

LEGAL NOTICE NO. 151

THE MERCHANT SHIPPING ACT

(No. 4 of 2009)

**THE MERCHANT SHIPPING (OCCUPATIONAL SAFETY)
REGULATIONS, 2015**

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THE MERCHANT SHIPPING ACT

(No. 4 of 2009)

IN EXERCISE of the powers conferred by section 168 read with section 450 of the Merchant Shipping Act, 2009, the Cabinet Secretary for Transport and Infrastructure makes the following Regulations:—

THE MERCHANT SHIPPING (OCCUPATIONAL SAFETY)
REGULATIONS, 2015

PART I—GENERAL

1. These Regulations may be cited as the Merchant Shipping (Occupational Safety) Regulations, 2015, and shall come into operation on such date as the Cabinet Secretary may, by notice in the Gazette appoint.

Citation.

2. In these Regulations unless the context otherwise requires—

Interpretation.

"access equipment" means any equipment which is used to gain access to or from a vessel, and includes any gangway, accommodation ladder, portable ladder or rope ladder;

"employer" means any employer of —

- (a) a master of a ship;
- (b) a member of ship's crew;
- (c) a shore contractor;
- (d) a stevedore;
- (e) a person who works in any capacity on or within 50 metres distance of an offshore installation; and
- (f) any incidental person on board a vessel in the course of their duties.

"lifting appliance" means any fixed or mobile appliance on a vessel which is used for suspending, raising or lowering a load or moving it from one position to another whilst suspended, but does not include—

- (a) any screw, belt, bucket or other conveyor used for transport of cargo or people;
- (b) any survival craft or rescue boat launching and recovery appliance or arrangement; or
- (c) any pilot hoist;

"lifting gear" means any gear by means of which a load can be attached to a lifting appliance and which does not form an integral part of that load or appliance, but does not include any pallet, one trip sling, pre-slung cargo sling or freight container;

"offshore installation" means any offshore structure supported on the sea-bed or a vessel used at sea in connection with the prospecting for or the mining of natural oil and on which persons are normally present;

"lifting plant" includes lifting appliances and lifting gear;

"reasonably practicable" means practicable having regard to—

- (a) the severity and scope of the hazard or risk in question;
- (b) the state of knowledge reasonably available concerning the hazard or risk and on
- (c) any means of removing or mitigating the hazard or risk;
- (d) the availability and suitability of means to remove or mitigate the hazard or risk; and
- (e) the cost of removing or mitigating the hazard or risk in relation to the benefits deriving therefrom;

"safety measures" means any reasonable steps taken by the responsible person to prevent an accident or serious injury or measures taken to eliminate any hazardous condition; chemicals or gas;

"tanker" means a cargo ship constructed or adapted for the carriage in bulk of oil

"vessel" means a ship of any description and offshore installations, whether fixed or mobile.

3. These Regulations shall apply on board vessels and to the performance of all work on board vessels, whether or not the vessels are afloat.

General application.

4. (1) Every employer shall—

- (a) have a copy of these regulations readily available for perusal by his employees;
- (b) ensure that all his employees are so far as is practicable familiar with these regulations where applicable;
- (c) in so far as is practicable, ensure that the provisions of these regulations applicable to employees are observed by them and that, in the interest of safety, discipline is enforced on board a vessel;
- (d) ensure that on board a vessel work is performed or machinery is used under the general supervision of a person who is fully aware of the hazards connected therewith and who is conversant with the safety measures to be taken or observed to obviate such hazards;
- (e) ensure that safety measures contained in the applicable Code are complied with;
- (f) ensure that every employee is aware of the hazards connected with any work to be performed, or machinery to be used by him and that he is conversant with the safety measures to be taken or observed to obviate such hazards;
- (g) ensure that machinery and equipment which is brought on board a vessel and which does not form part of that vessel's machinery or equipment complies with the provisions of the Occupational Health and Safety Act, 2007;

Duties of employers.

(h) ensure that an employee who operates machinery or equipment on board a vessel is competent to do so.

(2) No employer shall, other than in writing and subject to the conditions stipulated by him, allow the raising, lowering, transporting or supporting of a person by means of a lifting appliance, except in an emergency.

