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|--|---|
| <p>Title: Application of Part 3 (services and public functions) of the Equality Act 2010 in relation to transporting people by, or a service provided on, a ship or hovercraft</p> <p>Lead department or agency: Department for Transport</p> <p>Other departments or agencies:</p> | Impact Assessment (IA) |
| | IA No: DfT00035 |
| | Date: 05/01/2011 |
| | Stage: Consultation |
| | Source of intervention: Domestic |
| | Type of measure: Secondary legislation |
| <p>Contact for enquiries: Scott Parnell 0207 944 2024 scott.parnell@dft.gsi.gov.uk</p> | |

Summary: Intervention and Options

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

The problem under consideration is to ensure that legislation, which offers protection against discrimination, on ships and hovercraft is clear and easy to understand. Current legislation is unclear and the introduction of the Equality Act 2010 (“the Act”) has provided an opportunity to resolve this. The Act harmonises discrimination law and strengthens it to support progress on equality. To achieve this, the Act brings together and re-states previous legislation and repeals some existing legislation including that which applies to ships and hovercraft. Consequently, intervention is necessary to consider how to apply Part 3 of the Act in relation to a) transporting people by ship and hovercraft and b) services provided onboard. Part 3 will not apply unless Regulations are made.

What are the policy objectives and the intended effects?

The overall policy objective is to bring consistency to anti-discrimination legislation and to make the scope and extent of such legislation much clearer. Wherever it is reasonable to do so, the protection which exists in current legislation will be maintained. The intended effect is to ensure that people travelling by ship and hovercraft should have the same protection as they would on land wherever reasonable.

What policy options have been considered? Please justify preferred option (further details in Evidence Base)

In respect of the application of Part 3 (services and public functions) of the Act in relation to transporting people by, or a service provided on, a ship or hovercraft the following options are being considered:

Option 1 – UK vessels, wherever they may be; or

Option 2 – UK vessels, wherever they may be AND non-UK vessels when in a UK port BUT only in relation to transporting people.

Option 2 is the Government's preferred option as 49% of people embarking on passenger services departing from the UK on major routes surveyed by the DfT in detail do so on non-UK vessels. This includes services to Northern Ireland, Isle of Man and the Channel Islands. Option 2 therefore offers protection to a greater number of people and avoids potential confusion.

| | |
|--|-----------------------------|
| When will the policy be reviewed to establish its impact and the extent to which the policy objectives have been achieved? | It will be reviewed 04/2016 |
| Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review? | Yes |

Ministerial Sign-off For consultation stage Impact Assessments:

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:.....

Summary: Analysis and Evidence

Policy Option 1

Description:

Part 3 applies to UK vessels wherever they may be

| | | | | | |
|--------------------------------|-----------------------------|--------------------------------|---------------------------------------|---------------------|-----------------------|
| Price Base Year 2009 | PV Base Year 2011 | Time Period Years 10 | Net Benefit (Present Value (PV)) (£m) | | |
| | | | Low: -£0.006 | High: £0.025 | Best Estimate: £0.010 |

| COSTS (£m) | Total Transition (Constant Price) Years | | Average Annual (excl. Transition) (Constant Price) | Total Cost (Present Value) |
|----------------------|---|---|--|--------------------------------------|
| Low | £0.010 | 1 | £0 | £0.010 |
| High | £0.041 | | £0 | £0.041 |
| Best Estimate | £0.026 | | £0 | £0.026 |

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

Businesses that operate UK vessels would be required to familiarise themselves with the requirements of Option 1. This is assumed to take between 0.5 and 2 hours per business. On this basis, familiarisation costs have been estimated at between approximately £10,000 and £41,000, with a best estimate of around £26,000. These estimates assume that all of the 768 businesses in the UK relating to maritime passenger transport would incur these familiarisation costs.

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

1.) Potential disadvantage to the operators of UK vessels competing with non-UK vessels operating on the same routes as UK vessel operators would be required under this option to apply anti-discrimination legislation whilst non-UK vessels would not. 2.) Some operators of UK vessels may decide to incur costs for training and issuing instructions to staff. 3.) There could be increased complaint handling costs for operators or the EHRC.

| BENEFITS (£m) | Total Transition (Constant Price) Years | | Average Annual (excl. Transition) (Constant Price) | Total Benefit (Present Value) |
|----------------------|---|-----|--|---|
| Low | £0 | N/A | £0.004 | £0.036 |
| High | £0 | | £0.004 | £0.036 |
| Best Estimate | £0 | | £0.004 | £0.036 |

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

Simplification benefits to UK maritime businesses have been estimated at approximately £4,000 per year as a result of clearer legislation reducing administration, assuming that 1 hour of time would be saved per business per year as a result of Option 1. The present value of the benefit of this simplification over 10 years has been estimated at approximately £36,000. These estimates assume that all 768 businesses in the UK relating to maritime passenger transport would receive this benefit.

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

It is likely that the travelling public would have greater clarity and awareness of anti-discrimination legislation as it applies to UK vessels. Those travelling would be able to understand their rights more easily as the simplification of equality law would make legislation much more accessible. In addition, people who previously had concerns over how they might be treated on such vessels may be more inclined to travel.

Key assumptions/sensitivities/risks

Discount rate (%)

3.5

1) There is a small risk that UK vessels could consider leaving the UK register to avoid these anti-discrimination laws. Whilst the burden on UK operators would essentially be the same, the fact that Option 1 would not apply to non-UK operators may create a small incentive to look at other registers. 2) It is assumed that operators already understand and comply with existing law, and that there would be little or no change in the number of complaints or court cases, but that greater clarity would lead to greater awareness of what people's rights are regarding the service of being transported, and services provided, on a ship or hovercraft. 3) The estimated monetised costs and benefits are sensitive to the assumptions that have been made in this impact assessment and thus very uncertain.

| | | | | |
|-----------------------------------|------------------------|-------------------------------------|---------------------------------|---------------|
| Impact on admin burden (AB) (£m): | | Impact on policy cost savings (£m): | | In scope |
| New AB: N/A | AB savings: N/A | Net: N/A | Policy cost savings: N/A | Yes/No |

Enforcement, Implementation and Wider Impacts

| | | | | | |
|---|---|------|--------------------|--------|-------|
| What is the geographic coverage of the policy/option? | Great Britain | | | | |
| From what date will the policy be implemented? | 01/10/2011 | | | | |
| Which organisation(s) will enforce the policy? | The policy would be enforced by civil action. | | | | |
| What is the annual change in enforcement cost (£m)? | £0 | | | | |
| Does enforcement comply with Hampton principles? | Yes | | | | |
| Does implementation go beyond minimum EU requirements? | N/A | | | | |
| What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent) | Traded: N/A | | Non-traded: N/A | | |
| Does the proposal have an impact on competition? | Yes | | | | |
| What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable? | Costs: N/A | | Benefits: N/A | | |
| Annual cost (£m) per organisation (excl. Transition) (Constant Price) | Micro | < 20 | Small | Medium | Large |
| Are any of these organisations exempt? | No | No | No | No | No |

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

| Does your policy option/proposal have an impact on...? | Impact | Page ref within IA |
|---|--------|--------------------|
| Statutory equality duties ¹ Statutory Equality Duties Impact Test guidance | Yes | 19 |
| Economic impacts | | |
| Competition Competition Assessment Impact Test guidance | Yes | 20 |
| Small firms Small Firms Impact Test guidance | Yes | 20 |
| Environmental impacts | | |
| Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance | No | N/A |
| Wider environmental issues Wider Environmental Issues Impact Test guidance | No | N/A |
| Social impacts | | |
| Health and well-being Health and Well-being Impact Test guidance | No | N/A |
| Human rights Human Rights Impact Test guidance | Yes | 20 |
| Justice system Justice Impact Test guidance | No | N/A |
| Rural proofing Rural Proofing Impact Test guidance | No | N/A |
| Sustainable development Sustainable Development Impact Test guidance | No | N/A |

¹ Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011, once the Equality Bill comes into force. Statutory equality duties part of the Equality Bill apply to GB only. The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Summary: Analysis and Evidence

Policy Option 2

Description:

Part 3 applies to UK vessels wherever they may be AND non-UK vessels when in a UK port BUT only in relation to transporting people

| | | | | | |
|-----------------------------|--------------------------|-----------------------------|---------------------------------------|---------------------|-----------------------|
| Price Base Year 2009 | PV Base Year 2011 | Time Period Years 10 | Net Benefit (Present Value (PV)) (£m) | | |
| | | | Low: -£0.006 | High: £0.025 | Best Estimate: £0.010 |

| COSTS (£m) | Total Transition (Constant Price) Years | Average Annual (excl. Transition) (Constant Price) | Total Cost (Present Value) |
|----------------------|--|---|-----------------------------------|
| Low | £0.010 | £0 | £0.010 |
| High | £0.041 | £0 | £0.041 |
| Best Estimate | £0.026 | £0 | £0.026 |

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

As per Option 1, businesses that operate UK vessels would be required to familiarise themselves with the requirements of Option 2. This is assumed to take between 0.5 and 2 hours per business. On this basis, familiarisation costs have been estimated at between £10,000 and £41,000, with a best estimate of around £26,000. These estimates assume that all 768 businesses in the UK relating to maritime passenger transport would incur these familiarisation costs.

