

Health and Safety Executive Board		HSE/ 12 / 74	
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Type of Paper:	Above the line	Exemptions:	
TRIM Reference:	2012/362546		
Keywords:			

Proposed revocation of Docks Regulations (1988) - Additional information

Purpose of the paper

1. This paper invites the Board to:
 - consider the additional information requested following discussion of the proposal to revoke the Docks Regulations (1988) and withdraw the associated Approved Code of Practice (ACOP) on 22 August;
 - agree, on the basis of this further advice, that the Regulations should be recommended for revocation; but with a delayed implementation date of October 2013 to ensure that key guidance is in place.

Background

2. At the meeting the HSE Board considered consultation responses and HSE expert views on the proposed revocation of 14 legislative measures. The Board agreed that 13 of these measures could be recommended for revocation but were concerned about the proposed timetable in relation to revocation of the Docks Regulations. Specifically, in order to be satisfied that health and safety standards were not being prejudiced, the Board asked for:
 - a. re-assurance about the way forward in terms of the coverage of the Docks ACoP material in the more general ACoPs; and
 - b. further information on the new Docks guidance (joint HSE/Ports Skills and Safety (PSS) guidance).
3. Statistics on fatalities were also requested.

Argument

Mapping of ACOP material

4. HSE has reviewed the information published as part of the consultation document (CD) which provided detailed map of the requirements for each part of the Safety in Docks ACOP against other ACOPs and guidance. The original table has been updated to reflect more clearly the coverage provided and this is attached for information at **Annex 1**. This analysis confirms the position set out in CD and no new gaps have been identified.

Guidance project

5. Industry, in the shape of PSS, has carried out its own mapping exercise and identified the guidance that needed to be in place to support the revocation process. A full table of the PSS guidance is at **Annex 2**.
6. As was mentioned at the Board meeting, 50% of the guidance has already been published (the first tranche in October 2010) and three documents are in the final stages of consultation and will be published in the Autumn.
7. However, three areas currently in the ACOP will need to be covered in new guidance; on access/egress, emergencies and water activities. PSS have confirmed that they are fully committed to the programme for producing the additional joint guidance and HSE has agreed to write a first draft of the three key guidance documents. They will prioritise them in the schedule with a target date for publication of April 2013.
8. All the guidance will, as now, be freely available through the HSE website.

Transfer of ACOP material from Safety in Docks publication to other ACoPs

9. The mapping exercise above has confirmed that the key requirements laid out in the Docks ACoP are covered in general terms elsewhere. Whilst superficially attractive, inclusion of Dock specific material in general ACOPS is undesirable for a number of reasons. As a general rule ACOPs do not contain sector specific material. It would also lengthen all the affected ACOPs, pre-judge the outcome of the more general review of the ACOPs and further disperse the location of docks specific material.

Proposed way forward - delay implementation of the revocation of the Docks Regulations until October 2013

10. We recommend delaying the implementation of the revocation for the Docks Regulations (and the related withdrawal of the ACOP status material) until October 2013. To streamline the approvals processes, we can keep the Docks Regulations with the rest of the proposals so they can be included in one set of repealing and revoking Regulations. These Regulations will come into force in April 2013 but will specify a later implementation date for the revocation of the Docks Regulations. (Separating the Docks Regulations and working to a different timetable would also result in more HSE resources being required to deliver the work.) A delayed approach has been cleared by the Minister.
11. In the meantime, HSE would work with PSS to ensure that the key guidance is completed to the timetable set out above (ie by April 2013). This will allow several months for employers and employees to become familiar with the new guidance before the ACOP is withdrawn in October

Statistics on fatalities

12. Dock-related fatalities for 2010/11 and 2011/12 are attached at **Annex 3**.

Timing and Handling

13. If the Board agree with the proposed approach HSE will continue to obtain the necessary Ministerial and Government clearances for the full package of proposals. All 14 legislative measures (including the Docks Regulations) qualify for the new fast track procedures so an RPC opinion on the Impact Assessment is no longer required before final RRC clearance is sought. This means that, subject to Board agreement, the Docks Regulations could continue to be part of the revocation package but with the delayed implementation date.

