
- (b) Ensure that the exemption requested has received due consideration by a relevant and appropriate medical body, institution or qualified person, this can be an occupational physician, specialist consultant or institution with appropriate expertise.
- (c) That the application for exemption from the requirement has been made following consultation with the workers concerned, or their representatives.
- (d) The application for exemption will need to include details of the conditions which guarantee, taking in to account the special circumstances, that the resulting risks are reduced to as low as reasonably practicable

2.2 The MCA will also need to be satisfied that the applicant has taken the necessary and appropriate steps to increase the health surveillance for the workers concerned.

### **3. Submitting an Exemption Application**

3.1 The application must be made in writing; a suggested format is provided for reference or to use as a template in Annex A of this guidance, and then sent together with any additional supporting and relevant information to the nearest MCA Marine Office and copied to Customer Service Manager (if applicable).

3.2 Your application will need to cover the following areas;

- Detail the work procedure the exemption is sought for; you will need to provide information on the workers affected, equipment used, including frequency and length of use.
- Steps taken to comply with the regulations to include detailed risk assessment
- Safety case for which the application is being sought. What are the Health and Safety implications of complying with the regulations?
- Health Surveillance/Risk Management – Detail what steps will be taken to monitor the safety of the workers concerned and the steps you are taking to reduce the risks
- You may wish to use qualified advice (such as from an occupational physician) to support your case.

3.3 Exemptions may only be granted for a maximum period of four years, and may be withdrawn by the Secretary of State if he is satisfied that the exemption is no longer justified.

### **4 Additional reading**

4.3 The MCA has produced a Code of Practice for Controlling Risks due to Noise on Ships and provides practical advice on the practical implementation of The Merchant Shipping and Fishing Vessel (Noise at Work) Regulations 2007.

4.4 The Code may be purchased from the Stationery Office Order line on 0870 600 5533 quoting the ISBN No.978-0-11-553075-3.

## More Information

Seafarer Safety and Health Branch  
Maritime and Coastguard Agency  
Bay 1/29  
Spring Place  
105 Commercial Road  
Southampton  
SO15 1EG

Tel : +44 (0) 23 8032 9328  
Fax : +44 (0) 23 8032 9251  
e-mail: seafarer.s&h@mcga.gov.uk

General Inquiries: [infoline@mcga.gov.uk](mailto:infoline@mcga.gov.uk)

MCA Website Address: [www.mcga.gov.uk](http://www.mcga.gov.uk)

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telephone numbers are correct at time of publishing

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***Safer Lives, Safer Ships, Cleaner Seas***

*An executive agency of the  
Department for  
**Transport***

## CONTROL OF NOISE AT WORK - APPLICATION FOR EXEMPTION

This request is submitted to the Maritime & Coastguard Agency for consideration in granting an exemption under the Merchant Shipping and Fishing Vessels (Control of Noise at Work) Regulations 2007.

\*An exemption is sought under the requirements of regulation(s) [7(4)]\_ [7(5)] \_\_and [8(1)]\_ and [8(2)]\_ and in accordance with Reg 13 of the regulations.

*\*tick as appropriate .*

*Please send your completed application and supporting documentation to your nearest Marine Office :*

[www.dft.gov.uk/mca](http://www.dft.gov.uk/mca)

Applicant Details :		Ship Details :	
Name		Name	
Position	IMO No.:	Type :	
	Official No.:		
Address :			
Tel :			
Email :			
<b>Work Procedure:</b> <i>Detail where the work procedure takes place, the equipment used, the number of personnel involved, the frequency of the activity and exposure readings.</i>			
<b>Risk Assessment:</b> <i>Detail the measures that have been taken to comply with the regulations, and why it is not possible to comply with the regulatory requirements.</i>			
<b>Health and Safety Implications of complying:</b> <i>Explain how compliance with the regulations impinges on the health and safety of those workers involved in the work practice identified in 3 above</i>			

**Health Surveillance/Risk Management:** *Detail what steps will be taken to monitor the safety of the workers concerned and the steps you are taking to reduce the risks to workers as a result of the exemption being approved.*

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**Details of supporting documentation to this application:** *Please list any documents you have enclosed with this application*

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<b>Seafarer's representative:</b>		
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Name:

Address:

Tel:

Email:

Signature:	Date:
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**MCA Comments** (if appropriate)

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Name	Date	Exemption Approved Yes /No Delete as appropriate
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