



Maritime &  
Coastguard  
Agency

## **PUBLIC CONSULTATION ON THE PROPOSED REVOCATION OF MERCHANT SHIPPING LEGISLATION**

### **FOLLOW-UP TO THE RED TAPE CHALLENGE**

#### **Introduction**

1. In 2011, the Government instigated a major review of all UK legislation with a view to reducing regulation and therefore burdens on business. This was known as “the Red Tape Challenge”. It was conducted sector by sector, and the focus on the Maritime Sector took place from November/December 2011. The view from industry was that legislation implementing international standards was valuable because it provided the necessary level playing field in the global market in which shipping operates; however, more consolidation and simplification of legislation would be welcome.

2. Since most maritime legislation implements international or European standards, the scope for revoking legislation was limited. However, following the exercise, the MCA is proposing to revoke a number of statutory instruments, including the following health and safety legislation:

- Merchant Shipping (Means of Access) Regulations 1988<sup>1</sup>;
- Merchant Shipping (Safe Movement on Board Ship) Regulations 1988<sup>2</sup>;
- Merchant Shipping (Code of Safe Working Practices for Merchant Seamen) Regulations 1998<sup>3</sup>.

The revocation of a fourth set, the Merchant Shipping (Diving Safety) Regulations 2002<sup>4</sup>, is also under consideration and consultation will be undertaken later in the year.

3. This paper explains the reasoning behind the proposal to revoke the three sets of regulations and invites the views of industry on the likely impact both in safety and in cost terms of removing the legislation.

4. If it is decided to revoke the Regulations, the intention is to complete the legislative process by the end of September 2014.

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<sup>1</sup> S.I. 1988/1637.

<sup>2</sup> S.I. 1988/1641.

<sup>3</sup> S.I. 1998/1838.

<sup>4</sup> S.I. 2002/1587.

## Rationale

### 5. The Merchant Shipping (Safe Movement on Board Ship) Regulations 1988 and the Merchant Shipping (Means of Access) Regulations 1988

- 5.1. A summary of the provisions of the regulations is at Appendix 1 and Appendix 2 respectively. These regulations pre-date the introduction of the EC health and safety directives, implemented by the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997<sup>5</sup> (“the HSW 1997 regulations”) and subsequent regulations<sup>6</sup>, which introduced risk-based health and safety measures into merchant shipping legislation. The 1988 regulations place duties on employers and masters, and do not apply to fishing vessels.
- 5.2. We have already revoked two other S.I.s of the same vintage as a result of the EC-based regulations. These are:
- (the Merchant Shipping (Hatches and Lifting Plant) Regulations 1988, which were revoked and replaced by the Merchant Shipping and Fishing Vessels (Lifting Operations and Lifting Equipment) Regulations 2006<sup>7</sup>, and
  - the Merchant Shipping (Guarding of Machinery and Electrical Equipment Regulations 1988, which were revoked and replaced by the Merchant Shipping and Fishing Vessels (Provision and Use of Work Equipment) Regulations 2006<sup>8</sup>.
- 5.3. It would be a logical further step to revoke the two sets of regulations for the following reasons:
- 5.3.1. The EC-based regulations apply to fishing vessels as well as to merchant shipping, ensuring equal standards are applied in both sectors.
- 5.3.2. Following implementation of legislation implementing the Maritime Labour Convention, 2006 (which will be in place before June), the HSW 1997 regulations and other health and safety legislation will—
- (a) protect seafarers whatever their employment status; and
  - (b) place duties on the shipowner as well as the employer, which allows for the wide range of employment arrangements on board UK ships in current times.

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<sup>5</sup> S.I. 1997/2962. These Regulations gave effect to Council Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers; Council Directive 91/383/EEC supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship; and Council Directive 92/85/EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding.

<sup>6</sup> See the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Employment of Young Persons) Regulations 1988 (S.I. 1998/2411) and the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Amendment) Regulations 2001 (S.I. 2001/54).

<sup>7</sup> S.I. 2006/2184.

<sup>8</sup> S.I. 2006/2183.

5.3.3. Since the EC-based regulations are based on risk assessment, they will allow for innovative or tailored safety measures where shipowners can demonstrate that these achieve an equivalent level of safety to the published “best practice”.

5.4. Regulation 7 and regulation 10 of the Merchant Shipping (Safe Movement on Board Ship) Regulations 1988 (which related to safety signs and movement of vehicles) have already been revoked<sup>9</sup>.

## Impact

5.5. These two S.I.s refer to relevant chapters of the Code of Safe Working Practices for Merchant Seamen, published in 1978, as the applicable standards. The references in the regulations are long out of date, but under the Interpretation Act, a court may interpret the Regulations as if they referred to the current relevant Chapters.

5.6. If the two sets of regulations are revoked, the relevant chapters of the Code of Safe Working Practice would have the status of guidance, rather than having direct mandatory force.

5.7. Enforcement would be through the general duty in the HSW 1997 regulations that an employer or shipowner must ensure, so far as is reasonably practicable, the health and safety of workers and other persons<sup>10</sup>. For example, regulation 5 of the HSW 1997 Regulations stipulates that this duty should extend to

- provision and maintenance of ... equipment and systems of work that are so far as is reasonably practicable, safe and without risk to health; ((2)(a))
- maintenance of all places of work in the ship in a condition that is, so far as is reasonably practicable, safe and without risk to health; ((2)(e))
- provision and maintenance of an environment for persons aboard ship that is, so far as is reasonably practicable, safe and without risk to health. ((2)(g)).

Each of the above examples is applicable to the subject matter of the safe movement and means of access.

5.8. Initially, the Regulations would be replaced by Marine Guidance Notes (MGNs) (drafts attached) which draw attention to the relevant chapters of the Code. When the Code of Safe Working Practices is revised next year, both the basic requirements and the guidance could be incorporated into the Code.

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<sup>9</sup> See the Merchant Shipping and Fishing Vessels (Safety Signs and Signals) Regulations 2001 (S.I. 2001/3444), and the Merchant Shipping and Fishing Vessels (Provision and Use of Work Equipment) Regulations 2006 (2006/2183).

<sup>10</sup> See the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997, regulation 5 (as amended).

5.9. The MGNs/ revised Code would be drafted in such a way as to ensure that compliance with the Code was clearly signalled as industry best practice in the application of health and safety general duties in these areas. The MCA generally takes the view that, if a shipowner has in place measures which comply with relevant guidance in the Code, they are doing enough to comply with the relevant health and safety duties, provided that there are no additional factors in play which require additional precautions.

5.10. The advantage of this approach, which relies on risk assessment rather than specific requirements and standards, is that it is open to shipowners to innovate, or tailor solutions to specific circumstances where they can demonstrate to the MCA that the measures they take would achieve an equivalent level of safety.

5.11. The MCA's interpretation would be likely to be taken into account by the courts in any legal action.

5.12. (The fifth S.I. in the 1988 package, Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988, will be retained and will soon be amended to take on board recent amendments to SOLAS.)

*Views are invited:*

- *Do you think that revoking these Regulations have any impact on safety and, if so, in what way?*
- *Are the prescriptive requirements in the Code to which the Regulations point still valid? Would guidance have the same impact?*
- *Do you support revocation? If not, are there changes you would like to see made to the regulations as currently drafted?*

*Comments are also invited on the draft MGNs at Appendices 3 and 4 and the draft impact assessment at Appendix 5.*

## **6. Merchant Shipping (Code of Safe Working Practices for Merchant Seamen) Regulations 1988**

6.1. The Merchant Shipping (Code of Safe Working Practices for Merchant Seamen) Regulations 1988 ("the Code Regulations") require the carriage of specified numbers of copies of the Code of Safe Working Practices for Merchant Seamen ("the Code") on UK ships. A summary is provided at Appendix 6. They do not require compliance with the Code. The intention of the statutory requirement is to ensure that the Code is readily and easily available for reference by all seafarers on board UK ships

- 6.2. It is well known that the Code is widely carried on ships of many flags internationally, where there is no statutory requirement to do so. It is not therefore expected that revoking these Regulations would reduce the availability of the Code.
- 6.3. The MCA would expect the Code to remain the source of best practice guidance for health and safety on UK ships, and will continue to update and publish it, in consultation with shipowners and seafarer unions.
- 6.4. The general duty to ensure the health and safety of workers under the HSW 1997 regulations extends to “provision of such **information**, instruction, training and supervision as is necessary to ensure the health and safety of workers and that of other persons aboard ship who may be affected by their acts or omissions”. The MCA believes that one indispensable source of such information is full and proper access to the Code on board UK ships. The draft MGN at Appendix 7 sets out this proposed interpretation.
- 6.5. An alternative approach has been suggested in recent informal discussions with industry representatives. This would involve revoking the Code regulations as proposed, but also amending the HSW 1997 regulations, explicitly to require carriage of the Code of Safe Working Practices. So the general duty to ensure the health and safety of workers would include a requirement to provide access to the Code of Safe Working Practices for Merchant Seamen.
- 6.6. However, the increasing availability of digital information on board ships arguably makes the requirement to carry a specified number of hard copies of the Code less important. Indeed, the availability of an electronic version of the Code on a ship’s on-board network might increase its accessibility at workstations in comparison with hard copies kept in specific locations.
- 6.7. For some years there have been administrative arrangements in place to allow ships to carry fewer hard copies than required by the Code regulations, where the Code is available electronically.
- 6.8. It is intended to begin a review of the Code during 2014/15, and the aim is to ensure that a more user-friendly electronic version is produced, which will either be available alongside, or instead of, the hard copy version early in 2015. MCA will be consulting separately on review of the Code.

