



Department  
for Transport

# **Government Response**

## Seafarers' Wages Bill Consultation

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# 1. Ministerial Foreword

- 1.1 Seafarers are crucial for our economy and way of life, keeping UK supply chains and maritime tourism traffic moving. They are essential workers: showing as much during the pandemic when they kept the country stocked with essential goods.
- 1.2 Yet, far too many irregularities exist between those who work at sea, and those who work on land. Seafarers deserve a fair wage, but some are paid less due to loopholes in maritime law. This is why on 10 May, the Department for Transport launched a formal public consultation on how we ensure seafarers working on services regularly calling at UK ports are legally paid at least an equivalent rate to the UK National Minimum Wage (NMWe). This legislation is a key element of the Nine-Point Plan that the Secretary of State for Transport announced in the House of Commons on 30 March in response to P&O's unacceptable treatment of their seafarers.
- 1.3 This legislation will empower Statutory Harbour Authorities (SHAs) to levy surcharges and ultimately suspend access to operators who do not prove that they are paying their seafarers' wages at a rate that is at least equivalent to the UK National Minimum Wage. Throughout the consultation period, my officials and I have had productive conversations with operators, ports, trade associations and unions and I am grateful to stakeholders for the constructive nature of this engagement.
- 1.4 The consultation focussed on two main aspects of the Bill: scope and compliance. We have listened to concerns about our original proposals and have made changes to the proposed scope of the legislation. We are also taking into consideration all views and have updated our impact assessment following representations from industry. We intend to move legislation through Parliament as soon as parliamentary time allows.
- 1.5 I appreciate that there will still be aspects of the proposed legislation that parts of the sector will find challenging. However, it is imperative that we right this wrong and ensure that seafarers are compensated fairly for their hard and often under recognised work. It is a hard truth that those working at sea do not enjoy the same pay as those working on land, and our seafarers deserve better.



## 2. Executive summary

### Introduction

- 2.1 Under the existing legislation, some seafarers who work on international routes are not in scope of UK National Minimum Wage legislation, even though they have close links to the UK by virtue of regularly calling at UK ports. This leaves them without the assurance of being paid a fair wage. As UK-flagged vessels and UK-resident seafarers are more likely to fall in scope of UK minimum wage legislation, UK based agents are less cost-competitive and UK flagged vessels face a disincentive to employ UK resident seafarers.
- 2.2 In May 2022, we launched a consultation seeking views on measures to broaden the range of seafarers working aboard vessels regularly visiting UK ports that are paid a fair wage for time spend in UK waters, by making access to UK ports conditional on paying seafarers at least an equivalent rate to the UK National Minimum Wage (NMWe). These measures will improve pay for the lowest paid seafarers regularly calling in UK ports and will mitigate any competitive disadvantage faced by UK flagged vessels employing UK resident workers.
- 2.3 The public consultation exercise sought views on making these changes and allowed respondents to express comments, views or concerns. This document provides a summary of responses and the government's response to the consultation.

### Who this was for

- Port operators
- Vessel operators
- Seafarers
- Unions
- Trade Associations
- Members of the public
- Other

## Consultation Period

2.4 The consultation ran for 4 weeks from 10 May to 7 June. Responses were submitted via the government's online consultation survey, by email or post.

## Proposals

2.5 The consultation sought views principally on two aspects of the proposal to broaden the range of seafarers that are paid at least an equivalent rate to the UK National Minimum Wage. It sought views on the scope of services to which NMWe requirements should apply. It also sought views on the proposed compliance process, including:

- empowering SHAs and the Secretary of State (including through the MCA) to make payment of NMWe by specified categories of ship-operator a condition for access to UK ports;
- explicitly empowering SHAs to levy surcharges on ship-operators who do not provide evidence of compliance with NMWe requirements and ultimately to suspend access to persistently non-compliant operators when directed by the Secretary of State, notwithstanding the 'open port duty';
- empowering the Secretary of State to make directions in respect of these provisions.

