EXPLANATORY MEMORANDUM TO

THE MERCHANT SHIPPING (SAFETY MEASURES FOR SHIPS CARRYING INDUSTRIAL PERSONNEL AND SPECIAL PERSONNEL) REGULATIONS 2025

2025 No. 1298

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

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

3. Contact

3.1 Jeffrey Botchway at the Maritime and Coastguard Agency can be contacted by email at the following address with any queries regarding the instrument: vesselstandards@mcga.gov.uk. Alternatively, the Agency can be contacted by telephone: 0203 817 2000.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Merchant Shipping (Safety Measures for Ships Carrying Industrial Personnel and Special Personnel) Regulations 2025 implement the new Chapter XV in the Annex to the International Convention for the Safety of Life at Sea, 1974 ("SOLAS" or "the Convention") relating to safety measures for cargo ships and high-speed cargo craft which transport persons who are engaged in offshore industrial activities and who are known as "industrial personnel". The United Kingdom is a party to the Convention. These new internationally agreed requirements regulate ships carrying personnel for the purpose of the expanding offshore sector, in particular wind farm industries. Concurrently, the Regulations implement two technical Codes developed in the IMO for the purpose of regulating ships which carry persons on board engaged with the special purpose of the ship; in many cases these ships include ships supporting the offshore sector such as cable laying ships. The international requirements came into force on 1st July 2024 and the Department acknowledges, with regret, that the implementation of the requirements is approximately 18 months late; further information on mitigating measures taken during this period is provided below.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) 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 all United Kingdom ships, whether in United Kingdom waters or anywhere else in the world. It also applies to non-United Kingdom ships while in United Kingdom waters.

5. Policy Context

What is being done and why?

5.1 The new requirements to address the carriage of industrial personnel were agreed by the parties to SOLAS and are contained in Chapter XV. As a party to the Convention, the United Kingdom is obliged to implement the Convention requirements into United Kingdom law.

5.2 The Convention allows a cargo ship, including high speed cargo craft, to carry up to 12 passengers before it must comply with passenger ship standards, and this principle is followed in UK merchant shipping legislation. The Convention defines a passenger as *"every person other than the master and members of the crew or other persons employed or engaged in any capacity on board a ship on the business of that ship"*. A ship carrying more than 12 passengers is, therefore, by definition, a passenger ship and is subject to enhanced constructional and operational requirements to ensure the safety of the passengers. However, even though they are of a higher standard, passenger ship requirements do not address the particular dangers associated with the transfer of persons at sea onto offshore installations.

5.3 The new industrial personnel requirements came into force on 1st July 2024, which is approximately 18 months earlier than the date this instrument comes into force. During this interim period, mitigating measures have been in place where exemptions from passenger ship requirements have been granted, so that relevant vessels are subject to safety conditions providing an equivalent level of safety appropriate to the persons on board. Further information is given in paragraph 5.12. As to the delay, significant work took place before the international in force date in order to be able to develop a policy that reflected the international objectives, but which could be moulded to the domestic area of operation. Informal discussions with stakeholders revealed that there was a need to find a balance between the existing arrangements and the new international requirements, which resulted in a longer than usual policy development period, and which impacted on the drafting and checking of the instrument. The formal consultation process also took longer than usual as the responses contained a significant number of comments that required careful consideration. Further information on the consultation is contained in section 7.

The IP Code

5.4 The new requirements include a technical Code – the International Code of Safety for Ships Carrying Industrial Personnel ("the IP Code") - which contains mandatory requirements for ships and ship operators carrying industrial personnel. The requirements apply to conventional cargo ships and high speed cargo craft of 500 gross tonnage or more engaged on international voyages. The IP Code provides a standard which supplements existing requirements in the Convention in order to enhance safety for industrial personnel on vessels operating in the offshore sector.

5.5 The preamble to the IP Code encourages governments to extend the IP Code to ships operating solely domestically and to ships under 500 gross tonnage. With regard to the former recommendation, this is because almost all offshore activities take place within territorial waters, or outside territorial waters but operating in and out of the same

port; as such these voyages do not involve international voyages and do therefore do not fall within the scope of the Convention. The United Kingdom supports this approach and these Regulations extend the application of the IP Code to all vessels of all sizes carrying industrial personnel, whether operating domestically or internationally.

