

Title: Maritime Passenger Rights Regulations 2012 (the "proposed Regulations") IA No: DFT00167 Lead department or agency: Department for Transport Other departments or agencies: N/A	Impact Assessment (IA)		
	Date: 31/08/2012		
	Stage: Consultation		
	Source of intervention: EU		
	Type of measure: Secondary legislation		
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Summary: Intervention and Options	RPC: AMBER
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Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?	
£-0.40m	NQ	NQ	No	NA

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

In the maritime sector, there is (i) a lack of uniformity regarding the extent and depth of passenger rights protection; (ii) a lack of a common framework regarding immediate and predefined solutions in cases of cancellations and delays; (iii) a lack of information to passengers generally; and (iv) potential discrimination against persons with reduced mobility (PRMs). The UK Government is implementing EU Regulation 1177/2010 to establish rights for passengers travelling by sea and inland waterway. The rationale for intervention is the direct applicability of the EU Regulation in the UK, and the requirement to establish an enforcement mechanism to ensure compliance with the EU Regulation.

What are the policy objectives and the intended effects?

The aims of the EU Regulation are (i) to establish new rights of access and agreed quality of service standards for PRMs when travelling by sea and inland waterway; (ii) to create a uniform system of rights for all passengers when travelling by sea and inland waterway; and (iii) to bring the maritime and inland waterway sector into line with the aviation and rail sectors with respect to passenger rights¹. The UK is required to establish an enforcement mechanism to ensure all parties comply with the EU Regulation.

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

Under European Law the UK Government is required to implement the EU Regulation to establish rights for passengers travelling by sea and inland waterway by 18 December 2012. Failure to implement the EU Regulation would lead to the instigation of infraction proceedings by the European Commission against the UK. Do nothing is the baseline against which the policy options are assessed. Only one policy option has been assessed in this impact assessment, which is to do the minimum required to implement the EU Regulation in the UK. This would involve introducing the proposed Regulations to establish an enforcement mechanism to ensure compliance with the EU Regulation (Option 1). Option 1 is our preferred option, which should ensure full compliance with the EU Regulation.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 12/2017						
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.		Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)				Traded: n/a		Non-traded: 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 Minister:  Date: 13/9/2012

¹ In addition, Passenger Rights Regulations for buses and coaches are due to come into force in March 2013.

Summary: Analysis & Evidence

Policy Option 1

Description: Introduce the proposed Regulations to establish an enforcement mechanism to ensure compliance with the EU Regulation

FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2012	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -0.43	High: -0.38	Best Estimate: -0.40

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	NA	0.04	-0.38
High	NA	0.05	-0.43
Best Estimate	NA	0.05	-0.40

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

The costs to the Maritime and Coastguard Agency (MCA) of establishing and operating a national enforcement body to ensure compliance with the EU Regulation that it has been possible to monetise are estimated to be in the region of £44,000 to £50,000 per year, with a Best estimate of £47,000. However, it should be noted that this cost is uncertain and that this estimate is sensitive to the assumptions made in this impact assessment (IA).

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

Several other costs have been identified but could not be monetised. 1.) If there is non-compliance with the EU Regulation, costs to business could potentially include a) the costs associated with engaging with the national enforcement body (e.g. the costs associated with providing information to it) and b) the costs of any fines and penalties. 2.) There could potentially be familiarisation costs to business. 3.) Other costs to the MCA could include recruitment, training, travel and expenses.

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

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

It has not been possible to monetise any of the benefits that have been identified in this IA. However, a full qualitative description of these benefits is presented in the Evidence Base (pages 9 to 10) and the key non-monetised benefits are summarised below.

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

Benefits of the EU Regulation to passengers include improved access for disabled persons and PRMs, and assistance in case of cancelled or delayed departures (See page 10). The proposed Regulations could potentially contribute to realising these benefits by establishing an enforcement mechanism in the UK. However, the benefits of the proposed Regulations would depend on the extent that there would be non-compliance with the EU Regulation in the absence of an enforcement mechanism in the UK.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5%

1.) The extent that there would be non-compliance with the EU Regulation under Option 1 and in the absence of an enforcement mechanism in the UK are both uncertain. 2.) Once the EU Regulation is in force, operators will have a legal duty to comply with its requirements in the absence of an enforcement mechanism in the UK. Therefore, the costs to business of complying with the requirements of the EU Regulation are not counted as costs of the proposed Regulations in this IA.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:	In scope of OIOO?	Measure qualifies as
Costs: NQ	No	NA
Benefits: NQ		
Net: NQ		

Evidence Base (for summary sheets)

Section 1 – Purpose of Impact Assessment

The purpose of this Impact Assessment is to set out the impacts of introducing the proposed Maritime Passenger Rights Regulations 2012 (“the proposed Regulations”) to establish an enforcement mechanism in the UK to ensure compliance with the directly applicable EU Regulation on the rights of passengers when travelling by sea and inland waterway in the UK (EU Regulation No. 1177/2010). The impact assessment does not assess the costs of complying with the EU Regulation itself.

Section 2 – Background

2.1. The EU Regulation

The EU Regulation aims to provide disabled persons and persons with reduced mobility (PRMs) with the same opportunities to travel by water as they have in other transport sectors across the EU.

The EU Regulation also establishes the right of all passengers to assistance in cases of cancelled or delayed departures and lays down the right, in certain circumstances, to compensation in case of delay in arrival.

The Final EU Regulation was adopted on 24 November 2010 and is split into six chapters and four annexes.

Chapter I provides for the general provisions of the EU Regulation and Chapter II provides for the rights of disabled persons and persons with reduced mobility when travelling by sea and inland waterway. Chapter III sets out the obligations of carriers and terminal operators in the event of interrupted travel. Chapter IV provides for general rules on information and complaints and Chapter V on enforcement of the EU Regulation. Chapter VI sets out the final provisions.

A summary of each of the individual Articles of the EU Regulation is provided at Annex A. If you require further information on the Articles within the EU Regulation, please refer to the Final Regulation itself, which can be found on the Official Journal of the European Union’s website at –

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:334:0001:0016:EN:PDF>

2.2. Key Facts about the UK Cruise and Ferry Industry

- In 2010 UK domestic and international ferry services handled 45 million passengers and 6.4 million cars¹.
- Number of passengers travelling between the UK and the continent (in either direction) was 18.8 million in 2010 (18.2 million in 2011), and between Great Britain and Ireland (either Northern Ireland or the Irish Republic) was 5.3 million in 2010 (5.0 million in 2011)².
- Number of passengers travelling on domestic sea crossings or inter-island services in the UK was 23.2 million in 2010³.
- Total number of UK cruise passengers was 1.56 million in 2010⁴. The UK had 30% of the European cruise market in 2010⁵.
- As at 30 April 2012, the UK ship register included 1,440 merchant vessels over 100 Gross Tonnage (GT) with a total GT of 17.8 million GT⁶.

¹ Source: Maritime Statistics, Department for Transport. NB: domestic includes sea crossings and inter-island routes

² Source: Maritime Statistics, Department for Transport.

³ Source: Maritime Statistics, Department for Transport.

⁴ Source: Maritime Statistics, Department for Transport

⁵ Source: European Cruise Council, Statistics and Markets

⁶ Source: MCA - UK Ship Register Activity Report

- As at 31 December 2010, there were 8 cruise ships, 113 roll-on roll-off passenger ships and 25 passenger ships and 4 General cargo-passenger ships of over 100 GT with a total of 1.72 million GT on the UK register⁷.

2.3. Key facts about disabled persons and PRMs in the UK

It is estimated that around 20% of the UK's adult population has some form of disability. Estimates are similar for Europe as a whole. There is also a close correlation between disability and age – nearly half of disabled people are over state pension age⁸.

The number of people over 65 years old in Europe almost doubled between 1960 and 2001. By 2030 this group is expected to represent nearly a third of the total population⁹. People who are either disabled or older, or both, will represent around 35% of the future population of Europe. With higher expectations among that group for travel, there is a huge potential market for the maritime industry to tap into. In fact, the collective spending power of disabled people in the UK is estimated to be around £80 billion a year¹⁰.

