



STATUTORY INSTRUMENTS.

S.I. No. 441 of 2023



MERCHANT SHIPPING (HEALTH AND SAFETY GENERAL DUTIES
AND REPORTING OF MARINE INCIDENTS) REGULATIONS 2023

S.I. No. 441 of 2023

MERCHANT SHIPPING (HEALTH AND SAFETY GENERAL DUTIES
AND REPORTING OF MARINE INCIDENTS) REGULATIONS 2023

Contents

Part 1

Preliminary

1. Citation
2. Definitions
3. Revocation

Part 2

Safety Officials

4. Application – Part 2
5. Safety officers, representatives and committees
6. Termination of appointment
7. Duties of safety officer
8. Powers of safety representatives
9. Duties of safety committees
10. Copies of Code and Guidance
11. Duties of crew members
12. Duties of owner and master

Part 3

Reporting of Marine Incidents

13. Application – Part 3
14. Notification of marine incidents

Schedule

S.I. No. 441 of 2023

MERCHANT SHIPPING (HEALTH AND SAFETY GENERAL DUTIES
AND REPORTING OF MARINE INCIDENTS) REGULATIONS 2023

I, JACK CHAMBERS, Minister of State at the Department of Transport, in exercise of the powers conferred on me by section 87 of the Merchant Shipping Act 2010 (No. 14 of 2010) (as adapted by the Transport, Tourism and Sport (Alteration of Name of Department and Title of Minister) Order 2020 (S.I. No. 351 of 2020)) and the Transport (Delegation of Ministerial Functions) Order 2023 (S.I. No. 211 of 2023), hereby make the following regulations:

Part 1

Preliminary

Citation

1. These Regulations may be cited as the Merchant Shipping (Health and Safety General Duties and Reporting of Marine Incidents) Regulations 2023.

Definitions

2. In these Regulations—

“Code” means the International Labour Office publication entitled “Accident prevention on board ship at sea and in port” 2nd edition published in 1996 by ILO Publications, Geneva, Switzerland and includes any updated edition;

“crew” in relation to a ship to which these Regulations apply, means all persons, including the master, employed or engaged by the owner in any capacity on board the ship;

“fishing vessel” means any sea-going ship or boat, of any nature whatsoever, irrespective of the form of ownership, used or intended to be used for the purpose of commercial fishing;

“Guidance” means the publication entitled “Guidance on Eliminating Shipboard Harassment and Bullying” published in 2016 by the International Chamber of Shipping and the International Transport Workers’ Federation;

“Irish ship” means a ship, other than a ship of war, known as such under section 9 of the Mercantile Marine Act 1955 (No. 29 of 1955);

“marine casualty” means an event, or a sequence of events, that has resulted in any of the following which has occurred directly in connection with the operation of a ship:

- (a) the death of, or serious injury to, a person;
- (b) the loss of a person from a ship;
- (c) the loss, presumed loss or abandonment of a ship;

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 8th September, 2023.*

- (d) material damage to a ship;
- (e) the stranding or disabling of a ship, or the involvement of a ship in a collision;
- (f) material damage to marine infrastructure external to a ship that could seriously endanger the safety of the ship, another ship or an individual;
- (g) severe damage to the environment, or the potential for severe damage to the environment, brought about by the damage of a ship or ships,

but does not include a deliberate act or omission, with the intention to cause harm to the safety of a ship, an individual or the environment;

“marine incident” means an event, or sequence of events, other than a marine casualty, which has occurred directly in connection with the operations of a ship that endangered, or, if not corrected, would endanger the safety of the ship, its occupants or any other person or the environment. However, it does not include a deliberate act or omission, with the intention to cause harm to the safety of the ship, an individual or the environment;

“MSO” means the Marine Survey Office of the Department of Transport;

“non-sea-going ship” 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 of a ship to which these Regulations apply whilst on board the ship and whilst boarding or leaving the ship;

“owner”, in relation to a ship, means the person registered in the State, as its owner or, if no person is so registered, the person who owns the ship, and includes any part owner, charterer, manager or operator of 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 liquid cargoes of an inflammable nature.

