



Maritime &
Coastguard
Agency

Consultation Document:

Amending the Merchant Shipping and Fishing
Vessels (Health and Safety at Work)
(Carcinogens and Mutagens) Regulations
2007

18 October 2019

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Section 1: Overview of this consultation

Aim

- 1.1. This consultation seeks your views on proposed amendments to the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Carcinogens and Mutagens) Regulations 2007 (S.I. 2007/3100) (“the 2007 Regulations”) to implement changes to exposure limits and health surveillance requirements.

Views sought

- 1.2. Your views are sought in the following areas:
- The adequacy of implementation of
 - new and amended exposure limits for carcinogenic substances that are being implemented;
 - the requirement for health surveillance for seafarers exposed to carcinogenic or mutagenic substances to continue after exposure has ended if this is recommended by a doctor or body responsible for the health surveillance of workers;
 - The need for additional guidance;
 - The appropriateness of current offences and penalties in light of the revised duties;
 - The assessment made of the impact of the changes on UK ships and seafarers.
- 1.3. A full list of consultation questions is contained in Section 5 of this consultation.

Deadline for responses

- 1.4. Responses are welcomed from 18 October 2019 until 22 November 2019.

Section 2: Areas for consideration

(Use this section to provide the consultee with any information and background that is relevant to the consultation)

2.1 Background

The 2007 Regulations required employers to:

- Identify and assess any risks of exposure of workers to carcinogens and mutagens as part of the risk assessment required by regulation 7 of the

Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997;

- Where possible reduce or replace the use of carcinogens and mutagens;
- Where that is not possible take specified measures to reduce exposure in both unforeseen and foreseeable cases;
- Put in place hygiene controls and individual protection;
- Provide workers with appropriate information (including labelling and safety signs) and training about the presence of carcinogens and mutagens, the risks to health, and the measures in place to protect them and measures that they themselves can take;
- Provide health surveillance
- Keep records of workers at risk of exposure and health surveillance for 40 years.

Following implementation of the Maritime Labour Convention, 2006 and the ILO Work in Fishing Convention (ILO 188), those employer duties are also extended to shipowners and fishing vessel owners in respect of seafarers and fishermen, regardless of their employment status¹.

The amending Regulations on which we are consulting -

1. require employers to continue health surveillance of workers after the exposure period where specified by a doctor;
2. add to the list of substances and activities falling within the definition of a carcinogen; and
3. amend and add to the list of Limit Values for occupational exposure.

The amendments reflect the opinions of the Scientific Committee on Occupational Exposure Limits (SCOEL) and of the Advisory Committee on Safety and Health to the European Commission. SCOEL assists the European Commission in identifying, evaluating and analysing in detail the latest available scientific data, and in proposing occupational exposure limit values for the protection of workers from chemical risks. Implementing these changes will ensure that seafarers on UK ships continue to have the same level of protection as their counterparts on ships of other European flags and workers ashore in the UK and Europe.²

¹ S.I. 2014/1616 regulations 2(4) and 2(8).

² Directive 2017/2398/EU implements these changes to Directive 2004/37/EC.

On 23 June 2016, the EU referendum took place and the people of the United Kingdom voted to leave the European Union (EU). Until exit day, the UK remains a full member of the EU and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation.

We expect the amending Regulations to be made after the UK leaves the European Union. As a result, the amendments made by the amending Regulations may not apply to seafarers on government ships because the powers in sections 85 and 86 of the Merchant Shipping Act 1995 do not extend to government ships³. This would depend on the arrangements at the point of exit. The MCA would work with the operators of such ships to ensure that the same level of protection was assured.

2.2 Proposed Changes

The proposed amending Regulations will make the following amendments to the 2007 Regulations as required to implement the amending Directive:

Amendment to regulation 14 (health surveillance) of the 2007 Regulations: Obligation on employers to ensure continuing health assessment after exposure has ended when this is recommended by a doctor or other body responsible for health assessment

Regulation 14 of the 2007 Regulations deals with health assessment and includes an obligation on employers to ensure that health surveillance of workers continues after exposure has ended when this is recommended by a doctor or body responsible for undertaking health surveillance. It is proposed that the doctor or body's recommendation that health surveillance should continue after exposure has ended be recorded in the worker's individual medical record. However, this does not require health surveillance continue beyond the period of employment.

