EXPLANATORY MEMORANDUM TO

THE PILOTAGE ACT 1987 (AMENDMENT) REGULATIONS 2019

2019 No. 1305

1. Introduction

1.1 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2.1 This instrument amends the Pilotage Act 1987 ("the Pilotage Act") to update an out of date definition of 'EEA State' so that it has the meaning given by Schedule 1 to the Interpretation Act 1978. The definition within the Pilotage Act does not include states that became a party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992, as adjusted by the Protocol signed at Brussels on 17th March 1993 ('the EEA Agreement') after May 2003 when the definition was inserted into the Pilotage Act.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos.83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales, Scotland and Northern Ireland.

4.2 The territorial application of this instrument is England, Wales, Scotland and Northern Ireland.

5. European Convention on Human Rights

5.1 The Parliamentary Under Secretary of State for Transport, Nusrat Ghani MP, has made the following statement regarding Human Rights:

"In my view the provisions of The Pilotage Act 1987 (Amendment) Regulations 2019 are compatible with the Convention rights."

6. Legislative Context

6.1 The Pilotage Act governs the operation of maritime pilotage in the United Kingdom. A maritime pilot is a seafarer not part of the ship's crew who has detailed knowledge of a port approach or dangerous navigational area, expertise in ship manoeuvring and uses

that knowledge to ensure the safe passage of a vessel within a specified area. The Pilotage Act established each United Kingdom port as a Competent Harbour Authority ('CHA') and granted CHAs full control over pilotage services for ships navigating in, or in the approaches of their harbours. The Pilotage Act requires CHAs to keep under consideration what pilotage services are needed to secure the safety of ships and gives them powers to: make pilotage compulsory within their pilotage district and levy charges for the use of a pilot; grant pilotage exemption certificates to any master or first mate who has the skill, experience or local knowledge to pilot their own ship in a compulsory pilotage area; and authorise pilots within their district.

6.2 This instrument relies on section 2(2) of the European Communities Act 1972 ("ECA") to update the definition of 'EEA State' in the Pilotage Act. This relates to the acceptance of qualifications from states that are party to the EEA Agreement. As currently drafted, the definition of EEA State in the Pilotage Act does not include states that became a party to the EEA Agreement after May 2003 when the definition was inserted into the Pilotage Act.

7. Policy background

What is being done and why?

7.1 The Pilotage Act contains outdated references to 'EEA State' which are corrected using the powers in section 2(2) of the ECA. While this anomaly has existed for a considerable period of time, the Government has decided to make this change now because the ability to make this change through secondary legislation under the ECA will be lost when the UK leaves the European Union.

8. Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 There are currently no plans to consolidate the legislation amended by this instrument.

10. Consultation outcome

10.1 No formal consultation has been undertaken, due to the limited impact of the change to the definition of 'EEA State'.

11. Guidance

11.1 No guidance will be issued in relation to this instrument due to the limited impact of the change to the definition of 'EEA State'.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because it maintains the policy status quo and has no impact on businesses, charities, voluntary bodies or the public sector.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The approach to monitoring of this legislation will be through communication with key stakeholder groups.

14.2 The Regulations do not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 Nusrat Ghani MP, Parliamentary Under Secretary of State, has made the following statement:

"Having had regard to sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015, and the statutory guidance under section 31 of that Act, I have decided that it is not appropriate to make provision for review in this instrument because it would be disproportionate to do so taking into account the economic impact of the Regulations. There are no additional factors which would make it desirable to include such a clause."

15. Contact

15.1 Caroline Wall (Maritime International and Trade) at the Department for Transport tel: 020 7944 6251 or email: Caroline Wall@dft.gov.uk can be contacted with any queries regarding the instrument.

15.2 Haroona Chughtai, Deputy Director for Maritime International and Trade, at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.

15.3 Nusrat Ghani MP, Parliamentary Under Secretary of State at the Department for Transport, can confirm that this Explanatory Memorandum meets the required standar