EXPLANATORY MEMORANDUM TO

THE MERCHANT SHIPPING (INTERNATIONAL SAFETY MANAGEMENT (ISM) CODE) REGULATIONS 2026

2026 No. 194

1. Introduction

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

1.2 This Explanatory Memorandum contains information for the Joint Committee on Statutory Instruments and Secondary Legislation Scrutiny Committee.

2. Declaration

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

2.2 Fraser Heasley, Director UK Maritime Technical Services at the Maritime and Coastguard Agency (MCA), an executive Agency of the Department for Transport, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Prasad Panicker, Deputy Director (Acting) Technical Operations at the Maritime and Coastguard Agency. Telephone: 07881 848963 or email: prasad.panicker@mcga.gov.uk with any queries regarding the instrument. Alternatively, the Safety Management Operations Team at the MCA can be contacted via 020 381 72000 or via infoline@mcga.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument requires passenger and cargo ships in scope to comply with the International Safety Management Code ("ISM Code"), originally adopted by the International Maritime Organization ("IMO") in 1993, ensuring that the United Kingdom's obligations under Chapter IX of the International Convention for the Safety of Lives at Sea ("SOLAS") continue to be implemented in domestic law. It revokes, replaces and consolidates within one set of Regulations the Merchant Shipping (International Safety Management (ISM) Code) Regulations 2014 (S.I. 2014/1512) ("the 2014 Regulations"), and assimilated Regulation (EC) 336/2006 on the implementation of the ISM Code within the Community ("the 2006 EC Regulation"). Inoperable European Union-related provisions are being removed and the instrument updates procedural and enforcement provisions (including criminal offences) bringing them more closely into line with other legislation implementing SOLAS survey and certification requirements.

Where does the legislation extend to, and apply?

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

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales, Scotland and Northern Ireland, and with respect to sea-going United Kingdom registered ships, wherever they are in the world, and sea-going non-United Kingdom ships, while they are in United Kingdom waters.

5. Policy Context

What is being done and why?

5.1 This instrument revokes, replaces and consolidates within a single set of Regulations the legislation which implemented the United Kingdom's obligations under SOLAS Chapter IX to give effect to the ISM Code in respect of passenger ships, and cargo ships of 500 gross tonnage or more, engaged in international voyages. It extends those obligations in relation to some ships engaged on domestic voyages depending on the types of ships and sea or inland waters in which they operate. The details of the categories of ships and voyages to which the instrument applies, and relevant exclusions, are set out in regulation 5. The ISM Code provides the international standard for the safe management and operation of ships and for pollution prevention. Its objectives are to promote safety at sea, prevent human injury or loss of life and avoid damage to the environment. The ISM Code establishes obligations for the company managing a ship, the master, and all personnel involved in its operation. Compliance is achieved through the effective implementation of a Safety Management System, supported by verifications and certification of both the ship and its management.

5.2 The ISM Code was originally adopted by the IMO in 1993 and has been amended on five occasions between 2000 and 2013. In 1994 the IMO adopted amendments to SOLAS to introduce Chapter IX which made application of the ISM Code mandatory. Since 2002, the SOLAS Chapter IX requirement to comply with the ISM Code has applied in respect of all passenger ships, including high speed craft, and all cargo ships of 500 gross tonnage and upwards, which are engaged on international voyages.

5.3 Prior to the United Kingdom's departure from the European Union (EU), the ISM Code was implemented in the European Community by the 2006 EC Regulation, which extended the application of the ISM Code beyond the SOLAS requirements to ships engaged in higher risk domestic sea voyages. The 2006 EC Regulation was given further effect in domestic law by the 2014 Regulations, which identified the United Kingdom certifying authority and set out further details on the duties of a ship's owner, operator and master and on enforcement (including powers of detention and criminal offences). The 2014 Regulations also ensured the SOLAS requirements were implemented in the United Kingdom in respect of equivalent ships, flagged to non-EU member states, not covered by the 2006 EC Regulation.

5.4 Following the United Kingdom's departure from the EU, much of the 2006 EC Regulation has become inoperable and some gaps have arisen in the application of the legislation as a result of the EU related terms used in that Regulation. This instrument revokes both the 2006 EC Regulation (together with Commission Regulation (EC) No. 540/2008 which amended it) and the 2014 Regulations and replaces them with a single set of Regulations, therefore removing redundant EU related provisions and complex cross-references to the 2006 EC Regulation. The new instrument:

a) corrects the omission of roll-on/roll-off ferries operating in United Kingdom internal waters (known as Categorised Waters) from the 2014 Regulations, and addresses other gaps that have arisen post EU Exit, in relation to other domestically operating ships e.g. cargo ships of 500 gross tonnage (GT) or more which proceed to