There is an equivalent provision in the Control of Substances Hazardous to Health Regulations 2002 at regulation 11(7):

Where an employee is subject to medical surveillance in accordance with paragraph (5) and a relevant doctor has certified by an entry in his health record that medical surveillance should be continued after his exposure to that substance has ceased, the employer shall ensure that the

³ "Government ship" means a ship which is not part of the Royal Navy and which belongs to the Crown, or is held by any person on behalf of the Crown (see MSA 1995 s.308). Examples are Royal Fleet Auxiliary ships and some ferries.

medical surveillance of that employee is continued in accordance with that entry while he is employed by the employer, unless that entry has been cancelled by a relevant doctor.

Amendment to Schedule 1 to the 2007 Regulations: Amended list of carcinogens and mutagens

Schedule 1 to the 2007 Regulations contains a list of substances, preparations and processes which fall into the definition of carcinogen⁴. It is proposed that Schedule 1 be amended to add work involving exposure to respirable crystalline silica (RCS) dust generated by a work process.

RCS dust could occur on ships as a result of sanding/grinding painted surfaces. Some marine paints contain quartz, and when sanded the dust created will include RCS dust. Chapter 25 of the Code of Safe Working Practices for Merchant Seafarers recommends that paint is rubbed down wet to avoid dust, and that respiratory protective equipment is worn. As this is existing good practice, it is not expected that identifying the RCS dust generated by this work process as a carcinogen will make a significant difference to working practices.

Replacement of Schedule 2 (Table of limit values) to the 2007 Regulations: new and amended exposure limits

Schedule 2 to the 2007 Regulations. contains a list of Limit Values and other related provisions set by the Council in relation to carcinogens and mutagens⁵. The revised table is in the Annex to this paper, with existing limit values in red.

From consultations within MCA and with the National Maritime Occupational Health and Safety Committee, we believe that the majority of the new substances would only be encountered on ships as cargos and therefore the existing IMO Codes (mainly the

⁴ Annex I of Directive 2004/37/EC

⁵ Annex III of Directive 2004/37/EC

IBC⁶/BCH or Gas Codes⁷) for bulk or packaged cargo (IMDG Code)⁸ already prevent exposure of seafarers.

The exception is hydrazine which is used as an oxygen scavenger in boiler water treatment systems. However, this comes in drums and the dosing equipment is attached to the drum, so exposure should be minimal.

Offences and penalties

It is proposed that the new and amended requirements will be enforced using the existing enforcement provisions in regulations 17 and 18 of the 2007 Regulations. This means that

- failure to comply with the additional health surveillance obligations (the duty of the employer to ensure health surveillance continues beyond the period of exposure where recommended by a doctor or company responsible for health surveillance) is an offence. It incurs the same levels of penalty as the principle offence of failing to make arrangements for health surveillance where there is a risk to health and safety (on summary conviction, a fine⁹; or on conviction on indictment, up to two years in prison or a fine or both.)
- the employer's failure to comply with the exposure limit values in Schedule 2 now applies to exposure to the additional carcinogen and to exposures exceeding the new/revised limit values. Such a failure is an offence and incurs the same levels of penalty as are mentioned above for health surveillance offences.
- As with other offences under the 2007 Regulations, where a body corporate or Scottish partnership is guilty of an offence under those regulations and that offence is proved to have been committed with the consent or connivance, or attributable to any neglect on the part of certain senior figures in the company or partnership (e.g. directors, secretaries), that person is guilty of an offence and liable to be proceeded against.

⁶ Code for the Construction and Equipment of Ships carrying Dangerous Chemicals in Bulk (IBC Code) and Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (BCH Code)
<http://www.imo.org/en/OurWork/Safety/Cargoes/CargoesInBulk/Pages/IBC-Code.aspx>

⁷ The International Code of the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (IGC Code)
<http://www.imo.org/en/OurWork/Safety/Cargoes/CargoesInBulk/Pages/IGC-Code.aspx>

⁸ International Maritime Dangerous Goods Code
<http://www.imo.org/en/OurWork/Safety/Cargoes/DangerousGoods/Pages/default.aspx>

⁹ The 2007 Regulations read "on summary conviction to a fine not exceeding the statutory maximum". In England and Wales, the statutory maximum was removed by s.85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012).

