 Regulatory Policy Committee	Opinion	
Impact Assessment (IA)	Merchant Shipping (Maritime Labour Convention) (Seafarers Employment Agreements) Regulations	
Lead Department/Agency	Department for Transport	
Stage	Final	
IA number	DFT 00173	
Origin	International	
Expected date of implementation (and SNR number)	August 2013 (SNR No.6)	
Date submitted to RPC	29/05/2013	
RPC Opinion date and reference	21/06/2013	RPC13-DFT1519(2)
Overall Assessment	GREEN	
<p>RPC comments</p> <p>The IA is fit for purpose. The One-in, Two-out (OITO) assessment appears to be robust. Nearly all of the impacts of the proposal are to meet minimum international requirements and are therefore out of scope of OITO. We acknowledge that it would have been disproportionate to monetise the minimal costs of the three small additional measures that go beyond compliance with the international requirements.</p>		
<p>Background (extracts from IA)</p> <p>What is the problem under consideration? Why is government intervention necessary?</p> <p>It is considered that all seafarers should have a fair and legally enforceable employment agreement. Employment conditions for seafarers vary across the world, with some seafarers working under unacceptable conditions and ship operators which operate substandard ships gain competitive advantage. Effective international standards are needed to address this. The ILO Maritime Labour Convention 2006 (MLC) aims to provide minimum living and working conditions for seafarers that are globally applicable and uniformly enforced, including transparent, enforceable employment agreements. Achieving this requires new UK legislation to permit UK ratification, which would also avoid the costs of not ratifying.</p> <p>What are the policy objectives and the intended effects?</p> <p>The purpose of the 2013 Regulations is to promote decent living and working conditions for seafarers globally and a more level competitive playing field for shipping by bringing UK legislation into line with the minimum global standards for seafarer employment agreements (SEAs) in the MLC, and to give seafarers equivalent protection through their employment agreement as workers ashore. Once the entire package of legislation is in place, this will enable the UK to ratify the MLC, which would facilitate the movement of UK ships around the world and allow the MCA to enforce these standards on non-UK ships calling at UK ports. Specific objectives for employment agreements can be found in the Evidence Base.</p>		

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

The Government's social partners, the British Chamber of Shipping and the seafarers' Trade Unions support ratification of the MLC. Doing nothing is not therefore considered appropriate as new legislation is required to enable the UK to ratify the MLC. Failure to ratify the MLC would limit its effectiveness at addressing the issues on seafarers living and working conditions discussed above, and would result in UK ships not being able to obtain MLC certification. Two options to implement the MLC requirements for SEAs have been identified. Option 1 would require SEAs to include only the minimum contents specifically listed in the MLC. Option 2 would additionally require SEAs to include three extra pieces of information in line with the minimum requirements for contracts for UK workers under the Employment Rights Act, to ensure equivalent protection for seafarers, one of the principles of the MLC. Since Option 2 is not expected to incur significant additional cost, it is therefore the preferred option.

Comments on the robustness of the OITO assessment

The IA states that option 1 is out of scope of OITO because it "*implements the minimum Seafarer Employment Agreement (SEA) requirements of the Maritime Labour Convention...an international instrument*"(section 6.8.1, page 15). This appears to be a reasonable assessment and is consistent with current One-in, Two-out Methodology (paragraph 1.9.8 iii of the Better Regulation Framework Manual).

However, the IA explains (section 6.8.2.1, pages 15 & 16) that option 2, the preferred option, goes further than option 1 by requiring SEAs to include information on three items: hours of work, grievance & disciplinary procedures; and pensions & pension schemes. This extension has been requested by all key stakeholders and would provide for greater equivalence with those working ashore in the UK. Although there is some uncertainty around this, the IA assesses this as going beyond the requirements of the MLC and therefore in scope of OITO.

The MCA does not consider that requiring these 3 additional items of information to be included in SEAs would result in any significant additional cost to business. This is explained in some detail (pages 16-17). Information on these areas is likely to be standard across seafarers and could simply be (electronically) incorporated into the SEAs required under option 1. The change could be minimal, e.g. whether a pension scheme exists and, if so, where to find further information on it. There was no indication from the consultation that this would be costly to shipowners. On this basis, it would seem reasonable and proportionate not to monetise a cost for this. The IA's assessment of zero net cost would therefore seem to be in accordance with the BRFM (paragraph 2.9.12, page 49).

Comments on the robustness of the Small & Micro Business Assessment (SMBA)

As this proposal is not of domestic origin an, SMBA is not required. However, the IA provides a Small Firms Impact Test and notes that the MCA has discussed the

implications of the Convention with the Domestic Passenger Ship Steering Group and representatives of the Small Commercial Vessel sector, who represent the majority of small firms operating vessels that would be affected by the proposed Regulations. The IA's conclusion that it is not expected that the new requirements will introduce significant new costs or benefits for small firms appears reasonable.

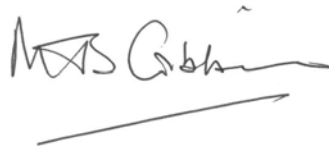
Quality of the analysis and evidence presented in the IA

The IA lists the six main requirements of the proposed Regulations (top of page 7) and the three additional items required under the preferred option (page 8). The analysis relating to the latter is discussed in the OITO section above.

The IA monetises only one impact: a cost saving to the MCA of no longer having to supply crew agreement stationery to shipowners. The IA explains why it has not monetised any other costs or benefits. However, the statement (page 12) that the administrative costs of meeting the requirements of the MLC are "*relatively minor compared to the costs to shipping of lost trade and delays to schedules that could result if the UK does not ratify the MLC before it comes into force in August 2013*" does not mean that the costs are necessarily minor in absolute terms.

Furthermore, the IA acknowledges that "*where a shipowner has only the statutory minimum crew agreements they may incur proportionately greater costs*" (page 11). Therefore, although these costs are out of scope of OITO, the Department should have used the consultation and reasonable assumptions to provide at least a range of monetised potential costs.

Signed



Michael Gibbons, Chairman