Action

14. The Board is invited to consider this additional information and agree that the revocation of Regulations should be recommended to the Minister but with a delayed implementation date of October 2013.

15. Paper clearance

16. This briefing note has been cleared by Stephen Williams, Head of OPSTD.

Detailed analysis of current legislation that covers Docks Regulations and COP25

The full text of the Regulations can be found at <http://www.legislation.gov.uk/uksi/1988/1655/contents/made> and for the AcOP at <http://www.hse.gov.uk/pubns/priced/cop25.pdf>

A summary of Merchant Shipping legislation and guidance is at http://www.dft.gov.uk/mca/mcga07-home/workingatsea/mcga-healthandsafety/mcga-dqs-shs-health_and_safety.htm

Regulation	Current applicable legislation	COP25 and guidance – Safety in Docks	Other relevant ACOPs & HSE guidance	PSS Safety in Ports Guidance sheets and other law and guidance
Introduction to the guidance	Health and Safety at Work etc Act (HSWA) section 2 (s2) Management of Health and Safety at Work Regulations (MHSWR) reg 10 (information for employees)	ACoP and Guidance Provision of information Covers general duties and information, instruction and training	HSE guidance on MHSWR Quick guide to H & S in Ports INDG446 which is to be revised.	<ul style="list-style-type: none"> ○ Merchant Shipping (MS) legislation ○ such as MS LOLER and The Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 (MS HASAW). ○ General guidance in the Code of Safe Working Practices for Merchant Seamen (CoSWP) ○ Fishermens safety guide
Reg 1 Citation				
Reg 2 (i) Interpretation	Many of these definitions are covered in more recent legislation and in MS legislation (eg hatches)	Guidance on definitions, 'Reasonably practicable' Specific definitions of lifting equipment and operations now covered by LOLER Definitions of ship, vessel	HSE website, HSE. Revised version of the HSE INDG446 leaflet.	MCA guidance. Industry Safety in Ports (SiP) guidance has links to generic legislation eg WHSW Regs. Definitions of ship and vessel to be aligned with HSE and MS legislation.
Reg 2(2) Structure of the regs				
Reg 2(3) Hire or lease arrangements	PUWER reg 3(5) LOLER reg 3(5)		General guidance on PUWER and LOLER HSE INDG446	Industry SiP guidance will refer to relevant guidance

Regulation	Current applicable legislation	COP25 and guidance – Safety in Docks	Other relevant ACOPs & HSE guidance	PSS Safety in Ports Guidance sheets and other law and guidance
Reg 3 Application of the Regulations	Specific application of these regs will no longer exist Current HSE legislation applies to all premises and activities covered by the Docks Regs, including application Outside Great Britain order (AOGBO) where relevant	General explanation of where these regs apply	General HSE guidance on legislation To be included in HSE INDG446	Introductions to industry SiP documents.
Regs 4(1), 4(2) and 4(3), Persons upon whom duties are imposed	Dutyholders are as covered by general duties under HSWA s2, 3, 4 and 7. Shore based workers and activities/ plant/ equipment are also covered by duties under legislation such as LOLER and Workplace (Health, Safety and Welfare Regulations (WHSWR)	Guidance covers duties of ships master and crew, contractors and visiting drivers	General HSE guidance on duties under HSWA, Workplace Transport, PUWER, LOLER The specific examples in the guidance to the Docks Regs will be included in revised HSE INDG446 guidance	Introductions to SiP guidance as necessary.
Reg 4(4)	Specifically disapplies the Regs to the master and crew of a ship or their employer in relation to plant and operations solely in their control Shipboard operations are covered by MS (HASAW) Regs. Cooperation between shore based workers and ships crew are covered by MHSWR reg 11.	Guidance covers duties of ships master and crew	HSE guidance on Managing Health & Safety in Dockwork HSG177 also references and links in INDG446	In SiP guidance documents as necessary.
Reg 5 Planning and	HSWA s2, 3, 4 and 7. MHSWR reg 3 and 11			Shipboard operations covered by: MS LOLER