2.3 Summary of Options and Recommendation

The only option under consideration is to implement the amendments to ensure that the 2007 Regulations provide the same level of protection to seafarers on UK ships as their counterparts on ships of other European flags and workers ashore in the UK and other European countries

2.4 Supporting information

2.4.1 The following documents are included for consideration and information:

Annex A : Keeling Schedule showing amendments to the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Carcinogens and Mutagens) Regulations 2007

Section 3: Responding to this consultation

3.1. There are specific questions highlighted in section 5 of this document and information on how to respond to this consultation document.

Consultees

3.2. Anyone may respond to this consultation and consideration will be given to all responses.

Duration

3.3. This consultation is open for 5 weeks from 18 October 2019. The deadline for responses is 22 November 2019.

Submitting your response

3.4. Consultation responses should be emailed to julie.carlton@mcga.gov.uk. Any questions should be sent to this email address.

3.5. When responding, representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions.

Freedom of Information

3.6. Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004.

- 3.7. If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.
- 3.8. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department/MCA.
- 3.9. The MCA will process your personal data in accordance with the data protection framework and, in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

Data Protection

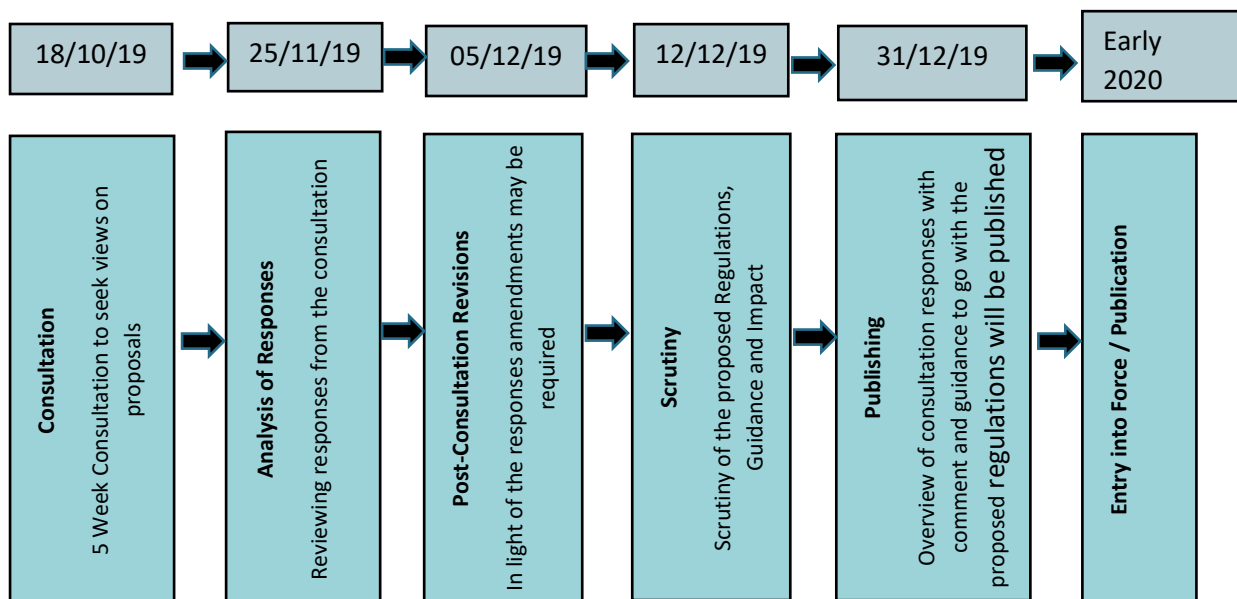
- 3.10. The MCA is carrying out this consultation to gather evidence. The consultation is being carried out in the public interest to inform the development of policy.
- 3.11. The MCA will use your contact details to send you information about the consultation, for example if we need to ask follow-up questions, as part of its functions as a government department. Your information will be kept secure and will not be used for any other purpose without your permission.
- 3.12. To find out more about how the MCA looks after personal data, your rights, and how to contact our data protection officer, please go to:

<https://www.gov.uk/government/organisations/maritime-and-coastguard-agency/about/personal-information-charter>

If you do not wish to remain on this list, please reply and let us know.

