EXPLANATORY MEMORANDUM TO

THE MERCHANT SHIPPING (MISCELLANEOUS PROVISIONS) (AMENDMENTS ETC.) (EU EXIT) REGULATIONS 2018

2018 No. 1221

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Act.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 The European Union (EU) has regulated in many areas of maritime policy and where necessary the United Kingdom has introduced legislation to give effect to such EU measures. This instrument makes a number of changes designed to ensure that relevant UK secondary legislation continues to operate effectively and does not contain provisions which are no longer required once the UK leaves the EU. The instrument also revokes a number of EU Regulations and Decisions which would no longer have any practical impact in the UK after exit.

2.2 The instrument also uses powers in section 2(2) of the European Communities Act 1972 (c. 68) to update outdated references to the European Economic Area in several pieces of secondary legislation. The updated definition will accord with the definition in the Interpretation Act 1978 (as amended).

Explanations

What did any relevant EU law do before exit day?

2.3 UK implementation of EU regulation covers measures on ship safety, health and safety, ship construction standards and ship surveys. EU law has established general principles (such as freedom of movement) which are now referenced in other areas of UK law, such as ship registration.

Why is it being changed?

2.4 The European Union (Withdrawal) Act 2018 (c. 16) ("the Withdrawal Act") provides that certain categories of EU law will continue to have effect after exit day. However, some changes are needed to ensure that the legislation continues to operate. There are also some provisions in the legislation which the UK's departure from the EU makes redundant.

2.5 The government is introducing a number of statutory instruments to address such matters in areas such as maritime security, marine equipment and maritime environmental legislation.

2.6 This instrument deals with matters which are not covered in the other statutory instruments that are dealing with the consequences for maritime policy and legislation of the UK leaving the EU. The statutory instrument makes changes to legislation that is retained as UK law by virtue of the Withdrawal Act.

2.7 The purpose of the instrument is to ensure that relevant UK secondary legislation continues to operate effectively and does not contain provisions which are no longer required once the UK leaves the EU.

What will it now do?

2.8 The instrument will maintain the policy status quo and therefore, where possible, the relevant regulations will continue to operate in the same way. In some cases functions currently carried out by the Commission will be carried out instead by the Secretary of State.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 This instrument was laid for sifting on 18th September 2018. It was considered by the European Statutory Instruments Committee and by the Secondary Legislation Scrutiny Committee on 16th October 2018. The Sifting Committees both agreed that the instrument should proceed by way of the negative resolution procedure. The Minister has considered the decision of the Sifting Committees and has approved and signed the instrument.

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, including all United Kingdom ships whether in the UK or anywhere else in the world. It also applies to non-UK ships when in UK waters.

4.3 The territorial extent and application of paragraph 4 of the Schedule is Northern Ireland only.

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 On 23rd June 2016, a referendum on the United Kingdom's membership of the EU took place which concluded in a vote to leave the EU. The Government's intention is that the UK will cease to be a Member State of the EU on 29th March 2019.

6.2 To ensure that the UK has a working statute book on the day that it leaves the EU, the Withdrawal Act 2018 incorporates EU law, as it stands, in domestic law. It also creates temporary powers to make secondary legislation to modify laws that would otherwise no longer work appropriately once the UK has left the EU, including powers to revoke legislation.

6.3 This statutory instrument relies on section 8(2)(a) and (g) of the Withdrawal Act which empower Ministers to deal with EU retained law that (i) is deficient because it has no practical application to the UK or is wholly or partly redundant; and (ii) contains EU references which are no longer appropriate . The instrument also relies on section 8(3)(a) to deal with deficiencies – i.e. references to the European Economic Area – that are similar in kind to those covered by Section 8(2).

6.4 This statutory instrument also relies on section 2(2) of the European Communities Act 1972 to update references to the European Economic Area in a number of pieces of secondary legislation. These outdated references were in place before the EU Referendum in 2016 and are not being made as a consequence of the UK leaving the EU. Therefore the Withdrawal Act cannot be used to modify them.

6.5 The legislation that is being amended is set out in Annex A. As Annex A demonstrates, many pieces of legislation have both a defective definition of "European Economic Area" and deficiencies arising from the UK's exit from the EU. Therefore, the government considered it appropriate to make both types of amendment in the same instrument.