Regulation	Current applicable legislation	COP25 and guidance – Safety in Docks	Other relevant ACOPs & HSE guidance	PSS Safety in Ports Guidance sheets and other law and guidance
execution of work				MS PUWER MS HASAW Regs
		ACoP para 1 – systems of work	MHSWR ACOP R5 LOLER ACOP R8 Managing Health & Safety in dock work HSG177	SIP002 – Guidance on General cargo Code of Safe Working Practices for Merchant Seamen.
		ACoP para 4 - Cooperation between employers and duties of employees sharing workplace	MHSWR ACOP R11 Managing Health & Safety in Dockwork HSG177	
		ACoP para 6 - Cooperation with ships crew, cargo handling, Mooring and berthing	MHSWR ACOP R11 Managing Health & Safety in Dock work HSG177 Quick Guide to H&S in Ports (INDG446)	Guidance sheets include co-operation for specific activities such as general cargo handling (SIP002) and mooring operation (SIP005) MCA guidance
		ACoP para 9 - Reporting defects	MHSWR ACOP R5 PUWER ACOP R6	
		ACoP para 11 Emergency arrangements	MHSWR ACOP R8 COSHH ACOP R13 DSHAR R26 COMAH R9 - 13	Proposed SiP guidance on Emergencies, adverse events and contingency planning in ports (SIP16) MS regulations on emergency arrangements for the ship.
		ACoP paras 13 and 15 Lifting operations and equipment	LOLER ACOP R8 Quick Guide to H&S in Ports (INDG446)	Industry guidance on General cargo (SiP002), Container handling (SIP003) and Timber Handling (SIP004).

Regulation	Current applicable legislation	COP25 and guidance – Safety in Docks	Other relevant ACOPs & HSE guidance	PSS Safety in Ports Guidance sheets and other law and guidance
		ACoP para 17 and guidance Ships Holds		MS LOLER and MS Work at Height Regs (MS WAHR) – R9.
		ACoP para 19 Stacking and handling cargo	MHSWR ACOP R5 WAHR R10	Industry guidance on General cargo (SiP002), Container handling (SIP003) and Timber Handling (SIP004). IMO Resolution on Code of Safe Practice for Cargo Stowage; ILO Code of Practice 'Safety and health in ports'; ICHCA safety pamphlet on safety in container terminals; The Merchant Shipping (Carriage of Cargoes) Regulations 1999; MCA Roll-on/Roll-off Ships-Stowage and Securing of Vehicles Code of Practice .
		ACoP paras 27, 29, 31, 32, 33 Weight of load, load safety, freight containers	LOLER ACOP R8 MHAWR ACOP R5 Workplace ACOP R12 Freight Containers (Safety Convention) Regulations 1984 Dangerous Goods in Cargo Transport Units HSG78 . .	Industry guidance on Container handling (SIP003)
		ACoP paras 37 – 40 Deck cargo	MHSWR ACOP	Industry guidance on General cargo (SiP002), Container handling (SIP003), Timber Handling (SIP004) and Dry bulk cargo (SIP007) MS legislation and guidance on cargo stowing on board ship; ICHCA guidance on container top

Regulation	Current applicable legislation	COP25 and guidance – Safety in Docks	Other relevant ACOPs & HSE guidance	PSS Safety in Ports Guidance sheets and other law and guidance
				working.
		ACoP para 43 Use of ships equipment	MHSWR ACOP R5	Industry guidance on General cargo (SiP002) MS LOLER and PUWER and guidance
Reg 6 Lighting	Covered by general requirements of HSWA s2, WHSWR reg 8 and PUWER reg 21.	ACoP paras	Workplace ACOP R8 (does not apply to ships) HSG38, Workplace Transport website and human factors guidance).	Industry guidance on Lighting (SiP009). ILO Code of Practice 2005. MS legislation also applies including: MS PUWER and MS Safety Signs and Signals Regs, SOLAS Regs , surveyors guidance for different types of ships and means of access.
Reg 7 Access	General principles covered under WAHR reg 6 and HSWA s2(2)(d)			
		ACoP – covers access to and between ships, pedestrian walkways, vehicle segregation, access to ships holds and cargo, ladders, edge protection	Workplace ACOP R12, R17 (not applicable to ships) Guidance to WAHR, Health & Safety (Safety Signs and Signals) Regs 1996. (Not onboard ship)	Proposed SiP guidance on Safe Access and Egress (SIP014) MS (Means of Access) Regulations 1988 and new guidance MGN410. Supporting guidance in MCA Code of Safe Working Practice for Merchant Seamen. MS (Safe Access on Board ship) Regs 1988 and MGN341.
	Reg 7(4) (5) (6)c Revoked by WAHR	ACoP	Guidance to WAHR	
Reg 8 Transport by water	HSWA s2 and s3	ACoP -covers safety of vessels used to transport workers to/from workplaces		MCA guidance MGN280 and MCA Codes for seagoing vessels.
Reg 9 Rescue,	Covered by general requirements of HSWA,	ACoP covers rescue procedures	MHSWR ACOP R8 Confined Spaces ACOP R5	Proposed SiP guidance on Emergencies, adverse events and contingency planning in ports (SIP16)

