



Maritime &
Coastguard
Agency

MARINE GUIDANCE NOTE

MGN 332 (M+F) Amendment 3 The merchant shipping and fishing vessels (lifting operations and lifting equipment) regulations 2006

Notice to all shipowners, ship operators, charterers, managers and other employers of seafarers, and masters, chief engineers, officers, ratings and other workers on merchant ships, fishing vessels, yachts and other vessels with paid crew and self-employed persons working on board; classification societies, certifying authorities, test houses and competent persons.

This notice should be read in conjunction with [MGN 636 \(M\) amendment 2](#), which provides details, and guidance on interpretation of the merchant shipping and fishing vessels (health and safety at work) regulations 1997, [MGN 587 \(F\) amendment 1](#) (in respect of fishing vessels) and MGN 331 (M+F) amendment 3, which covers the requirements of the merchant shipping (provision and use of work equipment) regulations 2006. This notice replaces MGN 332 (M+F) amendment 2.

Summary

This notice provides details, and guidance on interpretation, of the merchant shipping and fishing vessels (lifting operations and lifting equipment) regulations 2006.

It should not however be regarded as definitive. The way these regulations apply to any particular case can vary according to circumstances and from vessel to vessel. Each shipowner and employer should therefore assess how the requirements of the regulations apply to the specific circumstances of each vessel and introduce measures to implement those requirements accordingly.

Amendment 3 updates references only.

1. Introduction

1.1 The merchant shipping and fishing vessels (lifting operations and lifting equipment) regulations 2006 were made on 8 August 2006 and came into force on 24 November 2006 and apply to all UK registered ships and, with the exception of certain provisions, to all UK registered fishing vessels and government owned ships (excluding Royal Navy ships) wherever they may be, and to non-UK ships and fishing vessels in UK waters. These regulations also revoked the merchant shipping (hatches and lifting plant) regulations 1988 (SI 1988/1639).

1.2 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”).

1.3 The two sets of amendments extend the duties to protect “workers” in health and safety legislation, including the merchant shipping and fishing vessels (provision and use of work equipment) regulations 2006, so that they protect all seafarers and fishermen, regardless of their employment status. They also extend duties on employers to 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”.

1.4 The majority of injuries to crew involving lifting equipment occur as a result of persons being struck, crushed or caught in moving parts and equipment. The cause is often attributed to incorrect practices or to errors of judgement. Other types of serious accident are caused by the failure of lifting equipment or single point failures of equipment. Inappropriate use of lifting equipment and failure of lifting equipment can also have an adverse effect on a vessel’s stability, and on smaller vessels this could possibly lead to capsize.

1.5 Accidents can be avoided through careful design and selection of lifting equipment. In this respect shipowners and employers may wish to consider the use of a suitable design code, with survey and certification carried out by a competent authority. Corrosion, metal fatigue, inappropriate repairs or modifications and poor maintenance can all contribute to reduced safety margins. This MGN provides advice both on the requirements of the new Regulations and on the avoidance of accidents.

2. General legal obligations and what shipowners and employers must do

2.1 Annex 1 sets out the provisions of the merchant shipping and fishing vessels (lifting operations and lifting equipment) regulations 2006 and provides guidance on the legal obligations on shipowners and employers that apply to fitting, maintenance and use of lifting equipment. The guidance is general in nature; shipowners and employers should give more detailed consideration to the various aspects of their specific operations and take appropriate measures to safeguard health and safety.

2.2 The regulations do not, in general, prescribe measures to be taken by a shipowner and employer but instead place the onus on the shipowner and employer to ensure that all lifting equipment that is fitted on board is appropriate for its intended purpose and is safe to use.

2.3 The shipowner and employer must also have regard to the provisions of the merchant shipping and fishing vessels (health and safety at work) regulations 1997 (the “general duties”

regulations) which set out the general requirements for health and safety at work and the merchant shipping and fishing vessels (provision and use of work equipment) regulations 2006 (the "PUWER" regulations) which set out general requirements relating to the provisions and use of work equipment.

2.4 As lifting equipment is also work equipment these latter regulations apply fully to lifting equipment in addition to the merchant shipping and fishing vessels (lifting operations and lifting equipment) regulations 2006. Detailed information on the PUWER regulations and the general duties regulations is provided in MGN 331 amendment 3 and MGN 636 (M) amendment 2 respectively, or any subsequent replacements.

3. Regular maintenance

3.1 In order to ensure that all parts of lifting equipment and related equipment are kept in good repair and working order, regular preventative maintenance should be carried out.

3.2 Maintenance should include regular examinations by a competent person. Such examinations should be carried out as required by the regulations but in any event at least once annually. Checks should look for general material defects such as cracks, distortion, corrosion and wear and tear that could affect safe working load and overall strength.

3.3 When there is any suspicion that any appliance or item of equipment may have been subjected to excessive loads, exceeding the safe working load (SWL), or subjected to treatment likely to cause damage, it should be taken out of service until it can be subjected to a thorough examination by a competent person.

3.4 Greasing should be thorough and frequent, as dry bearings impose additional loads that can lead to failure.

3.5 The condition of all ropes and chains should be checked regularly for wear, damage and corrosion and replaced as necessary.

3.6 Shackles, links and rings should be renewed when wear or damage is evident.

3.7 Structures should be examined frequently for corrosion, cracks, distortion and wear of bearings, securing points etc.

3.8 Hollow structures such as gantries or masts should be checked for trapped water inside. If water is found, the structure should be drained, appropriately treated and then sealed.

3.9 There should be regular function tests of controls, stops, brakes, safety devices for hoisting gear etc, preferably before the start of operations.

3.10 The items listed above are illustrative only and the final responsibility for ensuring regular and appropriate maintenance is carried out rests with the shipowner and employer.

4. Training

4.1 Only those trained and competent to do so should operate any lifting appliance. Such training may be "in-house", including "on the job training" by another worker or a supervisor, or may be training provided by the equipment manufacturer or another outside body. It will be for the shipowner and employer to decide the most appropriate form of training to be provided having regard to the lifting appliance to be operated and the lifting operation to be undertaken.

4.2 Instruction should be given to the vessel's personnel to enable them to appreciate factors affecting the safe operation of lifting appliances.

4.3 For merchant ships and other vessels with paid crew (which includes yachts, work boats and small passenger vessels but not fishing vessels) training and safety information for those on board should include an understanding of the relevant sections of the MCA's code of safe working practices for merchant seafarers.

5. Records of lifting equipment

5.1 In service survey, inspections, thorough examinations and certification are to be carried out as required by the Regulations.

