EXPLANATORY MEMORANDUM TO

THE MERCHANT SHIPPING (LIGHT DUES) REGULATIONS 2025

2025 No. 278

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.

2. Declaration

2.1 Mike Kane MP, Parliamentary Under-Secretary of State with responsibility for maritime policy at the Department for Transport, confirms that this Explanatory Memorandum meets the required standard.

2.2 Shahab Paya, Deputy Director for Maritime Strategy and Sponsorship at the Department for Transport confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Lisa Gilmour at the Department for Transport Telephone: 07464 980264 or email: lisa.gilmour@dft.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument revokes and remakes with amendments the Merchant Shipping (Light Dues) Regulations 1997 (S.I. 1997/562) ("the 1997 Regulations"), to:

- Modernise the drafting to improve clarity,
- Amend the criteria under which vessels that may be exempted from the payment of Light Dues are considered to improve clarity and reduce regulatory burdens and costs,
- Leave unchanged the amount of Light Dues payable with respect to ships required to make such payments on a per voyage basis. The rate will remain at 45 pence per net tonne, up to a cap of 9 voyages per year,
- Increase the tonnage cap for Light Dues collected from vessels other than tugs, fishing vessels, and pleasure craft from 40,000 net tonnes to 50,000 net tonnes. This will increase the maximum amount payable in respect of any one voyage from £18,000 to £22,500.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (the jurisdictions which the instrument forms part of the law of) is the United Kingdom of Great Britain and Northern Ireland.

4.3 The territorial application of this instrument (the jurisdictions where the instrument produces a practical effect) is the United Kingdom of Great Britain and Northern Ireland.

5. Policy Context

What is being done and why?

5.1 General Lighthouse Authorities (GLAs) have a statutory duty to provide marine aids to navigation, such as lighthouses and buoys, and to respond to new wrecks and other dangers to navigation. Light Dues are payable into the General Lighthouse Fund ('the Fund') by various types of shipping to support the work of the GLAs.

5.2 In this instrument, 'Light Dues' refer to 'general light dues' within the meaning of section 205 of the Merchant Shipping Act 1995.

5.3 The current regulations have been in place since 1997 and, while they have been amended or modified several times during that period, most of these changes have only dealt with revisions to the headline rate of Light Dues. Following a review, several issues were identified with the structure and drafting of the 1997 Regulations which resulted in a lack of transparency. Modernisation is necessary to improve regulatory clarity. This does not change the legal effect of most of the provisions of the 1997 Regulations, except for the areas covered in paragraphs 5.4-5.7.

5.4 The review also highlighted that some of the criteria against which vessels are considered for exemption from Light Dues are unclear. The exemption regime allows a proportionate approach to be applied to vessels which:

- may not be undertaking voyages for commercial purposes;
- operate purely for safety reasons;
- operate for cultural or heritage purposes; and
- are unlikely to use the aids to navigation managed by the GLAs for which the charge is made or where a demand for full payment would otherwise prevent legitimate and beneficial maritime activity from taking place.

5.5 Users and Light Dues administrators have found that some items in the list of exemptions in the 1997 Regulations are difficult to interpret and apply in a way that is consistent with the Department's policy. The amendments to the criteria under which an exemption is considered will help restore regulatory clarity and ensure that they are applied in a consistent way that achieves the policy intention.

5.6 This instrument replaces the definition of 'length' with 'load line length'. This is the definition used in the Merchant Shipping (Tonnage) Regulations 1997 and the Merchant Shipping (Vessels in Commercial use for Sport or Pleasure) Regulations 1998, so amending the instrument to use this definition provides consistency across regulatory regimes. This will offer clarity and make regulations easier to apply.

5.7 This instrument also raises the tonnage cap for Light Dues. The tonnage cap has been fixed at 40,000 net tonnes since 2010. This instrument will raise the cap to 50,000 net tonnes.

5.8 Due to the need to replace essential GLA vessels, as well as inflationary pressures in 2023-24, GLAs must receive more income in 2024-25.

5.9 Raising the tonnage cap for Light Dues to 50,000 net tonnes will allow an uplift to revenues, as the number of very large vessels has increased significantly since the tonnage cap was set in 2010, without the need to increase Light Dues. The freeze in Light Dues will provide the shipping industry with clarity for planning at a time of uncertainty in shipping across the globe. Increasing the tonnage cap may also allow the Department for Transport to avoid increasing Light Dues over the coming years.

What was the previous policy, how is this different?

5.10 The 1997 regulations include a description of vessels exempt from Light Dues. This SI revokes and remakes this list of exempt vessels, with the aim of improving the clarity of descriptions. It does not change the legal effect of the majority of these provisions, except in the two areas covered in paragraphs 5.4-5.7.

5.11 Under the 1997 regulations, the rate of Light Dues paid by tugs and fishing vessels is determined in part by their length. This instrument replaces the definition of 'length' with a definition of 'load line length', which will make the regulations consistent with other existing regulations.

5.12 Currently, all vessels other than tugs, fishing vessels and pleasure craft pay Light Dues at a rate of 45 pence per net tonne, up to a cap of 40,000 net tonnes. This instrument will increase the tonnage cap to 50,000 net tonnes. The aim of this change is to allow more revenue to be raised for GLAs without raising Light Dues.