*Views are invited:*

- *Do you agree with the MCA’s view that the duty under the HSW 1997 Regulations to provide information on health and safety to seafarers would require providing access to the Code of Safe Working Practices for Merchant Seamen on board UK ships?*

- *Do you think that revoking these Regulations would have any impact on safety and, if so, what would that impact be?*
- *Would you prefer the HSW 1997 regulations to be amended explicitly to require carriage of the Code?*
- *In your experience are the requirements to carry copies of the Code currently complied with on ships, or are alternative equivalent arrangements authorised by MCA widely used?*
- *Do you support revocation? If not, are there changes you would like to see made to the regulations as currently drafted?*

*Comments are invited on*

- *The draft MGN explaining the status of the Code of Safe Working Practices for Merchant Seamen at Appendix 7; and*
- *the draft impact assessment, at Appendix 8, discussing the impact of the proposed revocation of the carriage requirements for the Code of Safe Working Practices. In particular any evidence of costs or benefits arising from this proposal would be welcome.*

## Appendix 1

### Summary of requirements of the Merchant Shipping (Safe Movement on Board Ship) Regulations 1988

#### Application

UK ships and non-UK ships in UK waters<sup>1</sup> (), excluding

- Fishing vessels
- Pleasure vessels
- Offshore installations whilst on or within 500 metres of their working stations; or
- Ships on which there is for the time being no master or crew or watchman.

There is a provision for the granting of exemptions from the provisions of the Regulations.

#### Duties

- The employer and the master must ensure that safe means of access is provided to any place on the ship where people may be expected to go. In doing so, they must take full account of the principles and guidance in the Code of Safe Working Practices for Merchant Seamen (now Chapter 13)
- Transit areas, walking routes etc. must be properly maintained and kept free from materials or substances liable to cause a person to slip or fall.
- Areas used for the loading or unloading of cargo or other working and transit areas must be properly lit.
- Guardrails must be fitted, and kept in a good state of repair to protect openings, hatchways, or dangerous edges (*There are additional requirements regarding “collective safeguards” for those working at height in the Merchant Shipping (Health and Safety at Work) (Work at Height) Regulations 2010*).
- Ladders must be of good construction, sound material, adequate strength for the purpose for which they are used, free from patent defect and properly maintained. (*There are additional requirements for ladders when used for work at height in the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Work at Height) Regulations 2010*.)
- Access ladders to ship's holds must comply with the requirements in the Code of safe working practices.

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<sup>1</sup> Application of all the regulations extended by the Merchant Shipping (Health and Safety)(Application to non-UK ships) Regulations 1988 (S.I. 1988/2274).



## Appendix 2

### Summary of requirements of the Merchant Shipping (Means of Access) Regulations 1988

#### Application

UK ships and non-UK ships in UK waters<sup>1</sup>, excluding

- Fishing vessels
- Pleasure vessels
- Offshore installations whilst on or within 500 metres of their working stations;  
or
- Ships on which there is for the time being no master or crew or watchman.

There is a provision for the granting of exemptions from the provisions of the Regulations.

#### Duties

- The employer and master must ensure that there is a safe means of access from the ship to the quay, pontoon or similar structure or other vessel.
- Equipment necessary to provide a safe means of access
  - a. must be put in place promptly once the ship is secured, and must stay in place.
  - b. must be properly rigged, secured, deployed and safe to use
  - c. must be adjusted from time to time to maintain safe access
  - d. must be adequately illuminated, as must the approaches to it;
  - e. must be of good construction, of sound material, of adequate strength, free from patent defect and properly maintained.
- Safe access ashore must also be provided if the ship is not secured alongside.
- The principles and guidance in the Code (now in Chapter 6 and Chapter 18) must be followed.
- An appropriate gangway must be provided for any ship over 30m in length, which complies with specifications in the Code (now Chapter 18).
- An appropriate accommodation ladder must be provided for any ship over 120m in length, which complies with specifications in the Code (now Chapter 18).

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<sup>1</sup>Application of all the regulations extended by the Merchant Shipping (Health and Safety)(Application to non-UK ships) Regulations 1988 (S.I. 1988/2274)

- Portable ladders and rope ladders should only be used where no safer means of access is practicable. Any rope ladder must comply with the specifications in the Code (now Chapter 15.3)
- A lifebuoy, with self-activating light and separate safety line, must be kept ready for use at the point of access to the ship.
- Safety nets must be carried, and rigged where there is a risk of a person falling from access equipment or from the ship or shore.
- Every person boarding or leaving the ship must use the access equipment provided, except in emergencies.



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## SAFE MOVEMENT ON BOARD SHIP

Notice to all Insert Audience eg, Shipowners, Masters etc

*This notice should be read with ... and/or replaces ...*

*This MIN expires Day Month Year [Normally only applies to MINs]*

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### Summary

1. This Marine Guidance Note gives guidance on the measures that shipowners and employers are expected to take in order to provide for safe movement on board UK ships.
2. Providing for safe movement on board ship is considered to be an integral part of ensuring a safe working environment on board.
3. The Merchant Shipping (Safe Movement on Board Ship) Regulations 1988 have been revoked, and the guidance in this notice replaces the statutory duties in those Regulations.
4. MCA considers that compliance with this notice will generally demonstrate that the shipowner or employer has done what is reasonably practicable to comply with the duty to ensure a safe working environment on board ship. Where alternative measures are taken to provide for safe movement, the shipowner or employer will be expected to demonstrate that these alternative measures provided at least an equivalent level of safety in the operating conditions concerned.

### 1. Introduction

- 1.1 The Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 place a duty on the employer to ensure the health and safety of workers and other persons so far as is reasonably practicable. That duty extends to provision and maintenance of an environment for persons aboard ship that is, so far as is reasonably practicable, safe and without risk to health.
- 1.2 Providing for safe movement on board ship is considered to be an integral part of that duty. The duty is placed on [the shipowner,] the employer and any other person "in control of the matter", which – in respect of day to day management of the ship - will include the master.



## **2. Basic requirements**

- 2.1 The shipowner and the master should ensure that safe means of access is provided and maintained to any place on the ship to which a person may be expected to go. This includes accommodation areas, and passenger areas. See the Code of Safe Working Practices for Merchant Seamen (“the Code”) section 6.4.2.
- 2.2 All deck surfaces used for transit about the ship, and all passageways, walkways and stairs should be properly maintained and kept free from material or substances liable to cause a person to slip or fall.
- 2.3 All transit areas and working areas, including areas used for loading and unloading of cargo, should be adequately and appropriately lit. Section 6.4.5 of the Code gives further information on lighting levels.
- 2.4 Safety signs should be used where appropriate to give health and safety information (see MSN 1763(M+F)).
- 2.5 Secure guards or fencing should be fitted around any opening, open hatchway or dangerous edge into, through or over which a person may fall. This must be of adequate design and construction for the purpose. If the opening is a permanent access way, or work is in progress which cannot be carried out while the guard are in place, this requirement does not apply. However, any hazard should be clearly marked. Section 13.5 of the Code gives further guidance on guardrails.

## **3. Ladders**

- 3.1 All ship’s ladders should be of good construction and sound material, of adequate strength for the purpose they are to be used, free from patent defect and properly maintained.
- 3.2 Ladders providing access to ship’s holds should comply with the requirements in Annex 6.1

## **4. Movement of vehicles**

- 4.1 Only a competent person, authorised to do so, should drive any powered ship’s vehicle or mobile lifting appliances in the course of their work. Risks arising from use or movement of such vehicles or appliances should be assessed and measures put in place to ensure the safety of those driving or using them, and others.
- 4.2 Further guidance is in section 13.7 of the Code.

## **5. Further guidance**

- 5.1 Chapter 13 of the Code gives further guidance on safe movement on board ship, including watertight doors, working on deck, and precautions to take when heavy weather is expected.

## **More Information**

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## MEANS OF ACCESS

### Notice to all shipowners, masters, employers and seafarers

*This notice should be read with ... and/or replaces ...*

*This MIN expires Day Month Year [Normally only applies to MINs]*

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### Summary

1. This Marine Guidance Note gives guidance on the measures that shipowners and employers are expected to take in order to provide a safe means of access on UK ships.
2. Providing safe access to a ship is considered to be an integral part of ensuring a safe working environment on board.
3. The Merchant Shipping (Means of Access) Regulations 1988 have been revoked, and the guidance in this notice replaces the statutory duties in those Regulations.
4. MCA considers that compliance with this notice will generally demonstrate that the shipowner or employer has done what is reasonably practicable to comply with the duty to ensure a safe working environment on aboard ship. Where alternative measures are taken to provide safe means of access, the shipowner or employer will be expected to demonstrate that these alternative measures provided at least an equivalent level of safety in the operating conditions concerned.

### 1. Introduction

- 1.1 The Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 place a duty on the employer to ensure the health and safety of workers and other persons so far as is reasonably practicable. That duty extends to provision and maintenance of an environment for persons aboard ship that is, so far as is reasonably practicable, safe and without risk to health.
- 1.2 Providing a safe means of access to the ship is considered to be an integral part of that duty. The duty is placed on [the shipowner,] the employer and any other person “in control of the matter”, which – in respect that the equipment provided is properly used - will include the master.



1.3 In this notice, any reference to “access” means embarking on or disembarking from a ship.

## **2. Basic requirements**

- 2.1 In order to ensure the safety of those leaving or joining the ship, a safe means of access is required between the ship and any quay, pontoon, other structure, or another ship alongside which the ship is secured. The master is responsible for ensuring that a safe means of access is provided, even if the equipment is provided from the shore-side.
- 2.2 The equipment used to provide a safe means of access should be placed in position promptly after the ship has been secured and should remain in position for as long as the ship remains alongside.
- 2.3 Access equipment when in use should be properly rigged, secured, deployed and safe to use. It should be adjusted as necessary from time to time to maintain safe access.
- 2.4 The means of access and immediate approaches should be adequately illuminated – see section 6.1.4 of the Code of Safe Working Practices for Merchant Seamen.
- 2.5 Equipment used for access, and any safety net should be of good construction, of sound material, of adequate strength for the purposes for which it is used, free from patent defect and properly maintained.
- 2.6 A lifebuoy with a self-activating light and safety line attached to a quoit or similar device should be provided ready for use at the point of access to the ship.