5.2 Records and service history should be kept of equipment, of dates when and where it is brought into use, its safe working load, any repairs, modifications, tests and examinations carried out.

5.3 All vessels except fishing vessels are required to maintain a register of lifting appliances and loose gear in a form based on the model recommended by the International Labour Organization and shown at annex 19.2 of the code of safe working practices for merchant seafarers.

6. Code of safe working practices for merchant seafarers

6.1 Annex 1 to this notice contains references to the code of safe working practices for merchant seafarers. These are applicable only to merchant ships and other vessels with paid crew, including yachts, work boats and small passenger vessels, which are required to carry copies of the code. These references are not applicable to fishing vessels, which are not required to carry copies of the code.

6.2 Copies of the code can be purchased from The Stationery Office [tsoshop.co.uk](https://www.tsoshop.co.uk).

More information

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Please note that all addresses and telephone numbers are correct at time of publishing.

Annex 1

The following gives the text of the individual regulations as well as general guidance on the requirements of the merchant shipping and fishing vessels (lifting operations and lifting equipment) regulations 2006.

Regulation 1

Part 1: General

Citation, commencement and revocation

(1) These Regulations may be cited as the Merchant Shipping and Fishing Vessels (Lifting Operations and Lifting Equipment) Regulations 2006 and shall come into force on 24 November 2006.

(2) The Merchant Shipping (Hatches and Lifting Plant) Regulations 1988 are hereby revoked.

Guidance on regulation 1

The merchant shipping (hatches and lifting plant) regulations 1988, which did not apply to fishing vessels, have been replaced in their entirety by the merchant shipping and fishing vessels (lifting operations and lifting equipment) regulations 2006 which, except where specifically stated to the contrary, do apply to fishing vessels.

Certain provisions of the earlier regulations have been incorporated in the new regulations.

Regulation 2

Interpretation

(1) In these Regulations - "accessory for lifting" means lifting equipment for attaching loads to machinery for lifting;

"the Act" means the Merchant Shipping Act 1995;

"the Code" means the Code of Safe Working Practices for Merchant Seafarers, including any annexes to it, and any subsequent amendments and revisions to the Code in so far as they—

(a) relate to all or any of the purposes set out in section 85(1) of the Act,

(b) are considered by the Secretary of State to be relevant from time to time, and

(c) are specified in a Marine Information Note issued by the Maritime and Coastguard Agency and described as such;

"competent person" means a person possessing the knowledge or experience necessary for the performance of the duties under these regulations;

"contract of employment" means a contract of employment, whether express or implied, and if express, whether oral or in writing;

"employer" means a person by whom a worker is employed under a contract of employment and (except in regulation 4(3) and (4)) includes a self-employed person to whom the requirements imposed by these Regulations apply by virtue of regulation 4(4);

"fishing vessel" means a vessel for the time being used for, or in connection with, fishing for sea fish other than a vessel used for fishing otherwise than for profit; and for the purposes of this definition "sea fish" includes shellfish, salmon and migratory trout (as defined by section 44 of the Fisheries Act 1981);

"Government ship" has the meaning given in section 308(4) of the Act;

"hatch covering" includes hatch covers, beams and attached fixtures and fittings;

"health and safety" includes the occupational health and safety of persons whilst on board the ship and whilst boarding or leaving the ship;

"lifting equipment" means work equipment used for lifting or lowering loads and includes its attachments used for anchoring, fixing or supporting it;

“load” includes a person;
“loose gear” means any gear by means of which a load can be attached to lifting equipment but which does not form an integral part of either the lifting equipment or the load;
“Marine Guidance Note” means a Note described as such and issued by the Maritime and Coastguard Agency; and any reference to a particular Marine Guidance Note includes a reference to any document amending or replacing that Note which is considered by the Secretary of State to be relevant from time to time;
“Maritime and Coastguard Agency” means the executive agency so named of the Department for Transport;
“operator” means the worker or workers operating the lifting equipment;
“public service vessel” means any vessel operated by and on behalf of a public body, while it is carrying out the authorised functions of that body;
“relevant inspector” means a person mentioned in paragraph (a),(b) or (c) of section 258(1) of the Act;
"ship" includes hovercraft;
“thorough examination” means a thorough examination by a competent person, and
“thoroughly examined” shall be construed accordingly;
"United Kingdom ship" means a ship which –
(a) is a United Kingdom ship within the meaning of section 85(2) of the Act; or
(b) is a Government ship; or
(c) is a hovercraft registered under the Hovercraft Act 1968;
“United Kingdom waters” means the sea or other waters within the seaward limits of the territorial sea of the United Kingdom;
“use” in relation to work equipment, including lifting equipment, means any activity involving work equipment, and includes starting, stopping, programming, setting, transporting, repairing, modifying, maintaining and servicing, including cleaning;
“work equipment” means any machinery, appliance, apparatus, tool or installation for use at work (whether exclusively or not).

(2) Subject to paragraph (1), words and expressions used in these Regulations shall have the same meaning as in Council Directive 89/655/EEC as amended by Council Directive 95/63/EC concerning the minimum health and safety requirements for the use of work equipment by workers at work.

Guidance on Regulation 2

The definitions contained in this regulation expand on, and explain in more detail, various words and phrases used in these regulations. The stated interpretation of such words and phrases is only applicable to these regulations and should not be used to interpret similar words or phrases in other regulations. Generally these definitions are self-explanatory but further clarification may be helpful for the following terms:-

"Accessory for lifting" - This may also be known as "loose gear" in the fishing industry.

"Competent Person" - A “competent person” is defined as a person possessing the knowledge or experience necessary to enable them to satisfactorily perform the duties required by these regulations. Such knowledge and experience can be obtained in a variety of ways. For example, a "competent person" might obtain the necessary knowledge through training provided by the manufacturer of equipment or by "inhouse" or "on the job" training provided within the organisation or on the vessel.

There is no definition of exactly who can be considered a "competent person". It is for the shipowner and employer to decide who is a "competent person" for a particular duty. A member of the ship's crew might, if they have the appropriate knowledge and experience, be considered a "competent person" for the purpose of carrying out routine inspections, whereas

a "competent person" able to carry out tests of lifting equipment may need to be provided by a company specialising in such testing. It should also not be assumed that possession of a Certificate of Competency means that the person holding that certificate is automatically a "competent person" for the purposes of these regulations. Much will depend on the work to be undertaken, the qualifications required to undertake it and the individual's knowledge of the particular equipment.