(3) An employee shall —

- (a) take reasonable care for his own safety and that of other persons who may be affected by his acts or omissions;
- (b) as regards any duty or requirement imposed on his employer or any other person by the Act or regulations, co-operate with such employer or person to enable that duty or requirement to be performed or complied with;
- (c) carry out any lawful order given to him, and obey the rules and procedures laid down by his employer or by anyone authorized thereto by his employer, in the interest of safety;
- (d) if any situation which is unsafe comes to his attention, as soon as practicable report such situation to his employer or to the safety representative for his workplace or section thereof, as the case may be, who shall report it to the employer;
- (e) if he is involved in any incident which may affect his safety, or which has caused an injury to himself, report such incident to his employer or to anyone authorized thereto by the employer, or to his safety representative, as soon as practicable but not later than the end of the particular shift during which the incident occurred, unless the circumstances were such that the reporting of the incident was not possible, in which case he shall report the incident as soon as practicable thereafter; and
- (f) not intentionally or recklessly interfere with or misuse anything which is provided in the interest of safety.

5. Taking into account the nature of the hazard that may be encountered, every employer shall, in order to render his employees safe, provide on a vessel adequate safety equipment and facilities, including—

- (a) suitable eye protection, welding shields, visors, hard hats, protective helmets, gloves, gauntlets, aprons, jackets, protective overalls or any similar equipment that will prevent bodily injury;
- (b) waterproof clothing, low temperature clothing, fire retardant or flameproof clothing or any similar equipment, protective ointment, ear muffs, earplugs, respirators, breathing apparatus, masks, airlines, hoods, helmets or any similar equipment that will effectively protect against harm;
- (c) belts, harnesses, nets, fall arresters, life lines, safety hooks, or any similar equipment that will provide protection in cases of falls; and

Safety equipment and facilities to be provided by employers.

(d) mats, barriers, safety signs or any similar facility that will effectively prevent slipping or entry to unsafe areas.

6. An employer shall ensure that—

First-aid kit and first-aider.

(a) where more than five employees work on board a vessel where the vessel's medicine and medical appliances are not readily accessible, a portable first-aid kit is made available at or near the workplace where the employees are engaged and there is readily available at that workplace a person qualified in practical first aid; and

(b) the minimum contents of the portable first-aid kit is as follows—

- (i) Wound cleanser (Cetrimide 1% solution) 1 x 200 m□
- (ii) Pain relief tablets (e.g. paracetamol-codeine combination) 25
- (iii) Antiseptic burn/wood cream (e.g. Proviiodine). . . 25 g
- (iv) Paraffin gauze dressings 400 mm x 100 mm 1 tin
- (v) Paraffin gauze dressings 100 mm x 100 mm 1 tin
- (vi) Eyedrops (Naphazoline) 10 m□
- (vii) Crepe bandage 75 mm x 6 mm 1
- (viii) Roller bandages 75 mm x 6 mm 2
- (ix) Triangular bandages 2 large
- (x) Cotton wool 1 x 50 g
- (xi) Wound dressings 150 mm x 100 mm 2
- (xii) Wound dressings 200 mm x 150 mm 1
- (xiii) Elastic adhesive wound dressing 25 mm x 1 m 1 roll
- (xiv) Self-adhesive wound dressings, assorted . 50
- (xv) Gauze 90 mm x 5 mm 1
- (xvi) Eye shield 1
- (xvii) Tweezers 1 pair
- (xviii) Scissors, stainless steel, 100 mm blunt/sharp. . . . 1 pair
- (xix) Assorted safety pins, brass, large . . 1 packet
- (xx) Splints, in net for neck, arms and leg ... 1 set
- (xxi) Surgical gloves 2 pairs

7. Any accident or serious injury, contemplated in section 421

(1) (b) of the Act, shall be reported on the prescribed casualty report, obtainable from the proper officer concerned.

Report of accidents or serious injuries on board vessels.

PART II—SAFETY PROVISIONS FOR STAFF ON BOARD SHIP,
APPLIANCES AND EQUIPMENT

8. In this Chapter—

Definitions.

"Code" means the latest Code of Safe Working Practices for Merchants.

"container" means an article of transport equipment—

- (a) of a permanent character and accordingly strong enough to be suitable for repeated use;
- (b) specially designed to facilitate the transport of goods, by one or more modes of transport without intermediate reloading;
- (c) designed to be secured and/or readily handled, having corner fittings for those purposes;
- (d) of such a size that the area enclosed by the four outer bottom corners is either—
 - (i) at least 14 square metres, or
 - (ii) at least seven square metres, if it is fitted with top corner fittings; and

"container" includes a container when carried on a chassis, but does not include a vehicle or packaging;

"employer" for the purposes of this Chapter means master or owner;

"gas carrier" means any vessel constructed or adapted for the carriage in bulk of any liquefied gas;

"hatch covering" includes hatch covers, beams and fixtures and fittings;

"new vessel" means a vessel built on or after 1 January 1994 and includes a vessel whose construction and assembly commenced on or after 1 January 1994;

"one-strip sling" means a sling, which has not previously been used for lifting any load and which is fitted to a load at the commencement of the journey and is to be disposed of at the destination of that journey.