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

1.) Some operators of UK vessels may incur costs for training and instructing staff. 2.) There could be increased complaint handling costs for operators or the EHRC. 3.) Operators of non-UK vessels (based outside the UK) whose vessels call into UK ports may familiarise themselves with the requirements of Option 2. 4.) UK vessels could potentially still face a slight cost disadvantage when competing with non-UK vessels although Option 2 would minimise this as much as possible.

| BENEFITS (£m) | Total Transition (Constant Price) Years | Average Annual (excl. Transition) (Constant Price) | Total Benefit (Present Value) |
|----------------------|--|---|--------------------------------------|
| Low | £0 | £0.004 | £0.036 |
| High | £0 | £0.004 | £0.036 |
| Best Estimate | £0 | £0.004 | £0.036 |

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

As per Option 1 simplification benefits to UK maritime businesses for Option 2 have been estimated at approximately £4,000 a year as a result of clearer legislation reducing administration, assuming that 1 hour of time would be saved per business per year as a result of Option 2. The present value of the benefit of this simplification over 10 years is approximately £36,000. These estimates assume that all 768 UK maritime passenger transport related businesses would receive this benefit.

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

1.) As per Option 1 for UK vessels. 2.) Option 2 would also provide protection for people travelling on non-UK vessels in relation to the actual service of being transported. Those being transported would have greater clarity and awareness of their rights when travelling on a non-UK vessel. 3.) A more uniformed approach would reduce the incentive for UK vessels to leave the UK register compared to Option 1.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

1) As per Option 1. 2) It is assumed that under Option 2 some non-UK operators would decide to, for example, familiarise themselves with the requirements of Option 2 and potentially undertake training. 3.) There are some sensitivities regarding Option 2 in relation to the enforcement of UK law on non-UK vessels. Matters relating to the internal economy of the ship tend, under international custom, to be left to the flag State. Option 2 would therefore only apply in respect of matters relating to transporting people rather than services that are provided on board (see Evidence Base).

| | | | | |
|---|------------------------|-----------------|--|---------------------------|
| Impact on admin burden (AB) (£m): New AB: N/A | AB savings: N/A | Net: N/A | Impact on policy cost savings (£m): Policy cost savings: N/A | In scope Yes/No |
|---|------------------------|-----------------|--|---------------------------|

Enforcement, Implementation and Wider Impacts

| | | | | | |
|---|---|------|--------------------|--------|-------|
| What is the geographic coverage of the policy/option? | Great Britain | | | | |
| From what date will the policy be implemented? | 01/10/2011 | | | | |
| Which organisation(s) will enforce the policy? | The policy would be enforced by civil action. | | | | |
| What is the annual change in enforcement cost (£m)? | £0 | | | | |
| Does enforcement comply with Hampton principles? | Yes | | | | |
| Does implementation go beyond minimum EU requirements? | N/A | | | | |
| What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent) | Traded: N/A | | Non-traded: N/A | | |
| Does the proposal have an impact on competition? | Yes | | | | |
| What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable? | Costs: N/A | | Benefits: N/A | | |
| Annual cost (£m) per organisation (excl. Transition) (Constant Price) | Micro | < 20 | Small | Medium | Large |
| Are any of these organisations exempt? | No | No | No | No | No |

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

| Does your policy option/proposal have an impact on...? | Impact | Page ref within IA |
|--|--------|--------------------|
| Statutory equality duties² Statutory Equality Duties Impact Test guidance | Yes | 19 |
| Economic impacts | | |
| Competition Competition Assessment Impact Test guidance | Yes | 20 |
| Small firms Small Firms Impact Test guidance | Yes | 20 |
| Environmental impacts | | |
| Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance | No | N/A |
| Wider environmental issues Wider Environmental Issues Impact Test guidance | No | N/A |
| Social impacts | | |
| Health and well-being Health and Well-being Impact Test guidance | No | N/A |
| Human rights Human Rights Impact Test guidance | Yes | 20 |
| Justice system Justice Impact Test guidance | No | N/A |
| Rural proofing Rural Proofing Impact Test guidance | No | N/A |
| Sustainable development Sustainable Development Impact Test guidance | No | N/A |

² Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011, once the Equality Bill comes into force. Statutory equality duties part of the Equality Bill apply to GB only. The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessment of earlier stages (e.g. Consultation, Final, Enactment).

| No. | Legislation or publication |
|-----|--|
| 1 | Equality Act 2010 - www.legislation.gov.uk/ukpga/2010/15/contents |
| 2 | The Equality Act 2010 (Commencement No. 4, Savings, Consequential, Transitional, Transitory and Incidental Provisions and Revocation) Order 2010 www.legislation.gov.uk/uksi/2010/2317/pdfs/uksi_20102317_en.pdf |
| 3 | Disability Discrimination Act 1995 - www.legislation.gov.uk/ukpga/1995/50/contents |
| 4 | Sex Discrimination Act 1975 - www.legislation.gov.uk/ukpga/1975/65/contents/enacted |
| 5 | Race Relations Act 1976 - www.legislation.gov.uk/ukpga/1976/74/contents |
| 6 | Equality Act 2006 - www.legislation.gov.uk/ukpga/2006/3/contents/enacted |
| 7 | Equality Act (Sexual Orientation) Regulations 2007 www.legislation.gov.uk/uksi/2007/1263/contents/made |
| 8 | Department for Transport Maritime Statistics Report 2008 www.dft.gov.uk/adobe/pdf/162469/221412/221658/223721/4082361/maritimestatistics2008.pdf |
| 9 | Equality Act 2010 Impact Assessment - www.equalities.gov.uk/pdf/Equality%20Act%20Impact.pdf |

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Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

| | Y ₀ | Y ₁ | Y ₂ | Y ₃ | Y ₄ | Y ₅ | Y ₆ | Y ₇ | Y ₈ | Y ₉ |
|----------------------------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| Transition costs | £0.026 | £0 | £0 | £0 | £0 | £0 | £0 | £0 | £0 | £0 |
| Annual recurring cost | £0 | £0 | £0 | £0 | £0 | £0 | £0 | £0 | £0 | £0 |
| Total annual costs | £0.026 | £0 | £0 | £0 | £0 | £0 | £0 | £0 | £0 | £0 |
| Transition benefits | £0 | £0 | £0 | £0 | £0 | £0 | £0 | £0 | £0 | £0 |
| Annual recurring benefits | £0.004 | £0.004 | £0.004 | £0.004 | £0.004 | £0.004 | £0.004 | £0.004 | £0.004 | £0.004 |
| Total annual benefits | £0.004 | £0.004 | £0.004 | £0.004 | £0.004 | £0.004 | £0.004 | £0.004 | £0.004 | £0.004 |

* For non-monetised benefits please see summary pages and main evidence base section

Evidence Base (for summary sheets)

Definitions:

In this impact assessment reference to –

- The Act means the Equality Act 2010;
- The Order means the Equality Act 2010 (Commencement No. 4, Savings, Consequential, Transitional, Transitory and Incidental Provisions and Revocation) Order 2010;
- a *UK flagged ship* means a ship that is registered in the United Kingdom under Part II of the Merchant Shipping Act 1995 and its entry in the register maintained under section 8 of that Act specifies a port of choice in Great Britain;
- a *UK registered hovercraft* means a hovercraft registered in the United Kingdom and operated by a person whose principal place of business, or ordinary residence is in Great Britain;
- *UK vessels* mean UK flagged ships and UK registered hovercraft as defined above.
- *UK port* refers to a port within Great Britain and includes any berth, excursion point, floating pier or stage, link span, pier, port, stop or anchorage point from or to where passengers are embarked and disembarked; and
- *UK waters* refers to waters within the seaward limits of the territorial sea of the United Kingdom adjacent to Great Britain.

SECTION 1 – BACKGROUND

1.1. The Equality Act 2010

Most of the Act came into force on 1 October 2012. The Act has two main purposes which are to harmonise discrimination law and to strengthen the law to support progress on equality. The Act brings together and re-states numerous Acts and Regulations which formed the basis of anti-discrimination law in Great Britain. The Act largely repeals existing discrimination legislation. The following pieces of legislation primarily constituted discrimination law prior to the commencement of the Act: the Sex Discrimination Act 1975; the Race Relations Act 1976; the Sex Discrimination Act 1986; the Disability Discrimination Act 1995, the Equality Act 2006, Part 2; and the Equality Act (Sexual Orientation) Regulations 2007.

