



Maritime and Coastguard Agency

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## Implementation of EC Directive 94/33

# MERCHANT SHIPPING AND FISHING VESSELS (HEALTH AND SAFETY AT WORK) (EMPLOYMENT OF YOUNG PERSONS) REGULATIONS 1998

Notice to Shipowners, Ship Operators and Managers, Masters, Officers and Ratings of Merchant Vessels, and Skippers and Crew on Fishing Vessels.

*This notice should be read in conjunction with the regulations above and with MGN 20(M+F)*

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### *Summary*

- This Marine Guidance Note gives advice on new regulations for the occupational health and safety of young workers at work.
- It contains guidance on specific risks to young persons which may arise from their work on board ship.

The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Employment of Young Persons) Regulations 1998 (S.I. 1998/2411) come into force on 30 October 1998. The Regulations implement for the maritime sector Council Directive 94/33/EC on the protection of young people at work (the "Young Persons Directive"). The Regulations apply to United Kingdom ships and to other ships when they are in United Kingdom waters.

This MGN is based on guidance issued by the Health and Safety Executive, entitled "Young people at work: A guide for employers" (available from HSE books, priced £7.95).

Copies of the Regulations, priced £1.55, are available from The Stationery Office Publications Centre, PO Box 276, London, SW8 5DT. Tel (orders) 0171 873 9090; (enquiries) 0171 873 0011. Fax (orders) 0171 873 8200. Copies may also be ordered through the Stationery Office's bookshops, its accredited agents (see Yellow Pages) or from any good bookseller.

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## YOUNG WORKERS: HEALTH AND SAFETY

### Introduction:

1. The Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997<sup>1</sup> (the “General Duties” regulations) require employers to assess the risks to their workers arising from their work, and to do what is reasonably practicable to control those risks.

2. Young workers (those under 18 years of age) are seen as being particularly at risk because of their possible lack of awareness of risks, their immaturity and inexperience. This Guidance Note provides advice on employers’ responsibilities in relation to those workers, and how to comply with the regulations.

### Merchant Shipping and Fishing Vessel (Health and Safety at Work) (Employment of Young Persons) Regulations 1998

3. These Regulations implement for the maritime sector an EC directive, and mirror land-based legislation made by the Health and Safety Executive and the Department of Trade and Industry. They revoke and replace the Merchant Shipping (Employment of Young Persons) Regulations 1995<sup>2</sup>, which set out the conditions under which young persons may be employed on UK ships.

4. The Regulations supplement and expand on the general duties contained in the MS and FV (Health and Safety at Work) Regulations 1997, in relation to the particular risks to young persons at work.

5. Young persons are those over minimum school leaving age but under 18 years of age. Children (ie those under school leaving age) may not be employed on ships (section 55 of the Merchant Shipping Act 1995).

### Duties of employers (regulation 5)

6. As with the General Duties regulations, these regulations place duties on employers, or, if the employer is not “in control of the matter”, extend the duty to any person who is in control of the matter.

7. The employer is required to take particular account in carrying out his risk assessment under the General Duties regulations of the risks which might arise to young persons as a result of their inexperience, lack of awareness of risks and immaturity (regulation 5). The regulations specify the following areas for attention:

- *the fitting out and layout of working areas;*
- *the nature, degree and duration of exposure to physical, biological and chemical agents;*
- *the form, range and use of work equipment and the way in which it is handled;*
- *the organisation of processes and activities;*
- *the extent of the health and safety training provided or to be provided to the young persons concerned; and*
- *risks from agents, processes and work listed in the schedule to the regulations.*

8. Annex 1 to this Notice provides some advice on the risks covered by the schedule and ways of avoiding or reducing them.

9. Employers are also required to inform young persons of any risks to their health and safety identified in these areas. This is in addition to any information supplied under the General Duties regulations with regard to the general risk assessment for all workers.

10. It is for individual employers to decide whether the assessment of risks to young persons under these regulations is carried out as an integral part of the assessment process required by the General Duties regulations, or as a separate exercise. It might be helpful to consider developing generic risk assessments for the employment of young people. These will be pertinent where young people typically undertake a series of tasks or duties. A generic risk assessment would need to be revised to address additional work not covered by the original assessment or if an individual young person might face greater risks e.g. as a result of a medical condition.

11. In the light of their assessment(s), and of the hazards to young persons identified in the schedule to the regulations (see Annex 1), employers are required to ensure that young persons are not engaged in:

<sup>1</sup> S.I. 1997/2962.