9. This Part shall not apply to—

Application.

- (a) fishing vessels;
- (b) vessels used solely for sport and recreation; and
- (c) a vessel in which there is, for the time being, no workplace.

10. Every employer shall in addition to the general duties prescribed in Part I comply with the following—

Duties of an employer.

- (a) ensure that no safety equipment or other facility on a vessel be removed therefrom, except for cleaning, repairing, maintenance, modification or replacement thereof;

- (b) train all his employees or cause them to be trained in the proper use and maintenance of safety equipment or other facilities on board a vessel;
- (c) ensure that all safety hazards or potential safety hazards that caused a safety officer to instruct that work to be stopped on a vessel, are removed before such work is resumed.

11. (1) An employer shall in writing appoint an officer other than the master of a vessel as the safety officer for that vessel.

Appointment, termination of appointment, and functions of safety officers.

(2) The appointment of a safety officer shall terminate—

- (a) on the date that officer ceases to be employed on board that vessel; or
- (b) on the date that the employer terminates his appointment.

(3) The safety officer shall—

- (a) ensure that the crew of the vessel comply with the provisions of the Code;
- (b) ensure that the crew comply with any occupational safety policy determined by the employer concerned;
- (c) ensure that the crew maintain a high standard of occupational safety;
- (d) investigate the cause of an accident contemplated in section 421 (1)(b) of the Act, all hazards or potential hazards to safety, including fatigue, that affect or may affect the crew of a vessel in the execution of their work, and all complaints by the crew of the vessel concerning occupational safety;
- (e) make recommendations to the safety committee concerned about any investigation or inspection or the prevention of any accident or the removal of any hazard or potential hazard, and about any deficiency in occupational safety regarding—
 - (i) the requirements of the Act and these regulations that affect the crew;
 - (ii) any relevant Marine Notice; and
 - (iii) any provision of the Code;
- (f) carry out inspections of each accessible part of the vessel in respect of the occupational safety of the crew, at least once during this term of appointment or more frequently if there have been substantial changes in the conditions of work: Provided that the interval between successive inspections shall not exceed three months;
- (g) keep a record book in which he shall enter full details—
 - (i) of any accident or hazardous occurrence (including the date, the names of persons involved and the nature of any injury); and

- (ii) of any investigation, complaint or inspection referred to in this regulation;
- (h) on written request as soon as practicable make the record book referred to in paragraph (g) available to the Director-General or to the safety committee concerned, as the case may be;
- (i) immediately stop or cause to be stopped the performance of any work which in his opinion may cause an accident or serious injury, and inform the master thereof forthwith; and
- (j) carry out any other investigation relating to occupational safety which an employer or a safety committee may deem necessary, if so requested to in writing by the employer or the safety committee, as the case may be, and thereafter submit a report in respect of such investigation.

12. (1) An employer shall in writing establish a safety committee on board a vessel, designating the master to be chairman and appointing the safety officer and every safety representative as members.

Appointment, termination of appointment, and functions of safety committees.

- (2) An employer may in writing dissolve a safety committee.
- (3) A safety committee shall —
 - (a) upon receipt of any recommendation referred to in regulation 11(3)(c), submit to the employer such recommendation together with their own recommendations; and
 - (b) inquire into any occupational safety matter that affects a vessel and her crew and take the steps it may deem necessary to remove any hazard or potential hazard.

13. (1) The crew may, if they so choose, elect—

- (a) in a ship carrying fewer than 16 crew members, one safety representative; or
- (b) in a ship carrying more than 15 crew members, one safety representative, to be elected by the officers, and one safety representative to be elected by the ratings, or in a ship carrying more than 30 ratings, one safety representative, to be elected by the ratings in each of the deck, engine and catering departments; and general purpose ratings shall for this purpose be included in the deck apartment.

Election, termination of office, and functions of safety representatives.

(2) If a group of employees chooses to elect a safety representative, the manner in which the election is to be conducted shall be as follows—

- (a) at a meeting convened for the purpose of this election and presided over by the chairman of the safety committee or his nominee, a group of employees shall from within their group nominate a candidate.