Revocation

3. The following are revoked:

- (a) the Merchant Shipping (Code of Safe Working Practices) Regulations 1988 (S.I. No. 107 of 1988),
- (b) the Merchant Shipping (Health and Safety: General Duties) Regulations 1988 (S.I. No. 109 of 1988), and
- (c) the Merchant Shipping (Safety Officials and Reporting of Accidents and Dangerous Occurrences) Regulations 1988 (S.I. No. 110 of 1988).

Part 2

Safety Officials

Application – Part 2

4. This Part applies to all Irish ships other than non-sea-going ships, fishing vessels, and pleasure craft.

Safety officers, representatives and committees

5. (1) In every ship to which this Part applies, the owner of the ship shall appoint a safety officer to be responsible under the master of the ship to improve onboard safety and develop and promote measures for the prevention of marine incidents.

(2) In every ship to which this Part applies with a crew of more than 5, the officers may elect one safety representative and ratings from each department on board may elect a safety representative for each department, general purpose ratings being regarded for this purpose as included in the deck department.

(3) In a ship in which a safety representative is elected, the owner shall appoint a safety committee which shall include the master as chairman, the safety officer and every safety representative.

(4) The safety committee shall meet monthly and keep a record of the meeting which shall be published and displayed on board on a safety notice board and must also be provided to the onshore technical management department.

(5) An owner shall make rules for the election of safety representatives.

(6) In every election for a safety representative the candidate receiving the most votes shall be elected.

(7) A safety officer or safety representative shall not be appointed or stand for election who has less than 2 years consecutive service since attaining the age of 18 years, which in the case of a safety officer or safety representative on board a tanker shall include at least 6 months service on such a ship.

(8) The appointment of every safety officer, safety representative and safety committee shall be recorded by the master in the official logbook of the ship.

(9) An owner who fails to comply with paragraph (1) or (3) commits an offence.

(10) A master who fails to comply with paragraph (8) commits an offence.

Termination of appointment

6. The appointment of a safety officer or safety representative shall terminate –

- (a) on that person ceasing to be employed on the ship,

- (b) in the case of a safety officer, from the date his or her appointment is terminated by the owner, or
- (c) in the case of a safety representative, from the date of his or her resignation from that position or the election of another duly elected person in his or her stead.

Duties of safety officer

7. (1) It shall be the duty of a safety officer to—
- (a) use his or her best endeavours to—
 - (i) ensure that the Code is complied with,
 - (ii) ensure that the owner's occupational health and safety policies are complied with,
 - (iii) promote a culture of safety, and
 - (iv) improve the standard of safety awareness among crew,
 - (b) carry out a risk assessment to identify any potential hazards to the crew, ship or the environment and establish and maintain an up-to-date risk assessment register,
 - (c) investigate—
 - (i) every marine incident, and
 - (ii) all risks to occupational health and safety,

and make recommendations to the master to prevent the recurrence of an incident or to remove the hazard, provided that the duty to investigate shall not extend to incidents arising from a marine casualty to the ship,

- (d) stop any work which he or she reasonably believes may cause a marine incident, hazard or a marine casualty, and immediately inform the master or his or her deputy who shall be responsible for deciding when work can safely be resumed,
- (e) investigate all complaints by crew members about occupational health and safety unless he or she has reason to believe that a complaint is of a trivial, frivolous or vexatious nature,
- (f) carry out occupational health and safety inspections of each accessible part of the ship at least once every 3 months or more frequently, if there have been substantial changes in the conditions of work,
- (g) make representations and, where appropriate, recommendations to the master and through him or her to the owner about any deficiency in the ship in respect of —
 - (i) any legislative requirement relating to occupational health and safety, or
 - (ii) the Code or the Guidance,

- (h) ensure so far as possible that safety instructions, rules and guidance are complied with,
- (i) maintain records describing the circumstances and detail of all marine incidents or hazards (including the date, the persons involved, the nature of the marine incident or hazard and details of any injuries suffered) and containing all statements made by witnesses thereof, recommendations to prevent future similar marine incidents or hazards, details of other investigations, complaints and inspections under paragraphs (e) and (f) and any representations and recommendations made under paragraph (g) together with the outcome thereof,
- (j) make the records kept under paragraph (i) available on request to any safety representative, to the safety committee, to the master of the ship, to the owner or technical manager or to the MSO, and
- (k) carry out any occupational health or safety investigation or inspection required by the safety committee.

