

**MERCHANT SHIPPING (SAFETY SIGNS AND SIGNALS)  
REGULATIONS 2004**

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**MERCHANT SHIPPING ACT 2002**

**2002 : 35**

**MERCHANT SHIPPING (SAFETY SIGNS AND SIGNALS)  
REGULATIONS 2004**

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The Minister of Transport in exercise of the powers conferred by section 93 and section 94(1) of the Merchant Shipping Act 2002 and after consultation with the persons referred to in section 94(3) of the Merchant Shipping Act 2002 makes the following regulations:

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### **Citation**

1 These Regulations may be cited as the Merchant Shipping (Safety Signs and Signals) Regulations 2004.

### **Interpretation**

2 (1) In these Regulations —

"acoustic signal" means a coded sound signal which is released and transmitted by a device designed for that purpose, without the use of a human or artificial voice;

"Act" means the Merchant Shipping Act 2002;

"Bermuda ship" means a ship which —

- (a) is a Bermuda ship within the meaning of section 2(1) of the Act; or
- (b) is a Government ship within the meaning of section 4 of the Act;

"contract of employment" means a contract of employment, whether express or implied, and if express, whether oral or in writing;

"dangerous goods" means goods classified as such in the IMDG Code, in Chapter 19 of the IGC Code or in Chapter 17 of the IBC Code;

"employer" means a person by whom a worker is employed under a contract of employment;

"fire safety sign" means a sign (including an illuminated sign or an acoustic signal) which —

- (a) provides information on escape routes and emergency exits in case of fire;
- (b) provides information on the identification or location of fire-fighting equipment; or
- (c) gives warning in case of fire;

"General Duties Regulations" means the Merchant Shipping (Health and Safety at Work) Regulations 2004;

"hand signal" means a movement or position of the arms or hands or a combination thereof, in coded form, for guiding persons who are carrying out manoeuvres which create a risk to the health or safety of persons at work;

"health and safety" includes the occupational health and safety of persons whilst on board the ship and whilst boarding or leaving the ship;

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"IBC Code" means the 1998 edition of the IMO International Code for Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk;

"IGC Code" means the 1993 edition of the IMO International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk;

"illuminated sign" means a sign produced by a device made of transparent or translucent materials which are illuminated from the inside or the rear in such a way as to give the appearance of a luminous surface;

"IMDG Code" means the 2002 edition of the IMO International Maritime Dangerous Goods Code;

"IMO" means the International Maritime Organization;

"in bulk" means directly and without intermediate form of containment in a hold, tank or cargo space which is a structural part of or permanently attached to a ship;

"mandatory sign" means a sign prescribing specific behaviour;

"MCA" means the Maritime and Coastguard Agency, an executive agency of the Department for Transport of the United Kingdom;

"Merchant Shipping Notice" means a Notice described as such and issued by the Minister of Transport;

"prohibition sign" means a sign prohibiting behaviour likely to cause a risk to health or safety;

"public service vessel" means any vessel operated by and on behalf of a State while it is carrying out the authorised functions of that body;

"relevant inspector" means a person mentioned in section 219(1) (a), (b) or (c) of the Act;

"safety colour" means a colour to which a specific meaning is assigned;

"safety sign" means a sign referring to a specific object, activity or situation and providing information or instructions about health or safety at work by means of a signboard, a safety colour, an illuminated sign or acoustic signal, a verbal communication or a hand signal, as the case may be;

"sail training vessel" means a sailing vessel which is being used either —

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- (a) to provide instruction in the principles of responsibility, resourcefulness, loyalty and team endeavour and to advance education in the art of seamanship; or
- (b) to provide instruction in navigation and seamanship for yachtsmen;

and is operating under a statutory code;

"signboard" means a sign which provides information or instructions by a combination of geometric shape, colour and a symbol or pictogram and which is rendered visible by lighting of sufficient intensity;

"statutory code" means —

- (a) the Code of Practice for Small Vessels in Commercial Use; or
- (b) the Code of Practice for the Safety of Large Commercial Sailing and Motor Vessels;

"symbol or pictogram" means a figure which describes a situation or prescribes specific behaviour and which is used on a signboard or illuminated surface;

"trainees and apprentices" does not include persons who are training in a sail training vessel;

"verbal communication" means a predetermined spoken message communicated by a human or artificial voice;

"warning sign" means a sign giving warning of a hazard or danger;

"worker" means any person employed by an employer under a contract of employment, including trainees or apprentices.

(2) Any reference in these Regulations to a sign providing instructions includes a mandatory sign, a prohibition sign and a warning sign.

(3) Any reference in these Regulations to the IBC Code, the IGC Code or the IMDG Code shall include a reference to any document amending that publication which is considered by the Minister to be relevant from time to time and is specified in a Merchant Shipping Notice.

### **Application and exemption**

(1) Subject to paragraph (3), these Regulations shall apply to all activities of workers on Bermuda ships wherever they may be except when the activity of a worker —

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- (a) is on a public service vessel or a vessel engaged in search and rescue; and
- (b) characteristics of that activity inevitably conflict with a provision of these Regulations;

and in such a case there shall be a duty on the employer so far as is reasonably practicable to ensure the health and safety of the worker when performing that activity.

(2) Paragraphs (1) and (3) and regulations 11, 12 and 13 do not apply to Bermuda ships which are in Bermuda waters.

(3) These Regulations shall not apply —

- (a) to signs used in connection with the supply of any dangerous substance, preparation, product or equipment except to the extent that any enactment (whether in an Act or instrument) which requires such signs makes reference to these Regulations;
- (b) to dangerous goods during the course of their transport by sea, including loading and unloading of such goods from the ship; or
- (c) subject to regulation 5(6), to signs used for regulating road, sea or air traffic.