It is for the shipowner and employer to satisfy themselves that the person carrying out an inspection, test, thorough examination or any other duty under these regulations has such appropriate practical and theoretical knowledge and experience of the lifting equipment to be tested or thoroughly examined as will enable them to detect defects or weaknesses and to assess their importance in relation to the safety and continued use of the lifting equipment.

Additionally it is essential that the competent person is sufficiently independent and impartial to allow objective decisions to be made. This does not mean that competent persons must necessarily be employed from an external company. If shipowners, employers and others within their organisation have the necessary competence they can use it. However, if they do, they must ensure that their "in-house" examiners have the genuine authority and independence to ensure that tests and examinations are properly carried out.

"Examination Scheme" - This definition is taken from the HSE regulations in the interests of consistency. The intention is that the shipowner and employer should devise a documented system/procedure to ensure that all parts of lifting equipment exposed to conditions causing deterioration to such equipment are properly examined, at the required intervals, as required by regulation 12(2) of these regulations.

"Inspection"- In this context means a visual inspection by a "competent person" to establish, so far as can be ascertained, that no defect or deterioration is present in the equipment and that it remains safe to use. Such inspections should be carried out as required by regulation 12 at such intervals as shall be determined by the shipowner and employer.

"Loose Gear" is known as "Accessory for Lifting" in the merchant shipping industry.

"Thorough Examination" - In this context means a visual inspection by a "competent person", supplemented if necessary by other suitable means or measures in order to arrive at a reliable conclusion as to the safety of the lifting equipment or loose gear examined.

Regulation 3

Meaning of "worker"

(1) In these Regulations "worker" means any person employed under a contract of employment, including a trainee or apprentice other than a person who is training in a vessel which is being used either—

(a) to provide instruction in the principles of responsibility, resourcefulness, loyalty and team endeavour and to advance education in the art of seamanship; or

(b) to provide instruction in navigation and seamanship for yachtsmen, and which is operating under a relevant code.

(2) In this regulation "relevant code" means—

(a) the Large Commercial Yacht Code as set out in Merchant Shipping Notice No. 1792(M), issued by the Maritime and Coastguard Agency;

(b) the Code of Practice for the Safety of Small Commercial Sailing Vessels;

(c) the Code of Practice for the Safety of Small Commercial Motor Vessels; or

(d) the Code of Practice for the Safety of Small Vessels in Commercial Use for Sport or Pleasure Operating from a Nominated Departure Point.

(3) In paragraph (2) 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.

Guidance on Regulation 3

In these Regulations a reference to seafarer or worker means a person employed on a ship under a contract of employment including all trainees and apprentices employed on such vessels. The provisions of these Regulations do not apply to trainees on sail training vessels as they are not “employed” for the purposes of these Regulations i.e. they are not employed under a contract of employment but are only on board for a limited time whilst undergoing training.

Shipowners also have duties under these Regulations in respect of seafarers and fishermen.

“Seafarer” means any person, including the master of a ship, who is employed or engaged or works in any capacity on board a ship and whose normal place of work is on board a ship.”

“Fisherman” means a person, including the skipper, employed, engaged or working in any capacity on board any fishing vessel, but does not include a person solely engaged as a pilot for the vessel.

Regulation 4

Application

(1) These Regulations shall apply to the use of lifting equipment by workers or by the person mentioned in paragraph (5) on United Kingdom ships except when –

- (a) the lifting equipment is on a public service vessel or a vessel engaged in search and rescue; and
- (b) characteristics of the activity of the vessel inevitably conflict with a provision of these Regulations, and in such a case there shall be a duty on the employer so far as is reasonably practicable to ensure the health and safety of workers when using the lifting equipment.

(2) These Regulations, other than regulation 21, apply in relation to ships other than United Kingdom ships when they are in United Kingdom waters.

(3) The duties imposed by these Regulations on an employer in respect of lifting equipment shall apply in relation to such equipment provided for use or used by a worker who is an employee of his.

(4) The duties imposed by these Regulations on a employer shall also apply to a self-employed person in respect of lifting equipment on a ship which he—

- (a) provides and uses himself, or
- (b) provides for use at work by another person (whether self-employed or not),

(5) In respect of his own use of such equipment, whether provided by him or not, a self-employed person shall be treated as a worker and shall ensure that the requirements of these Regulations in relation to a worker are met.

(6) Regulations 6(1), 6(2)(b), 9(1)(c), 9(3), 11, 12(7), 13 and 16 shall not apply in relation to a fishing vessel or Government ship unless, in the case of a Government ship, it is commercially managed, and for these purposes “commercially managed” means the management of which is entrusted by the owner to some other person pursuant to a contract.

(7) Regulation 12(5)(b) shall not apply to a Government ship unless it is commercially managed

as mentioned in paragraph (6).

(8) These Regulations shall not apply in relation to the activities of a worker which are covered by the Lifting Operations and Lifting Equipment Regulations 1998 or the Lifting Operations and Lifting Equipment (Northern Ireland) Regulations 1999.

(9) The provisions of the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 shall continue to apply and the provisions of the Merchant Shipping and Fishing Vessels (Provision and Use of Work Equipment) Regulations 2006 shall apply to the provision and use of work equipment for lifting to which these Regulations apply, but without prejudice to any more stringent and specific provisions contained in these Regulations.

Guidance on Regulation 4

These regulations cover the use of lifting equipment on UK ships except where such equipment is being used by a seafarer or worker on a public service vessel or a vessel engaged in search and rescue and the way in which such equipment is used conflicts with a provision of these regulations. These provisions come from the merchant shipping and fishing vessels (health and safety at work) regulations 1997, which refers to public service activities as activities such as the armed forces or the police, or to certain specific activities in the civil protection services. For the purposes of these regulations therefore it is considered that "Public service vessel" will include vessels operated by bodies such as the police, customs and other similar public bodies.

"Vessels engaged in search and rescue" is considered to cover any vessels when engaged in search and rescue activities. However it should be noted that both these disapplication's only apply to vessels when actually engaged in such activities such that it is not possible to comply fully with one or more requirements of these regulations. Where this is the case such vessels should comply as far as is possible and the shipowner and employer or other person responsible for the work being undertaken must ensure so far as is possible that the health and safety of seafarers and workers is safeguarded. Where the use of lifting equipment on such a vessel does not conflict with these requirements e.g. during normal operating conditions, then these regulations will apply in full.