Disabled people are not a homogenous group and have very different needs. Some people will have more than one disability. Some people are visibly disabled, such as someone who uses a wheelchair or a white cane, but many have disabilities which are not immediately obvious, such as learning difficulties. Some symptoms of disabilities may be intermittent, such that individuals may be effectively disabled or have reduced mobility at one time and yet will appear to be capable at other times, typical for someone with a disability such as multiple sclerosis. The following figures relate to the UK population and illustrate the numbers involved:

- 9 million deaf and hard of hearing people¹¹, including 2 million hearing aid users, would benefit from visual information systems;
- 7.5 million people with arthritis¹² would benefit from level surfaces, seating, handrails etc;
- around 2 million people with a sight problem¹³ would benefit from colour contrast, tactile surfaces as well as audible information systems;
- 1.2 million wheelchair users¹⁴ would benefit from lifts and ramps; and
- over 1 million people¹⁵ with learning disabilities would benefit from clearer information.

Section 3 – Problem under consideration

The UK Government is implementing the EU Regulation to establish rights for passengers travelling by sea and inland waterway. Implementing the EU Regulation will help address some of the following specific problems –

- **Lack of uniformity regarding the extent and depth of passenger rights protection:** Every member state has some regulations regarding passenger rights, and some countries even have special provisions for PRMs passengers. But there are important differences between them, not only concerning the level of detail and issues covered, but also the kind of law applicable and the authorities in charge of producing, enforcing, monitoring and revising regulations.
- **Lack of a common framework regarding immediate and predefined solutions in cases of cancellation and delays:** For passengers in general, there is currently no international or Community legislation that determines automatic and immediate solutions when a travel by ship is interrupted by a critical event. Ship passenger carriers have never tackled the issue of standardising passenger rights or quality standards among themselves through their European and international organisations.

⁷ Source: DFT Statistics of UK registered ships, 31 December 2010; DFT analysis of IHS Fairplay world fleet data

⁸ Source: Department for Work and Pensions, Family Resources Survey 2005-06

⁹ Source: The social situation in the European Union, 2003, European Commission

¹⁰ Source: Department for Work and Pensions, 2006

¹¹ Source: RNID

¹² Source: Arthritis: The Big Picture, Arthritis Research Campaign (2002) Introduction and General Principles

¹³ Source: RNIB

¹⁴ Source: Improving Services for Wheelchair Users, Department of Health, 2004

¹⁵ Source: Foundation for People with Learning Difficulties/ Institute for Health Research, Lancaster University (2004)

- **Lack of information to passengers in general and to PRM passengers in particular, regarding their rights in case of a critical event:** Diversity amongst countries is even greater when it comes to the amount and quality of information provided to passengers about their rights in such cases. The situations with regard to availability of information differ widely, ranging from none at all to detailed information in Braille. Even ports and operators in the same country seem to act independently and to be guided by motives other than legislation.
- **Potential discrimination against PRMs:** This phenomenon arises from the fact that, in maritime transport, market forces alone do not enable their actual needs of PRMs to be met. From the shipping companies' point of view, such a market failure is part of a vicious circle in which, the actual demand for travel from PRMs is not considered large enough to drive the necessary adaptations in ports or aboard ships. The resulting lack of dedicated facilities in maritime transport discourages persons with reduced mobility from making reservations on boats and thus confirms the argument of the shipping companies — and also the vicious circle of exclusion of PRMs from maritime transport.

Section 4 – Rationale for intervention

The EU Regulation standardises the basic rights, service and redress disabled persons and persons with reduced mobility (PRMs) can expect when travelling by sea and inland water, and also establishes the right of all passengers to assistance in cases of cancelled or delayed departures and lays down the right, in certain circumstances, to compensation in case of delay in arrival.

Under European Law, the UK Government is required to implement this EU Regulation to establish rights for passengers travelling by sea and inland waterway by December 2012. In particular, under Article 25 of the EU Regulation, there is a requirement for each member state to designate a body responsible for enforcement, which should encourage all parties to comply with the EU Regulation. Passengers are to be entitled to lodge a complaint that an operator does not have the required complaints procedures / mechanisms in place with the enforcement body, and member states are required to introduce penalties for infringements (Article 28). The enforcement body is required to publish a report on its activities, with details of complaints, sanctions, etc every 2 years (Article 26).

Failure to implement the EU Regulation would lead to the instigation of infraction proceedings by the European Commission against the UK.

Furthermore, although the EU Regulation is directly applicable in the UK, a failure to implement the EU Regulation in the UK would mean the EU Regulation would be difficult to enforce in the UK. There could be knock on consequences for members of the public. Whilst some carriers and terminal operators would offer passengers the same rights as prescribed in the EU Regulation, some other carriers may not. Any lack of consistency would create confusion and would result in a range of different standards applying within the UK. It would also mean that passengers travelling elsewhere within the EU would have access to the same safeguards and benefits when travelling on water as they do when they travel by air or rail, whilst passengers travelling on water from the UK would be afforded very little protection.

Also, if the UK Government fails to implement the EU Regulation, this does not prevent passengers suing for damages both under their existing common law rights and also bringing claims against the UK Government in respect of its failure to implement the EU Regulations properly ("Frankovich damages").

Government intervention is therefore needed to implement the EU Regulation in the UK. In particular, Government intervention is required to establish an enforcement and penalties mechanism to ensure compliance.

Section 5 – Policy Objectives

The aims of the EU Regulation are (i) to establish new rights of access and agreed quality of service standards for PRMs when travelling by sea and inland waterway; (ii) to create a uniform system of rights for all passengers when travelling by sea and inland waterway; and (iii) to bring the maritime and inland waterway sector into line with the aviation and rail sectors with respect to passenger rights.

Under the EU Regulation, there is a requirement for each member state to designate a body responsible to enforce the EU Regulation.

Section 6 – Description of options considered

The UK Government is required to implement the EU Regulation to establish rights for passengers travelling by sea and inland waterway by 18 December 2012. In particular, under Article 25 of the EU Regulation, there is a requirement for each member state to designate a body responsible for enforcement, which should encourage all parties to comply with the EU Regulation. Member states are required to introduce penalties for infringements (Article 28). The enforcement body is required to publish a report on its activities, with details of complaints, sanctions, etc every 2 years (Article 26).

Therefore, the Government is proposing to introduce the proposed Regulations to establish an enforcement mechanism to ensure compliance with the EU Regulation (Option 1), which is the minimum required to implement the EU Regulation in the UK.

Under Option 1, the Maritime and Coastguard Agency (MCA) would be designated as the national enforcement body for the EU Regulation in the UK. The MCA would be responsible for investigating whether there has been a breach of the EU Regulation in individual cases, be required to take the measures necessary to ensure compliance with the EU Regulation and be required to publish a report on its activity every 2 years. The proposed Regulations would also introduce a regime of penalties for infringements of passengers' rights, and the MCA, as enforcement body, would be responsible for any prosecutions or other action it deems necessary to ensure compliance with the regulations. The penalties and enforcement framework will mirror a well established structure of maritime regulatory enforcement which already exists in the UK and which is well understood within the maritime community. Option 1 is our preferred option as it should encourage and ensure full compliance with the EU Regulation.

Option 1 is the only policy option that has been fully assessed in this impact assessment. The 'Do nothing' scenario is the baseline against which Option 1 has been assessed. The EU Regulation will be in force and directly applicable in the UK from 18 December 2012. Therefore, businesses would have a legal duty to comply with the requirements of the EU Regulation when applicable to them from this date under the 'Do Nothing' scenario.

The EU Regulation also allows for the national enforcement body or any other competent body designated by the Member State to act as an appeal body for complaints. However, currently there is no all encompassing regulator of consumer activity in the maritime sector in the UK who could act immediately as an appeals body for maritime passenger rights. Hence, the option of setting up an appeals body is not being taken up, so is not assessed in this impact assessment.

An explanation of how complaint handling in relation to the EU Regulation would work under Option 1 is provided below.

