



Maritime and Coastguard Agency

MGN 175 (M+F)

Health and Safety Regulations for Ships: Merchant Shipping and Fishing Vessel (Health and Safety at Work) (Amendment) Regulations

Notice to Shipowners, Ship masters, Seafarers and Surveyors.

Summary

The purpose of this Marine Guidance Note is to explain the above amending regulations on health and safety, as they affect seafarers and their employers.

The amending regulations -

- re-draw the dividing line between the legislative responsibilities of the Health and Safety Executive (HSE) and the Maritime and Coastguard Agency (MCA) for health and safety on ships; and
- implement the recommendations of the Thames Safety Inquiry (Part 1), on health and safety legislation for ships on inland waters.

These amendments have been developed jointly with HSE.

Introduction

1. The Merchant Shipping and Fishing Vessels (Health and Safety at Work)(Amendment) Regulations 2001 come into force on 12 February 2001. The regulations amend existing legislation so that merchant shipping legislation on health and safety applies to non-seagoing ships as well as sea-going ships.

The Management of Health and Safety at Work Regulations (HSE's regulations) are to be similarly amended so that they apply to work activities in Great Britain, but not to the master and crew of any ship or to their employer in respect of normal ship-board activities carried out solely by the crew under the direction of the master.

2. The amendments also bring the drafting of the merchant shipping legislation more closely into line with the corresponding regulations on land.

Background

3. HSWA applies to all work activities within Great Britain, but the Management of Health and Safety at Work Regulations 1999 (MHSWR) do not apply to "the master or crew of a sea-going ship" or their employer in respect of normal ship-board activities. The Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 were dis-applied where MHSWR applied, so as to avoid overlapping legislation and duplication of effort by enforcement authorities.
4. While MCA and HSE were negotiating their Memorandum of Understanding on enforcement activities at the water margin it became clear that this legal demarcation did not reflect good practice. Non-seagoing ships are subject to MCA surveys and inspections under merchant shipping legislation, and it made sense for MCA to cover health and safety on board as well.

5. The amending legislation allows this policy to be brought into effect. HSE's MHSWR are to be amended shortly to extend the dis-application to normal ship-board activities by the master and crew of any ship, not just a sea-going ship.

The changes

6. The Health and Safety at Work etc. Act 1974 (HSWA) will not stop applying to ships (HSE inspectors will still be able to carry out emergency enforcement action under HSWA if they happened to notice a serious breach of sections 2 and 3 on a vessel in port), but the proposed amending regulations will allow health and safety legislation to be enforced effectively by MCA surveyors.
7. This opportunity has been taken to make some minor amendments to the drafting of the Merchant Shipping regulations to bring them more closely into line with the corresponding duties under the HSWA and MHSWR. Those requirements are set out in MGN 20 (M+F).
8. The drafting changes to the general duties have no practical effect in terms of what employers are required to do to comply with the regulations. The revised wording is intended to make clear that the employer's duty is to ensure the health and safety of workers and other persons, subject to the defence of reasonable practicability, having regard to the principles specified. It is considered that this amendment will remove any differences in the terms in which the duties are expressed in the respective legislation.

Practical impact

9. Both HSE's and MCA's health and safety regulations implement the EC Framework Directive and daughter directives on occupational health and safety, and so the standards of safety required of employers and workers under each regime are the same.
10. There will, in effect, be no change to the duties which are already placed on employers on non-seagoing ships by the HSWA and the MHSWR. However, those duties will be enforced by MCA surveyors under merchant shipping legislation rather than HSE inspectors.

Northern Ireland

11. HSE for Northern Ireland has separate legislation from HSE in Great Britain. But the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Amendment) Regulations apply throughout the UK. This means that non-seagoing ships in Northern Ireland are now covered by MCA's Health and Safety at Work Regulations as in the rest of the UK.
12. Any enquiries about the amending legislation should be addressed to the contact below, or to the Safety Policy Division of the Health and Safety Executive, 5th Floor South Wing, Rose Court, 2 Southwark Bridge, London SE1 9HS (0207 717 6211).

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