7. Policy background

What is being done and why?

7.1 This statutory instrument makes a number of changes designed to ensure that relevant UK secondary legislation continues to operate effectively and does not contain provisions which are no longer required once the UK leaves the EU. The instrument also revokes a number of EU Regulations and Decisions that would not have a practical impact on the UK after exit. The legislation that is being amended or revoked is listed in Annex A. The aim of the amendments is to maintain the status quo; the aim of the revocations is to remove legislation that has no practical effect in the UK after EU Exit.

7.2 Many of these changes relate to the provisions which recognise the equivalence of EEA and UK standards and testing methods. This type of legislation typically includes the UK accepting test results etc. from EEA countries because the capacity to undertake such tests is shared among a number of countries. To do otherwise would put pressure on UK testing and verification resources. The instrument merely modifies references that assume that the UK is a member of the European Economic Area.

7.3 Similarly, where legislation requires "British Standard" to be read as including relevant standards from "other EEA states", this instrument will simply delete "other".

7.4 Some amendments relate directly to the UK's membership of the European Union. For example, the Merchant Shipping (High Speed Craft) Regulations 2004 specifies that voyages between ports in Member States are not to be considered to be international voyages. The change made will ensure that these regulations continue to apply to voyages between the UK and ports in EU countries.

7.5 Another notable change is to the Tonnage Tax (Training Requirement) Regulations 2000. Currently, to qualify for UK tonnage tax, a company must provide a certain amount of training to seafarers from EEA countries and/or those from the Isle of Man and Channel Islands. The changes clarify that, after EU exit, British seafarers as well

as those from EEA countries and the Isle of Man and Channel Islands will count towards this requirement.

7.6 Parts I and II of the Merchant Shipping (Registration of Ships) Regulations 1993 determine which large ships and fishing vessels are eligible to join the UK shipping register. The list of persons qualified to be the owners of such ships on the Register includes bodies incorporated in an EEA State and non-UK nationals exercising their right of freedom of movement of workers or right of establishment and European Economic Groupings. The intention of the amendment introduced by this instrument is that the same people who currently can register will be able to do so after the UK leaves the EU.

7.7 This instrument applies to the wages of seafarers who work wholly or partly within Northern Ireland which is a transferred matter for Northern Ireland under section 4(1) of the Northern Ireland Act 1998. The UK Government remains committed to restoring devolution in Northern Ireland. This is particularly important in the context of EU Exit where we want devolved Ministers to take the necessary actions to prepare Northern Ireland for exit. We have been considering how to ensure a functioning statute book across the UK including in Northern Ireland for exit day absent a Northern Ireland Executive. With exit day less than one year away, and in the continued absence of a Northern Ireland Executive, the window to prepare Northern Ireland's statute book for exit is narrowing. UK Government Ministers have therefore decided that in the interest of legal certainty in Northern Ireland, the UK Government will take through the necessary secondary legislation at Westminster for Northern Ireland, in close consultation with the Northern Ireland departments. This is one such instrument. The changes made are in relation to the Race Relations Order (Northern Ireland) 1997. These amendments simply reflect the fact that the UK will no longer be a member of the EEA. No changes are made to the rights of EEA or UK seafarers.

8. European Union (Withdrawal) Act

8.1 This instrument is being made using the power in section 8 of the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the European Union. In accordance with the requirements of that Act the Minister has made the relevant statements as detailed in Part 2 of Annex B to this Explanatory Memorandum.

8.2 Alongside the Withdrawal Act powers the instrument is also being made under section 2(2) of the European Communities Act 1972 and these powers are being used to update outdated references to the European Economic Area in numerous pieces of secondary legislation.

9. Consolidation

9.1 There are currently no plans to consolidate the legislation amended by this instrument.

10. Consultation outcome

10.1 No consultation was undertaken on the details of this instrument because the changes and updates do not have an effect on the shipping industry, seafarers or other groups. The devolved administration in Northern Ireland has been consulted regarding the amendment to the Race Relations (Northern Ireland) Order 1997.

11. Guidance

11.1 No guidance will be issued in relation to this instrument because it does not make changes that affect businesses or others and it will not require anyone to take any different action in order to comply with the regulations in question.