Regulation	Current applicable legislation	COP25 and guidance – Safety in Docks	Other relevant ACOPs & HSE guidance	PSS Safety in Ports Guidance sheets and other law and guidance
lifesaving and firefighting equipment, and means of escape.	MHSWR reg 8, WAHR reg 4, 6 and 7		DSHAR ACOP R26, R27 WAHR R7, COMAH R9 – R13 Regulatory Reform (Fire Safety) Order 2005 (RRO) for England and Wales and the Fire (Scotland) Act 2005	
		ACoP para 7 Quayside ladders	WAHR guidance HSE guidance on quayside ladders.	MCA guidance on Lifesaving appliances
Reg 10 Hatches, ramps and car decks	HSWA s2 and s3	ACoP – ships equipment		MS WAH and MS LOLER; MCA CoSWP MCA guidance MGN332
Reg 11 Drivers of vehicles and operators of lifting equipment	PUWER reg 9, LOLER reg 8 and MHSWR reg 5 risk assessment principles and HSWA section 7 Road Traffic legislation applies in some ports and Ports police enforce in some.	ACoP - Drivers and operators of plant and equipment	PUWER ACOP R9, R28 LOLER ACOP R8 MHSWR ACOP R5 .	Industry guidance on Workplace Transport (Planning & Terminals) (SIP001), Workplace Transport (Sto-Ro and Ro-Ro) (SIP010) Operations on board ship covered by MS LOLER and MS PUWER. DVLA guidance applies to driving standards
Reg 11(2) Health and fitness	General and specific requirements are covered by HSWA s7, MHSWR reg 3 and 13, COSHH regs 6, 7,10, 11 Manual Handling Operations Regulations (MHOR) reg 4, Noise at Work (NAW) Regs reg 5	ACoP	PUWER ACOP LOLER ACOP MHSWR ACOP R3, R13	Industry guidance proposed on Management of fitness to work (SIP017) – not to be badged by HSE as seen to exceed HSE requirements as it relates to employment of OH provider and timings of medicals etc Operations on board ship covered by MS LOLER and MS PUWER. DVLA guidance applies to driving standards.

Regulation	Current applicable legislation	COP25 and guidance – Safety in Docks	Other relevant ACOPs & HSE guidance	PSS Safety in Ports Guidance sheets and other law and guidance
				There are general requirements for fitness applicable to seafarers.
Reg 11(4)(5)(6) Training	HSWA s2, MHSWR reg 13. PUWER reg 8	ACoP	PUWER ACOP R9 LOLER ACOP R8 MHSWR ACOP R13 HSE Workplace transport website, Rider operated lift trucks L117	PSS have National Occupational Standards and Qualifications framework. MS LOLER and MS PUWER.
Reg 12(1) Use of vehicles - maintenance	Covered by WHSWR, PUWER reg 4, 5, 9.	ACoP	PUWER ACOP R5 WPT and Workplace guidance	
Reg 12(2) Danger from use and movement of all vehicles. Vehicle segregation	Covered by WHSWR (reg 17)	ACoP	Workplace ACOP R17 HSE guidance on Workplace and workplace transport Code of practice: Coupling or Uncoupling & Parking of Large Goods Vehicle Trailers"	Industry guidance on Workplace Transport (Planning & Terminals) (SIP001), Workplace Transport (Sto-Ro and Ro-Ro) (SIP010) I MS Save Movement On Board Ship Regs
		ACoP Use of container cranes	LOLER ACOP R8	ILO Code of Practice on Safety & Health in Ports
		ACoP para 15 Use of seat belts	PUWER ACOP R28	DfT guidance
		ACoP para 26 Refuelling and LPG	DSEAR ACOP R7 HSE guidance on flammable liquids.	
	Covered by WHSWR 12 and 17 and WAHR reg 6	ACoP para 31 Vehicles and quay	Workplace ACOP R17	Industry guidance on Workplace Transport (Planning & Terminals) (SIP001), Workplace