- (b) each nominated candidate shall, in writing, confirm to the chairman of the safety committee his acceptance of such nomination.
- (c) the election of a safety representative shall be decided by ballot.
- (d) each member of the group of employees holding an election shall have only one vote.
- (e) the candidate obtaining the majority of votes shall be the safety representative for the specific group of employees for a period not exceeding six months.
- (f) in the event of an equality of votes, the chairman of the safety committee shall have the decisive vote.
- (3) The office of the safety representative shall terminate—
 - (a) on the date that the safety representative ceases to be employed on board that vessel;
 - (b) on the date of his resignation from office; or
 - (c) after he has completed his term of appointment.
- (4) When he makes representations and submits requests to the employer or safety officer or safety committee on behalf of the crew he represents, the safety representative shall make such representations and submissions in writing.

14. Every employer of a crew shall—

- (1) Inform the safety officer and safety committee concerned of any hazardous cargo on board a vessel and the hazards, which may arise therefrom, and of any other hazards on board the vessel that are known to him and that may endanger the vessel or her crew;
- (2) Allow a safety officer and safety representative such reasonable absence from ship's duties without loss of pay as may be necessary to enable them to perform their duties or functions as safety officer or safety representative, as the case may be;
- (3) At any reasonable time, receive representations about occupational safety from the safety officer, the safety representatives or the safety committee, including recommendations by a safety representative that certain work should be suspended, and discuss their representations with them and implement any agreed measures as soon as may be reasonable and practicable;
- (4) Provide the safety officer, and safety committee concerned on request with any information relating to accidents and potential hazards to safety on board a vessel;
- (5) Provide the safety officer concerned on request with any information or plans necessary to enable him to undertake an inspection referred to in regulation 11(3)(d);
- (6) Set the election date of a safety representative to be within three working days of being requested to do so by any two persons entitled to vote in such an election and give publicity to any such election;

Requirements and duties of employers regarding safety officers, safety committees and safety representatives to enable them to perform their functions.

(7) Subject to the provision of section 355A(5) of the Act, provide the safety officer and safety committee access to any necessary information, document and similar material, including any applicable legislation and Marine Notices;

(8) Provide the safety officer and safety committee with the necessary accommodation, office equipment and similar materials;

(9) Permit the safety officer and safety committee to inspect the whole or part of the vessel for the purpose of occupational safety; and

(10) Display in a conspicuous place on board a notice containing the names of the safety officer and safety representative on board the vessel.

15. (1) The employer shall provide—

Access
equipment.

(a) on board a vessel of 30 meters or more in length, a gangway; and

(b) on board a vessel of 120 meters or more in length, in addition to the gangway, an accommodation ladder (including a rope or portable ladder), which is appropriate to the deck layout, size, shape and maximum free board of the vessel and which complies with the applicable requirements prescribed in the Code.

(2) Any rope or portable ladder used as access equipment shall comply with the applicable requirements prescribed in the Code.

16. The employer shall ensure that, except in an emergency, access equipment referred to in regulation 15 is always used between a secured vessel and any quay, pontoon or similar structure or another vessel alongside to which that vessel is secured, and that—

Use of access
equipment.

(a) the access equipment is placed in position promptly after the vessel has been so secured and remains in position while the vessel is so secured;

(b) the access equipment which is used—

(i) is properly constructed, of adequate strength, properly rigged, secured, deployed, and safe to use; and

(ii) is so adjusted from time to time as to maintain safety of access;

(c) the access equipment and immediate approaches thereto are adequately illuminated;

(d) when access is necessary between a vessel and the shore and that vessel is not secured alongside, access equipment is provided to ensure safe access;

(e) a portable ladder is used as access equipment only where no other safe means of access is practicable;

(f) a rope ladder is used as access equipment only between a vessel with high freeboard and a vessel with low freeboard

or between a vessel and a boat where no other safe means of access is practicable;

- (g) a life-buoy with a self-activating light and a separate safety line attached to a quoit or a similar device is provided ready for use at the point of access to a vessel; and
- (h) an adequate number of safety nets are rigged to safeguard the full length of a gangway or accommodation ladder in use.

17. (1) An employer shall ensure—

Hatch coverings.

- (a) that any hatch covering used on a vessel is of sound construction and material, of adequate strength for the purpose for which it is used, free from patent defect and properly maintained;
- (b) that a hatch covering—
 - (i) is not used unless it can be removed and replaced, whether manually or with mechanical power, without endangering any person, and
 - (ii) is clearly marked, showing the correct replacement position, except in so far as hatch coverings are interchangeable or incapable of being incorrectly replaced;
- (c) that a hatch is not used unless the hatch covering has been completely removed or, if not completely removed, properly secured.