These regulations apply not only to employers and workers but also to any self-employed person carrying out any occupation on board any ship or fishing vessel. In this context where these regulations impose a duty on an employer that duty also applies to a self-employed person in so far as their occupation affects others on that ship or fishing vessel or in relation to their employment of or responsibility for any seafarers and workers. Similarly a self-employed person in carrying out any occupation on board any ship or fishing vessel must have regard to, and comply with, any instructions issued by any shipowner and employer of workers on that ship or fishing vessel to those workers as if that self-employed person were a worker for the purposes of these regulations. Where on any ship or fishing vessel the crew comprises self-employed persons wholly or in part, the person responsible for the operation of that ship or fishing vessel is responsible for compliance with the provisions of these Regulations as if those self-employed persons were workers. Paragraph 5 of this regulation disapplies certain provision to fishing vessels and Government ships. This is because those provisions are derived from International Labour Organization Convention 152 on Dock Work which does not apply to fishing vessels in the United Kingdom.

However the disapplication for Government ships does not apply where such ships are commercially managed on behalf of the Government and all the provisions of these regulations will apply to such commercially managed vessels. Additionally references to the code of safe working practices for merchant seafarers are disapplied to fishermen as they are not covered by, nor required to carry copies of, that code.

The provisions of the merchant shipping and fishing vessels (health and safety at work) regulations 1997 continue to apply to merchant ships, small commercial vessels, yachts and fishing vessels. The provisions of the merchant shipping and fishing vessels (provision and use of work equipment) regulations 2006 will also apply, in addition to these regulations, to work equipment used for lifting operations.

Part 2: Duties of Employers

Regulation 5

Persons on whom duties are imposed

Where a person on whom a duty is imposed by any provision of these Regulations does not have control of the matter to which the provision relates because he does not have responsibility for the operation of the ship, then any duty imposed by that provision shall also extend to any person who has control of that matter.

Guidance on Regulation 5

It is important that those on whom duties are placed are in a position to carry them out. Employment relationships on board ship can be complex - for example the master may not be employed by the owner or operator of the ship, or by the same employer as the crew. There may also be people working on board such as contractors and sub-contractors, stevedoring companies and those under franchising arrangements (eg in retail or service outlets) whose employer has no direct responsibility for the safety of the ship. There is therefore no single "person" on whom it is appropriate to place the entire "employment" responsibility for health and safety on board.

More detailed information on employment relationships and the responsibilities of the various employers are contained in [MGN 636 \(M\) amendment 2](#) which provides guidance on the requirements of the merchant shipping and fishing vessel (health and safety at work) regulations 1997, on which these regulations build.

Regulation 6

Strength and stability

(1) Every employer in carrying out the obligations contained in this regulation shall comply with the principles and guidance in Chapter 19 of the Code.

(2) The employer shall ensure that –

- (a) lifting equipment is of adequate strength and stability for each load, having regard in particular to the stress induced at its mounting or fixing point;
- (b) every part of a load that is used in lifting it, as well as anything attached to the load and used for that purpose is of good construction, of adequate strength for the purpose for which it is to be used and free from patent defect.

(3) The employer shall ensure that any accessory for lifting is not used on a ship unless it is of good design, of sound construction and material, of adequate strength for the purpose for which it is used and free from patent defect.

(4) In selecting accessories for lifting, the employer shall take into account-

- (a) the loads to be handled;
- (b) the gripping points;
- (c) the loose gear for attaching the load, and for attaching the accessories to the lifting equipment;
- (d) the atmospheric conditions;

(e) the mode and configuration of slinging.

(5) The employer shall ensure that accessories for lifting are stored in conditions which will not lead to damage or degradation.

Guidance on Regulation 6

Paragraph 1 of this regulation, relating to the code of safe working practices for merchant seafarers, does not apply to fishing vessels.

The remaining provisions do apply to fishing vessels.

Every lifting appliance, all parts of it and any part of the vessel used in support of it should be of sufficient construction, of sound material, adequate strength, free from patent defect and suitable for any purpose for which it used.

Lifting equipment should be of steel or other acceptable material and securely fastened to the vessel's structure. The maximum safe working load (SWL) and maximum radius of operation of all derricks and lifting appliances shall be part of the specification on all new constructions with associated ropes, wires and guys, eye-plates, shackles and blocks designed to meet these loads.

The vessels structure, crane, derrick or other lifting device and the supporting structure should be of sufficient strength to withstand the loads that will be imposed when operating at its maximum load moment.

In addition to the vessel's structure, consideration must be given to the effect upon stability, angle of heel and consequent down-flooding from the use of a crane, derrick or other lifting device fitted on any vessel. This is especially important where cranes are fitted on work boats and other small vessels and MCA would strongly recommend that advice is sought from the crane manufacturer where it is proposed to fit cranes on such vessels.

In addition it is recommended that prior to installation a check of the vessel's stability should be carried out by a suitably qualified person to ensure that the vessel is capable of operating safely with the crane fitted and in use. Failure to do this could have serious consequences. Information and instruction on these effects as well as maximum safe working loads, including variable maximum safe working loads where these vary with the crane configuration, must be given to the master or skipper of the vessel. Any welding of material should be to an approved, acceptable standard as any fitting is only as strong as the weld that connects it to the vessel's structure.

Modifications or repairs should be of equivalent strength, using compatible materials and account taken of the adverse effects of heat arising from welded repairs.

Regulation 7

Lifting equipment for lifting persons

(1) The employer shall ensure that, except under the conditions required by paragraph (2), no lifting equipment shall be used for lifting persons unless it is designed for the purpose.

(2) If in exceptional circumstances it is necessary to use lifting equipment, which has not been specifically designed for the purpose, to lift persons, the employer shall ensure that –

(a) the control position of the lifting equipment is manned at all times; and

(b) persons being lifted have a reliable means of communication, whether direct or indirect, with the operator of the lifting equipment.

(3) The employer shall ensure that lifting equipment which is designed for lifting persons is not used for that purpose unless it is so constructed, maintained and operated that a worker may use it or carry out work activities from the carrier without risk to his health and safety, and in particular –

(a) that the worker will not be crushed, trapped or struck, in particular through inadvertent contact with objects;

(b) that the lifting equipment is so designed or has suitable devices –

(i) to prevent any carrier falling or, if that cannot be prevented for reasons inherent in the site and height differences, the carrier has an enhanced safety co-efficient suspension rope or chain;

(ii) to prevent the risk of any person falling from the carrier, and

(c) that any person trapped in the carrier in the event of an incident is not thereby exposed to danger and can be freed.

(4) The employer shall ensure that any rope or chain provided under subparagraph (3)(b)(i) is inspected by a competent person every working day.

