STATUTORY INSTRUMENTS

1985 No. 1664

MERCHANT SHIPPING

SAFETY

The Merchant Shipping (Protective Clothing and Equipment) Regulations 1985

Made - - -	31*st October* 1985
Laid before Parliament	13*th November* 1985
Coming into Operation	1*st May* 1986

The Secretary of State for Transport, after consulting with the persons referred to in section 22(2) of the Merchant Shipping Act 1979(**a**) (hereinafter called "the Act"), in exercise of powers conferred on him, by section 21(1)*(a)* and *(b)*, (3), (4), (5) and (6) and section 22(3) of the Act(**b**) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1. These Regulations may be cited as the Merchant Shipping (Protective Clothing and Equipment) Regulations 1985 and shall come into operation on 1st May 1986.

2. In these Regulations:

"employee" means a person (including the master and self-employed persons) employed on board ship other than a dock worker or shore-based worker on board a ship whilst it is in harbour;

"employer" means a person who employs an employee other than himself;

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

"master" includes any person in charge of a ship during the absence of the master;

"Merchant Shipping Notice" means a Notice described as such issued by the Secretary of State;

"offshore installation" means any offshore installation within the meaning of section 1(4) of the Mineral Workings (Offshore Installations) Act 1971(**c**);

"pleasure craft" means a vessel primarily used for sport or recreation;

"relevant MSN" means Merchant Shipping Notice No. 1195 and any document amending or replacing it which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice.

(**a**) 1979 c.39.
(**b**) Section 21(6)*(ba)* and *(bb)* were inserted by section 49(3) of the Criminal Justice Act 1982 (c.48).
(**c**) 1971 c.61; section 1 was substituted by section 24 of the Oil and Gas (Enterprise) Act 1982 (c.23).

Application and exemption

3.—(1) Subject to paragraphs (2) and (3) of this regulation,

(a) these Regulations, other than regulation 14, apply to United Kingdom ships; and

(b) regulations 1, 2, 3, 14 and 15 apply to other ships when in a United Kingdom port.

(2) These Regulations do not apply to—

(a) fishing vessels;

(b) pleasure craft; or

(c) offshore installations whilst on or within 500 metres of their working stations.

(3) The Secretary of State 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 he may so specify and may, subject to giving reasonable notice, alter or cancel any such exemption.

Provision and standard of protective clothing and equipment

4.—(1) An employer shall ensure that every employee of his in a ship who is engaged in a work process described in the relevant MSN or who may reasonably be expected to be at risk from such a work process carried on in such a ship, is provided with suitable protective clothing and equipment of the kind and to the standard specified in the relevant MSN in relation to that work process or with protective clothing and equipment of a standard which is equivalent thereto:

Provided that other protective clothing and equipment which complies with the approved published specification of a national authority or of the International Organisation for Standardisation may be provided where it has been necessary to purchase items at a place where items complying with the specified standard specifications are not available and it has not been reasonably practicable to replace them.

(2) An employer shall ensure that every employee of his in a ship who is engaged in any other work process involving a particular hazard which can be alleviated by the provision of protective clothing or equipment, or where health or safety may reasonably be expected to be at risk from such a work process carried on in such a ship, is provided with suitable protective clothing and equipment designed to reduce the hazard so far as is reasonably practicable.

Storage, issue and maintenance

5. An employer shall ensure that whenever any protective clothing or equipment is carried aboard a ship for use by his employees, it is issued to employees for their individual use or is kept in easily accessible and clearly marked places in a manner which will prevent deterioration or damage during storage or contact with substances likely to affect it adversely.

6.—(1) An employer shall ensure that whenever any protective clothing or equipment is carried aboard a ship for use by his employees except in so far as it is issued to employees for their individual use, it is:

(a) properly maintained, due regard being paid to any recommendations made by the manufacturers;

(b) regularly inspected and, where appropriate, its operation checked at intervals of not more than three months;

(c) repaired, decontaminated or replaced as necessary; and

(d) in the case of breathing apparatus specified in item 6 of the relevant MSN, inspected and its operation checked before and after use.

(2) An employee shall ensure that any deficiencies or defects in any items of protective clothing or equipment issued to him for his individual use are reported for repair or replacement to a responsible ship's officer or any other person authorised by the employer of that employee.