(2) Except in the event of an emergency, no person shall operate a hatch covering which is power-operated or a vessel's ramp or a retractable car-deck unless authorised to do so by the officer of the watch.

18. An employer shall ensure that any vessel's lifting plant is—

Lifting plant.

- (a) (i) of adequate strength for the purpose for which it is used;
 - (ii) free from patent defect;
 - (iii) properly installed or assembled;
 - (iv) properly maintained; and
 - (v) used only in a safe and proper manner;
- (b) not loaded in excess of its certified safe working load, except for the purpose of carrying out a test referred to in paragraph (d);
- (c) operated only by a person properly trained in the operation thereof and duly authorized by the officer of the watch to do so;
- (d) tested by a competent person after the manufacturing or installation thereof, as the case may be, but before being put into operation, and thereafter after any repairs to or modification of the lifting plant which is likely to alter the

- safe working load or affect the strength or stability thereof, but at least once every four years: Provided that a rope sling manufactured from a rope batch tested by a competent person and spliced in a safe manner need not be tested;
- (e) examined by a competent person after any of the tests referred to in paragraph (d) have been carried out, but at least once every 12 months, and that no lifting plant is used unless so examined and declared safe in writing;
 - (f) supplied with a test certificate stating that the lifting plant was tested by a competent person after any of the tests prescribed in paragraph (d);
 - (g) clearly and conspicuously marked with its safe working load;
 - (h) where practicable, fitted with—
 - (i) a limiting device, which automatically arrests any driving effort when the load reaches its highest or lowest safe position;
 - (ii) a brake or other device suitable to holding a load and preventing the uncontrolled downward movement thereof when the raising effort of the lifting plant is interrupted; and
 - (iii) a hook or load-attaching device so designed or proportioned that the accidental disconnection of a load under working conditions is prevented; and
 - (i) fitted with—
 - (i) a device indicating the operating radius of the lifting plant at all times while it is in operation; and
 - (ii) a diagram or indicator indicating to the operator the safe working load of the lifting plant corresponding to its operating radius, if it has a safe working load which varies according to its operating radius.

19. An employer shall—

Safeguarding of
machinery.

(1) specifically cause every exposed and hazardous part of machinery on board a vessel which is within the normal reach of a person to be effectively safeguarded by means of insulation, fencing, screening or guarding so that it does not constitute a further hazard or potential hazard;

(2) ensure that the quality of material used for such insulation, fencing, screening or guarding is suitable for the purpose for which it is being utilised;

(3) ensure that all insulation, fencing, screening or guarding is properly maintained and kept in position while the guarded part is in operation; and

(4) supply suitable apparatus to stop immediately any machine on board a vessel in an emergency.

20. An employer shall ensure that all the electrical equipment and installations on a vessel are operated and maintained in such a manner that any hazard or potential hazard is removed.

Electrical equipment.

21. An employer shall take all reasonable precautionary measures in order to ensure that employees who have to work on or near machinery which is in motion, under pressure, at high temperature or electrically alive (including the operation of such machinery for the purposes of the examination, adjustment, repair, lubrication or testing thereof) are not injured, and shall in particular ensure that—

Safety measures when working under hazardous conditions.

- (a) the exposure of employees to dangerous parts of such machinery is limited to the minimum;
- (b) the said exposure is authorised by the officer of the watch or other competent person;
- (c) such machinery is examined only by a competent person;
- (d) any employee who is required to be close to such machinery has, so far as is practicable, a working area which is of adequate size, properly illuminated, and clear of obstructions and loose material;
- (e) a notice specifying the hazards relating to such machinery is affixed in a legible form in a conspicuous place on, or in the vicinity of, that machinery or that the area around such machinery is demarcated with hazard tape.

22. An employer shall ensure that a safe means of access is provided and maintained to any place on a vessel to which a person may be required to go.

Safe access of persons on board.

23. An employer shall ensure that all deck surfaces used for transit and all passageways, walkways and stairs on a vessel are properly maintained and, in so far as it is practicable, are kept free from all materials or substances likely to cause a person to slip or fall.

Transit areas.

24. An employer shall ensure that those areas of a vessel being used for the loading or unloading of cargo or for any other work or transit are adequately and appropriately illuminated.

Lighting.

25. An employer shall ensure that all permanent safety signs used on board a vessel for the purpose of giving safety information or instruction comply with the standards prescribed by the International Maritime Organization or the International Standards Organization.