Section 4: Outline of plans beyond this consultation

- 4.1. Once this consultation closes we will review all responses. In considering the responses we will apply appropriate weight to those from organisations and individuals with specialist knowledge of the subject area.
- 4.2. We will be analysing the responses at the end of November. Our aim is to publish an overview of the responses and the MCA's comments by mid-December, which will be available from: www.gov.uk/government/publications
- 4.3. Where appropriate the draft Regulations/Guidance, accompanying guidance and impact assessment will be revised to take into consideration the consultation responses.
- 4.4. Our aim is for the amending Regulations to come into force early in **2020**. The Regulations will be published on www.legislation.gov.uk
- 4.5. Every effort will be made to publish an amended version of MGN 356 (M+F) taking the proposed amendments into account on GOV.UK by the end of 2019.
- 4.6. An overview timetable is below for reference:



Section 5: Response form

What is your name? _____

What is your email address? _____

What is your job title? _____

When responding please state whether you are responding as an individual or representing the views of an organisation:

- I am responding as an individual
- I am responding on behalf of an organisation

(name of organisation) _____

Please check the box that best describes you as a respondent and the size of your organisation:

Respondent Type

- Classification Society
- Government Agency/Department
- Individual
- Legal representative
- Protection & Indemnity
- Seafarer
- Ship Operator
- Ship Owner
- Trade Union
- Other

(please describe) _____

Size of Organisation

- Large business (over 250 staff)
- Medium business (50 to 250 staff)
- Micro business (up to 9 staff)
- Small business (10 to 49 staff)

Section 5.1 Consultation Questions

Amendment to regulation 14 (health surveillance) of the 2007 Regulations: Obligation on employers to ensure continuing health assessment after exposure has ended when this is recommended by a doctor or other body responsible for health assessment

1. *Are you content that the proposed amendment implements the requirement effectively?*
2. *Will you need to do anything differently as a result of this amended requirement, and if so will this have any financial impacts?*
3. *Will this amended requirement provide any benefits (quantifiable or non-quantifiable) to the seafarers affected?*
4. *Are there practical issues that either the Regulations or the supporting guidance should address?*
5. *Do you consider there are any accessibility or equalities issues (e.g. on the basis of age, disability, race (including nationality or national origins), gender, gender reassignment, pregnancy and maternity, religion or belief, sexual orientation) related to the proposed amendment?*

Amendment to Schedule 1 to the 2007 Regulations: Amended list of carcinogens and mutagens

1. *The consultation document recognises that RCS dust may be generated by sanding/grinding paint surfaces on ships. Are there other risks of exposure to RCS dust on UK ships?*
2. *Will the identification of RCS dust generated by a work process as a carcinogen require any changes to the precautions already in place to protect seafarers?*

Replacement of Schedule 2 (Table of limit values) to the 2007 Regulations: new and amended exposure limits

1. *Will the revised limit values require you to do anything differently?*
2. *Do you agree with the MCA's assessment of the exposure risk to the substances for which there are revised limit values? Do any of the substances affected occur in other contexts on UK ships?*
3. *Do any of these give rise to any issues that should be addressed in either the Regulations or the supporting guidance?*

Impact of the changes

1. *Do you agree with the assessment of the expected impact of the amendments to the 2007 Regulations as set out in the consultation document section 2.2?*

2. *Are you able to provide any evidence to support your comments?*

Supporting Guidance

1. *What additional guidance is required to support the amendments to the 2007 Regulations? (This is likely to be in the form of an amendment to MGN 356(M+F).)*

Section 5.2

Do you have any additional comments to add to the response?

Please return completed response forms to mlc@mcga.gov.uk

Alternatively responses may be posted to:

Julie Carlton, Seafarer Safety and Health
Maritime and Coastguard Agency
Bay 2/17, Spring Place
105 Commercial Road
Southampton
SO15 1EG

Section 6: Conduct of this consultation

- 6.1. This consultation has been conducted in accordance with the Cabinet Office Consultation Principles.

