

<p>Title: Post-Implementation Review of the Merchant Shipping (Compulsory Insurance of Shipowners for Maritime Claims) Regulations 2012</p> <p>PIR No: DfTPIR0057</p> <p>Original IA/RPC No: DfT00133</p> <p>Lead department or agency: Department for Transport</p> <p>Other departments or agencies: Maritime & Coastguard Agency</p> <p>Contact for enquiries: Harry Hatter (Harry.Hatter@dft.gov.uk)</p>	Post-Implementation Review
	<p>Date: April 2023</p>
	<p>Type of regulation: Secondary</p>
	<p>Type of review: Statutory - other</p>
	<p>Date measure came into force: 05/10/2012</p>
	<p>Recommendation: Keep</p>
<p>RPC Opinion: Not applicable</p>	

1. What were the policy objectives of the measure?

This post-implementation review (PIR) evaluates the Merchant Shipping (Compulsory Insurance of Shipowners for Maritime Claims) Regulations 2012.

The regulations came into force on 5 October 2012 and apply to vessels of 300 gross tonnes (gt) or over.

The legislation ensures that shipowners maintain insurance in order to cover third-party liabilities up to the limitations set out in the international Convention on the Limits of Liability for Maritime Claims 1976 (as adopted by the International Maritime Organisation). Such third-party claims include damage to docks or harbour walls, pollution, and injuries to passengers or crew. Evidence had shown that the types of incidents most prevalent involved vessels of 300 gt or over.

Whilst it was already widespread voluntary practice for UK ship-owners to have insurance against such liabilities, the measures were adopted to discourage shipowners from cutting costs by not having such insurance. If uninsured vessels were involved in incidents where the shipowner was liable for third-party costs, the typical magnitude of such costs would have meant that it was unlikely the ship-owner would have been able to pay them in the absence of insurance cover. If the ship-owner is unable to pay, there is a potential liability on the UK government for significant third-party costs.

The intended outcome of the measures was to ensure that shipowners maintained adequate insurance cover to deal with the costs incurred on third parties from general maritime incidents.

2. What evidence has informed the PIR?

The evidence for the PIR was very limited. The original Impact Assessment did not quantify the cost to businesses but estimated that it would be negligible, as discussions with industry and MCA suggested that most UK shipowners had already taken out voluntary third-party insurance. Therefore, it was not deemed proportionate to undertake further evidence gathering, which would require resource beyond that needed for an informal consultation with stakeholders. This took place in Spring 2022 and was shared with key stakeholders from various industry organisations, including four industry bodies, to ensure it reached out to a wide range of stakeholders. All of these stakeholders were given a questionnaire to give us their views on the Regulations.

The questionnaire included the following questions:

For shipowners:

- What was the cost of purchasing third-party insurance for your vessel(s)?
- Have you noticed any unintended impacts as a result of the regulation? (these impacts could be either positive or negative). If so, please describe them below.
- Do you believe that the retention of this legislation since 2017 has been beneficial to the UK shipping industry, or do you believe its effects have been neutral or negative? If so, we would welcome further detail and any evidence you can provide.
- Are there any other factors you would like us to consider which have not been covered by the above questions? If so, please explain below.

For maritime insurers:

- Has there been a change in third-party insurance premiums since 2017?
- Are you aware of an increase in shipowners seeking such insurance since 2017?
- Do you have any evidence to quantify or qualify any such changes to premiums? Please describe.
- Do you believe that the retention of this legislation since 2017 has been beneficial to the UK shipping industry, or do you believe its effects have been neutral or negative?
- Have you seen a change in the number of maritime incidents involving third parties and insured vessels of 300gt or over since the last review of the Insurance Directive in 2017?
- Are there any other factors you would like us to consider which have not been covered by the above questions? If so, please explain below.

The surveys were sent to 16 stakeholders representing a sample of the different interests involved. The types of stakeholders invited to respond to the consultation are listed in the table below.

Type of stakeholder	Number of stakeholders invited to respond to the consultation
Industry body	4
Insurance	7
Port	1
Legal	2
Government	1
Union	1

The response rate was low, with just three responses (a response rate of 18.75%). The respondents were from varied stakeholder groups, representing industry, trade union and legal groups. The low response rate means that the evidence provided is limited; however none of these responses flagged any issues with the regulations themselves. One operator stated that no impact had been had on the cost of insuring their vessels. No insurers responded to the consultation. We believe this reflects how uncontroversial the Regulations are across industry.

Informal engagement indicated that industry does not have any concerns with the current regulations.

Following the UK's exit from the EU, the recording of compliance data has moved to a new system (Pelorus), but this system does not yet have full functionality. The Maritime and Coastguard Agency cannot therefore provide any meaningful data on this topic. Once Pelorus is fully functional, it will be used to carry out reviews like this.

3. To what extent have the policy objectives been achieved?

The five-year PIR in 2017 found no indication from industry that the legislation creates an expensive imposition, nor any evidence to suppose that the requirements have led to an increase in the proportion of pay-outs settled satisfactorily. It concluded that the Regulations were a sensible addition to the maritime insurance framework by providing a regulatory backstop, and that it is unlikely that there would be much benefit from repealing the Regulations. The limited evidence gathered in this latest review suggests that this is still the case.

No stakeholders reported any concerns during the consultation period with the regulations. One stakeholder expressed concerns around the actual limits of liability and how they are calculated in the underlying international conventions, which are not part of the review process. Responses were limited, but an operator stated that they believed that the regulations were neutral or mildly positive to the industry.

Although we are unable to look at compliance data due to the aforementioned issues in section 2, it is worth noting that the original impact assessment found that most UK shipowners had taken out voluntary third-party insurance prior to these regulations being implemented. As the legislation has been in place for ten years, it is unlikely that there will be any change in the impacts in the future.

Sign-off for Post Implementation Review:

I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.

Signed: Vere J. Nabita

Date: 3 MAY 2023

Further information sheet

Please provide additional evidence in subsequent sheets, as required.

4. What were the original assumptions?

The original impact assessment estimated that the cost of implementing the regulations for shipowners was low. The net cost to business per year was not quantifiable, due to the lack of sufficiently robust data, although the evidence gathered suggested that most UK shipowners had taken out voluntary third-party insurance.

No evidence has been gathered as part of this PIR that suggests any change in those assumptions.

5. Were there any unintended consequences?

No unintended consequences were identified in the five-year PIR, and none have been identified in any stakeholder engagement undertaken for this PIR.

6. Has the evidence identified any opportunities for reducing the burden on business?

The current regulations appear to be working as intended. No evidence that identified opportunities to reduce burdens for business was submitted in the informal consultation process, nor was any evidence identified for the five-year PIR.

7. How does the UK approach compare with the implementation of similar measures internationally, including how EU member states implemented EU requirements that are comparable or now form part of retained EU law, or how other countries have implemented international agreements?

As the UK initially adopted the Regulations as EU legislation, the UK's implementation is comparable with the way EU Member States have implemented the Regulations. The costs experienced by business are therefore not believed to have been radically different. Due to issues in accessing all data fields in THETIS, the EU system for recording this information that the UK will be replacing with a new system called Pelorus, we are not able to access the full international data, including the data relating to insurance.