Safety signs.

26. (1) An employer shall ensure that any opening, open hatchway or dangerous edge into, through, or over which a person may fall is fitted with secure guardrails or fencing of adequate design and construction to prevent such occurrence, except where the installation of such guardrails or fencing will interfere with the proper performance of work.

Guardrails.

(2) Where a temporary opening is made in a ship for carrying out repair work, the opening may, in lieu of the guarding required by sub-regulation (1), be guarded by means of hazard tape displayed at a

height of not less than 800 mm and not higher than 1 200 mm and at a distance of not less than 2 000 mm from the edge of the opening.

27. An employer shall ensure that—

A Fixed ladders.

- (a) all ladders used on a vessel are of good construction and of adequate strength for the purpose for which they are used;
- (b) such ladders are properly maintained and free from defects; and
- (c) all the ladders on a new vessel comply with the requirements prescribed in the relevant sections of the Code.

28. (1) An employer shall ensure that all entrances to unattended, enclosed or confined spaces on a vessel are kept either closed or otherwise secured against entry, except when work is to be done therein.

Enclosed or confined spaces.

(2) An employer shall ensure that the provisions of the Code pertaining to the hazards for safe entry to and work in an enclosed or confined space on board a vessel are complied with.

(3) An employer of crew on board—

- (a) any tanker or gas carrier of 500 gross registered tons or more; and
- (b) any other vessel of 1 000 gross registered tons or more; shall ensure that drills simulating the rescue of a crew member from an enclosed or confined space are held at intervals not exceeding two months, and that such drills are recorded in the official log book.

(4) (a) where entry into an enclosed or confined space may be necessary, every employer shall ensure that an oxygen meter and such other testing device as is appropriate to the hazard likely to be encountered in any such space is carried on board the vessel;

- (b) an employer shall ensure that such meter any such other testing device is maintained in good working order and, where applicable, is regularly serviced and calibrated according to the manufacturers' requirements.

PART III—STEVEDORES, SHORE CONTRACTORS AND INCIDENTAL PERSON ON BOARD VESSELS IN THE COURSE AND SCOPE OF THEIR DUTY

29. In this Chapter—

Definitions.

"Code" means the latest edition of any Cargo Handling Code of Practice issued by or approved by the Kenya Ports Authority and incorporated in accordance with the Act;

"employee" means any person other than a crew member who is employed by or working for any employer and receives or is entitled to receive any remuneration or who works under the direction or supervision of an employer or any other person who in any manner assists in the carrying on or the conducting of the business of an

employer in so far as this person is performing stevedoring, or shore contracting or any other work whatsoever in the course and scope of his employment on board a vessel;

"employer" means any person other than an employer of the master or crew who employs any person and remunerates that person or expressly or tacitly undertakes to remunerate him, or who permits any person in any manner to assist him in performing stevedoring or shore contracting or any other work on board a vessel;

"incidental persons" means any person other than the master and crew, and stevedores and shore contractors on board a vessel in the course and scope of their duty;

"shore contractor" means a person temporarily employed on board a vessel to effect general or specific repairs, alterations, renovations, improvements, painting, maintenance of vessel or machinery, tank or hatch cleaning and related tasks;

"stevedore" means a person employed in the loading or unloading of a vessel or activities related thereto.

30. This Chapter shall not apply to vessels used solely for sport and recreation.

Application.

31. (1) An employer of stevedores, shore contractors or incidental persons shall—

Duties of owners, masters and employers.

- (a) in addition to the general duties prescribed by regulation 3, comply with the requirements of regulations 4, 5, 17 and 20, 21, 25 and 28(2);
- (b) ensure that each accessible part of the vessel is inspected in respect of occupational safety affecting employees at least once a day during the period the employees are employed;
- (c) immediately stop or cause to be stopped, the performance of any work which in his opinion may cause an accident or serious injury and inform the employer, owner or master forthwith thereof.

(2) An employer of stevedores, shore contractors or incidental persons shall ensure that all deck surfaces, all passageways, walkways and stairs on a vessel used for transit by his employees are kept, as far as it practicable, free from all materials or substances likely to cause a person to slip or fall.

(3) In the event of a dispute arising in respect of—

- (a) whether a work place is safe; or
- (b) what action has to be taken to make a workplace safe, the owner or master or employer shall refer the matter to the authorised officer who will determine the dispute by conducting an inspection of the vessel to determine compliance by the owner, master or employer with these Regulations and the Code..

(4) An employer of a stevedore shall ensure compliance with the provisions of the Code.