sea but operate exclusively in United Kingdom waters or United Kingdom flagged passenger ships operating exclusively on higher risk domestic voyages;

b) updates the procedural provisions relating to verification and certification of compliance by operating companies and United Kingdom ships, bringing them into line with other survey and certification provisions in more recent instruments that implement other SOLAS obligations, for example the Merchant Shipping (Survey and Certification) Regulations 2015 (S.I.2015/508);

c) clarifies the enforcement provisions and creates a new criminal offence relating to the falsification of documents, in line with other instruments that implement SOLAS obligations (for example regulation 26(3) of the Merchant Shipping (Survey and Certification) Regulations 2015 (S.I. 2015/508). This new offence will provide a clearer and more practical basis for the MCA to take action in the case of fraud, consistent with other Merchant Shipping Regulations, than currently exists under other legislation.

d) includes an ambulatory reference provision in regulation 4 which means that references in the instrument to the text of international instruments are read as including the text as amended from time to time. The ISM Code, specified provisions of SOLAS, the International Convention on the Standards of Training Certification and Watchkeeping for Seafarers (the "STCW Convention") and the IMO's Recognised Organisations Code, can therefore be interpreted as references to the most up-to-date versions of those international instruments, without legislative amendments being needed on each occasion those instruments are amended by the IMO. The United Kingdom will continue to be able to scrutinise, influence the drafting of, and, if necessary, object to, any proposed changes to those instruments by the IMO, and to assess the impact of the changes well before any amendment is due to come into force. If the United Kingdom objects to an amendment that is due to come into force internationally, and which is referenced in this instrument, then the Secretary of State will make amending secondary legislation to prevent that amendment from becoming incorporated into domestic law by ambulatory reference. An amendment that is accepted by the United Kingdom will be publicised in advance of its coming into force date by a Parliamentary Statement to both Houses of Parliament, and by a Marine Guidance Note, which will be available from the Maritime & Coastguard Agency ("MCA") by prior appointment from Spring Place, 105 Commercial Road, Southampton, SO15 1EG, and on https://www.gov.uk. Once a future amendment to a relevant provision comes into force it can be obtained in hard copy from the IMO of 4 Albert Embankment, London SE1 7SR, or found on the Foreign, Commonwealth and Development Office online treaties database[1]: Until such publication is made on the treaties database an amendment will be available by prior appointment from the MCA at Spring Place, 105 Commercial Road, Southampton SO15 1EG and on https://www.gov.uk. The IMO generally adopts and gives effect to amendments to the Annexes to SOLAS on a quadrennial cycle and the most recent amendments came into force on 1st January 2024.

What was the previous policy, how is this different?

5.5 The previous policy, established by the 2006 EC Regulation, as it originally applied in the United Kingdom, together with the 2014 Regulations, was to implement in United Kingdom law the requirements of SOLAS Chapter IX in respect of internationally operating ships, and extend those requirements to certain categories of ships operating

[1] The Treaties database can be found here: https://treaties.fcdo.gov.uk/responsive/app/consolidatedSearch/

on higher risk domestic voyages within and between EU member states, which until EU Exit included the United Kingdom. The new instrument continues the previous policy, as it was originally intended to operate before EU Exit, by addressing the omission and gaps referred to in paragraph 5.4. It also consolidates the legislation implementing the ISM Code into one set of regulations, rather than two separate instruments, avoiding the complex cross references to EU law or terminology in the previous legislation. It additionally updates the procedural and enforcement provisions in line with other more recent SOLAS implementing legislation, and an ambulatory reference provision, as described in paragraph 5.4(d).

6. Legislative and Legal Context

How has the law changed?

6.1 Prior to the United Kingdom's departure from the EU, the legal obligation on ships and their operating companies to comply with the ISM Code, derived from the then directly applicable 2006 EC Regulation (as amended by Commission Regulation (EC) No. 540/2008) and the 2014 Regulations which gave further effect to the 2006 EC Regulation. The 2014 Regulations were made mainly under safety and environment related powers in or under the Merchant Shipping Act 1995. The implementing power in section 2(2) of the European Communities Act 1972 was also relied upon in the 2014 Regulations in respect of the revocation of the Merchant Shipping (International Safety Management (ISM) Code) Regulations 1998 (S.I. 1998/1561) by regulation 1(2).

6.2 The relationship between these two instruments is complex due to the way in which the 2014 Regulations cross refer to the 2006 EC Regulation, in particular in regulations 4 and 5 and the references to "Member State" in the operative, scope and definition Articles of the 2006 EC Regulation.