Regulation	Current applicable legislation	COP25 and guidance – Safety in Docks edges.	Other relevant ACOPs & HSE guidance	PSS Safety in Ports Guidance sheets and other law and guidance
			Guidance to WAHR	Transport (Sto-Ro and Ro-Ro) (SIP010)
		ACoP para 33 Straddle carriers	Workplace ACOP R17	MS PUWER regs 28-33
Reg 12 (3) Vehicle used by an employee or a self-employed person		ACoP para 7 Load safety	WAHR R10	Industry guidance on Container handling (SIP003) MS legislation MS PUWER regs 28-33. Working with containers – an FTA Best Practice Guide
Reg 13 Use of lifting equipment	Reg 13(4) amended by LOLER. Covered by LOLER regs 4 and 6, PUWER reg 4 and BS EN 7121	ACoP	LOLER ACOP R9 – R11 PUWER ACOP R28	Industry guidance on General cargo (SiP002), Container handling (SIP003), Timber Handling (SIP004) and Dry bulk cargo (SIP007) TT/ICHCA Safe Slings Pocket Guide, ILO Code of Practice. MS PUWER and MS LOLER.
Regs 14, 15, 16(3) – (5) and (7) - (8) and 17 Testing, examination, load indicators, certificates and reports on lifting equipment	Revoked by LOLER			
Reg 16(1), (2) and (6)	Covered under LOLER reg 7 and PUWER reg 23	ACoP	LOLER ACOP R7	Industry guidance on General cargo (SiP002), Container handling (SIP003), MS PUWER and MS LOLER
Reg 18	Revoked by Confined Spaces Regs 1997	ACoP	Confined Spaces ACOP	Industry guidance proposed although not required to cover ACOP material in Docks Regs MS (Entry into Dangerous Spaces) Regulations 1988

Regulation	Current applicable legislation	COP25 and guidance – Safety in Docks	Other relevant ACOPs & HSE guidance	PSS Safety in Ports Guidance sheets and other law and guidance
				TT/ICHCA Entry into enclosed spaces Pocket Guide, MCA Guidance on Entry into enclosed spaces
Reg 19 Welfare and PPE	Overtaken by general requirements of MHSWR, WHSWR and PPE Regs	ACoP	Workplace ACOP R20 – R25 PPE ACOP	
Reg 20 Duty to report defective plant	Covered by MHSWR reg 14 (2)(b) and HSWA s3 , s4 and 7	ACoP	MHSWR ACOP R14	
Reg 21 exemptions		No knowledge of any exemptions being issued for any reason		
Reg 22 Enforcement		HSWA and Enforcing Authority Regs		
Reg 23	Factories Act – no longer relevant			
Reg 24	Revocation of The Docks Regulations 1925 and The Docks Regulations 1934	ACoP Retention of test certificates issued under Docks Regs 1925 and Docks Regs 1934	LOLER ACOP R11	
		Appendix 1	Redundant list of relevant legislation Links to relevant legislation to be included in HSE INDG446 HSE ports web pages	
		Appendix 2	Redundant list of HSE guidance Links to relevant guidance to be included in HSE INDG446 HSE ports web	
		Appendix 3	Redundant list of British	

Regulation	Current applicable legislation	COP25 and guidance – Safety in Docks	Other relevant ACOPs & HSE guidance	PSS Safety in Ports Guidance sheets and other law and guidance
			standards Links to relevant standards to be included in HSE INDG446, HSE ports web pages	
		Appendix 4	Redundant list of Non-HSE literature Links to relevant guidance to be included in HSE INDG446, HSE ports web pages	
		Appendix 5	Redundant list of HSE offices HSE office information now available on HSE web pages.	
		Appendix 6	Outdated list DfT offices	Information now available on DfT and MCA web pages.
		Appendix 7	Current guidance available on HSE web pages on measurement of lighting levels	SiP guidance SiP009.
		Appendix 8	Current guidance on HSE web pages on standards of fitness	Proposed industry SiP guidance.
		Appendix 9	Replaced by LOLER guidance.	
		Appendix 10	Replaced by WHSWR and guidance.	
		Appendix 11	Replaced by WHSWR and guidance	
		Appendix 12		See comments on reg 8 – Transport by water.
		Appendix 13	Reg 17 revoked by LOLER.	