6.1. The proposed approach for Complaint Handling

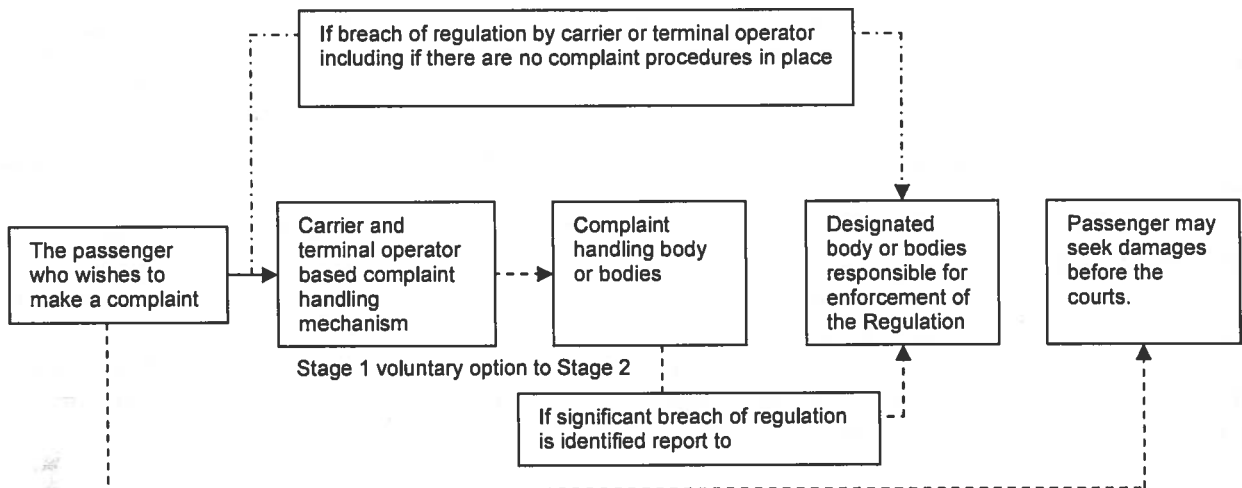
Where a passenger covered by this EU Regulation wants to make a complaint, the issue should initially be raised with the carrier / terminal operator's complaint handling mechanisms (stage 1), as Article 24 of the EU Regulation requires carriers and terminal operators to set up or have in place an accessible complaint handling mechanism for rights and obligations covered by this EU Regulation.

If the complaint cannot still be resolved, the complaint may then be referred to a complaint handling body on a voluntary basis (stage 2).

We propose to support a voluntary undertaking by the Passenger Shipping Association to act as the complaint handling body for England and Wales. It is proposed that the Consumer Council for Northern Ireland and the Scottish Executive will take up similar voluntary roles in their respective areas. This is explained in further detail in the relevant section below.

If the carrier or terminal operator does not have the required complaint handling procedures / mechanisms in place the passenger may report this to the national enforcement body for investigation. See Article 25 of the EU Regulation.

This process is represented in diagrammatic form below.



The dashed line option (at the bottom of the diagram) between the passenger and the courts recognises that there is nothing in the EU Regulation which precludes passengers from seeking damages before national courts at any stage in the process. See Article 21 of the EU Regulation.

6.2. The Complaint Handling Body (or Bodies)

We propose to support a voluntary undertaking by the Passenger Shipping Association (PSA) to act as the complaint handling body for England and Wales.

The PSA is the trade association for the cruise and ferry industry in the UK. It represents passenger shipping interests within the UK. The PSA is run by a London-based team and is supported by a Council of Management drawn from cruise and ferry operator representatives.

Following the introduction of the Package Travel and Package Holiday Tours Regulations in 1992, the PSA set up a scheme to settle disputes between consumers and its members from the cruise and ferry operators industry. Therefore the PSA already has conciliation service for its members in place. The PSA also has a number of associate members.

The PSA as the designated complaint handling body for England and Wales would be expected to draw on their knowledge of the industry to offer advice and assistance to all passengers (not just on complaints relating to their members), provide them with an evidence-based reply to any complaint as well as monitoring the number of complaints and any associated trends.

The Consumer Council for Northern Ireland and the Scottish Executive will take up similar voluntary roles in their respective areas.

Setting up a maritime complaints handling body is **not a mandatory requirement** of the proposed Regulations as it is not part of the EU Regulation. For clarity, we are not looking at establishing these bodies in legislation as it could be considered to be going beyond the minimum required to comply with the EU Regulation.

The complaint handling bodies could offer advice and assistance to passengers, provide them with an evidence based reply to any complaint as well as monitor the number of complaints and any associated trends. They would work closely with the national enforcement body / bodies to help ensure compliance by the industry. Our preferred approach to complaint handling is that the industry rather than the tax payer pays for this voluntary function. This is in line with user pays principles.

As the role of complaint handling body is purely voluntary and not a requirement of the proposed Regulations, the costs and benefits associated with establishing a complaint handling body are not covered in Section 7 of this impact assessment.

Devolved Administrations

We propose for the Scottish Executive to take up the voluntary maritime complaint handling role for Scotland. There are a number of reasons why the Scottish Executive is well placed to put in place arrangements relating to complaint handling:

- Some ferry services are already managed by the Devolved Administrations under public service contracts;
- Responsibility for policy relating to commercial ports in Scotland rests with the Devolved Administrations;
- Tourism is an important part of Scotland's economy and it is in their best interests to satisfactorily resolve any complaint themselves; and
- They will better understand the operations, the facilities and the local environment and would be able to react to, and advise on, local events and situations and be well placed to advise the national enforcement body on local trends.

We propose for the Consumer Council to take up the voluntary maritime complaint handling role for Northern Ireland. The Consumer Council is an independent consumer organisation so has specialist skills and knowledge in this area.

6.3. National Enforcement Body

Each Member State is required to designate a body or bodies responsible for the enforcement of the EU Regulation, which should encourage all parties to comply with the EU Regulation. See Article 25 of the EU Regulation.

Unlike the aviation and rail sectors which have the Civil Aviation Authority (CAA) and the Office of Rail Regulation there is not a regulator of economic activities in the maritime sector and therefore not a natural home for delivering the UK's enforcement obligations.

In the maritime sector, the National Enforcement Body that would be established under Option 1 will be responsible for investigating whether there has been a breach of the EU Regulation in individual cases, and will be required to take the measures necessary to ensure compliance with the EU Regulation. However, the body will not act on individual claims for compensation or act as an appeals body in the process (see section below).

The National Enforcement Body that would be established under Option 1 will also be required to publish a report on its activity every 2 years, containing in particular a description of actions taken in order to implement the provisions of the Regulation, details of sanctions applied and statistics on complaints and sanctions applied. The Body will also be required to exchange information with other Member States which will be particularly important in relation to those States at the other end of the UK's international ferry routes.

Any enforcement body should, for reason of consistency, have jurisdiction for the whole of the UK. The Department for Transport and its executive agency – the Maritime and Coastguard Agency (MCA) has authority across the whole of the UK.

We propose to appoint the MCA as the National Enforcement Body for the UK that would be established under Option 1. The MCA is also industry's preferred option due to their sectoral knowledge. However, the MCA's existing remit does not extend to the rights of passengers or consumer protection. It is likely that the MCA may need some additional powers to act in their role as the national enforcement body for this EU Regulation. For example, a specific power to request available information from ship owners or terminal operators may be required. Any new additional powers which are given to the MCA will be included in the proposed Regulations.

The existence of voluntary complaint handling bodies in this process should ensure that the vast majority of all consumer complaints are resolved within the maritime sector.

However, it should be recognised that even if such complaint handling bodies were not to exist in this process, we would not anticipate a substantial increase in the number of complaints the MCA would be required to consider, as the MCA will only look at whether there has been a clear breach of the EU Regulation. The body will not act on individual claims for compensation or act as an appeals body in the process.