Consultation principles

- 6.2. The Cabinet Office Consultation Principles can be found at:

[20160111_Consultation_principles_final.pdf](#)

Feedback on conduct of consultation

- 6.3. If you have any comments regarding the conduct of this consultation, please contact the Consultation Co-ordinator at consultation.coordinator@mcga.gov.uk.
- 6.4. We are continually trying to improve the way in which we conduct consultations and appreciate your views. We would be grateful if you could complete and return the attached feedback form. These should be submitted to the Consultation Co-ordinator and are not affected by the deadline for this consultation.
- 6.5. If you require this consultation in an alternative format, please contact either the Consultation Co-ordinator or the named official conducting this consultation.

MCA CONSULTATION FEEDBACK FORM

1. Please indicate on which Consultation you are providing feedback:

.....

2a. Please indicate whether you are responding on behalf of:

- Yourself as an Individual
- A Trade Association
- A Company
- A Government Organisation
- A Trade Union
- Other
(please specify) _____

2b. If you are representing a company, please indicate the size of your company:

- Micro (1-9 employees)
- Small (10-49 employees)
- Medium (50-249 employees)
- Large (250+ employees)

2c. Please indicate whether you accessed this consultation package through:

- Post
- email
- Website

3. Please rate the quality of this consultation regarding accuracy, good English and spelling:

- Very good
- Good
- Average
- Poor
- Very Poor

4. Please rate the format of the consultation presentation (layout, Annexes etc.):

- Very good
- Good
- Average
- Poor
- Very Poor

5. Please rate the consultation in terms of how clear and concise you felt it was:
- Very good
 - Good
 - Average
 - Poor
 - Very Poor
6. Did you feel that the consultation was conducted over a sufficient period of time?
- Yes
 - No
7. Were any representative groups, organisations or companies not consulted who you felt should have been?
- Yes
 - No
- If yes, who? _____
8. Please let us have any suggestions for improvement or other comments you wish to make about this consultation below:

Thank you for your time. Please return this form to:

Consultation Co-ordinator,
Maritime and Coastguard Agency,
Spring Place, Bay 3/26, 105 Commercial Road
Southampton SO15 1EG
Or e-mail it to: consultation.coordinator@mcga.gov.uk

If you are happy to supply your name in case we need to contact you to discuss your views further, please enter it below (this is optional, and your feedback will still be taken into account if you wish to remain anonymous):

Name _____

Tel. No. _____

Please note that the deadline for responses to the Consultation itself does not apply to the return of this form.

Annex A: Key provisions from The Merchant Shipping and Fishing Vessels (Health and Safety at Work) Carcinogens and Mutagens) Regulations 2007*¹⁰ with proposed amendments shown in red

Interpretation

2.—(1) In these Regulations—

“the Act” means the Merchant Shipping Act 1995;

“carcinogen” means—

(a) a substance or mixture which meets the criteria for classification as a category 1A or 1B carcinogen set out in Annex I to the CLP Regulation whether or not the substance or mixture would be required to be classified under that Regulation; or

(b) a substance or mixture which is—

(i) referred to in Schedule 1; or

(ii) released by a process referred to in Schedule 1 and is a substance hazardous to health;

“CLP Regulation” means Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC and amending Regulation (EC) No 1907/2006, of which Articles 6(5), 11(3), 12, 14, 18(3)(b), 23, 25 to 29, 35(2) second and third sub-paragraphs and Annexes I to VII are to be read as amended from time to time;

“employer” means a person by whom a worker is employed on a ship under a contract of employment;

“exposure” means exposure to carcinogens or mutagens or to both;

“the General Duties Regulations” means the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997;

“health and safety” means the health and safety of persons whilst on board, or boarding or leaving, a ship;

¹⁰ Source: www.legislation.gov.uk (Contains public sector information licensed under the Open Government Licence v3.0 <http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/>).

