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## **Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 and Merchant Shipping (Maritime Labour Convention) (Medical Certification) Regulations 2010; New and Expectant Mothers**

**Notice to all shipowners, employers and seafarers on merchant ships and fishing vessels**

*This notice replaces MGN 460 (M+F) and should be read with MSN 1839 (M)*

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### **Summary**

This Marine Guidance Note provides guidance on the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 as they relate to new or expectant mothers. Many women continue to work while they are pregnant and return to work while breast feeding.

- Shipowners and employers are required to take into account the safety and health of new or expectant workers when carrying out a risk assessment, in particular if the woman is required to do night work (guidance is in Annex 1);
- Subject to the findings of the risk assessment, and medical advice, a woman may continue to work at sea during pregnancy.
- The procedure to be followed is set out.

### **1. Introduction**

1.1 The Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 (S.I. 1997/2962) came into force on 31 March 1998. Regulations 8, 9 and 10 implement Council Directive 92/85/EC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers who have recently given birth or are breastfeeding (The Pregnant Workers Directive). The Regulations apply to United Kingdom ships and to other ships when they are in United Kingdom waters.

1.2 The medical fitness standards for merchant seafarers is published in MSN 1839 (M). They have statutory force under the Merchant Shipping (Maritime Labour Convention) (Medical Certification) Regulations 2010 (S.I. 2010/737)



- 1.3 Copies of the regulations are available on the website: [www.legislation.gov.uk](http://www.legislation.gov.uk)
- 1.4 Merchant Shipping Notices, Marine Guidance Notes and Marine Information Notes are available to download from the GOV.UK website [www.gov.uk](http://www.gov.uk)
- 1.5 Paragraphs 2 to 5 of Annex 1 of this Marine Guidance Note are based on the guidance issued by the Health Safety Executive. Further information is available from the HSE website: [www.hse.gov.uk/mothers/index.htm](http://www.hse.gov.uk/mothers/index.htm)

## **2. New and Expectant Mothers: Health and Safety**

### **Introduction**

- 2.1 Pregnancy should not be equated to ill health. It should be regarded as part of everyday life and its health and safety implications can be adequately addressed by normal health and safety management procedures. Many women work while they are pregnant, and many return while they are still breastfeeding.
- 2.2 However, the particular demands of working on board ship can place pregnant workers at risk. Very few merchant ships carry doctors, and in the event of problems developing during pregnancy, an equivalent level of care to that available to an expectant mother working ashore is unlikely. For example sophisticated investigations for the slightest abnormality in a previously normal pregnancy, which may be needed fairly urgently, could not be duplicated even on a ship with medical facilities. In addition, ship turnaround in ports is often very rapid allowing no time for routine ante-natal care.
- 2.3 In addition, on board ship account must be taken of the fact that, should labour begin prematurely, access to medical facilities for the mother and new born child in the event of premature birth might be delayed at least until the ship reaches port.
- 2.4 The guidance and medical standards used to assess the fitness of seafarers are given in Merchant Shipping Notice MSN 1839 (M).

## **3. Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 (S.I. 1997/2962)**

- 3.1 These Regulations require the employer to assess risks to all workers and to do all that is reasonably practicable to control those risks.
- 3.2 Regulations 8, 9 and 10 specifically require that the employer takes particular account of risks to expectant and new mothers in that risk assessment.
- 3.3 Compliance with specific regulations (e.g. handling dangerous goods) will normally be enough to reduce the risk, but consideration should always be given to removing the hazard or completely preventing exposure to the risk. Where this is not feasible, the risk should be controlled.
- 3.4 If there is a significant risk at work to the safety and health of a new or expectant mother, which goes beyond the level of risk to be expected outside the workplace, then the following actions must be taken to remove her from the risk:-



**ACTION 1:** Temporary adjustment of working conditions and hours of work; if this is not reasonable, or would not avoid the risk;

**ACTION 2:** Provision of suitable alternative work, if any available, at the same rate of pay; or if that is not feasible;

**ACTION 3:** Suspension from work on paid leave for as long as necessary to protect her safety or health or that of her child.

