



Maritime and Coastguard Agency

MARINE GUIDANCE NOTE

## MGN 409 (M+F)

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

**Notice to all Ship, Yacht and Fishing Vessel Owners, Operators and Managers and other employers of seafarers; Masters, Officers and Seafarers on Merchant Ships and Yachts; and Skippers and Crew of Fishing Vessels, Small Commercially Operated Vessels and Yachts with paid crew**

*This note should be read in conjunction with Marine Guidance Note MGN 20, which provides details of, and guidance on, the Merchant Shipping and Fishing Vessels (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 the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Chemical Agents) Regulations 2010. Chemical agents can take many forms and can cause varying degrees of harm. The Regulations require employers to take account of the risks to workers of exposure to such agents when carrying out health and safety risk assessments.

## **1. INTRODUCTION**

- 1.1 The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Chemical Agents) Regulations 2010 (SI 2010/330) (the "Chemical Agents Regulations") which come into force on 6 April 2010, implement EC Directive 98/24/EC (the "Chemical Agents Directive"), as supplemented by Directives 2000/39/EC and 2006/15/EC. They introduced requirements for the protection of workers from the risks related to exposure to hazardous chemical agents at work. The Health and Safety Executive (HSE) and the Health and Safety Executive for Northern Ireland (HSE(NI)) have already implemented the Chemical Agents Directive for land-based workers, largely through the Control of Substances Hazardous to Health Regulations 2002 (as amended) and the Control of Substances Hazardous to Health Regulations (Northern Ireland) 2003 (as amended) respectively. The new Chemical Agents Regulations complete UK implementation by extending the requirements of the Chemical Agents Directive to workers on ships,

including fishing vessels, yachts and other small vessel of all types with workers on board, including those operating on inland waters.

- 1.2 The Chemical Agents Directive is a "daughter Directive" of Directive 89/391/EEC (the "Framework Directive"), which introduced measures to encourage improvements in the safety and health of workers at work. The Framework Directive was implemented for the maritime sector in the UK by the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 (SI 1997/2962) (as amended) (the "General Duties Regulations"). The effect of the new Regulations is that the employer's risk assessment under Regulation 7 of the General Duties Regulations must now include more detailed consideration of whether any risks to workers exist or could arise from exposure to hazardous chemical agents at work. If such risks are identified, appropriate measures must be taken.
- 1.3 As the Chemical Agents Directive covers a significant number of chemical agents, this MGN cannot hope to address every possible situation where exposure to such agents could occur. What it does therefore is seek to provide guidance of a more general nature which it is hoped will assist employers in identifying, by means of risk assessments, whether any risks exist, or might potentially arise, which could have an adverse effect on the health and safety of workers. Where such risks are identified it is for the employer to take appropriate measures to either remove those risks entirely or, where that is not possible, reduce them as far as is reasonably practicable.

## **2. CHEMICAL AGENTS AND RELEVANCE TO SHIPPING**

- 2.1 The Chemical Agents Regulations do not automatically apply to every vessel except insofar as regulation 6 of those Regulations extends the requirement for employers to undertake a risk assessment, contained in regulation 7 of the General Duties Regulations, to determine whether there is a risk to workers as a result of exposure, or potential exposure, to chemical agents at work. Should the risk assessment show that there is no risk, or potential risk, of such exposure then no further action is likely to be required of the employer. If however the risk assessment does identify actual or potential risks of exposure then the provisions of the Chemical Agents Regulations will apply. Regard should however be had to the derogations referred to in paragraphs 4.2 and 4.3 below.
- 2.2 For the purposes of the Chemical Agents Regulations, a chemical agent means any chemical element or compound, on its own or admixed, as it occurs in the natural state or as produced, used or released, including release as waste, by any work activity, whether or not produced intentionally and whether or not placed on the market. In addition the Chemical Agents Regulations define a "hazardous chemical agent" as:-
  - (a) any chemical agent which meets the criteria for classification as a dangerous substance according to the criteria in Annex VI to Council Directive 67/548/EEC on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances, whether or not that substance is classified under that Directive, other than those substances which only meet the criteria for classification as dangerous for the environment;
  - (b) any chemical agent which meets the criteria for classification as a dangerous preparation within the meaning of Council Directive 88/379/EEC on the approximation of laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations whether or not that preparation is classified under that Directive, other than those preparations which only meet the criteria for classification as dangerous for the environment;

- (c) any chemical agent which, whilst not meeting the criteria for classification as dangerous in accordance with subparagraphs (a) and (b), may, because of its physico-chemical, chemical or toxicological properties and the way in which it is used or is present on a ship, present a risk to the health and safety of workers, including any chemical agent assigned an occupational exposure limit value under Article 3 of the Directive.

