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# **The Merchant Shipping (Accident Reporting and Investigation) Regulations 2012**

## **Marine Accident Investigation Branch – Department for Transport**

### **RPC rating: fit for purpose**

#### **Description of proposal**

The measure updated existing UK legislation to meet the requirements of Directive 2009/18/EC, which relates to the investigation and reporting of marine accidents. In the UK this is conducted by the Marine Accident Investigation Branch (MAIB).

The 2012 regulations updated existing secondary legislation to accommodate the requirements of the EU Directive. The policy objective was to continue the MAIB's work while harmonising the reporting and investigation of marine accidents and incidents in the UK with the new EU-wide regime. The UK regulations in force, prior to implementation of the Directive, applied MAIB's investigation powers to inland waterways vessels and fishing vessels less than 15 metres in length. The powers were retained, despite the fact that investigation of these vessels was not a requirement of the Directive. Thus, the Merchant Shipping Regulations 2012 retained existing gold-plating. However, the PIR states that there is significant public concern about the safety of inland waterway vessels and the safety record of UK fishing vessels - roughly 80 per cent of which are less than 15 metres in length. It notes that the MAIB was first established in 1989 following the Herald of Free Enterprise disaster to investigate marine accidents and prevent similar disasters from occurring in the future. The PIR states that *'it is considered that the rationale for gold-plating continues to exist'*.

#### **Impacts of proposal**

The original IA identified the following costs to business of the measure: familiarisation costs, costs of engaging with MAIB investigations, and costs relating to reporting accidents to the MAIB. These costs were not monetised in the initial IA, but additional costs over and above existing costs of investigations were anticipated to be minimal. The Department explains that it was expected that accidents would be investigated by firms irrespective of the implementation of the Directive, and that the major cost of investigations would fall on the MAIB. The PIR states that the costs to firms of engaging with MAIB investigations are negligible, in particular because

vessels would be inoperative after accidents anyway. The PIR argues that firms' productivity would not, therefore, be additionally affected by an investigation by the MAIB. The Department has not monetised the actual impacts on business, but notes that 89 per cent of consultation respondents were of the opinion that *'the time and effort expended in reporting accidents to the MAIB is reasonable.'*

## Quality of submission

### Issues addressed following RPC's initial review

As initially submitted, the PIR included three issues that meant that the RPC did not consider it fit for purpose. Following the RPC's initial review, the Department submitted a revised PIR that responds to the points below.

- Justification of the decision to renew the regulation.
- Justification for undertaking a light touch PIR.
- Uncertainties – including accident costs, costs to industry of investigations and the impacts on UK businesses.

The PIR now addresses the gold-plated elements of the regulations in sufficient detail and provides a clearer justification of the decision to renew the regulations. Furthermore, the Department has now provided sufficient explanation and assurance that the impacts on business of the regulations were modest, and therefore a light touch PIR is justified. However, the PIR would have benefited from further assurance on the statement that firms' productivity would not be adversely affected by MAIB investigations. For example, the PIR could have given more consideration to the impacts on firms with numerous vessels and the opportunity cost of employees' time.

The PIR now contains more analysis of the uncertainties identified in the original IA. The PIR notes that MAIB on occasion exceeded its annual budget due to the uncertainties around the cost of investigations, which vary in level of severity. The Department concludes nevertheless that the assumptions made in the initial IA were reasonable.

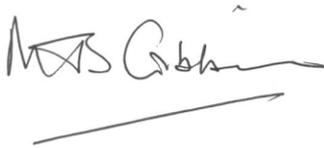
The RPC noted in its IRN that the PIR lacked comparisons with other EU member states. The revised PIR provides an explanation as to why comparison with other EU countries is inappropriate for this measure. This is because the UK is more heavily dependent on sea transport and most EU countries have not developed an investigative body as capable as the MAIB yet. Overall, the revised PIR now

contains a good level of detail and provides comprehensive background to the regulations. The Department has provided sufficient information and justification to support its decision to renew the regulations.

Departmental recommendation	Renew
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### **RPC assessment**

Is the evidence in the PIR sufficiently robust to support the departmental recommendation?	Yes
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**Michael Gibbons CBE**, Chairman