Guidance on Regulation 7

Guidance on the transfer of personnel is contained in the code of safe working practices for merchant seafarers.

In the view of MCA, appliances such as fast rescue craft and ship's lifeboats, which may be raised and lowered with personnel on board, are not lifting equipment for lifting persons for the purposes of this regulation.

Regulation 8

Positioning and installation

The employer shall ensure that permanently installed lifting equipment is not used unless it has been positioned or installed in such a way as to minimise the risk, so far as is reasonably practicable, of any of the following occurrences-

(a) the equipment or a load striking a worker;

(b) a load drifting dangerously or falling freely;

(c) a load being released unintentionally.

Guidance on Regulation 8

When any lifting equipment, whether new or not, is to be installed or relocated, consideration must be given to its positioning and installation to ensure so far as is reasonably practicable that the specific risks identified in this regulation are minimised.

Regulation 9

Marking of lifting equipment

(1) The employer shall ensure that,

(a) subject to sub-paragraph (b), work equipment which is or may be used for lifting is clearly marked to indicate its safe working loads;

(b) where the safe working load of work equipment which is or may be used for lifting depends on the configuration of the equipment –

(i) the work equipment is clearly marked to indicate its safe working load for each configuration of the equipment; or

(ii) information which clearly indicates its safe working load for each configuration of the work equipment is kept with the equipment;

(c) any lifting equipment which is carried on the ship and whose safe working load varies with its operating radius is fitted with an accurate indicator, clearly visible to the operator, showing the radius of the load lifting attachment at any time and the safe working load corresponding to that radius;

(d) lifting equipment which is designed for lifting persons is appropriately and clearly marked;

(e) lifting equipment which is not designed for lifting persons but which may be so used in error is appropriately and clearly marked to the effect that it is not designed for lifting persons.

(2) The employer shall ensure that each accessory for lifting is clearly and legibly marked with its safe working load or is otherwise marked in such a way that it is possible for any user to identify the characteristics necessary for its safe use including, where appropriate, its safe working load.

(3) The employer shall ensure that each accessory for lifting which weighs a significant proportion of the safe working load of any lifting equipment with which it is intended to be used is, in addition to the requirement in paragraph (2), clearly marked with its own weight.

Guidance on Regulation 9

Cranes, derricks and other lifting devices and associated lifting accessories, e.g. strops must be clearly marked to indicate their safe working load. It may be necessary to include more than one marking when such devices can be used in differing configurations e.g. “knuckle cranes”.

The lifting of persons must only be carried out using appropriately designated and marked equipment. No other piece of equipment should be used for the purpose. Information should be readily available for composite lift and appliance configurations that clearly indicate the safe working load for each configuration.

Regulation 10

Organisation of lifting operations

(1) The employer shall ensure that every lifting operation involving lifting equipment is –

(a) properly planned;

(b) appropriately supervised; and

(c) carried out in a safe manner.

(2) The employer shall ensure that no lifting operation is begun using equipment which is mobile or can be dismantled unless he is satisfied that the lifting equipment will remain stable during use under all foreseeable conditions and taking account of the nature of the surface on which it stands.

(3) The employer shall ensure that adequate and effective procedures and safety measures are established to ensure the safety of workers during lifting operations, in particular –

(a) that where two or more pieces of work equipment are used for lifting non-guided loads in such a way that their working radii could overlap, they shall include measures for the avoidance of collision between the loads, the work equipment, or of one with the other;

(b) that where two or more pieces of work equipment for lifting non-guided loads are used simultaneously to lift a single load, there is adequate and effective coordination between the respective operators of the equipment;

(c) where the lifting equipment cannot maintain its hold on the load in the event of a complete or partial power failure;

(d) so that, so far as reasonably practicable, loads are not carried or suspended over areas occupied by workers, and where this is not reasonably practicable, a safe system of work is

established, including adequate surveillance, to minimise the risks to workers who may need to be below the load;

e) if the operator of lifting equipment cannot observe the full path of the load, either directly or by means of auxiliary devices, a responsible person has appropriate means of communication to guide the operation;

f) that work is organised in such a way that when a worker is attaching or detaching a load by hand, the operation can be carried out safely, in particular through the worker retaining direct or indirect control of the work equipment;

g) measures are taken to prevent the load striking anything or any person;

h) that lifting operations are halted where meteorological conditions deteriorate to the point that they could affect the safe use of the lifting equipment or expose persons to danger;

and that such lifting operations are not carried out unless the procedures and safety measures are applied.

(4) In this regulation, “lifting operation” means an operation concerned with the lifting or lowering of a load.

Guidance on Regulation 10

All lifting operations must be properly planned, appropriately supervised and carried out to protect the safety of seafarers and workers. Whilst this applies to all vessels, it is particularly important where cranes are being used on work boats and other small vessels as overloading of the crane, or attempting to lift at the wrong angle could, in some circumstances, result in the vessel sinking.

No person should be lifted except where the equipment is designed or specially adapted and equipped for the purpose or for rescue or in emergencies.

All reasonable measures should be taken to ensure that any load cannot:

- strike and injure someone - the simplest way to achieve this is by ensuring no-one is close enough for this to happen and is prevented by barriers or some other method, from moving into a position where this could happen.
- drift dangerously or fall freely - drifting of loads can be caused by a variety of reasons such as weather conditions, lack of control by the persons engaged in the lifting operation or failure of equipment. Weather conditions are dealt with in regulation 10(3)(h), lack of control by those responsible can be dealt with by proper training and instruction and failure of equipment can be prevented in many cases by proper use and maintenance of equipment.
- release unintentionally - regular checking of lifting and release equipment to ensure it is operating correctly, and that when in use it is within its safe working load limits, are two ways free falling of loads might be prevented.
- that personnel are not positioned beneath suspended loads, or moved above them or that persons are likely to move into the path of a suspended load - the simplest way to achieve this is by ensuring no-one is in the danger area and is prevented by barriers or some other method, from moving into it whilst lifting is in progress.

Contact with bare ropes and warps with moving parts of the equipment should be minimised by the installation of appropriate protective devices.

Weather conditions can play a significant part in the carrying out of lifting operations whether in the open air or within the vessel. In the former case high winds or wave action can for example cause suspended loads to swing dangerously or cause mobile equipment to topple. Movement of the ship due to wind or wave action can also have a similar effect in relation to lifting operations inside the ship. Consideration should be given to the effects of weather conditions on all lifting operations whether inside the ship or outside on deck, and such

operations should be suspended before conditions deteriorate to the extent that lifting becomes dangerous.