2.6 These proposals were to be considered in the context of other actions being taken by the Government to improve employment protection for seafarers working on ships that regularly use UK ports, announced on 30 March, found via the following link:

[P&O Ferries: new powers to protect maritime workers - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/p-o-ferries-new-powers-to-protect-maritime-workers)

## Methodology

2.7 The consultation document asked for respondents' personal and organisational details and then asked 22 questions on this proposal. These were on the topics of employment protections, scope, compliance and impact. The online survey was structured similarly, but with the technical questions on impact assessment reserved for those responding on behalf of an organisation.

2.8 On employment protections (Q7-8) respondents were asked for their views on what NMWe should look like in practice. There was also a wider text question about what government should do to improve employment protections for seafarers.

2.9 On scope (Q9-12), the consultation sought views on how best to determine which seafarers are working on ships that regularly use UK ports. It also sought views on whether certain service types should be excluded from Bill provisions. From a list, respondents were invited to tick the service types to exclude and provide reasoning in a supplementary text box.

2.10 On the compliance process, (Q13-20), respondents were asked which body should be empowered to verify and enforce NMWe, and to indicate agreement or disagreement with the intention for SHAs to be empowered to surcharge and

ultimately suspend access to the port where operators have failed to evidence payment of NMWe or failed to pay the surcharge. Respondents were also asked if any exemptions should apply, with suggestions presented in the document.

- 2.11 It also sought views on how compliance should be evidenced and verified. Respondents were invited to indicate from a list the types of checks the compliance regime should include.
- 2.12 On impact, respondents were asked to indicate whether the proposals will have a positive, negative or immaterial impact on the UK's shipping and maritime sector. Respondents were also asked an open question as to whether they considered there were any risks and impacts that had not been considered in the proposals. Questions 23-28 sought views on the assumptions that underpinned the draft Impact Assessment, asking whether or not assumptions pertaining to average pay, number of seafarers per vessel and percentage of seafarers already paid at least an equivalent rate to the National Minimum Wage were reasonable.
- 2.13 This summary is not intended to be an exhaustive record of all the points made and the absence of a particular issue does not indicate that it has been ignored or that it is of lesser importance. The consultation was not designed to be a representative survey. The respondent sample was self-selecting and as such the results cannot be generalised to a wider population.
- 2.14 Where respondents answered the specific consultation questions, their answers have been included in the analysis and reported throughout this document. Where email responses provided general comments on the proposals, these have been included in the analysis where pertinent points were made.

### **Summary of activity during consultation exercise**

- 2.15 The formal public consultation on the scope of services the proposals in the Bill should apply to, the compliance process and the supporting draft Impact Assessment was published for a period of four weeks from 10th May 2022 to 7th June 2022.
- 2.16 Officials held a consultation launch event on 10th May 2022 onboard HQS Wellington, which was attended by Minister Courts and promoted the formal consultation period for the Seafarers' Wages Bill. The launch event provided an opportunity for roundtable discussion with industry stakeholders and granted an opportunity for industry to provide expert insight into this matter directly with the minister.
- 2.17 Prior to consultation launch and throughout the consultation period, officials held various bilateral meetings with industry stakeholders and provided an opportunity for stakeholders to ask for clarification on issues raised in the published consultation document. Alongside the consultation, Department for Transport officials also hosted a series of formal stakeholder events to ensure that views from all parts of the industry, as well as unions, were heard and considered. Minister Courts also engaged with union representatives during the consultation period.

2.18 Officials organised and held three industry workshops on the main aspects and proposals of the Seafarers' Wages Bill; on the Bill's scope and compliance process, and two further workshops with unions on the same two aspects and proposals. As part of the workshops, officials gave a presentation on the published draft Impact Assessment and stakeholders were asked a question on the Equalities Impact Assessment to capture feedback on how the Bill could potentially impact seafarers and maritime workers with protected characteristics. Stakeholders were invited to respond to the question via email. Officials were able to gather views from stakeholders, grant clarification on the Bill's proposals and officials were on hand to answer any questions raised. Views shared at these workshops and meetings were considered alongside formal written responses and survey responses received as part of the consultation.