<sup>2</sup> S.I. 1995/972.

- *work which is beyond their physical or psychological capacity;*
- *work involving harmful exposure to agents which are toxic, carcinogenic, cause heritable genetic damage, or harm to the unborn child, or which in any other way chronically affect human health;*
- *work involving harmful exposure to radiation;*
- *work involving the risk of accidents which it may be assumed cannot be recognised or avoided by young persons owing to their insufficient attention to safety or lack of experience or training; or*
- *work in which there is a risk to health from -*
  - (i) *extreme cold or heat, or*
  - (ii) *noise, or*
  - (iii) *vibration.*

12. The guidance in Annex 1 may be helpful in considering these factors.

13. Exceptions are allowed to the above criteria where the activity in question is indispensable for vocational training and is performed under the supervision of a competent person. This means, for example, that a cadet or trainee who is following a structured training programme and is working alongside an experienced person or under direct supervision, may, as a part of that training, carry out activities which fall within the criteria listed. This in no way detracts from the principle that the employer has a duty to ensure the health and safety of the young person at work at all times. Appropriate controls must be in place which reduce any risk to the minimum that is reasonably practicable.

14. The competent person appointed to assist the employer with health and safety under the General Duties regulations must, under those regulations, be provided with any information relevant to that role. This should include being notified of any young persons employed on the ship, and of any risks identified specifically in relation to them under regulation 5.

### **Rest periods for young workers (regulation 6)**

15. Regulation 6 stipulates minimum daily and weekly rest periods and rest breaks for young workers. This regulation does not apply to young workers on fishing vessels, since the fishing

patterns followed by most fishing vessels do not allow for pre-set working hours for the crew. The employer of young workers on a fishing vessel is nevertheless required to ensure that, where the provisions are not complied with, any young person concerned is provided with compensatory rest periods which are equivalent to those required by the provisions of Regulation 6.

16. For other vessels, the basic principle is that young persons should be provided with a minimum of 12 consecutive hours rest in every 24 hour period; and a rest period of at least 2 days in every week.

17. It is recognised however that, if applied rigidly, such requirements would undermine the employment of young persons on board ship, since they cannot be fitted into the operating schedules of many ships.

18. There is therefore provision for the daily and weekly rest periods to be interrupted where periods of work are split up over the day or of short duration; and for the weekly rest period to be reduced to no less than 36 hours where this is justified by technical or organisational reasons.

19. In addition, derogations are built into the regulations where the young person concerned is working to a properly agreed schedule of duties. This may either be a schedule complying with the merchant shipping rules on hours of work<sup>3</sup>, or another "relevant agreement". Annex 2 gives guidance on "relevant agreements". In either case, where such a schedule or other relevant agreement is in place, the rest periods above do not apply provided that schedule or agreement provides for compensatory rest time and that the employer ensures that the hours worked do not put at risk the health and safety of the young person.

20. Time spent training constitutes working time. This includes time spent undergoing formal instruction at college or on training courses away from the ship, as well as training received on board. It does not include private study time either on board or ashore.

<sup>3</sup> Merchant Shipping (Safe Manning, Hours of Work and Watchkeeping) Regulations 1997 (S.I. 1997/1320) regulation 9.

### Health assessment (regulation 7)

21. Under the General Duties regulations the employer is required to provide for health surveillance of workers where appropriate. Annex 2 to MGN 20 (M+F) provides guidance on when surveillance is appropriate.

22. Under these regulations, where the risk assessment carried out under regulation 5(2) identifies a risk to the health and safety of young people, or where any young person is required to work at night (other than in exceptional circumstances), the young workers concerned are entitled to free assessment of their health and capacities before starting work and regular monitoring thereafter. This monitoring is required only so long as the night work continues, unless there are other factors arising from the work which may have long-term consequences to health.

### Medical certificates (regulation 8)

23. All young persons employed on ships must hold a medical fitness certificate. This applies whether or not a medical fitness certificate (ENG1) is required under the Merchant Shipping (Medical Examination) Regulations 1983. However, it does **not** apply to a young person working on a vessel on which only members of the same family are employed.

24. This is an existing requirement carried forward from the Employment of Young Persons Regulations 1995, and derives from an international convention.

25. Currently the only statutory medical fitness certificate recognised by MCA is the ENG1 certificate (and overseas equivalents). MCA is to review the requirement for medical fitness certificates for young persons employed on vessels not covered by the Medical Examination regulations, and we will be consulting on proposals in due course.

