



# MGN 447 (M+F) Amendment 1

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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 658 (M+F) The Merchant Shipping and Fishing Vessel (Control of Noise at Work) Regulations 2007 and MGN 636 (M) Amendment 1 The Merchant Shipping and Fishing Vessel (Health and Safety at Work) Regulations 1997 and MGN 587 (F) Amendment 1 ILO Work in Fishing Convention Health and Safety responsibilities.*

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### Summary

This notice 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.

Amendment 1 outlines updated guidance and reflects the Merchant Shipping (Maritime Labour Convention) (Health and Safety) (Amendment) Regulations (S.I. 2014/1616) (“the MLC Health and Safety amendments”) and the Merchant Shipping (Work in Fishing Convention) (Consequential and Minor Amendments) Regulations (S.I. 2018/1109) (the “Work in Fishing Consequential Amendments”).

The two sets of amendments extend the duties to protect “workers” in health and safety legislation so that they protect all seafarers and fishermen, regardless of their employment status, and duties on employers also apply to shipowners and fishing vessel owners. References in this notice are therefore “shipowners and employers” and “seafarers and other workers.” In this notice, “shipowner” includes “fishing vessel owner”, and “seafarer” includes “fisherman”.

## 1. Introduction

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. 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 To apply for an exemption you will need to contact the nearest MCA Marine Office or Customer Service Manager (if applicable), requesting form MSF 1261, which will need to be completed outlining full details of 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

4.1 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.

4.2 The Code may be purchased from the Stationery Office Order line on 0870 600 5533 quoting the ISBN No.978-0-11-553075-3 or at [www.tsoshop.co.uk](http://www.tsoshop.co.uk)

#### More Information

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