2.3 In the above context, a hazardous chemical agent effectively means any chemical element or compound with the potential to cause harm if inhaled, ingested or by coming into contact with or absorbed through the skin and could potentially include chemical substances such as paints, cleaning materials, fumigants and pesticides, for example. However the definition of “hazardous chemical agent” used in the Regulations is far wider ranging than this in so far as it relates to all agents listed in Annex VI to Directive 67/548/EEC and Directive 88/379/EEC. Whilst these Directives are available for downloading from the EUR-LEX website at [http://eur-lex.europa.eu/RECH\\_naturel.do](http://eur-lex.europa.eu/RECH_naturel.do), it should be noted that many changes have occurred over the years and a more sensible approach would be to refer to HSE’s Chemicals (Hazard Information and Packaging for Supply) Regulations 2002 (SI 2002/1689), (often referred to as the CHIP Regulations) supported by their “Approved Supply List” and their “Approved Classification and Labelling Guide” as these cover the provisions of Directives 67/548/EEC and 88/379/EEC for land based workers. A copy of the CHIP Regulations can be found on the Office of Public Sector Information website at [www.opsi.gov.uk](http://www.opsi.gov.uk), and copies of the Approved Classification and Labelling Guide can be obtained from HSE Books, PO Box 1999, Sudbury, Suffolk CO10 2WA. Tel: 01787 881165, Fax: 01787 313995, email: [hsebooks@prolog.uk.com](mailto:hsebooks@prolog.uk.com).

### **3. MEANING OF “WORKER” (Regulation 3)**

3.1 The Chemical Agents Regulations, like the General Duties Regulations and other Health and Safety Regulations currently in force, apply to all persons employed on board any vessel, including employed trainees or apprentices, irrespective of whether or not the vessel goes to sea or only operates on inland waters. However like those previous Regulations, the provisions of the Chemical Agents Regulations are disapplied in respect of persons who are onboard sailing vessels, operating under an MCA Code of Practice, solely for the purpose of receiving instruction in the principles of responsibility, resourcefulness, loyalty and team endeavour and to advance education in the art of seamanship or for the purpose of receiving instruction in navigation and seamanship for yachtsmen. The reasoning behind this is that such persons are clearly not workers for the purposes of the Directive as they are not employed and do not receive a wage for the time spent on the vessel. However notwithstanding this, there is a general obligation placed on employers by regulation 5(1) of the General Duties Regulations to ensure the health and safety of all persons on board, so far as is reasonably practicable, irrespective of whether or not they are workers.

### **4. APPLICATION (Regulation 4)**

4.1 As with the General Duties Regulations, and previous health and safety regulations, the Chemical Agents Regulations apply to all activities of workers on UK registered vessels and Government ships (other than Royal Navy vessels) wherever they are in the world and certain provisions also apply to non-UK ships in UK waters. The Regulations apply to all types of commercially operated vessels, including fishing vessels, yachts and vessels operating only on inland waters, on which workers are employed.

4.2 Regulation 4(2) does however provide for a limited derogation from the requirements of the Chemical Agents Regulations in respect of vessels undertaking public service or

civil protection activities where because of characteristics peculiar to the activity being undertaken, full compliance with the requirement of the Chemical Agents Regulations is not possible. This derogation is aimed at activities such as rescue or enforcement and only applies to the specific provision(s) of the Chemical Agents Regulations with which compliance is not possible and only for the length of time compliance is not possible. Even then the health and safety of those on board who are affected as a result of the application of the derogation must be safeguarded as far as is reasonably practicable. All remaining provisions of the Chemical Agents Regulations, with which compliance remains possible, will continue to apply in full and full compliance with all the requirements of the Regulations will be required as soon as the activity concerned is no longer being undertaken. In this context “activity” is considered to refer to specific occasions on which an activity is undertaken and not to an ongoing period during which such activities might periodically occur.

