

SIMPLIFYING HEALTH AND SAFETY REGULATIONS

Consultation outcome - summary

Twenty-five trade organisations, unions and companies were directly notified of the consultation exercise, including the UK Chamber of Shipping which represents a broad cross section of UK shipping companies in all sectors, the British Marine Federation and International Marine Contractors Association. Ten responses were received, mostly from significant players in the industry.

The majority supported the proposed revocation. One organisation raised concerns about the loss of clear cut standards and the need for enforceability, and three organisations opposed on the grounds that enforcement of the current standards for means of access and safe movement on board ship would be difficult without the prescriptive regulations in place. MCA has considered these issues and is satisfied that it will still be entirely possible to enforce agreed best practice standards. The Marine Guidance Notes (MGNs), which will contain the standards have been modified to address this concern.

Means of Access and Safe Movement on Board Ship Regulations

A majority of the responses received supported the revocation of these regulations on the basis that the same standards would be maintained under general duties in the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 (the 1997 Regulations).

Those opposing revocation said they did so primarily because they were not convinced that the same standards could be enforced if the standards were contained in guidance rather than regulations. The summary at the start of MGN 532(M) and MGN 533(M) has been modified to make clear that this is not guidance which can be ignored, and that MCA will take enforcement action if safe arrangements are not in place.

We reviewed the application of the regulations to non-UK ships in UK ports. There is nothing in the Means of Access notice which conflicts with SOLAS requirements (particularly SOLAS II/1 Regulation 3.9). The Marine Guidance Notes have been incorporated into the revised Code of Safe Working Practices for Merchant Seafarers which was also reviewed to ensure compatibility with relevant sections of MSC.1/Circ.1331 Guidelines for construction, installation, maintenance and inspection/survey of means of embarkation and disembarkation. We are satisfied that MCA could enforce these standards as necessary on non-UK ships in UK ports.

Enforcement arrangements

MSC.1/Circ.1331 requires annual examination and five-yearly testing of accommodation ladders and gangways, as part of the passenger ship or cargo ship safety equipment survey (SOLAS I/7 or I/8). In addition, MCA surveyors will continue to inspect means of access and provision for safe movement as part of the MLC survey or inspection of UK

ships (which includes health and safety), during ISM audits, and during port state control inspections.

Pilot transfer

It was proposed that the MGN on means of access should refer to the separate requirements for pilot transfer. That has been added to the notice.

(The Code of Safe Working Practices for Merchant Seafarers includes a section on access for pilots which has been updated to refer to the current requirements in SOLAS Chapter V Regulation 23).

Non-seafarers

One correspondent queried whether the amended legislation would provide the same protection for non-seafarers on board ships in UK ports. The 1997 Regulations place duties on the employer (and once the amendments implementing the Maritime Labour Convention, 2006 are in force, the shipowner) to ensure the health and safety of “workers, seafarers and others”. That should ensure that port workers are protected by the regulations alongside members of the crew. The shipowner (referred to as the Company) is also required to co-ordinate health and safety arrangements between different employers on board. In 2014, MCA issued an MGN drawing attention to this wider duty – see MGN 492(M)).

Revocation of the Merchant Shipping (Code of Safe Working Practices for Merchant Seamen) Regulations 1998

The majority of those responding to the consultation opposed revocation of the Regulations. However, a number indicated that revocation could be accepted if an explicit requirement for carriage of the Code of Safe Working Practices for Merchant Seamen (“the Code”) were to be added to the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 (“the 1997 Regulations”).

An amendment to the 1997 Regulations was therefore introduced by means of the Merchant Shipping (Code of Safe Working Practices) (Amendments and Revocation) Regulations 2015 (S.I. 2015/1692).

The effect of the provision is to place a duty on the Company (in ISM terms) to ensure that all those working on the ship have ready access to the Code. Supporting guidance in MGN 539(M) makes clear that this means it must be accessible in all departments of the ship and in the mess area. It allows for the use of electronic copies, provided that this does not restrict seafarers’ access. The guidance says that the Code is considered to be necessary information for the health and safety of seafarers. Provision of necessary information, as well as instruction, training and supervision, is one of the principles to be applied in complying with health and safety duties, under Regulation 5 of the 1997 Regulations.