The SPS Codes

5.6 Separately, the Regulations implement the IMO Code of Safety for Special Purpose Ships 1983 ("the SPS Code 1983"), which is applicable to ships constructed before 1st July 2009, and the Code of Safety for Special Purpose Ships 2008 ("the SPS Code 2008"), which is applicable to ships constructed on or after 1st July 2009. Both Codes have been updated several times. The two SPS Codes supplement the requirements of the Convention where a ship is operating as a special purpose ship. Under the SPS Codes, a special purpose ship is a non-passenger ship which carries a total of more than 12 persons in addition to the crew; that number will include special personnel but may also include passengers. However, if a special purpose ship carries any industrial personnel at all, it will instead be subject to the IP Code.

What are industrial personnel and special personnel?

5.7 Industrial personnel and special personnel are essentially similar, in that they are both on board the ship with the objective of carrying out what might broadly be described as "industrial activities", rather than being part of the navigating crew or providing other services for those on board. They are also not being carried as passengers for transport or pleasure. The fundamental difference between them is that special personnel work <u>on</u> the ship on which they are stationed in connection with the special purpose of that ship, and industrial personnel work <u>off</u> the ship on which they have been transported or accommodated (such as working on a windfarm). Special personnel may include persons such as scientists involved in research, expeditionaries, persons engaged in training to develop seafarer skills, salvage personnel, cable-laying personnel and diving personnel.

5.8 Historically, the United Kingdom has considered all the persons described in paragraph 5.7 to be "special personnel" and part of the crew. This was on the basis that there is often a close working relationship between special personnel and the actual crew, and because they can have a more crew-like role in emergency situations. However, with the growth of the windfarm sector, and the transportation of personnel out to the windfarms for construction and maintenance purposes, the status of these persons on board ships has been brought into question.

5.9 Industrial personnel are more likely to work less closely than special personnel with the crew, with their status on board being more akin to passengers, with no or only limited involvement in managing an emergency situation on the ship. However, because neither special personnel nor industrial personnel are on board to provide either navigation or hospitality services for those on board, carrying these personnel as crew is no longer considered tenable.

Summary of the policy

5.10 The policy, therefore, is intended to impose mandatory requirements for the carriage of industrial personnel <u>and</u> special personnel to ensure a level playing field. Vessels operating in the offshore sector can potentially carry either type of personnel (as defined), depending on the nature of the relevant contract, but in both cases there is now a mandatory regulatory framework.

5.11 High speed cargo craft of under 500 gross tonnage carrying industrial personnel and operating solely domestically continue to have the option of complying with the Merchant Shipping (High Speed Offshore Service Craft) Regulations 2022 (S.I. 2022/41) ("the HSOSC Regulations"), which is specifically designed for smaller high speed craft operating in and out of United Kingdom ports, and amendments are made by these Regulations to the HSOSC Regulations in order to ensure that operators can elect to be certified for the purposes of either regulatory regime.

What was the previous policy, how is this different?

5.12 In order to be able to implement a policy allowing cargo ships to carry more than 12 persons on board for the specific purpose of offshore activities, the previous approach was to grant exemptions from passenger ship requirements. The exemptions were granted subject to safety conditions to ensure an equivalent level of safety with the passenger ship requirements that would otherwise apply, including training and transfer arrangements for industrial personnel or special personnel on board. The effect of this was to enable the ship to carry more than the maximum of 12 passengers which cargo ships are otherwise permitted to carry. There was no suitable alternative regulatory regime for high speed cargo craft of 500 gross tonnage or more, but the HSOSC Regulations made provision for high speed cargo craft under 500 gross tonnage to be able to carry additional persons where the area of operation was domestic only.

Grandfathering

5.13 The instrument also provides for grandfathering with respect to certain construction requirements for cargo ships and high speed cargo craft constructed before 1st July 2024 and which carry industrial personnel; this is permitted where such ship was authorised before 1st July 2024 to operate in accordance with the SPS Code 2008, or, in the case of high speed cargo craft, another standard providing an equivalent level of safety to the SPS Code 2008. This implements the grandfathering arrangements permitted by Chapter XV.

5.14 The United Kingdom provided a general grandfathering authorisation for both United Kingdom cargo ships and non-United Kingdom cargo ships *operating in and out of United Kingdom ports* to carry industrial personnel where there was compliance with the SPS Code 2008; this was contained in Marine Guidance Note 674 (M) (which has been replaced by Marine Guidance Note 701 (M)). In order to ensure that operators operating *internationally* could benefit from grandfathering if they wished to do so, the United Kingdom informed operators by email in April 2024 of the grandfathering arrangements permitted by Chapter XV and also issued Marine Information Notice 708 (M). However, no operator made a specific request for such authorisation; it is understood that this is because there are no relevant UK operators operating internationally.

