



BERMUDA

MERCHANT SHIPPING (SAFETY OFFICIALS AND REPORTING OF ACCIDENTS  
AND DANGEROUS OCCURRENCES) REGULATIONS 1986

BR 50 / 1986

*[made under section 22(1)(a), (2)(e), (n), (o) and (q), (3)(a), (4)(a), (5)(b) and (6)(a) of the Merchant Shipping  
Act 1979 and brought into operation on 25 July 1987]*

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## MERCHANT SHIPPING (SAFETY OFFICIALS AND REPORTING OF ACCIDENTS AND DANGEROUS OCCURRENCES) REGULATIONS 1986

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### Citation and interpretation

1 (1) These regulations may be cited as the Merchant Shipping (Safety Officials and Reporting of Accidents and Dangerous Occurrences) Regulations 1986.

(2) In these regulations—

“access” means the process of embarking on or disembarking from a ship from or to the quayside, by whatever means employed;

“Bermuda ship” means a ship registered in Bermuda;

“Code of Safe Working Practices” means the Department of Trade of the United Kingdom publication entitled “Code of Safe Working Practices for the Safety of Merchant Seamen” published in 1978 by Her Majesty’s Stationery Office; any reference to the Code shall include references to any document amending the same which is considered by the Secretary of State to be relevant from time to time and notified in a Merchant Shipping Notice;

“crew” means all persons, including the master, employed or engaged by the employer in any capacity on board a ship;

“dangerous occurrence” means any occurrence of a kind specified in the Schedule;

“employer” means the person for the time being employing the master;

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

“incapacitated from work” means, in the case of a member of the crew, unable to undertake the full range of duties normally undertaken, and in any other case means a comparable impairment of the person’s physical condition;

“major injury” means—

(a) fracture of the skull, spine or pelvis;

(b) fracture of any bone—

(i) in the arm other than a bone in the wrist or hand;

(ii) in the leg, other than a bone in the ankle or foot;

(c) amputation of a hand or foot;

(d) the loss of sight of an eye; or

(e) any other impairment of a person’s physical condition which results in the person injured—

(i) being admitted to hospital as an in-patient for more than 24 hours; or

(ii) if at sea, being confined to bed on board, and which would have resulted in admission to hospital for more than 24 hours as an in-patient if the ship had been in port;

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“Merchant Shipping Notice” means a notice described as such and issued by the Department of Trade of the United Kingdom;

“non-sea-going ships” includes any ship, except a passenger ship, which normally remains within the seaward limits of a port or, if she goes outside those seaward limits, returns to her port of departure within 24 hours without having called at any other port;

“occupational health and safety” means the health and safety of the crew whilst on board the ship and whilst boarding or leaving the ship;

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

“tanker” means a cargo ship constructed or adapted for the carriage in bulk of oil, chemicals or gas.

### PART 1

#### SAFETY OFFICIALS

##### Application of Part 1

2 *[Revoked by BR 50 / 2011 reg. 3]*

*[Regulation 2 revoked by BR 50 / 2011 reg. 3 effective 28 September 2011]*

##### Appointment and election of safety officials

3 *[Revoked by BR 50 / 2011 reg. 3]*

*[Regulation 3 revoked by BR 50 / 2011 reg. 3 effective 28 September 2011]*

##### Termination of appointment

4 *[Revoked by BR 50 / 2011 reg. 3]*

*[Regulation 4 revoked by BR 50 / 2011 reg. 3 effective 28 September 2011]*

##### Duties of safety officers

5 *[Revoked by BR 50 / 2011 reg. 3]*

*[Regulation 5 revoked by BR 50 / 2011 reg. 3 effective 28 September 2011]*

##### Powers of safety representatives

6 *[Revoked by BR 50 / 2011 reg. 3]*

*[Regulation 6 revoked by BR 50 / 2011 reg. 3 effective 28 September 2011]*

##### Duties of safety committees

7 *[Revoked by BR 50 / 2011 reg. 3]*

*[Regulation 7 revoked by BR 50 / 2011 reg. 3 effective 28 September 2011]*

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Duties of employer and master

8 [Revoked by BR 50 / 2011 reg. 3]

[Regulation 8 revoked by BR 50 / 2011 reg. 3 effective 28 September 2011]

PART 2

REPORTING OF ACCIDENTS AND DANGEROUS OCCURRENCES

Application of Part 2

9 This Part of these Regulations applies in relation to Bermuda ships other than fishing vessels and pleasure craft.

Notification of accidents and dangerous occurrences

10 The following shall be notifiable in accordance with regulation 11:

(1) every accident on board or during access to any person employed or carried in the ship which results in death or personal injury involving incapacity for more than three consecutive days excluding the day of the accident;

(2) any accident involving impairment of a person's physical condition if the person concerned is put ashore and the ship sails without him, unless the incapacity is known or advised to be of three consecutive days or less, excluding the day of the accident;

(3) every dangerous occurrence on board or during access:

Provided that the requirements to notify shall not apply in respect of any person employed—

(a) in Bermuda as a docker in any process in respect of which any regulations made under the Health and Safety at Work Act 1982 [title 18 item 10] apply;

(b) as a docker, shipbuilder, shiprepairer or diver in a country other than Bermuda to whom subparagraph (a) does not apply unless—

(i) such injured person is a member of the crew; and

(ii) in respect of a person mentioned in this sub-paragraph, the accident involved failure of the ship's equipment.