(2) This Regulation does not require a safety officer to take any action at a time when emergency action to safeguard life on the ship is being taken.

Powers of safety representatives

8. A safety representative may—
- (a) participate in any of the investigations or inspections carried out by the safety officer under Regulation 7, or, after notification to the master of the ship or his or her deputy, undertake similar investigations or inspections himself or herself, whether or not such investigations or inspections have already been carried out by the safety officer,
 - (b) on behalf of the crew of the ship on matters affecting the occupational health and safety of the crew he or she represents—
 - (i) consult with the master, his or her deputy and the safety officer and make recommendations to them, including recommendations to the master that any work, which the safety representative believes may cause a marine incident or a hazard, should be suspended,
 - (ii) make representations through the master to the owner, and
 - (iii) request, through the safety committee, an investigation by the safety officer of any such matter, and
 - (c) inspect any of the records required by Regulation 7 to be kept by the safety officer.

Duties of safety committees

9. (1) It shall be the duty of a safety committee to use their best endeavours to ensure that the Code is complied with, to promote a culture of safety, to improve the standard of safety awareness among the crew, and to –

- (a) ensure the observance of the owner's occupational health and safety policies and to make recommendations for their improvement,
- (b) consider and take any appropriate action in respect of any occupational health and safety matters affecting the ship and its crew, reports of marine incidents or hazards on board the ship, any publications relating to occupational health and safety issued by the Government, a Minister of the Government or by safety organisations and similar bodies, and any new legislation on occupational health and safety,
- (c) make representations and recommendations on behalf of the crew to the owner on matters affecting the occupational health and safety of the crew,
- (d) inspect any of the records required by Regulation 7 to be kept by the safety officer, and
- (e) keep a record of any safety campaigns, their deliberations, conclusions and any representations made to the master or his or her deputy, of the replies thereto and of any action resulting therefrom.

(2) In performing the duties set out in paragraph (1), a safety committee may require the safety officer to carry out any occupational safety inspection they consider necessary and to report his or her findings to them.

Copies of Code and Guidance

10. (1) Aboard every ship there shall be carried not less than 2 copies each of the Code and Guidance, of which one copy of each shall be kept in the custody of the master, and one copy of each in a place readily accessible to the crew in the ordinary course of their duties.

(2) Aboard every ship with a crew of more than 15, a copy of the Code and the Guidance shall be kept for each of the following persons:

- (a) the master;
- (b) the chief officer;
- (c) the chief engineer;
- (d) the purser or the catering officer;
- (e) the safety officer appointed under Regulation 5(1);
- (f) any safety representative elected under Regulation 5(2); and
- (g) every member of the safety committee appointed under Regulation 5(3).

(3) Not less than one copy of the Code and the Guidance, which shall be readily accessible to all crew on board in the ordinary course of their duties, shall be carried in different places on board for every 25 crew members employed in the ship.

(4) Not less than 3 easily visible and clearly legible notices specifying where copies of the Code and the Guidance are kept shall be displayed on board in places where each crew member has access to during the ordinary course of his or her duties.

(5) Any person listed in paragraph (2) shall make a copy of the Code and the Guidance temporarily available to any member of the crew upon request.

(6) An owner who fails to comply with paragraph (1), (2), (3) or (4) commits an offence.

Duties of crew members

11. (1) It shall be the duty of each crew member of a ship to—

- (a) take all reasonable care for the health and safety of himself or herself and of other persons on board the ship who may be affected by acts or omissions undertaken by that crew member, and
- (b) cooperate as regards to any duty or requirement imposed on the owner, master or any other person by these Regulations and the Merchant Shipping Acts 1894 to 2022, or any regulations or rules made thereunder, with regard to the safety or health of persons on board a ship, to enable that duty or requirement to be performed or complied with.

(2) A person shall not intentionally or recklessly interfere with or misuse anything provided in the interests of health or safety on board a ship in pursuance of these Regulations and the Merchant Shipping Acts 1894 to 2022, or any regulations or rules made thereunder.