Regulation 11

Testing

(1) The employer shall ensure that no lifting equipment, accessory for lifting or loose gear is used:

(a) after manufacture or installation, or

(b) after any repair or modification which is likely to alter the safe working load or affect the strength or stability of the equipment, without being first suitably tested by a competent person.

(2) The employer shall ensure that ship's lifting equipment is not used unless it has been suitably tested by a competent person within the preceding five years.

(3) Upon the completion of every test of lifting equipment, accessory for lifting or item of loose gear carried out in accordance with this regulation, the equipment, accessory or gear shall

(4) Upon the completion of every test of lifting equipment, accessory for lifting or item of loose gear carried out in accordance with this regulation, the equipment, accessory or gear shall be thoroughly examined and certified for use by the person carrying out the test.

Guidance on Regulation 11

This regulation does not apply to fishing vessels, but they may be subject to the related provisions on testing in the fishing vessel (safety provisions) rules 1975 and the fishing vessel codes of practice.

It is for the shipowner and employer and/or competent person to decide the format any test should take. It is recommended that such testing should be carried out in accordance with an appropriate lifting code or manufacturer's instructions.

Attention is also drawn to the requirements of BS 7121: Part 2: 2013-Code of practice for safe use of cranes, Part 2. Inspection, testing and examination.

Suitable safety precautions should be taken before commencement of the tests to ensure the safety of personnel; to ensure the adequacy of supporting structures; to ensure that the appliance can be controlled, and to ensure the stability of the vessel during the tests.

The maximum interval between tests should be 5 years unless shorter periods are stated by the equipment manufacturer.

A "competent person" should carry out all the tests and examinations.

Changes to the merchant shipping and fishing vessels (lifting operations and lifting equipment) regulations 2006

The definition of an "accessory for lifting" in these regulations was defective in that it had the potential to require all "accessories for lifting" to be tested. This requirement exceeded the Directive requirements and could therefore be considered "gold-plating". It also had potential safety implications. The amendment corrects this defect and brings the requirements of the LOLER 2006 regulations in line with the Directive by making it clear that the testing requirement in regulation 11(2) of these regulations only applies to "lifting equipment other than an accessory for lifting".

Regulation 12

Thorough examination and inspection

(1) The employer shall ensure that, where the safety of lifting equipment depends on the installation conditions, it is inspected by a competent person-

(a) after installation and before being put into service for the first time; or

(b) after assembly at a new site or in a new location, to ensure that it has been installed correctly, in accordance with any manufacturer's instructions, and is both safe to operate and capable of operating safely.

(2) Subject to paragraph (7), the employer shall ensure that where lifting equipment or an accessory for lifting is exposed to conditions causing deterioration, which is liable to result in dangerous situations, it is

(a) thoroughly examined

(i) in the case of lifting equipment for lifting persons or an accessory for lifting, at least every 6 months;

(ii) in the case of other lifting equipment, at least every 12 months; or

(iii) in either case, in accordance with an examination scheme; and

(iv) whenever exceptional circumstances which are liable to jeopardise the safety of the lifting equipment have occurred; and

(b) if appropriate, inspected by a competent person at suitable intervals, to ensure that health and safety conditions are maintained and that any deterioration can be detected and remedied in good time.

(3) In paragraph (2)(a)(iii), "examination scheme" means a suitable scheme drawn up by a competent person for such thorough examinations of lifting equipment at such intervals as may be appropriate for the purposes described in paragraphs (1) and (2).

(4) In paragraph (2)(a)(iv), "exceptional circumstances" shall include modification work, accidents, natural phenomena and prolonged periods of inactivity.

(5) The employer shall ensure that no lifting equipment –

(a) is used outside the ship; or

(b) if obtained from outside the ship, is used on the ship, unless it is accompanied by physical evidence that the last thorough examination required to be carried out under this regulation has been carried out.

(6) The employer shall not permit the use of any accessories for lifting, other than those which are subject to paragraph (2)(a), unless they have been thoroughly examined within the 12 months immediately prior to such use.

(7) Where lifting equipment was before the coming into force of these Regulations thoroughly examined or required to be so examined in accordance with regulation 8 of the Merchant Shipping (Hatches and Lifting Plant) Regulations 1988, the first thorough examination under paragraph (2) shall be made no later than the date by which a thorough examination would have been required, or next required, by that regulation had it remained in force.

(8) In relation to an inspection under this regulation, "inspection"—

(a) means such visual or more rigorous inspection by a competent person as is appropriate for the purpose described;

(b) where it is appropriate to carry out testing for the purpose, includes testing the nature and extent of which are appropriate for the purpose.

(9) in paragraph (5) "used outside the ship" means both—

(a) used on the quayside, dock or jetty or on board another ship; and

(b) operated by workers who are employed by another person.

Guidance on Regulation 12

Regulation 12 (7) does not apply to fishing vessels, but they may be subject to the related provisions on testing in the fishing vessel (safety provisions) rules 1975 and the fishing vessel codes of practice.

"Thorough Examination" as defined in regulation 2 means a detailed visual examination by a competent person, supplemented if necessary, by other suitable means or measures in order to arrive at a reliable conclusion as to the safety of the lifting equipment or accessory for lifting examined. Additionally, it is recommended, following any overload test or dismantling of gear, that a function test with a nominal load is also carried out before any lifting equipment is put into service.

Similarly, "Inspection" means a visual inspection by a "competent person" to establish that no defects or deterioration is present in the equipment and that it remains safe to use.

In regulation 12(2) the term "exposed to conditions causing deterioration" should not be taken to refer only to meteorological conditions but should include any other conditions likely to cause deterioration such as intensive use, ambient atmosphere in an engine room, holds etc or any other factor likely to cause deterioration.

Regulation 13

Certificates

(1) The employer shall ensure that—

(a) a certificate in the form set out in the Code shall, in the case of a United Kingdom ship, be obtained within 28 days following any test and thorough examination under regulation 11; or
(b) in the case of a ship other than a United Kingdom ship, a certificate in a form approved by the maritime authority for the State where the ship is registered is carried on board the ship in relation to any test and thorough examination equivalent to that envisaged by regulation 11.

(2) A certificate given in pursuance of this regulation shall be in writing and shall specify the date on which it takes effect and any conditions on which it is given.

Guidance on Regulation 13

This regulation does not apply to fishing vessels.

Any certificate issued under the provisions of this regulation should be in the form set out in annex 19.1 of the code of safe working practices for merchant seafarers.