Reporting and investigation of accidents and dangerous occurrences

11 The following provisions shall apply in any case where there is an accident or dangerous occurrence which is required by regulation 10 to be notified—

(1) (a) the master, or if he is not available, the most senior officer available shall report every accident involving death or major injury as quickly as possible, and in any case not later than 24 hours after the arrival of the ship at its next port, to any proper officer;

(b) every such report shall include the name and official number of the ship, its position, the number of people involved in the accident and the injuries,

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details of any damage to the ship or its equipment or any defect in its equipment, and the next port of call and estimated date and time of arrival if at sea.

(2) In the case of a ship carrying a safety officer the master or, if he is not available, the most senior officer available shall, in addition to any report made under paragraph (1), report every accident and every dangerous occurrence by completing and signing a report in a form approved by the Minister and shall forward that report to the Department of Marine and Ports Services within seven days of the date of the accident or dangerous occurrence or, if the ship is at sea, within seven days of the ship's arrival at the next port of call.

(3) In the case of a ship carrying a safety officer the employer shall, in addition to any report made under paragraph (1), ensure that—

- (a) the master or most senior officer available or the owner's representative ashore responsible for safety shall—
  - (i) investigate every accident and dangerous occurrence;
  - (ii) complete and sign a report of each such incident in a form approved by the Minister; and
  - (iii) forward that report to the Department of Marine and Ports Services within the time limits prescribed in paragraph (2);
- (b) the master or the owner's representative ashore responsible for safety shall maintain a written record describing—
  - (i) all the circumstances and details of all such accidents and dangerous occurrences, (including the date, the persons involved and the nature of the injuries suffered);
  - (ii) all statements made by witnesses thereof; and
  - (iii) any recommendations to prevent future similar accidents or dangerous occurrences; and
- (c) any such record shall be made available on request to the Department of Marine and Ports Services.

Penalties

12 (1) Any employer who—

- (a) fails to appoint a safety officer or a safety committee or to make rules for the election of safety representatives in accordance with regulation 3, or
- (b) fails to carry out any of the duties specified in regulation 8, or
- (c) fails to comply with regulation 11(3),

commits an offence punishable only on summary conviction:

Punishment on summary conviction: a fine of \$1,000.

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- (2) (a) Any master who fails to carry out any of the duties specified in regulation 8, and
- (b) any person required under regulation 11(l) or (2) to make a report who without reasonable excuse fails to make that report in accordance with that regulation or to forward it as so required,

commits an offence punishable only on summary conviction:

Punishment on summary conviction: a fine of \$500.

- (3) Any safety officer who—
- (a) fails to investigate an accident or dangerous occurrence in contravention of regulation 5(l)(a) or (b),
- (b) fails to investigate complaints, in contravention of regulation 5(2),
- (c) fails to comply with regulations 5(3) or 5(9), or
- (d) fails to keep any records in contravention of regulation 5(6) or to make such records available to a safety representative, a safety committee, the master or the Registry of Shipping, in contravention of regulation 5(7)(a),

commits an offence punishable only on summary conviction:

Punishment on summary conviction: a fine of \$50.

(4) It shall be a defence for a person charged under this regulation to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Commencement

13 *[omitted]*

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SCHEDULE

REGULATION 1

(2)

NOTIFIABLE DANGEROUS OCCURRENCES

The following occurrences shall be notifiable as dangerous occurrences provided that they are not notifiable under these regulations as accidents and provided that they might have been liable, taking into account the circumstances of the occurrence, to cause major injury or to cause damage to the health of any person—

- (1) the collapse or overturning of any lift, hoist, crane, davit, derrick, ramp, mobile powered access platform, access equipment, staging or bosun's chair or failure of any load bearing part thereof;
- (2) the explosion, collapse or bursting of any closed vessel including a boiler or boiler tube in which there was any gas (including air), any liquid or any vapour at a pressure greater than atmospheric pressure.
- (3) any electrical short circuit or overload resulting in fire or explosion;
- (4) the sudden, uncontrolled release of highly flammable liquid, flammable gas or flammable liquid above its boiling point from any system, plant or pipeline;
- (5) the uncontrolled release or escape of any harmful substance or agent;
- (6) either of the following occurrences in respect of any pipe-line, valve or any piping system in a ship—
  - (a) the bursting, explosion or collapse of a pipe-line or any part thereof excluding minor leaks in pipes carrying non-noxious substances; or
  - (b) the accidental ignition of anything in a pipe-line or of anything which, immediately before it ignited, was in a pipe-line.
- (7) any contact with loose asbestos fibre except when full protective clothing is being worn;
- (8) any collapse or significant movement of cargo;
- (9) the failure or collapse of any hatch cover or hatch cover control wire or mechanism;
- (10) any fall overboard;
- (11) the parting of a towrope.

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*[Amended by:*

BR 50 / 2011]