6. Legislative and Legal Context

How has the law changed?

6.1 Under section 211 of the Merchant Shipping Act 1995, the Secretary of State for Transport is required to administer the General Lighthouse Fund. The Fund is used to pay for costs GLAs incur in the discharge of their statutory duties to provide marine aids to navigation, respond to new navigation safety dangers around the British Isles and to meet any associated administration costs incurred by the Department for Transport.

6.2 Light Dues, a hypothecated tax levied on commercial ships and large leisure vessels calling at ports in the United Kingdom and some smaller vessels, are the principle source of income for the Fund. Under section 205(5) of the Merchant Shipping Act 1995, the Secretary of State for Transport has the power to make Regulations to set the Light Dues rate for the United Kingdom and to specify the situations in which Light Dues are to be applied or exempted. The relevant Regulations are the 1997 Regulations which have been subsequently amended through a series of amending Regulations.

6.3 These Regulations revoke and remake, with amendments, the 1997 Regulations to modernise the provisions and improve clarity, amend the criteria under which vessels that may be exempted from the payment of Light Dues are considered, and to increase the tonnage cap up to which Light Dues are payable by ships that are entitled to pay these on a per voyage basis.

Why was this approach taken to change the law?

6.4 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 The Department for Transport published a public consultation paper on the modernisation of the drafting of the 1997 Regulations and the amendments that it proposed to make to the exemption regime.

7.2 The consultation ran for eight weeks from 20 September to 15 November 2021. Eight responses were received from a range of interested stakeholders, including light dues collection agents, national bodies, maritime sector organisations, groups representing user interests, and individuals acting in a personal capacity. Of those who expressed a

preference, eight supported, and none objected. The consultation document and a summary of the responses received can be found online[1][2].

7.3 Respondents were asked whether the changes proposed would improve the legislative clarity of the 1997 regulations, and how the changes proposed would impact them or their organisation. All responses were supportive of the intended revisions, but there were several areas where stakeholders requested further amendments, additional enhancements or sought clarification of policy intent.

7.4 Following consideration of the consultation, further amendments were made to the instrument. A full description of the amendments made can be found online, in the links provided at footnotes 1 and 2.

7.5 The GLAs and the Lights Advisory Committee, which represents the shipping industry, have provided formal advice to the Department for Transport on the increase in tonnage cap for Light Dues in 2025. Since Light Dues are classified as a tax, no wider public consultation has been held.

8. Applicable Guidance

8.1 No guidance will be issued in relation to this instrument. The Parliamentary Under Secretary of State for Transport at the time, Lord Davies of Gower, made a written statement to Parliament on 24th April 2024, outlining the upcoming change to the tonnage cap for Light Dues. All collectors of Light Dues and ship agents will be notified of the change by the GLAs.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 An Impact Assessment has not been prepared for this instrument because it is not defined as a "regulatory provision" under Section 22(4)(a)(i) of the Small Business, Employment and Enterprise Act 2015 as it relates to a variation of tax.

Impact on businesses, charities and voluntary bodies

9.2 The impact on business, charities or voluntary bodies is to increase the amount of Light Dues to be paid by the shipping industry but also generate a corresponding increase in the resources available to the GLAs to be spent on aids to navigation, therefore resulting in a zero net cost to the public purse. The changes to the exemption regime and, in particular, the establishment of a link to the National Register of Historic Vessels, are likely to result in a small number of additional vessels being exempt from the payment of Light Dues. However, this is expected to be negligible in terms of overall Light Dues income.

9.3 This legislation does not impact small or micro businesses. This is because such businesses are very unlikely to own vessels of over 40,000 net tonnes and will therefore be unaffected by the change.

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[1] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1022364/consultation-on-improvements-to-merchant-shipping-light-dues-regulations.pdf

[2] https://www.gov.uk/government/consultations/clarifying-and-reducing-administration-costs-for-maritime-vessel-light-dues-regulations/outcome/government-response-to-clarifying-and-reducing-administration-costs-for-maritime-vessel-light-dues-regulations

9.4 There is no, or no significant, impact on the public sector as there will be no change to the administration and management of Light Dues and the Fund. Although it is anticipated that the exemption regime will become easier to administer as a result of the amendments, the financial savings are difficult to quantify with any accuracy. There are no cost implications for the GLAs as there will be no change to the provision of marine aids to navigation.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring of this legislation is that a Post Implementation Review (PIR) is not required because the Department for Transport and the Fund Accountant continuously monitor the level of the Fund to ensure that it is able to meet the cost of the work of the GLAs.

10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Mike Kane MP, Parliamentary Under Secretary of State with responsibility for maritime policy at the Department for Transport, has made the following statement:

"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, to include provision for review".

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 The Parliamentary Under-Secretary of State for Transport (Maritime, Aviation, and Security) has made the following statement regarding Human Rights:

"In my view the provisions of the Merchant Shipping (Light Dues Exemptions) Regulations 2025 are compatible with the Convention rights."

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").