## **3. Gangways**

- 3.1 A gangway should be carried on every ship of 30 metres or more registered length (or overall length, if the ship is not registered). The gangway should be appropriate to the deck layout, size, shape and maximum freeboard of the ship.
- 3.2 Further guidance is in Annex 18.1 and Annex 18.2. of the Code of Safe Working Practices for Merchant Seamen.

## **4. Accommodation Ladders**

- 4.1 An accommodation ladder should be carried on every ship of 120 metres or more registered length (or overall length, if the ship is not registered). The accommodation ladder should be appropriate to the deck layout, size, shape and maximum freeboard of the ship.
- 4.2 Further guidance is in Annex 18.1. and Annex 18.2. of the Code of Safe Working Practices for Merchant Seamen.

## **5. Portable and Rope Ladders**

- 5.1 Portable ladders should only be used as a last resort, where no safer means of access is reasonably practicable. Further guidance is in Annex 18.1. of the Code of Safe Working Practices for Merchant Seamen.
- 5.2 A rope ladder should only be used for the purpose of access between a ship with high freeboard and a ship with low freeboard or between a ship and a boat, and only if no safer means of access is reasonably practicable.



5.3 Further guidance is in Annex 18.1. of the Code of Safe Working Practices for Merchant Seamen.

## **6. Safety nets**

6.1 An adequate number of safety nets should be carried on board the ship, or otherwise be readily available for use. When access equipment is in use, and there is a risk of a person falling from that equipment, or from the ship or from the quayside, a safety net should be mounted in order to minimise the risk of injury.

6.2 Further guidance is in Section 18.5 of the Code of Safe Working Practices for Merchant Seamen.

## **7. Duty of workers**

7.1 The Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 require workers to take reasonable care for the health and safety of themselves and others on board the ship who may be affected by their acts and omissions. In particular, they must co-operate with the Company or the employer or other person to ensure compliance with health and safety requirements.

7.2 A worker must therefore make use of any means of access provided for their use in accordance with these regulations, and any instructions or guidance as to its safe use.

## **8. Other guidance**

8.1 Section 6.1 and Section 18.1 of the Code of Safe Working Practices for Merchant Seamen contains further guidance, including on maintenance of equipment for means of access, and alternative boarding arrangements when those described above are not practicable. Where alternative measures are used, a risk assessment must be carried out and suitable protective measures be put in place, including use of Personal Protective Equipment if there are risks which cannot be avoided by collective means.

8.2 MGN 337(M+F) provides guidance on safe access for fishing vessels and other small vessels.

## **More Information**

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<b>Title:</b> Revocation of the Means of Access regulation and the Safe Movement on Board Ship regulation <b>IA No:</b> <b>Lead department or agency:</b> Maritime and Coastguard Agency <b>Other departments or agencies:</b> Department for Transport	<b>Impact Assessment (IA)</b>		
	<b>Date:</b> 05/03/2014		
	<b>Stage:</b> Consultation		
	<b>Source of intervention:</b> Domestic		
	<b>Type of measure:</b> Secondary legislation		
<b>Contact for enquiries:</b> Julie Carlton 023 9032 9216			
<b>Summary: Intervention and Options</b>		<b>RPC Opinion:</b> Not Applicable	

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANC Bon 2009 prices)	In scope of One-In, Two-Out?	Measure qualifies as Zero Net Cost
Neg	£NQ	£0m	Yes	Zero Net Cost

**What is the problem under consideration? Why is government intervention necessary?**

The Merchant Shipping (Means of Access) Regulations and the Merchant Shipping (Safe Movement on Board Ship) Regulations lay down specific requirements for means of boarding ships, and to ensure that people can move safely around ships, including lighting, segregation of vehicles, etc. These provisions mirror the shore-side Docks Regulations 1988, which are being revoked by the Health and Safety Executive (HSE). The Maritime and Coastguard Agency (MCA) considers that the Means of Access and Safe Movement on Board Ships Regulations should be revoked in order to keep shore-side and ship-side regulations aligned. Government intervention is necessary to revoke the regulations.

**What are the policy objectives and the intended effects?**

The policy objective is to remove unnecessary legislation.

It is not expected that revoking the Means of Access regulation and the Safe Movement on Board Ship regulation would have any adverse impact on safety. There are high-level goal-setting regulations which can ensure the same level of health and safety. Enforcement of safe means of access and safe movement on board ship have been superseded by risk-based health and safety legislation. (The standards in the existing legislation would be moved into guidance to provide industry with an indication of MCA's view of best practice to comply with the legislation.)

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

Policy option 0: do nothing.

Policy option 1, which is the preferred option, is to revoke the Means of Access regulation and the Safe Movement on Board Ship regulation, and move the standards contained in those regulations into guidance, supported by risk-based statutory health and safety duties. No other policy options have been considered.

<b>Will the policy be reviewed?</b> It will not be reviewed. <b>If applicable, set review date:</b> Month/Year						
Does implementation go beyond minimum EU requirements?				N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		<b>Micro</b> Yes	<b>&lt; 20</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)				<b>Traded:</b> N/A		<b>Non-traded:</b> N/A

***I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.***

Signed by the responsible  
SELECT SIGNATORY:

Dat  
e: \_\_\_\_\_

# Summary: Analysis & Evidence

# Policy Option 1

**Description:** Revocation of the Means of Access regulation and the Safe Movement on Board Ship regulation

## FULL ECONOMIC ASSESSMENT

Price Base Year 2014	PV Base Year 2012	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:Optional	High:Optional	Best Estimate:NQ

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	N/A	N/A
High	N/A	N/A	N/A
Best Estimate	Under £1k	£0m	Under £1k

### Description and scale of key monetised costs by 'main affected groups'

No costs to industry, charities or government have been identified which can be monetised. Section 6.1.2 sets out the likely, negligible cost to MCA of publicising the changes.

### Other key non-monetised costs by 'main affected groups'

Industry may incur some costs for staff time to familiarise themselves with the simplified regime. However, as this follows other health and safety legislation in relying on risk-based legislation, and as the standards currently contained in regulations will remain unchanged in the supporting guidance, these costs are expected to be negligible.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A	N/A	N/A
High	N/A	N/A	N/A
Best Estimate	N/A	NQ	NQ

### Description and scale of key monetised benefits by 'main affected groups'

No benefits to industry, charities or government have been identified which can be monetised.

### Other key non-monetised benefits by 'main affected groups'

Removing prescriptive regulation in favour of risk-based regulation supported by guidance on best practice will bring these aspects of safety into line with other occupational health and safety legislation, including legislation ashore. This may give employers some flexibility to react to improved technology and to develop innovative safety solutions.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5%

It is assumed that industry supports the standards currently in regulations as current best practice, which will continue to be applied through guidance, once the regulations have been revoked. This will be tested during public consultation on the revocation measure.

## BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: NQ	Benefits: NQ	Net: NQ	Yes	Zero net cost

# Evidence Base (for summary sheets)

## Title of proposal

### Revocation of two sets of outdated prescriptive health and safety legislation for ships

#### 1. Background

1.1 The Merchant Shipping (Means of Access) Regulations 1988 and the Merchant Shipping (Safe Movement on Board Ship) Regulations 1988 were introduced as part of the UK's implementation of the International Labour Organization's Minimum Standards (Merchant Shipping) Convention of 1976 (ILO 147). They are two out of a group of five sets of regulations, the others being –

- The Merchant Shipping (Hatches and Lifting Plant) Regulations 1988
- The Merchant Shipping (Guarding of Machinery and Electrical Equipment) Regulations 1988
- The Merchant Shipping (Entry into Dangerous Spaces) Regulations 1988

#### 1.2 The Means of Access regulation and the Safe Movement on Board Ship regulation

lay down specific requirements for gangways and other means of boarding ships, and for provisions to ensure that people can move safely around ships, including lighting, segregation of vehicles, removal of obstacles etc. These provisions seek to maintain on ships the same standards of safety as apply ashore in docks under the Health and Safety Executive's Docks Regulations 1988<sup>1</sup>. Consistent regulations are needed because seafarers and docks workers are working alongside each other, for example in cargo operations.

1.3 The merchant shipping legislation requires that employers and masters "take full account of" relevant sections of the Code of Safe Working Practices for Merchant Seamen, on means of access and safe movement. The Code of Safe Working Practices for Merchant Seamen ("the Code") is a joint publication agreed between government and industry which contains *de facto* UK health and safety standards for seafarers on UK ships.

1.4 However, since 1988, the UK has implemented a range of goal-setting, risk-assessment based health and safety directives in UK legislation. On land (including docks) the general requirements are set out in the Management of Health and Safety at Work Regulations (as amended)<sup>2</sup>. For shipping, the general requirements are set out in the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997<sup>3</sup>. A key requirement of these Regulations is that the employer should carry out a risk assessment and take measures to ensure the health and safety of workers so far as is reasonably practicable.

#### 2. Problem under consideration

2.1 Following the Red Tape Challenge, the Health and Safety Executive (HSE) is revoking a number of sector-specific regulations including the Docks Regulations 1988, because these are seen as outdated and unnecessary in the light of the newer risk-based legislation. The Docks Regulations will be revoked on 6 April 2014.

2.2 For the same reasons, through the Red Tape Challenge exercise, the Maritime and Coastguard Agency (MCA) identified the Means of Access and Safe Movement Regulations as candidates for revocation without detriment to safety. Both the Hatches and Lifting Plant Regulations and the Guarding Machinery Regulations have already been revoked, as their provisions were superseded by risk-based legislation on use of equipment.

