



MERCHANT SHIPPING ACT 1985

MERCHANT SHIPPING (GUARDING OF MACHINERY AND SAFETY OF ELECTRICAL EQUIPMENT) REGULATIONS 1989

1. The Merchant Shipping (Guarding of Machinery and Safety of Electrical Equipment) Regulations 1989, a copy of which is attached, were made by the *former* Department of Highways, Ports and Properties on the 29th. November, 1989 in exercise of its powers under sections 1 and 2 of the Merchant Shipping Act 1985.
2. The Regulations require the owner, manager and master of a Manx ship (other than a fishing vessel, a pleasure craft, or offshore oil or gas installation on site) to ensure the secure guarding of ships machinery, except in prescribed circumstances as provided for by (regulation 3), and the provisions of ship's electrical equipment and installations in a way that protects all persons against electrical hazards.
3. The Regulations prescribe that ships (including non-Manx ships while they are within Manx ports), which do not conform to the standards of safety required by these Regulations may be detained.
4. The Regulations came into force on the 1st. January, 1990.
5. This text includes the amendments (indicated by italics) made to the 1989 Regulations by the following -
 - (a) The Merchant Shipping Registration Act 1991 [c. 15].
 - (b) The Merchant Shipping (Yachts in Commercial Use) Regulations 1993 (SD 248/93).
 - (c) The Criminal Justice (Penalties Etc.) Act 1993 [c. 18].
 - (d) The Transfer of Functions (Marine Administration) Order 1997 (SD 51/97)

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In exercise of the powers conferred on the Department of Highways, Ports and Properties ^(a) by sections 1 and 2 of the Merchant Shipping Act 1985 ^(b), after consultation with the Secretary of State and those persons referred to in section 2(2) of that Act, and of all other powers enabling it in that behalf, the following Regulations are hereby made:

Citation and commencement

1. (1) These Regulations may be cited as the Merchant Shipping (Guarding of Machinery and Safety of Electrical Equipment) Regulations 1989 and shall come into operation on the 1st. January, 1990.

(2) In these Regulations:

“Department” means the *Department of Trade and Industry*;

“fishing vessel” means a vessel for the time being employed in fishing but does not include a vessel used otherwise than for profit;

“manager” means a ship's manager or managing owner appointed under section 59 of the Merchant Shipping Act 1894 ^(c) (an Act of Parliament), and resident in the Island;

“Manx Shipping Notice” means a notice described as such issued by the Department;

“master” includes any person in charge of a ship during the absence of the master but excludes a watchman;

“offshore installation” means any offshore installation within the meaning of section 1(4) of the Mineral Workings (Offshore Installations) (Isle of Man) Act 1974 ^(d);

“owner” means the person registered as the owner of the ship and includes a disponent owner;

(a) Functions now transferred to the Department of Trade and Industry by the Transfer of Functions (Marine Administration) Order 1997 (SD 51/97)

(b) 1985 c3

(c) 1894 c.60 (Now superseded by the Merchant Shipping Registration Act 1991 [c. 15].

(d) 1974 c 33

“pleasure vessel” means -

- (a) any vessel which at the time it is being used,***
 - (i) (A) in the case of a vessel wholly owned by an individual or individuals, is used only for the sport or pleasure of the owner or the immediate family or friends of the owner; or***
 - (B) in the case of a vessel owned by a body corporate, is carrying only such persons as are the employees or officers of the body corporate, or their immediate family or friends; and***
 - (ii) is on a voyage or excursion which is one for which the owner does not receive money or money's worth for or in connection with the operation of the vessel or carrying any person, other than as a contribution to the direct expenses of the operation of the vessel incurred during the voyage or excursion; or***
- (b) any vessel wholly owned by or on behalf of a members' club formed for the purpose of sport or pleasure which, at the time it is being used, is used only for the sport or pleasure of members of that club or their immediate family; and any charges levied in respect of that use are paid into club funds and applied for the general use of the club; and***
- (c) in the case of any vessel referred to in paragraphs (a) or (b) no other payments are made by, on behalf of or for the benefit of users of the vessel, other than***
by the owner.

In this regulation “immediate family” means in relation to an individual, the husband or wife of the individual, and a relative of the individual or the individual's husband or wife, and “relative” means brother, sister, ancestor or lineal descendant.

(3) For the purposes of these Regulations, machinery is securely guarded if it is protected by a properly installed guard or device of a design and construction which prevents foreseeable contact between any person and any dangerous part of the machinery.

Application

- 2. (1) Subject to paragraph (2) of this regulation,
 - (a) these Regulations, except regulation 8, apply to Manx ships, and
 - (b) regulations 1, 2, 8 and 9 apply to ships, other than Manx ships, when they are in a port in the Island.

- (2) These Regulations do not apply to:-
- (a) fishing vessels,
 - (b) pleasure craft,
 - (c) offshore installations whilst on or within 500 metres of their working stations, or
 - (d) ships in which there is for the time being no master or crew or watchman.

(3) The Department may grant exemptions from all or any of the provisions of these Regulations (as may be specified in the exemption) for classes of cases or individual cases on such terms (if any) as it may so specify and may, subject to giving reasonable notice, alter or cancel any such exemption.

Guarding of Machinery

3. (1) Subject to paragraph (2) of this regulation, the owner, manager and the master shall ensure that every dangerous part of the ship's machinery is securely guarded unless that part is of such construction or is so positioned or is otherwise safeguarded so as to be as safe to anyone on board as if it were securely guarded.

