EXPLANATORY MEMORANDUM

THE SHIPPING (ALCOHOL) (PRESCRIBED LIMIT AMENDMENT) REGULATIONS 2015

2015 No. [XXXX]

1. 1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations set new, lower limits of alcohol consumption for the purposes of Part 4 (Shipping: Alcohol and Drugs) of the Railways and Transport Safety Act 2003.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 This instrument is subject to the affirmative resolution procedure and will amend primary legislation.

4.2 Section 81 of the Railways and Transport Safety Act 2003 sets the prescribed limits of alcohol for the purposes of Part 4 (Shipping: Alcohol and Drugs). Those limits apply to professionals. The enforcement provisions in section 80 (non-professionals) have not been commenced. Regulation 2 will reduce the prescribed limits of alcohol in breath and blood to those prescribed by the International Maritime Organisation in Seafarers' Training, Certification and Watchkeeping Code (STCW) adopted by the 2010 Manila Conference of Parties to the International Convention on Standards of Training, Certification and Watchkeeping. It also reduces the prescribed limit for alcohol in urine to a commensurate level.

4.3 Regulation 3 requires the Secretary of State to review the operation and effect of these Regulations and to publish a report within five years after the Regulations come into force. Following the review it will fall to the Secretary of State to consider whether the amendments made by the Regulations should remain as they are, or be amended.

4.4 The proposal that resulted in Directive 2012/35/EU was the subject of Explanatory Memorandum (EM) 14256/11, submitted to Parliament by the Department for Transport on 13 October 2011. The House of Commons European Scrutiny Committee considered the EM on 26 October 2011. The Committee recommended that the document was politically important but did not clear it pending developments in negotiations (Report 44, Session 2010/2012, reference 33147). The House of Lords Select Committee referred the

EM to Sub-Committee B at the 1443rd sift on 25 October 2011. The Chairman wrote to the Minister on 15 November 2011 holding the proposal under scrutiny. Ministerial letters were sent to both Committees on 21 November 2011. The House of Commons Select Committee on European Legislation considered the letter on 7 December 2011. The Committee maintained its recommendation that the document was politically important, but cleared it (Report 48, Session 2010/2012). The Chairman of the House of Lords Select Committee on the European Union replied to the Minister on 7 December 2011 clearing the proposal from scrutiny.

5. Territorial Extent and Application

5.1 This instrument, like Part 4 of the Railways and Transport Safety Act 2003, has effect in relation to United Kingdom ships wherever they are, foreign ships in United Kingdom waters and un-registered ships in United Kingdom waters.

6. European Convention on Human Rights

The Minister of State has made the following statement:

In my view the provisions of the Order are compatible with the Convention Rights.

7. Policy background

7.1 International regulations governing seafarer training, certification and watchkeeping (STCW) have been updated to reflect recent developments in the maritime sector and are known as the Manila Amendments or STCW 2010. The Maritime and Coastguard Agency (MCA), an executive agency of the Department for Transport, kept stakeholders informed and negotiated with them throughout the development of the Manila amendments. Stakeholders were present at the final conference through organisations such as International Chamber of Shipping (ICS). The MCA has an ongoing dialogue with industry bodies including the National Workboat Association, The British Tugowners Association, the International Association of Maritime Institutes, the Association of Maritime Electronic Radio Colleges and the Merchant Navy Training Board, which includes ship owners, training colleges and the unions, and continued discussions throughout the development of the Manila amendments.

7.2 The changes have also been included in an amending EU Directive 2012/35/EC on the minimum level of training for seafarers. The Manila Amendments came into force on 1 January 2012 with a 5 year transitional period ending on 1 January 2017 by which time training requirements and legislation must be in place to remain complaint with the STCW Convention. Directive 2012/35/EC came into force on 4 July 2014.

7.3 Implementation of these changes is to be achieved through two statutory instruments. The change to the alcohol limits required to meet the STCW's watchkeeping standards for fitness for duty (in Part A Chapter VIII of the STCW Code) as regards alcohol is made by these Regulations, which amend the Railways and Transport Safety Act 2003. The other

statutory instrument is to be made shortly and will have a separate explanatory memorandum.

8. Consultation

8.1 A consultation exercise regarding the Manila Amendments was carried out between the 19 September and 31 October 2014. This was coordinated by the Seafarer Training and Certification Branch at the MCA.

8.2 The Department invited comments from a range of bodies: 40 Government Offices; 48 trades unions and associations; 23 training providers and 252 shipping companies.

8.3 The consultation period was for six weeks as this was considered to be adequate time to undertake a question and response process and gather information from all those consulted.

8.4 Of the bodies that were consulted all agreed with the Government's proposal to lower the alcohol limits for seafarers.

8.5 Having considered the consultation responses the Minister decided to make an Order to lower alcohol limits for seafarers.

8.6 Information on the Consultation Response is at:
https://www.gov.uk/government/consultations/updating-uk-seafarer-training-standards

9. Guidance

9.1 None.

10. Impact

10.1 An Impact Assessment has been prepared for implementation of the amendments to the STCW (Reference: DfT00256), of which the change to the limit on alcohol consumption is only one part. A copy is annexed to this memorandum.

10.2 There is no quantifiable financial impact for alcohol limit reduction on business, charities or voluntary bodies.

10.3 There is no quantifiable financial impact on the public sector.

11. Regulating small business

11.1 The limit on alcohol consumption applies to individual mariners regardless of the size of the business for whom they work.

12. Monitoring & review

12.1 These regulations will be subject to review after a period of five years.

13. Contact

Paul Whiteside at the Department for Transport can answer any queries regarding the instrument. Tel: 0207 944 6079 or email: paul.whiteside@dft.gsi.gov.uk