2.3 For completeness, it should be noted that the Entry into Dangerous Spaces Regulations will be retained as they address a specific and well-recognised risk on ships, which nevertheless continues to claim lives. There is no European Union (EU) legislation highlighting the risk of dangerous spaces.

### 3. Rationale for intervention

3.1 Through the Red Tape Challenge, the Government sought ways to reduce the regulatory burdens on industry. One target was outdated and ineffective legislation.

3.2 The Means of Access and Safe Movement Regulations, in taking a prescriptive approach to health and safety, are out of step not only with most of the merchant shipping health and safety regime, but also with the shore-based health and safety regime. Once the Docks Regulations have been revoked in April 2014, there will be an even greater disparity.

3.3 More recent UK health and safety legislation for the maritime sector, based on European Directives on occupational health and safety, ensures a comparable level of protection because it applies to all aspects of safety on board ship, including access and safe movement.

**3.4 In addition, the Means of Access regulation and the Safe Movement on Board Ship regulation do not apply to fishing vessels where safe access and trip hazards etc on board are a significant problem. There is therefore inconsistency between the regulations which can be applied to fishing vessels and those applying to the merchant fleet. Regulations implementing the EU Occupational Safety and Health Directives apply to all ships on which workers are employed, and can be used to address issues of safe access and safe movement.**

3.5 It is therefore considered appropriate to revoke the regulations, which can only be done by government intervention, and move the standards they contain into best practice guidance for industry.

3.6 This will modernise the statute book, and give industry greater flexibility to respond to new developments in operational practice and technology.

### 4. Policy objectives

4.1 There are two main policy objectives –

- to reduce the regulatory burden on industry by modernising and simplifying legislation; and
- to ensure consistency of approach with other health and safety legislation, including health and safety legislation applying to fishing vessels and health and safety legislation ashore.

#### 4.2 Deregulation

**4.2.1 The MCA wishes to revoke the Means of Access regulation and the Safe Movement on Board Ship regulation dealing with means of access to ships, and to safe movement on board ships, and to rely instead on existing, more general health and safety duties, under which employers address all aspects of occupational health and safety through risk assessment and mitigating measures. The specific requirements currently in the two sets of regulations would be retained as guidance on best practice, initially in a Marine Guidance Notice, and in due course (when the Code of Safe Working Practices for Merchant Seamen is updated) in the Code.**

4.2.2 The Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 require employers to undertake an assessment of the risks arising from their undertaking and to take mitigating measures. Implicit in those general duties are the requirement to ensure provision of a safe working environment, which includes safe means of access and provisions to ensure seafarers can move safely around the ship.

**4.2.3 Specific standards contained within the 1988 Means of Access regulation and the Safe Movement on Board Ship regulation would be moved into non-mandatory guidance, and would be promulgated as best practice, to avoid a drop in standards and to assist small businesses which may not have their own expertise. However, a risk based approach also allows some flexibility for innovation. Employers will be able to take alternative measure provided that they can demonstrate an equivalent level of safety for workers.**

#### 4.3 Consistency with other health and safety legislation

4.3.1 There are many situations where seafarers work alongside shore-based workers, for example in cargo operations in ports, and in the offshore industry. The HSE is due to revoke the Docks Regulations 1988, which contain parallel provisions to those in the MCA legislation. To avoid confusion or duplication of effort, it is therefore preferable to maintain consistency as far as practicable between the merchant shipping regime for health and safety and that applying ashore, under HSE's legislation.

4.3.2 Since 1997, the MCA has implemented EU directives on occupational health and safety (OHS) for ships on the UK register ("UK flagged ships"), and for ships not on the UK register when in UK ports. The Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997, which introduced risk assessment and goal-based health and safety legislation, implemented the EU OHS "Framework Directive" and subsequent statutory instruments implemented the package of "daughter directives" each detailing with a specific aspect of health and safety – e.g. provision of personal protective equipment, use of work equipment, protection for chemical and biological agents, and from noise and vibration. As part of that exercise, two other sets of regulations dating from the 1988 package have been revoked. Since employers on ships must approach all aspects of health and safety on ships through the EU-based risk assessment approach, it is desirable for these two, more prescriptive instruments to be revoked so that means of access on ships and safe movement on board ship can be brought fully within that regime.

(Note: Following the revocation of the two instruments dealt with in this impact assessment (IA), there will be one outstanding instrument from the 1988 package, which deals with entry into dangerous spaces, a serious safety issue on ships. This is being retained, in part because the standards it contains implement international requirements, but also because it addresses a high-risk area of shipboard operations with a high accident rate.)

## **5. Description of options considered (including do nothing);**

### **5.1 Option 0: Do nothing**

This option would not remove the Means of Access Regulations and the Safe Movement on Board Ship Regulations. The regulations would continue to be out of step with other, more recent health and safety legislation on merchant ships, and the safety issues they address would continue to be duplicated by broader, goal-setting, risk-based health and safety legislation. This option would therefore not meet the policy objectives of reducing the existing regulatory burden and ensuring consistency of approach with other health and safety legislation.

The option is the baseline against the other options are considered against.

### **5.2 Option 1 (preferred option): Revoke the Merchant Shipping (Means of Access) Regulations 1988 and the Merchant Shipping (Safe Movement on Board Ship) Regulations 1988**

**One policy option has been considered. It is proposed to revoke the Means of Access regulation and the Safe Movement on Board Ship regulation, and to ensure that – subject to consultation with industry to ensure that they are still relevant - any standards contained in those regulations is published in MCA's Code of Safe Working Practices for Merchant Seamen, and therefore recognised as industry best practice.**

**Both the Means of Access regulation and the Safe Movement on Board Ship regulation require the employer to "take full account" of relevant guidance in the Code. That statutory reference to the Code would no longer exist.**

## **6. Costs and Benefits**

### **6.1 Costs of Option 1**

6.1.1 The measure is deregulatory, so there would be no costs of compliance for industry. Familiarisation costs are likely to be minimal, given that the only change is to remove specific statutory duties in favour of goal-setting requirements and guidance, based on the statutory duties which have been revoked. These costs have not therefore been quantified.

***Consultees are invited to provide any evidence of costs arising from the proposed revocation of the regulations.***

### 6.1.2 Costs to government

There will be some cost to MCA in publicising the changes to the legislation, and promoting the relevant standards on means of access and safe movement on board ship. This is expected to involve about two days of staff time, plus the publication cost for two Marine Guidance Notes (about £278 - based on £139 per day -in wage costs based on MCA wage rates uplifted by 30% to account for non-wage costs, plus £150 for publication).

### 6.2 Benefits of Option 1

Removing a layer of prescriptive regulation which arguably duplicates more general, goal-based regulation may not in itself have any impact on the standards be applied by employers, or the way in which those standards are complied with. It is not therefore expected that there will be any direct cost savings to employers from the change to the regulations.

However, removing the statutory reference to the guidance may provide some greater flexibility in achieving the standards of safe means of access and safe movement on board ship. It may also in future provide for innovative solutions.

In addition, by revoking the regulations, the legislation applying to merchant shipping is brought into line with that for fishing vessels and for workers ashore (e.g. in ports and in the offshore industry).

The government also believes there are benefits to industry in modernising and simplifying the body of legislation which must be consulted and complied with – see for example <http://www.redtapechallenge.cabinetoffice.gov.uk/2013/03/20-03-13-government-plans-to-scrap-or-improve-almost-two-thirds-of-maritime-regulations/>.

These benefits cannot however be quantified.

***Consultees are invited to provide any further evidence of benefits arising from the proposed revocation of the regulations.***

### 6.3 Comparison with the do-nothing option

The “do nothing” option is for the existing regulations to remain in force. While there are by definition no costs arising from the “do nothing” option, the potential benefits of a modernised, streamlined body of legislation, consistent with that for other sectors, would not be realised.

### 6.4 “One in Two-out” (OITO)

The measure would revoke two sets of regulations, but is only expected to bring minimal non-quantifiable benefits. It therefore qualifies as an “OUT with Zero net cost”.

### 6.5 Monitoring and enforcement

The current regulations are enforced on UK ships through health and safety inspection as part of an inspection of living and working conditions on board, in accordance with the ILO Convention on Labour Inspections (ILO No. 178) – shortly to be replaced by the ILO Maritime Labour Convention, 2006 (MLC).

This inspection will be unchanged as a result of the revocation of the regulations, but any necessary enforcement would be carried out under the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 (as amended) or other relevant statutes, rather than the specific regulations, now revoked.

## 7. Rationale and evidence that justify the level of analysis used in the IA (proportionality approach);

This is a deregulatory measure with little immediate impact in practical terms on the standards to be applied on board ships. It is therefore considered that there would be little financial impact to businesses in the UK. In addition, initial discussion with industry has confirmed that in principle, and subject to more detailed information, the proposals are supported by industry. Further analysis of the impacts is not therefore considered necessary.

## **8. Risks and assumptions.**

This assessment is based on the assumption that UK shipping companies comply with the existing regulations and accept the standards they impose as common good practice. There would therefore be no reason for changes in provision as a result of revoking the regulations.

There is a risk that employers see the revocation of the regulations as a signal that current standards as regards means of access and safe movement on board ship longer apply, and seek to take cost-cutting measures which might reduce safety. Ultimately, this would be addressed by MCA taking enforcement action where standards did not meet industry norms. However, to seek to prevent this risk to safety standards occurring, information and guidance on the intended impact of the regulations will be widely circulated.

## **9. Direct costs and benefits to business calculations (following OITO methodology);**

9.1 As explained in section 5 of this IA, the cost of the proposal to businesses is expected to be very small or negligible and has not been quantified. As there are no monetised costs, the proposal is classified as an OUT with zero net cost.