### Record of young persons (regulation 9)

26. Again, this provision is carried forward from the Employment of Young Persons Regulations 1995. The master is required to hold a record, as part of the crew agreement if one exists, of any young persons engaged as workers on the ship together with their dates of birth and date of engagement on the ship. A summary of the provisions of the Merchant Shipping and Fishing

Vessels (Employment of Young Persons) Regulations must also be included in the crew agreement.

27. Form ALC 1(c) is being revised to reflect the new regulations. However, where this is not in use, a copy of this MGN, kept with the crew agreement, will be considered to be adequate to fulfill this requirement.

28. HSE publications mentioned in this Guidance note are available from:

HSE Books  
PO Box 1999  
Sudbury  
Suffolk  
CO10 6FS

Tel 01787 881165  
Fax 01787 313995

and from good booksellers.

### HAZARDS, RISKS AND WAYS OF AVOIDING THEM

- The table lists the agents, processes and work taken from the annex to the European directive on the protection of young people at work (94/33/EC) which the EC considers are likely to give rise to dangers to young people (see paras 11 and 12 of this Notice).
- Where these are considered likely to apply to young workers on ships, advice is given on what risks may arise, and how they should be avoided.
- The advice is based on the HSE publication *Young People at Work – A Guide for Employers*.

Lists of agents, processes and work	Risk	How to avoid risk
<b>WORK OBJECTIVELY BEYOND PHYSICAL OR PSYCHOLOGICAL CAPACITY</b>		
Physical capacity	Accidents, injuries and/or musculoskeletal disorders which can occur in jobs that require repetitive or forceful movements, particularly in association with awkward posture or insufficient recovery time.	The risk assessment should take account of physique and general health, age and experience.  Training and effective supervision should be provided.
Work the pace of which is determined by machinery and which involves payment by results	May be relevant on fishing vessels.  Young people may be more at risk as their muscle stretch may not be fully developed, and they may be less skilled in handling techniques or in pacing the work according to capacity. They may also be more subject to peer pressure to take on tasks that are too much for them or to work more quickly.	The risk assessments should take account of age and experience.  Training and appropriate supervision should be provided.
Psychological capacity	Although there will be large individual differences in the psychological capacity of young people, based on differences in training, experience, skills, personality and attitudes, in the vast majority of jobs there is no difference in the kind of mental and social skills used by young people and adults.  However, there are some areas of work that could be beyond a young person's mental and emotional coping ability, such as dealing with violent and aggressive behaviour and decision-making in stressful situations.	The risk assessment should focus on critical tasks which rely on skill, experience and an understanding of the task requirements. Training and effective supervision should be provided, particularly where the young person might be using machinery with exposed dangerous parts.

**WORK INVOLVING HARMFUL EXPOSURE TO AGENTS WHICH ARE TOXIC, CARCINOGENIC, CAUSE HERITABLE GENETIC DAMAGE, OR HARM TO THE UNBORN CHILD, OR WHICH IN ANY OTHER WAY CHRONICALLY AFFECT HUMAN HEALTH**

<p>Physical agents <i>Work in high pressure atmospheres</i></p>	<p><i>Diving:</i> The risks are from pressure and decompression</p>	<p>On the UKCS, divers must have an HSE certificate of competence or equivalent, be fit and must have a valid certificate of medical fitness to dive.</p> <p>There is no minimum age limit for divers. However, it is unusual for anyone below school-leaving age to undergo diver training and no one under 18 is accepted for work by employers offshore.</p>
<p>Biological agents</p>	<p>Despite physical and psychological immaturity, young persons are not intrinsically more susceptible to infections from biological agents than adults. Like any other workers they may be at greater risk if they suffer from any disease or from the effects of medication or pregnancy.</p>	<p>Precautions against risk of infection at work and of acquiring an allergy to certain microbes are applicable to all workers, regardless of their age or state of health. Control measures, which are often as simple as maintaining high standards of hygiene like hand-washing or use of gloves, are derived from the risk assessment. Vaccination should be considered as a supplement to procedural or physical controls, where appropriate.</p>
<p>Chemical agents <i>Very toxic, toxic, harmful, corrosive and irritant substances</i></p>	<p>Young people are not physiologically at any greater risk from exposure to such substances than anyone else. The actual risk can only be determined following a risk assessment of the particular substance at the place of work. However, young people may not appreciate the dangers to their health or they may not understand or follow instructions properly because of their immaturity.</p>	<p>Employers should assess the health risks to young people, arising from work with such substances, and where appropriate prevent or control the risk. Guidance is contained in Chapter 27 of the Code of Safe Working Practices for Merchant Seamen.</p> <p>Where information is supplied with the substance, for example under CHIP regulations, particular attention should be paid to such information. Workers should be given any relevant information affecting their health and safety, instruction and training in the safe handling and use of the substance, and be provided with adequate supervision within a safe system of work.</p>
<p><i>Carcinogens</i></p>	<p>Substances which may cause cancer (carcinogens) should be given special consideration because of that property – they have no special effect on young people.</p>	<p>Many of these substances can be identified from the label or safety data sheet (where supplied) for the substance, which will say “May cause cancer”.</p>
<p><i>Substances causing allergic reactions</i></p>	<p>These substances do not affect young people any differently from adults.</p>	<p>HSE guidance on preventing asthma at work, and on dermatitis, gives practical advice on preventing risk to all workers.</p>