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 this instrument because it maintains the policy status quo in relation to existing regulations and the legislation that is being revoked has no practical effect in the UK.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses. However the legislation has no impact on small businesses because it maintains the policy status quo.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is that the effect will be monitored by the department on a continuing basis in light of the future progress of the UK's withdrawal from the EU.

14.2 The regulation does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Nusrat Ghani 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. The majority of the provisions in this instrument are made under the EU Withdrawal Act 2018 and no review clauses are required in relation to provisions made under these powers. The other amendments made in the instrument are minor changes to update outdated references and it would therefore be disproportionate, taking into account the economic impact of the amendments, to include provision for review".

15. Contact

15.1 Sean Ryan at the Department for Transport Telephone: 07970321950 or email: sean.ryan@dft.gov.uk can be contacted with any queries regarding the instrument.

15.2 Haroona Chughati at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.

15.3 Nusrat Ghani MP, Parliamentary Under Secretary of State with responsibility for maritime policy at the Department for Transport, can confirm that this Explanatory Memorandum meets the required standard.

Annex A

Table 1: List of UK Legislation amended by this instrument

Instrument	Defective definition of EEA	References to EEA that include the UK
The Merchant Shipping (Registration of Ships) Regulations 1993 (S.I. 1993/3138)	✓	✓
The Merchant Shipping (Dangerous or Noxious Liquid Substances in Bulk) Regulations 1996 (S.I. 1996/3010)		✓
The Merchant Shipping (Cargo Ship Construction) Regulations 1997 (S.I. 1997/1509)	✓	✓
The Race Relations (Northern Ireland) Order 1997 (S.I. 1997/869 (N.I. 6))		✓
The Merchant Shipping (Fire Protection: Small Ships) Regulations 1998 (S.I. 1998/1011)	✓	✓
The Merchant Shipping (Fire Protection: Large Ships) Regulations 1998 (S.I. 1998/1012)	✓	✓
The Merchant Shipping (Small Workboats and Pilot Boats) Regulations 1998 (S.I. 1998/1609)		✓
The Merchant Shipping (Radio Installations) Regulations 1998 (S.I. 1998/2070)	✓	✓
The Merchant Shipping (Passenger Ship Construction: Ships of Classes I, II and II(A)) Regulations 1998 (S.I. 1998/2514)	✓	✓
The Merchant Shipping (Passenger Ship Construction: Ships of Classes III to VI(A)) Regulations 1998 (S.I. 1998/2515)	✓	✓
The Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998 (S.I. 1998/2771)		✓
The Merchant Shipping (Additional Safety Measures for Bulk Carriers) Regulations 1999 (S.I. 1999/1644)	✓	✓
The Merchant Shipping (Life-Saving Appliances For Ships Other Than Ships of Classes III to VI(A)) Regulations 1999 (S.I. 1999/2721)	✓	✓
The Merchant Shipping (Life-Saving Appliances	✓	✓

For Passenger Ships Of Classes III To VI(A)) Regulations 1999 (S.I. 1999/2723)		
The Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 (S.I. 2000/2687)		✓
The Merchant Shipping (Mandatory Surveys for Ro-Ro Ferry and High Speed Passenger Craft) Regulations 2001 (S.I. 2001/152)	✓	✓
The Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities) Regulations 2003 (S.I. 2003/1809)		✓
The Merchant Shipping (High Speed Craft) Regulations 2004 (S.I. 2004/302)	✓	✓
The Equality Act 2010 (Work on Ships and Hovercraft) Regulations 2011 (S.I. 2011/1771)		✓
The Merchant Shipping (Survey and Certification) Regulations 2015 (S.I. 2015/508)		✓
The Fishing Vessels (Codes of Practice) Regulations 2017 (S.I. 2017/943)		✓