6.4. Appeals Body

The EU Regulation also allows for the national enforcement body or any other competent body designated by the Member State to act as an appeal body for complaints. However, currently there is no regulator of consumer activity in the maritime sector in the UK, and therefore no appropriate organisation who can act as an appeals body for maritime passenger rights in the UK. Hence, the option of setting up an appeals body is not being taken up so is not assessed in this impact assessment

Section 7 – Costs and benefits of Option 1

Due to the limitations of the available evidence base, it has not been possible to monetise some of the costs and benefits that have been identified in this impact assessment. Where it has not been possible to monetise a cost or benefit, a full qualitative description of the cost or benefit has been provided in this impact assessment.

Following the consultation; we will consider whether further analysis could be undertaken to attempt to improve the extent that the costs and benefits are monetised. To assist with this process, **consultees are invited to submit any additional evidence on the costs and benefits of Option 1**. Any additional evidence that is submitted will be taken into account when the impact assessment is updated after the consultation.

7.1. Scope of the impact assessment

This impact assessment assesses the additional costs and benefits that would arise as a result of introducing the proposed Regulations under Option 1 compared to those that would arise under the 'Do nothing' scenario. The appraisal period runs from December 2012 to December 2022 – a period of 10 years from the introduction of the legislation.

Under the 'Do nothing' scenario, the EU Regulation would still be in force and directly applicable in the UK from 18 December 2012. Therefore, businesses would have a legal duty to comply with the requirements of the EU Regulation when applicable to them from this date. Consequently, for the purposes of this impact assessment, the costs to business associated with the complying with the requirements of the EU Regulation are not counted as costs of the proposed Regulations. Further details on the costs of the EU Regulation are included in Annex C.

This impact assessment therefore assesses only the additional costs and benefits of introducing the proposed Regulations to establish an enforcement mechanism to ensure compliance with the EU Regulation.

The focus of this impact assessment is on the impacts of the policy option which fall upon the UK, including the impacts on the public sector in the UK, UK businesses, the third sector in the UK and impacts on UK consumers.

7.2. Sectors and groups affected

The EU Regulation will apply to passenger services and cruises where the port of embarkation is situated in the EU. The EU Regulation will also apply to passenger services when the port of embarkation is outside the EU, if the port of disembarkation is within the EU, provided the vessel is operated by an EU carrier.

The EU Regulation includes a number of exemptions that are designed to exclude small boats and to protect small businesses. For example, it does not apply to ships certified to carry up to 12 passengers; ships which have a crew of not more than 3; where the distance is less than 500 metres one way and on excursion and sightseeing tours other than cruises.

7.3. Benefits of Option 1 – Establish an enforcement mechanism to ensure compliance with the EU Regulation

The proposed Regulations would introduce an enforcement regime for the EU Regulation in the UK and could potentially help to realise the benefits of the EU Regulation, as organisations will have a greater incentive to comply with the proposed Regulations if there is an enforcement body in place. However, the contribution of the proposed Regulations to realise these benefits is uncertain and would depend largely on the number of ships which would not comply with the EU Regulation under the 'Do Nothing' scenario. No evidence is available on the number of ships which would not comply with the EU Regulation under the 'Do Nothing' scenario. It has not therefore been possible to monetise the contribution of the proposed Regulations to realising the benefits of the EU Regulation in this impact assessment. However, it should be noted that if all of the relevant ships would comply with the EU Regulation under the 'Do Nothing' scenario then the proposed Regulations would not contribute to realising the benefits of the EU Regulation. A high-level summary of the benefits of the EU Regulation is provided in the box below for information. Further details on the benefits of the EU Regulation are included in Annex C.

Consultees are invited to submit any additional evidence of the additional benefits of Option 1, including any additional evidence on the impact the enforcement measures would have on compliance with the overall EU Regulation.

Benefits of the EU Regulation

(i) Improved access for disabled persons and PRMs

The EU Regulation will provide disabled persons and PRMs with the same opportunities to travel by water as they do in the rail and aviation sectors across the EU. The EU Regulation will standardise the rights, service and the redress which they can expect. PRMs travelling on maritime routes will benefit from the increased ease and comfort associated of making journeys under the proposed Regulations compared to that which exists under the status quo.

(ii) Potential increase in journeys by PRMs

Due to the benefit explained in (i), it is considered that disabled persons and PRMs could be encouraged to travel by sea and inland waterway more often. Such encouragement could be likely to result in more journeys being taken by disabled persons and PRMs residing in the UK as well as greater desire to take part in cruise activities for pleasure or recreational purposes. Additional trips could be likely to be taken at both a domestic and an international level. However, there is only limited evidence available on this issue, so it is not possible to robustly determine how many additional passenger journeys would be made to and from the UK, particularly as travel is affected by a number of factors, including the wider economic situation and the costs of travel.

(iii) Assistance in case of cancelled or delayed departures

The EU Regulation establishes the passenger's right to assistance in case of cancelled or delayed departures. In situations where the service is cancelled or the carrier expects the departure to be delayed for more than 90 minutes, passengers shall be offered free of charge snacks, meals or refreshments in reasonable relation to the waiting time, provided they are available, or can be reasonably be supplied. Such assistance does not apply to passengers with open tickets, if the passenger is informed of the cancellation or delay before the purchase of the ticket or if the cancellation or delay is caused by the fault of the passenger.

Such assistance will have a direct benefit to the travelling passenger; there could also be some less significant indirect benefits to local services such as shops and restaurants as carriers provide snacks, meals or refreshments. It is assumed that this impact represents a transfer from industry to passengers. It is important to note that in some instances, such as when passengers are delayed in remote locations, it may not be possible to provide such assistance. It would also not be appropriate to provide such assistance to those which would prefer to be re-routed or reimbursed their ticket price.

(iv) Compensation of the ticket price in case of delay in arrival

Passengers currently do not benefit from any statutory compensation arrangements for any delay in arrival to their scheduled journey. Under the EU Regulation, passengers would be entitled to a minimum level of compensation, which shall be 25% of the ticket price for a delay of at least:

- a) 1 hour in the case of a scheduled journey of up to 4 hours;
- b) 2 hours in the case of a scheduled journey of more than 4 hours but not exceeding 8 hours;
- c) 3 hours in the case of a scheduled journey of more than 8 hours but not exceeding 24 hours; or
- d) 6 hours in the case of a scheduled journey of more than 24 hours.

If the delay exceeds double the time set out in points a) to d) the compensation shall be 50% of the ticket price. The compensation of the ticket price shall not be reduced by financial transaction costs such as fees, telephone costs or stamps. Compensation payments are not available where the cancellation or delay is caused by weather conditions endangering the safe operation of the ship or in extraordinary circumstances hindering the performance of the passenger service.

(v) Accessible complaint handling procedures

Under the EU Regulation, passengers will benefit from the new carrier and terminal operator based complaint handling mechanisms that would be available to them in order to seek redress of their complaint. If industry based procedures did not resolve the complaint, the passenger would have recourse to the newly established national enforcement body to help resolve alleged infringements.

7.4. Costs of Option 1 – Establish and operate a national enforcement body to ensure compliance with the EU Regulation

Three potential costs of the proposed Regulations have been identified in this impact assessment and are discussed below. Consultees are invited to submit any additional evidence of the additional costs of Option 1.

7.4.1 Costs to the Maritime and Coastguard Agency (MCA) of establishing and operating a national enforcement body for the EU Regulation

Under Article 25, the EU Regulation requires each Member State to designate a body responsible for the enforcement of this EU Regulation. The enforcement body would also be required to have powers in order to ensure that its decisions were complied with by carriers and terminal operators. This would be an entirely new cost for the UK.

In the UK, it is proposed for the Maritime and Coastguard Agency (MCA) to be the enforcement body for the EU Regulation.

The MCA would be responsible for investigating whether there has been a breach of the EU Regulation in individual cases, and would be required to take the measures necessary to ensure compliance with the EU Regulation.

