EXPLANATORY MEMORANDUM TO

THE MERCHANT SHIPPING (FEES) REGULATIONS 2018

2018 No. 1104

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 This instrument prescribes the fees charged by the Maritime and Coastguard Agency (MCA), an Agency of the Department for Transport, for surveys and other services provided by it to ship owners and seafarers. The current fees are set out in the Merchant Shipping (Fees) Regulations 2006 (S.I. 2006/2055, as amended). This instrument revises those fees to provide for the MCA to recover fully the cost of providing these services.

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 As the instrument is subject to negative resolution procedure 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 at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the United Kingdom.

4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 Section 302(1) of the Merchant Shipping Act 1995 provides for the Secretary of State to prescribe, with Treasury consent, fees to be charged for the issue or recording of any certificate, licence or other document; or the doing of anything in pursuance of the Act.

7. Policy background

What is being done and why?

7.1 These Regulations set out the updated set of fees and charges for the services provided by the MCA. They will enable the MCA to achieve full cost recovery. It will reduce the burden on the taxpayer and adhere to the consumer pays principle. It will eliminate the subsidisation of services to industry and ensure that the user pays the full cost of the resources that are consumed by the Agency in providing the service.

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

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 These Regulations consolidate fees for hovercraft and also for other shipping, by replacing the Hovercraft (Fees) Regulations 1997 (S.I. 1997/320, as amended) and the Merchant Shipping (Fees) Regulations 2006 (S.I. 2006/2055, as amended).

10. Consultation outcome

10.1 The MCA held a six-week targeted consultation on amending its fees and charges from 14th September 2016 to 26th October 2016. Notification of the consultation was sent to over 1000 named stakeholders including ship owners, operators and industry representatives, port authorities and relevant Government bodies. Following a review of the 84 responses received it was established that industry recognised the Agency's need to amend its fees and charges but preferred a phased approach to the amended fees and charges as the Agency's fees and charges have not changed for over a decade. In response to this feedback Ministers agreed to the phasing of the survey fee over two years and all other fees (with one exception, as to which see below) to increase immediately.

10.2 Concern was expressed about the ENG1 (Seafarer's Medical Examination to certify fitness to serve at sea) fee as approved doctors were of the view that the proposed increase of £5 from £80 to £85 was insufficient to cover their cost increases; this accounted for 49 out of the 84 responses. In response to this the Agency conducted a focused stakeholder engagement exercise in February 2017 proposing that the ENG1 fee increases from £80 to £115 in a phased manner over three years. Overall, stakeholders were content with the proposal.

10.3 A summary of responses can be found at https://www.gov.uk/government/consultations/mca-fees-consultation or by writing to the MCA at the following address: Maritime and Coastguard Agency, 105 Commercial Road, Southampton SO15 1EG.

11. Guidance

11.1 The full list of new fees was published during the consultation at https://www.gov.uk/government/consultations/mca-fees-consultation and copies are available at the following address: Maritime and Coastguard Agency, 105 Commercial Road, Southampton SO15 1EG. The MCA will update its current fees guidance on the coming into force of these Regulations and considers that to publish the guidance earlier would cause confusion about what fees were payable at any particular time. The MCA does not intend to issue Merchant Shipping Notices or Marine Guidance Notes as the changes in fees do not lead to any technical updates. The MCA will also notify customers through the Agency's standard communication channels.

12. Impact

12.1 An Impact Assessment and subsequent Regulatory Policy Committee (RPC) opinion were produced; both documents are attached as Annex A and B to this document. The Agency's fees have remained unchanged since 2006 and it is unable to absorb all cost increases that have occurred since the last revision of Fees. A report produced for the MCA by Oxford Economics analysed the potential impacts of the fees increases and concluded that MCA fees make up less than one percent of firms' operating costs and thus that the change in fees should not have significant impacts on industry.

12.2 The impact on business, charities or voluntary bodies is £2m in year one and £3.4m per annum in subsequent years. With respect to seafarer medical fees (ENG1), the costs of the proposal will fall on individual seafarers and ship owners employing seafarers. The impact assessment considers that costs falling on firms employing seafarers are equal to benefits to doctors in the UK. A rise in the fee for medical exams will result in an increase in income to doctors. Therefore, this element of the proposal represents a transfer between firms and the net impact on business is zero. In the majority of cases, the individual seafarer will not be liable for the ENG1 fee, as it will be met by the employing company, but it is not possible to estimate how many cases might fall to be met by a seafarer personally, for example where the seafarer is unemployed when the current ENG1 expires.

12.3 The RPC verifies the estimated equivalent annual net direct cost to business of £2.8m. The proposal is not a regulatory provision and will not score under the business impact target.

12.4 The impact on the public sector is limited. There are a limited number of registered ships which are owned by local authorities, and the impact on those local authorities in respect of those ships will be the same as for businesses.

12.5 A full Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses. The Impact Assessment highlights that the increase in fees is likely to have a greater effect on small and micro businesses, but the increases are still likely to be less than 1% of total operating costs. As the fees relate to costs incurred by the MCA in carrying out its statutory duties in respect of all UK-registered ships, it is considered that making provision specifically to address small businesses would not be appropriate.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is consistent with the inclusion of a statutory review clause and a sunset clause which provides that the legislation (if not further amended) will cease to be in force after 13th November 2025. The legislation will be reviewed within five years of its coming into force, at which point the Department will consider whether the instrument should continue to be in force after 2025, or if it should cease to be in force in 2025, or if it should be revoked earlier. Further legislation would be required to either extend the application of the legislation after 2025, or to bring it to an end before that date. Alongside this formal process, the MCA will continue to monitor the effect of the fees increases on its customers.

14.2 A statutory review clause is included in the Regulations.

15. Contact

15.1 Ranjiet Vandra at the Maritime and Coastguard Agency (which is an Executive Agency of the Department for Transport) Telephone: 0203 8172260 or email, ranjiet.vandra@mcga.gov.uk can answer any queries regarding the instrument.

15.2 Bill Dunham, Director of Strategy and Corporate Services, at the Maritime and Coastguard can confirm that this Explanatory Memorandum meets the required standard.

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