1.2. Part 3 of the Act

Part 3 deals with discrimination in the provision of services and the exercise of public functions. The Act prohibits discrimination, harassment and victimisation in the provision of services to the public, or a section of the public, including the voluntary sector, regardless of whether the service is provided free of charge. Under the Act the provision of a service includes the provision of goods or facilities. Part 3 of the Act also prohibits discrimination, harassment and victimisation by those who exercise public functions that are not the provision of a service to the public or a section of the public. A public function is defined in the Act as a function of a public nature for the purposes of the Human Rights Act 1998.

The Act is silent on territorial application and in order for it to be clear on which vessels and in which waters the provisions of Part 3 will apply in relation to (a) transporting people by ship or hovercraft (b) a service provided on a ship or hovercraft, section 30 provides that Part 3 will only apply in such circumstances as are prescribed. As no Regulations made under section 30 of the Act (which relate to ships and hovercraft) were in place on 1 October, the Order saves existing legislation in so far as it applies in those circumstances. This is regarded as a temporary measure until such time as Regulations made under section 30 come into force. If this approach had not been undertaken then there would have been a gap in anti-discrimination legislation in relation to ships and hovercraft.

SECTION 2 – ISSUE UNDER CONSIDERATION

2.1. The problem under consideration

Legislation which offers protection against discrimination, harassment and victimisation on ships and hovercraft needs to be clear and easy to understand – this is the problem under consideration. The scope and territorial application of existing anti-discrimination legislation, insofar as it applies to ships

and hovercraft, is in the majority of cases, far from clear and the need for such clarity and uniformity in respect of the provision of services and the exercise of public functions in relation to vessels is, in the Government's opinion, necessary because there is a need to ensure people understand their individual rights on ships and hovercraft.

2.2. Rationale for Government intervention

The Government is intervening in order to continue to uphold equality objectives and provide clarity to the market. A regulation making power in section 30 of the Act provides an opportunity to prescribe when Part 3 (services and public functions) applies in relation to transporting people by ship and hovercraft or a service provided on those vessels. No Regulations have yet been made, so the Order saves the existing legislation as it applies in those circumstances. This is regarded as a temporary measure until such time as Regulations made under section 30 come into force. Regulations need to be made under section 30 to confer the benefits of clarity and uniformity to this area and to ensure that people travelling by ship and hovercraft have the same protection, as far as it is reasonable to do so, as they would on land.

The intention is to bring the benefits of the Act (clarity and uniformity) to provisions regarding the service of transporting people by, or a service provided on, a ship or hovercraft. It is anticipated that the preservation of existing legislation, through saving provisions will only be a temporary measure as such an approach neither harmonises nor clarifies discrimination law.

The intention is that the proposed Regulations using the power in section 30 would provide (as far as it is reasonable to do so) that people travelling by ship and hovercraft will have the same protection as people on land against both direct and indirect discrimination, harassment and victimisation. Where appropriate, the proposed Regulations would, as far as it is reasonable to do so, mirror existing discrimination legislation although the territorial application of some existing legislation is not always clear.

It is proposed that any prohibition against discrimination, harassment and victimisation because of disability in relation to transporting people by, or a service provided on, a ship or hovercraft under Part 3 would not apply until the EU Regulation on the rights of passengers travelling by sea and inland waterway, comes into force from late 2012. The existing legislation, as it relates to disability discrimination in those circumstances, has been saved by the Order and those provisions would continue to apply until further Regulations are introduced in 2012.

2.3. Application of the proposed Regulations in relation to transporting people by, or a service provided on, a ship or hovercraft

The proposed Regulations would be made using the power in section 30 of the Act to apply Part 3 (services and public functions) to ships and hovercraft and would prohibit discrimination, harassment and victimisation because of gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation in the transporting of people by ship or hovercraft and the provision of a service onboard such vessels. Transporting people by ship or hovercraft is considered to be a service for the purpose of these proposed Regulations.

Harassment because of religion or belief or sexual orientation would not however be unlawful under section 29(3) (provision of services) or section 29(6) (exercise of public functions) of the Act. This means that a person who is harassed because of their religion or belief when being provided with a service or when a public function is being exercised would not have a claim for harassment under the Act. However, if that same conduct amounts to direct discrimination (i.e. by subjecting a person to a detriment), then they would have a remedy for unlawful discrimination.

Part 3 does not apply to the protected characteristic of marriage and civil partnership. Part 3 of the Act would not apply to the protected characteristic of age, so far as relating to persons who have not attained the age of 18. The Government Equalities Office is currently considering how to commence Part 3 of the Act as regards the protected characteristic of age in the best way for business and others affected. Implementing the age discrimination ban would require secondary legislation to be made, setting out the circumstances in which it would remain lawful to use age as a reason for treating people differently. This would need to be the subject of public consultation. It is however envisaged that there would be an exception from the age discrimination ban to allow concessions (for example cheaper rates for fares,

meals, holidays etc for the over 65's and under 21's and age-based holidays (e.g. to allow over 50's and 18-30 holidays)) to continue.

It is proposed that these Regulations would adopt a simplified approach with regard to disability discrimination, harassment and victimisation in relation to transporting people by, or a service provided on, a ship or hovercraft. It is proposed that any prohibition against discrimination, harassment and victimisation because of disability in relation to transporting people by, or a service provided on, a ship or hovercraft under Part 3 would not apply until the EU Regulation on the rights of passengers travelling by sea and inland waterway comes into force in late 2012. The existing legislation, as it relates to disability discrimination in those circumstances, has been saved in the Order and those provisions would continue to apply until further Regulations are introduced in 2012.

The EU Regulation will prohibit carriers and operators from refusing to issue, or making an additional charge for, a ticket or reservation to a disabled person or person with reduced mobility on the grounds of disability or of reduced mobility. The EU Regulation will permit a carrier to refuse to embark a passenger for justified safety reasons; the EU Regulation will provide a procedural framework for the denial of embarkation. The EU Regulation will also introduce a requirement for publicly available access conditions and quality standards, as well as providing for the right to assistance and the conditions under which such assistance is provided. The EU Regulation will also require industry to set up an accessible complaint handling mechanism and will require Member States to designate a body, or bodies, responsible for the enforcement of the Regulation.

Introducing a workable national regime ahead of the application of the EU Regulation is not considered to be deliverable given the range of operations affected. Simplifying and clarifying existing legislation in relation to disability discrimination, harassment and victimisation at the same time that the EU Regulation comes into force would ensure that UK operators are not placed at a commercial disadvantage to their European-based counterparts. Moreover, an EU rather than a domestic approach is considered appropriate as a large proportion of journeys on ships and hovercraft from the UK are international in nature.

2.4. Application of the proposed Regulations in relation to the exercise of public functions

Section 31(4) of Part 3 of the Act defines what is meant by a public function. It states that a public function is a function that is a function of a public nature for the purposes of the Human Rights Act 1998. Examples of public functions relevant to Part 3 of the Act in respect of ships and hovercraft would be immigration control and port state control inspections. Transporting people by ship or hovercraft is considered to be a service for the purpose of these proposed Regulations.

Part 3 of the Act states that a person must not, when exercising a public function, do anything that constitutes discrimination, harassment or victimisation, but as far as disability discrimination is concerned there is a power to prescribe by regulations the circumstances in which disability discrimination applies in relation to transporting people by ship or hovercraft or a service provided on those vessels.

Under the Disability Discrimination Act 1995 (the provisions that relate to disability discrimination and transporting people by ship or hovercraft or a service provided on those vessels having been saved by the Order) it is unlawful for a person exercising a public function to discriminate because of disability. It is the Government's intention to include such a provision in the proposed Regulations. There is no power in the Act to prescribe how and when obligations that relate to harassment and victimisation apply and therefore those obligations came into force when Part 3 of the Act was commenced on 1 October 2010.

It is proposed that these Regulations would continue to ensure that a person must not, in the exercise of a public function that is not the provision of a service to the public or a section of the public, do anything that constitutes disability discrimination.

2.5. Scope of the proposed Regulations

It is proposed that the Regulations would apply to all vessels irrespective of their size or use. The consultation process is however exploring whether Part 3 should apply to UK vessels wherever they may be or UK vessels wherever they may be AND non-UK vessels when in a port BUT only in relation to transporting people. The proposed Regulations would not apply to Northern Ireland (which has its own legislation) nor will they apply to the Crown Dependencies or Overseas Territories.

Given the number of people embarking non-UK vessels in the UK, the Government is considering, subject to the views expressed as part of the consultation process, applying Part 3 of the Act to non-UK vessels when in a UK port but only in respect of the actual service of transporting people. One example of this might be related to the embarkation procedure and whether a person is given permission to embark or disembark a vessel in a non-discriminatory manner.

If the Regulations were to apply to non-UK vessels the Government would not use the power in section 30 in a way that would apply the proposed Regulations to non-UK vessels which were on innocent passage. It is not the Government's intention to apply these proposed Regulations to anything related to the 'internal economy' of a non-UK vessel, irrespective of its location, as usually these matters are, by international custom, left to the flag State. One example of an issue relating to the internal economy of a ship might be the sale of goods onboard or the provision of catering. Many of the matters within the scope of Part 3 of the Act would fall within what is regarded as the internal economy of the vessel and as such the UK, in accordance with international custom, would not usually seek to enforce any such obligations on non-UK vessels. The proposed Regulations would not therefore apply to any service providers onboard non-UK vessels.