We are proposing that where a passenger is covered by the EU Regulation and wishes to make a complaint then this will need to be raised in the first instance with the carrier / terminal operator, with the aim of resolving any complaints at this stage. If the complaint cannot be resolved at this stage, it may then be referred to the relevant voluntary complaint handling body for resolution. Therefore it is anticipated that the MCA would only need to investigate a small minority of cases where there has been a clear breach of the EU Regulation.

The European Commission's impact assessment reports that following the introduction of similar legislation on air transport, complaints were received by national enforcement bodies at a rate equivalent to 44 for every million passengers departing from EU airports. If we were to assume that there would be a similar rate of complaints submitted, this could be in the region of 2000 a year¹⁶.

¹⁶ The European Commission's Impact Assessment reports that following the introduction of similar measures for air passengers, complaints were received at a rate equivalent to 44 for every million passengers departing from EU airports. According to DfT statistics, in 2010 UK domestic and international ferry services handled 45 million passengers. Assuming 44 complaints per million journeys, this suggests that up to 2000 complaints could be received annually in the UK or around 9 cases per staff working day (220 per year).

However, the MCA in their role as the enforcement body for the Maritime EU Regulation is expected to look at only a small minority of these cases, where it is perceived that there has been a breach of the EU Regulation. It is also important to recognise that this rate may differ between the aviation and maritime sectors.

Based on discussions with the MCA, it is assumed that establishing and operating a national enforcement body would require one employee at the MCA. This assumption is broadly derived from European Commission's Impact Assessment which estimated that the number of complaints to be handled per year will be between 10,507 to 13,490 for all EU member states. The European Commission's Impact Assessment further estimated that the designated national enforcement bodies will have to employ at most 7.6 FTEs to handle these complaints. If 7.6 FTEs would be required to handle 13,490 complaints, this equates to approximately 0.56 FTEs per 1,000 complaints. Therefore, as the above analysis indicates that the number of complaints received by UK enforcement body could be in the region of 2,000 per year, the assumption of one employee for the UK national enforcement body seems reasonable.

Furthermore, based on discussions with the MCA, it is assumed that this individual would be employed at either the Senior Executive Officer (SEO) or the "S" Level SEO/MS1 pay bands.

On the basis of these assumptions, the cost to the MCA of establishing and operating a national enforcement body has been estimated at around £44,000 to £50,000¹⁷ per year in 2012 prices, with a Best estimate of around £47,000 per year (the mid-point of this range). The appraisal period is 10 years. The present value of the total cost to the MCA over the 10 year appraisal period has been estimated at around £0.38 to £0.43 million, with a Best estimate of £0.40 million. However, it should be noted that the cost to the MCA is uncertain at this stage and that this estimate is sensitive to the assumptions that have been made in this impact assessment. In particular, if more than one FTE employee would be required for the UK national enforcement body, the costs would be proportionally higher. For example, as a sensitivity test, if it was assumed that 1.5 FTE employees would be required for the UK national enforcement body, it is estimated that the total cost to the MCA over the 10 year appraisal period would be around £0.57 to £0.65 million, with a Best estimate of £0.61 million .

In addition, the MCA would need to publish a report on its actions at least every two years, which could require further resources. It is assumed that the primary drafting of the report would be undertaken by the one employee at the MCA outlined above. However, there are also likely to be other costs associated with publishing a report. For example, these costs could include gathering the information, publishing costs, communications resource and senior management time checking a report prior to publication. We are not able to monetise the costs of undertaking these tasks at this point.

Furthermore, there is also the potential for there to be additional costs related to recruitment, training and travel and expenses which it has not been possible to monetise at this stage due to the uncertainties involved.

7.4.2 Costs to business as a result of enforcement action undertaken by the national enforcement body

As explained above, the costs to business of complying with the requirements of the EU Regulation are not counted as costs of the proposed Regulations in this impact assessment. However, if there is non-compliance with the EU Regulation, additional costs to business as a result of enforcement action undertaken by the national enforcement body under Option 1 could potentially include a) the costs associated with engaging with the national enforcement body (e.g. the costs associated with providing information to it) and b) the costs of any fines and penalties. However, the extent that there would be non-compliance with the EU Regulation is uncertain, so it is not possible to monetise these costs in this impact assessment.

¹⁷ This range is based on the mid-points of Department for Transport and MCA pay scales for these pay bands, which have been uplifted by around 21% in line with the Department for Transport's Transport Analysis Guidance to account for non-wage labour costs (<http://www.dft.gov.uk/webtag/documents/expert/unit3.5.6.php>)

7.4.3 Familiarisation Costs to Business

Some businesses may incur familiarisation costs due to the need for operators to familiarise themselves with the proposed Regulations. However, it should be noted that no evidence is currently available on this issue. Therefore, this cost has not been monetised for the purpose of this assessment as both the time that it would take to familiarise, and the number of businesses that would need to do this, are uncertain.

Section 8 – Risks and Uncertainties

Failure, or delay in implementing the EU Regulation could lead to the instigation of infraction proceedings by the European Commission against the UK, and could have knock on consequences for passengers, as set out in Section 4 of this impact assessment. This is an effect of following the Do Nothing scenario.

Section 9 – One-In, One-Out

The proposed Regulations would not go beyond the minimum required to comply with the EU Regulation. As this is an EU measure, it is out of scope of One-In, One-Out.

Section 10 – Specific Impact Tests

10.1 Equalities Assessment

Under Option 1, the proposed Regulations would establish an enforcement mechanism to ensure compliance with the EU Regulation, which provides rights to all passengers when travelling by sea and inland waterway within the scope of the EU Regulation irrespective of their gender, race, nationality or ethnic origin. The EU Regulation will bring rights for disabled persons and PRMs when travelling by sea into line with the provisions that already exist in the aviation and rail sectors. It is anticipated that the EU Regulation will encourage more disabled persons and PRMs to travel and should make travelling easier for such persons; thus the EU Regulation strongly support disability equality. An Equalities Impact Assessment for the proposed Regulations has been provided at Annex B of this Impact Assessment.

10.2 Competition Assessment

Under Option 1, the proposed Regulations would establish an enforcement mechanism to ensure compliance with the EU Regulation. There is no evidence available to suggest that enforcement action would be targeted on a particular group or more than any other group. So, it is not anticipated that the proposed Regulations would have a significant impact on competition within the maritime sector.

Furthermore, the EU Regulation is based on similar legislation which already exists in the aviation and rail sectors; it aims to provide passengers on maritime and inland waterway services with new rights for PRMs and general passenger rights in the event of a delay or cancellation to scheduled services. Therefore, enforcing the EU Regulation is not expected to have a significant impact on competition between these modes of transport.

Consultees are invited to submit any additional evidence of the impacts of Option 1 on competition

10.3 Small Firms Impact Test

The UK has sought, as far as possible to exclude operators of small ships and port terminals from the scope of the EU Regulation.

The EU Regulation will not apply to ships certified to carry up to 12 passengers, ships with a crew responsible for the operation of the ship of not more than three persons or where the distance of the overall passenger service is less than 500 metres, one way. The EU Regulation will also not apply on excursion and sightseeing tours other than cruises or historical passenger ships.

Enforcement action under Option 1 would only have an impact on those small firms that are not caught by these exclusions.

Consultees are invited to submit any additional evidence of the impacts of Option 1 on small firms

10.4 Other Specific Impact Tests

Greenhouse Gas Assessment

To the extent that the existence of an enforcement regime for the EU Regulation contributes to an increase in disabled persons and PRMs using maritime transport, there could be an impact on greenhouse gas (GHG) emissions under Option 1. No quantitative evidence is currently available on the extent of this impact. However, it is anticipated that any impact on GHG emissions under Option 1 would be very limited.

Consultees are invited to submit any additional evidence of the impacts of Option 1 on greenhouse gas emissions

10.5 Human Rights Assessment

The proposed Regulations would have no adverse impact on human rights. The proposed Regulations would establish an enforcement mechanism to ensure compliance with the EU Regulation. The EU Regulation will provide disabled persons and PRMs with new rights when travelling by water, similar to those that exist in the rail and aviation sectors across the EU.