- 4.3 For the purposes of the derogation referred to in paragraph 4.2 above, “Public service activities” covers the activities of the armed forces, HM Coastguard, HM Revenue and Customs, immigration officers, police, prison officers, the security and intelligence services and similar organisations. **NOTE - Ferries, whether operated by a public body or not, are not covered by the “Public service activities” derogation.** “Civil protection services” covers the fire and rescue, ambulance, and search and rescue services. This derogation also applies to any vessel engaged in search and rescue activities when answering a distress call or when requested to do so by HM Coastguard or the appropriate authority of another state.

## 5. APPLICATION OF RELATED LEGISLATION (Regulation 5)

- 5.1 The provisions of the General Duties Regulations remain fully in force and apply to all work involving potential exposure to Chemical Agents except where the Chemical Agents Regulations have introduced more stringent requirements. In such circumstances the more stringent requirements of the Chemical Agents Regulations will apply. Similarly where any more stringent or specific provision relating to the transport of hazardous chemical agents by water is contained in the IMDG Code, the IBC Code, or the IGC Code, that provision will apply instead of the relevant provision contained in the General Duties Regulations or the Chemical Agents Regulations
- 5.2 It is an EC requirement that all Directives are implemented in full by means of legislation otherwise the Member State concerned could face infraction proceedings. For that reason the Chemical Agents Regulations have to cover every provision of the Directive in the Chemical Agents Regulations even where it is considered that such a provision is unlikely to have any direct UK relevance. Such is the case with Regulation 5(2)(c) which provides that the provisions of the Chemical Agents Regulations will apply without prejudice to any more stringent or specific provisions contained in the European Agreement concerning the International Carriage of Dangerous Goods by Inland Waters) and of the Regulation for the Carriage of Dangerous Substances on the Rhine.
- 5.3 In line with previous maritime health and safety regulations, the provisions of the Chemical Agents Regulations do not apply to land-based workers (including contractors, stevedores and other port workers, for example) to whom HSE’s Control of Substances Hazardous to Health Regulations 2002 (as amended) or HSE (Northern Ireland)’s Control of Substances Hazardous to Health Regulations (Northern Ireland) 2003 (as amended) apply. However the HSE Regulations only apply within UK waters or to UK offshore installations. Should a land-based worker be on a vessel when it goes outside UK limits, the HSE Regulations will cease to apply and the maritime Regulations will then apply to that worker.

5.4 In so far as ships, fishing vessels and other marine craft are concerned, it should be noted that the HSE Control of Substances Hazardous to Health Regulations (COSHH) are only disappplied to the master or crew of a ship or to the employer of such persons in respect of the normal shipboard activities of a ship's crew which:-

- (a) are carried out solely under the direction of the master; and
- (b) are not liable to expose persons other than the master and crew to a risk to their health and safety.

In the light of this there is potential for ships and their crew to fall under HSE's COSHH Regulations in certain circumstances when in UK ports. In this context it is however understood that many employers already comply with HSE's COSHH Regulations and such compliance is likely to fully meet the requirements of the maritime Chemical Agents Regulations. Those employers who do not meet the COSHH requirements but who believe there might be circumstances in which COSHH will apply to them, may wish to address this issue.

## **6. ASSESSMENT OF HEALTH RISKS (Regulation 6)**

6.1 Regulation 7 of the General Duties Regulations requires employers to undertake a general assessment of the risks to their workers arising from the work they are undertaking. This general requirement has subsequently been added to by additional Health and Safety Regulations which have implemented "daughter Directives" to the Framework Directive. The purpose of these daughter Directives, and the regulations implementing them, is to introduce more specific requirements in respect of substances or work practices that are considered to pose particular risks to the health and safety of workers. This is the case with the Chemical Agents Directive and the Chemical Agents Regulations therefore build on the requirements of the General Duties Regulations by requiring that risk assessments establish whether the possibility of exposure to chemical agents exists and, if so, what category such agents fall into, who is at risk from them and, what the potential exposure to such agents is likely to be.

6.2 Exposure to a chemical agent could potentially occur on virtually every type of vessel as chemicals are present around us, in some form or another, throughout our lives. Common salt for example is a chemical but in the main, when taken in small amounts, it is relatively harmless however the same may not necessary be the case for chemicals used for cleaning, disinfection or sewage or water treatment. At the other end of the scale are vessels carrying hazardous cargoes especially chemical tankers although such vessels may already be covered by virtue of the provisions of the IMDG Code, the IBC Code, or the IGC Code. These Codes have existed for some time and are readily available so it is not proposed to go over their requirements in this Marine Guidance Note, the purpose of which is to provide more general guidance on the provisions of the Chemical agents Directive.

