



Maritime and Coastguard Agency

MARINE GUIDANCE NOTE

MGN 378 (M+F)

Merchant Shipping and Fishing Vessels (Provision and Use of Work Equipment) (Amendment) Regulations 2008 and Merchant Shipping and Fishing Vessels (Lifting Operations and Lifting Equipment) (Amendment) Regulations 2008

Notice to all Ship Owners, Ship Operators, Charterers, Managers and other Employers of Seafarers, and Masters, Chief Engineers, Officers, Ratings and other workers on Merchant Ships, Fishing Vessels and Yachts and other vessels with crew and self-employed persons carrying out operations on any vessels; Classification Societies, Certifying Authorities, Test Houses and Competent Persons

PLEASE NOTE:-

Where this document provides guidance on the law it should not be regarded as definitive. The way the law applies to any particular case can vary according to circumstances - for example, from vessel to vessel and you should consider seeking independent legal advice if you are unsure of your own legal position.

Summary

New Regulations amending the Merchant Shipping and Fishing Vessels (Provision and Use of Work Equipment) Regulations 2006 and the Merchant Shipping and Fishing Vessels (Lifting Operations and Lifting Equipment) Regulations 2006 come into force on 8 September 2008.

The amending Regulations correct technical errors identified in the 2006 Regulations.

1. Introduction

1.1 The Merchant Shipping and Fishing Vessels (Provision and Use of Work Equipment) (Amendment) Regulations 2008 (SI 2008/2165) and the Merchant Shipping and Fishing Vessels (Lifting Operations and Lifting Equipment) (Amendment) Regulations 2008 (SI 2008/2166) were made on 11 August 2008 and come into force on 8 September 2008. They amend the Merchant Shipping and Fishing Vessels (Provision and Use of Work Equipment) Regulations 2006 (SI 2006/2183) and the Merchant Shipping and Fishing Vessels (Lifting Operations and Lifting Equipment) Regulations 2006 (SI 2006/2184) by making changes to correct errors which were identified in those Regulations subsequent to their being made.

2. Changes to the Merchant Shipping and Fishing Vessels (Provision and Use of Work Equipment) Regulations 2006

- 2.1 As originally drafted, regulation 6(1) contained a drafting ambiguity and could be construed as implying that the provision of sub-paragraph (c) of regulation 6(1), that work equipment made available to workers on the ship “*may be used by workers without impairment to their health and safety*”, only applied to sub-paragraph (b). In fact the provision of sub-paragraph (c) of regulation 6(1) is intended to apply to both sub-paragraph (a) and (b) of regulation 6(1) and the amendment makes the position clear.
- 2.2 Additionally 4 sets of Health and Safety Executive (“HSE”) Regulations referred to in the Schedule to these Regulations are not relevant to the maritime sector. The Schedule has therefore been amended to delete reference to those HSE Regulations.

3. Changes to the Merchant Shipping and Fishing Vessels (Lifting Operations and Lifting Equipment) Regulations 2006

- 3.1 The definition of an “accessory for lifting” in these Regulations was defective in that it had the potential to require all “accessories for lifting” to be tested. This requirement exceeded the Directive requirements and could therefore be considered to be “gold-plating”. It also had potential safety implications. The amendment corrects this defect and brings the requirements of the LOLER 2006 Regulations in line with the Directive by making it clear that the testing requirement in regulation 11(2) of these Regulations only applies to “*lifting equipment other than an accessory for lifting*”.

More Information

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