3.5 These actions are only necessary where there is genuine concern as the result of a risk assessment; if there is any doubt, the employer may want to seek professional advice on what the risks are and whether they arise from being carried out before offering alternative employment or paid leave.

#### 4. Night work

4.1 Special consideration must be given to a new or expectant mother who works at night, and obtains a medical certificate stating that night work could affect her health and safety.

**Step 1:** If an employee has a medical certificate stating that night work could affect her health or safety, she has a right under the Employment Rights Act 1996, Sections 66 and 68, to be offered suitable alternative work on terms and conditions no less favourable than her normal terms and conditions.

**Step 2:** If it is not possible to offer the employee suitable alternative work then she must be suspended from work under Regulations 8-10 of the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997.

- During the period of suspension, the worker must be paid (as required by the Employment Rights Act 1996 Sections 66 and 68) Further information is contained in the Department of Work and Pensions publication: NI17A: Maternity Benefits: technical guidance (April 2014)

[www.gov.uk/government/publications/maternity-benefits-technical-guidance/maternity-benefits-technical-guidance](http://www.gov.uk/government/publications/maternity-benefits-technical-guidance/maternity-benefits-technical-guidance)

4.2 Action in relation to an individual worker is required when the employer has been told in writing that a worker is pregnant, a certificate from a registered practitioner or registered midwife may be requested to confirm the pregnancy.

4.3 The table in Annex 1 gives some examples of living and working conditions on board ships which may affect the health and safety of new or expectant mothers.

#### 5. Medical Standards relating to pregnancy

5.1 Paragraphs 5.2-5.9 apply only to those required to hold an ENG 1 Medical Fitness Certificate under the Merchant Shipping (Maritime Labour Convention) (Medical Certification) Regulations 2010.

5.2 Nothing in the following paragraphs affects the rights of a worker to Maternity Leave in Sections 71-85 of the Employment Rights Act 1996.



- 5.3 The ILO/IMO Guidelines on the Medical Examinations of Seafarers advise that the normal date for the cessation of work for expectant mothers employed at sea is 24 weeks. This is because the survival of a premature infant born at 24 to 28 weeks is now common with good onshore neonatal intensive care.

[www.ilo.org/sector/Resources/codes-of-practice-and-guidelines/WCMS\\_174794/lang--en/index.htm](http://www.ilo.org/sector/Resources/codes-of-practice-and-guidelines/WCMS_174794/lang--en/index.htm)

## Procedure

- 5.4 Where the worker wishes to delay the start of her maternity leave after the 24<sup>th</sup> week, the worker should agree with the employer any necessary changes to her duties and her hours of work so that the following criteria are met:

The seafarer-

- is employed only on trips of not more than two hours duration;
- is able to attend the appropriate ante-natal checks within working time where necessary;
- has no emergency duties.

- 5.5 The employer must undertake a risk assessment under Regulations 8(1) of the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997. This must take account of the medical advice from the seafarer's Doctor or obstetrician, as appropriate. The findings of the risk assessment must show no significant risks to the worker or her unborn child.

- 5.6 The employer should then make arrangements for the worker to see an Approved Doctor who will assess the position in the light of the medical evidence, the above criteria and the guidance in this Marine Guidance Note.

- 5.7 If the Approved Doctor is satisfied that the seafarer is fit to continue working at sea, within the limits set out above, a new ENG 1 Medical Fitness Certificate may be issued with the following restrictions:

- restricted to trips of not more than 2 hours;
- not fit for emergency or muster duties.

- 5.8 If there is any doubt about the seafarer's fitness to continue to work, an ENG 3 will be issued. The seafarer may then appeal to a medical referee in the normal way.

- 5.9 While she continues at sea, the seafarer must continue to undergo her ante-natal checks in order that her condition can be monitored. If there is any significant change in her condition, affecting her fitness to work her employer must be notified and she should return to the Approved Doctor for a reappraisal.



