**EXPLANATORY MEMORANDUM TO**

**THE MERCHANT SHIPPING (SAFETY OF NAVIGATION) (AMENDMENT) REGULATIONS 2025**

**2025 No. 134**

## 1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Transport ("the Department") and is laid before Parliament by Command of His Majesty.

## 2. Declaration

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

2.2 Fraser Heasley, Director (Acting) for the UK Technical Maritime Services at the Maritime and Coastguard Agency, confirms that this Explanatory Memorandum meets the required standard.

## 3. Contact

3.1 Simon Ricketts, Navigation Technology Lead at the Maritime and Coastguard Agency, Telephone: 07973 819743 or email: simon.ricketts@mcga.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 These Regulations amend the Merchant Shipping (Safety of Navigation) Regulations 2020 (S.I. 2020/673) ("the 2020 Regulations") to implement requirements in Chapter V of the Annex to the International Convention for the Safety of Life at Sea, 1974 ("the Convention") which relate specifically to the safety of navigation requirements for certain categories of ships operating in United Kingdom internal waters. The United Kingdom is a party to the Convention.

***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 within United Kingdom waters or anywhere else in the world.

## 5. Policy Context

***What is being done and why?***

5.1 In 2020, the Department completed a comprehensive review of the implementation of Chapter V of the Annex to the Convention (which relates to the safety of navigation) in the United Kingdom. Consequently, the Merchant Shipping (Safety of Navigation)

Regulations 2002 ("the 2002 Regulations"), which had previously implemented Chapter V, were revoked by, and replaced with, the 2020 Regulations, bringing the implementation of the requirements of Chapter V up-to-date in United Kingdom law.

5.2 Chapter V has a wide application, but parties to the Convention have discretion to allow a number of exceptions to the requirements. As such, the 2020 Regulations do not apply to all ships and include a number of provisions which disapply their requirements to certain ships where requirements in other instruments apply instead; ships which are taken out of scope of the 2020 Regulations include ships to which the Merchant Shipping (Passenger Ships) (Safety Code for UK Categorised Waters) Regulations 2010 (S.I. 2010/680) ("the 2010 Regulations") apply. The other application exceptions in the 2020 Regulations relate to:

- high speed craft to which the Merchant Shipping (High Speed Craft) Regulations 2022 (S.I. 2022/1219) apply (because those Regulations contain safety of navigation requirements that comply with Chapter V);
- fishing vessels;
- pleasure vessels below 150 gross tonnage;
- ships that are not sea-going (i.e. ships only operating within United Kingdom categorised waters)

5.3 Although these exceptions are permitted by Chapter V, the Department has been alerted to concerns that the updated implementation of Chapter V in the 2020 Regulations resulted in a gap in the application of certain requirements of Chapter V to some domestic passenger vessels built prior to 6 April 2010 and reversing the position which existed under the 2002 Regulations. Specifically, the concern was that older Class IV ships which are not required to comply with the 2010 Regulations, or the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 (S.I. 2000/2687) (which also contain safety of navigation provisions), are similarly not required to comply with most of the requirements of regulation 19 of Chapter V (which relates to the carriage of shipborne navigational systems and equipment).

5.4 Class IV ships are passenger ships which can range in size from below 250 gross tonnage up to 6000 gross tonnage, and operate in the extreme limits of United Kingdom internal waters (which are described as "categorised waters"), such as the Solent or the waters around the north and west coast of Scotland. Whilst Class IV ships, which were certified on or after 6th April 2010, (subject to some exceptions) are required to comply with the navigation requirements in the 2010 Regulations, ships certified prior to this date are not. Therefore, the new provision in the 2020 Regulations inadvertently removed this small subset of domestic passenger ships from any legislative requirement to comply with the basic standards of safety of navigation, such as carriage of navigation equipment, testing of steering equipment or passage planning (the systematic process of assessing a safe route).

5.5 These Regulations, therefore, amend the 2020 Regulations to again apply, from the date they come into force, the requirements of regulation 19 of Chapter V to Class IV domestic passenger ships certified prior to 2010 that were previously applicable to such ships under the 2002 Regulations.

5.6 Given that these Regulations are designed to reinstate, from the date they come into force, the position which existed before the 2002 Regulations were revoked and replaced in 2020, and given that the ships in scope of the reinstated requirements (approximately 33 vessels) were built to comply with the previous requirements and

are continuing to operate in accordance with those previous requirements, no additional burden is expected on operators.

5.7 These Regulations maintain the position that the requirement in regulation 19 of Chapter V for an automatic identification system does not apply to Class IV ships. This is because automatic identification systems are not required for domestic tonnage and aligns with previous impact assessments when assessing the use of such systems for domestic tonnage prior to the 2020 Regulations.