Section 11 – Regulatory Policy Committee (RPC) Opinion

The RPC assigned this impact assessment (IA) an ‘Amber’ rating on 13 August 2012. The RPC concluded that this IA is fit for purpose. However, the RPC made a few comments on how the IA could be improved. These comments have been addressed where possible. An explanation of the changes that have been made to the IA in response to the RPC’s comments is provided below. Where it has not been possible to address one of the RPC’s comments, an explanation has also been provided below.

a. The RPC commented that the IA should undertake sensitivity analysis on the monetised staff time cost to the Maritime and Coastguard Agency (MCA) and provide any further details on how that cost is built up. In response to this comment, the IA now includes some sensitivity analysis on the resource implications in section 7.4.1 above, and also includes further details on how the cost has been built up in the same section to address the RPC’s comments.

b. The RPC commented that the IA could have provided an estimate of the cost of producing the required biennial report. In response to this comment, the intention is that the primary drafting of the report will be undertaken by the one employee at the MCA outlined above. However, the impact assessment now highlights that there are also likely to be additional costs associated with publishing a report. However we are not able to monetise the costs of undertaking these tasks at this point. See section 7.4.1 above.

c. The RPC commented that the IA would be improved by cross-referencing to estimates of costs and benefits of the overall EU Regulation. An annex containing further details on the costs and benefits of the EU Regulation have been added to this impact assessment. This can be found in Annex C.

d. The RPC commented that the IA would be improved by greater clarity on how the consultation period will inform the impact of the enforcement measures covered by this IA. In response to this comment, the IA has been modified to specifically invite consultees to submit any additional evidence on the impact the enforcement measures would have on compliance with the overall EU Regulation.

Annex A

A brief summary of the Articles of EU Regulation 1177/2010 is provided below –

Chapter I - General Provisions

Article 1 to Article 6 sets out the general provisions applying the EU Regulation.

Article 2 sets the scope of the EU Regulation. It will apply to passenger services and cruises where the port of embarkation is situated in the EU. The EU Regulation will apply to passenger services when the port of embarkation is outside the EU, if the port of disembarkation is within the EU, provided the vessel is operated by an EU carrier. It will also apply on a cruise where the port of embarkation is situated in the territory of a Member State.

The EU Regulation will not apply to ships certified to carry up to 12 passengers, ships with a crew responsible for the operation of the ship of not more than three persons or where the distance of the overall passenger service is less than 500 metres, one way. The EU Regulation will also not apply on excursion and sightseeing tours or historical passenger ships.

Article 3 sets out the definitions.

Article 4 requires carriers to issue a ticket to the passenger.

Article 5 highlights the relationship between the carriers, travel agent, tour operator or terminal operator and other performing parties entrusted with obligations and identifies where the liabilities lay.

Article 6 stresses that obligations under this EU Regulation shall not be limited or waived by a derogation or restrictive clause in the transport contract.

Chapter II - Rights of Disabled Persons and Persons with Reduced Mobility

Article 7 prohibits carriers, ticket vendors and tour operators from refusing to issue, or making an additional charge for, a ticket or reservation to a disabled persons and PRMs on the grounds of disability or of reduced mobility.

Article 8 allows a carrier to derogate from the provisions of **Article 7** for justified safety reasons established by law.

Article 9 requires carriers and terminal operators to produce and make publicly available non-discriminatory access conditions for the transport of disabled persons and PRMs.

Article 10 establishes the right to assistance in ports, including embarkation and disembarkation, and onboard ships to disabled persons and PRMs. Such assistance shall be provided free of charge.

Article 11 sets out the conditions under which assistance established in **Article 10** is provided. It states that carriers and terminal operators shall provide such assistance when notification is received at the latest 48 hours before the assistance is needed, the disabled person or person with reduced mobility presents themselves at a designated point prior to the scheduled departure. If prior notification is not received, the carrier and terminal operator shall make all every reasonable efforts to ensure assistance is provided.

Article 12 requires carriers, terminal operators, travel agents and tour operators to take all measures necessary for the reception, and subsequent transfer of notifications made in accordance with **Article 11**.

Article 13 sets out the quality standards for assistance to be established by carriers and terminal operators operating port terminals or passenger services with a total of more than 100,000 commercial passenger movements during the previous calendar year.

Article 14 lays down the requirement to ensure appropriate training for personnel with regard to disability issues; and

Article 15 establishes the right to compensation for lost or damaged wheelchairs and other mobility equipment when they are being handled at ports or onboard ships. The compensation shall correspond to the replacement value of the equipment concerned or, where applicable, to the costs relating to repairs.

Chapter III - Obligations of carriers and terminal operators in the event of interrupted travel

Article 16 establishes the obligation to provide passengers with information in the event of interrupted travel.

Article 17 establishes the passenger's right to assistance in case of cancelled or delayed departures. In situations where the service is cancelled or the carrier expects the departure to be delayed for more than 90 minutes, it is proposed that passengers shall be offered free of charge snacks, meals or refreshments in reasonable relation to the waiting time, provided they are available, or can reasonably be supplied.

Article 18 creates a right for passengers to be re-routed to the final destination or reimbursed the ticket price in cases when there has been a cancellation or a delay of 90 minutes or more. This article does not apply to passengers with open tickets.

Article 19 provides for compensation for a passenger in case of delay in arrival at the final destination in the transport contract. This reference to the transport contract has the effect of excluding a passenger who is not a party to the contract.

Article 20 defines the relevant exemptions which apply to **Articles 17, 18 and 19** which are referenced above.

Article 21 confirms that nothing in the EU Regulation precludes passengers from seeking further compensation in respect of the loss resulting from cancellation or delay of transport services before national courts.

Chapter IV - General rules on information and complaints

This chapter sets out the requirements in **Article 22** for carriers and terminal operators to provide passengers with adequate information throughout their travel and in **Article 23** for carriers and terminal operators to ensure that information on the rights of passengers under this EU Regulation is publicly available on board ships and in port terminals alongside the designated contact details of the enforcement body. **Article 24** places an obligation on carriers and terminal operators to set up an accessible complaint handling mechanism as well as defining the applicable time frames for submission of complaints and final reply.

Chapter V - Enforcement and national enforcement bodies

Article 25 requires each Member States to designate a new or existing body or bodies responsible for the enforcement of this EU Regulation, which is independent of commercial interests. Each body shall take the measures necessary to ensure compliance with this EU Regulation. Passengers are permitted to submit complaints to the national enforcement body or bodies about alleged infringements of this EU Regulation. A Member State may however request any passenger which has not submitted their complaint to the carrier or terminal operator to do so prior to any consideration by the national enforcement body. Equally the national enforcement body shall act as an appeal body for complaints not resolved by the industry's complaint handling mechanism.

Article 26 requires the national enforcement body or bodies, every 2 years, to publish a report on its actions, details of sanctions applied and statistics on complaints and **Article 27** requires cooperation between enforcements bodies to the extent necessary for the coherent application of this EU Regulation. **Article 28** requires Member States to lay down penalties applicable to infringements and requires Member States to take all the measures necessary to ensure that they are implemented. The penalties provided must be effective, proportionate and dissuasive.

Chapter VI - Final provisions

This chapter deals with the final provisions of the EU Regulation. **Article 29** requires the Commission to report to the Council and the European Parliament on the operation and the effects of the EU Regulation 3 years after its entry into force.

Article 30 refers to a consequential amendment to EC Regulation 2006/04 and **Article 31** states that the EU Regulation will apply from 24 months after the date of publication and therefore will apply from December 2012.