## More Information

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## HAZARDS, RISKS AND WAYS OF AVOIDING THEM

Lists of agents or working conditions	Risk	How to avoid risk
<b>PHYSICAL AGENTS</b>		
<p><b>Shocks, vibration including Whole body vibration or movement</b></p>	<p>Regular exposure to shocks, low frequency vibration, for example working in fast craft, may increase the risk of miscarriage. Long-term exposure to vibration does not cause foetal abnormalities but occurs with heavy physical work, so there may be an increased risk of pre-maturity or low birth weight.</p> <p>Exposure to vibration or whole body vibration could result in foetal lesions and or is likely to disrupt placental attachment.</p>	<p>Pregnant workers and those who have recently given birth should be advised to avoid work likely to involve uncomfortable whole body vibration, especially at low frequencies, or where the abdomen is exposed to shocks or impacts. They should not be allocated duties on rescue boats or high speed vessels that may be subject to sustained or high levels of vibration. Breast-feeding workers are at no greater risk than other workers.</p> <p>Guidance on vibration at work can be found in The Merchant Shipping and Fishing Vessels (Control of Vibration at Work) Regulations; SI 2007 No. 3077 and Marine Guidance Notice MGN 353 (M+F)</p> <p>Guidance on Whole body vibration can be found in the Marine Guidance Notice: MGN 436 (M+F)</p>



<p><b>Manual handling of loads where there is risk of injury</b></p>	<p>Pregnant workers are especially at risk from manual handling injury, for example hormonal changes can affect the ligaments therefore increasing the susceptibility to injury.</p> <p>Postural problems may increase as the pregnancy progresses.</p> <p>There can also be risks for those who have recently given birth, for example after a caesarean section there will be a temporary limitation on lifting and handling capacity.</p> <p>The risk of injury will increase when manual handling is performed in combination with frequent adoption of a standing position or walking.</p>	<p>The changes the employer should make will depend on the risks that are identified in the assessment and the circumstances particular to ship-board duties, for example it may be possible to alter the nature of the task so that risks from manual handling are reduced for all workers including new and expectant mothers, or it may be necessary to address the specific need of the worker and reduce the amount of physical work, or provide aid for her to reduce the risks she faces.</p> <p>Guidance on Manual Handling at Work can be found in The Merchant Shipping and Fishing Vessels (Manual Handling Operations) Regulations; SI 1998 No. 2857 and Marine Guidance Notice MGN 90 (M+F)</p>
<p><b>Movements and postures, travelling, mental and physical fatigue and other physical burdens connected with the activity of new or expectant mothers</b></p>	<p>Fatigue from standing and other physical work has long been associated with miscarriage, premature birth and low birth weight.</p> <p>Changes in posture while carrying out manual handling operations will increase the risk of injury.</p> <p>Excessive physical or mental pressure may cause stress and can give rise to anxiety and raised blood pressure.</p> <p>Working in confined spaces which cannot be adjusted sufficiently to take account of the increased abdominal size. This could lead to strain or sprain injuries as dexterity, agility, co-ordination, speed of movement, reach and balance may also be impaired, and an increased risk of accidents may need to be considered.</p>	<p>Employers need to ensure that hours of work, the volume of work and pacing of work are not excessive and that where possible employees themselves have some control over how their workload is organised and if necessary are able to change their posture to remain comfortable.</p> <p>Employers need to ensure that seating is provided where appropriate.</p> <p>Longer or more frequent rest breaks will help to reduce or avoid fatigue.</p> <p>Adjustments to workstations or work procedures may help to remove postural problems and the risk of accidents occurring.</p>