6.3 When the United Kingdom left the EU, minor amendments were made to the 2014 Regulations by the Merchant Shipping (Miscellaneous Provisions) (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1221) to amend the definition of "Certifying Authority" in regulation 2. The definition of "high speed craft" in regulation 2 was subsequently amended by the Merchant Shipping (High Speed Craft) Regulations 2022 (S.I. 2022/1219). However, no other amendments were made to the 2014 Regulations nor to the 2006 EC Regulation to deal with other deficiencies arising from the United Kingdom's departure from the EU, in particular the references to "Member State" throughout the 2006 EC Regulation, which can no longer be interpreted as including the United Kingdom.

6.4 The 2006 EC Regulation, which is now assimilated law, is therefore largely redundant as the obligations in Articles 4, and 6 to 9 no longer have the effect of imposing obligations on the United Kingdom, as it is no longer an EU member state. Only Article 5 remains partially operative in imposing an obligation on ships in scope of Article 3, and their operating companies, to comply with Part A of the ISM Code. However, Article 3 (scope) no longer operates as originally intended due to its references to "Member State" and cross references to the definitions on Article 2, which in turn also operate in some cases by reference to the term "Member State". Finally, the provisions of Articles 10 to 13 (reporting requirements, amendments, Committee procedure and repeals) are no longer relevant following the United Kingdom's departure from the EU.

6.5 The gaps arising after the United Kingdom's departure from the EU as a result of this situation were in part mitigated by the operation of regulation 5 of the 2014

Regulation, which imposes certification requirements on some ships to which the 2006 EC Regulation does not apply, including passenger ships of Class I and II, passenger high speed craft and cargo ships (including mobile offshore drilling units) of 500 gross tonnage or more engaged in international voyages. However, gaps continued in respect of some cargo and passenger ships which only operate domestically in the United Kingdom and which do not fall within regulation 5(2), to which the 2006 EC Regulation originally applied after the United Kingdom's departure from the EU when the references in Article 3, and in the definitions in Article 2, to "Member State" included the United Kingdom.

6.6 Passenger ships which are not in scope of the 2014 Regulations and the obligation to comply with the ISM Code are instead required to apply the Safety Management Code for Domestic Passenger Ships, in accordance with the Merchant Shipping (Domestic Passenger Ships) (Safey Management Code) Regulations 2001 (S.I. 2001/3209) (see regulation 3(1) and (2)). However, in practice all United Kingdom ships and operating companies which were in scope of the 2014 Regulations, as they originally applied, continued after the United Kingdom's departure from the EU to be verified (surveyed) and certified in accordance with the ISM Code and the 2014 Regulations. The MCA is not aware of any issues arising concerning compliance with the legislation.

6.7 This instrument exercises the power in s14(1) of the Retained EU Law (Revocation and Reform) Act 2023 ("REUL Act") to revoke the inoperative provisions of the 2006 EC Regulation, in particular those provisions which impose obligations on EU Member States or the Commission. Those provisions which remain partially operative, such as Article 5 of the 2006 EC Regulation, and the whole of the 2014 Regulations, are being revoked and replaced under the powers in the Merchant Shipping Act 1995.

Why was this approach taken to change the law?

It was considered preferrable to revoke and replace the existing legislation, using powers under the Merchant Shipping Act 1995 and s14(1) of the REUL Act, before the latter power expires on 23 June 2026, rather than retaining and amending both the 2006 EC Regulation and 2014 Regulations, in order to consolidate and simplify the legislation into a single instrument.

7. Consultation

Summary of consultation outcome and methodology

7.1 A public consultation was carried out between 17 July and 13 August 2025. The short consultation was conducted because of the familiarity of industry with the ISM Code and the fact that very few substantive changes were proposed. It was posted on www.gov.uk, and notified by email to a large cross section of interested parties comprising government and industry representatives, including representative groups, industry stakeholders and trades unions, as well as devolved administrations.

7.2 A total of three responses were received. One of these was from the United Kingdom Chamber of Shipping, one from a United Kingdom shipping company and one from an individual. There was strong support for the proposal, especially from industry respondents. No changes were deemed necessary to this instrument as a result of the consultation, but the Government acted on one respondent's suggestion to reword one paragraph of the guidance for greater clarity. This legislation falls under the maritime safety policy area, which is a reserved matter, but contacts in devolved administrations were notified of the consultation, but none responded to it.

7.3 A summary of the responses to the consultation is contained in the Consultation Outcome Report at[2].

8. Applicable Guidance

8.1 Where it is considered that additional guidance is necessary, this is provided in Marine Guidance Note (MGN) 708(M) which may be obtained free of charge at www.gov.uk or in hard copy by prior appointment with the MCA at Spring Place, 105 Commercial Road, Southampton SO15 1EG (telephone 020 3817 2000 and email infoline@mcga.gov.uk.).