“mutagen” means a substance or mixture which meets the criteria for classification as a category 1A or 1B germ cell mutagen set out in Annex I to the CLP Regulation, whether or not the substance or mixture would be required to be classified under that Regulation;

“preparation” means a mixture or solution of two or more substances;

“regulation 4 assessment” has the meaning given by regulation 4(2);

“representative” in relation to workers means any person lawfully elected, chosen or designated to represent the workers in regard to issues about the safety and health protection of workers at work;

“ship” includes hovercraft;

“substance” means any natural or artificial substance whether in solid or in liquid form or in the form of a gas or vapour and includes micro-organisms;

“trainees and apprentices” does not include persons who are training in a sail training vessel;

“United Kingdom ship” means a ship which is—

- (a) a United Kingdom ship within the meaning of s 85(2) of the Act;
- (b) a Government ship within the meaning of section 308(4) of the Act; or
- (c) a hovercraft registered under the Hovercraft Act 1968; and

“United Kingdom waters” means the sea or other waters within the seaward limits of the territorial sea of the United Kingdom.

(2) In these Regulations, “worker” means a person employed under a contract of employment, whether express or implied, and if express whether oral or in writing, to work on activities to which these Regulations apply and includes a trainee or apprentice so employed except a trainee to whom paragraph (3) applies.

(3) This paragraph applies to a trainee training in a sailing vessel which is—

- (a) being used either—
 - (i) to provide instruction in the principles of responsibility, resourcefulness, loyalty and team endeavour and to advance education in the art of seamanship; or
 - (ii) to provide instruction in navigation and seamanship for yachtsmen; and
- (b) is being operated under one of the following codes—
 - (i) the Large Commercial Yacht Code as set out in Merchant Shipping Notice No. 1792(M), issued by the Maritime and Coastguard Agency, an executive agency of the Department for Transport;

- (ii) the Code of Practice for the Safety of Small Commercial Sailing Vessels;
- (iii) the Code of Practice for the Safety of Small Commercial Motor Vessels; or
- (iv) the Code of Practice for the Safety of Small Vessels in Commercial Use for Sport or Pleasure Operating from a Nominated Departure Point.

(4) In paragraph (3) each reference to a Code includes a reference to any document containing an amendment or replacement of that Code which is considered by the Secretary of State to be relevant from time to time.

(5) In the application of these Regulations to a hovercraft, a reference to the master of a ship includes a reference to the captain of that hovercraft.

Application

3.—(1) Without prejudice to regulation 5 of the General Duties Regulations and subject to paragraphs (2) to (6), these Regulations apply to activities on United Kingdom ships in which workers are or are likely to be exposed to carcinogens or mutagens as a result of their work.

(2) Where—

(a) a ship is being used in the course of public service activities or activities for the purpose of civil protection services; and

(b) characteristics peculiar to those activities inevitably conflict with a provision of these Regulations,

that provision does not apply in relation to that ship to the extent of that conflict.

(3) To the extent that a provision of these Regulations does not apply in relation to a ship because of paragraph (2) there is in relation to that ship a duty on the employer to ensure, so far as reasonably practicable, the health and safety of the workers engaged in that activity.

(4) These Regulations do not apply—

(a) to workers exposed only to radiation covered by the Treaty establishing the European Atomic Energy Community; or

(b) to, or in relation to the activities of, workers to which the Control of Substances Hazardous to Health Regulations 2002 or the Control of Substances Hazardous to Health Regulations (Northern Ireland) 2003 apply.

(5) The provisions of the General Duties Regulations continue to apply to activities to which these Regulations apply; where these Regulations contain more stringent or specific provisions then such provisions apply.

(6) This regulation (other than paragraph (1)) and regulations 21 and 23 apply in relation to ships which are not United Kingdom ships, when they are in United Kingdom waters.

(7) In paragraph (2)—

“civil protection services” includes the fire and rescue and ambulance services and search and rescue services provided by any other person;

“public service activities” includes the activities of the armed forces, HM Coastguard, HM Revenue and Customs, immigration officers, police, prison officers and the security and intelligence services.

