EXPLANATORY MEMORANDUM TO

THE TONNAGE TAX (TRAINING REQUIREMENT) (AMENDMENT) (No 2) REGULATIONS 2013

2013 No. 2245

1. This explanatory memorandum has been prepared by the Department for Transport and is laid before the House of Commons by Command of Her Majesty. This memorandum contains information for the Select Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 These Regulations increase the amounts to be used in calculating payments in lieu of training payable under the Tonnage Tax (Training Requirement) Regulations 2000 (S.I. 2000/2129). They also amend the definitions of EEA Agreement and EEA State by incorporating the definition from the Interpretation Act 1978 (c.30) which are of an ambulatory nature,

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

3.1 The Regulations impose increases above the rate of inflation in order to bring the fees, which are payable in lieu of providing training, back into line with actual training costs.

4. Legislative Context

4.1 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 makes an election to that effect. The effect of an election is to bring into charge to corporation tax the company's tonnage profits in place of its relevant shipping profits. Its tonnage profits are calculated by reference to the net tonnage of the qualifying ships operated by the company.

4.2 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 may meet its obligations by making payments in lieu of training ("PILOT payments"). The 2000 Regulations prescribe the nature of the minimum training obligation and the basis for calculating PILOT payments.

5. Territorial Extent and Application

5.1 This instrument applies to all 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

7.1 One feature of UK tonnage tax is to impose a minimum training obligation on companies entering the scheme. This is to train one officer trainee 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.

7.2 The training commitment was adopted to try to ensure an increase in UK seafarers to meet both present needs at sea and future jobs onshore in the maritime services sector.

7.3 The 2000 Regulations provide for training shortfalls to be made good by payments in lieu of training to the Maritime Training Trust ("MTT"), a body independent of Government which holds and allocates the monies received by it for the purpose of promoting the training of seafarers.

7.4 Representations made by the MTT in June 2013 showed that PILOT payments were out of line with actual training costs. The average cost of training an officer trainee over the normal 36 month training period was found to be £56,350, of which £16,950 was met by funding through the Government's Support for Maritime Training) scheme. This left a net average cost to companies of £39,400, which equates to a monthly cost of £1,094 (rounded down to the nearest pound).

7.5 To bring PILOT payments back into line with actual training costs, the basic rate will therefore be increased from £1,020 to £1,094 for periods from 1 October 2013. The basic rate plus the MTT's overhead costs gives the amount used to calculate the PILOT payment for the relevant period.

7.6 When the tonnage tax was introduced, the MTT's overhead costs were set at 10% of the basic rate of PILOT (i.e. in 2000, the basic rate was £500 per trainee month, and the MTT's overhead costs were £50, so that the PILOT payment rate was £550 per trainee month). The MTT overhead costs element of the PILOT payment has not routinely been increased in line with the basic rate, as this has not been found to be necessary, and as a result it is now less than 7.1% of the basic rate. However, there is now a need to increase it by £10 per month to £82. This will be less than 7.5% of the new basic rate of PILOT, but it is felt to be a fair reflection of the MTT's current administration costs.

7.7 The amount specified for calculating PILOT payments will therefore increase from £1,092 to £1,176 (regulation 15 of the 2000 Regulations). The basic rate without those costs is used for calculation of the higher rate in case of failure to meet a training commitment (regulation 21).

7.8 The Government has made a commitment to ensure that PILOT payments remain in line with actual training costs, to ensure there is no disincentive to train.

8. Consultation outcome

8.1 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 PILOT, say every two years, to ensure that it continues to be in line with actual training costs". Tonnage tax companies therefore have an expectation that PILOT will increase in line with actual training costs.

9 Guidance

9.1 The Department will write to tonnage tax companies in advance of the new Statutory Instrument coming into force. No consultation took place on the new Statutory Instrument, but tonnage tax companies were also aware, following a consultation which took place in 2010, that there was an expectation that PILOT would be kept under review, to ensure that it continued to be in line with actual training costs.

10. Impact

10.1 The impact on business is that tonnage tax companies will have to pay increased PILOT payments. No impact is expected on charities or voluntary bodies.

10.2 The impact on the public sector is nil.

10.3 An Impact Assessment is attached to this instrument and will be published alongside the Explanatory Memorandum on www.legislation.gov.uk.

11. Regulating small business

11.1 The legislation applies to all tonnage tax companies which could include small business. However, the majority of tonnage tax companies are not small businesses and the impact on any small business is likely to be minimal.

12. Monitoring & review

12.1 The Department will keep PILOT payment rates under review with the intention of ensuring that they continue to be in line with actual training costs.

13. Contact

Stephen Eglesfield at the Department for Transport (Tel: 020 7944 5121 or e-mail: stephen.eglesfield@dft.gsi.gov.uk) can answer any queries regarding the instrument.