EXPLANATORY MEMORANDUM TO

THE MERCHANT SHIPPING (CONTROL AND MANAGEMENT OF SHIPS' BALLAST WATER AND SEDIMENTS) (AMENDMENT) REGULATIONS 2026

2026 No. 305

1 Introduction

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

2 Declaration

2.1 Keir Mather MP, Parliamentary Under-Secretary of State at the Department for Transport (Minister for Aviation, Maritime and Decarbonisation) confirms that this Explanatory Memorandum meets the required standard.

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

3 Contact

3.1 Holly Griffin, Clean Ship Operations Subject Lead at the Maritime and Coastguard Agency can be contacted by email at the following address with any queries regarding this instrument environment@mcga.gov.uk Alternatively, the Maritime and Coastguard Agency can be contacted by telephone: 020 381 72000.

Part One: Explanation, and context, of the Instrument

4 Overview of the Instrument

What does the legislation do?

4.1 These Regulations amend the Merchant Shipping (Control and Management of Ships' Ballast Water and Sediments) Regulations 2022 (S.I. 2022/737) ("the 2022 Regulations") to implement an amendment to the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004[1] ("the Convention") relating to the approval of electronic record book software before its use on ships.

4.2 These Regulations also clarify the provision in the 2022 Regulations regarding their application to ships operating in the territorial or controlled waters of the Crown Dependencies, while such ships are in United Kingdom waters or controlled waters.

Where does the legislation extend to, and apply?

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

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

[1] The Convention can be obtained from the International Maritime Organization ("the IMO") at IMO Publishing, 4 Albert Embankment, London SE1 7SR, www.imo.org/publications; email: sales@imo.org; telephone: 0207 735 7611, or from the FCDO at https://treaties.fcdo.gov.uk/data/Library2/pdf/TS_84.2024_International_Convention_Control_Management_Ships_Ballast_Sediments_2004.pdf

Kingdom ships, whether within United Kingdom waters or anywhere else in the world. It also applies to non-United Kingdom ships while in United Kingdom waters or controlled waters.

5 Policy Context

What is being done and why?

5.1 These Regulations implement an international amendment to the Convention and clarify the application provision in the 2022 Regulations.

5.2 In the United Kingdom, the Convention is implemented by the 2022 Regulations. The primary purpose of the Convention is to prevent the spread of invasive non-native species through the discharge of ballast water from ships operating internationally. Invasive non-native species can be transported in ballast water and then released which can be harmful to fragile marine ecosystems. Impacts include, but are not limited to, outcompeting native species for food and habitat, introducing diseases and affecting fish stocks that underpin commercial fishing activity.

5.3 The 2022 Regulations apply (subject to specified exceptions) to United Kingdom ships worldwide and any other ships operating in United Kingdom waters and controlled waters. The 2022 Regulations require ships to implement ballast water management plans, maintain a ballast water record book and manage their ballast water in line with the Convention to mitigate biosecurity risks.

5.4 Currently, every ship to which the 2022 Regulations apply is required to carry a ballast water record book onboard which must be completed after every ballast water operation. The ballast water record book may be in hard copy or electronic form and may be integrated into another hard copy or electronic record book.

5.5 These Regulations implement an amendment to the Convention contained in International Maritime Organization ("IMO") Resolution MEPC.383(81)[2]. This Resolution was adopted by the IMO") on 22nd March 2024 and came into force on 1st October 2025. Its purpose is to align the international standard of electronic record books under the Convention with those used under the International Convention for the Prevention of Pollution from Ships, 1973 as modified by the 1978 and 1997 Protocols ("MARPOL"), which requires an electronic record book to be approved. This fulfils the United Kingdom's international obligations, maintains the United Kingdom's reputation as a responsible flag State and ensures a level playing field for United Kingdom flagged ships.

5.6 These Regulations give effect to Merchant Shipping Notice 1908 (M+F) Amendment 3. This Notice prescribes several specific requirements about ballast water management and section 5 prescribes matters in relation to the ballast water record book (which includes the electronic record book).

5.7 The amendment to the Convention by Resolution MEPC.383(81) came into force on 1st October 2025, which the Department acknowledges was 6 months before the date these Regulations come into force. Ship operators have been required to maintain a hard copy or electronic ballast water record book since the 2022 Regulations came into force. These Regulations introduce a requirement for the approval of the software system for electronic records (an administrative measure) and have therefore had no effect on onboard operational requirements because operators will have continued

[2] This is available from the International Maritime Organization of 4 Albert Embankment, London SE1 7SR or found on the Foreign, Commonwealth and Development Office treaties database at https://wwwcdn.imo.org/localresources/en/KnowledgeCentre/IndexofIMOResolutions/MEPCDocuments/MEPC.383%20(81).pdf

recording ballast water operations etc. in accordance with standards which have applied since 2022. As for the delay in implementation, this resulted from a combination of the short 18-month period between the adoption of the IMO amendment and its coming into force date and the additional time required to consult the Crown Dependencies in relation to how the amendments made by these Regulations would apply in United Kingdom law.