	Pregnant workers may experience problems in working at heights, for example ladders or platforms.	The Merchant Shipping and Fishing Vessels (Health and Safety at Work) Work at Height Regulations SI 2010 No.332 and Marine Guidance Notice MGN 410 (M+F)
<b>Noise</b>	There appears to be no specific risk to expectant or new mothers or to the foetus. Prolonged exposure to loud noise may lead to raised blood pressure and increased tiredness.	The requirements of the Merchant Shipping and Fishing Vessel (Health & Safety)(Control of Noise at Work) Regulations; SI 2007 No. 3075 should be sufficient to meet the needs of new or expectant mothers.
<b>Electromagnetic fields and waves (e.g. radio-frequency radiation)</b>	Exposure to electric and magnetic fields within the current recommendations is not known to cause harm to the foetus or the mother. However, extreme over-exposure to radio-frequency radiation could cause harm by raising the body temperature.	Exposure to electric and magnetic fields should not exceed the recommendations on human exposure published by the Radiation Protection Division of the <a href="#">Health Protection Agency</a>
<b>Extremes of heat or cold</b>	Pregnant workers tolerate heat less well and may more readily faint or be more liable to suffer from heat stress. The risk is reduced after the birth, but it is not certain how quickly improvement will be noticed.	Pregnant workers should take great care when exposed to extremes of heat for prolonged periods of time.  Rest facilities and ready access to refreshments should be provided, as appropriate to ship type.
<b>Nutrition</b>	Eating healthily during pregnancy will help the expectant mother get all the vitamins and minerals needed to help the unborn child develop and grow and to keep the expectant mother fit and healthy.	It is important for an expectant mother to eat a variety of foods every day to ensure that right balance of nutrients.  <a href="http://www.nhs.uk/Conditions/pregnancy-and-baby/pages/healthy-pregnancy-diet.aspx">www.nhs.uk/Conditions/pregnancy-and-baby/pages/healthy-pregnancy-diet.aspx</a>
<b>BIOLOGICAL AGENTS</b>		
	Some biological agents may be transmitted through the placenta while the child is in the womb, during breast-	Employers should refer to Chapter 12 of The Code of Safe Working Practices for guidance for seafarers working abroad and to Chapter 5 of the Ship's



	feeding or through close contact between the mother and child (e.g. Hepatitis B, HIV, Herpes, tuberculosis and cytomegalovirus)	Captains Medical Guide on the prevention of disease and The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Biological Agents) Regulations SI 2010 No. 323 and Marine Guidance Notice MGN 408 (M+F)
	The risks of infection are generally no greater for those at work than for other members of the public, but some of these biological agents are more prevalent abroad.	The Health and Safety Executive has published on their website guidance for employees and employers.  <a href="http://www.hse.gov.uk/mothers/index.htm">www.hse.gov.uk/mothers/index.htm</a>
<b>CHEMICAL AGENTS</b>		
<b>Substances labelled: R40, R45, R46, R61, R63, and R64 under Dangerous Substances Directive 67/548/EC</b>	<p>There are about 200 substances labelled with these risk phrases:  <b>R40:</b> Limited evidence of a carcinogenic effect;  <b>R45:</b> May cause cancer;  <b>R46:</b> May cause heritable genetic damage;  <b>R61 &amp; R63:</b> May cause damage to the unborn child;  <b>R64:</b> May cause harm to breast-fed babies.</p> <p>The actual risk to health these substances may cause can only be determined following a risk assessment of a particular substance at the place of work. Although the substances listed may have the potential to endanger health or safety there may be no risk in practice; for example if the received exposure is below the level which may cause harm.</p>	<p>Packaged substances carried as cargo will fall under International Maritime Dangerous Goods Code.</p> <p>Substances in use may not be labelled with health warnings if purchased outside the European Economic Area.</p> <p>Employers are required to assess the health risks to workers arising from any such work, and where appropriate prevent or control the risks. Assessments should have regard to women who are pregnant or who have recently given birth.</p> <p>In addition, the risk to any woman of reproductive age should be assessed.</p>



