EXPLANATORY MEMORANDUM TO

THE TONNAGE TAX (TRAINING REQUIREMENT) (AMENDMENT ETC.) REGULATIONS 2023

2023 No. 983

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before the House of Commons by Command of His Majesty.

2. Purpose of the instrument

2.1 These Regulations amend the Tonnage Tax (Training Requirement) Regulations 2000 (S.I. 2000/2129) to increase the amounts to be used in calculating payments in lieu of training (PILOT) payable under those Regulations.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

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

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales, Scotland and Northern Ireland.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 The Tonnage Tax (Training Requirement) Regulations 2000 (the "2000 Regulations") are made under powers in Schedule 22 (tonnage tax) to the Finance Act 2000 (c. 17). Schedule 22 provides shipping companies with an alternative regime for calculating their profits for the purposes of corporation tax. The regime only applies if a shipping company voluntarily chooses to elect into it. Electing into the regime enables a company to pay corporation tax based on the tonnage of its vessels rather than the shipping profits from the activity of those vessels. These 'tonnage profits' are calculated by reference to the net tonnage (i.e. carrying capacity) of the qualifying ships operated by the company.

6.2 A company making a tonnage tax election (a "tonnage tax company") must meet certain minimum obligations in connection with the training of seafarers. A tonnage tax company unable to fully satisfy these obligations through the provision of training may opt to make payments in lieu of training ("PILOT") to contribute towards meeting them. The 2000 Regulations prescribe the nature of the minimum training

obligation and the basis for calculating PILOT. These amending Regulations increase the amounts to be used in calculating PILOT.

7. Policy background

What is being done and why?

7.1 One feature of the UK tonnage tax scheme imposes a minimum training obligation on companies entering the scheme. A company is required to train one officer cadet per year for every 15 officer posts in the company's effective officer complement, and to give consideration to employment and training opportunities for ratings. The Tonnage Tax (Training Requirement) (Amendment) Regulations 2015 (S.I. 2015/788), introduced an option from October 2015 to provide training for three trainee ratings in place of one officer cadet. Eligible officer cadets or trainee rating must be ordinarily resident in the UK and either a UK national, a national of an EEA State or a British citizen from the Channel Islands or the Isle of Man.

7.2 The training obligation has been part of the UK tonnage tax scheme requirement since its introduction in the Finance Act 2000 and was designed to reverse a long-term decline since the 1970s in the number of new UK seafarers being trained. An increase in UK seafarers allows the UK to meet both its present needs at sea and for future jobs onshore in the maritime services sector. Prior to the amendment made by S.I. 2015/788, training of ratings did not count towards meeting the training obligation.

7.3 The 2000 Regulations provide that where a tonnage tax company does not meet its minimum training obligation as outlined in paragraph 7.1, the shortfall is to be made good by paying PILOT payments to the Maritime Training Trust ("MTT"), an industry-led body independent of government which holds and allocates the monies received by it for the purpose of promoting and supporting the training of seafarers.

7.4 PILOT represents the cost of training an officer cadet and consist of a basic rate plus an additional element to cover the MTT's overhead costs. The original rate of PILOT was agreed when tonnage tax was developed by a group including representatives from the maritime trades unions and the Chamber of Shipping. The initial rate was set to be slightly higher than the cost of having a trainee in post and social partners were aware that it would normally be increased annually to maintain its real value.

7.5 When tonnage tax was introduced, the MTT's overhead costs were set at 10% of the basic rate of PILOT. While the basic rate has normally increased each year, it has not been necessary to increase the MTT overhead costs element every year and it is now less than 7% of the basic rate.

7.6 The government made a commitment to ensure that PILOT remains in line with actual training costs, to ensure there is no disincentive to train. It is a core principle that tonnage tax companies should fulfil their training commitment by the practical training of seafarers rather than the payment of PILOT and that, barring exceptional circumstances, PILOT should not be 'planned' but arise only in case of default.

7.7 The MTT made representations in April 2023 that the rate of PILOT should be increased to reflect inflation in the cost of training rather than in line with the Treasury GDP Deflator. The lesser figure that would have resulted by adhering to the Deflator would not have increased PILOT by a sufficient amount to make it a less desirable option to training cadets. The basic rate will therefore be increased from £1,234 to £1,329 per month from 1st October 2023 while the MTT's overhead costs will remain at £92 per month.

7.8 The rate specified for calculating PILOT will therefore increase from £1,326 to £1,421 per month (regulation 15 (payments in lieu of training) of the 2000 Regulations). A company or group that fails to meet its training commitment with at least 50% of that commitment met through actual training as opposed to PILOT in one year could see any PILOT due in the following year increase by 50%. This could increase further by 100% if the training requirement is not met in two consecutive years. The basic rate (that which excludes the MTT overhead costs) is used to calculate this higher rate under regulation 21 of the 2000 Regulations (higher rate of payment in case of failure to meet training requirement).

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 Although the Regulations are the latest in a series of instruments to make similar amendments to the 2000 Regulations, the nature of the amendments made are not such as to merit consolidation of the 2000 Regulations.

10. Consultation outcome

10.1 No consultation took place on these Regulations. However, a consultation took place in 2010, and the consultation document stated the MTT's proposal that "there should be a regular review of the PILOT payment amount, say every two years, to ensure that it continues to be in line with actual training costs. Tonnage tax companies have an expectation that PILOT will increase at least in line with the Treasury GDP Deflator or as in this case, to reflect an inflationary rise in training costs.

11. Guidance

11.1 The Department will write to tonnage tax companies in advance of the new statutory instrument coming into force.

12. Impact

12.1 The impact on business, charities or voluntary bodies is that those companies in the UK tonnage tax scheme will have to pay increased PILOT if they are unable to fulfil their training obligations. The cost of PILOT is calculated to be comparable to the cost of training and is not a penalty charge on the company. No impact is expected on charities or voluntary bodies.

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

12.3 A full Impact Assessment has not been prepared for this instrument because the amounts involved fall below the threshold for producing one. The total annual gross cost to business of this measure is estimated at less than £0.4m per year. A de minimis assessment has therefore been deemed appropriate. The benefit is that the PILOT level will continue to be in line with actual training costs, so that there will be no disincentive for companies to train seafarers. It should be noted that around half of the companies within the UK Tonnage Tax scheme habitually meet their obligation entirely through the provision of training and so are not usually liable for PILOT.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise regulatory burdens on small businesses.

13.3 The basis for the final decision on what action to take to assist small businesses is that although some small businesses may be tonnage tax companies, most tonnage tax companies are not small businesses. The impact on any small businesses is therefore likely to be minimal and if they meet the training requirement as set out in the 2000 Regulations through training cadets, there will be no impact at all.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is that the Department will keep PILOT rates under review with the intention of ensuring that they continue to be in line with actual training costs.

15. Contact

15.1 Simon Patten at the Department for Transport Telephone: 07976 435001 or email: simon.patten@dft.gov.uk can be contacted with any queries regarding the instrument.

15.2 Dave Whyte, Deputy Director for Maritime People, Resilience, Safety and Sponsorship at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.

15.3 Baroness Vere, Parliamentary Under Secretary of State with responsibility for maritime policy at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.