## **10. REDUCING REGULATION POLICY**

### **10.1 Direct costs and benefits to business calculations (following OITO methodology)**

It is considered that the Regulations qualify as an “OUT with Zero net cost”.

### **10.2 Copy out**

The 1988 regulations were based on ILO Convention No. 152 on Safety in Dock Work and the supporting recommendation, although the UK did not ratify that Convention, but copy-out principles were not applied at that time. Copy out is not relevant to the revoking the regulations

### **10.3 Alternatives to regulation**

Option 1 removes prescriptive regulation, and relies on overarching, risk-based health and safety duties (which already exist) to support non-mandatory guidance on industry good practice. MCA believes that this can achieve the same level of safety with less regulation.

### **10.4 Review clauses (N/A)**

This is a fast track measure under the Red Tape Challenge and does not therefore require a review clause.

## **11. SPECIFIC IMPACT TESTS**

### **11.1. Equalities Assessment**

Although MCA does not consider that Option 1 will have any detrimental effect on safety, revoking the regulations arguably removes the protection of statutory safety standards from seafarers, who are recognised as a vulnerable group of workers. However the change would impact equally on all workers, regardless of their age, ethnic origin, gender, nationality, race, sexual orientation or disability.

These proposals are therefore considered to have no adverse impact as regards statutory equality duties.

### **11.2. Competition Assessment**

The 1988 regulations are based on international Convention and recommendations, and it is therefore expected that the standards they contain are applied to ships in all ports worldwide. They are not therefore thought to disadvantage UK shipowners in competition with ships of other flags.

The Maritime Labour Convention, 2006, which is currently in force for those countries which ratified it 12 months or more ago, includes provisions on health and safety, requiring ratifying States to promote

guidelines on many issues, including means of access. As the application of the Convention spreads internationally, it is expected that current international standards, introduced under ILO 152 will continue to be applied.

Revoking the regulations is not therefore expected to bring any immediate competitive advantage. However, by revoking prescriptive requirements in favour of risk-based safety duties, it provides a more flexible regime which will be able to adapt to new developments and may benefit UK shipowners in future.

***Consultees are invited to offer any additional evidence on the potential for revocation of the Regulations to impact on competition.***

### **11.3. Small and Micro-business assessment**

It is appropriate that the working conditions for all workers should be underpinned by common minimum standards regardless of the size of the company for which they work. The 1988 regulations include more prescriptive requirements for ships over a certain size and to that extent assist small businesses, who generally (but not exclusively) operate smaller ships.

The MCA has in force Codes of Practice for small commercial vessels, which are intended as a “one stop shop” for small businesses operating commercial vessels under 24 metres in length and carrying not more than 12 passengers. These Codes incorporate relevant requirements from the 1988 regulations - the prescriptive standards do not apply to vessels under 24 metres.

***Consultees were invited to provide any additional evidence on the potential impacts of revocation of the Regulations on small firms.***

### **11.4. Health Impact Assessment**

The 1988 regulations provide for safe means of access and safe movement on board ship. The revocation of the regulations is not therefore expected to have any impact on health.

### **11.5. Human Rights**

Since revocation of the regulations is not expected to have any impact on safety standards for seafarers at work, there are no Human Rights compatibility issues arising from these Regulations.

### **11.6. Justice System**

Revocation of the regulations would remove 13 potential offences for employers, 11 for masters and 2 for shipowners. The main enforcement mechanism for these proposed Regulations would be through the inspection and certification of UK ships by MCA surveyors. While MCA's preferred method of enforcement where deficiencies are found on board ships is to use improvement notices, prohibition notices, and in very serious cases detention of the ship, in order to secure rapid rectification of the deficiency, there are also offences and penalties laid down in the Regulations, which are available to MCA to take enforcement action after the event if this is considered justified. These are in line with the penalties in place for corresponding or similar offences in pre-existing Regulations.

The same methods of enforcement would be used for breach of the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997.

### **11.7 Greenhouse Gas Emissions**

As the Regulations only affect seafarer health and safety and no significant additional costs are anticipated, it is not expected to affect maritime transport volumes. Therefore, no change in greenhouse gas emissions is expected.

## **12. Summary and preferred option**

12.1 Option 1 would revoke two sets of health and safety regulations dating from 1988. The standards they contain would be published as industry best practice, supported by risk-based and goal-based health and safety duties. Revocation of the regulations would reduce the amount of maritime health and safety legislation and mirror the revocation of the Docks Regulations which apply to shore-based

workers. It would also bring health and safety legislation applying to merchant ships into line with that for fishing vessels. No monetised costs or benefits have been identified as a result of this proposal.

Option 1 meets the policy objectives in Section 2 of this IA and is the preferred option.

### **13. Implementation plan.**

13.1 It is proposed to consult on Option 1 early in 2014, with a view to revoking the regulations in SNR7. Guidance on the current regulations is contained in the Code of Safe Working Practices for Merchant Seamen and will be reviewed in the light of the proposals, and included as part of the consultation package.

13.2 Guidance on safe means of access and safe movement on board ship would be enforced through the general duties in the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997, and through inspections of health and safety under the Maritime Labour Convention, 2006.

### **References:**

1. The Docks Regulations 1988: <http://www.legislation.gov.uk/uksi/1988/1655/contents/made>
2. The Management of Health and Safety at Work Regulations 1999 : <http://www.legislation.gov.uk/uksi/1999/3242/contents/made>
3. The Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 - <http://www.legislation.gov.uk/uksi/1997/2962/contents/made>

**Summary of requirements of the Merchant Shipping (Code of Safe Working Practices for Merchant Seamen) Regulations 1988**

**Application**

The Regulations apply to all UK ships, except fishing vessels, pleasure vessels and any vessels to which the Merchant Shipping (Passenger Ships) (Safety Code for UK Categorised Waters) Regulations 2010 or the Merchant Shipping (Technical Requirements for Inland Waterway Vessels) Regulations 2010 apply.

**Duties**

The Company must ensure that

On ships on which no more than 5 workers are employed, one copy of the Code is carried, in the custody of the Master, and accessible to workers;

On ships on which more than five and no more than twenty workers are employed, the master, the safety officer, and each safety representative must each have a copy of the Code, and one or more copies must be kept in a place readily accessible to other workers.;

On ships on which more than 20 workers are employed, the master, the chief officer, the chief engineer, the purser or catering officer, the safety officer, and each safety representative must each have a copy of the Code, and an adequate number of copies for the number of workers employed (taking into account their duties) must be kept in a place accessible to other workers.

No person shall remove a copy of the Code from the ship without the consent of the Company and the master.



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## THE CODE OF SAFE WORKING PRACTICES FOR MERCHANT SEAMEN

Notice to all Insert Audience eg, Shipowners, Masters etc

*This notice should be read with ... and/or replaces ...*

*This MIN expires Day Month Year [Normally only applies to MINs]*

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### Summary

1. The Merchant Shipping (Code of Safe Working Practices for Merchant Seamen) Regulations 1998 have been revoked.
2. The Regulations specified the number of copies of the Code of Safe Working Practices for Merchant Seamen (“the Code”) to be carried on UK ships to ensure that all members of the crew had ready access.
3. The MCA expects that the Code will still be available for the use of all crew members on UK ships, in order to fulfil the employer’s duty to provide “the necessary **information**, instruction, training and supervision” to ensure the health and safety of the crew, and that where appropriate the guidance it contains will be followed as recognised best practice.
4. The current edition of the Code is the consolidated edition, 2011 (or the CD edition 2010).

### 1. Introduction

- 1.1 The Merchant Shipping (Code of Safe Working Practices for Merchant Seamen) Regulations 1998 (“the 1998 Regulations”) were revoked on [30 June 2014].
- 1.2 The 1998 Regulations specified the number of copies of the Code of Safe Working Practices for Merchant Seamen (“the Code”) to be carried on UK ships, based on the number of crew on board. The regulations required that the Master, Safety Officer and any members of the Safety Committee had their own copy, leaving at least one available for general reference. The purpose was to ensure that all members of the crew had ready access to the Code, which is the UK shipping industry’s handbook for health and safety on board ship, published by the Maritime and Coastguard Agency (MCA) with the support of the UK Chamber of Shipping, Nautilus International and the National Union of Rail, Maritime and Transport Workers.



## 2. Status of the guidance in the Code of Safe Working Practices for Merchant Seamen

2.1 Few of the UK's merchant shipping health and safety regulations now refer directly to the content of the Code, which therefore has no statutory status. However, the Code is considered to provide definitive guidance on best practice for many aspects of health and safety on board ship, as agreed by experts representing shipowners' and seafarers' organisations (the MCA's social partners) in the UK shipping industry.

2.2 There are two important implications of this:

2.2.1 The Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 place a duty on the employer to ensure the health and safety of workers and other persons so far as is reasonably practicable. That duty extends to providing "the necessary **information**, instruction, training and supervision as is necessary to ensure the health and safety of workers and that of other persons aboard ship who may be affected by their acts or omissions."

2.2.2 The MCA considers that making the Code available in particular to those with specific responsibilities for health and safety on board, and readily accessible to all crew members is a necessary part of complying with that obligation.

2.2.3 When considering whether a shipowner has done what is reasonably practicable to ensure the health and safety of workers and others affected by their activities on board a UK ship, the MCA will take into account whether any relevant guidance in the Code has been followed, and if not, what the shipowner or employer has done to ensure an equivalent level of safety.

2.3 MCA recognises that on many ships, most information is made available to seafarers by digital means, through on-board computers and computer networks. In these circumstances, it may not therefore be necessary to hold the number of hard copies required by the 1998 Regulations. Shipowners and employers should nevertheless ensure that the level of access seafarers on their ships have to the Code - whether in hard copy or by electronic means – is equivalent to that which was required under the Regulations.