2.6. Commencement

The proposed Regulations would most likely apply to ships and hovercraft on the first common commencement date after they have been debated in Parliament; this would probably be 1 October 2011.

2.7. Acts outside the UK

The proposed Regulations would contain a local law defence and not render unlawful any act done in a country outside the United Kingdom or in that country's territorial waters for the purpose of complying with the laws of that country.

2.8. Sanctions

Part 3 of the Act imposes duties which can be enforced through proceedings in the civil courts. The duties as extended by the proposed Regulations to be made under section 30 of the Act would be enforceable in the same way. A county court or, in Scotland, the sheriff has jurisdiction to determine a claim relating to a contravention of Part 3. Any proceedings must be taken in accordance with Part 9 (enforcement) of the Act.

SECTION 3 – KEY FACTS

3.1. Discrimination against people being transported by ship or hovercraft in UK waters

The Equalities and Human Rights Commission (EHRC) is a statutory body that protects, enforces and promotes equality across the seven protected characteristics of age, disability, gender, race, religion and belief, sexual orientation and gender reassignment. The EHRC received 44 complaints of discrimination on passenger ships (both UK and non-UK) during the period May 2008 to June 2010. In 2009 the EHRC received 73,000 calls in total from people seeking advice on their rights under discrimination regulations, or as a result of being discriminated against. There were also 15,000 enquiries by way of post or email.

It is very difficult to establish whether the number of incidents reported would be likely to change as a consequence of the proposed Regulations.

3.2. Ships and hovercraft in UK waters

- In 2008, UK domestic and international ferry services handled 46 million passengers and over 8 million cars. In the same year, 15,358,600 people embarked on international or domestic seagoing passenger services on major routes surveyed in detail by the DfT. Of these, 51% (7,907,800) of passengers embarked on UK vessels and 49% (7,450,800) embarked on non-UK vessels.

- In 2008, on major passenger routes surveyed in detail by the DfT, there were 69,800 embarkations by passenger vessels calling in the UK. Of these, 36% (24,800) were UK vessels, and 64% (45,000) were non-UK ships.
- Passenger movements on small island services (domestic - inter UK) are not included in the above figures and constituted 18,218,000 journeys both ways in 2008. The vast majority of small island service passenger vessels are UK vessels.
- River ferries in the UK (also not included in any of the above figures) carried 19 million passengers (figure is for both ways) in 2008.
- Number of employees in the UK passenger ferry market was around 17,700 in 2008, of which around 10,200 were seafaring staff (Source: Passenger Shipping Association).

The data used for this impact assessment regarding passenger and ship movements in UK waters has been provided by the maritime statistics team at the DfT, and are all from data for 2008 (more recent data is not available yet). The data is from a range of different sources, but it has been brought together in as consistent a way as possible in this impact assessment. However, all estimates reported in this impact assessment should be regarded as approximate, as, for instance passenger and ship data has been collected from different data sets. Data has been examined to make sure it gives a reasonable picture when cross referencing, but the way in which data is collected for each area varies slightly.

In addition, the Government is aware that a number of UK flagged passenger ships (currently ≤ 10) operate on a regular route outside of UK waters and that there are a number of other vessels, cruise ships in particular, which may spend a considerable amount of time outside of UK waters (Source: Transport Security, DfT).

SECTION 4 – PREPARATION OF THE IMPACT ASSESSMENT

The evidence base was prepared in consultation with Department for Transport legal advisers, economists and statisticians. Informal discussions have also been held with the EHRC in order to establish what the current levels are of discrimination complaints in relation to ships and hovercraft. Informal consultation with the shipping industry has also taken place.

SECTION 5 – OPTIONS

This Impact Assessment considers the costs and benefits of the two policy options discussed below. The proposed Regulations could either apply Part 3 of the Act to UK vessels, wherever they may be; or to UK vessels, wherever they may be AND non-UK vessels when in a UK port BUT only in relation to transporting people.

These options are considered against a counterfactual 'Do nothing' scenario in which new Regulations using the power in section 30 of the Act would not be applied, and old legislation would continue to apply through savings provisions.

5.1. 'Do nothing' option

The Government is politically committed to commencing all elements of the Act. The Act has two main purposes which are to harmonise discrimination law and to strengthen the law to support progress on equality. To achieve this, numerous pieces of existing legislation have been repealed and amended. Regulations using the power in section 30 of the Act are necessary to ensure its key benefits are to be conferred to legislation relating to transporting people by, or a service provided on, a ship or hovercraft.

In the interim, between the commencement of the Act, which occurred on the 1 October 2010 and the coming into force of Regulations applying Part 3 of the Act to ships and hovercraft, savings provisions are being applied to ensure that existing anti-discrimination legislation is preserved. This is not however considered an appropriate long term solution as the existing legislation lacks clarity and uniformity.

5.2. Option 1: Introduce Regulations to apply Part 3 of the Act to UK vessels, wherever they may be

Under Option 1, Part 3 of the Act would therefore apply to all UK vessels irrespective of where they undertake their operations. Part 3 of the Act would apply in relation to transporting people by, or services provided on, a ship or hovercraft and in the exercise of a public function (as regards disability discrimination) which relates to a UK vessel wherever it may be. It is not unusual for UK law to be extended to UK vessels wherever they may be.

5.3. Option 2: Introduce Regulations to apply Part 3 of the Act to UK vessels, wherever they may be AND non-UK vessels when in a UK port, BUT only in relation to transporting people.

Option 2 would apply as per Option 1 above. In addition, Option 2 would also apply to non-UK vessels when in a UK port but only in relation to transporting people and not in relation to services provided on board as these are within the internal economy of the vessel and tend to fall under the jurisdiction of the flag State. Option 2 is the Government's preferred option as 49% of people embarking on passenger services departing from the UK on major routes surveyed by the DfT in detail do so on non-UK vessels. This includes services to Northern Ireland, Isle of Man and the Channel Islands. Option 2 would therefore offer protection to a greater number of people and avoids potential confusion.

5.4. Other potential options

In determining these two policy options, consideration was given to another area of application which has subsequently been discounted. The other option considered was the application of the proposed Regulations to UK ships and hovercraft in UK waters only. This option was discounted because some existing anti-discrimination legislation is considered to apply to wherever the vessel may be operating and therefore implementation of such an option could be viewed as a regression of the equality rights of those travelling on UK ships and hovercraft. This was thought to be counter-intuitive to the intention of the Act as a whole.

SECTION 6 - COSTS AND BENEFITS OF OPTION 1

For the purposes of this impact assessment, the costs and benefits of Option 1 have been monetised to the extent that is possible. Given the limitation of the available evidence base, it has not been possible to monetise all of the costs and benefits of Option 1 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 of Option 1 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.

6.1. Benefits of Option 1

6.1.1. Greater Awareness / Clarity under Option 1

The Act provides a new cross-cutting legislative framework to protect the rights of individuals and advance equality of opportunity for all; updates, simplifies and strengthens the previous legislation; and delivers a simple, modern and accessible framework of discrimination law which protects individuals from unfair treatment and promotes a fair and more equal society. The application of Part 3 to transporting people by, or services provided on, ships and hovercraft would bring these benefits in those circumstances. People would benefit from a simplified approach and clarification of what their rights are under UK equality law as all the provisions will be referenced in one piece of legislation. However, it has not been possible to monetise the value of this potential benefit in this impact assessment.

Consultees are invited to submit any additional evidence on this benefit, including evidence on the value placed on this benefit.

6.1.2. Potential for Greater Clarification to Encourage More Travellers under Option 1

As a result of the clarification of equality legislation relating to ships and hovercraft, some people that might not normally travel by ship or hovercraft may potentially feel more comfortable doing so and decide to travel by such means knowing more clearly what their rights are. However, there is no evidence available on this issue, so it is not possible to robustly determine how many additional passenger journeys would be made (if any) particularly as travel is affected by a number of factors, including the wider economic situation and the cost of travel. Consequently, it has not been possible to monetise the value of this potential benefit in this impact assessment. However, if more journeys were to be taken, UK vessel operators would benefit from the sale of additional tickets and there may also be some reputational benefits if UK vessels apply more robust and effective equality Regulations than their non-UK competitors.

Consultees are invited to submit any additional evidence on this benefit, including evidence on the extent that more journeys would be taken.

6.1.3. Simplification Benefits under Option 1

This clarification of equality legislation would also assist businesses in the UK that operate UK vessels to make sure they meet their obligations under UK law, as current equality law can be unclear with regard to its application to ships and hovercraft. Given the limitations of the available evidence base, an illustrative estimate of the potential order of magnitude of the value of this benefit has been produced by making similar assumptions to the assumptions made in the overarching Equality Act 2010 Impact Assessment, such as the assumption that simplification of the existing legislation due to the overarching Equality Act 2010 could benefit up to 20% of businesses in a given year³, and the other assumptions outlined below.