5.15 The requirements relating to life-saving appliances and arrangements and dangerous goods, as well as the training and safe transfer requirements, in the IP Code are not subject to grandfathering. However, the instrument provides for a phasing in period for these requirements by reference to future survey dates (other than the requirement to have lighting capable of being supplied by an emergency source), although in some cases the requirements may apply when the instrument comes into force because the relevant survey dates may have passed.

5.16 The SPS Codes are not suitable for high speed cargo craft, so it is expected that most high speed cargo craft will comply with the IP Code in full. However, grandfathering

provision is included in the instrument for high speed cargo craft which can demonstrate compliance with a standard equivalent to the SPS Code 2008 and which were authorised in accordance with that standard before 1st July 2024.

5.17 For ships which cannot benefit from grandfathering, or for ships constructed on or after 1st July 2024, the Regulations contain provision for equivalences. The SPS Code 2008 has always been considered by the United Kingdom to provide construction and equipment equivalence for ships carrying more than 12 persons working as either industrial personnel or special personnel on ships which would otherwise be subject to passenger ship requirements; this equivalence has been accepted by the IMO. However, the United Kingdom does not consider the SPS Code 1983 to be a standard equivalent to the SPS Code 2008 and will not permit any ship operating in accordance with the SPS Code 1983 to carry industrial personnel. As such, the instrument does not specify that a standard other than the SPS Code 2008 is available to cargo ships for grandfathering purposes, but the United Kingdom will nevertheless consider appropriate proposals for equivalences.

5.18 The policy objective is for special purpose ships which do not also carry industrial personnel to comply with the SPS Code 2008, but a ship which was operating under the SPS Code 1983 before 1st July 2024 and which had been (before that date) provided with documentary evidence of such compliance (whether by the United Kingdom or by another State) can continue to comply with the SPS Code 1983. Any other special purpose ship must comply with the SPS Code 2008. There are only a handful of special purpose ships flying the United Kingdom flag which qualify for this grandfathering.

Options for smaller operators

5.19 The instrument also amends the HSOSC Regulations to allow operators of smaller, domestically operated, high speed cargo craft carrying industrial personnel to be able to choose whether to comply with the domestic standard in the HSOSC Regulations or the international standard implemented by this instrument. In other words, such high speed craft have the option of complying with either the HSOSC Regulations **or** the Merchant Shipping (High Speed Craft) Regulations 2022 (S.I. 2022/1219) ("the High Speed Craft Regulations") and these Regulations. This is helpful to operators as it provides the flexibility to be able to operate in another jurisdiction with internationally recognised certificates.

6. Legislative and Legal Context

How has the law changed?

6.1 These Regulations make new provision for the carriage of industrial personnel and special personnel. A regulatory regime for high speed cargo craft under 500 gross tonnage carrying industrial personnel and operating domestically has been in place since 2022 (under the HSOSC Regulations) and since 2023 for small cargo ships (under 24 metres in length) operating domestically under the Merchant Shipping (Small Workboats and Pilot Boats) Regulations 2023 (S.I. 2023/1216) ("the Workboat Regulations")[1]. Otherwise, in relation to larger vessels, exemptions were granted under the Merchant Shipping (Survey and Certification) Regulations 2015 (S.I. 2015/508) ("the 2015 Regulations") to allow cargo ships which complied with the requirements of the SPS Codes to be able to carry more than 12 persons who were not

[1] These Regulations make a number of amendments to S.I. 2023/1216 to clarify the application of the 2023 Regulations to small cargo ships carrying industrial personnel.

engaged in the functioning of the ship in addition to the crew. As such, a ship would be issued with a SOLAS cargo ship construction certificate, accompanied by a statement of compliance with the applicable SPS Code.

6.2 Express provision for the survey and certification of ships carrying industrial personnel and/or special personnel (where neither the HSOSC Regulations nor the Workboats Regulations is applicable) is contained in the 2015 Regulations (by way of amendments to those Regulations) to reflect what is required by the IP Code and the relevant SPS Code.