2.4 It is also recommended that, even where all seafarers have ready access to an electronic copy of the Code, an appropriate number of hard copies are retained on board as back-up in case of system failure.

## 3. Proposed review of the Code

3.1 MCA is currently embarking on a review of the Code, with a view to publishing an updated version in 2015. At that time, consideration will be given to producing the Code in digital format, including versions for networked use.

### More Information

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telephone numbers are correct at time of publishing



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***Safer Lives, Safer Ships, Cleaner Seas***



<b>Title:</b> Revocation of Merchant Shipping (Code of Safe Working Practices for Merchant Seamen) Regulations 1998 <b>IA No:</b> DfT00271  <b>Lead department or agency:</b> Maritime and Coastguard Agency <b>Other departments or agencies:</b> Department for Transport	<b>Impact Assessment (IA)</b>		
	<b>Date:</b> 05/03/2014		
	<b>Stage:</b> Consultation		
	<b>Source of intervention:</b> Domestic		
	<b>Type of measure:</b> Secondary legislation		
<b>Contact for enquiries:</b> Julie Carlton 023 9032 9216			
<b>Summary: Intervention and Options</b>			<b>RPC Opinion:</b> Not applicable

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB in 2009 prices)	In scope of One-In, Two-Out? Measure qualifies as
£0.67m	£0.67m	-£0.06m	Yes   Out

**What is the problem under consideration? Why is government intervention necessary?**

The Merchant Shipping (Code of Safe Working Practices for Merchant Seamen) Regulations 1998 ("the Code Regulations") require specified numbers of copies of the MCA's Code of Safe Working Practices for Merchant Seamen to be carried on UK ships, with a view to ensuring that all seafarers on board have ready access to the safe information it contains. Increasingly ships are relying on electronic documentation on board, and this statutory requirement to carry hard copies is increasingly outdated and imposes an unnecessary cost on industry. MCA considers that the Code Regulations can be revoked without detriment to safety and are therefore unnecessary.

**What are the policy objectives and the intended effects?**

The policy objective is to remove unnecessary legislation and unnecessary cost to industry. The Code of Safe Working Practices for Merchant Seamen, "the Code", is produced by the MCA in consultation with the shipowner and seafarer representative organisations, and is intended to provide a practical, best practice guide for seafarers to shipboard working practices. Health and safety regulations made in 1988 refer to relevant chapters of the Code, but the majority of those statutory instruments either have been, or are due to be revoked. Removing the statutory requirement to carry hard copies of the Code will give shipowners flexibility in how to provide access, including through on-board computer systems.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

**Policy option 0 – do nothing.**

Policy option 1, which is the preferred option, is to revoke the Code Regulations. High-level health and safety regulations require that seafarers are provided with "such information, training and instruction as is necessary to ensure the health and safety of workers and that of other persons aboard ship who may be affected by their acts or omissions". MCA, supported by the social partners, considers that access to the Code is part of that "necessary information", and this will be made clear in guidance.

No other policy options have been considered.

<b>Will the policy be reviewed?</b> It will be reviewed. <b>If applicable, set review date:</b> 06/2019					
Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	<b>Micro</b> Yes	<b>&lt; 20</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b> N/A	<b>Non-traded:</b> N/A	

***I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.***

Signed by the responsible SELECT SIGNATORY: \_\_\_\_\_ Date: \_\_\_\_\_

# Summary: Analysis & Evidence

# Policy Option 1

**Description:** Revocation of Merchant Shipping (Code of Safe Working Practices for Merchant Seamen) Regulations 1998

## FULL ECONOMIC ASSESSMENT

<b>Price Base</b> Year 2014	<b>PV Base</b> Year 2014	<b>Time Period</b> Years 10	<b>Net Benefit (Present Value (PV)) (£m)</b>		
			<b>Low:</b> £0.33m	<b>High:</b> £1.00m	<b>Best Estimate:</b> £0.67m

<b>COSTS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant Price)	<b>Total Cost</b> (Present Value)
<b>Low</b>	N/A	N/A	N/A	<b>N/A</b>
<b>High</b>	N/A		N/A	<b>N/A</b>
<b>Best Estimate</b>	£Neg.		£0m	<b>£Neg.</b>

### Description and scale of key monetised costs by 'main affected groups'

A negligible cost to government from publicising the changes has been identified (see section 5.1.3). No other costs to industry, charities or government have been identified which can be monetised.

### Other key non-monetised costs by 'main affected groups'

The Stationary Office is the only official provider of the Code and sells between 2,000 and 40,000 hard copies of the Code each year, but not all are for use on UK ships. TSO may lose some sales of hard copies, however it is assumed to operate in a competitive market so there will be no impact on TSO's profits. If this assumption is not fully accurate there may be some impact on TSO, but this may be offset by increased sales of the electronic (CD) version, and development of new supporting products.

<b>BENEFITS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant Price)	<b>Total Benefit</b> (Present Value)
<b>Low</b>	N/A	N/A	£0m	<b>£0.3m</b>
<b>High</b>	N/A		£0.1m	<b>£0.1m</b>
<b>Best Estimate</b>	£0m		£0.1m	<b>£0.7m</b>

### Description and scale of key monetised benefits by 'main affected groups'

Shipowners will no longer be required to purchase hard copies of the Code. This will bring them a benefit in terms of reduced costs where they choose to hold fewer copies, need fewer loose-leaf updates or switch to cheaper digital versions. There are 1,226 ships on the UK register, most of which currently carry at least 3 copies of the Code, and some considerably more. In addition, between 3,600 and 4,320 small commercial vessels will carry one copy. The Code is priced at £30. Most merchant ships are expected to continue to carry some hard copies as a back-up, or replace them with electronic versions. The total estimated benefit is therefore expected to be between £40,000 and £120,000 per year.

### Other key non-monetised benefits by 'main affected groups'

In addition to the reduced cost of purchasing copies of the Code, shipowners will also have savings in staff time updating hard copies of the Code annually. There may also be safety benefits because it will be easier to ensure that one centrally maintained, digital copy of the Code is updated - rather than many hard copies. However, there is no evidence of the extent of this impact so these benefits cannot be monetised.

<b>Key assumptions/sensitivities/risks</b>	<b>Discount rate (%)</b>	3.5
It is assumed that the support of the MCA's official International Labour Organisation social partners (the UK Chamber of Shipping, and the seafarer unions Nautilus International and the National Union of Rail and Maritime Transport Workers) for the Code is representative of UK industry as a whole, and shipowners will be willing to continue to carry copies (hard or soft) of the Code once the regulations have been revoked. This will be tested during public consultation on the revocation measure.		

## BUSINESS ASSESSMENT (Option 1)

<b>Direct impact on business (Equivalent Annual) £m:</b>			<b>In scope of OITO?</b>	<b>Measure qualifies as</b>
<b>Costs:</b> £0m	<b>Benefits:</b> £0.1m	<b>Net:</b> £0.1m	Yes	OUT

# Evidence Base (for summary sheets)

**Title of proposal:** Revocation of Merchant Shipping (Code of Safe Working Practices for Merchant Seamen) Regulations 1998

## 1. Problem under consideration

The Merchant Shipping (Code of Safe Working Practices for Merchant Seamen) Regulations 1998<sup>1</sup>("the Code Regulations") require specified numbers of copies of the MCA's Code of Safe Working Practices for Merchant Seamen to be carried on UK ships, to ensure that each department, and key personnel on board have copies. The purpose of the Regulations is to ensure that those with specific health and safety responsibilities have a copy and that all seafarers on board have ready access to the safety information it contains.

Increasingly, ships are reducing the amount of paperwork on board, and instead moving to electronic documentation, hosted on ship-board computers (internet access is not universally available or reliable). MCA has made some attempts to accommodate this, producing an electronic (CD) version of the Code and putting in place administrative arrangements to allow use of electronic copies alongside a reduced number of hard copies but the statutory requirement to carry hard copies looks increasingly outdated, and does not fully reflect the realities on board UK ships.

## 2. Rationale for intervention

Through the Red Tape Challenge, the Government sought ways to reduce the regulatory burdens on industry. One target was outdated and ineffective legislation.

The Code Regulations are considered outdated, for the reasons set out above in section 1.

The Code is widely regarded as a source of best practice guidance for seafarers – for example, it is carried on many non-UK ships where there is no requirement to do so, and has been translated in to Chinese by a foreign publisher<sup>2</sup>.

In addition, the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 require that seafarers are provided with "such information, training and instruction as is necessary to ensure the health and safety of workers and that of other persons aboard ship who may be affected by their acts or omissions". MCA believes that the Code is one element of the "necessary information" for seafarers on UK ships, and, subject to support for this view from the UK Chamber of Shipping and seafarer unions, Nautilus International and the National Union of Rail and Maritime Transport Unions during consultation, will publish guidance to this effect.

It therefore appears that no explicit statutory requirement is necessary to ensure that the Code continues to be carried on UK ships.

This will modernise the statute book, and give industry greater flexibility to respond to new developments in operational practice and technology.

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<sup>1</sup>S.I. No. 1998/1838 <http://www.legislation.gov.uk/ukSI/1998/1838/contents/made>

<sup>2</sup> [http://www.mardep.gov.hk/en/pub\\_services/code\\_swp.html](http://www.mardep.gov.hk/en/pub_services/code_swp.html)

### 3. Policy objectives

#### 3.1 There is one main policy objective:

- to reduce the regulatory burden on industry by modernising and simplifying legislation.

The proposal will give shipowners greater flexibility as to how they provide seafarers on their ships with access to the Code of Safe Working Practices.

The Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 require employers to provide seafarers with “such information, training and instruction as is necessary to ensure the health and safety of workers and of others aboard ship.” The Code is considered to be one element of the “necessary information” to which seafarers must have access.