5.8 The 2020 Regulations also excepted ships which are not sea-going from the requirements of regulations 24 to 27 of Chapter V (relating to heading and track control systems, steering gear and nautical charts and publications). This only reflected the position in the 2002 Regulations insofar as those Regulations excepted such ships from the requirements of regulations 24 to 26, and the 2020 Regulations therefore inadvertently excluded all ships which are not seagoing (including Class IV ships) from the requirements of regulation 27 of Chapter V. These Regulations therefore restore the application of those requirements to Class IV ships, as was the case under the 2002 Regulations. Regulation 27 is deemed safety critical and therefore the proposed amendment in these Regulations ensures that the requirements of regulation 27 will once again apply to Class IV ships.

***What was the previous policy, how is this different?***

5.9 The 2002 Regulations applied a number of the basic safety navigation requirements in Chapter V to Class IV passenger ships. The 2020 Regulations inadvertently disapplied some of those requirements to older Class IV ships (i.e. those certified before April 2010) due to a possible misinterpretation of the application of the 2010 Regulations.

5.10 These Regulations have therefore reversed the effect of that provision in the 2020 Regulations and apply from the date these Regulations come into force the position as it existed up to 2020.

## 6. Legislative and Legal Context

***How has the law changed?***

6.1 The 2020 Regulations implemented the up-to-date version of Chapter V of the Annex to the Convention and include ambulatory provision to give effect domestically to subsequent changes to Chapter V. Regulation 5 of the 2020 Regulations prescribes the requirements of Chapter V which apply to ships within the scope of those Regulations and makes provision exercising the right of Contracting States (in this case, the United Kingdom) to derogate from certain requirements of Chapter V.

6.2 The 2020 Regulations apply the requirements in regulation 19 of Chapter V (which prescribes the carriage requirements for shipborne navigational systems and equipment) to ships, but provide for exceptions from regulation 19 for specified categories of ships. The 2020 Regulations excepted all ships which are not sea-going from all the requirements of regulation 19, save for certain specified requirements in regulation 19.2.1 (relating to navigational equipment and arrangements). The 2020 Regulations also excepted pleasure vessels below 150 gross tons engaged on any voyage, and all ships which are not sea-going, from the requirements of regulations 24 to 27 of Chapter V (which set out the requirements relating to use of heading and/or track control systems, operation of steering gear, steering gear testing and drills and nautical charts and nautical publications).

6.3 These Regulations amend the 2020 Regulations so that regulation 19 of Chapter V does not apply to non-passenger ships which do not operate outside United Kingdom internal waters, or to Class V ships (which are passenger ships operating in all but Category D waters, the most challenging area of United Kingdom internal waters), subject to an exception for navigational equipment and arrangements. These Regulations also amend the 2020 Regulations to ensure that the requirement in regulation 19 of Chapter V for an automatic identification system does not apply to Class IV ships (other ships which are not seagoing are excepted from this requirement as a result of the primary amendment described above). These Regulations therefore have the effect of applying most of the requirements in regulation 19 of Chapter V to Class IV ships.

6.4 Moreover, these Regulations amend the 2020 Regulations to limit the disapplication of regulations 24 to 26 of Chapter V (relating to heading and track control systems, and steering gear) to pleasure vessels below 150 gross tons engaged on any voyage and ships which are not sea-going, so that only regulation 27 of Chapter V (relating to nautical charts and publications) does not apply to pleasure vessels below 150 gross tons engaged on any voyage, other non-passenger ships which only operate in United Kingdom internal waters, or Class V passenger ships. The effect of these amendments is that the range of ships which are not sea-going to which regulation 27 of Chapter V applies has been narrowed to Class IV passenger ships.

6.5 Although these Regulations do not make any changes to the offences provision in the 2020 Regulations, the amendments described in paragraphs 6.3 and 6.4 do have the effect of extending the scope of the existing offences in regulations 9(1)(c) and (3) and 11(1)(d) of the 2020 Regulations to Class IV ships. Finally, these Regulations make consequential amendments to the Merchant Shipping (Fees) Regulations 2018.

***Why was this approach taken to change the law?***

6.6 This is the only possible approach to make the necessary changes to ensure that the revisions to these important safety requirements under Chapter V can be enforced effectively.