## **7 GENERAL PRINCIPLES FOR PREVENTION OF RISKS (Regulation 7)**

7.1. Where the employer's risk assessment reveals an actual or potential risk to workers' health and safety from chemical agents, the initial course of action in eliminating such risks is to ascertain if it is possible to remove the risk entirely by eliminating the use of such agents on the vessel. If it is, and a further risk assessment shows no residual risk, no further action will be required. If however it is not possible to eliminate the risk completely, the subsequent course of action should be to put in place appropriate measures, including those set out below, which will have the effect of reducing as far as is reasonably practicable the risks to a minimum:-

- (a) review the design and organisation of systems of work on the ship;

- (b) provide suitable equipment for work with chemical agents and introduce maintenance procedures which ensure the health and safety of workers at work;
- (c) reduce to a minimum the number of workers exposed or likely to be exposed;
- (d) reduce to a minimum the duration and intensity of exposure;
- (e) introduce appropriate hygiene measures;
- (f) reduce the quantity of chemical agents present on a ship to the minimum required for the type of work concerned;
- (g) introduce suitable working procedures, including arrangements for the safe handling, storage and transport on a ship of hazardous chemical agents and of waste containing such agents; and
- (h) take account of the results of any health surveillance under regulation 12 (see paragraph 12 of this MGN).

7.2 How far it is necessary to go to comply with the requirements set out in paragraph 7.1 will to a large extent depend on what chemical agents are used or are present on a vessel and the risks that have been identified as arising, or potentially arising, from their use or presence. In the simplest of cases a basic domestic cleaner may require no special measures or perhaps just the use of rubber gloves, a plastic apron and protective glasses to protect against splashes. At the other end of the scale far more stringent measures might be required where there is potential for exposure to hazardous chemicals carried as cargoes.

7.3 In deciding what measures need to be undertaken to meet the requirements of paragraph 7.1, in the simplest situation - e.g. use of domestic cleaners - all that may be required is to read, and comply, with the advice given on the packaging. Where that is not sufficient because it is known or suspected that the agent is hazardous, a safety data sheet should normally be available from the manufacturer which provides information on exposure controls and personal protection. Alternatively further advice should be sought from the manufacturer/supplier to enable the employer to make an informed decision about the measures to be taken.

7.4 Where the results of the risk assessment required by regulation 6 of the Chemical Agents Regulations show that, because of the quantities of a hazardous chemical agent present in the workplace, there is only a slight risk to the safety and health of workers, and the measures taken in accordance with paragraphs 7.1 and 7.2 above are sufficient to reduce that risk, the provisions of Regulations 8, 9 and 12 shall not apply. It should be noted, in this context, that the Directive does not define what is meant by "slight risk" however it does define risk as meaning the likelihood that the potential for harm will be attained under the conditions of use and/or exposure. In MCA's view "slight risk" should be construed as indicating that the conditions of use and/or exposure of any chemical agent will be such as to potentially result in either a low risk of exposure to that agent or that exposure to that agent will only have a slight effect on any worker who is exposed to it. e.g. exposure will only result in minor effects such as skin irritation, physical discomfort etc of a very short term duration, without the possibility of longer term or permanent effects.

## **8. SPECIFIC PROTECTION AND PREVENTION MEASURES (Regulation 8)**

8.1 Should the provisions of paragraph 7.4 above apply, compliance with the requirements of paragraphs 8.2. to 8.5 is not required.

