EXPLANATORY MEMORANDUM TO

THE MERCHANT SHIPPING (STANDARDS OF TRAINING, CERTIFICATION AND WATCHKEEPING) REGULATIONS 2015

2015 No. 782

1. This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations recast and consolidate three existing Regulations governing the training and certification of UK merchant seafarers and update the requirements in line with recent amendments to international and European legislation. The Regulations ensure safety of life at sea through recognised standards of training and certification for seafarers and maintain UK-seafarer training and certification which is compliant with the international standards so that UK- trained seafarers can continue to work in international waters after 1 January 2017.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) were agreed at the Manila Conference in June 2012. The associated amending EU Directive 2012/35/EU included two additional elements for European Member States.

4.2 A Transposition Note accompanies this Explanatory Memorandum.

5. Territorial Extent and Application

5.1 The Regulations apply to all of the United Kingdom.

5.2 The Regulations apply to:

- UK-trained seafarers; and
- All seafarers employed on UK merchant ships.

6. European Convention on Human Rights

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

7. Policy background

- What is being done and why

7.1 Seafarer training and certification is regulated internationally by the International Maritime Organization (IMO) through the STCW Convention. The purpose of STCW is to establish basic requirements for the training and certification of seafarers on an international level. Human error is recognised as the cause of a large percentage of maritime casualties and pollution incidents and STCW aims to help tackle this by setting out minimum standards of knowledge, experience and professional competence for seafarers. The UK is a member of the IMO and a signatory to STCW. The latest update to STCW is known as the 2010 Manila Amendments.

7.2 The amendments include:

- Strengthened provisions concerning training and assessment, the issue of certificates of competency (CoCs) and the prevention of fraudulent practices;
- Mandatory enforcement of the standards of 0.05% Blood Alcohol Content and 0.25mg/l alcohol in the breath for all seafarers on duty (which is to be implemented in the separate Shipping (Alcohol) (Prescribed Limit Amendment) Regulations);
- New requirements concerning certification for able seafarers, for electro-technical officers (ETOs) and security-related training for all seafarers;
- Updated training requirements for personnel on certain types of ships (i.e. tankers);
- Clarification and simplification of the definition of "certificate" to make sure that all signatory countries share an understanding of what a certificate is; and
- Five yearly refresher training for some courses which are currently undertaken once at the beginning of every seafarer's career.

7.3 The STCW Convention was first incorporated into European law by Directive 94/58/EC of 22 November 1994 on the minimum level of training for seafarers. This was later adapted by subsequent amendments of the STCW Convention to include a common mechanism for recognition of the systems of training and certification of seafarers in non-European countries; the Directive was subsequently recast as Directive 2008/106/EC.

7.4 Directive 2012/35/EU incorporates the latest changes to the STCW Convention and includes two additional elements:

- To change the time frame for the EU to recognise the training and certification from non EU countries for use on ships flagged to EU Member States from three months to 18 months; and
- A requirement for EU Member States to submit the individualised details of seafarers' certificates to the EU via a database developed by the European Maritime

Safety Agency (EMSA) in order to gather concise and up to date information about the seafaring profession in Member States.

7.5 Following the open consultation there has been no general press or public reaction because this is a maritime technical issue. The maritime technical press is supportive of the UK decision to implement the changes to seafarer training which have been widely reported since the IMO STCW Manila Conference in 2010. The UK Government supported these changes at the Manila Conference and the shipping industry expects that the UK Government will implement the amendments. The UK government financially supports seafarer training through the Support for Maritime Training (SMarT) scheme.

- Consolidation

7.6 In line with the Red Tape Challenge commitment, a review was undertaken of all the existing legislation in this area and all training and certification requirements have now been consolidated into this one statutory instrument.

- Scrutiny History

7.7 The proposal that resulted in Directive 2012/35/EU was the subject of Explanatory Memorandum (EM) 14256/11, submitted to Parliament by the Department for Transport on 13 October 2011. The House of Commons European Scrutiny Committee considered the EM on 26 October 2011. The Committee recommended that the document was politically important but did not clear it pending developments in negotiations (Report 44, Session 2010/2012, reference 33147). The House of Lords Select Committee referred the EM to Sub-Committee B at the 1443rd sift on 25 October 2011. The Chairman wrote to the Minister on 15 November 2011 holding the proposal under scrutiny.