Chemical agents <i>(continued)</i>	Some substances may impair people's ability to have children or may damage the unborn child. These substances do not affect young people any differently from adults.	General guidance on hazardous substances is contained in Chapter 27 of the Code of Safe Working Practices for Merchant Seamen.
<i>Lead and lead compounds</i>	<p>Young people are not physiologically at any greater risk from exposure to lead and its compounds than anyone else.</p> <p>Lead and its inorganic compounds are known to produce diverse biological effects in humans, depending on the exposure level. These range from minor biochemical changes in the blood, to severe irreversible or life threatening disruption of body processes, in particular the nervous system, the blood forming system and the kidneys. There are also concerns about the effects of lead on the quality of semen and on the unborn child.</p> <p>The toxic effects of lead alkyls are primarily neurological or psychiatric. Symptoms include agitation, insomnia, dizziness, tremors and delirium, which can progress to mania, coma and death. These symptoms are accompanied by nausea, vomiting and abdominal pain.</p> <p>The actual risk can only be determined following a risk assessment of the particular circumstances under which there is exposure at the place of work. However, young people may not appreciate the dangers to their health or they may not understand or follow instructions properly because of their immaturity.</p>	<p>Lead may be found in some paints. Guidance on precautions to be taken while painting or cleaning or rubbing down painted surfaces, are contained in Chapter 24 of the Code of Safe Working Practices for Merchant Seamen.</p> <p>Employers should ensure that they adequately control the exposure of young people to lead and its compounds. Special attention should be paid to the requirements of the MS and FV (Health and Safety at Work) Regulations 1997 and the MS and FV (Health and Safety at Work) (Employment of Young Persons) Regulations 1998 on the provision of information, instruction and training, and to the provision of adequate supervision within a safe system of work.</p>
Asbestos	<p>Young people are not physiologically at any greater risk from exposure to asbestos than anyone else, but asbestos is a very hazardous material.</p> <p>Exposure to asbestos fibres causes three serious diseases: mesothelioma (a cancer of the lung lining); lung cancer (indistinguishable from cancers caused by other agents); and asbestosis (scarring of the lung tissue). These diseases can take many years to appear after the period of exposure. There are no cures for asbestos related diseases.</p>	<p>Exposure to asbestos should be avoided wherever possible, and where it cannot be avoided, precautions should be taken to reduce it to as low a level as possible. Advice is contained in MSN 1428 and in the Code of Safe Working Practices Chapter 27.</p> <p>Workers should be given any relevant information affecting their health and safety, instruction and training in the safe handling and use of the substance, and be provided with adequate supervision within a safe system of work.</p>

Asbestos (continued)	The actual risk can only be determined following a risk assessment of the particular circumstances under which there is exposure to asbestos at the place of work. However, young people may not appreciate the dangers to their health or they may not understand or follow instructions properly because of their immaturity.	
<b>WORK INVOLVING HARMFUL EXPOSURE TO RADIATION</b>		
Ionising radiation	Not considered relevant to work on ships.	
Non-ionising electromagnetic radiation	<p><i>Optical radiation:</i> There is no evidence that young people face greater risk of skin and eye damage than other workers.</p> <p><i>Electromagnetic fields and waves:</i> Exposure within current recommendations is not known to cause ill health to workers of any age. Extreme overexposure to radio-frequency radiation could cause harm by raising body-temperature.</p>	<p>Seafarers working in hot climates are advised to reduce their exposure to the sun as much as is reasonably practicable, following advice in the Code of Safe Working Practices for Merchant Seamen (Chapter 12.3).</p> <p>Exposure to electric and magnetic fields should not exceed the restrictions on human exposures published by the National Radiological Protection Board.</p>
<b>WORK INVOLVING THE RISK OF ACCIDENTS WHICH IT MAY BE ASSUMED CANNOT BE RECOGNISED OR AVOIDED BY YOUNG WORKERS OWING TO THEIR INSUFFICIENT ATTENTION TO SAFETY OR LACK OF EXPERIENCE OR TRAINING</b>		
Manufacture and handling of devices, fireworks or other objects containing explosives	Not considered relevant to work on ships.	
Work with fierce or poisonous animals	Not considered relevant to work on ships.	
Animal slaughtering on an industrial scale	Not considered relevant to work on ships.	
Work involving the handling of equipment for the production, storage or application of compressed, liquefied or dissolved gases.		