(2) It shall be a defence for any person charged in respect of a contravention of paragraph (1) to show that it was necessary for the dangerous part of machinery to be in motion whilst it was not securely guarded to ensure the safety of the ship or for the purposes of an examination and any adjustment, lubrication or test shown by that examination to be immediately required provided that such examination and adjustment was carried out in accordance with a suitable and acceptable procedure as detailed in Manx Shipping Notice No. 132 "Code of Safe Working Practices for Merchant Seamen - Permit to Work".

(3) The owner, manager and master shall ensure that all guards and other devices provided in pursuance of these regulations are of substantial construction and properly maintained and, subject to paragraph (2), kept in position whilst the parts to be guarded are in motion.

(4) The owner, manager and master shall ensure that there is a means for taking prompt action to stop any machinery and for cutting off the power in the event of an emergency.

Electrical Equipment

4. (1) The owner and manager shall ensure that all ship's electrical equipment and installations are so constructed and installed that the ship and all persons are protected against electrical hazards.

(2) The master shall ensure that ship's electrical equipment and installations are so operated and maintained that persons are protected against electrical hazards.

Penalties

5. (1) An owner or manager who contravenes any of these Regulations shall be guilty of an offence and liable on summary conviction to a fine not exceeding **£5,000** or on conviction on information to imprisonment for a term not exceeding two years or a fine or both.

(2) A master who contravenes any of these Regulations shall be guilty of an offence and liable on summary conviction to a fine not exceeding **£2,500**.

(3) It shall be a defence for a person charged under these Regulations, including a person charged by virtue of regulation 6, to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

6. Where an offence under any of these Regulations is committed, or would have been committed except for the operation of regulation 5(3), by any person due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this regulation whether or not proceedings are taken against the first-mentioned person.

Inspection and detention of a Manx ship

7. Any person duly authorised by the Department may inspect any Manx 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 he may detain the ship until the health and safety of all employees and other persons aboard ship is secured, but shall not in the exercise of these powers detain or delay the ship unreasonably.

Inspection detention and other measures in respect of ships registered outside the Isle of Man

8. (1) Subject to paragraph (2), any person duly authorised by the Department may inspect any ship other than a Manx ship when the ship is in a port in the Island and if he is satisfied that the ship does not conform to the standards of health and safety required of

Manx ships by these Regulations he 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 safety or health:
 - (i) take such measures as are necessary to rectify those conditions;
 - (ii) detain the ship.

(2) The measures specified in paragraphs (1)(a) and (b) may be taken only when the ship has called at a port in the Island in the normal course of business or for operational reasons.

(3) If he takes either of the measures specified in paragraph (1)(b) above the person duly authorised shall forthwith notify the nearest maritime, consular or diplomatic representative of the State whose flag the ship is entitled to fly.

(4) The person duly authorised shall not in the exercise of his powers under this Regulation unreasonably detain or delay the ship.

Compensation and enforcement of detention

9. Section 3(1) of the Merchant Shipping (Detention of Ships) Act 1979 ^(e) and *section 74 of the Merchant Shipping Registration Act 1991* ^(f) (which relate respectively to liability for costs and compensation for detention of a ship and enforcing the detention of a ship) shall have effect in relation to a ship detained under these Regulations subject to the

following modifications:-

- (a) in the said section 3(1) the following words shall be omitted:-
 - “by reason of the condition of the ship or the act or default of the owner”
 - “provisional”
 - “this Act as an unsafe ship”
 - “and survey”
 - “or survey”; and
- (b) for the words “this Act” wherever they appear in *section 74*, there shall be substituted “the Merchant Shipping (Guarding of Machinery and Safety of Electrical Equipment) Regulations 1989”.

Dated this 29th. day of November, 1989

A. Arnold Callin,

Minister for Highways, Ports
and Properties

(e) 1979 c. 13

(f) 1991 c. 15

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations give effect in part to the Merchant Shipping (Minimum Standards) Convention 1976 (International Labour Organisation Convention 147) (Cmnd.7163), and extended to the Isle of Man on 1st. July 1985 which is in force internationally and requires provisions to be made substantially equivalent to those of (amongst other Conventions) the Prevention of Accidents (Seafarers) Convention 1970 (International Labour Organisation Convention 134, Article 4) (Cmnd.4800) which is in force but has not been ratified by the United Kingdom or extended to the Isle of Man. The Regulations, with other provisions, will also allow ratification and extension to the Isle of Man of the Convention and a recommendation concerning occupational safety and health in dock work (International Labour Organisation Convention 152) (Cmnd.8118).

The Regulations require the owner, manager and master of a Manx ship (other than a fishing vessel, pleasure craft, or offshore oil installation on site) to ensure the secure guarding of ships machinery, except in prescribed circumstances (regulation 3), and the provisions of ship's electrical equipment and installations in a way that protects all persons against electrical hazards.

In the case of ships not registered in the Isle of Man the Regulations require that ships which do not conform to the standards of safety required by these Regulations may be detained.

The Regulations come into force on the 1st. January, 1990.

The command papers containing I.L.O. Conventions 147 and 134, Cmnd.7163 and Cmnd.4800 are no longer in print, but photocopies of them may be obtained through Her Majesty's Stationery Office. Copies of I.L.O. Conventions may also be obtained from the United Kingdom Office of the I.L.O., *Milton Towers, 21-24 Millbank, LONDON SW1P 4QP.*