5.8 These Regulations also amend the application provisions in regulation 4 of the 2022 Regulations by replacing the provision for the exceptions to the general application in regulation 4(1). The replacement provision more specifically reflects the exceptions as they are set out in the Convention, and clarifies that those exceptions apply not only to ships operating in United Kingdom territorial or controlled waters but may also apply to ships operating between those waters and the territorial or controlled waters of the Crown Dependencies (while such ships are in United Kingdom waters or controlled waters), in cases where the Secretary of State determines that the discharge of ballast water from the ship would not impair or damage the environment etc. within the areas specified in regulation 4(2)(b) or (c) or those of adjacent or other States.

What was the previous policy, how is this different?

5.9 While the 2022 Regulations established the option for an electronic record book to be used by ship operators, they did not require the formal approval of such a system prior to it being used on ships.

5.10 Ship operators may continue to choose between maintaining an electronic or a hard copy record book. However, for operators opting to use an electronic record book, these Regulations introduce a mandatory requirement for approval of that electronic record book to ensure it meets the standards outlined in the associated Guidelines (set out in IMO Resolution MEPC.372(80)[3]). For United Kingdom flagged ships, approval will be issued by the Certifying Authority (i.e. the Secretary of State in the guise of the Maritime and Coastguard Agency or a Recognised Organisation). A Recognised Organisation is a classification society which has been authorised by the Maritime and Coastguard Agency to act as a Certifying Authority in its place in respect of the survey and certification of ships. In the case of non-United Kingdom ships, the flag State will approve the software for use on their ships.

5.11 These Regulations make consequential amendments to the offences provision in the 2022 Regulations. As a result, failure to comply with the relevant requirements regarding the use of electronic record books will constitute an offence, just as it does in respect of the use of hard copy record books. These Regulations also make a consequential amendment to the Merchant Shipping (Fees) Regulations 2018 (S.I. 2018/1104) to ensure that the Secretary of State may charge fees in respect of actions taken under the new provisions.

5.12 Although the policy regarding application of the 2022 Regulations remains unchanged, it was considered necessary to clarify this provision specifically in relation to its application to ships operating in the territorial or controlled waters of the Crown Dependencies, while such ships are in United Kingdom waters or controlled waters.

[3] This is available from the International Maritime Organization of 4 Albert Embankment, London SE1 7SR or found on the Foreign, Commonwealth and Development Office treaties database at https://wwwcdn.imo.org/localresources/en/KnowledgeCentre/IndexofIMOResolutions/MEPCDocuments/MEPC.372(80).pdf

6 Legislative and Legal Context

How has the law changed?

6.1 These Regulations amend the 2022 Regulations to implement the new international obligation relating to the use of electronic record books on ships. This amendment was adopted by IMO Resolution MEPC.383(81) on 22nd March 2024 and came into force on 1st October 2025.

6.2 These Regulations insert a new definition of electronic record book into the 2022 Regulations and amend regulation 10 of the 2022 Regulations to require that a ballast water record book, which is required to be carried on board a ship, must be approved if it is in the form of an electronic record book. These Regulations also insert regulation 10A into the 2022 Regulations to implement the requirement for the approval of such an electronic record book by the Certifying Authority in respect of a United Kingdom ship, and in respect of any other ship by its flag State.

6.3 These Regulations also amend the 2022 Regulations so as to give effect to Merchant Shipping Notice 1908 (M+F) Amendment 3[4] which sets out new specific requirements in respect of the electronic record book. Moreover, the Department has published Marine Guidance Note (MGN) 675 (M+F) Amendment 2[5] which refers, amongst other things, to the guidelines for the use of electronic record books in IMO Resolution MEPC.372(80)[6].

6.4 These Regulations also update regulation 4 of the 2022 Regulations to make it clearer that the exclusions in the Convention do not just apply to ships operating in United Kingdom territorial or controlled waters, but can also apply to ships operating in United Kingdom waters or controlled waters and in the waters or exclusive economic zones of the Crown Dependencies, while those ships are in United Kingdom waters or controlled waters.

6.5 These Regulations make consequential amendments to, amongst other things, the offences provision in regulation 44 of the 2022 Regulations and to the entry for the 2022 Regulations in Schedule 1 to the Merchant Shipping (Fees) Regulations 2018 (S.I. 2018/1104).

Why was this approach taken to change the law?