(3) A person who fails to comply with paragraph (2) commits an offence.

Duties of owner and master

12. (1) It shall be the duty of the owner of a ship to—

- (a) provide and maintain plant, machinery and equipment and systems of work that, as far as reasonably practical, are safe and without risk to health,
- (b) make arrangements to ensure that the handling, stowage and transport of goods is, as far as reasonably practical, safe and without risk to health,
- (c) provide information, instruction, training and supervision as is necessary to ensure the health and safety of all persons on board the ship,

- (d) ensure the maintenance of all places of work on board the ship in a condition that is, as far as reasonably practical, safe and without risk to health,
 - (e) ensure the provision and maintenance of an environment for persons on board the ship that is, as far as reasonably practical, safe and without risk to health,
 - (f) collaborate with others who employ persons who are at any time in the course of their employment on board a ship or engaged in loading or unloading activities in relation to a ship to protect the health and safety of all persons on board that ship, and
 - (g) prepare, and as often as may be appropriate, revise a written statement of the general policy with respect to health and safety on board the ship and the arrangements in force for the carrying out of that policy and to bring the statement and any revision of it to the notice of all crew members.
- (2) It shall be the duty of the owner and master of a ship to—
- (a) take all reasonable precautions to prevent marine incidents and occupational hazards, injuries and diseases on board the ship, including measures to reduce and prevent the risk of exposure to harmful levels of ambient factors and chemicals as well as the risk of injury or disease that may arise from the use of equipment and machinery on board the ship,
 - (b) support and facilitate the work of the safety officer, safety representatives and safety committee of the ship in carrying out their occupational health and safety functions, and in particular to
 - (i) provide access to any necessary information, documents and similar material including any relevant legislation or guidance,
 - (ii) inform the safety officer, safety representatives and safety committee of any dangerous cargoes on board and of the dangers which may arise therefrom and of any hazards on board the ship known to them which may endanger the ship or her crew,
 - (iii) provide any necessary accommodation, office equipment supplies and similar material,
 - (iv) permit occupational health and safety inspections of the whole or part of the ship,
 - (v) allow the safety officer and safety representatives such absence from ship duties without loss of pay as may be necessary to enable them to fulfil their functions including to undertake any necessary training in the exercise of their functions as safety officer or safety representatives,

- (vi) display in a place where it may easily be read by any member of the crew a notice listing the names of the safety officer and safety representatives aboard,
 - (vii) receive, at any reasonable time, representations about occupational health and safety from the safety officer, the safety representatives or the safety committee, including recommendations under Regulation 8(b)(i) by a safety representative that certain work should be suspended, discuss their representations with them and implement any agreed measures as soon as may be reasonable and practicable,
 - (viii) specify in writing the reasons for refusing to implement suggested occupational health or safety measures,
 - (ix) provide to the safety officer, the safety representatives and safety committee on request, any relevant information about marine incidents or hazards,
 - (x) provide to the safety officer and safety representatives on request, any information or plans necessary to enable them to undertake the investigations and inspections specified in Regulations 7 and 8,
 - (xi) arrange the election of a safety representative within 3 days of being requested to do so by any 2 persons entitled to vote in such an election and give publicity to any such election, and
 - (xii) carry sufficient copies of the Code and Guidance on board to meet the requirements set out in Regulation 10.
- (3) An owner shall not levy, or permit to be levied, a charge on any crew member in respect of any action taken in pursuance of a requirement of these Regulations.
- (4) An owner who fails to comply with subparagraph (1)(g) or paragraph (3) commits an offence.
- (5) An owner or a master who fails to comply with subparagraph (a) or (b) of paragraph (2) commits an offence.

Part 3

Reporting of Marine Incidents

Application – Part 3

13. This Part applies to all Irish ships other than fishing vessels and pleasure craft.

Notification of marine incidents

14. (1) The owner and master of a ship shall ensure that each marine incident on board is notified to the MSO in accordance with this Regulation.