## Summary of Responses

### Key themes identified in the responses

- 2.19 In response to the consultation, the Department for Transport (DfT) received contributions from 49 respondents: 21 responses were received through our online consultation platform, and 28 were received via email. Percentages are given in this section to illustrate the spread of responses, however it should be noted that other factors apart from amount of responses were considered when formulating this response.
- 2.20 Our online survey asked respondents to provide details of their organisation including the type, size and regions that it operates in. 18% of respondents identified as private individuals, 14% as shipping operators or companies and 12% as industry or trade associations. We also received a number of responses from port operators and trade unions. Of the 49 responses we received, the majority of them were from a large organisation of 250 people or more (57%).
- 2.21 In general, views on the principle of the proposed Bill were evenly balanced, with 27% of respondents agreeing and 22% disagreeing, although none of the responses received indicated categorical agreement or disagreement with every proposal. Those who agreed tended not to leave additional comments. Many respondents did not express their views on a question-by-question basis. They account for the majority of the remaining 51%. The main themes that emerged in the comments of those who disagreed with the proposals were concerns about the compatibility with international law (in particular the United Nations Convention on the Law of the Sea).
- 2.22 On the questions that sought views about how best to define NMWe, common themes that emerged were that seafarers often work hours beyond the 48 hour/week that was suggested as an option, as well as the above stated view that seafarer remuneration should only be considered at an international level under existing frameworks. We also asked if there was more that government should be doing to improve employment protections for seafarers. Responses included those emphasising existing international frameworks for seafarer protections, while others referenced the wider Nine-Point Plan, including the proposed framework to agree common levels of seafarer protections and welfare. The Government is clear that the



Bill is part of a wider package of measures announced by the Transport Secretary on 30 March that will address and improve seafarer welfare and protections.

- 2.23 Some operators and unions emphasised the importance of wider employment protections, noting that this exists elsewhere in the 9 point plan. Some suggested that this should be linked to the legislation.
- 2.24 Most respondents agreed that specific vessels should be excluded from the NMWe requirements, but there was no clear consensus on which vessels these should be. Of all suggested vessel types, cruise ships, deep sea container ships and bulk and general cargo vessels received the most support for exclusion from the requirements (29%, 27% and 27% respectively), although overall most respondents did not support their exclusion. This also reflects the rhetoric that emerged from industry engagement events. In general, respondents referenced fairness, proportionality and parity whilst considering the scope of the Bill. Alternative means to define scope were suggested and discussed in industry engagement events - Further discussion of the scope of the requirements is outlined below.
- 2.25 On the compliance process, many respondents disagreed that SHAs should be empowered to undertake the verification process when asked who should play this role and also disagreed that they should be empowered to levy the surcharge in the event of a lack of evidence on compliance (37%). The most common alternative suggestion was for a government entity or a combination of government entities to be responsible for this. The majority of respondents did however agree with the principle that the onus should be on the ship operator to evidence compliance (47%), and that any checks for compliance that take place should be random rather than intelligence led. The matter of potential conflicts of interest between ports and vessel operators where ports are owned by companies having common ownership with vessel operators, was raised. Respondents also raised the matter of foreseeable permanent additional costs to SHAs, mainly from legal advice, legal challenges and the administration of proposed legislation.
- 2.26 In terms of measuring impact, we received several alternative suggestions and examples for the assumptions that were being tested. We have incorporated those where appropriate into the final stage impact assessment. Other emerging themes were reflective of issues raised elsewhere in the consultation, including vessel scope and the compliance process. The impact on competition and labour markets, as well as ensuring policy efficacy were also raised. More detailed discussion can be found in section 7.