Annex B

Equality Impact Assessment Screening Proforma

Enforcement of EU Regulation 1177/2010 relating to the rights of passengers when travelling by sea and inland waterway									
Person completing the assessment: Damian de Niese (Maritime Trade and Liability Branch)					Date of assessment: 21 August 2012				
Purpose of the function, policy or strategy: The purpose of the policy is to enforce the EU Regulation to ensure the effective protection of the rights of passengers, including the rights of disabled persons and persons with reduced mobility (PRMs).									
Questions - Indicate Yes, No or Not Known for each group	Age	Disability	Gender	Ethnicity and Race	Religion or Belief	Sexual Orientation	Transgender	Pregnancy and Maternity	
Is there any indication or evidence that different groups have different needs, experiences, issues or priorities in relation to the particular policy?	Yes	Yes	No	No	No	No	No	Yes	
Is there potential for, or evidence that, this policy may adversely affect equality of opportunity for all and may harm good relations between different groups?	No	No	No	No	No	No	No	No	
Is there any potential for, or evidence that, any part of the proposed policy could discriminate, directly or indirectly? (Consider those who implement it on a day to day basis)?	No	No	No	No	No	No	No	No	
Is there any stakeholder (staff, public, unions) concern in the policy area about actual, perceived or potential discrimination against a particular group(s)?	No	Yes	No	No	No	No	No	No	
Is there an opportunity to better promote equality of opportunity or better community relations by altering the policy or working with other government departments or the wider community?	No	Yes	No	No	No	No	No	No	
Is there any evidence or indication of higher or lower uptake by different groups?	Yes	Yes	No	No	No	No	No	No	
Are there physical or social barriers to participation/access (e.g. language, format, physical access/proximity)?	Yes	Yes	No	No	No	No	No	No	

Background

- Currently in the maritime sector, there is (i) a lack of uniformity regarding the extent and depth of passenger rights protection; (ii) a lack of a common framework regarding immediate and predefined solutions in cases of cancellations and delays; (iii) a lack of information to passengers generally; and (iv) potential discrimination against disabled persons and persons with reduced mobility (PRMs).

- The UK Government is required to implement EU Regulation 1177/2010 to establish rights for passengers travelling by sea and inland waterway by 18 December 2012. The rationale for intervention is the direct applicability of the EU Regulation in the UK, and the requirement to establish an enforcement mechanism to ensure compliance with the EU Regulation.
- The aims of the EU Regulation are (i) to establish new rights of access and agreed quality of service standards for disabled persons and PRMs when travelling by sea and inland waterway; (ii) to create a uniform system of rights for all passengers when travelling by sea and inland waterway; and (iii) to bring the maritime and inland waterway sector into line with the aviation and rail sectors with respect to passenger rights¹.
- The UK is required to establish an enforcement mechanism to ensure all parties comply with the EU Regulation, which is the focus of the proposed regulations and the associated impact assessment.

Further Information

- Enforcing the EU Regulation should ensure the effective protection of the rights of passengers, including the rights of disabled persons and PRMs, when travelling by sea and inland waterway.
- Enforcement of the EU Regulation will provide disabled persons and PRMs with the same opportunities to travel by water as they do in the rail and aviation sectors across the European Union.
- Enforcing the EU Regulation will standardise the rights, service and the redress which they can expect. PRMs travelling on maritime routes will benefit from the increased ease and comfort associated of making journeys under the enforced EU Regulation compared to what exists under the status quo.
- The proposed enforcement of this EU Regulation provides some scope for eliminating discrimination and promoting better equality of opportunity, and promoting good relations between different groups.

Damian de Niese

31 August 2012

¹ In addition, Passenger Rights Regulations for buses and coaches are due to come into force in March 2013.

Annex C – Costs and benefits of the EU Regulation

This annex provides more detail on the costs and benefits of the EU Regulation. **Consultees are invited to submit any additional evidence on the costs and benefits of the EU Regulation.** Specific questions for consultees on each of the costs and benefits of the EU Regulations are included below.

Further information on the costs and benefits of the EU Regulation is available in the European Commission's Impact Assessment which is available from the following website address -

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SEC:2008:2950:FIN:EN:PDF>

A.1. Benefits of the EU Regulation

A.1.1 Improved access for disabled persons and PRMs

The EU Regulation will provide disabled persons and PRMs with the same opportunities to travel by water as they do in the rail and aviation sectors across the EU. The EU Regulation will standardise the rights, service and the redress which they can expect. PRMs travelling on maritime routes will benefit from the increased ease and comfort associated of making journeys under the proposed Regulations compared to that which exists under the status quo.

Consultees are invited to submit any additional evidence on the benefits of improved access that will be provided to disabled persons and PRMs as a result of the EU Regulation.

A.1.2. Potential increase in journeys by PRMs

Due to the benefit explained in section A.1.1, it is considered that disabled persons and PRMs could be encouraged to travel by sea and inland waterway more often. Such encouragement could be likely to result in more journeys being taken by disabled persons and PRMs residing in the UK as well as greater desire to take part in cruise activities for pleasure or recreational purposes. Additional trips could be likely to be taken at both a domestic and an international level. However, there is only limited evidence available on this issue, so it is not possible to robustly determine how many additional passenger journeys would be made to and from the UK, particularly as travel is affected by a number of factors, including the wider economic situation and the costs of travel.

Consultees are invited to submit any additional evidence on the potential for the number of journeys undertaken by PRMs to increase as a result of the EU Regulation and the benefits that would arise from an increase in the number of journeys by PRMs.

A.1.3. Assistance in case of cancelled or delayed departures

The EU Regulation establishes the passenger's right to assistance in case of cancelled or delayed departures. In situations where the service is cancelled or the carrier expects the departure to be delayed for more than 90 minutes, passengers shall be offered free of charge snacks, meals or refreshments in reasonable relation to the waiting time, provided they are available, or can be reasonably be supplied. Such assistance does not apply to passengers with open tickets, if the passenger is informed of the cancellation or delay before the purchase of the ticket or if the cancellation or delay is caused by the fault of the passenger. It is important to note that in some instances, such as when passengers are delayed in remote locations, it may not be possible to provide such assistance. It would also not be appropriate to provide such assistance to those which would prefer to be re-routed or reimbursed their ticket price.

Where a stay of one or more nights or a stay additional to that intended by the passenger becomes necessary where there is a cancellation or a delayed departure the carrier shall, where and when physically possible, offer passengers departing from port terminals adequate accommodation free of charge onboard or ashore, up to €80 per night for a maximum of three nights and transport to and from the port terminal. Such assistance does not apply to passengers with open tickets, if the passenger is informed of the cancellation or delay before the purchase of the ticket or if the cancellation or delay is caused by the fault of the passenger. Access to adequate accommodation is also not available where the cancellation or delay is caused by weather conditions endangering the safe operation of the ship.

The EU Regulation creates a right for passengers to be re-routed to the final destination or reimbursed the ticket price in cases when there has been a cancellation or a delay of 90 minutes or more. This does not apply to passengers with open tickets.

The total additional benefits of the EU Regulation in a given year would depend on the number of voyages where passengers would be eligible for assistance under the EU Regulation, the number of eligible passengers travelling on each of these voyages that would receive assistance, the value of the assistance that would be received by each of these passengers and the proportion of this assistance that would be additional to what would be provided in the absence of the EU Regulation. For a specific voyage where passengers are eligible for assistance, the additional benefits would depend on the circumstances specific to that voyage.

For example, for a voyage where the departure is expected to be delayed by 100 minutes, passengers shall be offered free of charge snacks, meals or refreshments in reasonable relation to the waiting time, provided they are available, or can be reasonably be supplied. As a purely illustrative example, if it is assumed that the ship is carrying 500 passengers, and that the value of snacks, meals or refreshments that would be provided under the EU Regulation is £5 per passenger, the total value of the snacks, meals or refreshments provided would be £2,500. If it is assumed that the value of

snacks, meals or refreshments that would be provided in the absence of the EU Regulation would be £3 per passenger, the additional benefits of the EU Regulation in this instance would be £2 per passenger and total £1,000.

Consultees are invited to submit any additional evidence on the number of voyages where assistance would need to be provided under the EU Regulation, the number of passengers that would travel on these voyages, the value of the assistance that would be provided to these passengers and the proportion of this assistance that would be additional to what would be provided in the absence of the EU Regulation. This could include evidence on the absolute number of - and the proportion of - passengers travelling on different routes that would receive the different types of assistance, evidence on the average costs of providing the different types of assistance, and evidence on the extent that the different types of assistance would be provided in the absence of the EU Regulation.