The 2008 Annual Business Inquiry suggests there are 768 businesses in the UK relating to maritime passenger transport⁴. To illustrate the potential order of magnitude of the simplification benefits, it is assumed that all 768 businesses would be affected by Option 1, and it is assumed that this number would remain constant over time. However, it should be noted that the extent that all of these businesses would be affected by Option 1 is very uncertain (e.g. some of these businesses could be involved in the management and operation of non-UK vessels), so it is possible that this estimate is an overestimate of this benefit.

For the purposes of this impact assessment, it is assumed that 20% of businesses would benefit from the simplification of the existing legislation under Option 1 in line with the assumption made in the overarching Equality Act 2010 Impact Assessment in the absence of any other evidence. However, it is noted that the proportion of businesses that would benefit from Option 1 is uncertain.

The benefit of simplification is that it would reduce the time required to review legislation relating to equalities issues. In absence of any evidence on the timing savings that would arise specifically as a result of Option 1, this is assumed to be 1 hour⁵ per business per year for the purposes of this impact assessment as was assumed in the overarching Equality Act Impact Assessment. However, it is recognised that this is highly likely to be an overestimate of the simplification benefits that would result from Option 1 alone, given that the assumption in the overarching Equality Act Impact Assessment relates to the impact of the Equality Act 2010 as a whole. This assumption will therefore be reconsidered in light of the responses to the consultation when this impact assessment is finalised. Furthermore, the cost of the employee's time is assumed to be £27 per hour⁶.

On the basis of the above assumptions, the order of magnitude of the value of the simplification benefits is therefore estimated at approximately £4,000 per year. In the absence of any other evidence, this illustrative estimate has been used for the purpose of this consultation-stage impact assessment and presented on the Summary: Analysis and Evidence sheet in order to provide an indication of the potential order of magnitude of the simplification benefits. However, it should be noted that this estimate is sensitive to the assumptions that have been made and that the value of this benefit is therefore very uncertain.

³ <http://www.equalities.gov.uk/pdf/Equality%20Act%20Impact.pdf>

⁴ http://www.statistics.gov.uk/abi/downloads/Section_H_2008.xls

⁵ <http://www.equalities.gov.uk/pdf/Equality%20Act%20Impact.pdf>

⁶ Based on ASHE 2009 "Activities of Head Office Staff" (line 85) http://www.statistics.gov.uk/downloads/theme_labour/ASHE-2009/2009_industry.pdf, updated by 21% in line with DfT webtag guidance <http://www.dft.gov.uk/webtag/documents/expert/pdf/unit3.5.6.pdf>

Consultees are invited to submit any additional evidence on this benefit, including evidence on the number of businesses that would be affected, the likely time savings for each business and the cost of employee's time.

Further details on this estimate are provided below for information.

768 businesses x 20% businesses estimated to benefit x 1 hour to review Regulations x £27 (cost per hour) ≈ £4,000

6.1.4. Summary of Monetised Benefits

For the purposes of this impact assessment, the order of magnitude of the present value of the simplification benefits over the ten-year appraisal period is therefore estimated to be around £36,000. This is shown below: Given the significant uncertainties surrounding the estimates of the monetised costs and benefits, caution should be given when comparing the estimates of the monetised costs and benefits.

| Summary of Monetised Benefits £'000 | | | | | | | | | | |
|-------------------------------------|---|---|---|---|---|---|---|---|---|-------|
| Year | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 NPV |
| Simplification Benefits | 4 | 4 | 4 | 4 | 4 | 4 | 4 | 4 | 4 | 4 |
| Discounted Benefits | 4 | 4 | 4 | 4 | 4 | 3 | 3 | 3 | 3 | 3 |
| | | | | | | | | | | 36 |

6.2. Costs of Option 1

6.2.1. Familiarisation Costs under Option 1

Businesses in the UK that operate UK vessels would be likely to incur a one off transition cost to familiarise themselves with the application of Part 3 of the Act to ships and hovercraft and disseminating this information to staff. Given the limitations of the available evidence base, illustrative estimates of the potential order of magnitude of the value of this cost have been produced by making use of assumptions in the overarching Equality Act 2010 Impact Assessment and the other assumptions outlined below.

The 2008 Annual Business Inquiry suggests there are 768 businesses in the UK relating to maritime passenger transport (many of which are likely to be very small businesses, for instance leisure cruise charters). As above, to illustrate the potential order of magnitude of the familiarisation costs, it is assumed that all 768 businesses would be affected by Option 1, and it is assumed that this number would remain constant over time. However, as above, the extent that all of these businesses would be affected by Option 1 is uncertain, so it is possible that this estimate is an overestimate of this cost. To the extent that Option 1 affects fewer UK businesses, it is expected that both the simplification benefits and familiarisation costs would be overestimated by the same proportion.

For the purposes of this impact assessment, the time it takes to familiarise each business is assumed to be between 0.5 hours to 2 hours (resulting in a range). In the absence of any other evidence, this assumption is based on the overarching Equalities Act 2010 Impact Assessment which “assumed that firms take 0.5 to 2 hours to familiarise themselves with new legislation”. However, that impact assessment noted that a “small survey of businesses indicated this might be an over estimate”, and it should also be noted no specific evidence is currently available on the familiarisation costs that would result from Option 1. Therefore, this assumption will be reconsidered in light of the responses to the consultation when this impact assessment is finalised. Furthermore, the cost of an employee's time is assumed to be £27 per hour as in Section 6.2.1.

On the basis of the above assumptions, the order of magnitude of the value of the familiarisation costs is therefore estimated at between around £10,000 and around £41,000, with a best estimate of around £26,000; the best estimate is assumed to be the mid-point of the range in the absence of any other evidence. In the absence of any other evidence, these illustrative estimates have been used for the purpose of this consultation-stage impact assessment and are presented on the Summary: Analysis and Evidence sheet in order to provide an indication of the potential order of magnitude of the familiarisation costs. However, it should be noted that these estimates are sensitive to the assumptions that have been made and that the value of this cost is therefore very uncertain.

Consultees are invited to submit any additional evidence on this cost, including evidence on the number of businesses that would be affected, the time it would take each business to familiarise themselves with the Regulations and the cost of employees' time.

A summary of the calculations is presented below for information:

768 businesses x 0.5 to 2 hours to review Regulations x £27 (cost per hour) ≈ £10,000 to £41,000

6.2.2. Costs associated with obtaining training and issuing instructions to staff under Option 1

The operators of UK vessels could incur some very small costs if they seek to train staff on the details of Part 3 of the Act. We expect these costs to be limited as operators should already be applying existing discrimination legislation. However, it has not been possible to monetise the value of this cost in this impact assessment.

The EHRC have commented that the costs associated with obtaining training and issuing instructions to staff would be largely dependent on the type of training that was required and amount of people that needed to be trained. It is difficult to say how operators of ships and hovercraft would disseminate information to staff and so it is difficult to quantify the costs involved. However, informal discussions with the Passenger Shipping Association (PSA) suggest that external training would be given to a relatively small number of people within large organisations. The PSA further indicated that such training would be disseminated by cascade or similar means. The number of employees in the UK passenger ferry market was approximately 17,700 in 2008, of which approximately 10,200 were seafaring staff (Source: PSA).

Consultees are invited to submit any additional evidence on this cost, including the number of employees that would need additional training and the costs of training these employees.

6.2.3. Potential Impact on Competition under Option 1

Under Option 1, only UK vessels would incur any cost associated with familiarising and training staff with Part 3 of the Act. This cost would not be incurred by operators of non-UK vessels. As such, there could potentially be a slight cost disadvantage to operators of UK vessels. Currently non-UK ships make up 178 (83%) of the 214 passenger ships operating on major UK cruise, ferry, and international passenger routes, surveyed in detail by the DfT. There are only 36 UK vessels operating on the same routes, making up 17% of such vessels. Of passengers embarking on major routes in the UK, approximately 51% embark on UK vessels and 49% on non-UK vessels.

UK flagged vessels that operate outside UK waters would not be expected to be put at a significant competitive disadvantage against their non-UK competitors as a direct result of Option 1 as it would replace existing UK legislation that has the same effect. Consequently, such UK ships would not be expected to need to change operational habits or processes as a result of Option 1.

Consultees are invited to submit any additional evidence on this cost, particularly any evidence on the magnitude of the likely impacts on competition.

6.2.4. Cost of Administration, Monitoring and Complaint Handling under Option 1

Firms could potentially incur additional costs as the public obtain greater awareness of their rights. This could lead to more complaints in the future than would have otherwise been expected. Some complaints may be addressed to operators directly (as opposed to the EHRC for example) though it has not been possible to gather data on complaints sent directly to firms. However, given that Option 1 would not fundamentally alter current equality legislation, it is unlikely that there would be any significant change in the number of incidents of discrimination by UK firms and hence the costs of additional complaint handling are likely to be minimal.