### 4. Description of options considered (including do nothing)

#### 4.1 Do nothing:

The Code Regulations are out of step with other, more recent health and safety legislation on merchant ships, in that they are very prescriptive. They are also outdated, since they require all crew members to have access to hard copies of the Code.

The Do Nothing Option therefore does not address the objective set out in Section 3.

#### 4.2 Option 1 (preferred option): Revoke the Merchant Shipping (Code of Safe Working Practices for Merchant Seamen) Regulations 1998

One policy option has been considered. It is proposed to revoke the Code Regulations, and to ensure that – subject to consultation with industry to ensure that they are still relevant – guidance makes clear that it is still expected that all seafarers will have access to the Code on board ship.

The Maritime Labour Convention, 2006, which is currently in force for those countries which ratified it 12 months or more ago, includes provisions on health and safety, requiring ratifying States to promote guidelines on many health and safety issues. The publication of the Code fulfils this requirement, without the need for a statutory requirement on UK ships to carry that publication, and specifying the number of copies required on board each ship.

### 5. Costs and Benefits

Note that figures in this section may not sum due to rounding.

#### 5.1 Costs of Option 1 compared to the do nothing scenario

##### 5.1.1 Costs to shipowners

The measure is deregulatory, so there would be no costs of compliance for the shipping industry. Familiarisation costs are likely to be minimal, given that the only change is to remove specific statutory duties. These costs have not therefore been quantified.

##### 5.1.2 Costs to booksellers

The Stationary Office (TSO) is the only official supplier of the Code. Sales vary widely by year, depending on whether there is a new version or amendments published. After publication of the new consolidated edition of the Code in November 2011, over 18,000 copies were sold in four months. In 2013, the total sales were around 2,200 for hard copies and 13 digital copies (the digital version was re-issued in 2010.)<sup>3</sup> Numbers are much higher when a new edition is issued.

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<sup>3</sup> Information on number of copies sold is from TSO tender for MCA publications contract, 2013. TSO sells some of the copies it supplies to other book-sellers. The current price of the book is available on TSO's website.

A hard copy of the Code is priced at £30, and a digital copy is £27.60 inc. VAT<sup>4</sup>. As the TSO contract was awarded following a competitive tender<sup>5</sup> this impact assessment assumes there will be no effect on TSO's profits as a result of removing the regulations and so reducing the number of copies that TSO sells to UK-registered ships. This reflects the fact that TSO is operating in a competitive market and therefore the revenue it makes on each copy sold is equal to the marginal cost of producing that copy. Subsequently TSO makes only a 'normal' level of profit.<sup>6</sup>

As TSO also sells the electronic version of the Code to ship owners it will receive any revenue (and incur the associated costs) from any increase in sales as ship owners move towards the electronic version. As with the book version we assume the same competitive market applies. Even if this assumption is not entirely accurate, increased sales of the electronic version will offset some (but probably not all) of the reduction in book sales.

***Consultees are invited to provide any evidence on the competitiveness of the market in which TSO operates.***

### **5.1.3 Costs to government**

There will be some cost to MCA in publicising the changes to the legislation, and the intended status of the Code in future. This is expected to involve about one day of staff time, plus the publication cost for a Marine Guidance Note (about £139 in wage costs based on MCA wage rates uplifted by 30% to account for non-wage costs, plus £75 for publication).

## **5.2 Benefits of Option 1**

### **5.2.1 Benefits for shipowners**

#### **Monetised benefits**

In order to comply with the regulations ship owners must currently purchase a copy of the code. This is currently priced at £30 for a hard copy (or £27.60 inc. VAT for a digital version) of which the ship owner bears the full cost. We have assumed that the cost of each version does not change over the 10 year appraisal period. In the past, each edition has sold for the same price throughout its publication and the latest editions are cheaper than their predecessors under the latest contract agreed with TSO.

There is also a further cost to shipowners of purchasing the loose-leaf updates for the hard copy each year. These are priced at approximately £15 per copy per year.

Even if the regulations are removed shipowners will still be expected to carry (or make available onshore) a certain number of copies of the Code depending on the type of ship and number of crew in order to comply with the health and safety regulations. The incremental benefit from removing the Merchant Shipping regulation is therefore the difference in cost to shipowners between having both the health and safety regulations and the Code regulations in place and just the health and safety regulations.

As discussed in section 5.1.2 TSO sells between 2,000 and 40,000 copies of the Code each year. However, it is not possible accurately to assess what proportion of these copies are sold to UK ships, as we know that the Code is carried on many ships not on the UK Register.

Therefore, the following estimate is made in order to calculate an indicative figure.

There are 1,226 UK ships on the UK register currently required to carry the Code and all of these must carry at least one, and in most cases, at least four hard copies of the Code.

The regulations specify:

- one copy per ship for ships with no more than 5 crew
- one copy each for the master, safety officer, each safety representative and for use of the crew (minimum of four copies) for ships with between 5 and 20 crew;

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<sup>4</sup>[www.tsoshop.co.uk](http://www.tsoshop.co.uk) on 14.02.14

<sup>5</sup><http://www.tso.co.uk/our-solutions/reducing-costs/print-vendor-partner-government>

<sup>6</sup>'Normal profit' is the minimum level of profit needed for a company to remain competitive in the market and so continue to operate. This includes covering all of its costs and making a return.

- on other ships, one copy each for master, chief officer, chief engineer, purser or catering officer, safety officer, each safety representative, and sufficient copies to give all crew members ready access to a copy (minimum of 7 copies).

MCA holds a database of ships with safe manning documents, which shows the minimum safe number of crew for the operation of the ship. This is not reliable data as to the number of ships falling into each category above for the following reasons:

- 1) Only ships of 500GT or more require a safe manning document. This data does not therefore include ships under 500gt.
- 2) The safe manning level is the statutory minimum number of crew with which the ship must operate, as agreed with the MCA. Many ships operate with additional crew on board – for example, the safe manning document does not include hotel staff on passenger ships.
- 3) Some ships have one specified safe manning level when they are operating in near coastal waters (which is a defined area around the coast of the UK and Ireland) but a higher level when they operate worldwide. It is assumed that the number of copies of the Code carried on board such ships would correspond to the higher crewing level.

In addition, the crew of each of the small commercial vessels, operating under one of the MCA’s Codes of Safety for small commercial vessels, (referred to hereafter as “small commercial vessels”) must have on board, or have access ashore to, at least one copy of the Code.

There are approximately 5,500 small commercial vessels, but about 700 of these are commercial yachts which may be chartered for leisure use without a crew. These are not required to carry a copy of the Code. We do not have any data on the employment status of those operating small commercial vessels, but based on MCA experience of small commercial vessel operations it is believed that a further 10% to 25% of these vessels are operated solely by self-employed people, who are not required to carry a copy of the Code. This leaves between 3,600 and 4,320 small commercial vessels which would each carry – or have access to – one copy of the Code.

These small vessels are perhaps less likely to have sufficiently extensive information systems on board to be able to replace the hard copy with a digital copy of the Code.

The following estimate has therefore been made of the number of copies of the Code being carried on UK ships in accordance with the 1998 Regulations.

<i>Number of crew required</i>	<i>Number of copies of Code per ship (low)</i>	<i>Number of copies of Code per ship (high)</i>	<i>Number of ships (low)</i>	<i>Number of ships (high)</i>	<i>Current number of copies of the Code (low)</i>	<i>Current number of copies of the Code (high)</i>
Fewer than 5	1	1	313	473	313	473
Between 5 and 20	4	6	705	571	2,820	3,426
More than 20	7	12	208	192	1,456	2,304
Small Commercial Vessels	1	1	3,600	4,320	3,600	4,320
<b>Totals</b>	<b>13</b>	<b>20</b>	<b>4,826</b>	<b>5,556</b>	<b>8,189</b>	<b>10,523</b>

**Note 1: Number of ships taken from UKSR database January 2014 (excluding unmanned vessels), Number of copies of the Code carried on each ship estimated by type of ship, using MCA experience and knowledge of the manning levels of ships. The numbers should therefore be taken as approximate.**

There is no evidence to show how long a copy of the Code would last, and how often it would wear out and need to be replaced. The Code is a loose-leaf document, and pages are therefore liable to be damaged with frequent page-turning. In addition, the Code is updated annually, and a new consolidated edition has been published twice in the last ten years. It is therefore assumed that a copy in regular use would last about 5 years before the Company replaced it.

It is therefore assumed that UK ship owners on average purchase 1,540 - 2,105 copies of the Code of Safe Working Practices for Merchant Seamen each year.

Under Option 1, once the Regulations are revoked, it is assumed that shipowners will continue to purchase at least one copy of the Code per ship but will rely more extensively on electronic access to the Code. We assume that all shipowners who can will switch to using the digital version given its lower cost of purchase and amendment. We have also conservatively assumed that only a small proportion (25%) of small commercial vessels will have the electronic systems that allow them to replace a hard copy with a digital. This may understate the benefit. However, we have assumed that all other, larger, ships will have such systems and this may be an overestimate.

The estimated number of sales (hard or digital) in a 5 year period would therefore be the same as the number of UK ships. The estimated number of sales per year would be 967 – 1,111 copies per year.

There are three components to the savings for shipowners. First there is the saving from having to carry fewer copies of the code. This equates to between £0.015m and £0.036m per year, with a best estimate (mid-point) of £0.026m based on a fall in the total number of copies held of about 4,170 to approximately 5,190. The second component is the switch from hard copies to digital versions. This saves business approximately £0.001m under both the high and low scenario with approximately 4,200 of the 5,190 copies being digital within (assuming all who can switch do). Finally there is a saving from not having to purchase the loose-leaf update for every currently held hard copy each year. This equates to between £0.055m and £0.158m per year, with £0.107m as a best estimate.