Other changes

The Merchant Shipping (Registration of Ships) Regulations 1993 (S.I. 1993/3138) are amended to remove references to EU processes and institutions that are no longer appropriate. The definition of "non-United Kingdom nationals exercising their right of freedom of movement of workers or right of establishment" is amended to reflect that these rights will still be recognised and available in domestic law by virtue of section 4 of the Withdrawal Act after the UK withdraws from the EU. The changes proposed are intended to maintain the status quo i.e. that those people and businesses who currently are eligible to join the UK shipping register will continue to be able to do so on the day that the UK leaves the EU. The purpose of the amendments is to ensure that the Regulations are still operable after the UK withdraws from the EU. Regulation 36(3) (which relates to fishing vessels which have received grants not to fish) is removed because it makes reference to the Commission and because provision is expected to be made about such grants in DEFRA regulations. Further amendments to these Regulations will be made in due course by BEIS and DEFRA to address issues related to European Economic Interest Groups (such as their reference in regulations 7, 12 and 21) and to the EC number of fishing vessels (referred to in paragraph 5 of Schedule 4).

The Merchant Shipping (Gas Carriers) Regulations 1994 (S.I. 1994/2464)

Regulation 7 (equivalents) referred to members of the International Maritime Organization (the IMO) as "member States" and this term has therefore been amended for clarity.

The Tonnage Tax (Training Requirement) Regulations 2000 (S.I. 2000/2129) are amended to ensure that British seafarers and seafarers from EEA states will continue to count towards meeting the training requirements needed to qualify for the UK tonnage tax regime.

The Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 (S.I. 2000/2687) are amended to ensure that the definition of 'domestic voyage' includes voyages within the United Kingdom after exit, and to remove unnecessary and inoperable references to a Directive.

The Merchant Shipping (Mandatory Surveys for Ro-Ro Ferry and High Speed Passenger Craft) Regulations 2001 (S.I. 2001/152) are amended so that references to the Directive continue to operate properly, and so that references to international law mentioned in the Directive (such as the International Convention for the Safety of Life at Sea) continue to ambulate post-exit.

The Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities) Regulations 2003 (S.I. 2003/1809) are amended so that references to the Directive continue to operate properly.

The Merchant Shipping (High Speed Craft) Regulations 2004 (S.I. 2004/302) are amended so that an obligation to follow an International Maritime Organisation circular, originally applying to Member States, now applies to the Secretary of State.

The Merchant Shipping (Vessel Traffic Monitoring and Reporting Requirements) Regulations 2004 (S.I. 2004/2110) are amended to ensure that the definition of 'domestic voyage' applies to voyages within the United Kingdom after exit. They are also amended to clarify the application of the defined term 'port authority' in relation to the United Kingdom and member States, and so that references to the Directive continue to operate properly.

The Merchant Shipping (Ro-Ro Passenger Ships) (Stability) Regulations 2004 (S.I. 2004/2884) are amended so that references to the Directive continue to operate properly. They are also amended to ensure that the definition of "international voyage" operates correctly after the UK withdraws from the EU.

The Merchant Shipping (Port State Control) Regulations 2011 (S.I. 2011/2601) are amended so that references to the Directive continue to operate properly. Regulation 12(5) applied to ships that had been detained in a port or anchorage within the European Union after a third refusal of access notice had been issued. This has been amended to ensure that ships within the United Kingdom are still covered by this provision after exit. These amendments have not changed the definition of "inspection database", because the European Commission manages the Thetis Port State Control system on behalf of all members of the Paris Memorandum of Understanding. As we will continue to be members of the MoU after exit, it is accurate to refer to an inspection database which is "maintained by the Commission".

The Merchant Shipping (Flag State Directive) Regulations 2011 (S.I. 2011/2667) are amended so that the Secretary of State is responsible for holding the information that EU Directive 2009/21 currently requires Member States to hold. They are also amended to remove inoperable references to the Directive.

The Merchant Shipping (International Safety Management (ISM) Code) Regulations 2014 (S.I. 2014/1512) are amended so that the reference to a certifying authority continues to apply to authorities certified in the United Kingdom.