- 8.2 Where despite the actions referred to in paragraph 7.1 above, the risk remains more than slight, the usual hierarchy of measures applies. This means avoiding the use of a hazardous chemical agent or if that is not possible replacing it with a chemical agent or process which is less hazardous. In addition appropriate prevention and protection measures should be taken including—
- (a) designing of appropriate work processes and engineering controls and using adequate equipment and materials to avoid or minimise the release of hazardous chemical agents which may present a risk to the health and safety of workers on the ship;
  - (b) the taking of appropriate collective protection measures at the source of the risk, such as adequate ventilation and appropriate organisational measures; and,
  - (c) where exposure cannot be prevented by other means, the use of individual protection measures including personal protective equipment.
- 8.3 The measures referred to in paragraphs 7.1, and 8.2 are to be accompanied by health surveillance (see section 12 below) where that is appropriate to the nature of the risk identified.
- 8.4 Where a risk still remains, despite the taking of the measures in paragraphs 8.2 - 8.3 above, the employer must measure each chemical agent present to ensure that the occupational exposure value for that agent has not been exceeded. For the UK these occupational exposure values are the national occupational exposure limit values contained in HSE publication EH40/2005 - Workplace Exposure Limits (as amended) published by the Health and Safety Executive and obtainable (in hard copy only) from HSE books. Such measurements are to be carried out regularly and in any event when any change occurs in the conditions which may affect workers' exposure to chemical agents.
- 8.5 Where a maximum occupational exposure limit value is found to have been exceeded, the employer must immediately take steps to remedy the situation by carrying out such preventative and protective measures as are necessary to reduce exposure below the occupational exposure limit value.

## **9. ACCIDENTS, INCIDENTS AND EMERGENCIES (Regulation 9)**

- 9.1 Should the provisions of paragraph 7.4 above apply, compliance with the provisions of paragraph 9.2 is not required.
- 9.2 Where despite the actions referred to in paragraph 7.1 above, the risk remains more than slight, the employer is required to put in place appropriate procedures to protect workers from the effects of any accident, incident or emergency related to the presence of hazardous chemical agents. Such procedures include:-
- (a) carrying out of relevant safety drills at not less than every six monthly intervals;
  - (b) providing appropriate first aid facilities;
  - (c) providing appropriate protective clothing, personal protective equipment, specialised safety equipment and plant to workers who are permitted to work in an affected area;
  - (d) providing appropriate warning and other communication systems —
    - i. to signal an increased risk to health and safety;
    - ii. to enable an appropriate response to be made; and

- iii. to enable remedial actions, assistance, escape and rescue operations to be launched immediately if necessary.

## **10. INFORMATION AND TRAINING FOR WORKERS (Regulation 10)**

- 10.1 Workers and/or their representatives are to be provided with information on the results of the risk assessment carried out by the employer and in addition, where the risk assessment has identified actual or potential risks from chemical agents : -
- (a) information on any hazardous chemical agents present on the ship including the identity of those agents, the risks to health and safety, relevant maximum occupational exposure limit values and other legislative provisions;
  - (b) access to any relevant safety data sheets provided by chemical suppliers; and
  - (c) training and information on appropriate precautions and actions to be taken in order to safeguard themselves and others working on the ship.

Depending on the nature and degree of risk identified by the risk assessment, such information may be provided orally or by means of individual instructions and training supported by information in writing. Information must be updated as appropriate to take account of any changes in circumstances relating to the hazardous chemical agents present on board.

- 10.2 The nature and any associated hazards of the contents of containers or pipes for hazardous chemical agents are to be clearly identifiable by means of markings which comply with the requirements of the Merchant Shipping and Fishing Vessels (Safety Signs and safety Signals) Regulations 2001 or such markings as are provided for in any other EC legislation governing the labelling of chemical agents or the provision of safety signs at the workplace unless that legislation provides for a derogation from such marking.

## **11. PROHIBITED ACTIVITIES (Regulation 11)**

- 11.1 The production, manufacture or use on a ship of any chemical agent listed in Annex 1 to this MGN is prohibited except where specifically exempted (see section 14). It is considered unlikely that this provision will be relevant to work on board ship but the provision and Annex are included in the Regulations for completeness as we are obliged by the EC to implement all provisions of Directives by means of legislation.
- 11.2 In the unlikely event that there is a need to produce, manufacture or use any agent listed in Annex 1 on a ship, Regulation 11(2) of the Chemical Agents Regulations permits the Secretary of State (in practice MCA) to issue exemptions from the prohibitions set out in Annex 1 to this MGN for —
- (a) the sole purpose of scientific research and testing, including analysis;
  - (b) activities intended to eliminate chemical agents that are present in the form of by-products or waste products; or
  - (c) the production of a chemical agent referred to in regulation 11(1) for use as an intermediate, and for such use.
- 11.3 It is not anticipated that it will be necessary to issue any such exemptions but in the event that one is exceptionally required it will be necessary for the employer seeking the exemption to provide Seafarer Safety and Health Branch of the Maritime and



Coastguard Agency (on behalf of the Secretary of State) with detailed information in writing, covering :-

- (a) the reason an exemption is required;
- (b) the quantity of the chemical agent to be used annually;
- (c) the activities and the reaction or processes involved;
- (d) the number of workers who may be involved;
- (e) the precautions envisaged to protect the health and safety of workers concerned; and
- (f) the technical and organisational measures taken to prevent the exposure of workers.