### **Persons on whom duties are imposed**

4 Where a person on whom a duty is imposed by any provision of these Regulations does not have control of the matter to which the regulation relates because he does not have responsibility for the operation of the ship, then any duty imposed by that regulation shall also extend to any person who has control of that matter.

### **Provision and maintenance of safety signs**

5 (1) This regulation shall apply if the risk assessment made under regulation 7(1) of the Merchant Shipping (Health and Safety at Work) Regulations 2004 indicates that the employer concerned, having adopted all appropriate techniques for collective protection and measures, methods or procedures used in the organisation of work, cannot avoid or adequately reduce risks to workers except by the provision of appropriate safety signs to warn or instruct or both, of the nature of those risks and the measures to be taken to protect against them.

(2) Where this regulation applies, the employer shall —

- (a) ensure that there is in place an appropriate safety sign;

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(b) subject to paragraph (5), ensure, so far as is reasonably practicable, that any appropriate hand signal or verbal communication is used; and

(c) maintain any appropriate safety sign (other than a hand signal or verbal communication) which he is required to ensure is in place.

(3) For the purposes of paragraph (1), risks shall only be treated as having been adequately reduced if, having adopted the appropriate techniques, measures, methods or procedures referred to in that paragraph, there is no longer a significant risk of harm having regard to the magnitude and nature of the risks arising from the work concerned.

(4) Without prejudice to paragraph (1), paragraph (2)(a) and (b) shall also apply in relation to fire safety signs where they are required to comply with the provisions of any enactment (whether in an Act or instrument).

(5) For the purposes of paragraph (2)(b), the appropriate hand signal described in the documents specified in the Schedule to these Regulations shall be the hand signals to be used.

(6) Where it is appropriate to provide safety signs in accordance with paragraph (1) because at a place of work there is a risk to the health and safety of any worker in connection with the presence or movement of traffic, the appropriate safety sign required under paragraph (2) shall be in accordance with the requirements prescribed in the Traffic Signs Regulations 1973, whether or not that instrument applies to the place of work.

### **Information, instruction and training**

6 (1) The employer shall ensure that comprehensible and relevant information on the measures to be taken in connection with safety signs is provided to each worker.

(2) The employer shall ensure that each worker receives suitable and sufficient instruction and training in the meaning of safety signs and the measures to be taken in connection with safety signs.

### **Penalties**

7 (1) Any contravention of regulation 5 shall be an offence punishable on summary conviction by a fine not exceeding \$10,000.00.

(2) Any contravention of regulation 6 shall be an offence punishable on summary conviction by a fine not exceeding \$5,000.00.

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### **Offences by body corporate**

8 (1) Where a body corporate is found guilty of an offence under these Regulations and that offence is proved to have been committed with the consent or connivance of, or to be 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 commits 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, paragraph (1) 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.

### **Onus of proving what is reasonably practicable**

9 In any proceedings for an offence under these Regulations consisting of a failure to comply with a duty or requirement to do something so far as is reasonably practicable, it shall be for the complainant to prove that it was reasonably practicable to do more than was in fact done to satisfy the duty or requirement.

### **Inspection and detention of a Bermuda ship**

10 (1) A relevant inspector may inspect any Bermuda 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 may detain the ship until the health and safety of all workers and other persons aboard the ship are secured, but shall not in the exercise of these powers detain or delay the ship unreasonably.

(2) Before detaining a ship under paragraph (1), the relevant inspector shall furnish the master or the person in charge of the ship with reasons why he is satisfied that the ship has not complied with the requirements of these Regulations.

### **Inspection, detention etc. of ships registered outside Bermuda**

11 (1) A relevant inspector may inspect any ship which is not a Bermuda ship when the ship is in a Bermuda port, and if satisfied that the ship does not conform to the standards required of Bermuda ships by these Regulations, 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 Maritime Organization; and
- (b) where conditions on board are clearly hazardous to health and safety —
  - (i) take such measures as are necessary to rectify those conditions; or

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(ii) detain the ship;

provided that the measures specified in sub-paragraph (b)(i) and (ii) may be taken only when the ship has called at a Bermuda port in the normal course of business for operational reasons.

(2) If either of the measures specified in paragraph (1)(b) are taken, the relevant inspector shall forthwith notify the nearest maritime, consular or diplomatic representative of the State whose flag the ship is entitled to fly.

(3) The relevant inspector shall not in exercise of his power under this regulation detain or delay the ship unreasonably.

### **Enforcement of detention**

12 Where a ship is liable to be detained under these Regulations, section 242 of the Act (which relates to the detention of a ship) shall have effect in relation to that ship as if for the words "this Act", wherever they appear, there were substituted the words "the Merchant Shipping (Safety Signs and Signals) Regulations 2004".

### **Compensation**

13 Sections 104 and 105 of the Act (arbitration and compensation) shall apply in relation to a detention notice or order under these Regulations as they apply to a detention notice under section 103(4) of the Act, and in such application, "relevant inspector" means a person making an inspection under these Regulations.

### **Revocation**

14 Regulation 7 of the Merchant Shipping (Safe Movement on Board Ship) Regulations 1990 is revoked.

## **SCHEDULE (Regulation 5(5)) DOCUMENTS SPECIFYING HAND SIGNALS**

1. The standard issued by the British Standards Institution with the following standard number —

BS 7121: 1989 Code of Practice for Safe Use of Cranes.

2. Annex 21.1 of the MCA Code of Safe Working Practices for Merchant Seamen (as amended).



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Made this 20th day of July, 2004

Minister of Transport