## 3. Employment Protections

### Definition of National Minimum Wage Equivalent (NMWe)

- 3.1 We asked consultees for views on how we define NMWe, including what principles and regulations ought to be considered or reflected. We asked for views on whether the following aspects should be included in our definition:
- Basic rate should follow International Labour Organization principles including a normal working pattern for basic rate calculation based on 8 hours per day/48-hour week
  - NMWe should be calculated in a way which mirrors the National Minimum Wage Act 1998 and the National Minimum Wage Regulations 2015
  - NMWe should align with the appropriate age/apprenticeship bands of UK NMW.
- 3.2 A number of responses said that NMWe should be determined based on the ILO definition of an 8 hour day or 48 hour week, with some pointing out that seafarers often work significantly longer hours than a 48- hour week and provision should be made for overtime pay. There were mixed views from respondents on whether the determination should mirror the provisions of the National Minimum Wage Regulations 2015 ('NMW Regulations'). Some pointed out the specificities of employment arrangements for seafarers and considered that it would be wrong to allow for deductions for things like food and accommodation. Others who supported mirroring the National Minimum Wage Regulations said that this would provide clarity as employers would be familiar with the requirements as these regulations have been in force for over 20 years. There was some support for including different rates of pay based on a worker's age or whether a worker is an apprentice in the definition.

### Conclusions

- 3.3 The Bill will provide for regulations setting out the calculation for NMWe. We recognise the specificities of seafarers' employment and will depart from the National Minimum Wage framework to account for these, as well as setting out the calculation for time spent in UK waters within the pay reference period.

3.4 Deductions for food and accommodation are unlikely to be compliant with Maritime Labour Convention (MLC). All states also have a clear direction from the officers of the Special Tripartite Committee that accommodation should be free, which will be known to operators and trade bodies. The legislation will not contradict existing obligation under the MLC.

### **Other Employment Protections**

3.5 Respondents provided a range of views on whether there is anything further the Government should do to improve protection for seafarers. A number of respondents noted the existing international frameworks for seafarer protections and considered that government should focus on implementation and enforcement of the Maritime Labour Convention (MLC) and in playing a leading role at the International Labour Organisation (ILO) and International Maritime Organisation (IMO). Others noted the proposed framework to agree common levels of seafarer protections and welfare, which was announced as part of the DfT's Nine-Point Plan, will cover wider aspects of seafarer protection and will play an important part in improving welfare, with some suggesting that the scope of the consultation should have been wider to include these further issues. Other issues such as training were raised as being areas where improvements could be made.

### **Conclusions**

3.6 The government is clear that this legislation is one part of a wider package of nine measures that will improve protections for seafarers and we do not propose the Bill to further employment protection beyond NMWe. The Department is working at pace to develop the proposed framework to agree common levels of seafarer protections and welfare and has been working closely with stakeholders including Unions and operators to take this work forward. In addition, the government takes its international role very seriously and will continue to promote seafarer welfare on the world stage.

## 4. Scope

- 4.1 Several respondents conditioned their answers to these questions to a general view, that extensions to wage protections should be pursued exclusively through international fora, particularly ILO/MLC.
- 4.2 Several industry respondents, particularly including unaccompanied trailer carriers, opposed the proposal to limit the applicability of NMWe stipulations to roll-on and roll-off (ro-ro) and hybrid roll-on, roll-off and passenger vessels (ro-pax), arguing (without prejudice to their opposition, in most of these instances, to the measure as a whole) that if it had to apply it should apply to all types of service at or above the stipulated threshold frequency/regularity; or at least, to short-sea container services, which were considered to be in direct competition with unaccompanied trailer services. This was a view that we also heard repeated in stakeholder workshops on scope.
- 4.3 Associated with this point of view, some respondents saw the proposed limitation to ro-ro/ro-pax as a specific response to the actions of P&O Ferries, and considered this illogical if NMWe were to be promulgated at all, their argument being that the scope should depend on the ex-ante degree of presence of seafarers in UK territorial and inland waters, or the actual time spent by them in such waters, irrespective of the nature of the service. On the other hand, another respondent thought it proportionate that the provisions should apply only to the specific sub-sector that had precipitated legislation. Respondents also pointed to the rationale that 'seafarers are seafarers' and therefore considered the scope to be an arbitrary cut-off.
- 4.4 Some commented that the status of a schedule as published or unpublished should not be material to the degree of association of a service with the UK. It was suggested either that a known schedule (even if not formally published), or else actual services operated (to avoid gaming such as through operation of non-scheduled additional services) should be used as a more appropriate criterion. For example, it was suggested that an "informal but regular" service should be in scope, and that vessels covering for up to six weeks' repair/drydock lay-up should be deemed part of the service. We will be removing the "published schedule" criterion.
- 4.5 Some responses discussed the reference period over which frequency should be calculated, suggesting 13 (quarterly), 26 or 52-week (annual) periods as possibilities, with account possibly to be taken of seasonal or ad hoc services. One respondent suggested that entry into a UK port more than once a year might be a sufficient threshold.

