EXPLANATORY MEMORANDUM TO

THE MERCHANT SHIPPING (MARINE EQUIPMENT) REGULATIONS 2025

2025 No. [XXXX]

1. Introduction

1.1 This Explanatory Memorandum has been prepared by Department of Transport and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Keir Mather, Parliamentary Under-Secretary at the Department for Transport confirms that this Explanatory Memorandum meets the required standard.

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

3. Contact

3.1 Jeffrey Botchway at the Maritime and Coastguard Agency can be contacted by email at the following address with any queries regarding the instrument: MEQA@mcga.gov.uk. Alternatively, the department can be contacted by telephone: 0203 817 2000.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument sets out the United Kingdom conformity assessment system for marine equipment placed on ships registered in the United Kingdom. It requires, subject to some limited exceptions, such equipment to be compliant with applicable international or United Kingdom standards. It sets out how such equipment is to be assessed as being compliant with the applicable standards, and details the offences and other sanctions that apply where the instrument's requirements are not complied with.

4.2 The instrument aims to simplify marine equipment regulations by consolidating and combining regulatory changes into one piece of legislation, and to provide clarity for industry. It revokes and replaces the Merchant Shipping (Marine Equipment) Regulations 2016 (S.I. 2016/1025) (the "2016 Regulations"), the Merchant Shipping (Marine Equipment) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/470) (the "First 2019 Regulations") and the Merchant Shipping (Marine Equipment) (Amendment) (UK and US Mutual Recognition Agreement) (EU Exit) Regulations 2019 (S.I. 2019/1304) (the "Second 2019 Regulations").

4.3 The instrument brings the standards and requirements for Ballast Water Management Systems into the scope of this instrument, ensuring these systems are not treated differently to other items of marine equipment.

4.4 The instrument removes government ships from scope of the legislative regime.

Where does the legislation extend to, and apply?

4.5 The territorial extent of this instrument is England and Wales, Scotland and Northern Ireland.

4.6 The territorial application of this instrument is to United Kingdom ships wherever they may be.

5. Policy Context

What is being done and why?

5.1 International Maritime Organization (IMO) Conventions require ships to carry safety equipment and counter pollution equipment (collectively referred to as "marine equipment") that has been approved by the ship's Flag Administration. The UK implemented these requirements through the 2016 Regulations, which gave effect to Directive 2014/90/EU on marine equipment.

5.2 Following the UK's exit from the European Union, the 2016 Regulations were amended by the First 2019 Regulations to ensure that the 2016 Regulations would continue to operate effectively following EU Exit.

5.3 Amendments to the 2016 Regulations were also made by the Second 2019 Regulations. These gave effect to the UK-US Mutual Recognition Agreement on Marine Equipment by providing for the mutual recognition of certificates of conformity for designated marine equipment.

5.4 This instrument consolidates the 2016 Regulations and the above amending regulations into a single instrument.

5.5 In 2022, the UK made the Merchant Shipping (Control and Management of Ships' Ballast Water and Sediments) Regulations 2022 (S.I. 2022/737) (the "2022 Regulations"), incorporating new IMO standards and requirements for Ballast Water Management Systems, an item of marine equipment. The 2022 Regulations incorporated the type approval regime for ballast water management systems.

5.6 This instrument revokes the type approval regime in the 2022 Regulations so that type approval of ballast water management systems can be undertaken through the regime in this instrument. This is being done to ensure there is no unintended divergence from how such systems are treated in terms of approvals compared to other items of marine equipment.

5.7 The 2016 Regulations applied to Government ships, that is ships other than Navy ships which belong to His Majesty, or which are held by any person on behalf of the Crown. These ships are being removed from the scope of the legislative regime, and this instrument does not apply to them, as they conform to legislative requirements as best practice where possible, and, in some areas, apply higher standards.

5.8 The instrument introduces an equivalents provision to allow non-UK marine equipment to be placed on board UK vessels in situations where, broadly, UK approved marine equipment is unavailable or unsuitable and provided certain conditions are met.

What was the previous policy, how is this different?

5.9 The 2016 Regulations apply to all UK ships, including Government ships. As described above, this instrument does not apply to Government ships.