The period of 28 days for receipt of a test certificate has been brought forward from the merchant shipping (hatches and lifting plant) regulations 1988. This period should be regarded as the absolute maximum; whenever possible a certificate, or even a "provisional certificate", should be provided at the time of test. Absence of a valid certificate could delay operations if a port operator, or a statutory body, requests production of a valid certificate before allowing work, such as unloading, to proceed.

Regulation 14

Reports and defects

(1) The employer and any person from whom the equipment has been hired or leased, shall as soon as is practicable after a thorough examination has been carried out in accordance with regulation 12(2) obtain a report from a competent person making that examination.

(2) The person making a thorough examination under regulation 12(2) or within regulation 12(6) shall—

(a) notify the employer, or other person who has control of the matter, forthwith of any deficiency in the lifting equipment which in his opinion is or could become a danger to persons;

(b) as soon as is practicable make a report, conforming with the requirements of paragraph (3), of the thorough examination to—

(i) the employer; and

(ii) any person from whom the equipment has been hired or leased;

(c) where there is in his opinion a deficiency in the lifting equipment involving an existing or imminent risk of serious personal injury, send a copy of the report as soon as is practicable to the relevant enforcing authority.

(3) The report made under paragraph (2) shall be in writing and authenticated by the person making the thorough examination or on his behalf by signature or equally secure means and contained in a certificate which sets out the matters mentioned in Marine Guidance Note 322.

(4) A person making an inspection for an employer under paragraph (1) or (2)(b) of regulation 12 shall

(a) notify the employer, or other person who has control of the matter, forthwith of any deficiency in the lifting equipment which in his opinion is or could become a danger to persons;

(b) as soon as is practicable make a record of the inspection in writing.

(5) Where the employer or other person who has control of the matter has been notified of any deficiency under paragraph (2) or (4), he shall ensure that –

(a) any condition liable to result in a dangerous situation is remedied in good time, and

(b) in the case of a deficiency to which paragraph (2)(c) applies, lifting equipment is not used unless and until the deficiency is rectified.

(6) In this regulation “relevant enforcing authority” means such of the following as are applicable-

(a) where the defective equipment has been hired or leased by the employer in Great Britain, the Health and Safety Executive;

(b) where the defective equipment has been hired or leased by the employer in Northern Ireland, the Health and Safety Executive for Northern Ireland;

(c) where the defective equipment is installed or used on a United Kingdom ship, the Maritime and Coastguard Agency;

(d) where the defective equipment is installed or used on any ship other than a United Kingdom ship, the maritime authority of the State in which the ship is registered;

(e) otherwise the enforcing authority for the premises in which the defective equipment was thoroughly examined.

Guidance on Regulation 14

The shipowner and employer, or other person who has control of the matter, and if applicable any person from whom any equipment has been hired or leased, are required as soon as is reasonably practicable to obtain a report from a competent person making a thorough examination and/or test, as required by regulation 12. The report must be authenticated by signature or equally secure means by or on behalf of the competent person who made the thorough examination and/or test. In this context "in writing" includes electronically or on computer disc, provided that the information is in a form, which is usable by the shipowner and employer or master. The findings of report are to be recorded in a certificate in a form approved

by the Secretary of State. The format for the approved certificate is set out in annex 19.1 to the code of safe working practices for merchant seafarers, copies of which are required to be carried on all merchant ships and other commercial vessels but not fishing vessels.

Any person who undertakes a thorough examination and/or inspection under regulation 12 must notify the shipowner and employer, or other person who has control of the matter, immediately of any deficiency in the lifting equipment which in their opinion is or could become a danger to persons. They must also, as soon as is practicable, make a report in the required format. A copy of the report is to be provided to the shipowner and employer, the master and, if appropriate, any person from whom the equipment has been hired or leased. If they consider that the deficiency in the lifting equipment involves an existing or imminent risk of serious personal injury, they must also send a copy of the report as soon as is practicable to the relevant enforcing authority.

Where the shipowner and employer or other person who has control of the matter has been notified of any deficiency they must ensure that any condition liable to result in a dangerous situation is remedied in good time. Where the person carrying out a thorough examination and/or test reports a deficiency in the lifting equipment which constitutes an existing or imminent risk of serious personal injury, such lifting equipment must not be used unless and until the deficiency the deficiency is rectified.

In certain circumstances there will be overlapping responsibilities between the different enforcing authorities referred to in this regulation. Where this occurs copies of any reports should be sent to all the authorities involved.

Where a report is to be made to the Maritime and Coastguard Agency it should be made to the nearest MCA Marine Office, details of which can be found on the MCA website at www.mcga.gov.uk

Regulation 15

Keeping of information

(1) The employer shall ensure that any certificate or report of a test or thorough examination issued under these Regulations is kept in a safe place on board ship for a period of at least 2 years following receipt of the certificate or report of the next following test or thorough examination of the lifting equipment, accessory for lifting or loose gear as the case may be.

(2) Notwithstanding the requirements of paragraph (1) the employer shall ensure that the information contained in –

(a) every report made under regulation 14(2) or record made under regulation 14(4) is kept available for inspection until the next such report is made.

(b) every report made to him under regulation 14(2) is kept available for inspection –

(i) in the case of a thorough examination of lifting equipment until he ceases to use the lifting equipment;

(ii) in the case of a thorough examination of an accessory for lifting under regulation 12(6), for two years after the report is made;

(iii) in the case of a thorough examination under regulation 12(2), for two years after receipt of that report, or until the next report is made under that regulation, whichever is later;

(c) every record made in respect of an inspection carried out under regulation 12(1) is kept available for inspection until he ceases to use the lifting equipment at the place it was installed or assembled.

Guidance on Regulation 15

Reports are to be retained as prescribed in this regulation.

Part 3 : Hatches

Regulation 16

Hatches

(1) Every employer and any person in carrying out the obligations contained in this regulation shall comply with the principles and guidance in the Code.

(2) The employer shall ensure that any hatch covering used on a ship is of sound construction and material, of adequate strength for the purpose for which it is used, free from patent defect and properly maintained.

(3) The employer shall ensure that –

(a) a hatch covering is not used unless it can be removed and replaced, whether manually or with mechanical power, without endangering any person, and

(b) information showing the correct replacement position is clearly marked, except in so far as hatch coverings are interchangeable or incapable of being incorrectly replaced.

(4) The employer shall ensure that a hatch is not used unless the hatch covering has been completely removed, or if not completely removed, is properly secure.