- 4.6 On the other hand, another suggestion was that the DfT should provide a live list of sources listing scheduled services currently in scope, with Government rather than SHAs taking on the duty to keep such a list current.
- 4.7 One respondent offered a specific alternative formula of "vessels deployed for at least 4 weeks on regular, repeated schedules where each individual round trip takes no more than 48 hours and 50% or more of the calls on the voyage are at a UK port".
- 4.8 On Q31, whether there should be exclusions by service type at all, 18 respondents thought there should be and 11 not, the remainder expressing no view. The vessel types that were most suggested to be excluded were cruises, deep sea container and bulk and general cargo. Few stakeholders considered that short-sea container services should be excluded, with many citing competition with unaccompanied trailer services as mentioned above. One respondent argued that "a more focused, quantitative approach would better target the implementation of the policy and help reduce some of the qualitative ambiguity over vessel definitions."

## Conclusions

- 4.9 It is important that all seafarers are paid a fair wage but government is clear that the scope of this legislation is to protect seafarers which have a close link to the UK by virtue of regularly visiting UK ports. Following feedback from industry, we have decided that the best way to target those seafarers is to define services in scope as those visiting UK ports at least once every 72 hours, without any exemptions for specific vessel types. This definition will keep the scope of the Bill tightly confined to those seafarers with close links to the UK without singling out any particular service or vessel type and avoiding any ambiguity around vessel definitions.

## 5. Compliance process

### International Obligations

- 5.1 A theme that emerged in relation to compliance was compatibility with international law (in particular the United Nations Convention on the Law of the Sea).
- 5.2 The intention of the Bill is to ensure seafarers who work on ships that regularly call at UK ports are paid a fair wage.
- 5.3 The legislation is limited to services/seafarers which have close ties to the as is evidenced by the proposals to empower SHAs to receive compliance declaration, levy surcharges and ultimately suspend non-compliant operators.

### Declarations of Compliance

- 5.4 We asked consultees for views on which entity should declare compliance with NMWe.
- 5.5 Several respondents noted that under the MLC, the "shipowner" (as specifically defined in the MLC, essentially meaning the ship-operator) is ultimately responsible for crewing the ship.
- 5.6 We also asked who should receive these declarations of NMWe compliance (of services in scope) and who should verify them.
- 5.7 A strong theme that emerged is that Government should have a role, with a common suggestion being that the Maritime and Coastguard Agency (MCA) should be at the heart of the verification process. Many respondents suggested that it should be SHAs to whom ship owners/operators should present evidence of compliance, but strongly suggested that SHAs should not be undertaking actual verification or checks on operators' NMWe provisions.
- 5.8 Overall, respondents were content for compliance checks to include random, risk-led and intelligence-led checks. The compliance regime will therefore constitute a reasonable combination of each.

## Conclusions

- 5.9 The Government's proposal aligns with the themes above. The Bill will provide for SHAs to have a role in the declaration process, being the entity to which declarations of compliance should be presented, however they will not be responsible for undertaking any checks on ship operators' compliance. The form and contents of the declaration will be set out in secondary legislation. The SHA will simply receive the declaration, and any verification or investigation will be undertaken by the MCA. Independent monitoring and enforcement will be carried out by the MCA. We consider that this is a proportionate balance of roles, considering the expertise and capability of SHAs.
- 5.10 It makes sense in the domestic context to base the responsible entity on the definition in the MLC. SHAs and, through direction, Government will therefore be empowered to require a compliance declaration from the "operator", which in relation to services in scope, means the person who has, or has agreed to take over, in respect of any ship providing the service, the duties and responsibilities imposed on shipowners under the MLC.