Assessment of health risks

4.—(1) In the case of any activity likely to involve a risk of exposure, the employer shall—

(a) in carrying out the risk assessment required by regulation 7 of the General Duties Regulations—

(i) determine the nature, degree and duration of workers' exposure in order to make it possible to assess any risk to the workers' health or safety and to lay down the measures to be taken;

(ii) in assessing the risk of such exposure take account of all routes of exposure, such as absorption into or through the skin; and

(iii) give particular attention to any effects concerning the health and safety of workers at particular risk and take account of the desirability of not employing such workers in areas where they may come into contact with carcinogens or mutagens;

(b) renew the assessment regularly and in any event when any change occurs in the conditions which may affect workers' exposure; and

(c) supply the Secretary of State, if she so requests, with the information used for making the assessment.

(2) An assessment carried out in accordance with this regulation, whether for the first time or by way of renewal, is in these Regulations called a regulation 4 assessment.

Health surveillance

14.—(1) The employer shall ensure that there are arrangements whereby workers for whom a regulation 4 assessment reveals a risk to health or safety are kept under health surveillance.

(2) In particular a worker shall be able to undergo, if appropriate, relevant health surveillance before exposure and at regular intervals thereafter and the arrangements shall be such that it is directly possible to implement individual and occupational hygiene measures.

(3) If a worker is found to be suffering from an abnormality which is suspected to be the result of exposure to carcinogens or mutagens, the doctor or body responsible for the health surveillance of workers may require other workers who have been similarly exposed to undergo health surveillance and, in that event, a further regulation 4 assessment shall be undertaken.

(4) In cases where health surveillance is carried out, an individual medical record shall be kept and the doctor or body responsible for health surveillance shall propose any protective or preventive measures to be taken in respect of any individual workers.

(4A) Where the doctor or body responsible for the health surveillance of a worker records in that worker's individual medical record, kept pursuant to paragraph (4), that the health surveillance of the worker should continue after exposure has ended, the worker's employer must ensure that, while the worker is employed by the employer, the health surveillance of that worker continues for as long as recommended by the doctor or body.

(4B) The worker's employer ceases to be under an obligation to ensure that health surveillance continues for as long as recommended by the doctor or body when a doctor or body responsible for the health surveillance of the worker records in the worker's individual medical record that this is no longer recommended.

(5) Information and advice shall be given to workers regarding any health surveillance which they may undergo following the end of exposure.

(6) Workers must be given access to the results of health surveillance which concern them.

(7) Workers or the employer may request a review of the results of health surveillance.

(8) The doctor or body undertaking health surveillance shall have regard to the practical recommendations for the health surveillance of workers set out in Schedule 4.

(9) All cases of cancer identified as resulting from occupational exposure to a carcinogen or mutagen shall be notified to the Secretary of State.

....

Offences and penalties

17.—(1) A person who acts in contravention of, or fails to comply with, regulation 4, 5, 6, 9 or 14 is guilty of an offence and liable—

(a) on summary conviction to a fine not exceeding the statutory maximum; or

(b) on conviction on indictment to imprisonment for a term not exceeding two years or a fine, (or both).

(2) A person who acts in contravention of, or fails to comply with, regulation 8, 10 or 13 is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(3) A person who acts in contravention of, or fails to comply with, regulation 7, 11, 12, 15 or 25 is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) A worker who fails to comply with regulation 16(2) is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(5) Section 146(1) of the Act (enforcement of fines) applies to any fine imposed for an offence under paragraphs (1) to (3) of this regulation, as if the reference to proceedings against the owner or master of a ship for an offence under Chapter 2 were a reference to proceedings against any person for an offence under those paragraphs.

Offences by body corporate

18.—(1) Where a body corporate is guilty of an offence under these Regulations and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he as well as the body corporate is guilty of an offence and liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where an offence under these Regulations committed by a Scottish partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, that partner as well as the partnership is guilty of that offence and liable to be proceeded against and punished accordingly.

SCHEDULE 1 - OTHER SUBSTANCES AND PROCESSES TO WHICH THE DEFINITION OF CARCINOGEN RELATES

Aflatoxins.

Arsenic.

Auramine manufacture.

Work involving exposure to dusts, fumes and sprays produced during the roasting and electro-refining of cupro-nickel mattes.

Work involving exposure to polycyclic aromatic hydrocarbons present in coal soot, coal tar or coal pitch

Hardwood dusts.