6.7 The 2020 Regulations include an ambulatory reference provision (in regulation 4) to ensure that future amendments to provisions of Chapter V referenced in the 2020 Regulations are automatically incorporated into United Kingdom law. As such, the international references in regulation 5 of the 2020 Regulations are ambulatory and United Kingdom law will automatically update if amendments are made to those referenced provisions. The amended references made by this instrument are therefore also ambulatory. Moreover, the ambulatory reference provision extends the scope of the offences prescribed in regulations 9 to 11 of the 2020 Regulations insofar as those offences relate to any requirements updated by that ambulatory reference provision.

6.8 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 United Kingdom is able to scrutinise and, if necessary, object to, any proposed changes in an international arena (that is, in the International Maritime Organization (IMO)), and to assess the impact of the changes well before any amendment is due to come into force. This will inform 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

will make amending secondary legislation to prevent that amendment from becoming incorporated into domestic law as a result of the ambulatory reference provision in the 2020 Regulations.

6.9 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) from Spring Place, 105 Commercial Road, Southampton, SO15 1EG, and on the relevant page on gov.uk[1].

6.10 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 Foreign, Commonwealth and Development Office online treaties database[2]. Until such publication is made on the treaties database, an amendment will be available from the MCA of Spring Place, 105 Commercial Road, Southampton SO15 1EG[3] (email: infoline@mcga.gov.uk).

## 7. Consultation

***Summary of consultation outcome and methodology***

7.1 The provision in these Regulations is narrow in scope and applies only to a limited number of Class IV ships (approximately 33).

7.2 The Department therefore considers that a formal public consultation was not necessary and in its place carried out a targeted consultation with affected operators and the relevant domestic passenger ship safety group. One major operator of such relevant ships commented that the application of regulation 19 of Chapter V would introduce an additional navigation equipment burden in respect of their ships at a significant cost; in fact, there is no additional burden as the relevant ships have been built in accordance with the navigational equipment requirements of regulation 19 implemented in the 2002 Regulations, and which the 2020 Regulations simply restore. No other objections were raised, or negative impacts to the affected operators identified.

## 8. Applicable Guidance

8.1 Detailed guidance to industry, operators and seafarers on the application of the Merchant Shipping (Safety of Navigation) Regulations 2020 was published in Marine Guidance Note 610 (M+F). To reflect the changes made by these Regulations, Marine Guidance Note (MGN) 610 (M+F) has been updated as Marine Guidance Note (MGN) 610 (M+F) Amendment 1, and can be found on the relevant page on gov.uk[4].

# 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 provision made in these Regulations does not have any impact on affected operators.

[1] https://www.gov.uk/government/collections/marine-guidance-notices-mgns
[2] https://treaties.fcdo.gov.uk/responsive/app/consolidatedSearch/
[3] https://www.gov.uk/government/organisations/maritime-and-coastguard-agency
[4] https://www.gov.uk/government/collections/marine-guidance-notices-mgns

These Regulations reinstate requirements which previously applied to affected operators until 2020 and with which such operators have continued to comply to date.

***Impact on businesses, charities and voluntary bodies***

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because these Regulations affect only a specific, limited number of ships and in any event they do not change the requirements with which such ships have in fact continued to comply.

9.3 The proposed amendments are not expected to impact small or micro businesses. As noted above, the nature of the requirements being reinstated and the continued compliance with them imply that no monetizable costs or benefits are imposed on industry.

9.4 To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach taken is to analyse the companies owning United Kingdom registered ships in order to determine any impact. The vast majority of companies owning United Kingdom registered ships are large multinationals, or subsidiaries of such companies, and would therefore fall outside of the scope of the small firms' impact test. 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 requirements of Chapter V relate to safety measures for ships and, 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, even to smaller operators, greatly outweigh the impact. All operators are expected to comply with the same standards and, therefore, there will be no disproportionate impact upon one smaller business relative to another. However, it is understood that, in this case, the ship operators directly affected by the changes are not considered to be small or micro businesses.

9.5 There is no, or no significant, impact on the public sector because these Regulations do not introduce an additional cost burden to the taxpayer or public sector workflows. These Regulations make the powers to enforce the relevant Chapter V requirements in the 2020 Regulations again available in respect of the Class IV ships. This in theory could create more work for MCA surveyors who undertake such enforcement but this is not expected to increase workload as the ships are already subject to a range of enforceable requirements in other legislation.

## 10. Monitoring and review

***What is the approach to monitoring and reviewing this legislation?***

10.1 The approach to monitoring this legislation is to undertake a post-implementation review in accordance with the requirements in regulation 13 of the 2020 Regulations, which these Regulations amend. This review will be published.

10.2 The instrument does not include a statutory review clause because it amends the 2020 Regulations which already contain a statutory review clause.

## 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 resolution 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").