



Health and Safety at Work : Protecting those not employed by the ship owner

Notice to all ship owners and fishing vessel owners, employers, masters and seafarers

This notice should be read with the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 and MGN 20

Summary

- It is not only the employer who has a duty of care towards their workers under the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 (referred to in this notice as “the General Duties Regulations”).
- Each employer has a duty of care both to workers and to others on board who are affected by their business.
- The Company has a duty to coordinate health and safety for all workers and others on board, by working with and sharing information with other employers, including contractors temporarily on board ship.
- Workers should take care for, and report any concerns about, the safety of contractors operations in the same way as they would for ship’s crew.

1. Introduction

1.1 Ships can be complex working environments with a number of employers, contractors and other people all working or carrying out activities alongside each other.

1.2 This notice explains how the Company’s and the employer’s duties under health and safety law should work in cooperation to ensure the health and safety of anyone on board.

1.3 For the purposes of the General Duties Regulations, “the Company” 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 the operation of the ship from the owner. These regulations apply to all ships on which workers are employed.



2. “The person in control of the matter”

- 2.1 The General Duties Regulations set the principles for ensuring health and safety at work on board ships and fishing vessels. Marine Guidance Note MGN 20(M+F) gives more information on those principles and “general duties”.
- 2.2 Regulation 4 says that where an individual employer does not have control of the operation of the ship, the duty of care resides with the person who has “control of that matter”. The Company has overall control of the operation of the ship, and therefore has a duty to assess the risks to others on board ship in so far as they are affected by the operation of the ship.

3. Workers and “other persons”

- 3.1 Under Regulation 5 of the General Duties Regulations, each employer has a duty to ensure the health and safety of workers and other persons, so far as is reasonably practicable. Both the underpinning principles for health and safety in Regulation 5(1) and the general duties set out in regulation 5(2) apply equally to the protection of workers and other persons. Regulation 5 is reproduced in the Annex to this MGN for ease of reference.
- 3.2 “Other persons” may include passengers, those undertaking adventure activities such as trainees on a sail training vessel, those on work experience, independent researchers, self-employed contractors and share fishermen working alongside employed fishermen. This is not an exhaustive list.
- 3.3 The regulations make no distinction between the duty of care towards workers and that towards other persons on board. If there is a relevant risk to other persons, the employer conducting the undertaking must take reasonably practicable steps to avoid that risk. This is in respect of all risks including those covered in detail in separate health and safety regulations, such as those on chemical agents, work at height and noise at work. So, once the likelihood and potential severity of harm are identified, the employer must do what is reasonable to address that risk. What it is reasonable for the employer to do may be different depending on whether the person at risk or posing the risk is employed, (who can be trained, given and required to take account of information and to follow instruction as contractual requirements), or on the vessel for other reasons, (who may or may not be available to be trained, given information and to follow instruction).

4. Co-ordination

- 4.1 Regulation 13 of the General Duties Regulations requires the Company (as defined for the purposes of the ISM Code) to co-ordinate health and safety measures for all those working on board. Regulation 13 is reproduced in the Annex for ease of reference.
- 4.2 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.
- 4.3 As well as carrying out risk assessments and taking appropriate measures for their own employees, regulation 13 requires the Company also to 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.



4.4 As workers themselves, the master and the crew also have a responsibility under Regulation 21, to report any safety concerns, and they should be encouraged to do so where such concerns arise from the activities of contractors or sub-contractors in the same way as they would report any deficiencies of on-board equipment or procedures relating to their own duties.

4.5 Contractors or charterers placing their staff on board ship are also subject to the duties of employers under these regulations, and accordingly should co-operate with the Company on health and safety issues. Similarly, contractors' or charterers' staff while on board are subject to the duties of workers under Regulation 21.

5. Shore-based health and safety legislation

5.1 This guidance relates to the Merchant Shipping legislation. Shore-based health and safety legislation¹, which applies to certain operations when the ship is in port in the UK or when a ship is in dry dock, contains similar duties for co-operation and co-ordination between employers on health and safety matters, and similar duties for employees.

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

MCA Website Address: www.dft.gov.uk/mca

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1. The Management of Health and Safety at Work regulations 1999 (S.I. 1999/3242) as amended, and the Management of Health and Safety at Work (Northern Ireland) Regulations 2000 (S.I. 2000/348) as amended.