6.6 The Department considers that this is the most appropriate means of changing the law. The Convention was implemented fully in the United Kingdom by the 2022 Regulations. The amendments made by these Regulations are minor and therefore it would not be an effective use of legislative and other resource to consolidate this provision by revoking and replacing the 2022 Regulations in full.

6.7 This is the only possible approach to make the necessary changes to ensure that the amendments to these important international pollution prevention obligations in the Convention are given legal effect in the United Kingdom and can be enforced effectively.

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[4] This is available from the Maritime and Coastguard Agency of Spring Place, 105 Commercial Road, Southampton SO15 1EG and on https://www.gov.uk/government/collections/merchant-shipping-notices-msns.

[5] This is available from the Maritime and Coastguard Agency of Spring Place, 105 Commercial Road, Southampton SO15 1EG and on https://www.gov.uk/government/collections/marine-guidance-notices-mgns.

[6] See footnote 3 in paragraph 5.10.

7 Consultation

Summary of consultation outcome and methodology

7.1 The Maritime and Coastguard Agency carried out a formal public consultation over a 4-week period from 22 October 2025 to 20 November 2025. The consultation resulted in eight responses.

7.2 Notifications of the consultation were sent to more than 230 organisations including shipping and marine industry companies, government departments, devolved administrations and other interested parties. The Maritime and Coastguard Agency engaged with and received clearance from the Ministry of Justice in relation to the clarification of wording around constitutional relationships between the United Kingdom Government and the Crown Dependencies. The consultation was published on GOV.UK to enable a wider public consultation.

7.3 Specific questions were asked relating to whether the draft Regulations fulfil their intended purpose, whether any cost implications or unintended consequences are foreseen and whether the draft guidance is sufficient to support industry in meeting the requirements. No specific costings were received as feedback.

7.4 The majority of the responses were supportive of these Regulations. One respondent highlighted the positive impact that this will have on environmental management and compliance. Feedback was focused around two topics – the need to clarify that a hard copy record book remains an option for operators and the nuance of the wording of amendments made for legal clarity. Consultation responses and the subsequent review of the then draft of these Regulations resulted in a minor change to the then proposed new version of regulation 4(2) of the 2022 Regulations to improve clarity regarding the application of the 2022 Regulations, specifically in respect of ships to which the 2022 Regulations do not apply. Two amendments were also made to the draft of Marine Guidance Note 675 Amendment 2 to aid understanding regarding the application of the 2022 Regulations and the continued option to use a hard copy record book.

7.5 The Maritime and Coastguard Agency prepared a consultation outcome report, which includes the Maritime and Coastguard Agency's response to all the comments received. The consultation outcome report is published on gov.uk[7] and is also available in hard copy from the Maritime and Coastguard Agency of Spring Place, 105 Commercial Road, Southampton SO15 1EG (telephone: 0203 817 2450).

8 Applicable Guidance

8.1 Detailed guidance to industry, operators and seafarers on the application of the 2022 Regulations was published in Marine Guidance Note 675 (M+F) Amendment 1. To reflect the changes made by these Regulations, Marine Guidance Note (MGN) 675 (M+F) Amendment 1 has been updated as Marine Guidance Note (MGN) 675 (M+F) Amendment 2[8].

[7] This is available from the Maritime and Coastguard Agency of Spring Place, 105 Commercial Road, Southampton SO15 1EG and on https://www.gov.uk/government/consultations/consultation-on-proposed-ballast-water-regulations-2026/outcome/consultation-report-consultation-on-the-proposed-merchant-shipping-control-and-management-of-ships-ballast-water-and-sediments-amendment-regulat

[8] See footnote 5 in paragraph 6.3.

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 cost to business is below the £10m threshold in any one year. Instead, a De Minimis Assessment was conducted. This found that the costs arising from this instrument are low. The De Minimis Assessment is published alongside this instrument. The low-level impact of these measures on business was calculated at -£0.14m. The high-level scenario was calculated at £0.76m.

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 represents a minor change to the existing 2022 Regulations. The 2022 Regulations already require the use of a record book and, therefore, this amendment will not require any more ships to carry a record book than is currently the case. The decision to use an electronic record book over a hard copy record book is a commercial decision for each operator and operators may continue to use hard copy records.

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 represents a minor change to the 2022 Regulations. Maritime and Coastguard Agency personnel engaged in ship inspections will need extra time to familiarise themselves with the changes. During inspections, inspectors will need to verify that, if any electronic ballast water record book is used on board, it has been approved by a Recognised Organisation or Certifying Authority.

10 Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is to undertake a post-implementation review in accordance with the requirements in regulation 51 of the 2022 Regulations, which these Regulations amend. This review will be published.

10.2 The instrument does not include a statutory review clause because the review of its effect will be carried out in accordance with the existing review clause described in paragraph 10.1.

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 As the instrument is subject to negative procedure and does not amend primary legislation, no statement is required.

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").