PSS Guidance Working Group - Guidance Documents at 25 July 2012

Ref No.	Title	Status	Issue Date	Badging
SIP001	WORKPLACE TRANSPORT - PLANNING & TERMINALS	Published	Jan 2011	HSE & PSS
SIP002	GENERAL CARGO	Published	Oct 2010	HSE & PSS
SIP003	CONTAINER HANDLING	Published	Oct 2010	HSE & PSS
SIP004	TIMBER HANDLING	Published	Oct 2010	HSE & PSS
SIP005	MOORING OPERATIONS	Published	Oct 2010	HSE & PSS
SIP006	TRANSFER OF BULK LIQUIDS	Published	Oct 2010	HSE & PSS
SIP007	LOADING & UNLOADING AND HANDLING OF DRY BULK CARGO	Published	Oct 2010	HSE & PSS
SIP008	STORAGE OF DRY BULK CARGO	Published	Oct 2010	HSE & PSS
SIP009	LIGHTING	Published	Oct 2010	HSE & PSS
SIP010	WORKPLACE TRANSPORT - STORO AND RORO	Published	May 2011	HSE & PSS
SIP011	SOURCES OF OCCUPATIONAL HEALTH INFORMATION	Consultation Draft Ready		HSE & PSS
SIP012	WORKPLACE TRANSPORT - PASSENGER OPERATIONS	Consultation Draft Ready		HSE & PSS
SIP013	NON PERMANENT EMPLOYEES	In Development		HSE & PSS
SIP014	SAFE ACCESS AND EGRESS	In Development		HSE & PSS
SIP015	CONFINED SPACES IN PORTS	In Development		HSE & PSS
SIP016	EMERGENCIES, ADVERSE EVENTS AND CONTINGENCY PLANNING IN PORTS	In Development		HSE & PSS
SIP017	MANAGEMENT OF FITNESS TO WORK IN PORTS	In Development		PSS only ¹
SIP018	SAFETY INDUCTION AND TRAINING IN PORTS	In Development		PSS only ¹
SIP019	SELECTION AND USE OF BUOYANCY AIDS IN PORTS	Consultation Draft Ready		Unconfirmed ²
SIP020	WATER SAFETY IN PORTS	In Development		Unconfirmed ²

¹ HSE has declined to joint badge in instances where it believes the guidance exceeds that required to comply with the law

² These are relatively new titles and have yet to be submitted for initial 'in principle' assessment by HSE PGG

Dock-related fatalities for 2010/11 and 2011/12

The following figures relate to fatal accidents reported to HSE for the last 2 work years. These only show fatalities that come under HSE's remit. Accidents to crewman and accidents at sea fall to MCA/MAIB for investigation.

Fatal accidents with a Dock SIC code

Work year	Fatalities (with Docks SIC code)
2010/11	1
2011/12	2
TOTAL	3

These figures are taken from HSE's Docks industry accident report which is produced annually. In this report, the following Standard Industrial Classification (SIC codes) are used to classify the docks industry:

- 5010 Sea and coastal passenger water transport
- 5020 Sea and coastal freight water transport
- 5030 Inland passenger water transport
- 5040 Inland freight water transport
- 5222 Service activities incidental to water transport
- 5224 Cargo handling

In addition to the fatal accidents listed above, there are on occasion accidents that occur either within a docks environment or a docks-related activity that are not recorded under a 'docks' SIC code. These are not included in the annual Docks industry accident report. This has led to concerns from some stakeholders that the report does not reflect the true level of accidents within the industry. Due to the complexities of reporting and recording, HSE's Statistics Unit is not able to provide validated statistics outside of a Docks SIC code.