EXPLANATORY MEMORANDUM TO

THE MERCHANT SHIPPING (WEIGHING OF GOODS VEHICLES AND OTHER CARGO) (REVOCATIONS) REGULATIONS 2015

2015 No.629

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

These Regulations revoke three sets of regulations. They are being revoked as a deregulatory measure as part of the Red Tape Challenge.

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

None

4. Legislative Context

4.1 These Regulations revoke (in chronological order):

- The Merchant Shipping (Weighing of Goods Vehicles and other Cargo) Regulations 1988 (S.I. 1988/1275);
- The Merchant Shipping (Weighing of Goods Vehicles and other Cargo) (Amendment) Regulations 1989 (S.I. 1989/270); and
- The Merchant Shipping (Weighing of Goods Vehicles and other Cargo) (Application to non-UK Ships) Regulations 1989 (S.I. 1989/568).

4.2 These Regulations form part of the implementation of the Government's Red Tape Challenge initiative. More information about this programme of work, and the instruments revoked by these Regulations, is provided below.

5. Territorial Extent and Application

This instrument extends to the whole of the United Kingdom.

6. European Convention on Human Rights

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 In November 2011 the Government launched, as part of its Red Tape Challenge programme, the wholesale review of all the maritime statutory instruments. Following a rigorous process of challenge, stakeholder engagement and public consultation 63% of the instruments were identified as being suitable for either revocation or improvement.

7.2 *The Merchant Shipping (Weighing of Goods Vehicles and other Cargo) Regulations 1988* (the 1988 Regulations) have effect as if made under sections 85 and 86 of the Merchant Shipping Act 1995. These regulations require certain items of cargo to be weighed at the port at which the ship is to be loaded. The weighing machine must be certified, and operated in accordance with conditions laid down by an inspector of weights and measures. The shipper must also provide certain information to the owner or master of the ship in advance of loading. Failure to comply with these requirements is a criminal offence. These regulations were introduced following the sinking of the roll-on roll-off (Ro-Ro) ferry, the Herald of Free Enterprise, in 1987. The 1988 Regulations were amended by *The Merchant Shipping (Weighing of Goods Vehicles and other Cargo) (Amendment) Regulations 1989* to provide clarification in respect of certificates of weight and how the weight of certain trailers should be calculated. The *Merchant Shipping (Weighing of Goods Vehicles and other Cargo) (Application to non-UK Ships) Regulations 1989* extended the provisions of the 1988 Regulations to non-UK registered Ro-Ro ferries when at ports in the United Kingdom.

7.3 These three sets of regulations are being revoked because their requirements have been superseded by more modern regulations which include higher safety standards involving the construction of ships and requirements for shippers to provide information about cargo weights. The standards are found in the *Merchant Shipping (Passenger Ship Construction: Ships of Classes I, II and II(A)) Regulations 1998* (S.I. 1998/2514, as amended) and the *Merchant Shipping (Passenger Ship Construction: Ships of Classes III to VI(A)) Regulations 1998* (S.I. 1998/2515, as amended). This legislation regulates the construction of ships and introduced requirements about watertight subdivision (where the hull of the ship is divided into sections, each of which is watertight) and damage stability (where the ship does not capsize/sink when damage occurs). It also introduced more stringent requirements for operating watertight doors and requirements for ships to be subject to stability tests which must be assessed and reassessed throughout the loading of goods vehicles and cargo to ensure that the stability of a ship is not compromised. In addition, the *Merchant Shipping (Ro-Ro Passenger Ships) (Stability) Regulations 2004* (S.I. 2004/2884) address specific stability requirements for Ro-Ro passenger ships taking into account the effect of water accumulation on a vehicle deck after damage and extend the application of a regional agreement throughout Europe to ensure a common high standard of safety (Directive 2003/25/EC). Such requirements did not exist prior to 1990.

7.4 The requirement for shippers to provide Masters of ships with information about the weight of their cargoes is contained in the *Merchant Shipping (Carriage of Cargoes)*

Regulations 1999 (S.I. 1999/336). Given these provisions, together with the higher standards of construction described above, it is considered that requiring cargo additionally to be weighed specifically on weighbridges at ports is no longer necessary. It remains open, however, for a port operator to require cargo to be weighed and the Department considers that the operator is best placed to make such decisions.

- Consolidation

7.5 The instrument revokes three sets of Regulations and no consolidation is required.

8. Consultation outcome

8.1 An eight week consultation was undertaken from mid-June 2014 on the proposed revocation of these Regulations and the *Merchant Shipping (Emergency Equipment Lockers for Ro/Ro Passenger Ships) Regulations 1988* (S.I. 1988/2272). A mixed reaction was received with maritime unions, disaster action groups and members of the families of victims of the Herald of Free Enterprise accident opposing on the grounds of safety, and industry supporting the removal of the use of weighbridges.

8.2 The Minister of State for Maritime met maritime unions, key representatives of industry and policy leads in November 2014 to discuss the issue further in light of the consultation responses. The Minister agreed with the safety arguments made by industry and the unions which supported retention of the emergency equipment lockers regulations. The Minister was however satisfied that the improved standards for ship design and stability alongside the remaining requirements for the weighing of cargo in the *Merchant Shipping (Carriage of Cargoes) Regulations 1999* would maintain safety standards and approved the revocation of the Regulations discussed in this memorandum.

9. Guidance

No guidance is required as all the instruments revoked will no longer have any practical effect.

10. Impact

10.1 The benefit to business is estimated to be £0.3 million per year affecting mainly UK ports operating Ro-Ro passenger ships. There is the potential for ports to incur costs for removing a weighbridge but it is anticipated that they would only do so where there was a benefit to it.

10.2 An Impact Assessment (IA) is attached to this memorandum and will be published alongside the Explanatory Memorandum on www.legislation.gov.uk.

11. Regulating small business

The legislation will have no adverse impact on small business.

12. Monitoring & review

There is no requirement for monitoring and reviewing the Regulations due to the nature of the revocation.

13. Contact

Alison Leighton at the Maritime and Coastguard Agency Tel: 02380 329134 or email: Alison.Leighton@mcga.gov.uk can answer any queries regarding the instrument.