7.8 Ministerial letters were sent to both Committees on 21 November 2011. The House of Commons Select Committee on European Legislation considered the letter on 7 December 2011. The Committee maintained its recommendation that the document was politically important, but cleared it (Report 48, Session 2010/2012). The Chairman of the House of Lords Select Committee on the European Union replied to the Minister on 7 December 2011 clearing the proposal from scrutiny

8. Consultation outcome

8.1 Following a six week consultation, all the replies received came direct from the shipping industry. The majority of replies requested clarification or minor amendments to the associated documents listed in section 9.1. Four comments requested insignificant changes to the SI and a further three gave rise to minor amendments to the costs identified in the impact assessment (see section 10). There were no comments opposing the introduction of the measures, with three expressing support for the introduction of these measures because they enable UK-trained seafarers to continue to have internationally recognised qualifications and affirming that this was an effective transposition of the international legislation.

8.2 The consultation period was six weeks rather than the full 12 weeks because of the degree of involvement of the industry in the development of STCW policy. In particular the work with the Merchant Navy Training Board (MNTB) on the development of training course syllabuses incorporating the new requirements to seafarer training. The MNTB is the shipping industry's central body for promoting and developing seafarer training and skills.

9. Guidance

9.1 The guidance is a new series of Merchant Shipping Notices which will replace the existing guidance notices and incorporate the Manila Amendments. These contain the technical information necessary for seafarers and shipping companies to explain what they need to do to comply with the changes to STCW and how to apply for the various Certificates. There are 13 Merchant Shipping Notices (MSNs) and two published Marine Guidance Notices (MGNs):

- "UK requirements for master and deck officers"
- "UK requirements for deck ratings"
- "UK requirements for radio operators"
- "UK requirements for engineer officers and engine operators"
- "UK requirements for engine room ratings"
- "UK requirements for electro-technical officers"
- "UK requirements for emergency, occupational safety, medical care survival and security functions"
- "UK requirements for specialised training for service in tankers and passenger ships"
- "UK requirements for recognition of non-UK certification"
- "UK requirements for Revalidation"
- "UK requirements for deck officers on large yachts (>24m)"
- "UK requirements for engineer officers on large yachts (>24m)"
- "UK requirements for Safe manning and Watchkeeping"
- MGN 495 "Certificate of Competency for Master and Officer of the Watch Tug less than 500GT and 3000GT near-coastal and Certificate of Proficiency for Tug Rating
- MGN 496 Certificate of Competency for Master Workboat 500GT unlimited"

9.2 The two published MGNs have been subject to previous consultation and are included to complete the series.

10. Impact

10.1 The impact on business, charities or voluntary bodies is estimated to be £7.4 million affecting seafarers and employers of seafarers within the shipping industry.

10.2 The impact on the public sector is negligible.

10.3 An Impact Assessment will be published alongside the Explanatory Memorandum on www.legislation.gov.uk.

11. Regulating small business

11.1 The legislation applies to small business. However, the majority of businesses affected by the Regulations are large and predominately multinational.

11.2 There are no measures to minimise the impact of the requirements on firms employing up to 20 people. It is not possible to exempt small companies from the changes to the regulations. In the interests of maritime safety we cannot make seafarer training requirements different because a company has fewer employees. The regulations will not disproportionately affect small businesses because the average cost of additional training per seafarer will be the same for both large and small employers.

11.3 The basis for the final decision on what action to take to assist small business is the importance of safety of life at sea. The changes to the regulations are concerned with the qualifications for the seafarers working on board ships, who must be appropriately qualified for the job they do regardless of the number of people employed by the company.

12. Monitoring & review

12.1 We have chosen a review date of 5 years from implementation of this policy. This allows time to monitor the effects of the policy change on UK seafarer training. It can take up to 4 years to qualify as a seafarer. The MCA will review and discuss the findings with stakeholders such as the MNTB.

12.2 The IMO intends to review the Manila amendments to STCW ten years from the date it came into force which was 1 January 2012. The MCA will take part in the IMO review and anticipates involvement in IMO workshops and international discussions.

13. Contact

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