Table 2: UK and EU Legislation revoked by the instrument

Legislation	Why revoked
Regulation 8 of The Merchant Shipping (Compulsory Insurance of Shipowners for Maritime Claims) Regulations 2012 (S.I. 2012/2267)	Regulation 8 requires the Secretary of State to refuse a ship entry to any port in the UK if we have been told by another EEA State that it has issued an expulsion order in relation to article 5.2 of the Directive. This is a reciprocal arrangement that will no longer apply when the UK leaves the EU. The UK will continue to receive information on the safety of ships through the Paris Memorandum on Port State Control and does not expect any increased health and safety risk as a result of the loss of the reciprocal arrangement in Regulation 8.
Regulation (EEC) No 1101/89 on structural improvements in inland waterway transport	This Regulation is about measures to reduce overcapacity on international inland waterways and it is not relevant to the UK.
Regulation (EC) No 718/1999 on a Community-fleet capacity policy to promote inland waterway transport	This Regulation is about fleet capacity on international inland waterways of a kind which the UK does not have.
Regulation (EC) No 1406/2002 establishing the objectives and tasks, the internal structure and functioning and the financial requirements of the European Maritime Safety Agency ("EMSA").	This Regulation is about the establishment of EMSA - the UK will no longer be a member when we leave the EU
Regulation (EC) No 2099/2002 establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS)	This Regulation is about the establishment of a Committee of which the UK will no longer be a member when we leave the EU
Regulation (EC) No 181/2008 laying down certain measures for implementing Council Regulation (EC) No 718/1999 on a Community fleet capacity policy to promote inland waterway transport	See comments on Regulation 718/1999 above
Regulation (EC) No 414/2007 concerning the technical guidelines for the planning, implementation and operational use of river information services	These regulations are all related to EU Directive 2005/45 on harmonised river information services (RIS) on inland waterways in the Community. The
Regulation (EC) No 415/2007 concerning the technical	

specifications for vessel tracking and tracing systems	Directive applies to inland waterways of an international character of a kind that the UK does not have and the legislation is therefore redundant.
Regulation (EC) No 416/2007 of 22 March 2007 concerning the technical specifications for Notices to Skippers	
Regulation (EU) No 164/2010 on the technical specifications for electronic ship reporting in inland navigation	
Regulation (EU) No 689/2012 amending Regulation (EC) No 415/2007 concerning the technical specifications for vessel tracking and tracing systems	
Regulation (EU) No 909/2013 on the technical specifications for the electronic chart display and information system for inland navigation	
Regulation (EU) No 911/2014 on multiannual funding for the action of the European Maritime Safety Agency in the field of response to marine pollution caused by ships and oil and gas installations	This Regulation is about the EU's funding of EMSA and therefore not relevant to the UK when we are no longer a Member State
Council Decision 77/587/EC (consultation procedure on action relating to shipping matters in international organizations)	The Decision covers the coordination between Member States in international organisations. This will no longer be relevant to the UK after exit.
Council Decision 2014/195/EU (Cape Town Agreement of 2012 on the Implementation of the Provisions of the Torremolinos Protocol of 1993).	The UK will not have ratified the Protocol by the time we leave the EU so this Decision will not be relevant to the UK.
Council Decision (EU) 2016/381 (position to be adopted, on behalf of the EU, within the Port State Control Committee of the Paris MOU)	This Decision is about the coordination of EU positions within this international organisation. This will not be relevant to the UK after exit.
Commission Decision (EU) 2016/566 (establishing the HLSG for governance of the digital maritime system and services)	The Decision relates to the establishment of the High Level Steering Group ("the HLSG"). The HLSG is about the coordination of activity amongst member States on information gathering and related matters. It provides strategic governance to the development of various European Maritime Safety Agency (EMSA) systems. In the event that no withdrawal agreement is reached between the UK and the EU before exit day, the UK will no longer be part of EMSA nor a member of the HLSG. The Decision will therefore not be relevant to the UK.

Council Decision (EU) 2017/769 and Council Decision (EU) 2017/770 (on the ratification and accession by Member States to the 2010 Protocol to the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea,	The UK does not plan to ratify the Convention before we leave the EU so these Decisions on ratification by Member States will not apply.

Annex B

Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required under the 2018 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) to make a Negative SI	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain the good reasons for making the instrument and that what is being done is a reasonable course of action.
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them. State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2 In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA SIs	Explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g., whether minor or technical changes only are intended to the EU retained law.
Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9, and	Set out the 'good reasons' for creating a criminal offence, and the penalty attached.