Work involving exposure to respirable crystalline silica dust generated by a work process.

Isopropyl alcohol manufacture (strong acid process).

Leather dust in boot and shoe manufacture, arising during preparation and finishing.

Magenta manufacture.

Mustard gas (beta, beta'- dichlorodiethyl sulphide).

Rubber manufacturing and processing giving rise to rubber process dust and rubber fume.

Used engine oils.

The following polychlorodibenzodioxins—

2,3,7,8-TCCD

1,2,3,7,8-PeCDD

1,2,3,4,7,8-HxCDD

1,2,3,6,7,8-HxCDD

1,2,3,7,8,9-HxCDD

1,2,3,4,6,7,8-HpCDD

OCDD.

The following polychlorodibenzofurans—

2,3,7,8-TCDF

2,3,4,7,8-PeCDF

1,2,3,7,8-PeCDF

1,2,3,4,7,8-HxCDF

1,2,3,7,8,9-HxCDF
 1,2,3,6,7,8-HxCDF
 2,3,4,6,7,8-HxCDF
 1,2,3,4,6,7,8-HpCDF
 1,2,3,4,7,8,9-HpCDF
 OCDF.

Where T=tetra, Pe=penta, Hx=hexa, Hp=hepta and O=octa.

SCHEDULE 2 - TABLE OF LIMIT VALUES

Name of agent	EC No ⁽¹⁾	CAS No ⁽²⁾	Limit values ⁽³⁾			Notation	Transitional measures
			mg/m ³⁽⁴⁾	ppm ⁽⁵⁾	f/ml ⁽⁶⁾		
Hardwood dusts	—	—	2 ⁽⁷⁾	—	—	—	Limit value 3 mg/m ³ until 17 January 2023
Chromium (VI) compounds which are carcinogens within the meaning of point (i) of Article 2(a) (as chromium)	—	—	0,005	—	—	—	Limit value 0,010 mg/m ³ until 17 January 2025 Limit value: 0,025 mg/m ³ for welding or plasma cutting processes or similar work processes that generate fume until 17 January 2025
Refractory ceramic fibres which are carcinogens within the meaning of point (i) of Article 2(a)	—	—	—	—	0,3	—	
Respirable crystalline silica dust	—	—	0,1 ⁽⁸⁾	—	—	—	
Benzene	200-753-7	71-43-2	3,25	1	—	skin ⁽⁹⁾	
Vinyl chloride monomer	200-831-0	75-01-4	2,6	1	—	—	

Ethylene oxide	200-849-9	75-21-8	1,8	1	—	skin ⁽⁹⁾	
1,2-Epoxypropane	200-879-2	75-56-9	2,4	1	—	—	
Acrylamide	201-173-7	79-06-1	0,1	—	—	skin ⁽⁹⁾	
2-Nitropropane	201-209-1	79-46-9	18	5	—	—	
o-Toluidine	202-429-0	95-53-4	0,5	0,1	—	skin ⁽⁹⁾	
1,3-Butadiene	203-450-8	106-99-0	2,2	1	—	—	
Hydrazine	206-114-9	302-01-2	0,013	0,01	—	skin ⁽⁹⁾	
Bromoethylene	209-800-6	593-60-2	4,4	1	—	—	

⁽¹⁾ EC No, i.e. EINECS, ELINCS or NLP, is the official number of the substance within the European Union, as defined in Section 1.1.1.2 in Annex VI, Part 1, to Regulation (EC) No 1272/2008.

⁽²⁾ CAS No: Chemical Abstract Service Registry Number.

⁽³⁾ Measured or calculated in relation to a reference period of eight hours.

⁽⁴⁾ mg/m³ = milligrams per cubic metre of air at 20 °C and 101,3 kPa (760 mm mercury pressure).

⁽⁵⁾ ppm = parts per million by volume in air (ml/m³).

⁽⁶⁾ f/ml = fibres per millilitre.

⁽⁷⁾ Inhalable fraction: if hardwood dusts are mixed with other wood dusts, the limit value shall apply to all wood dusts present in that mixture.

⁽⁸⁾ Respirable fraction.

⁽⁹⁾ Substantial contribution to the total body burden via dermal exposure