<p><b>Chemical Agents of known of and dangerous percutaneous (i.e. that may be absorbed through the skin). This includes some pesticides.</b></p>	<p>The Health and Safety Executive guidance booklet EH40/2005 – Workplace Exposure Limit (ISBN9780717664467) is updated annually and contains tables of inhalation exposure limits for certain hazardous substances. Some of these substances can also penetrate intact skin and become absorbed into the body causing ill-health. These substances are marked “Sk” in the tables. As with all substances, the risks will depend on the way that the substance is being used as well as on its hazardous properties. Absorption through the skin can result from localised contamination; for example from a splash on the skin or clothing or in certain cases from exposure to high atmospheric conditions of vapour.</p>	<p>Employers should also refer to The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Chemical Agents) Regulations SI 2010 No. 330 and Marine Guidance Notice MGN 409 (M+F).</p> <p><i>[Additional substances will be added in due course]</i></p>
<p><b>Carbon monoxide</b></p>	<p>Carbon monoxide readily crosses the placenta and can result in the foetus being starved of oxygen. Data on the effects of exposure to carbon monoxide on pregnant women is limited but there is evidence of adverse effects on the foetus. Both the level and duration of maternal exposure are important factors in the effect on the foetus.</p>	<p>HSE’s guidance note: <i>ED43: Carbon monoxide</i>; gives practical advice on the risks of working with carbon monoxide and how to control them. It warns that pregnant women may have heightened susceptibility to the effects of exposure to carbon monoxide. They should not be allowed to carry out duties on car decks of ferries where there is an increased risk of exposure.</p>
<p><b>WORKING CONDITIONS</b></p>		
<p><b>Work with display screen equipment (DSE/VDU)</b></p>	<p>Although not specifically listed in the pregnant workers directive there has been widespread anxiety about radiation emissions from the display screen equipment and possible effects on pregnant workers. However there is no substantial evidence that these concerns are unfounded. The Health and Safety Executive has the statutory function of providing information and advice on all radiation matters to Government Departments and the advice below summarises scientific understanding.</p>	
	<p><b>Risk</b></p>	<p><b>How to avoid risk</b></p>
	<p>The levels of ionising and non-ionising electromagnetic radiation which is generated by display screen equipment</p>	<p>To avoid the problems caused by stress and anxiety, women who are pregnant or planning children and are worried about working with VDUs</p>



	<p>(VDU) are well below those set out in international recommendations for limiting risk to human health created by such emissions. The Health and Safety Executive does not consider that such levels pose a significant risk to health. No special protective measures are therefore necessary to protect the health of people from this type of radiation.</p> <p>There has been considerable public concern about reports of higher levels of miscarriage and birth defects among some groups of VDU workers in particular due to electromagnetic radiation. Many scientific studies have been carried out, but taken as a whole their results do not show any link between miscarriage or birth defects and working with VDUs. Research and reviews of the scientific evidence will continue to be undertaken and evaluated.</p>	<p>should be given the opportunity to discuss their concerns with someone adequately informed of the current authoritative scientific information and advice.</p> <p>However, it should be noted that in the light of scientific evidence, pregnant women do not need to stop working with VDUs.</p>
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<b>Employers should recognise the following aspects of pregnancy that may affect work:-</b>	
<b>Morning sickness</b>	Early shift work Exposure to nauseating smells
<b>Backache</b>	Standing Manual handling Posture
<b>Varicose veins</b>	Standing or sitting for extended periods of time
<b>Haemorrhoids</b>	Working in hot conditions
<b>Frequent visits to the toilet</b>	Difficulty in leaving job Site of work
<b>Increasing size</b>	Use of protective clothing Manual handling
<b>Tiredness</b>	Overtime Evening work
<b>Balance</b>	Problems working on slippery or wet surfaces Working at height
<b>Comfort</b>	Problems working in confined spaces



The following information has been published in MSN 1839 (M)

**Pregnancy:**

The Doctor should discuss with the seafarer the:

- Complications, late limitations on mobility. Risk to the mother and child in the event of premature delivery at sea
- Advice on risks and limitations in advanced and during early stages of pregnancy.
- Case by case assessment if there are risk factors or complications. The seafarer must make informed personal decision about the excess risks from premature delivery at sea.

**Abnormal pregnancy - Temporarily unfit on diagnosis**