32. (1) The employer of a stevedore or shore contractor shall in writing appoint an employee as safety officer for a group of his employees.

Appointment, termination of appointment, and functions of a safety officer.

(2) The appointment of the safety officer shall cease on the date—

- (a) the employee ceases to be employed by the owner; or
- (b) that the employer terminates the appointment.

(3) The safety officer shall whilst the employees are working on a vessel—

- (a) ensure that the employees comply with the provisions of the regulations;
- (b) ensure that any occupation safety policy determined by the employer concerned is complied with by the employees;
- (c) ensure that the employees maintain a high standard of occupational safety;
- (d) investigate the cause of an accident mentioned in section 259(1)(c) of the Act, all hazards or potential hazards to safety, including fatigue, affecting or which may affect the employees in the execution of their work and all complaints about occupational safety by the employees onboard the vessel;
- (e) make recommendations to the employer regarding any investigation or inspection or the prevention of an accident, or the removal of a hazard, or potential hazard, and about any deficiency in occupational safety regarding the requirements of the Act and these regulations;
- (f) monitor the effectiveness of the safety measures and immediately stop or cause to be stopped, the performance of any work which in his opinion may cause an accident or serious injury and inform the employer, owner or master forthwith thereof;
- (g) carry out any other investigation relating to occupational safety, which an employer may deem necessary if requested thereto in writing by the employer and thereafter submit a report in respect of such investigation;
- (h) submit a brief report of the investigation contemplated in this regulation to the employer for the purposes of record keeping.

33. (1) An employer of a stevedore or shore contractor shall maintain a record book, in which he shall enter the full details of—

Record books.

- (a) any accident or dangerous occurrence mentioned in section 421(1)(b) of the Act (including the date of, names of persons concerned and the nature, if any, of any injuries suffered);

- (b) any investigation, complaint or inspection in terms of regulation 31.

(2) The employer shall keep the records specified in subregulation (1) above for a period of not less than three years, and shall make these records available on request to a Authorised officer.

PART IV—FISHING VESSELS

34. In this Chapter—

Definition.

"Code" means the latest edition of the Code of Safe Working Practices for Fishing Vessels published by the Authority;

"employee" includes a share fisherman whose only remuneration is a share in the proceeds of the catch;

"in service" means the period extending from when a fishing vessel is handed over to her master until the vessel is handed back to the owner.

35. This Part shall apply only to fishing vessels of more than 25 gross tons on which a crew of six or more are employed.

Application.

34— 36. (1) In respect of a fishing vessel referred to in regulation

Duties of
employee.

(a) the owner thereof shall comply or ensure compliance with the provisions of regulation 3 whilst such vessel is not in service; and

(b) the master thereof shall comply or ensure compliance with the said provisions whilst such vessel is in service.

(2) An employer of a crew shall in addition to the general duties prescribed in Chapter I comply with the following:

(a) ensure that no safety equipment or other facility on a vessel be removed therefrom, except for cleaning, repairing, maintenance, modification or replacement thereof;

(b) train all his employees or cause them to be trained in the proper use and maintenance of safety equipment or other facilities on board a vessel;

(c) ensure that all hazards or potential hazards to safety that caused a safety officer or safety appointee to stop work on a vessel, are removed before resumption of such work.

37. (1) For the purpose of a fishing vessel in service, the employer of the crew of that vessel shall in writing appoint a crewmember as the safety officer for that vessel.

Appointment,
termination of
appointment, and
functions of
safety officers.

(2) The appointment of a safety officer shall terminate—

(a) on a date that he ceases to be employed on board the fishing vessel; or

(b) on the date that his employer, in writing, terminates his appointment.

- (3) A safety officer shall, whilst a fishing vessel is in service—
- (a) ensure that the crew comply with the provisions of the Code;
 - (b) ensure that the crew comply with any occupational safety policy determined by the employer concerned;
 - (c) ensure that the crew maintain a high standard of occupational safety;
 - (d) investigate the cause of an accident contemplated in section 421(1)(b) of the Act; all hazards or potential hazards to safety including fatigue, that affect or may affect the crew of a vessel in the execution of their work, and all complaints concerning occupational safety;
 - (e) make recommendations to the safety committee concerned about any investigation or inspection or the prevention of any accident or the removal of any hazard or potential hazard, and about any deficiency in occupational safety regarding—
 - (i) the requirements of the Act and these Regulations that affect the crew;
 - (ii) any relevant Marine Notice; and
 - (iii) any provisions of the Code;
 - (f) carry out inspections of each accessible part of the vessel in respect of the occupational safety affecting the crew, at least once during a voyage;
 - (g) immediately stop or cause to be stopped, the performance of any work which in his opinion may cause an accident or serious injury, and inform the master thereof forthwith;
 - (h) carry out any other investigation or inspection relating to occupational safety which an employer or safety committee may deem necessary, if so requested in writing by the employer or safety committee, as the case may be, and thereafter submit a report in respect of such investigation; and
 - (i) submit to the employer for the purposes of the record book a brief report of the investigation referred to in this regulation.