Ambulatory reference

6.3 These Regulations include an ambulatory reference provision (in regulation 5) to ensure that future amendments to provisions of the IP Code cross-referenced in the Regulations are automatically incorporated into United Kingdom law. References to the IP Code are made in regulations 7, 8, 9 and 10. Cross-references are also made to definitions in other chapters in the Annex to SOLAS and these references are made ambulatory too. Finally, regulation 6 contains provision that an exemption given to a ship engaging on international voyages must be compatible with Chapter XV, where applicable, so this reference is also made ambulatory.

6.4 Ambulatory references in secondary legislation made under the Merchant Shipping Act 1995 are an established mechanism for implementing amendments to the international instruments referenced in the legislation and such references have been made regularly in merchant shipping legislation since 2016; the authority to make such references is contained in section 306A of the Act. The United Kingdom is able to scrutinise and, if necessary, object to, any proposed changes to the international requirements in an international arena (that is, in the IMO), and to assess the impact of the changes well before any amendment is due to come into force; this informs government decision making. United Kingdom industry and workers' representatives will also be involved at the stage at which the United Kingdom negotiating strategy is being formulated and will be able to influence it. If the United Kingdom objects to an amendment that is due to come into force internationally, then the Secretary of State would be able to make amending secondary legislation to prevent that amendment from becoming incorporated into domestic law as a result of the ambulatory reference provision in these Regulations.

6.5 An amendment that is accepted by the United Kingdom will be publicised in advance of its in-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) of Spring Place, 105 Commercial Road, Southampton, SO15 1EG, and on the relevant page on gov.uk[2].

6.6 Once an amendment comes into force by way of ambulatory reference, it can be obtained in hard copy from the IMO of 4 Albert Embankment, London SE1 7SR (email: mkc@imo.org), or found on the IMO's Index of Resolutions[3]. The IMO publish convention amendments following adoption by the relevant IMO Committee, so they will generally be available online ahead of the international acceptance and in-force dates. The relevant amendment will also be available on the Foreign, Commonwealth and Development Office online treaties database once the amendment is in force internationally[4]. Until such publication is made on the treaties database, an

[2] https://www.gov.uk/government/collections/marine-guidance-notices-mgns
[3] https://www.imo.org/en/KnowledgeCentre/IndexofIMOResolutions/Pages/Default.aspx
[4] https://treaties.fcdo.gov.uk/responsive/app/consolidatedSearch/

amendment will be available from the MCA of Spring Place, 105 Commercial Road, Southampton SO15 1EG[5] (email: vesselstandards@mcga.gov.uk)

Sanctions

6.7 The Regulations contain provision for criminal offences in regulation 13, and there is also relevant provision in regulation 26 of the 2015 Regulations (as a result of amendments made to the 2015 Regulations in this instrument). As United Kingdom merchant ships are required to be surveyed under the 2015 Regulations for the purposes of issuing an Industrial Personnel Safety Certificate or a Special Purpose Ship Safety Certificate, compliance with these Regulations is checked at the time of survey. A ship may also be detained under regulation 14 where it does not comply with the Regulations (and under regulation 27 of the 2015 Regulations for contraventions relating to survey and certification requirements).

6.8 These sanctions are applicable in respect of both United Kingdom ships and non-United Kingdom ships visiting United Kingdom ports. The MCA is the relevant prosecuting authority, acting on behalf of the Secretary of State; it has the power to investigate potential offences and, where necessary, bring prosecutions.

Why was this approach taken to change the law?

6.9 This is the only possible approach to make the necessary changes. To ensure that the international requirements are enforceable against United Kingdom ships and also non-United Kingdom ships when they are in United Kingdom waters, legislation is the only option. Making these Regulations also provides a means of extending the international requirements to domestic voyages, with grandfathering provision, and of implementing the policy of making the SPS Code 2008 mandatory, with grandfathering for the SPS Code 1983.

7. Consultation

Summary of consultation outcome and methodology

7.1 Informal consultation was undertaken with a number of stakeholders, which provided an opportunity to influence the direction that the policy has taken. The Department subsequently conducted an eight-week public consultation that ran from 6th December 2024 to 17th February 2025. Industry stakeholders, including the Devolved Administrations of Scotland, Wales and Northern Ireland, Red Ensign Group Registries, Trade Unions, operators of cargo ships and high speed cargo craft, Class Associations and others were notified of the consultation and invited to respond by a letter sent by email. The consultation was also publicised on the Maritime and Coastguard Agency's social media channels, and a press release was issued.

