EXPLANATORY MEMORANDUM TO

THE MERCHANT SHIPPING (VESSELS IN COMMERCIAL USE FOR SPORT OR PLEASURE) REGULATIONS 2025

2025 No. 1195

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.

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

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 for United Kingdom Technical Maritime Services, at the Maritime and Coastguard Agency confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Rob Taylor at the Code Vessels Branch of the Maritime and Coastguard Agency can be contacted by email at the following address with any queries regarding the instrument: codes@mcga.gov.uk. Alternatively, the department can be contacted by telephone: 020 390 85181.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 These Regulations revoke and replace the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998 (S.I. 1998/2771) to update and consolidate the requirements for vessels in commercial use for sport or pleasure and, in particular, introduce a unified regulatory framework for small vessels (less than 24 metres in length) to improve the safety of those vessels and their crew.

4.2 These Regulations also amend the Merchant Shipping (Watercraft) Order 2023 (S.I. 2023/35) to apply certain requirements to watercraft as they apply to small vessels and make consequential amendments arising from the revocation of the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998.

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England, Wales, Scotland and Northern Ireland.

4.4 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

seagoing vessels registered in the United Kingdom, whether within United Kingdom waters or anywhere else in the world.

5. Policy Context

What is being done and why?

5.1 Part IV of the Merchant Shipping Act 1995 ("the Act") makes provision for safety and health on vessels. Section 85 of the Act enables the Secretary of State to make regulations for securing the safety of United Kingdom vessels and persons on them for protecting the health of those persons. Section 85 also makes similar provision with regards to other vessels or persons on them while such vessels are within United Kingdom waters.

5.2 The Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998 ("the 1998 Regulations") were one of many regulations made under Part IV of the Act. The 1998 Regulations applied to large vessels (24 metres or more in length) and small vessels (less than 24 metres in length), imposing different requirements in respect of each of those two categories of vessel. The 1998 Regulations disapplied other maritime regulations covering matters such as vessel construction, fire protection or life-saving appliances to vessels within the scope of the 1998 Regulations provided those vessels complied with corresponding requirements in the Codes to which such vessels were subject.

5.3 The 1998 Regulations did not, however, provide a single, clear legal framework for the survey and certification of the vessels they covered. These Regulations retain the overall approach taken by the 1998 Regulations but set out a clearer framework for survey and certification processes and the application of technical standards. These Regulations continue to disapply other maritime regulations to vessels within their scope provided those vessels comply with corresponding requirements in the applicable Codes (Part A of the Red Ensign Group (REG) Yacht Code for large vessels and the Code of Practice for the Safety of Small Vessels in Commercial Use for Sport or Pleasure for small vessels). Moreover, these Regulations introduce requirements which implement recommendations from the Marine Accident Investigation Branch (MAIB)[1].

5.4 The Maritime and Coastguard Agency ("the MCA") took the view that the 1998 Regulations did not adequately provide for the basis on which the MCA enabled other Certifying Authorities to carry out survey and certification functions and made a commitment to industry stakeholders to clarify this framework.

What was the previous policy, how is this different?

5.5 The Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1993 (S.I. 1993/1072) ("the 1993 Regulations") were made in response to industry concerns that vessels primarily used by their owners for personal, non-commercial leisure purposes should be regulated differently from vessels used for pleasure as a part of a commercial operation. To distinguish between the two categories of use, the 1993 Regulations introduced and defined the term "pleasure vessel" and amended the then existing United Kingdom domestic regulations by substituting references in those regulations to "pleasure yacht" or "pleasure craft" with the then new term "pleasure vessel". This legislative change was intended to clearly distinguish a "pleasure vessel" from a vessel used commercially for sport or

[1] These are described in paragraph 5.12 below.

pleasure that did not meet the new definition of a" pleasure vessel", and which therefore became subject to the requirements set out in the 1993 Regulations.

5.6 The 1998 Regulations revoked and replaced the 1993 Regulations, updating the legal framework to reflect evolving maritime practices and safety concerns, enhance safety standards for vessels used commercially for sport or pleasure and give legal effect to the then Large and Small Commercial Vessel Codes of Practice.

5.7 The 1998 Regulations were amended in 2016 to update the list of maritime regulations that were disapplied to large commercial vessels which instead complied with the Code of Practice for Safety of Large Commercial Sailing and Motor Vessels (and its subsequent amendments, LY2, LY3 and REG Yacht Code), and to small commercial vessels which instead complied with The Safety of Small Commercial Sailing Vessels – A Code of Practice, The Safety of Small Commercial Motor Vessels – A Code of Practice or The Safety of Small Vessels in Commercial Use for Sport or Pleasure Operating from a Nominated Departure Point – A Code of Practice.