A.1.4. Compensation of the ticket price in case of delay in arrival

Passengers currently do not benefit from any statutory compensation arrangements for any delay in arrival to their scheduled journey. Under the EU Regulation, passengers would be entitled to a minimum level of compensation, which shall be 25% of the ticket price for a delay of at least:

- a) 1 hour in the case of a scheduled journey of up to 4 hours;
- b) 2 hours in the case of a scheduled journey of more than 4 hours but not exceeding 8 hours;
- c) 3 hours in the case of a scheduled journey of more than 8 hours but not exceeding 24 hours; or
- d) 6 hours in the case of a scheduled journey of more than 24 hours.

If the delay exceeds double the time set out in points a) to d) the compensation shall be 50% of the ticket price. The compensation of the ticket price shall not be reduced by financial transaction costs such as fees, telephone costs or stamps. Compensation payments are not available where the cancellation or delay is caused by weather conditions endangering the safe operation of the ship or in extraordinary circumstances hindering the performance of the passenger service. In addition, the compensation outlined in the Regulation is not provided automatically. It would be up to the passenger to make a compensation claim.

The total additional benefits of the EU Regulation in a given year would depend on the number of voyages where passengers would be eligible for compensation, the number of eligible passengers travelling on each of these voyages that would submit a compensation claim, the value of the compensation that would be received by each of these passengers and the proportion of this compensation that would be additional to any compensation that would be received in the absence of the EU Regulation. For a specific voyage where passengers are eligible to claim compensation, the amount of compensation that is received by each eligible passenger would depend on the length of the delay, the length of the scheduled journey, and the ticket price that the passenger paid.

For example, for a voyage with a schedule length of 3 hours where arrival is delayed by 90 minutes, the minimum level of compensation would be 25% of the ticket price. As a purely illustrative example, if it is assumed that the ship is carrying 500 passengers, that 80% of these passengers submit a claim for compensation and that the average ticket price of these passengers is £100, 400 passengers would each receive £25 compensation on average, and the total compensation that would be received by these passengers under the EU Regulation would be £10,000. If it is assumed that these passengers would receive £15 compensation on average in the absence of the EU Regulation, the additional benefits of the EU Regulation in this instance would be £10 per passenger and total £4,000.

Consultees are invited to submit any additional evidence on the number of voyages where passengers would be eligible for compensation, the number of eligible passengers that would claim compensation, the value of the compensation that would be received by these passengers and the proportion of this compensation that would be additional to what would be provided in the absence of the EU Regulation. This could include evidence on the absolute number - and the proportion - of passengers travelling on different routes that would receive the different levels of compensation, evidence on the average ticket prices on different routes and evidence on the extent that such compensation would be provided in the absence of the EU Regulation.

A.1.5. Accessible complaint handling procedures

Under the EU Regulation, passengers will benefit from the new carrier and terminal operator based complaint handling mechanisms that would be available to them in order to seek redress of their complaint. If industry based procedures did not resolve the complaint, the passenger would have recourse to the newly established national enforcement body to help resolve alleged infringements.

Consultees are invited to submit any additional evidence on the additional benefits associated with the requirement for accessible complaint handling procedures. This could include evidence on the absolute number - and the proportion - of passengers that would be likely to make use of this facility, and the extent that such accessible complaints handling procedures would be provided in the absence of the EU Regulation.

A.2. Costs of the EU Regulation

A.2.1. Cost of providing improved access for disabled persons and PRMs

Under the EU Regulation, some carriers and terminal operators would be required to provide greater assistance and information to disabled persons and PRMs. However, the EU Regulation is not prescriptive in identifying how

carriers and terminal operators would be required to provide greater assistance.

Additional costs could include the provision of additional staff time, the introduction of enhanced visual and audible information systems, the levelling of surfaces, additional seating and handrails, better colour contrasting, the need for new access ramps and clearer information in general.

Indicative estimates of the costs of potential measures are available in the European Commission Impact Assessment. For example, guide ways and markings are estimated to cost in the region of €100 per metre, automatic doors and accessible toilets are estimated to cost in the region of €15,000, and lift access between two floors is estimated to cost up to €450,000.

The extent that such measures would need to be implemented by different carriers and terminal operators in the UK to comply with these requirements would need to be determined on a case by case basis. However, it is clearly stated that nothing in the EU Regulation shall be understood as constituting technical requirements imposing obligations on carriers, terminal operators or other entities to modify or replace ships, infrastructure, ports, and port terminals.

Consultees are invited to submit any additional evidence on the additional costs associated with the requirements of the EU Regulation on providing access for disabled persons and PRMs. This could include evidence on the different types of costs of meeting these requirements, including both one-off costs and reoccurring costs, and evidence on the extent that the necessary access for disabled persons and PRMs would be provided in the absence of the EU Regulation.

A.2.2. Costs of providing training and instructions to personnel

Under the EU Regulation, carriers and where appropriate, terminal operators shall establish disability-related training procedures, and ensure that personnel providing direct assistance to disabled persons and PRMs and those personnel who are responsible for the reservation and selling of tickets or embarkation and disembarkation are appropriately trained in accordance with the Annex to the Regulation. There is a further requirement for refresher training as and when appropriate.

In the European Commission's Impact Assessment, the cost of providing this initial training is estimated at €170 per employee in ports. This is supported by informal discussions with industry. On this basis, the European Commission estimates the cost of training only front office port staff in the UK to be around €210,000.

Consultees are invited to submit any additional evidence on the additional costs associated with the requirements of the EU Regulation on providing training and instructions to personnel. This could include evidence on the different types of costs of meeting these requirements,

including both one-off costs and reoccurring costs, and evidence on the extent that the necessary training would be undertaken in the absence of the EU Regulation.

A.2.3. Cost of providing assistance in case of cancelled or delayed departures

As explained in Section A.1.3, the EU Regulation establishes the passenger's right to assistance in case of cancelled or delayed departures. The circumstances under which assistance would be provided are described in Section A.1.3.

The additional cost to carriers and terminal operators would be in direct correlation to the additional benefits that would be received by passengers. The additional benefits that would be received by passengers are discussed in Section A.1.3.

Consultees are invited to submit any additional evidence on the additional costs associated with the requirements of the EU Regulation on providing assistance in case of cancelled or delayed departures. As well as the evidence discussed in Section A.1.3, this could include evidence on any other costs that would be incurred by carriers and terminal operators, including both one-off costs and reoccurring costs.

A.2.4. Compensation payments to passengers in case of delay and or cancellation

As explained in Section A.1.4, some passengers would be entitled to a minimum level of compensation for delay or cancellation to their service under the EU Regulation. The circumstances under which compensation would be provided are described in Section A.1.4.

The additional cost to carriers and terminal operators would be in direct correlation to the additional benefits received by passengers through the payment of compensation. The additional benefits that would be received by passengers are discussed in Section A.1.4.

Consultees are invited to submit any additional evidence on the additional costs associated with the requirements of the EU Regulation on compensation payments to passengers in case of delay and or cancellation. As well as the evidence discussed in Section A.1.4, this could include evidence on any other costs that would be incurred by carriers and terminal operators, including both one-off costs and reoccurring costs.

A.2.5. Costs of setting up an accessible compliant handling mechanism

The EU Regulation requires carriers and terminal operators to set up or have in place an accessible complaint handling mechanism to deal with any complaints made under this Regulation as well as claims by passengers for compensation due to disrupted travel. The large majority of carriers and

terminal operators already have customer service procedures in place for complaint handling, and it is assumed that many of the larger carriers would therefore be able to absorb this requirement within their existing customer service units, whereas some of the smaller operators may need to establish these mechanisms.

Consultees are invited to submit any additional evidence on the additional costs associated with the requirements of the EU Regulation on accessible complaint handling procedures. As well as the evidence discussed in Section A.1.5, this could include evidence on the different types of costs of meeting these requirements, including both one-off costs and reoccurring costs, and evidence on the absolute number of - and the proportion of - businesses that already have systems in place for complaint handling.

