

EXPLANATORY MEMORANDUM TO
THE MERCHANT SHIPPING (PREVENTION OF AIR POLLUTION FROM SHIPS)
(MISCELLANEOUS AMENDMENTS) REGULATIONS 2019

2019 No. 940

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 implements changes that have been made to Chapter 4 of Annex VI of the International Convention for the Prevention of Pollution from Ships (“MARPOL”) which are designed to improve the energy efficiency of ships. UK Registered Ships of 5,000 gross tonnage and above will need to record and report their fuel consumption data to the UK competent authority, or a recognised organisation. The data will then be reported to the International Maritime Organisation.
- 2.2 The instrument also implements provisions in Annex VI relating to the requirement for ships of 400 gross tonnage and above to be issued with an International Energy Efficiency Certificate.

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 subject to negative resolution 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 at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the United Kingdom.
- 4.2 The territorial application of this instrument is the United Kingdom and United Kingdom ships wherever they may be.

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 instrument amends the Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008 (“the 2008 Regulations”). The amendments are needed to implement additional international requirements from Chapter 4 of Annex VI of the MARPOL Convention. The main focus of Annex VI is to control pollutant emissions

from ships – principally emissions of sulphur dioxide and nitrogen dioxide. However, the new Chapter 4 introduces measures to record, manage and reduce carbon dioxide (CO₂) emissions from ships. This is a significant greenhouse gas which contributes towards climate change, rather than a pollutant emission.

- 6.2 Measures from Chapter 4 are incorporated into the 2008 Regulations. UK registered ships of 400 gross tonnage and above will be subject to an initial survey or a renewal survey by the Maritime and Coastguard Agency ('the Certifying Authority'), or one of its recognised organisations, before the vessels can receive an International Energy Efficiency Certificate (IEE). The certificate confirms that a new vessel, or one which has undergone a major conversion complies with the Energy Efficiency Design Index (EEDI). It also confirms that a vessel carries a Ship Energy Efficiency Management Plan (SEEMP) - developed in accordance with regulation 22 of MARPOL Annex VI, and the guidelines adopted by the IMO.
- 6.3 New regulation 11A of the 2008 Regulations outlines the conditions for issuing IEE certificates to a new UK registered ship, an existing ship which requires a renewal survey (due to significant change in the equipment, systems and fittings since the initial survey) and for those ships transferring to the UK register from another Contracting Government (i.e. a Government which has ratified or acceded to the Convention). New regulation 12A of the 2008 Regulations outlines the conditions where another Contracting Government may issue an IEE Certificate to a UK flagged ship. Conversely, new regulation 13A outlines conditions which apply if a foreign Contracting Government asks the UK to certify one of its vessels. New regulation 19A prohibits non-UK ships from leaving port if they do not have a valid IEE certificate.
- 6.4 New regulation 25A of the 2008 Regulations requires ships to carry on board a ship specific SEEMP. Vessels of 5,000 gross tonnage or above must describe under a new Part II of the SEEMP, the method they will use to collect and report fuel consumption data. The new Schedule 4 describes the main steps for the collection and verification of fuel consumption data, the issuing of a Statement of Compliance to the ship owner that meets these requirements, and subsequent reporting of data to the IMO.

7. Policy background

What is being done and why?

- 7.1 The instrument implements international requirements concerning the Energy Efficiency Design Index ("EEDI"), the Ship Energy Efficiency Management Plan and the IMO's Data Collection System ("DCS") which records the fuel consumption for individual vessels. These measures form the first part of the IMO's approach to reducing greenhouse gas emissions from ships by at least 50% by 2050.
- 7.2 The purpose of the EEDI is to promote the use of more energy efficient equipment and engines on new and refurbished ships. It requires ships to achieve a minimum energy efficiency level per capacity mile for different ship types (e.g. tanker, bulk carriers, general cargo ships, container and cruise) and size segments. The EEDI formula provides a figure for a specific ship design, expressed as the grams of CO₂ per tonne mile for the ship. The smaller the figure, the more energy efficient the design. The first phase is set to improve efficiency by 10%, with subsequent phases tightened incrementally every five years until 2025, when all ships types will be expected to be 30% more efficient than ships produced between 2000 and 2010.