5.8 In response to further evolution in vessel design and construction, and technological advances in fuels used for propulsion, the MCA developed proposals which are given effect by these Regulations.

5.9 The MCA has determined that the growing number of vessels engaged in an increasingly diverse range of commercial activities has outpaced the framework set out in the 1998 Regulations, which no longer provide sufficient coverage or detail. These Regulations address these uncertainties by making provision which aligns and clarifies the survey, certification and inspection regime with that in other maritime legislation.

5.10 The aim of these Regulations, and the Small Vessels Sport or Pleasure Vessel Code which is given effect by them, is to bring greater clarity and legal certainty to the survey and certification process. They aim to establish updated, specific requirements for small commercial vessels involved in racing activities, race support operations, and beachcraft used for commercial purposes. Some beachcraft (e.g. jet skis) do not fall within the definition of ship in the Merchant Shipping Act 1995 but are regulated as watercraft under the Merchant Shipping (Watercraft) Order 2023. These Regulations therefore amend the Merchant Shipping (Watercraft) Order 2023 to apply relevant requirements under the Merchant Shipping Act 1995 to such watercraft as they apply to small vessels. These Regulations also aim to introduce clearer responsibilities for owners, operators, and Certifying Authorities, particularly concerning emergency examinations following an incident.

5.11 These Regulations continue to give legal effect to the REG Yacht Code as well as set out comprehensive requirements for the survey and certification of large vessels. They reflect the development of standards since the publication of the previous editions of the Large Yacht Codes.

5.12 These Regulations also address several key Marine Accident Investigation Branch ('MAIB') recommendations regarding improving safety standards for vessels in this sector. More detailed requirements for post-incident examinations and structural examinations of hull appendages, and requirements for sailing vessels engaged in racing activities relating to the 'Cheeki Rafiki' incident (MAIB Recommendations 2015/119 & 2015/120)[2] have been included, along with provisions that have been added specifically in response to the 'Seadogz' incident (MAIB Recommendations

[2] MAIB Accident Report into Cheeki Rafiki incident: https://assets.publishing.service.gov.uk/media/55408664e5274a157200005b/MAIBInvReport_8_2015.pdf

2023/121 & 2023/122)[3] aimed at increasing the protection of persons on board vessels operating at high speed.

5.13 These Regulations also make provision for vessels using alternative fuel sources and propulsion types that will keep the United Kingdom at the forefront of decarbonising the shipping industry.

6. Legislative and Legal Context

How has the law changed?

6.1 These Regulations revoke and replace the 1998 Regulations which previously contained the regulatory framework for vessels in commercial use for sport or pleasure. These Regulations consolidate and update the requirements for such vessels and apply, with certain limited exceptions (e.g. pleasure vessels used solely for private purposes), to United Kingdom vessels wherever they are in the world and to non-United Kingdom vessels when operating from United Kingdom ports in United Kingdom waters (regulation 4).

6.2 These Regulations also amend the Merchant Shipping (Watercraft) Order 2023 to apply certain requirements to watercraft (e.g. jet skis) as they apply to small vessels and make consequential amendments (Schedule 1) and revocations (Schedule 2) resulting from the revocation of the 1998 Regulations.

6.3 These Regulations make specific provision for large vessels (24 metres or more in length) and small vessels (less than 24 metres in length). Large vessels are subject to requirements in Part A of the Red Ensign Group Yacht Code ("REG Code"), whilst small vessels are subject to requirements in the Code of Practice for the Safety of Small Vessels in Commercial Use for Sport or Pleasure ("SCV Code"). These Regulations give effect to the mandatory requirements in both Codes and include provision for both the regulatory oversight of the safety and other standards contained in those Code (e.g. by virtue of detailed survey and certification requirements) and enforcement mechanisms for breaches of those requirements (e.g. by virtue of prescribed offences and powers to detain vessels). This new framework includes provision for on a case-by-case basis the granting of exemptions from requirements (regulation 5), the approval of equivalents (regulation 6) and the granting of approvals (regulation 7).

6.4 These Regulations, in giving effect to the REG Code and SCV Code, disapply in respect of large and small vessels respectively the requirements in a number of separate instruments relating to matters such as construction standards, life-saving appliances and navigation which would otherwise apply. This provision is made on the basis that the REG Code and SCV Code contain equivalent requirements.

Why was this approach taken to change the law?

6.5 This is the only possible approach to make the changes as the Department considers regulation is necessary to revoke existing, outdated legislation and replace it with a suite of legal powers and enforceable requirements to implement the changes described in paragraphs 5.1 to 5.13.