(5) Except in the event of an emergency endangering health or safety, no person shall operate a hatch covering which is power-operated or a ship's ramp or a retractable car-deck unless authorised to do so by a responsible ship's officer.

Guidance on Regulation 16

This regulation does not apply to fishing vessels.

Guidance on what is required under this regulation is contained in chapter 16 of the code of safe working practices for merchant seafarers is also relevant. In relation to paragraph 5 it is for the shipowner and employer to decide who is a responsible ship's officer in respect of the operation of a hatch covering, ramp etc. The shipowner and employer should also ensure that the officers concerned have received proper training/instruction and are competent to oversee such operations.

Part 4: Duty of Workers

Regulation 17

Duty of workers

Without prejudice to the general duties imposed upon him by the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997, every worker while at work shall—

(a) comply, in relation to the use by him of lifting equipment, with any reasonable instruction that may be given to him by his employer for the purpose of securing compliance with any of the obligations imposed upon the employer under regulations 7, 10 or 16; and

(b) make full and proper use of any system of work provided for his use by his employer in compliance with regulation 10(3)(d).

Guidance on Regulation 17

Where as a result of the requirements of these Regulations a system of work has been introduced by the shipowner and employer for particular work practices or lifting operations,

every seafarer and worker is required to comply fully with such systems when carrying out their duties. In addition, each seafarer and worker has a duty of care under the general duties regulations to safeguard their own and other persons' safety when carrying out their duties.

Part 5: Penalties, offences, inspections and detentions

Regulation 18

Penalties

(1) Any contravention of regulations 6 to 12, or, except in the case of a worker regulation 16, shall be an offence punishable on summary conviction by a fine not exceeding the statutory maximum or on conviction on indictment by imprisonment for a term not exceeding two years or a fine or both.

(2) Any contravention of regulations 13, 14(2) (4) or (5), or 15 shall be an offence punishable on summary conviction by a fine not exceeding level 4 on the standard scale.

(3) Any contravention of regulations 14(1) or (3) shall be an offence punishable on summary conviction by a fine not exceeding level 3 on the standard scale.

(4) Any contravention by a worker of regulations 16(1), (5) or 17 shall be an offence punishable on summary conviction by a fine not exceeding level 2 on the standard scale.

Guidance on Regulation 18

The penalties indicated are the maximum penalties that may be imposed, on summary conviction, for failure to comply with the requirements of specific regulations. These penalties only apply to failure to comply under these regulations; failure to comply could however also result in civil penalties (damages), should anyone be injured, or killed, as a result of failure to comply with any requirement of these regulations. Civil penalties are not covered by these regulations.

Regulation 19

Offences by bodies corporate and partnerships

(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 shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, the preceding paragraph shall apply 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 shall be guilty of an offence and shall be liable to be proceeded against and punished accordingly.

Guidance on Regulation 19

If the shipowner and employer is a company or partnership, responsibility under these Regulations may rest with more than one person.

Regulation 20

Onus of proving what is reasonably practicable

In any proceedings for an offence under these Regulations consisting of a failure to comply with a duty or requirement to do something so far as is reasonably practicable, it shall be for the defendant to prove that it was not reasonably practicable to do more than was in fact done to satisfy the duty or requirement.

Guidance on Regulation 20

Where proceedings are instituted for an offence consisting of a failure to comply with a duty or requirement to do something so far as is reasonably practicable, it will not be for the prosecution to prove that it was possible to do more than was in fact done. The onus will be on the defendant to prove that it was not reasonably practicable to do more to satisfy the duty or requirement.

Regulation 21

Inspection and detention of a United Kingdom ship

(1) A relevant inspector may inspect any United Kingdom ship and if he is satisfied that there has been a failure to comply in relation to that ship with the requirements of these Regulations, may detain the ship until the health and safety of all persons aboard the ship is secured.

(2) The relevant inspector shall not in the exercise of his powers under this regulation detain or delay the ship unreasonably.

Guidance on Regulation 21

In this context a "UK inspector" normally means an MCA surveyor or other person appointed by the Secretary of State. If such an Inspector inspects any UK ship and if the inspector is satisfied that there has been a breach of the requirements of these regulations they may detain the ship until the situation has been put right. There is however an obligation on the Inspector to not detain or delay a ship unreasonably.

Regulation 22

Inspection and other measures in respect of ships registered outside the United Kingdom

(1) A relevant inspector may inspect any ship which is not a United Kingdom ship when the ship is in United Kingdom waters and, if satisfied that the ship does not conform to the standards required of United Kingdom ships by these Regulations, may –

(a) send a report to the government of the country in which the ship is registered, and a copy thereof to the Director General of the International Labour Office; and

(b) where conditions on board are clearly hazardous to health and safety—

(i) take such measures as are necessary to rectify those conditions, or

(ii) detain the ship. when the ship has called at a United Kingdom port in the normal course of business or for operational reasons.

(2) If either of the measures specified in paragraph (1)(b) is taken, the relevant inspector shall forthwith notify the nearest maritime, consular or diplomatic representative of the State whose flag the ship is entitled to fly.

(3) The relevant inspector shall not in exercise of his powers under this regulation detain the ship unreasonably.

Guidance on Regulation 22

A non-UK ship in UK waters in the normal course of business for operational reasons may also be inspected by a UK inspector. The regulation details the steps that the inspector may take if satisfied that the ship does not meet the standards required of UK ships by these regulations.

Regulation 23

Enforcement of detention

Where a ship is liable to be detained under these Regulations, section 284 (1) to (5) and (8) of the Act (which relates to the detention of a ship) shall apply as if for the words "this Act", wherever they appear, there were substituted "the Merchant Shipping and Fishing Vessels (Lifting Operations and Lifting Equipment) Regulations 2006".

Guidance on Regulation 23

Section 284 of the merchant shipping Act 1995, as amended by the merchant shipping and maritime security Act 1997, schedule 1, paragraph 5, specifies those persons who may detain a vessel and prescribes the substantial penalties payable by those involved in a vessel breaking detention.

Regulation 24

Compensation

Sections 96 and 97 of the Act (arbitration and compensation) shall apply in relation to a detention notice or order under these Regulations as they apply to a detention notice under section 95(3) of the Act, and in such application, "relevant inspector" means a person making an inspection under these regulations.

Guidance on Regulation 24

Section 96 of the merchant shipping act 1995 sets out the conditions under which a detention notice may be referred to arbitration and section 97 provides for the awarding of compensation by an arbitrator in cases where the arbitrator considers the detention to have been unreasonable or unjustified.