7.2 A total of nine responses were received, containing a significant number of comments. Some respondents were concerned that older foreign flagged vessels operating in United Kingdom waters, that are not compliant with United Kingdom regulations, would no longer be able to carry industrial personnel. The consultation response explained that this is the case where the vessel has been operating in accordance with the SPS Code 1983, but any vessel that was operating in accordance with the SPS Code 2008 before 1st July 2024 would, ostensibly, qualify for grandfathering. The consultation response was clear that applications for equivalences were also welcome. The United Kingdom regulatory approach to implementation of the IMO requirements protects United Kingdom vessels and is in line with the implementation adopted by

[5] https://www.gov.uk/government/organisations/maritime-and-coastguard-agency

North Sea neighbouring States. Additionally, some comments were received in relation to making the SPS Code 2008 mandatory, with concerns that this requirement may result in costs to foreign flagged older vessels in achieving compliance. The United Kingdom's response to this is that there is a level-playing field for all vessels operating in the United Kingdom offshore sector and all vessels, regardless of flag, will be expected to comply with the same regulations when operating in United Kingdom waters.

7.3 The consultation and the consultation report can be found at Consultation on the Merchant Shipping (safety measures for ships carrying industrial personnel and special personnel) regulations 2025 - GOV.UK[6]. A hard copy can be obtained from the Maritime and Coastguard Agency, Spring Place, 105 Commercial Road, Southampton SO15 1EG; telephone 020 3817 2000 and email vessestandards@mcga.gov.uk.

8. Applicable Guidance

8.1 The following Marine Guidance Note has been published on GOV.UK: Marine Guidance Note (MGN) 701 (M): Application of the Industrial Personnel Code and the Special Purpose Ships Code[7]. Merchant Shipping Notice (MSN) 1919 (M) Code of Safety for Special Purpose Ships, 2008 and MSN 1920 (M) – Code of Safety for Special Purpose Ships, 1983 respectively contain the text of the SPS Code 1983 and the SPS Code 2008. The guidance and the two Merchant Shipping Notices are available on GOV.UK[8] and in hard copy from the Maritime and Coastguard Agency.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because the direct impacts on business have been assessed at under £10m per year. Instead, a light touch internal analysis has been conducted (de minimis assessment) and this has found that the impacts and potential compliance costs arising from this instrument are low. The de minimis assessment will be published with these Regulations.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because costs arising from this safety instrument, such as familiarisation and training costs, have been assessed as low given the number of vessels that it is likely to impact, and have been weighed against benefits, such as the likelihood of fewer inspections in the ports of other States.

9.3 The legislation does impact small or micro businesses.

9.4 To minimise the impact of the requirements on small or micro businesses (employing up to 50 people), the approach taken was to analyse the companies owning United Kingdom registered ships in order to determine any impact. It is estimated that around 3% of ships on the United Kingdom Shipping Register are owned by companies which may employ fewer than 50 people. The vast majority of companies owning United Kingdom registered ships are large multinational, or subsidiaries of

[6] https://www.gov.uk/government/consultations/consultation-on-the-merchant-shipping-safety-measures-for-ships-carrying-industrial-personnel-and-special-personnel-regulations-2025
[7] https://www.gov.uk/government/collections/marine-guidance-notices-mgns
[8] www.gov.uk/government/collections/ships-and-cargoes-guidance-and-bulletins

multinational companies, and would therefore fall outside the scope of the small firms' impact test. In the interests of safety, it is not possible to justify different requirements for smaller businesses just because a company has fewer employees. The benefits of lives potentially saved, greatly outweigh the impact, even in relation to smaller operators. All operators are expected to comply with the same standards and, therefore, there will be no disproportionate impact on one smaller business relative to another.

9.5 There is no, or no significant, impact on the public sector because the Regulations do not introduce an additional burden cost to the taxpayer or public sector workflows. The familiarisation and training costs for MCA surveyors have been assessed as low.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is to conduct periodic assessments and stakeholder engagement.

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, Keir Mather MP, Parliamentary Under Secretary of State at the Department for Transport, Minister for Aviation, Maritime and Decarbonisation, has made the following statement:

"There is not expected to be a significant annualised net impact on business (greater than +/- £10 million net annualised) and in my view there are no other factors that would make it particularly desirable to include a review provision."

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

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").