- 7.3 All ships of 400 gross tonnage and above must carry a SEEMP on board. The SEEMP is an operational measure which allows shipping companies to manage ship and fleet efficiency performance over time. The ship operator can measure the fuel efficiency of a ship and gauge the effect of any changes in operation. Changes might include, for example, improved efficiencies due to better voyage planning, the installation of new technologies, or efficiencies from improved maintenance – such as more frequent cleaning of the propeller.
- 7.4 Under regulation 22a of MARPOL Annex VI, larger ships (5,000 gross tonnage and above) are required to add a separate ‘Part II’ to their existing SEEMP, to include a description of the methodology that will be used to record and report the ship’s fuel consumption for each calendar year. Part II must be approved by the Maritime & Coastguard Agency (MCA) as the Certifying Authority, or one of its recognised organisations which meet the requirements in relevant provisions under IMO Resolution A 3739 (18) and Resolution A.789(19). For UK flagged ships, a recognised organisation would be one of the MCA’s recognised ship classification societies who act on behalf of the MCA for survey and inspection functions.
- 7.5 To be approved, the SEEMP must be developed in accordance with the ‘2016 Guidelines for the Development of a Ship Energy Efficiency Management Plan’ (MEPC.1/ Circ.876), to include a description of the methodology that will be used to collect and report their data. UK flagged ships need to submit fuel consumption data to the MCA, or a recognised organisation, 3 months after the first reporting period (i.e. by 31st March 2020 for data covering the 2019 calendar year). Once the data is verified, the shipowner will receive a Statement of Compliance by 31st May after the data collection period, which needs to be kept on board the vessel and can be inspected in foreign ports under the Port State Control regime. The earliest date by which a ship within scope needs to have a Statement of Compliance on board is 1st June 2020. The MCA and recognised organisations need to enter the ship’s data on the IMO’s Fuel Oil Consumption Database, by 30th June after the data collection period. Once the collection of fuel consumption data is complete, the IMO will undertake an analysis of the data, which should lead to more effective and targeted short, medium and long term measures to reduce ship emissions.
- 7.6 There are similarities between the IMO’s DCS and the European Union’s system for the monitoring, reporting and verification (“MRV”) of CO2 emissions from ships. Both systems require ships to collect and report fuel consumption data, so that measures can be implemented to reduce carbon emissions. However, the EU-MRV system applies to commercial vessels and passenger ships which leave or arrive at an EU port. Ship operators also need to provide more information (such as data on the cargo it carries), and the EU MRV has stricter requirements on data verification and is more transparent in terms of the information that is published.
- 7.7 The EU-MRV system is already in force and is being implemented by industry. The legislation will be retained after the UK leaves the EU and the Government expects most ships visiting UK ports will need to report CO2 data under both systems.
- 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 or trigger the statement requirements under the European Union (Withdrawal) Act 2018.

9. Consolidation

9.1 This instrument does not consolidate existing legislation

10. Consultation outcome

10.1 The Department has discussed the IMO proposals informally with key stakeholders, our plans for applying the DCS, EEDI and the SEEMP. They have not raised any significant concerns about our plans and the UK Chamber of Shipping have confirmed they support the implementation of the IMO regime.

10.2 The Department also carried out an extensive consultation in 2017 for the European MRV scheme when it implemented the enforcement and sanctions measures for the equivalent European scheme.

11. Guidance

11.1 The Maritime and Coastguard Agency will issue guidance to industry concerning the UK's enforcement of these measures, supplementing the IMO's existing guidelines on the DCS regime which applies to ships. Enforcement of these provisions will begin in the second half of 2020, after the first Statement of Compliance has been issued. The guidance should be available from 1st October 2019.

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 there is a low impact on business. The monetised costs and non-monetised benefits of implementing these international requirements into UK law are the same as the 'do nothing' option. It does not change the behaviour of UK shipowners, as they would need to be compliant with all these requirements to continue trading.

13. Regulating small business

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

13.2 The Department estimates that around 3% of ships on the UK Ship Register (approximately 25 ships) are owned by companies which employ 50 people or fewer. Most of these companies operate support vessels (e.g. tug boats), and small domestic passenger ferries which fall outside the scope of these regulations. Even if there were any small businesses in scope, there should be no additional costs above what shipowners would be doing anyway.

13.3 Consequently, the Department does not consider it necessary to take action to assist small businesses.

14. Monitoring & review

14.1 The instrument does not include a statutory review clause as it implements international requirements. All ships which visit a non-UK port would need to comply with these requirements, even if the UK repealed the legislation.

14.2 The Department does not expect that small companies on the UK ship register will be affected by these requirements.

15. Contact

- 15.1 Ian Timpson at the Department for Transport Telephone: 020 7944 4446 or email: ian.timpson@dft.gov.uk, can be contacted with any queries regarding the instrument.
- 15.2 Claire McAllister, Deputy Director for Maritime Environment & Financial Incentives, at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Nusrat Ghani, Parliamentary Under Secretary of State at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.