## In the event of non-compliance

- 5.11 On whether SHAs should be explicitly empowered to levy a surcharge in the event of an operator failing to provide evidence of paying NMWe, while there was some agreement, other respondents took issue with the involvement of SHAs in an enforcement capacity at all, with the legality of such an arrangement being questioned. The proposed legislation will confer such powers on the SHA as are necessary to close any existing power gap.
- 5.12 The matter of potential conflicts of interest between ports and vessel operators where ports are owned by companies having common ownership with vessel operators, was raised. As raised earlier, the Government proposal is for SHAs role to be in receiving declarations and they will not be involved in checking the validity of those declarations. The Bill proposals will aim to set out the form and contents of the declarations in secondary legislation, but it is not envisaged that these will include commercially sensitive information. When it comes to the levying of surcharges and denying access to ports, it should be noted that it is proposed that the Secretary of State will have powers to direct the SHA to take action and that failure to comply with a direction could result in prosecution. There will therefore be a strong incentive for SHAs to carry out their roles objectively as is consistent with existing SHA functions / duties, with the regime supported by independent monitoring and enforcement by the MCA.
- 5.13 Furthermore, questions have been raised by respondents about whether further details of proposed surcharges will be prescribed, including the matter of level-setting and where such charges would go. The Government is clear that the purpose of the surcharge is to incentivise compliance and is not intended to be a profit-making mechanism for ports but to cover costs only. We envisage that the rate of surcharge will be set by the SHA with reference to the NMWe deficit, which is the difference between the amount that seafarers are actually paid and the amount they would have been paid if they had qualified for NMW for that work. Where the Secretary of State

directs that surcharges should be made, he will set upper and lower limits (or a single tariff).

- 5.14 There were no clear consensus views on questions about whether SHAs should be empowered to suspend access to ports in the event of continued or repeated noncompliance; whether SHAs should be exempted, if necessary, from the requirements of the 'open port duty'; and whether the Secretary of State for Transport should be empowered to direct SHAs in this regard. Despite concerns expressed by some about divergence from the open port duty, it is also apparent that several who disagreed with the proposal had done so on the basis that they disagreed with the previous and overriding principle i.e. SHAs being involved in the compliance and enforcement procedures to any extent at all. It is noted that some respondents proposed an alternative to ships, in such circumstances, being denied access to ports, considering that they ought to be detained alongside instead. It should be noted that while the proposals do not include powers to detain a ship, they also do not seek to limit any existing rights of arrest that SHAs/ports may already have under certain conditions. Additionally, under the proposals, operators would normally be made aware of access being granted or denied well in advance of arrival at a port.
- 5.15 We asked about circumstances under which, in the event SHAs are empowered to suspend access, exemptions from that suspension might apply. The most commonly suggested scenarios were those relating to vessel safety, seafarer wellbeing, and environment/pollution. The Bill proposals will allow for exceptions to the refusal of access to a harbour (a) in cases of force majeure; (b) where there are overriding safety concerns; (c) where there is a need to reduce or minimise the risk of pollution; (d) where there is a need to rectify deficiencies on the ship.

### Other means to ensure compliance

- 5.16 A recommendation for a forum with industry to oversee and facilitate compliance is one we are keen to explore. We (along with the ports sector) have no desire to 'catch out' well-intentioned operators. Guidance will also be published as soon as possible following the legislation.

### Conclusions

- 5.17 The surcharge and suspension of access to ports are important elements of the compliance process to disincentivise non-compliance and the government considers that it is reasonable and proportionate for SHAs to play that role. As set out above, the rate of surcharge will be set by the SHA with reference to the NMWe deficit, which is the difference between the amount that seafarers are actually paid and the amount they would have been paid if they had qualified for NMW for that work. Where the Secretary of State directs that surcharges should be made, he will set upper and lower limits (or a single tariff).
- 5.18 The Bill proposals will allow for exceptions to the refusal of access to a harbour (a) in cases of force majeure; (b) where there are overriding safety concerns; (c) where there is a need to reduce or minimise the risk of pollution; (d) where there is a need to rectify deficiencies on the ship.