Potentially there could be costs to the EHRC if the public obtain greater awareness of their rights as a result of Option 1 being implemented and this leads to the need to provide more advice and assistance than would have otherwise been expected. It is not possible to examine the extent to which the application of Part 3 to ships and hovercraft would alter the number complaints currently made to the EHRC. Given that the purpose of Option 1 would be to maintain the protection that exists under current equality legislation, it does not appear likely that there would be any fundamental change in the number of complaints.

It has not been possible to monetise the value of this cost in this impact assessment, but it has been assumed that the enforcement costs will not alter from those that currently exist at the moment. Given the Regulations would be enforced by civil action, the enforcement costs are assumed to be £0.

Part 3 of the Act imposes duties which can be enforced through proceedings in the civil courts. The duties as extended by Regulations made under section 30 of the Act will be enforceable in the same way. A county court or, in Scotland, the sheriff has jurisdiction to determine a claim relating to a contravention of Part 3. Any proceedings must be taken in accordance with Part 9 (enforcement) of the Act.

Consultees are invited to submit any additional evidence on these costs, including evidence on the number of additional complaints that are likely and the costs of handling each complaint.

6.2.5 Impact on the UK register under Option 1

There is a negligible risk that some UK vessels could change flag in order to avoid complying with Option 1. However, it is not expected that the introduction of Option 1 would offer enough of an incentive for UK vessels to change flag, as the resulting costs of Option 1 should be very small. A change of flag would normally only occur after consideration had been given to a number of factors, including (but not limited to) the reputation of and the services received from the flag States in question, the costs of annual registry payments and any tax implications.

Consultees are invited to submit any additional evidence on this cost, including any evidence on the extent that it is likely that UK vessels would change flag.

6.2.6 Summary of Monetised Costs under Option 1

A summary showing the best estimate of the order of magnitude of the monetised costs is presented below: Given the uncertainties surrounding the estimates of the monetised costs and benefits, caution should be given when comparing the estimates of the monetised costs and benefits.

| Summary of Monetised Costs £'000 | | | | | | | | | | |
|----------------------------------|----|---|---|---|---|---|---|---|---|-------|
| Year | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 NPV |
| Familiarisation Costs | 26 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Discounted Costs | 26 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 26 |

SECTION 7 - COSTS AND BENEFITS OF OPTION 2

For the purposes of this impact assessment, the costs and benefits of Option 2 have been monetised to the extent that is possible. Given the limitations of the available evidence base, it has not been possible to monetise all the costs and benefits of Option 2 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 of Option 2 are monetised. To assist with this process, **consultees are invited to submit any additional evidence on the costs and benefits of Option 2.** Any additional evidence that is submitted will be taken into account when the impact assessment is updated after the consultation.

7.1 Benefits of Option 2

7.1.1. Greater Awareness / Clarity under Option 2

This non-monetised benefit would be the same under Option 2 as it would be under Option 1 as it applies to UK vessels. In addition, Option 2 would also apply to non-UK vessels when in a UK port in relation to act of transporting people. Option 2 would therefore replicate the benefits which are provided by Option 1 but would give enhanced levels of coverage as it would apply to the actual service of transporting people in relation to all vessels when in a UK port, whereas Option 1 provides only 51% coverage in this regard. Greater coverage is considered to be a simpler approach and would potentially lead to less confusion by those using such services. It has not been possible to monetise the value of this potential benefit in this impact assessment.

Consultees are invited to submit any additional evidence on this benefit, including evidence on the value placed on this benefit.

7.1.2. Potential for Greater Clarification to Encourage More Travellers under Option 2

This non-monetised benefit would be the same under Option 2 as it would be under Option 1 as it applies to UK vessels. Option 2 would replicate the benefits which are provided by Option 1 but would give enhanced levels of coverage as it would apply to all vessels in a UK port, whereas Option 1 provides only 51% coverage in this regard.

As per Option 1; as a consequence of the clarification being provided in relation to equality legislation relating to ships and hovercraft, some people that might not normally travel by ship or hovercraft may feel more comfortable doing so and decide to travel by such means knowing more clearly what their rights are. The wider coverage of Option 2 could further encourage people to travel by ship and hovercraft as their rights would be applied on a more uniform basis. This would also reduce the potential for confusion. There is however only limited evidence available on this issue, so it is not possible to robustly determine how many additional passenger journeys would be made (if any), particularly as travel is affected by a number of factors, including the wider economic situation and the costs of travel. Consequently, it has not been possible to monetise the value of this potential benefit in this impact assessment. However, if more journeys would be taken, operators of vessels in the UK would benefit from the sale of additional tickets. However as noted above, there is no evidence that additional journeys would be taken.

Consultees are invited to submit any additional evidence on this benefit, including evidence on the extent that more journeys would be taken.

7.1.3. Simplification Benefits under Option 2

For the purposes of this impact assessment, it is assumed that this monetised benefit would be the same as under Option 2 as it would be under Option 1. However, it should be noted that Option 2 would apply to all vessels in a UK port, whereas Option 1 provides only 51% coverage in this regard. Therefore, it is possible that Option 2 could affect more businesses in the UK than Option 1. In particular, there may be some simplification benefits to the operators of non-UK vessels as the uncertainty associated with the application of existing legislation to non-UK vessels would be removed and the time required for them to review and understand the relevant legislation would be reduced. However, the extent and application of existing legislation as it applies to non-UK vessels is uncertain and therefore the potential benefit cannot be determined. Therefore, it has not been possible to robustly estimate how this benefit would differ between Option 1 and Option 2, and the same assumptions have been used to monetise the value of this benefit for Option 1 and Option 2.

Consultees are invited to submit any additional evidence on this benefit, including evidence on the number of businesses that would be affected, the likely time savings for each business and the cost of employees' time.

7.1.4. Impact on the UK register under Option 2

Though the risk of UK vessels changing flags under Option 1 would be minimal, Option 2 would further reduce this risk by creating a more even playing field; thereby reducing the incentives to change flag. Implementation of Option 2 would minimise any disparity in the costs incurred by UK vessels compared to non-UK vessels.

7.2 Costs of Option 2

7.2.1. Familiarisation Costs under Option 2

For the purpose of this impact assessment, it is assumed that the monetised costs to UK businesses that operate ships and hovercraft in respect of Option 2 with regards to familiarisation would be the same as for Option 1. However, it should be noted that Option 2 would apply to all vessels in a UK port, whereas Option 1 provides only 51% coverage in this regard.

Therefore, it is possible that Option 2 could affect more UK businesses than Option 1. In particular, non-UK vessels would also be captured by certain elements of equality legislation under Option 2 and they may incur some familiarisation costs. It is worth noting that some non-UK vessels may be UK owned or operated, and so some of the costs to operators of non-UK vessels could potentially be costs to maritime businesses in the UK. However, as above, it has not been possible to robustly estimate how this cost

would differ between Option 1 and Option 2, and so the same assumptions have been used to monetise the value of this cost for Option 1 and Option 2.

To the extent that Option 2 affects more UK businesses than Option 1, it is expected that both the simplification benefits and familiarisation costs would increase by the same proportion.

Consultees are invited to submit any additional evidence on this cost, including evidence on the number of businesses that would be affected, the time it would take each business to familiarise themselves with the Regulations and the cost of employees' time.

7.2.2. Costs associated of obtaining training and instructions to staff under Option 2

For operators of UK vessels, the non-monetised costs associated with Option 2 would be no different to Option 1. However, some operators of non-UK vessels that call into UK ports may also incur costs in relation to training their staff. It is difficult to identify how operators of ships and hovercraft would need to disseminate information to staff and so it has not been possible to monetise the value of this cost in this impact assessment.

Consultees are invited to submit any additional evidence on this cost, including the number of employees that would need additional training and the costs of training these employees.

7.2.3. Potential Impact on Competition under Option 2

Under Option 2, any disadvantage to the operators of UK vessels would be minimised as much as reasonably possible as non-UK vessels in a UK port, as far as providing the service of transporting people, would also be subject to the proposed Regulations under Option 2.

Consultees are invited to submit any additional evidence on this cost, particularly any evidence on the magnitude of the likely impacts on competition.

7.2.4. Cost of Administration, Monitoring and Complaint Handling under Option 2

As per Option 1, however, under Option 2, the operators of non-UK vessels may also incur some additional administrative costs as they address equality related issues which may not have required action previously.

It is assumed that greater clarity in respect of people rights onboard ships and hovercraft would result in more enquiries to the EHRC. It is therefore a possibility that the EHRC could experience an increase in the amount of time it spends advising on incidents of discrimination onboard ships and hovercraft in UK waters under Option 2. That potential increase would be exacerbated under this option because of the coverage that would be provided by Option 2. It is however impossible to quantify what any increase might be.

