EXPLANATORY MEMORANDUM TO

THE HOVERCRAFT (APPLICATION OF ENACTMENTS) (AMENDMENT) ORDER 2025

2025 No. XXXX

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 Mike Kane MP, Parliamentary Under-Secretary of State at the Department for Transport, confirms that this Explanatory Memorandum meets the required standard.

2.2 Fraser Heasley, Director for the UK Technical Maritime Services at the Maritime and Coastguard Agency, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Alison Kentuck at the Maritime and Coastguard Agency Telephone: 020 3817 2000 or email: alison.kentuck@mcga.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This Order amends the Hovercraft (Application of Enactments) Order 1989 (S.I. 1989/1350) ("the 1989 Order") so as to extend the application of certain provisions in or made under the Merchant Shipping Act 1995 ("the 1995 Act"), which apply in relation to ships, to hovercraft. Its purpose is to ensure that the maritime legal powers currently available in relation to ships are also available to regulate hovercraft operating in the United Kingdom.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales, Scotland and Northern Ireland.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales, Scotland and Northern Ireland.

5. Policy Context

What is being done and why?

5.1 The Hovercraft Act 1968 enables an Order in Council to specify provision in any enactment or instrument relating to ships so as to apply that provision to hovercraft as

it applies to ships. The 1989 Order was made for this purpose. Its provision relates almost entirely to the 1995 Act, or secondary legislation made under that Act.

5.2 This Order amends the 1989 Order to update the provision relating to inquiries and investigations into hovercraft casualties, and the safety of hovercraft. This is achieved by replacing references in that provision to legislation which has been repealed with references to the corresponding extant legislation. Moreover, this Order amends the 1989 Order to update the pollution prevention measures applicable to hovercraft. As well as replacing references in that provision to legislation which has been repealed with references to the corresponding extant legislation, the amendments also insert reference to new legislation which might become relevant to hovercraft operations (e.g. sections 130A to 130E of the 1995 Act which contain regulation making powers in respect of the provision of port waste reception facilities).

5.3 This Order also inserts new articles 6 and 7 into the 1989 Order to ensure that fees can be prescribed in respect of the range of actions which might be taken in relation to hovercraft, and that ambulatory references to international requirements implemented in secondary legislation using powers under the 1995 Act in relation to ships will also apply the corresponding requirements to hovercraft.

What was the previous policy, how is this different?

5.4 The new provision made in this Order does not by itself represent a change in policy but merely ensures that the full suite of maritime legal powers currently available in relation to ships are also available to regulate hovercraft operating in the United Kingdom.

6. Legislative and Legal Context

How has the law changed?

6.1 Section 1 of the Hovercraft Act 1968 confers power on His Majesty to (amongst other things) make an Order in Council which applies in relation to hovercraft any enactment or instrument relating to ships. The 1989 Order makes such provision, primarily in respect of certain provisions applying to ships made in or under the 1995 Act. However, the 1989 Order made reference to some primary and secondary legislation which has been repealed (and in most cases replaced by updated legislation). This Order therefore replaces the references to that now repealed legislation with references to the legislation which has replaced it.

6.2 Articles 2(2) to (4) of this Order respectively amend articles 2 to 4 of the 1989 Order so as to apply to hovercraft the up to date legislation in or under the 1995 Act relating to inquiries and investigations into ship casualties, pollution prevention measures applying to ships and safety requirements applying to ships. Article 2(6) of this Order specifically amends Part C of Schedule 1 to the 1989 Order so as to modify the application of the Merchant Shipping (Formal Investigations) Rules 1985 to hovercraft by replacing references in Part C to repealed legislation with the legislation that has replaced it, or by simply modernising the drafting.

6.3 Article 2(5) of this Order also inserts new articles 6 and 7 into the 1989 Order which refer respectively to sections 302 and 306A of the 1995 Act. Article 6 applies the powers in section 302 of the 1995 Act to ensure that fees can be prescribed in respect of the full range of actions which might be taken in relation to hovercraft and to persons connected with hovercraft as that section applies to ships. Article 7 applies the powers in section 306A of the 1995 Act to ensure that ambulatory references to

international requirements implemented in secondary legislation using powers under the 1995 Act in relation to ships will also apply (where relevant) to hovercraft.

6.4 Article 2(7) omits Parts A and B of Schedule 1, and Schedule 2, to the 1989 Order because that provision in those Schedules modifies the application of legislation which has now been repealed.

Why was this approach taken to change the law?

6.5 This Order provides for the powers to make other legislation in relation to hovercraft in accordance with the framework in the Hovercraft Act 1968, and therefore no alternative approach is possible.

7. Consultation

Summary of consultation outcome and methodology

7.1 Consultation has not been undertaken for this instrument. Whilst this technical instrument is an important step in making the legislative changes required to ensure the application of relevant maritime legislation to hovercraft as it applies to ships, the instrument itself has no impact on the public in general.

8. Applicable Guidance

8.1 Apart from this Explanatory Memorandum, no guidance is necessary for this instrument as it performs a purely technical function.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because it has no impact on the cost to business, charities or voluntary bodies.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because this instrument does not itself impose any requirements on or in relation to hovercraft operators. This instrument provides the powers in accordance with which other maritime legislation is made in relation to hovercraft, and any assessment of impact would be made as a part of the process of making that other legislation.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because this instrument does not itself impose any requirements on or in relation to hovercraft operators.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 Monitoring and review is not considered necessary, as the purpose of this instrument is purely technical and simply extends existing powers in relation to ships to apply to hovercraft, and facilitates the use of powers contained in the 1995 Act to provide powers in secondary legislation to give effect to specific requirements relating to matters such as safety and pollution prevention.

10.2 The instrument does not include a statutory review clause and Mike Kane MP, Parliamentary Under-Secretary of State at the Department for Transport has made the following statement:

"There is not expected to be a significant annualised net impact on business (greater than +/- £10 million net annualised) and in my view there are no other factors that would make it particularly desirable to include a review provision."

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 Article 1(2) of this instrument provides that it comes into force on the day after the day on which it is made.

11.2 This Order does not itself impose new requirements on persons but provides the basis for instruments made under it to subsequently do so. The Department is, therefore, content that the commencement provision in article 1(2) is consistent with the expectation described in the Statutory Instrument Practice, paragraph 3.12.10.

12. European Convention on Human Rights

12.1 Mike Kane MP, Parliamentary Under-Secretary of State at the Department for Transport has made the following statement regarding Human Rights:

"In my view the provisions of the Hovercraft (Application of Enactments) (Amendment) Order 2025 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").