EXPLANATORY MEMORANDUM TO

THE MERCHANT SHIPPING (BRIDGE VISIBILITY) (SMALL PASSENGER SHIPS) (AMENDMENT) REGULATIONS 2005

2005 No. 2286

1. Introduction

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

2. Description

2.1 These Regulations apply to passenger ships under 45 metres in length and implement the recommendations of the Department for Transport's Marine Accident Investigation Branch on bridge visibility on passenger ships set out in their Report in to the loss of the "Marchioness".

2.3 These Regulations require ships to be so constructed that the helmsman has good visibility over an arc of 360 degrees of the horizontal plane. Where existing ships cannot fully meet the requirements for all round visibility a dedicated lookout must be posted to cover the obscured area.

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

3.1 There are none.

4. Legislative background

4.1 The provision contained in these Regulations was previously contained in the Merchant Shipping (Passenger Ships of Classes IV, V, VI and VI (A) (Bridge Visibility) Regulations 1992 (S.I. 1992/2357, amended by S.I. 1998/1419).

4.2 The 1992 Regulations were repealed by the Merchant Shipping (Safety of Navigation) Regulations 2002 (S.I. 2002/1473). Regulation 5 of the 2002 Regulations makes provision for bridge visibility for ships of 45 metres in length and above which are on international voyages, by applying the requirements of Chapter V of the International Convention for the Safety of Life at Sea ("the SOLAS Convention"), but do not make any provision for bridge visibility for ships under 45 metres in length. The repeal of the 1992 Regulations without making provision as respects ships under 45 metres in length was an error by the Department. This error was identified by the Maritime and Coastguard Agency in 2003 during the drafting of internal guidance issued on 31 December 2003 which

related to amendments to Council Directive 98/18/EC of 17 March 1998 on safety rules and standards for passenger ships.

4.3 These new Regulations therefore reinstate the provision previously contained in the Merchant Shipping (Passenger Ships of Classes IV, V, VI and VI (A) (Bridge Visibility) Regulations 1992.

5. Extent

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

No statement is required.

7. Policy Background

7.1 These regulations aim to ensure that operators of small passenger ships maintain a good standard of visibility, thus reducing the potential for collision or grounding.

7.2 No special political or legal considerations apply.

7.3 An external consultation was carried out. Details of who was consulted are recorded in the Regulatory Impact Assessment. The measures proposed have not proved controversial.

8. Impact

7.1 A Regulatory Impact Assessment is attached to this memorandum.

7.2 There is no additional impact on resources in the public sector.

9. Contact

The person who can answer any queries relating to this instrument is

Jenny Vines,
Shipping Safety Branch,
Maritime and Coastguard Agency,
Bay 2/11 Spring Place
105 Commercial Road
Southampton SO15 1EG

Email: jenny.vines@mcga.gov.uk
Tel: 02380 329114
GTN: 1513 114

Department for Transport

15 August 2005

FINAL REGULATORY IMPACT ASSESSMENT

THE MERCHANT SHIPPING (BRIDGE VISIBILITY) (SMALL PASSENGER SHIPS) REGULATIONS 2005

1. INTRODUCTION

i) Issue

The background to this Regulation is that the Merchant Shipping (Passenger Ships of Classes IV, V, VI and VI(A)) (Bridge Visibility) Regulations 1992 SI No. 2357 were introduced in order to ensure that there was good all round visibility from passenger vessels in certain waters around the UK.

In 1998 these regulations were amended by the Merchant Shipping (Navigation Bridge Visibility) Regulations 1998 SI No. 1419 to apply to vessels less than 45 metres in length and the new SOLAS requirements on bridge visibility were applied to ships over 45 metres in length.

In 2002 the Merchant Shipping (Safety of Navigation) Regulations SI 2002. No.1473, which implemented Chapter V of SOLAS and consolidated previous regulations, included new SOLAS requirements but repealed the requirements of the 1992 Regulations, applying to ships under 45 metres in length, without replacing them.

ii) Purpose and intended effect of measure

Since the revocation the Maritime and Coastguard Agency, and industry, have continued to apply the 1992 regulations as if they were extant.

In order to correct this legal anomaly we are now formally re-instating the requirements for ships less than 45 metres in length.

iii) Risk Assessment

There is risk to life and vessel when bridge visibility is restricted, due to the potential for collision. However the degree of risk is hard to quantify due to the range of circumstances which may occur. It therefore follows that risk reduction, or benefit of the proposed measure can only be judged qualitatively.

2. OPTIONS

It is considered that there is no other option but to correct the current anomaly whereby current practice is not supported by legislation.

3. BENEFITS

It is clearly of benefit to both ship operators and crew as well as passengers that optimum bridge visibility is maintained.

The Maritime and Coastguard Agency have made every effort to track the original 1992 regulations (amended 1998) as closely as possible and the re-drafting has largely achieved this. However the opportunity has been taken to improve the drafting and update the original regulations.

The new regulations will ensure that all the ships to which they apply are legally subject to the same level of requirements, thus safeguarding fair competition.

The deliberate changes are:-

- definition of ship classes up-dated without substantive change
- references to Merchant Shipping Notices and other documents are up-dated
- exemption provision has been expanded to reflect equivalent safety, cancellation to be in writing and reasonable notice required, this wording is in direct response to recommendation 27.04 of the Thames Safety Inquiry (TSI)
- new penalty for 'attempts to proceed'
- new provision for detention

4. COSTS

These regulations do not introduce a new burden and therefore no additional costs will be born by the industry.

5. IMPACT ON SMALL BUSINESS

There is no impact on small business.

6. ENFORCEMENT AND SANCTIONS

Consistent with breaches of Merchant Shipping legislation, and the 1992 regulations, these regulations make explicit that a breach of this legislation can

lead to prosecution. They also make clear that, unless specifically exempted, there is an operational sanction in the form of detention of the vessel.

7. MONITORING AND REVIEW

Passenger ships are subject to statutory annual survey by Maritime and Coastguard Agency marine surveyors.

8. CONSULTATION

The following were consulted in preparation of this proposal.

Government bodies

Marine Accident Investigation Branch

UK Overseas Territories

Bermuda
Cayman Is
Gibraltar
Isle of Man
British Virgin Islands
Guernsey
Jersey
Turks and Caicos Islands
Falkland Islands
St Helena
Montserrat
Anguilla

Public and Industry bodies

NUMAST
RMT
Chamber of Shipping
Domestic Passenger Ship Steering Group (Formal MCA industry liaison body dealing with Domestic Passenger Ship matters)
British committees of:

- American Bureau of Shipping
- Bureau Veritas
- Det Norske Veritas
- Germanischer Lloyd
- Registro Italiano Navale

Class NKK (Nippon Kaiji Kyokai)
Lloyds Register of Shipping

Declaration

I have read the Regulatory Impact Assessment and I am satisfied that the balance between cost and benefit is equitable.

Signed on behalf of the Secretary of State for Transport

Derek Twigg

Parliamentary Under Secretary for Transport

16 August 2005

Contact point:
Richard Blakemore
Shipping Safety Branch
Maritime and Coastguard Agency
Bay 2/11, Spring Place
105 Commercial Road
Southampton
SO15 1EG
Tel: 02380 329179