## 6. Impact

6.1 To ensure we have appropriately assessed the impact of this policy on the sector, a consultation stage impact assessment was published. The consultation asked respondents for their views on the accuracy of the assumptions used in the impact assessment, as well as for any general views.

### **Q21. Do you think that applying NMWe requirements to ships that regularly use UK ports will have an overall (positive/negative/no material impact)?**

6.2 Overall, more respondents (24%) felt that applying NMWe requirements to ships that regularly use UK ports would have an overall negative impact on the UK's shipping and maritime sector. Of the remaining responses, 16% of respondents felt that there would be an overall positive impact, whilst 14% of respondents felt there would either be an unknown impact (8%) or no material impact (6%)

6.3 The Government has considered the potential impacts on the sector and engaged with industry to build full understanding of what this may entail. As outlined in the impact assessment, we acknowledge that the policy is likely to result in higher costs for the industry. However, the Government is clear in its aim to ensure that seafarers who work on services that regularly use UK ports receive a fair wage whilst working in UK waters, and therefore Government intervention, within the bounds of international law, is therefore needed to address this.

### **Q22: Do you think there are any risks or impacts we have not considered, including any unintended consequences?**

6.4 The majority of respondents left this question blank.

6.5 Risks raised included actions to circumvent the policy by e.g. paying lower rates outside UK waters; conflict with international treaties; higher prices for consumers, difficulties with enforcement and risks of reputational risks to the UK for acting unilaterally.

6.6 Unintended consequences detailed by respondents included competition impacts (such as between vessel types or between modes), changes to accommodation offset, and changes to routes or withdrawal of services.

**Q23. In your view is an average of £5.50 per hour a representative wage on board ships serving the UK where NMW rates are currently not generally paid or exceeded?**

- 6.7 The very large majority (88%) of respondents answered "don't know" or left this question blank. Only six respondents provided an answer, four of which were vessel operators (or representative groups) and two of which were trade unions.
- 6.8 Four respondents (8%), including three operators and one union, opposed the IA assumption. Two respondents (4%), including one operator and one union, supported the IA assumption.
- 6.9 Nine respondents offered comment on the assumption. Multiple comments pointed to the fact that wage rates are subject to variation by market, ship type and grade, meaning it is difficult to express pay in terms of a simple average and that the P&O evidence should not be taken as representative across the industry. Four respondents expressed the view that ratings are likely to be paid below the £5.50 rate on average while none expressed the view they are likely to be paid above it. Two respondents added the officers are unlikely to be at risk of wage rates below the UK and European minimum wages.

**Q24. Is an assumption of an average of 120 seafarers per ro-pax vessel reasonable?**

- 6.10 The majority of respondents (59%) did not answer this question. A further 20% responded "Don't know". A further 12% agreed that this was a reasonable assumption, with 8% disagreeing. Overall, 4% of respondents suggested that this was an estimate that was too high, whilst 8% of respondents responded that the number of crew depends on several factors and may be higher or lower. Some respondents provided examples which ranged from 60 to 200.
- 6.11 Overall, the examples provided supported the argument for maintaining 120 seafarers as the central case. Further consideration of the consultation responses allowed us to determine that 100 and 150 would be the appropriate lower and upper bounds respectively as they take proportionate consideration of the higher and lower estimates we received as part of the consultation evidence.

