EXPLANATORY MEMORANDUM TO

THE MERCHANT SHIPPING (FALKLAND ISLANDS) (AMENDMENT) ORDER 2019

2019 No. 1109

THE MERCHANT SHIPPING (FALKLAND ISLANDS) (AMENDMENT) (NO. 2) ORDER 2019

2019 No. 1110

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. Purpose of the instrument

2.1 These instruments amend and revoke certain other instruments that have extended UK merchant shipping legislation to the Falkland Islands. This is necessary to ensure the latter can have no further effect, and is consequential to the recently made Merchant Shipping (Confirmation of Legislation) (Falkland Islands) Order 2018 which confirms the Maritime Ordinance 2017 enacted by the Legislature of the Falkland Islands.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 There are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business.

4. Extent and Territorial Application

4.1 The territorial extent of these instruments is England and Wales, Scotland and Northern Ireland.

4.2 The territorial application of these instruments is the Falkland Islands.

5. European Convention on Human Rights

5.1 As the Merchant Shipping (Falkland Islands) (Amendment) Order 2019 is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 The instruments are being made under section 26 of the Food and Environment Protection Act 1985 and section 315(2) and (3) of the Merchant Shipping Act 1995("the Act"). Section 315 of the Act provides that the provisions of the Act may

be applied or extended to any relevant British possession. Instruments made under section 315(3) are subject to the negative resolution procedure. Instruments made under section 26 of the Food and Environment Protection Act 1985 and section 315(2) of the Act are not subject to any Parliamentary procedure.

7. Policy background

What is being done and why?

7.1 These instruments are needed to amend and revoke certain other instruments that have extended UK merchant shipping legislation to the Falkland Islands, which are now considered to be redundant following the confirmation of the Maritime Ordinance 2017.

7.2 Confirmation of the Maritime Ordinance 2017 was achieved by the Merchant Shipping (Confirmation of Legislation) Order 2018 in so far as it relates to the repeal of provisions of the Merchant Shipping Act of 1894 (other than provisions in Part 3 relating to emigrant ships) and the Merchant Shipping Acts of 1906, 1921, 1965, 1970 and 1981 relating to ships registered in the Falkland Islands.

7.3 The Maritime Ordinance 2017 consolidates and modernises the merchant shipping laws of the Falkland Islands to ensure that ships registered in the Falkland Islands, as well as foreign ships in Falkland Islands waters, meet current international safety and environmental protection standards. In addition, it updates the laws implementing international conventions protecting the Falkland Islands against the costs and environmental consequences of maritime casualties and contains powers to enable the implementation of a number of international maritime conventions, which will provide additional protection against, in particular, the cleaning up of oil spills.

7.4 Unless the redundant UK merchant shipping legislation is amended and revoked by these instruments, it will seriously hamper the Government of the Falkland Islands attempts to implement the Maritime Ordinance 2017 as it will raise concerns about the potential lack of clarity arising in law, leaving users to speculate where outdated legislation might still operate to void provisions of the Maritime Ordinance 2017.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 These instruments do not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act 2018.

9. Consolidation

9.1 These instruments do not consolidate any legislation.

10. Consultation outcome

10.1 No consultation is necessary as these instruments amend and revoke redundant legislation.

10.2 The UK has consulted the Government of the Falkland Islands in relation to the making of these instruments.

11. Guidance

11.1 Guidance is not required.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for these instruments because the costs and benefits to business are expected to fall below the £5m net in any one year. These instruments, which amend and revoke redundant legislation, will not have any practical impact on business of any size or on third parties, either in the Falkland Islands or the UK.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses in the UK.

14. Monitoring & review

14.1 No monitoring or review clause is required as these instruments simply confirm the amendment and revocation of redundant legislation in the Falkland Islands.

15. Contact

15.1 Andrew Angel at the Department for Transport Telephone: 07825 231803 or email: andrew.angel@dft.gov.uk can be contacted with any queries regarding these instruments.

15.2 Haroona Chughtai, Deputy Director for Maritime Trade and International Policy Division, at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.

15.3 Nusrat Ghani MP at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.