

**EXPLANATORY MEMORANDUM TO**  
**THE MERCHANT SHIPPING (CONFIRMATION OF LEGISLATION) (FALKLAND ISLANDS) ORDER 2018**

**2018 No. 1159**

**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 confirms the Maritime Ordinance 2017 (No. 20 of 2017) enacted by the Legislature of the Falkland Islands in so far as the Ordinance repeals provisions of the Merchant Shipping Act 1894 (c. 60) (other than provisions in Part 3 relating to emigrant ships), the Merchant Shipping Act 1906 (c. 48), the Merchant Shipping Act 1921 (c. 28), the Merchant Shipping Act 1965 (c. 47), the Merchant Shipping Act 1970 (c. 36) and the Merchant Shipping Act 1981 (c. 10) relating to ships registered in the Falkland Islands and which continue to apply to the Falkland Islands. The Order will enable the Government of the Falkland Islands to bring the Ordinance into force.

**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 not subject to parliamentary 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.

**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 the Falkland Islands.

**5. European Convention on Human Rights**

- 5.1 As the instrument is not subject to parliamentary procedure, no statement is required.

**6. Legislative Context**

- 6.1 Section 735(1) of the Merchant Shipping Act 1894 (“the 1894 Act”) requires that legislation made by the legislature of a British Overseas Territory or a Crown Dependency and which repeals certain provisions of the 1894 Act, be confirmed by Her Majesty in Council. Section 735(1) provides for the repeal of provisions of the 1894 Act relating to ships registered in the Falkland Islands (other than provisions in

Part 3 relating to emigrant ships). As each of the Merchant Shipping Acts of 1906, 1921, 1965, 1970 and 1981 contains a provision that it be construed as one with the 1894 Act, the power in section 735(1) also allows for the repeal of the provisions in those Acts relating to ships registered in the Falkland Islands. These provisions are repealed by section 310(2) of the Maritime Ordinance 2017.

- 6.2 Section 735 of the 1894 Act was repealed by section 314(1) of, and Schedule 12 to, the Merchant Shipping Act 1995 (c. 21), and was saved by paragraph 1(2) of Schedule 14 to the 1995 Act.

## **7. Policy background**

### *What is being done and why?*

- 7.1 The instrument is needed to allow the Government of the Falkland Islands to bring into force the Maritime Ordinance 2017, which replaces extended United Kingdom merchant shipping legislation. Confirmation of the Ordinance under section 735(1) of the 1894 Act in relation to provisions repealed under section 735(1) is a procedural step that must be completed before the Government of the Falkland Islands can bring the Ordinance into force. This instrument will achieve the confirmation of the Maritime Ordinance 2017 in so far as it relates to the repeal of provisions of the 1894 Act (other than provisions in Part 3 relating to emigrant ships) and the Merchant Shipping Acts of 1906, 1921, 1965, 1970 and 1981 relating to ships registered in the Falkland Islands. None of the remaining United Kingdom legislation listed in the Maritime Ordinance 2017 (in Part B of Schedule 10) as repealed legislation under section 310(2) of the Ordinance, contains a provision requiring that it be confirmed by Her Majesty in Council.
- 7.2 The Maritime Ordinance 2017 consolidates and modernises the merchant shipping laws of the Falkland Islands to ensure that ships registered in the Falkland Islands, as well as foreign ships in Falkland Islands waters, meet current international safety and environmental protection standards. In addition, it updates the laws implementing international conventions protecting the Falkland Islands against the costs and environmental consequences of maritime casualties and contains powers to enable the implementation of a number of international maritime conventions, which will provide additional protection against, in particular, the cleaning up of oil spills.
- 7.3 These steps are considered necessary in order for the Government of the Falkland Islands to reduce its exposure to risk of a serious maritime incident, and to meet the United Kingdom's international obligations.

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act 2018.

## **9. Consolidation**

- 9.1 This instrument does not consolidate any legislation.

## **10. Consultation outcome**

- 10.1 No consultation is necessary as this instrument relates to the Maritime Ordinance 2017 enacted by the Legislature of the Falkland Islands.

10.2 The United Kingdom has consulted the Government of the Falkland Islands in relation to the making of the instrument.

## **11. Guidance**

11.1 Guidance is not required.

## **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 relates to the Maritime Ordinance 2017 enacted by the Legislature of the Falkland Islands.

## **13. Regulating small business**

13.1 The legislation does not apply to activities that are undertaken by small businesses in the United Kingdom.

## **14. Monitoring & review**

14.1 No monitoring or review clause is required as this instrument simply confirms the Maritime Ordinance 2017 enacted by the Legislature of the Falkland Islands.

## **15. Contact**

15.1 Andrew Angel at the Department for Transport Telephone: 07825 231803 or email: [andrew.angel@dft.gov.uk](mailto:andrew.angel@dft.gov.uk) can be contacted with any queries regarding the instrument.

15.2 Rod Paterson, Deputy Director for Maritime Infrastructure, People, Services and Safety Division, at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.

15.3 Nusrat Ghani MP at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.