<i>Flammable liquids</i>	Accidental spills can cause fires or explosions. Flammable liquids should be used only for their intended purposes; using them for other purposes may lead to fires or explosions.	It may be necessary to explain the basics of flammability and what to do if liquid is spilt. It may also be necessary to point out the dangers of using liquids, such as petrol, for cleaning machinery.
<i>Flammable gases</i>	Leaking gas from pipes, appliances or cylinders can cause fires or explosions.	It may be necessary to explain the basics of flammability; people need to know how to detect leaking gas and what to do in the event of a gas leak.
<i>Gas cylinders</i>	<p>There is no evidence that young people face greater physical risks from a release of stored energy than other workers. Leaking gas from cylinders may cause fires or explosions.</p> <p>Physical damage to cylinders may cause leaks. Heavy cylinders may cause physical injury if not properly handled.</p> <p>Application of heat to gas cylinders may cause them to burst, possibly resulting in a "shrapnel" type explosion. Alternatively, the contents may be vented through a pressure release valve resulting in fire or explosion.</p>	<p>It may be necessary to explain the basics of flammability; people need to know how to detect leaking gas and what to do in the event of a gas leak.</p> <p>Gas cylinders need to be properly handled, both to avoid the danger of fire or explosion, and the risk of physical injury to the worker, eg crushed toes.</p> <p>Gas cylinders need to be safely stored and used, away from direct sources of heat. Guidance is contained in the Code of Safe Working Practices for Merchant Seamen – section 23.8.</p>
Work with tanks etc. containing chemical agents	Applies particularly to work on chemical tankers, or any work involving handling or working near to substantial quantities of substances hazardous to health. There is a risk of fire or explosion where there is an explosive atmosphere, or where spills or leaks of flammable substances are readily foreseeable. There is also a risk of ignition of a flammable liquid which has splashed or soaked into clothing.	The risk assessment should consider issues such as: how to ensure that young people will follow emergency procedures properly if containment is lost; and how to ensure that young people behave responsibly when working near quantities of chemicals that have the potential to cause serious harm; eg making young workers aware of the dangers of introducing ignition sources in these situations.
Work involving risk of structural collapse	May be relevant for cargo stacking, and movement of ships stores.	Cargo should be stowed and secured in accordance with the Cargo Securing Manual, and where work is to be carried out near a tall stack of cargo or stores, the stack should be secured to prevent it falling. Young workers should only do such work if properly trained or if they are under the supervision of a trained person.
Work involving high-voltage electrical hazards	The risk is one of electric shock, burns or electrocution. There is no evidence that young people face greater physical risk from electricity than other workers.	As with adults, young people should not undertake work involving electricity unless they have the necessary technical knowledge and/or experience to prevent danger