Instructions in the use of protective clothing and equipment

7. An employer shall ensure that:

(1) any employee of his who may be required to wear protective clothing or use protective equipment is appropriately instructed in its use; and

(2) where items of protective clothing or equipment are stored on board a ship for use by his employees, instructions for their proper use and maintenance are kept with the protective clothing or equipment to which they refer or in a safe place as close thereto as possible.

Use of protective clothing and equipment

8. No person shall require an employee to start in a ship a work process referred to in regulation 4 unless the appropriate clothing or equipment specified in or in accordance with that regulation is in good condition and working order and is being worn or used by the employee carrying out the work process and by any other employee who is subject to a reasonably foreseeable risk from that work process.

9. Any employee involved in or subject to a reasonably foreseeable risk in a ship from a work process referred to in regulation 4 shall wear the appropriate protective clothing and use the appropriate protective equipment specified in or in accordance with that regulation.

Penalties

10.—(1) Contravention of regulations 4, 5, 6(1) or 7 shall be an offence punishable on summary conviction by a fine not exceeding £1,000.

(2) Contravention of regulations 6(2) or 9 shall be an offence punishable on summary conviction by a fine not exceeding £100.

(3) Contravention of regulation 8 shall be an offence punishable on summary conviction by a fine not exceeding £200.

(4) It shall be a defence for a person charged under these Regulations, including a person charged by virtue of regulation 11, to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

11. Where an offence under any of these Regulations is committed, or would have been committed except for the operation of regulation 10(4), 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.

Offences by a body corporate

12.—(1) Where an offence under any of these Regulations committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been 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.

Inspection and detention of a United Kingdom ship

13. Any person duly authorised by the Secretary of State may inspect any United Kingdom ship and if he is satisfied that the protective clothing or equipment carried in the ship is inadequate for any work process which is being, or is reasonably likely to be, carried out in port or during the course of the voyage upon which the ship is or is about to be engaged, and that this would constitute a serious risk to the safety or health of those on board, he may detain the ship until suitable protective clothing or equipment is provided, 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 United Kingdom

14—(1) Any person duly authorised by the Secretary of State may inspect any ship which is not a United Kingdom ship when the ship is in a United Kingdom port, and if he is satisfied that the protective clothing and equipment carried in the ship does not conform to the standards required of United Kingdom 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:

Provided that the measures specified in sub-paragraph *(a)* and *(b)* may be taken only when the ship has called at a United Kingdom port in the normal course of business or for operational reasons.

(2) If he takes either of the measures specified in paragraphs (1)*(b)*, 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.

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

Compensation and enforcement of detention

15. Section 460(1) and section 692 of the Merchant Shipping Act 1894 (**a**) (which relate respectively to liability for costs and compensation for the

(**a**) 1894 c.60.

detention of a ship) shall have effect in relation to a ship detained under these Regulations subject to the following modifications—

(1) in section 460(1) the following words shall be omitted—

"by reason of the condition of the ship or the act or default of the owner";

"provisional";

"as an unsafe ship";

"and survey";

"or survey"; and

(2) for the words "this Part of the Act" in section 460(1) and "this Act" wherever they appear in section 692, there shall be substituted "the Merchant Shipping (Protective Clothing and Equipment) Regulations 1985".

Nicholas Ridley,
Secretary of State for Transport.

31st October 1985.

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), laid before Parliament on 24th April 1978 and ratified by the United Kingdom on 28th November 1980, 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.

The Regulations require employers of specified persons employed on board United Kingdom ships (other than fishing vessels, pleasure craft or offshore installation within 500 metres of their working stations) to provide protective clothing and equipment for such employees engaged in or at risk from hazardous work (regulation 4). Protective clothing and equipment carried aboard ship has to be properly stored, maintained and inspected (regulations 5 and 6). Instruction in the use of protective clothing and equipment must be given (regulation 7). Depending on the work process involved, protective clothing and equipment has to be worn by the employee engaged in or at risk from that work process (regulations 8 and 9). Provision is made for the inspection and detention of United Kingdom ships (regulation 13) and other ships when in United Kingdom ports (regulation 14).

Merchant Shipping Notices are obtainable from the Department of Transport Marine Library, Sunley House, Holborn, London WC1V 6LP or from any Department of Transport Marine Office. The command papers containing the I.L.O. Conventions are no longer in print, but photocopies of them may be obtained through Her Majesty's Stationery Office. Copies of the Convention may also be obtained from the U.K. Office of the I.L.O., 96/98 Marsham Street, London SW1P 4YL.

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