(2) Where a marine incident occurs, the master of the ship concerned, or if he or she is not available, the most senior officer available shall report the incident to the MSO, immediately on becoming aware of the incident and shall include details of the name and official number of the ship, its position, the number of people involved in the marine incident, details of any damage to the ship or its equipment or any defect in its equipment or injuries to any persons, the next port of call and estimated date and time of arrival if at sea.

(3) The safety officer shall, in addition to any initial report made under paragraph (2), report every marine incident by completing and signing a report in the form set out in the Schedule and sending the completed form to the MSO within 3 months. In the case where the safety officer is incapacitated due to a marine incident, the master or most senior officer shall complete the form and send it to the MSO.

(4) The owner or master shall maintain a written record describing the circumstances and details of all marine incidents, all statements made by witnesses and any recommendations to prevent future similar marine incidents. A copy of this record shall be made available on request to the MSO.

(5) An owner or a master who fails to comply with paragraph (1) or (4) each commits an offence.

(6) A person who fails to comply with paragraph (2) commits an offence.

Schedule

Regulation 14(3)

An Roinn Iompair
Department of Transport

1. Completion of this form is required by the Merchant Shipping (Safety Officials and Reporting of Marine Incidents) Regulations 2023 (S.I. No. 441 of 2023).
2. One form should be completed for each reportable marine incident.
3. The Form should be returned promptly to the Marine Survey Office, Department of Transport, Leeson Lane, Dublin 2, D02 TR60 – mso@transport.ie.

Section A: Details of Reporting Official	
Name:	
Position:	
Company Name and Address:	
Contact Details:	

Section B: Information on the Vessel
Vessel Name:
IMO Number:
Call Sign:
Type of Ship:
MMSI Number:

Vessel owner name and address:
Port of Origin:
Last Port of Call:
Position of ship at time of incident:
Proposed Date and Time of Arrival:

Section C: Details of Incident	
Type of incident (Injury/Damage to Vessel/Damage to the Environment/Near Miss):	
Cause(s) of incident:	
Number of people involved:	
Did the incident result in injury to any person?	YES NO (Delete as appropriate)
Did the incident result in damage to the ship?	YES NO (Delete as appropriate)
Did the incident result in damage to the ship's equipment?	YES NO (Delete as appropriate)

Section D: Events leading to the Incident

Give a brief description of the sequence of events leading up to the incident:

Section E: Description of incident

Give a brief description of the details of the incident:

Section F: Safety Review

Provide details of immediate actions and any further steps taken or to be taken to ensure similar marine incidents may be avoided and any safety factors arising from the event:

Section G: Safety Improvements

Provide details of any improvements in supervision, training or maintenance or other safety measures or recommendations that have been implemented:

Section H: Declaration

We declare that the marine incident has been investigated and the information contained in this report form is correct to the best of our knowledge:

Signed:

Signed:

Master/Senior Officer:

Safety Officer:

Name (BLOCK CAPITALS):

Name (BLOCK CAPITALS):

Date:

Date:

Section I: Safety Representative

If there is an elected safety representative on board the vessel, he or she must be shown the completed report and be permitted to provide any comments in the space below.

Signed:

Safety Representative:

Name (BLOCK CAPITALS):

Date:

GIVEN under my hand,
5 September 2023

JACK CHAMBERS,
Minister of State at the Department of Transport

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations set out the general obligations placed on the owner and master in relation to occupational health and safety onboard ships and provide for the appointment of safety officials by the ship's owner, and safety representatives appointed by the ship's crew on board a ship registered in the State, other than fishing vessels, non-sea-going vessels and pleasure craft. The safety officer and committee must promote a culture of safety on board, through open reporting, meeting formally on a regular basis to discuss safety on board and establishing and maintaining an up-to-date risk assessment register. They require the crew to comply with occupational health and safety guidelines and for any marine incidents to be reported to the Marine Survey Office.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
BÓTHAR BHAILE UÍ BHEOLÁIN,
CILL MHAIGHNEANN,
BAILE ÁTHA CLIATH 8,
D08 XAO6

Tel: 046 942 3100
r-phost: publications@opw.ie

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
MOUNTSHANNON ROAD,
KILMAINHAM, DUBLIN 8,
D08 XAO6

Tel: 046 942 3100
E-mail: publications@opw.ie

€ 4.50