[3] MAIB Accident Report into Seadogz incident: https://assets.publishing.service.gov.uk/media/6579bc3d095987001295e008/2023-10-Seadogz-Report.pdf

7. Consultation

Summary of consultation outcome and methodology

7.1 The MCA engaged extensively with representatives from the sport or pleasure sector in the development of the revised SCV Code and have undertaken a thorough review of the draft Code and amended it to ensure it is fit for purpose. The MCA hosted over 10 formal technical working group meetings to review and revise the draft text of the SCV Code and also held additional meetings with stakeholders to discuss specific content or the effect of the proposed legislation on specific activities, for example, sailing vessels engaged in racing. Moreover, industry expertise has been utilised in the drafting process through targeted pre-consultation exercises.

7.2 The MCA also carried out a formal public consultation over a 12-week period (from 4 December 2024 until 25 February 2025), which resulted in a large number of comments. As a result of the volume of responses, the MCA held a further post-consultation stakeholder engagement meeting to discuss and seek further views.

7.3 Notification of the consultation was sent to 26 shipping and marine industry companies and maritime bodies, plus 21 Government departments. The consultation was published on GOV.UK enabling a wider public consultation.

7.4 The Devolved Administrations and Red Ensign Group (REG) were notified of the public consultation; however, no responses were received from them.

7.5 A total of 422 responses were received from: individuals, vessel owners/operators and their respective owners' associations, industry representatives, classification societies and Certifying Authorities, who provided over 2200 individual comments on the draft of the Regulations and the SCV Code. These have all been fully considered.

7.6 The majority of responses were in favour of the proposal to make the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) 2025 and welcomed the update to the regulatory framework this would bring. The volume of comments received were mainly focussed on elements of the technical detail set out in the SCV Code and how these would be implemented.

7.7 The MCA welcomed the feedback received from industry during the consultation period and has worked through each comment and made amendments to the draft SCV Code, where appropriate. This was shared with sector stakeholders before the publication of the consultation report who were supportive of the amendments that had been made.

7.8 The consultation and post consultation report have been published by the MCA[4].

8. Applicable Guidance

8.1 The SCV Code contains guidance about the changes introduced by these Regulations. The SCV Code is available online[5] or in hard copy from the Maritime and Coastguard Agency, Code Vessel Team, Spring Place, 105 Commercial Road, Southampton, SO15 1EG (please contact the MCA to arrange collection of a hard copy).

[4] https://www.gov.uk/government/consultations/consultation-on-the-merchant-shipping-vessels-in-commercial-use-for-sport-or-pleasure-regulations-2025

[5] www.gov.uk/government/collections/small-craft-codes-of-practice

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 cost to business is below the £10m threshold. However, a De Minimis Assessment has been completed. In addition, the SCV Code is uncontroversial, and many small vessels to which it applies were already fully or at least partially compliant before it took effect.

Impact on businesses, charities and voluntary bodies

9.2 The legislation does impact small or micro businesses, but this impact has been reduced wherever possible through retention of existing standards and requirements. Businesses operating existing vessels have a period of not less than three years to meet the new requirements in full, and in many areas, there are grandfathering provisions in place to ease the transition to the new SCV Code.

9.3 The risk of exempting small and micro businesses from these Regulations would outweigh and undermine the effectiveness and intent of the safety measures being introduced. The application of these Regulations will apply to all businesses irrespective of their size.

9.4 There is no, or no significant, impact on the public sector because familiarisation and training costs for surveyors has been assessed as low.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 Monitoring and review is not considered necessary, because there is not expected to be a significant impact on businesses, and there are many new provisions in the SCV Code, such as those for vessels using alternative fuel sources and propulsion types, where the MCA need to be reactive to changes and developments in technology and a fixed term review period does not adequately allow for this.

10.2 The instrument does not include a statutory review clause and Keir Mather MP, Parliamentary Under-Secretary of State at the Department for Transport 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 The Secondary Legislation Scrutiny Committee, in its 21st Report of Session 2017-19, included an exchange of correspondence between the Committee and the Department in relation to the implementation backlog of international maritime conventions. The Committee, in its 17th Report of Session 2019-21 and in its 11th Report of Session 2021-22, included further correspondence from the Department which described the steps it was taking to address the backlog. These Regulations are one of the statutory instruments identified in that correspondence which implement outstanding obligations to which the Department referred in that correspondence.

11.2 On 19th October 2021, Robert Courts MP appeared before the Committee to provide a further update on the backlog and to explain how it will be discharged by the Department. The Committee reported on the outcome in its 17th Report of Session 2021-22. Further correspondence from Robert Courts MP and Trudy Harrison MP, providing detail on the progress made to clear the backlog, was included in the Committee's 37th Report of Session 2021-22. On 5th December 2022 Baroness Vere wrote to the Committee providing an update on progress to clear the backlog. The letter was included in the Committee's 22nd Report of Session 2022-23. The Committee's 24th Report of Session 2022-23 records that the Regulations were considered during publication and that no recommendations were made.

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").