Work involving high-voltage electrical hazards ( <i>continued</i> )		or injury; or are under an appropriate level of supervision having regard to the nature of the work.
<b>WORK IN WHICH THERE IS A RISK TO HEALTH FROM EXTREME COLD OR HEAT, OF FROM NOISE OR VIBRATION</b>		
Extremes of cold or heat	<p>Exposure to extreme cold carries risks to workers of all ages. These are principally hypothermia and local cold injury (frostnip/frostbite). People of all ages vary in their ability to tolerate cold conditions.</p> <p>Exposure to extreme heat carries risks for workers of all ages. These include collapse due to heat exhaustion or potentially fatal heat stroke. Protective clothing may exacerbate the problem, by preventing the body from losing heat normally. There are no special considerations for young people – their response to work in hot conditions will depend on physical fitness, physique and past experience of hot conditions, which will be variable.</p>	<p>Depending on the findings of the risk assessment, the provision of appropriate protective clothing and control of periods of exposure will help to minimise risk.</p> <p>Any intended exposure to extreme heat must be carefully assessed and the risks can be minimised by measures such as introducing suitable work patterns, prior medical assessment of workers and proper supervision of the work.</p> <p>Guidance on precautions for work in hot climates are given in the Code of Safe Working Practices (section 12.3).</p>
Noise	There is no evidence that young workers face greater risk of damaged hearing from exposure to noise than other workers.	The requirements of the Code of Practice for Noise on Ships should be sufficient to protect the hearing of young people.
Hand-arm vibration	There is no evidence that young people face a greater risk of developing hand-arm vibration syndrome (vibration white-finger) following exposure to hand-arm vibration than other workers. However, there is an increased risk in the onset of non-occupational Raynaud's disease during adolescence which can give similar symptoms to vibration white-finger.	Employers will need to consider a programme to control the significant risks identified in the risk assessment including: identification of hazardous equipment/tasks; limiting exposure by reducing the time and/or level; providing competent supervision; and health surveillance.
Whole-body vibration	Regular exposure to shocks, low frequency vibration, for example, working in fast rescue craft, may be associated with back pain, and other spinal disorders. Younger workers may be at increased risk of damage to the spine as the strength of the muscles is still developing and the bones do not fully mature until around the age of 25.	Employers will need to consider a programme to control the significant risks identified in the risk assessment including: identification of hazardous equipment/tasks; limiting exposure by reducing the time and/or level; producing information and training on how to minimise the risk; and health surveillance.

## RELEVANT AGREEMENTS

A relevant agreement is defined in the MS and FV (Health and Safety at Work) Regulations as follows:

*“relevant agreement” in relation to a worker, means a workforce agreement which applies to him, any provision of a collective agreement which forms part of a contract between him and his employer, or any other agreement in writing which is legally enforceable as between the worker and his employer”*

*“workforce agreement” means an agreement between an employer and workers employed by him or their representatives in respect of which the conditions set out in the Schedule to the Working Time Regulations 1998 are satisfied”*

The following guidance, reproduced from *“A Guide to Working Time Regulations*, published by the Department of Trade and Industry in September 1998<sup>4</sup>, describes workforce agreements as defined in the Schedule.

## WORKFORCE AGREEMENTS

The regulations provide a mechanism for employers to agree working time arrangements with workers’ representatives, who do not have any terms or conditions set by a collective agreement, *and whether or not a schedule of hours of work is required under the Merchant Shipping (Safe Manning, Hours of Work and Watchkeeping) Regulations 1997 (regulation 9)*. In the regulations, this is called a workforce agreement. This allows employers to agree on how to use the flexibility provided by the Regulations and clarify other matters.

A workforce agreement may apply to the whole of the workforce or a group of workers within it. Where it is to apply to a group of workers, the group must share a workplace, function or organisational unit within a business.

As a first step, employers should determine at what level they wish to make an agreement and then take steps to provide for representatives of the workers to be elected to negotiate it. To arrange the election of workforce representatives, the employer should

- a. decide on the number of representatives – this will depend on the size of the workforce or the group to be represented; it is suggested that the number be sufficiently large to be representative of the workers concerned, though not so large as to make negotiations unwieldy;
- b. ensure so far as is reasonably practicable that the elections must be conducted by secret ballot; in practice it would be rare for this not to be possible;
- c. ensure that the votes are counted fairly and accurately; the employer may wish to consider enlisting an independent body to verify this;
- d. allow each worker a vote for each representative to be elected to represent them; and
- e. ensure that candidates are members of the workforce on the date of the election, or, in the case of a group, a member of the group to whom the agreement is to apply.

No member of the workforce should unreasonably be excluded from standing as a candidate.

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<sup>4</sup> Modifications for merchant shipping are shown in italics.

To be valid, a workforce agreement must:

- a. be in writing
- b. have been circulated in draft to all workers to whom it applies together with guidance to assist their understanding of it;
- c. be signed, before it comes into effect, either
  - by all the representatives of the members of the workforce or group of workers; or
  - if there are 20 workers or fewer employed by a company, either by all the representatives of the workforce or by a majority of the workforce;
- d. have effect for no more than five years.

It will be possible for an elected representative to be elected for other purposes, for example *as a safety representative under the MS and FV (Health and Safety at Work) Regulations 1997*. However, it would have to be made clear to those voting that the representatives were being elected for both purposes.