**Q25. Is an assumption of 30 seafarers per RoRo vessel reasonable?**

- 6.12 The majority of respondents (59%) did not answer this question. A further 18% responded "Don't know". 16% agreed that this was a reasonable assumption, with 6% disagreeing. Overall, 2% respondents suggested that this was an estimate that was too high, whilst 6% of respondents responded that the number of crew depends on several factors and may be higher or lower. Of the two respondents who supplied numerical estimates, they ranged from 16-23 seafarers per RoRo vessel.
- 6.13 As we did not receive substantial evidence within the consultation responses and the fact that we are constrained as to how many external factors we can account for, we considered the responses alongside DfT statistics. We therefore concluded that the

final stage Impact Assessment will assume a lower estimate for the number of seafarers per RoRo vessel from 30 to 25.

**Q26. Is an assumption of 20 seafarers per container/bulk vessel reasonable?**

- 6.14 Most respondents (59%) did not answer this question. Of those that provided an answer, 10% of respondents agreed with the assumption, and 10% of respondents disagreed. A further 20% of respondents answered, 'Don't know'. Almost all respondents who disagreed, as well as one respondent who agreed, said a lower number would be more realistic, and offered 11 or 12 seafarers per container/bulk vessel as a more suitable alternative.
- 6.15 Having considered these responses, we feel it is reasonable to revise downwards the central estimate to 12, and use 5 and 20 as the lower and upper bounds respectively, as these account for other examples provided within the consultation responses.

**Q27. In your view is it a reasonable assumption that, averaged across ferry services, 50% of seafarers are paid less than the UK minimum wage?**

- 6.16 Again, we did not receive substantial evidence on this question in the consultation responses and it should be noted that the Department's own data on this is limited. However, some responses we received in the consultation, as well as what we learned through industry engagement, we have determined that it is reasonable for the final stage Impact Assessment to assume that 50% of Ratings are paid less than UK NMW; 50% of Ratings are paid at UK NMW, and that all Officers are paid above the UK NMW.

**Q20. What, if any, other comments on the impact assessment overall?**

- 6.17 There were some recurring themes that emerged in the answers to this question.
- 6.18 Some respondents felt that the impact on the labour market had not been sufficiently accounted for in the consultation stage impact assessment. We have significantly expanded on our assessment of this in the final stage Impact Assessment using the evidence provided within the consultation responses as well as industry engagement.
- 6.19 Following on from the rest of the consultation questions, there were some specific comments relating to the vessel scope outlined within the 'preferred option' in the impact assessment, as well as some concerns around the complexity of the compliance process. More detailed views on these issues were provided through the other consultation questions and are described above. We have used all responses and other engagement to appraise all relevant policy options and reach appropriate conclusions.
- 6.20 Some responses mentioned the possibility of ferry operators circumnavigating the regulations through various means which leaves the effectiveness of the policy at risk of becoming entirely nullified. We have considered these responses and expanded on our discussion of this risk within the final stage impact assessment. The Government is clear that if we were to become aware of actions being taken by

operators in order to purposefully circumvent the regulations, we would seek to take immediate action and issue an appropriate response.

6.21 Wider policy initiatives were also mentioned by respondents as having not been included within the scope of the proposed legislation which meant the impact of the policy would not be as intended or reflected within the impact assessment. Respondents mentioned the need for the provisions within the proposed framework to agree common levels of seafarer protections and welfare to work in conjunction with this regulation, with some respondents calling for elements of the framework to be legislated for. The Department is working at pace to develop the framework and has been working closely with stakeholders including Unions and operators to take this work forward.

## 7. Conclusions and next steps

- 7.1 The consultation provided us with useful information and perspectives which have informed the policy. We will be introducing legislation to Parliament in the third parliamentary session. Services visiting the UK at least once every 72 hours will be required to provide a declaration to the relevant SHA that they are paying their seafarers at least at a rate equivalent to the National Minimum Wage, calculated according to regulations under this Bill. SHAs will be empowered to raise surcharges where valid declarations are not made, and in the event of non-compliance, deny access to the service in question when directed to do so by the Secretary of State. The MCA will play an enforcement role in checking the validity of declarations through a combination of risk based, intelligence led and random spot checks.
- 7.2 This legislation will ensure that seafarers working on services regularly using UK ports are fairly compensated for the work that they do and is an important part of the government's package to improve seafarer welfare.