11.4 It should not be regarded as a foregone conclusion that an exemption will be issued as every case will be considered on its merits. In this context it will be necessary for the MCA to consult the workers concerned, or their representatives, to obtain their comments on the request for an exemption. It may also be necessary for MCA to consult other bodies/organisations to obtain their comments and to permit this to be undertaken it is requested that any exemption requests be submitted no later than 8 weeks before the date from which it is requested the exemption should apply. Should any exemption be issued it is very likely it will be subject to compliance with appropriate conditions to ensure the health and safety of workers.

## 12. HEALTH SURVEILLANCE (Regulation 12)

12.1 Should the provisions of paragraph 7.4 above apply, compliance with the subsequent paragraphs of this section is not required.

12.2 Health surveillance is required for a worker where:-

- (a) the risk assessment reveals a risk to the health and safety of that worker;
- (b) the exposure of the worker to a hazardous chemical agent is such that an identifiable disease or adverse health effect may result from that exposure;
- (c) there is a likelihood that the disease or the adverse health effect may occur under the particular conditions of the worker's work; and
- (d) the technique of investigation is of low risk to workers.

Biological monitoring and related requirements may form part of health surveillance.

12.3 There are specific requirements in the Chemical Agents Directive for health surveillance for those who work with lead; Annex II to the Directive refers to **a binding biological limit** and this is set out at Annex 2 to this MGN. While the MCA does not expect these requirements to be relevant to work on most merchant shipping and fishing vessels, if a situation arises where employers consider these provisions may be relevant, they should refer in the first instance to guidance that is available on the HSE web site on Lead at Work.

12.4 Where health surveillance is undertaken, individual health and exposure records are required to be made and kept up to date for each seafarer under surveillance. The record is to contain a summary of the results of health surveillance carried out and of any monitoring data representative of the exposure of the worker. The record shall be kept in a form suitable for consultation at a later date having regard to the need for confidentiality and the application of the Data Protection Act.

- 12.5 An individual seafarer is entitled to see the health and exposure records that relate to him personally.
- 12.6 Where, as a result of health surveillance:
- a worker is found to have an identifiable disease or adverse health effect which is considered by a doctor or occupational health-care professional to be the result of exposure at work to a hazardous chemical agent, or
  - a binding biological limit value is found to have been exceeded,
- the worker shall be informed by the doctor or other suitably qualified person of the result which relates to him personally, including information and advice regarding any health surveillance which he should undergo following the end of the exposure.
- 12.7 In the circumstances referred to in paragraph 12.6 above, the employer must:
- review his risk assessment;
  - review the measures provided to eliminate or reduce risks;
  - take into account the advice of the occupational health-care professional or other suitably qualified person or guidance from MCA or HSE on measures to eliminate or reduce risk including the possibility of assigning the worker to alternative work where there is no risk of further exposure, and
  - arrange continued health surveillance and provide for a review of the health status of any other worker who has been similarly exposed. In such cases the competent doctor or occupational health-care professional or the competent authority may propose that exposed persons undergo a medical examination.
- 12.8 Further guidance on health surveillance is set out in Annex 3 of this MGN, as well as in MGN 20 and the Code of Safe Working Practices for Merchant Seafarers. More specialist health surveillance may be necessary in certain circumstances and employers may need to seek specialist occupational health advice in such an eventuality.

### **13 CONSULTATION WITH WORKERS (Regulation 13)**

- 13.1 This requires that consultation with workers shall take place in accordance with Regulation 20 of the General Duties Regulations. However, unless the risk assessment has identified the presence or potential presence of hazardous chemical agents on board or such hazardous agents are likely to be carried as cargo, the only action required will be for the employer to advise workers that the risk assessment has identified no actual or potential risks.
- 13.2 Where however actual or potential risks are identified by the risk assessment workers will need to be advised of this together with any measures taken as required by regulation 8 of the Chemical Agents Regulations to prevent exposure to such chemical agents or to protect them from any exposure that may occur. In addition they should be advised of any measures taken as required by regulation 9 to deal with accidents, incidents or emergencies or any provision under regulation 10 for health and safety training.
- 13.3 In relation to paragraph 13.2 above it should however be noted that the provisions of regulations 8 and 9 need not be complied with where the results of the risk assessment reveal only a slight risk to the health and safety of workers and the measures taken in

accordance with regulation 7 - General Principles for Prevention of Risks - are sufficient to reduce that risk.

