EXPLANATORY MEMORANDUM TO

THE SHIP RECYCLING FACILITIES REGULATIONS 2015

2015 No. 430

1. This explanatory memorandum has been prepared by Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

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

2. Purpose of the instrument

These Regulations implement elements of EU Regulation 1257/2013 on ship recycling relating to the authorisation of ship recycling facilities. Articles 13 and 14 of the EU Regulation establish environmental and safety requirements for ship recycling facilities that recycle ships within its scope that will ensure the necessary controls are in place to protect the environment, the health and safety of workers and the population in the vicinity of the ship recycling facility caused by ship recycling activities. Once the EU Regulation applies, ships sailing under the flag of an EU member State that exceed 500 gross tonnes (excluding warships and naval auxiliary or others ships owned or operated by the state and used on government non-commercial service) will only be able to be recycled at a facility within the EU if it meets the requirements of Articles 13 and 14 and it is included on the European list established under the EU Regulation. Facilities outside the EU may also be added to the European List under Article 15.

These Regulations provide for facilities located in England, Scotland or Wales to be authorised in accordance with the EU Regulation so that they may be added to the European list.

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

None

4. Legislative Context

4.1 EU Regulation No 1257/2013 on ship recycling implements EU obligations under the Hong Kong International Convention for the safe and environmentally sound recycling of ships. The Convention, once it is in force, will set global standards for ship recycling.

These Regulations implement certain aspects of the EU Regulation relating to ship recycling facilities located in England, Scotland and Wales.

5. Territorial Extent and Application

This instrument applies to England, Wales and Scotland only. Northern Ireland will have its own legislation.

Separate Regulations are required as Northern Ireland has a devolved Health and Safety Executive who will need their respective powers to be appropriately reflected. In all other respects, both sets of Regulations will apply a consistent approach.

6. European Convention on Human Rights

Dan Rogerson, Parliamentary Under Secretary of State for water, forestry, rural affairs and resource management has made the following statement regarding Human Rights:

In my view, the provisions of the Ship Recycling Facilities Regulations 2015 are compatible with the Convention rights.

7. Policy background

Whilst the EU Ship Recycling Regulation doesn't impose mandatory authorisation of all EU ship recycling facilities, it does require authorisation for those facilities that wish to undertake recycling activities on ships that fall within the scope of the EU Regulation. UK facilities wishing to have access to that market will therefore need to complete the necessary documentation and apply to the competent authorities to become authorised.

The Regulation introduces requirements and conditions that EU ship recycling facilities must meet if they wish to be authorised. The main requirement is the submission of a ship recycling facility plan, as part of the formal application to become authorised. Competent authorities will assess the plan against the requirements under Article 13 of the EU Ship Recycling Regulation, as well as other relevant environmental and health and safety legislation.

Ship recycling facilities are already regulated under the Waste Framework Directive. This means that there is already a requirement to operate with the necessary permit and to comply with the conditions of that permit. Ship recycling facilities are also already subject to health and safety legislation that in practice already delivers many of the requirements set out in Article 13 of the EU Regulation. However, it should be noted that existing permits do not comply with all the requirements of the EU Ship Recycling Regulation and will therefore need to be varied.

Since the elements contained in Article 13 of the EU Regulation are met through existing environmental and health and safety legislation, the ship recycling facility plan will essentially be a bridging document, holding access to the relevant information in one place but referring the reader to more specific details in other documents that can be

linked. This format is also considered to be easier for employees of the ship recycling facility and other interested parties to understand.

8. Consultation outcome

The consultation ran from 10 December 2014 to 20 January 2015 and focused on stakeholders involved in the recycling of ships. The consultation document was issued by e-mail to thirty three relevant stakeholders and was placed on the Gov.UK website.

The consultation addressed the following points:

- Introducing the most appropriate measure for ensuring compliance with the relevant obligations in the EU Ship Recycling Regulation relating to the authorisation of ship recycling facilities in the UK;

- Ensuring that UK facilities that wish to undertake recycling activities on ships flying the flag of EU Member States have a means of becoming authorised and are able to compete with other EU and international companies in that market;

- Appointing competent authorities responsible for implementing and enforcing the relevant provisions of the EU Ship Recycling Regulation with regard to authorisation of UK facilities;

- Developing an approach that doesn't impose unnecessary burdens on business and that implements a consistent method for authorising facilities, fully considering and integrating existing permitting, licensing and authorisation processes;

- Enabling the competent authorities to vary existing permits and approvals so that they also provide authorisation for the purposes of the EU Ship Recycling Regulation and therefore avoid unnecessary duplication of information and work by operators of ship recycling facilities.

Defra received one response to the public consultation. This came from a UK ship recycling facility, Harland and Wolff Heavy Industries LTD. The respondent supported the proposed approach.

Having considered the response to consultation, no amendments to the proposed approach are deemed necessary. It is intended that the Ship Recycling Facilities Regulations are laid in Parliament so that they can come into force by 29 March 2015.

9. Guidance

Defra, in liaison with other Government departments, the devolved administrations and the competent authorities have produced a template for the completion of a ship recycling facility plan and detailed guidance to assist facilities to complete the plan and for

competent authorities to assess them. This guidance will be in place as soon as the Regulations come into force.

In addition, there will be detailed cooperative working arrangements in place to underpin the legal framework setting out the respective roles and responsibilities of the competent authorities. These will be set out in Memoranda of Understanding which will also be in place as soon as the Regulations come into force. The competent authorities will be the relevant national environment Agency and the Health and Safety Executive as joint competent authorities. The relevant Agency will depend on the location of the ship recycling facility wishing to become authorised (Environment Agency in England, Scottish Environment Protection Agency in Scotland, National Resources Wales in Wales and the Department of the Environment's Northern Ireland Environment Agency in Northern Ireland).

10. Impact

10.1 The new requirements introduced by these Regulations are expected to have a minimal impact on legitimate businesses. Ship recycling facilities are already regulated under the Waste Framework Directive and are also subject to health and safety legislation that in practice already delivers many of the requirements set out in the EU Regulation.

A Regulatory Triage Assessment (RTA) was prepared to assess the impacts of the new measures on stakeholders. The RTA showed that there are minimal costs associated with the measures and, given the low costs, further efforts to monetise other impacts would be disproportionate.

Based on the information provided in the RTA, the Regulatory Policy Committee confirmed that the proposal qualified for the fast track as a low-cost regulatory proposal.

11. Regulating small business

11.1 The legislation applies to small business.

The new requirements introduced by these Regulations are expected to have a minimal impact on legitimate businesses. Ship recycling facilities are already regulated under the Waste Framework Directive and will continue to be. Furthermore, they are also subject to health and safety legislation. In practice, these measures already deliver many of the requirements set out in the EU Regulation.

The costs to business for complying will be the same irrespective of the size of the business. The exemption for micro businesses does not need to be applied to these new measures.

12. Monitoring & review

12.1 The Regulations include a sunset clause. This requires the Secretary of State to review them and assess the extent to which their objectives have been met, the extent to which they remain appropriate and the extent to which they could be achieved in a less burdensome way. A first report setting out the conclusions must be published within five years of these Regulations coming into force and further reports must be published subsequently at intervals not exceeding five years.

13. Contact

Stephen Cowperthwaite at the Department for Environment, Food and Rural Affairs Tel: 020 7238 3179 or email: Stephen.Cowperthwaite@defra.gsi.gov.uk can answer any queries regarding the instrument.