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared because the proposed instrument continues the current regulatory framework while clarifying and updating the legislation. The equivalent annual net direct cost to business of £2.7k in the central scenario is well below the £10m threshold because the instrument maintains the existing policy and regulatory standards, whilst simplifying the legislative framework. However, a De Minimis Assessment has been carried out and will be published alongside the Explanatory Memorandum.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the proposed instrument does not change the regulatory framework or policy.

9.3 The legislation does impact small or micro businesses.

9.4 There is no significant impact on the public sector because the proposed instrument does not introduce any changes that involve the public sector, except that government surveyors will need to become familiar with the format of the new legislation.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The ISM Code will be monitored on an ongoing basis in the IMO by Member States including the United Kingdom, and the United Kingdom will express its views in the international forum. The United Kingdom Regulations will be kept under review to establish when changes made to the Convention will be subject to the ambulatory reference provision, and when amending Statutory Instruments are required to update the Regulations, if so desired.

10.2 No statutory review clause is required because this instrument is made partly under the Retained EU Law (Revocation and Reform) Act 2023, and in respect of the provisions of the instrument made under the Merchant Shipping Act 1995, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 Keir Mather MP, Parliamentary Under-Secretary of State for Aviation, Maritime and Decarbonisation at the Department for Transport with responsibility for maritime policy at the Department for Transport, has made the following statement:

[2] The Consultation Outcome Report is available here: https://www.gov.uk/government/consultations/consultation-merchant-shipping-international-safety-management-code-regulations/outcome/ism-consultation-outcome-report

"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, and that it partly implements international obligations under SOLAS."

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 These Regulations were laid for sifting on 29th January 2026 as the Merchant Shipping (International Safety Management (ISM) Code) Regulations 2026 and the Transport Select Committee and the Secondary Legislation Scrutiny Committee sifted this instrument as suitable for the negative resolution procedure on the 4th and 10th February respectively. The government welcomes and agrees with these decisions. This is because most of its provisions, apart from aspects of regulation 2(2) which revoke inoperative assimilated law, are being made under the powers in the Merchant Shipping Act 1995 relating to the making of safety and environment protection regulations to which the negative procedure normally applies, in accordance with section 306(2) of that Act.

11.2 Section 6 of this Explanatory Memorandum explains that the provisions of the new instrument revoking inoperative provisions of the 2006 EC Regulation (together with Commission Regulation (EC) No.540/2008 which amended it) are being made under s14(1) of the REUL Act. The instrument also revokes some aspects of the 2006 EC Regulation which are still partially operative, as described in paragraph 6.4, in reliance on the powers in the Merchant Shipping Act 1995.

11.3 The new instrument includes provisions in regulation 24 creating criminal offences, made under the powers in the Merchant Shipping Act 1995. These mostly replicate existing offences in regulation 15 of the 2014 Regulations, with the exception of the new offence in regulation 24(4) of this instrument of contravention of regulation 19(7) (falsification of a relevant document etc). This new offence has been included in other recent instruments implementing SOLAS obligations (as referred to in paragraph 5.4(c)) and it is therefore considered consistent and appropriate to include it in this instrument as well.

11.4 There is a duty in regulation 8 on the owner of a United Kingdom ship which is not also the ISM company responsible for the operation of the ship to notify the Secretary of State of the name and details of the ISM company implements a duty in the section 3.1 of the ISM Code. In relation to this duty, it was not considered appropriate to include an enforcement mechanism by way of criminal penalty in the new instrument as this is considered disproportionate. If an owner of a United Kingdom ship fails to comply with this duty, it is considered that there is sufficient incentive for the ISM company itself to notify the Secretary of State of the required details in order to obtain the necessary certification to operate the ship.

12. European Convention on Human Rights

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

13. The Relevant European Union Acts

13.1 This instrument is made, in part, under section 14(1) of the Retained EU Law (Revocation and Reform) Act 2023 Act and therefore relates to the reform of assimilated law. It revokes provisions in Regulation (EC) 336/2006 (and the whole of Commission Regulation (EC) No. 540/2008 which amended Regulation (EC) 336/2006) which are no longer operable.

13.2 Keir Mather MP, Parliamentary Under-Secretary of State for Aviation, Maritime and Decarbonisation at the Department for Transport has made the following statement regarding use of legislative powers in the Retained EU Law (Revocation and Reform) Act 2023 (referencing the draft Explanatory Memorandum sent to sift):[3]

13.3 "In my view the Merchant Shipping (International Safety Management (ISM) Code) Regulations 2026 should be subject to annulment in pursuance of a resolution of either House of Parliament (i.e. the negative procedure).

This is the case because of the reasons given in Section 11.2 above."

[3] The draft Explanatory Memorandum sent to sift is available here: https://www.gov.uk/government/publications/the-merchant-shipping-international-safety-management-ism-code-regulations-2026)