**14. DUTIES OF OTHER PERSONS (Regulation 14)**

14.1 In line with other health and safety Regulations, the Chemical Agents Regulations contain a provision whereby any duty placed on the employer is extended to “any person who does have control of the matter to which the Regulation in question relates” in any circumstances where the employer concerned does not have responsibility for the operation of the vessel. This is in recognition of the situation on many ships that more than one employer can be responsible for the workers on board and effectively means that, whilst every employer is responsible for their own workers, an overall duty in respect of all workers on board, irrespective of who employs them, will be placed on the person(s) responsible for the actual operation of the vessel.

14.2 In addition to the duty referred to in paragraph 14.1 above, a duty is also placed on all workers requiring them to make full and proper use of all protective equipment provided by the employer, and to give effect to all instruction and training with which they have been provided.

**15. OFFENCES, PENALTIES AND DETENTIONS (Regulations 15 - 22)**

15.1. Regulations 15 to 22 are the enforcement provisions; any contravention of the Chemical Agents Regulations is an offence and detention powers are available if conditions on board ship are clearly hazardous to health. In addition the Regulations specify maximum penalties, in line with other health and safety regulations, which may be imposed on individuals, companies etc for non compliance with the requirements of the Regulations

**16. PROHIBITION ON LEVY (Regulation 23)**

16.1 In complying with the requirements of the Chemical Agents Regulations, employers are not permitted to pass any charge, or permit any charge to be passed, on to any worker.

## More Information

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File Ref: MS 122/6/0128

Published: March 2010  
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## PROHIBITIONS

The production, manufacture or use at work of the chemical agents and activities involving chemical agents set out below are prohibited. The prohibition does not apply if the chemical agent is present in another chemical agent, or as a constituent of waste, provided that its individual concentration therein is less than the limit specified.

<b>(a) Chemical Agents</b>			
EINECS No <sup>(1)</sup>	CAS No <sup>(2)</sup>	Name of agent	Concentration limit for exemption
202-080-4	91-59-8	2-naphthylamine and its salts	0,1 % w/w
202-177-1	92-67-1	4-aminodiphenyl and its salts	0,1 % w/w
202-199-1	92-87-5	Benzidine and its salts	0,1 % w/w
202-204-7	92-93-3	4-nitrodiphenyl	0,1 % w/w
<p>(<sup>1</sup>) EINECS: European Inventory of Existing Commercial Substances</p> <p>(<sup>2</sup>) CAS: Chemical Abstracts Service</p>			

**(b) Work activities**

None.

## BINDING BIOLOGICAL LIMIT VALUES AND HEALTH SURVEILLANCE MEASURES

1. Lead and its ionic compounds
  - 1.1. Biological monitoring must include measuring the blood-lead level (PbB) using absorption spectrometry or a method giving equivalent results. The binding biological limit value is

70 µg Pb/100 ml blood
  - 1.2. Medical surveillance is carried out if:
    - exposure to a concentration of lead in air is greater than 0,075 mg/m<sup>3</sup>, calculated as a time-weighted average over 40 hours per week, or
    - a blood-lead level greater than 40 µg Pb/100 ml blood is measured in individual workers.
  - 1.3. Practical guidelines for biological monitoring and medical surveillance must be developed in accordance with Article 12(2). These must include recommendations of biological indicators (e.g. ALAU, ZPP, ALAD) and biological monitoring strategies.

**PRACTICAL RECOMMENDATIONS FOR THE HEALTH SURVEILLANCE OF WORKERS**

1. The doctor and/or the authority responsible for the health surveillance of workers exposed to biological agents must be familiar with the exposure conditions or circumstances of each worker.
2. Health surveillance of workers must be carried out in accordance with the principles and practices of occupational medicine: it must include at least the following measures:
  - keeping records of a worker's medical and occupational history,
  - a personalised assessment of the worker's state of health.
  - where appropriate, biological monitoring, as well as detection of early and reversible effects.

Further tests may be decided on for each worker when he is the subject of health surveillance, in the light of the most recent knowledge available to occupational medicine