Summing these together gives a total range of £0.040m to £0.120m per year, £0.008m as a best estimate. In present value terms over the appraisal period this gives a range of savings between £0.33m and £1.00m with a best estimate of £0.67m.

### **Non-monetised benefits**

The cost of updating the Code will also be reduced, where fewer hard copies are carried. The saving will come from a reduction in staff time required for the manual removal of expired pages, and insertion of new or amended pages.

Some of this saving may be offset by the demands of installing or maintaining an electronic version on shipboard systems, but in many cases this may already be happening alongside maintaining hard copies.

In addition, removing the statutory requirement, and a prescriptive approach to the number of copies to be carried will give shipowners greater flexibility in providing access to the Code to the seafarers on their ships, including allowing this to dovetail with other safety systems on board.

Where a digital version of the Code is used in place of multiple hard copies, there may be safety benefits, because it is easier to ensure that one, centrally-held copy of the Code is replaced with an updated edition, than to ensure that a number of hard copies held by a number of individuals are properly updated once hard copy updates are issued.

Although not directly an impact of the revocation of the regulations, there may also be a safety benefit from improved usage of electronic copies in comparison with hard copies, both because it is easier for seafarers to access, and because of improved search facilities to find the information required, as compared to the index of a hard copy.

The government also believes there are benefits to industry in modernising and simplifying the body of legislation which must be consulted and complied with.

These benefits cannot however be quantified.

***Consultees are invited to provide any further evidence around the methodology and assumptions set out above.***

***Consultees are invited to provide any further evidence of benefits arising from the proposed revocation of the regulations.***

### **5.3 Comparison with the do-nothing option**

The “do nothing” option is for the existing regulations to remain in force. While there are by definition no costs arising from the “do nothing” option, the potential benefits of a modernised, streamlined body of

legislation, and with a more modern and flexible approach to providing seafarers with access to the Code of Safe Working Practices for Merchant Seamen, would not be realised.

#### **5.4 Monitoring and enforcement**

The current regulations are enforced on UK ships through health and safety inspection as part of an inspection of living and working conditions on board, in accordance with the International Labour Organisation (ILO) Convention on Labour Inspections (ILO No. 178) – shortly to be replaced by the ILO Maritime Labour Convention, 2006 (MLC).

This inspection will be unchanged as a result of the revocation of the regulations, but any necessary enforcement would be carried out under the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 (as amended) or other relevant statutes, rather than the specific regulations, now revoked.

### **6. Rationale and evidence that justify the level of analysis used in the IA (proportionality approach)**

This is a deregulatory measure with some benefits to industry and little immediate impact in practical terms on the standards to be applied on board ships. In addition, initial discussion with industry has confirmed that in principle, and subject to more detailed information, the proposals are supported by industry. Further analysis of the impacts is not therefore considered necessary.

### **7. Risks and assumptions**

The following risks and assumptions have been identified:

- TSO is assumed to operate in a competitive market.
- It is assumed that a copy of the Code is replaced every 5 years.
- The estimate of costs for purchasing the Code under the “do nothing” option is based on the current number of ships on the UK register, and the current cost of the Code. No estimate is made of the possible changes to the number of ships on the UK register, or to the price of the Code over the next 10 years.
- The price of both the hard copy and digital version of the Code (or any digital version replacing the digital version) will remain unchanged over the 10 year appraisal period
- Only 25% of small commercial vessels will have the correct systems to allow them to switch to using the digital version, but all larger ships will be able to
- All ships who can switch to using digital/digital versions of the Code will do so
- Following revocation of the Regulations ships will only carry one copy of the code
- The assessment of the impact of revoking the Regulations is based on the assumption that UK shipping companies comply with the existing regulations and accept the standards they impose as common good practice. There would therefore be no reason for changes in provision as a result of revoking the Regulations.
- Whilst there are a number of assumptions underlying the analysis we have provided sensitivity tests with a range on the final figures to improve the robustness of the analysis. Under all assumptions there is a clear net benefit to the policy.
- There is a risk that employers see the revocation of the Regulations as a signal that current standards as regards means of access and safe movement on board ship longer apply, and seek to take cost-cutting measures which might reduce safety. Ultimately, this would be addressed by MCA taking

enforcement action where standards did not meet industry norms. However, to seek to prevent this risk to safety standards occurring, information and guidance on the intended impact of the Regulations will be widely circulated.

## **8. Direct costs and benefits to business calculations**

### **8.1 Direct costs and benefits to business calculations (following OITO methodology)**

The direct cost to business has been calculated in accordance with the “One in Two Out” methodology. Our best estimate of the direct costs to business is that there will be an estimated annual net benefit to business (EANCB) of £0.06m (2009 prices). It is considered that the Regulations qualify as an “OUT”.

### **8.2 Copy out**

The Code Regulations are domestic in origin, and it is proposed to revoke them. The copy-out principle is therefore not applicable in this case.

### **8.3 Alternatives to regulation**

Option 1 removes prescriptive regulation in favour of guidance on industry best practice, supported by high-level health and safety regulations. MCA believes that this can achieve the same level of safety.

## **9. Wider impacts**

### **9.1 Equalities Assessment**

Although MCA does not consider that Option 1 will have any detrimental effect on safety, revoking the regulations arguably denies seafarers, who are recognised as a vulnerable group of workers, the protection of a statutory requirement on shipowners to provide access to a recognised and respected publication on health and safety. However the change would impact equally on all workers, regardless of their age, ethnic origin, gender, nationality, race, sexual orientation or disability.

These proposals are therefore considered to have no adverse impact as regards statutory equality duties.

### **9.2 Competition Assessment**

The 1998 Code Regulations are domestic regulations, although they are based on an international Convention, which requires competent authorities to provide guidance on health and safety for their ships. We are not aware of other countries which have similar regulations, although other administrations undoubtedly publish their own health and safety guidance, or support industry in doing so. It is also known (for example, from MCA surveyors inspections of non-UK ships in UK ports), that ships flagged with other registers carry the MCA Code (this is supported by the discrepancy between the number of copies of the Code sold by TSO each year, and the number MCA estimates would be needed by UK ships each year).

Revoking the regulations is not expected to bring any significant competitive advantage. However, by revoking prescriptive requirements, it provides a more flexible regime which will be able to adapt to new developments any may benefit UK shipowners in future.

***Consultees are invited to offer any additional evidence on the potential for revocation of the Regulations to impact on competition.***

### **9.3 Small and Micro Business Assessment**

It is appropriate that the working conditions for all workers should be underpinned by common minimum standards regardless of the size of the company for which they work. The 1998 Regulations take account of the differing requirements for small, medium and large ships (by reference to the size of

crew). To that extent they assist small and micro businesses, who generally (but not exclusively) operate smaller ships. Therefore, it would not be appropriate to exempt small and micro businesses from the revocation of these regulations.

Revoking the Regulations is not expected to have any additional benefit for these small vessels, for the following reasons:

1. vessels with no more than 5 crew are already required to have only one copy of the Code, and it is expected that one copy will continue to be needed as a back-up to any electronic system; and
2. small vessels are less likely to have the hardware on board to run an electronic system to provide access to the Code.

***Consultees were invited to provide any additional evidence on the potential impacts of revocation of the Regulations on small firms.***

#### **9.4 Health Impact Assessment**

The Code Regulations provide for carriage of the Code of Safe Working Practices for Merchant Seamen. Revocation of the Regulations is not intended to reduce the availability of the Code and the advice it contains on board ships. The revocation of the Regulations is not therefore expected to have any impact on health.

#### **9.5 Human Rights**

Since revocation of the Regulations is not expected to have any impact on safety information available to seafarers at work, there are no Human Rights compatibility issues arising from these Regulations.

#### **9.6 Justice System**

Revocation of the Regulations would remove 3 potential offences for the Company (the person or organisation responsible for the operation of the ship). The main enforcement mechanism for these proposed Regulations would be through the inspection and certification of UK ships by MCA surveyors.

While MCA's preferred method of enforcement where deficiencies are found on board ships is to use improvement notices, prohibition notices, and in very serious cases detention of the ship, in order to secure rapid rectification of the deficiency, there are also offences and penalties laid down in the Regulations, which are available to MCA to take enforcement action after the event if this is considered justified. These are in line with the penalties in place for corresponding or similar offences in pre-existing Regulations.

The same methods of enforcement would be used for breach of the duty in the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 that the shipowner and the employer must provide necessary information to seafarers to ensure their health and safety.

#### **9.7 Greenhouse Gas Emissions**

As the Regulations only affect seafarer health and safety and no significant additional costs are anticipated, it is not expected to affect maritime transport volumes. Therefore, no change in greenhouse gas emissions is expected.

## **10. Summary and preferred option with description of post implementation review**

### **10.1 Summary and preferred option**

Option 1 would revoke a statutory instrument dating from 1998. The objective of the regulations was to ensure that all those working on UK ships have access to the safety information contained in the Code of Safe Working Practices for Merchant Seamen, and this objective would continue to be enshrined in industry best practice, supported by high-level health and safety duties. Revocation of the regulations would reduce the amount of maritime health and safety legislation, without having any impact on safety.

No significant monetised costs have been identified as a result of this proposal, but a small benefit to business has been identified.

Option 1 meets the policy objectives in Section 3 of this IA and is the preferred option.

## **10.2 Implementation plan**

It is proposed to consult on Option 1 early in 2014, with a view to revoking the Regulations in the SNR7 period. Carriage of the Code would in future be enforced through the general duties in the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997, and through inspections of health and safety under the Maritime Labour Convention, 2006. MCA's health and safety guidance would be revised to make clear that carriage of the Code of Safe Working Practices for Merchant Seamen continues to be expected, as "necessary information" for the health and safety of seafarers. That draft guidance will be included as part of the consultation package.