5.10 Although the 2016 Regulations gave provisions for exemptions to allow for non-compliant equipment where compliance with international standards was either impracticable or unreasonable, it lacked a mechanism to address situations where UK

approved marine equipment was not available or was unsuitable. The equivalents provision bridges this gap and ensures UK vessels can use equally effective alternative marine equipment. This provision enables ship owners and ship operators to apply to the Maritime and Coastguard Agency (MCA) for an equivalent for an item of non-UK approved marine equipment to be placed onboard a UK vessel.

5.11 The process and requirement for type approval of Ballast Water Management Systems (BWMS), unlike other marine equipment, is not set out in the 2016 Regulations. This instrument removes the process for gaining BWMS type approval from the 2022 Regulations and moves the standards from Merchant Shipping Notice 1908 'The merchant shipping (control and management of ships' ballast water and sediments) regulations 2022' to the updated Merchant Shipping Notice 1874 which will accompany this instrument. This will reduce the potential risk of divergence between the approval procedure for BWMS and that for other marine equipment.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument revokes the 2016 Regulations as amended, and the related amending legislation, and remakes those regulations to consolidate and update the provisions.

6.2 This instrument also revokes the provisions in the 2022 Regulations which relate to type approval of ballast water management systems, as type approval of these systems will fall within the scope of this instrument.

Why was this approach taken to change the law?

6.3 Revoking, and remaking and updating, the previous legislation was considered to provide most clarity to stakeholders.

7. Consultation

Summary of consultation outcome and methodology

7.1 Since the UK's departure from the EU, numerous engagements have been undertaken with a number of stakeholders including UK Approved Bodies, other government departments and trade organisations which has provided an opportunity to influence the direction that the policy has taken. Once the policy direction had been developed, a six-week public consultation was carried out, during which respondees expressed support for the implementation of the proposed regulations. The MCA published a consultation outcome report including the MCA's response to all the comments received.[1]

8. Applicable Guidance

8.1 The MCA issues industry guidance through marine notices, namely Merchant Shipping Notices (MSNs), Marine Guidance Notes (MGNs) and Marine Information Notes (MINs).

8.2 In parallel with making this instrument, the following updated documents are being made available on Gov.UK:

- MSN 1874 Amendment 11 – United Kingdom conformity assessment procedures for marine equipment, other approvals and standards;

[1] https://www.gov.uk/government/consultations/the-merchant-shipping-marine-equipment-regulations-2025-consultation/outcome/consultation-report-the-merchant-shipping-marine-equipment-regulations-2025

- MSN 1908 (M+F) Amendment 1 – The merchant shipping (control and management of ships' ballast water and sediments) regulations 2022;
- MGN 554 Amendment 2 – Procedure for becoming a UK approved body;
- MGN 557 Amendment 2 – Market surveillance – strategy, reporting and enforcement; and
- MGN 680 Amendment 1 – Procedure for becoming a UK nominated body.

8.3 The guidance will be available on Gov.UK. [2]

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 the direct impacts on business have been assessed at under £10m per year. However, an internal analysis was conducted by economists within the MCA, which found that the impacts and potential compliance costs arising from this instrument are low. A de minimis assessment has been prepared and has been published, with an Explanatory Memorandum.

Impact on businesses, charities and voluntary bodies

9.2 The impact on industry of these regulatory measures will be low as the majority of vessels are already compliant. Additionally, equipment already onboard UK ships will not need to be replaced by virtue of this instrument. The direct cost will be for familiarisation, and this has been estimated to be a one-off amount of £0.17m. There will also be some costs to the public sector, namely the cost of familiarisation for MCA surveyors.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The statutory instrument will be reviewed through periodic assessments and stakeholder engagement.

10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Keir Mather MP, Parliamentary Under Secretary of State with responsibility for maritime policy at the Department for Transport, has made the following statement:

10.3 "Having had regard to sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 and the Statutory Review Guidance for Departments published under section 31(3) of that Act, I have decided that it is not appropriate to make provision for review in this instrument because it would be disproportionate, taking into account the economic impact of the legislation, to include provision for review".

[2] www.gov.uk/government/collections/ships-and-cargoes-guidance-and-bulletins

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 The Parliamentary Under-Secretary of State has made the following statement regarding Human Rights:

"In my view the provisions of the Merchant Shipping (Marine Equipment) Regulations 2025 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is made under section 14 of the Retained EU Law (Revocation and Reform) Act 2023 and therefore relates to the reform of assimilated law.