38. (1) The owner of a fishing vessel shall in writing appoint an employee as safety appointee for that fishing vessel whilst it is not in service.

- (2) The appointment of the safety appointee shall terminate—
 - (a) on the date that the employee ceases to be employed by the owner; or
 - (b) on the date that the employer terminates his appointment.
- (3) The safety appointee shall whilst a vessel is not in service—

Appointment, termination of appointment, and functions of safety appointees.

- (a) ensure that the employees comply with the provisions of the Code;
- (b) ensure that the employees comply with any occupational safety policy determined by the employer concerned;
- (c) ensure that the employees maintain a high standard of occupational safety;
- (d) investigate the cause of an accident contemplated in section 421(1)(b) of the Act, all hazards or potential hazards to safety, including fatigue, that affect or may affect the employees in the execution of their work, and all complaints by the employees of the vessel concerning occupational safety;
- (e) make recommendations to the safety committee concerned, about any investigation or inspection or the prevention of any accident or the removal of any hazard or potential hazard, and about any deficiency in occupational safety regarding—
 - (i) the requirements of the Act and these regulations that affect the employees;
 - (ii) any relevant Marine Notice; and
 - (iii) any provision of the Code;
- (f) carry out inspections of each accessible part of the vessel in respect of the occupational safety of the employees, at least once during the vessel's not-in-service period and should such period extend beyond one month, at least once a month;
- (g) immediately stop or cause to be stopped, the performance of any work which in his opinion may cause an accident or serious injury and inform the owner thereof forthwith;
- (h) carry out any other investigation relating to occupational safety which an employer or safety committee may deem necessary, if so requested in writing by the employer or the safety committee, as the case may be, and thereafter submit a report in respect of such investigation;
- (i) submit to the employer for the purposes of the record book a brief report of the investigation referred to in this regulation.

39. (1) An owner of two or more fishing vessels shall in writing establish a safety committee; and such safety committee shall consist of such number of members as the owner may from time to time determine.

(2) The chairman, in the person of the owner or his representative, shall co-opt, from among the employees such persons as are necessary to conduct the business of the committee.

(3) The chairman may also co-opt any other person who by the virtue of his special knowledge can contribute to the business of the committee.

Appointment, termination of appointment, and functions of safety committees.

(4) An owner may, in his discretion, in writing, dissolve a safety committee.

(5) A safety committee shall meet as often as may be necessary, but at least once every three months, provided that an authorised officer may by notice in writing direct that a meeting be held at any place and time determined by him.

(6) The procedure at meetings of a safety committee shall be determined by the committee.

(7) The committee shall consider all recommendations of the safety officer or safety appointee.

(8) After consideration of such recommendations a safety committee may recommend any appropriate action in respect of any incident on board a vessel and the recommendation shall be made available to an authorised officer upon request.

(9) The safety committee shall keep the minutes of meetings for a period of at least three years and make them available to an authorised officer upon request.

40. (1) An employer shall maintain a record book, in which he shall enter the full details of—

Record books.

(a) any accident or dangerous occurrence referred to in section 421(1)(b) of the Act (including the date, names of persons concerned and the nature, if any, of any injuries suffered);

(b) any investigation, complaint or inspection referred to in terms of regulations 36 and 3.

(2) The employer shall keep the records specified in sub-regulation (1) above for a period of at least three years, and shall make these records available on request to the safety committee and to an authorized officer.

PART V—MISCELLANEOUS PROVISIONS

41. Any person who contravenes or fails to comply with any provision of the regulations commits an offence and liable on conviction to a fine or to imprisonment as follows—

Offences and penalties.

(1) Contravention of regulation 3, one year's imprisonment;

(2) Contravention of regulation 4, six months' imprisonment;

(3) Contravention of regulation 27(1), six months' imprisonment;

(4) Contravention of regulation 27(2), one year's imprisonment.

Dated the 12th June, 2015.

JAMES MACHARIA,
Cabinet Secretary for Transport and Infrastructure.