		23(1) or jointly exercising powers in Schedule 2 to create a criminal offence	
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising sections 10(1), 12 and part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by Statutory Instrument.	State why it is appropriate to create such a sub-delegated power.
Urgency	Paragraph 34, Schedule 7	Ministers of the Crown using the urgent procedure in paragraphs 4 or 14, Schedule 7.	Statement of the reasons for the Minister's opinion that the SI is urgent.
Explanations where amending regulations under 2(2) ECA 1972	Paragraph 13, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement explaining the good reasons for modifying the instrument made under s. 2(2) ECA, identifying the relevant law before exit day, and explaining the instrument's effect on retained EU law.
Scrutiny statement where amending regulations under 2(2) ECA 1972	Paragraph 16, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement setting out: a) the steps which the relevant authority has taken to make the draft instrument published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament, b) containing information about the relevant authority's response to— (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and (ii) any other representations made to the relevant authority about the published draft instrument, and, c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid.

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) Act 2018

1. Sifting statement

1.1 The Parliamentary Under Secretary of State with responsibility for maritime policy at the Department for Transport, Nusrat Ghani MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In my view the Merchant Shipping (Miscellaneous Provisions) (Amendments etc.) (EU Exit) Regulations 2018 should be subject to annulment in pursuance of a resolution of either House of Parliament (i.e. the negative procedure)".

1.2 This is the case because in addressing deficiencies in retained EU law the instrument makes minor technical amendments and does not make policy changes.

2. Appropriateness statement

2.1 The Parliamentary Under Secretary of State with responsibility for maritime policy at the Department for Transport, Nusrat Ghani MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In my view the Merchant Shipping (Miscellaneous Provisions) (Amendments etc.) (EU Exit) Regulations 2018 do no more than is appropriate".

2.2 This is the case because the instrument does no more than is appropriate to ensure that (i) references to the UK and to EEA States in maritime secondary legislation work effectively after exit; and (ii) redundant provisions are revoked. Further details, including examples of amendments made are set out in section 7 of the main body of this explanatory memorandum.

3. Good reasons

3.1 The Parliamentary Under Secretary of State with responsibility for maritime policy at the Department for Transport, Nusrat Ghani MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action".

3.2 These are (i) to maintain the policy status quo by ensuring that references to the UK and to EEA States in maritime secondary legislation work effectively after exit; and (ii) to remove redundant provisions. Further details, including examples of amendments made are set out in section 7 of the main body of this explanatory memorandum.

4. Equalities

4.1 The Parliamentary Under Secretary of State with responsibility for maritime policy at the Department for Transport, Nusrat Ghani MP, has made the following statements:

"The draft instrument does amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.

The effect of amendments is to maintain the policy status quo. Paragraph 22 of the Schedule to the instrument makes minor textual changes to the Equality Act 2010 (Work on Ships and Hovercraft) Regulations 2011 (S.I. 2011/1771) (the "2011 Regulations")".

The 2011 Regulations prescribe the circumstances in which Part 5 of the Equality Act 2010 (c. 15) applies to seafarers working on United Kingdom ships and hovercraft (regulations 3(1) and 4 of the 2011 Regulations), or on ships and hovercraft from other EEA States (regulation 3(2) and (3) of the 2011 Regulations). The instrument amends the phrase "EEA State other than the UK" throughout regulations 3 and 4 of the 2011 Regulations by removing the words "other than the UK". The effect of these changes is to ensure that the provisions continue to operate in the same way after exit.

4.2 Regulation 5 of the 2011 Regulations specifies that it remains lawful for employers to offer to pay a seafarer (A) at a lower rate than a seafarer (B) if A applied or was recruited outside Great Britain and A is not a British Citizen, a national of another EEA State or a national of a designated state. The purpose of this provision is to ensure the continued competitiveness of the UK shipping industry by allowing employers to pay different rates of pay to seafarers from countries that are not within the EEA and are not designated states. The instrument substitutes "another" for "an" in the phrase "another EEA State" to ensure that the provision continues to operate in the same way after exit". The Parliamentary Under Secretary of State with responsibility for maritime policy at the Department for Transport, Nusrat Ghani MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

"In relation to the draft instrument, I, Nusrat Ghani MP, have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.".

5. Explanations

5.1 The explanations statement has been made in section 2 of the main body of this explanatory memorandum.