It has not been possible to monetise the value of this cost in this impact assessment, but it has been assumed that the enforcement costs will not alter from those that currently exist at the moment. Given the proposed Regulations would be enforced by civil action, the enforcement costs are assumed to be £0. Part 3 of the Act imposes duties which can only be enforced through proceedings in the civil courts. The duties as extended by the proposed Regulations made under section 30 of the Act would be enforceable in the same way. A county court or, in Scotland, the sheriff has jurisdiction to determine a claim relating to a contravention of Part 3. Any proceedings must be taken in accordance with Part 9 (enforcement) of the Act.

Consultees are invited to submit any additional evidence on these costs, including evidence on the number of additional complaints that are likely and the costs of handling each complaint.

SECTION 8 – SUMMARY

Discrimination onboard ships and hovercraft is not reported as being a significant problem. Whilst the intended policy approach is to maintain, as far as it is reasonable to do so, the protection which already exists against both direct and indirect discrimination, harassment and victimisation, but to make the scope and extent of the legislation much simpler and clearer; it is the Government's preferred approach for the proposed Regulations to apply Part 3 of the Act to UK vessels, wherever they may be AND non-UK vessels when in a UK port, BUT only in relation to transporting people. Option 2 is the Government's preferred option as 49% of people embarking on passenger services departing from the UK on major

routes surveyed by the DfT do so, on non-UK vessels. Option 2 therefore offers protection to a greater number of people and avoids potential confusion.

Government welcomes the views of all those who wish to submit an opinion on the proposed approach and we hope through this consultation process that we are able to learn and understand all that is needed in order to be able to devise Regulations that are proportionate, fair, transparent and easy to understand.

SECTION 9 – SPECIFIC IMPACT TESTS

9.1. Statutory Equality Duties

Application of section 30 of the Act to ships and hovercraft would clarify the scope and extent of UK legislation as it applies in relation to transporting people by ship or hovercraft or a service provided on a ship or hovercraft. This clarification would make it easier for people to identify and understand what their rights are when travelling by ship and hovercraft.

Regulations made in accordance with Option 1 and Option 2 would apply the prohibition against discrimination, harassment and victimisation on grounds of the protected characteristics of gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation in relation to transporting people by ship or hovercraft and to services provided on a ship or hovercraft. Part 3 does not apply to the protected characteristic of marriage and civil partnership. Part 3 of the Act would not apply to the protected characteristic of age, so far as relating to persons who have not attained the age of 18. The Government Equalities Office is currently considering how to commence Part 3 of the Act as regards the protected characteristic of age in the best way for business and others affected. Implementing the age discrimination ban would require secondary legislation to be made, setting out the circumstances in which it would remain lawful to use age as a reason for treating people differently. This would need to be the subject of public consultation. It is however envisaged that there would be an exception from the age discrimination ban to allow concessions (for example cheaper rates for fares, meals, holidays etc for the over 65's and under 21's and age-based holidays (e.g. to allow over 50's and 18-30 holidays)) to continue.

It is proposed that any prohibition against discrimination, harassment and victimisation because of disability in relation to transporting people or a service provided on a ship or hovercraft under Part 3 will not apply until the EU Regulation on the rights of passengers travelling by sea and inland waterway applies in the UK from late 2012. The existing legislation, as it relates to disability discrimination in those circumstances has been saved by the Order and those provisions would continue to apply until further Regulations are introduced in 2012.

Introducing a workable national regime ahead of the application of the EU Regulation is not considered to be deliverable given the range of operations affected. Simplifying and clarifying existing legislation in relation to disability discrimination when applying the EU Regulation would ensure that UK operators are not placed at a commercial disadvantage to their European-based counterparts. Moreover, an EU rather than a domestic approach is considered appropriate as a large proportion of journeys on ships and hovercraft from the UK are international in nature.

Most cruise and ferries operators have accessibility and assistance procedures that have been in existence for some time. Such procedures and / or details about the need to discuss an individual's requirements at the time of booking are normally available on the operator's websites. Examples can be found at:

- www.poferries.com/tourist/content/pages/template/_footer_About_accessibility_accessibility;
- www.calmac.co.uk/Customer%20Information/customers-requiring-assistance;
- www.cunard.co.uk/How-To-Book

P&O Ferries for example, clearly state on their website that *“to ensure that customers with any mobility issues are looked after in the best possible way, we can arrange the most suitable onboard accommodation for you. We will endeavour to accommodate any other special requirements, such as parking near the lift or a mobility bus for foot passengers, as well as any other special requirements to make your journey a really enjoyable experience. Please inform us when making your booking if you your passengers require any special assistance and we can make the necessary arrangements for you.”*

The Equalities Impact Assessment screening proforma can be located at Annex 2 and the Initial Equality Impact Assessment proforma can be located at Annex 3.

9.2. Competition Assessment

The proposed Regulations, under both Option 1 and Option 2, would apply to UK vessels wherever they may be. This means that a UK vessel operating on a route which starts and finishes in a location outside UK waters would still be required to comply with UK anti-discrimination laws. Whilst this maintains the current position in most circumstances, such vessels may be operating alongside non-UK vessels that are not required to apply anti-discrimination legislation. Whilst there are no substantive costs associated with applying the proposed Regulations under Option 1 or Option 2, any costs that are incurred may not apply to a UK operator's competitors under Option 1 and so their competitors may have a slight cost advantage.

If the proposed Regulations would be applied to UK vessels only (Option 1), non-UK vessels which provide a service by transporting people and operate in a UK port would not be required to apply this anti-discrimination legislation. Therefore, non-UK operators that operate in a UK port might have a slight cost economic advantage over UK operators under Option 1 in that they would not need to pay to ensure staff understood the Act. The proposed Regulation established under Option 2 would seek to ensure all operators face similar costs when operating in a UK port.

Whilst the proposed Regulations, under both Option 1 and Option 2, would be unlikely to result in UK vessels deciding to leave the UK register, there is a compounded risk that proposed Regulations, when considered alongside other pieces of UK law, could provide an added incentive for operators of UK vessels to consider joining another register.

Consultees are invited to submit any additional evidence on the competition impacts of Option 1 and Option 2.

9.3. Small Firms Impact Test

The proposed Regulations would apply to either a) UK vessels wherever they may be under Option 1 or b) UK vessels, wherever they may be AND non-UK vessels when in a UK port BUT only in relation to transporting people under Option 2. Irrespective of the option decided upon, there is no plan to provide an exemption for operators of small vessels.

The cost associated with familiarisation would be proportionately higher for a small firm when compared relatively to a larger firm, but there is no obligation to undertake training and such costs are expected to be minimal.

It is proposed that any prohibition against discrimination, harassment and victimisation because of disability in relation to transporting people or a service provided on a ship or hovercraft under Part 3 will not apply until the EU Regulation on the rights of passengers travelling by sea and inland waterway applies in the UK in late 2012.

The EU Regulation provides a framework for the rights of disabled people when travelling by sea and includes provisions on the scope and applicability to operators of small vessels. Vessels certified to carry up to 12 passengers are exempt from the scope of the EU Regulation which would reduce the impact of the EU Regulation on small firms.

Consultees are invited to submit any additional evidence on the impacts of Option 1 and Option 2 on small firms.

9.4. Human Rights Impact Test

Article 14 of the European Convention on Human Rights (ECHR) contains a prohibition on discrimination. This prohibition protects against discrimination based on a wide range of grounds. These Regulations will ensure that the level at which the characteristics of gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation are protected under UK law with regard to transporting people by, and a service provided on, a ship or hovercraft is maintained. The Act is

intended to provide a new cross-cutting legislative framework to protect the rights of individuals and advance equality of opportunity for all; to update, simplify and strengthen the previous legislation; and to deliver a simple, modern and accessible framework of discrimination law which protects individuals from unfair treatment and promotes a fair and more equal society. The application of Part 3 to ships and hovercraft in this way will confer these benefits. The Regulation is therefore consistent with the ECHR and will result in a very similar level of protection as currently exists; except with much greater clarity.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

Basis of the review: [The basis of the review could be statutory (forming part of the legislation), it could be to review existing policy or there could be a political commitment to review];

The proposed Regulations aim to clarify and bring uniformity to equality legislation relating to the actual service of being transported by ship and hovercraft and the provision of services onboard, whilst maintaining current rights as much as it is reasonable to do so. These Regulations will need to be reviewed in order to determine whether these objectives are being met, whether any improvements could be made, and whether any unintended negative effects have resulted.

Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]

The review would need to explore whether the application of these Regulations had resulted in the clarification of equality law with regard to the actual service of being transported by ship and hovercraft and services on a ship or hovercraft. It would be necessary to assess whether there has been any negative impact on UK vessels, and whether there have been any benefits. Whether there have been any negative or positive effects on those travelling will also need to be considered.

Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]

An in-depth review will need to be done, taking into account the views of those affected by these Regulations. The nature of the issue will make it difficult to quantify; therefore the most effective approach would be to enter into consultation with representative groups. As groups affected by the proposed Regulations have well established representative bodies acting on their behalf, entering into discussion with these bodies should provide a balanced and informed view of the impact of the proposed Regulations.

Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured]

It is difficult to determine a baseline, as it is necessary to clarify the current situation. However the areas where clarity is lacking are identified in the impact assessment and these specific areas could be discussed with affected groups to establish whether greater clarity had been achieved. The same difficulty is encountered when trying to set a baseline for what rights currently exist. A similar solution as above can be employed to achieve a greater understanding of the situation i.e. discussing with bodies representative of those affected and determining whether there has been any significant change. However the figures in the impact assessment for levels of discrimination at sea provide at least one directly quantitative baseline which should serve as a useful point of comparison. Discussions with the shipping industry should provide a useful baseline to establish the effect of the Regulations relative to the current situation.

Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]

Discussions with anti-discrimination bodies suggest a greater level of understanding and clarity amongst those travelling on vessels in UK waters. Discussions with the shipping industry indicate that costs have not increased and the UK sector has not been put at a competitive disadvantage. The EU Regulations relating to the rights of passengers travelling by sea and inland waterway have been successfully implemented – strengthening disability discrimination powers in the UK.

Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection of monitoring information for future policy review]

The EHRC should be able to confirm whether there has been any change in the number of complaints reported, and whether any complaints that would not have been captured by previous legislation have been brought into scope by the proposed legislation. Passenger service operators should be able to comment on whether UK vessels have been put at a competitive disadvantage by the proposed Regulations, and provide any evidence should this be the case.

Reasons for not planning a PIR: [If there is no plan to do a PIR please provide reasons here]

N/A

ANNEX 2 - EqIA Screening Proforma

Name of the function, policy or strategy - Application of Part 3 (services and public functions) of the Equality Act 2010 in relation to transporting people by, or a service provided on, a ship or hovercraft

Current or Proposed: Proposed, but these Regulations are being put in place in order to uphold existing equality legislation, which is being repealed or amended to make way for the Equality Act 2010.

Person completing the assessment: Scott Parnell

Date of assessment: 24/09/10

Purpose of the function, policy or strategy:

This policy is part of the implementation of the Equality Act 2010. The primary purpose of the Act is to clarify and bring uniformity to the array of Acts and Regulations which form the basis of current anti-discrimination legislation. To achieve this, numerous pieces of legislation have been repealed and amended. Unless Regulations are made using the power in section 30 of the Act and laid before Parliament, Part 3 (services and public functions) of the Act will not apply in relation to transporting people by, or a service provided on, a ship or hovercraft. Current legislation in this area is unclear and complicated. The complex nature of legislation in this area means that the introduction of these proposed Regulations is necessary. Regulations need to be made under section 30 to commence Part 3 of the Act for ships and hovercraft to confer the benefits of clarity and uniformity to this area and to ensure that people travelling by ship and hovercraft have the same protection, as far as it is reasonable to do so, as they would on land.

Questions - Indicate Yes, No or Not Known for each group

| | Gender | Religion or Belief | Age | Disability | Ethnicity and Race | Sexual Orientation | Transgender |
|---|--------|--------------------|-----|------------|--------------------|--------------------|-------------|
| Is there any indication or evidence that different groups have different needs, experiences, issues or priorities in relation to the particular policy? | No | No | No | No | No | No | No |
| 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 |
| 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 | Yes | 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 | No | No | Yes | 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 | No | No | No | No | No | No |
| Is there any evidence or indication of higher or lower uptake by different groups? | No | No | No | No | No | No | No |
| Do people have the same levels of access? Are there social or physical barriers to participation (e.g. language, format, physical access/proximity)? | Yes | Yes | Yes | No | Yes | Yes | Yes |

If you have answered “no” to all the questions, an EqIA is not required.

If your answer is “yes” or “not known” to any of these questions then consider the proportionality aspect in terms of providing a lower standard of service or offering a service on different terms than you would to other people. After considering the proportionality aspects you will need to decide whether an Initial Equality Impact Assessment is needed.

ANNEX 3 - Initial Equality Impact Assessment Proforma

| |
|--|
| <p>Name of the function, policy or strategy - Application of Part 3 (services and public functions) of the Equality Act 2010 in relation to transporting people by, or a service provided on, a ship or hovercraft</p> <p>Current or Proposed: Proposed, but these Regulations are being put in place in order to uphold existing equality legislation, which is being repealed or amended to make way for the Equality Act 2010.</p> |
| <p>Person completing the assessment: Scott Parnell</p> |
| <p>Date of assessment: 27/07/10</p> |
| <p>1. Aims, objectives and purpose of the function, policy or strategy</p> <p>A regulation making power in section 30 of the Act provides an opportunity to prescribe when Part 3 (services and public functions) applies in relation to ships and hovercraft. When Part 3 was commenced on 1 October 2010 savings provisions were introduced to ensure no gap in legislation existed. This is regarded however as a temporary measure until such time as Regulations are made under section 30, come into force. Regulations are needed in order to confer the benefits of clarity and uniformity from the Act to this area. Regulations need to be made under section 30 to apply Part 3 to transporting people by ship and hovercraft and the provision of services on those vessels to ensure that people travelling by ship and hovercraft have the same protection, as far as it is reasonable to do so, as they would on land. The intended policy approach is to maintain, as far as it is reasonable to do so, the protection which already exists against both direct and indirect discrimination, harassment and victimisation but to make the scope and extent of the legislation much simpler and clearer. One of the aims of the Act is to bring clarity and uniformity to discrimination legislation. Given that existing equality legislation as it applies to services and public functions on ships and hovercraft is sometimes silent on its application to ships and hovercraft, clarity and uniformity is necessary.</p> |
| <p>2. Who is intended to benefit from the function, policy or strategy and in what way?</p> <p>The intention of these Regulations is to uphold and clarify current equality legislation regarding the service of transporting people by, or a service provided on, a ship or hovercraft and the exercise of public functions in relation to ships and hovercraft and as such will continue to benefit those groups which are currently protected by such equality legislation, whilst making it easier for people to establish what their rights are in this area.</p> <p>The protected characteristics established under the Act are:</p> <ol style="list-style-type: none">1.) Age2.) Disability3.) Gender reassignment4.) Marriage and civil partnership5.) Race6.) Religion or belief7.) Sex8.) Sexual orientation <p>Part 3 of the Act will not apply to the protected characteristic of age, so far as relating to persons who have not attained the age of 18. Also, Part 3 does not apply to the protected characteristic of marriage and civil partnership. The Government Equalities Office is currently considering how to commence Part 3 of the Equality Act 2010 as regards the protected characteristic of age (in respect of those over the age of 18) in the best way for business and others affected. Implementing the age discrimination ban would require secondary legislation to be made, setting out the circumstances in which it would remain lawful to use age as a reason for treating people differently. This would need to be the subject of public consultation. It is envisaged however that there would be an exception from the age discrimination ban to allow concessions (e.g. cheaper rates for fares, meals, holidays etc for the over 65's and under 21's for example) and age-based holidays (e.g. to allow over 50's and 18-30 holidays) to continue.</p> <p>It is proposed that any prohibition against discrimination, harassment and victimisation because of disability in relation to transporting people by, or a service provided on, a ship or hovercraft under Part 3 will not apply until an EU Regulation on the rights of passengers travelling by sea and inland waterway applies in the UK from late 2012. The existing legislation, as it relates to disability discrimination in those circumstances has been saved by the Order and those provisions would continue to apply until further Regulations are introduced in 2012.</p> |

Introducing a workable national regime ahead of the application of the EU Regulation is not considered to be deliverable given the range of operations affected. Simplifying and clarifying existing legislation in relation to disability discrimination when applying the EU Regulation would ensure that UK operators are not placed at a commercial disadvantage to their European-based counterparts. Moreover, an EU rather than a domestic approach is considered appropriate as a large proportion of journeys on ships and hovercraft from the UK are international in nature.

The EU Regulation will prohibit carriers and operators from refusing to issue, or making an additional charge for, a ticket or reservation to a disabled person or person with reduced mobility on the grounds of disability or of reduced mobility. Whilst the EU Regulation will permit a carrier to refuse to embark a passenger for justified safety reasons the EU Regulation provides a procedural framework for the denial of embarkation. The EU Regulation will also introduce a requirement for publicly available access conditions and quality standards, as well as providing for the right to assistance and the conditions under which such assistance is provided. The Regulation will also require industry to set up an accessible complaint handling mechanism and will require Member States to designate a body, or bodies, responsible for the enforcement of the Regulation.

What desired outcomes and success measures have been identified? That equality legislation relating to the service of transporting people by, or a service provided on, a ship or hovercraft and the exercise of public functions in relation to ships and hovercraft is clarified whilst maintaining current levels of legal protection as far as it is reasonable to do so.

3. Stakeholder Management: responsibility and ownership

The Department for Transport has responsibility for the implementation of these Regulations, but ship and hovercraft operators will have responsibility for applying these Regulations on a day to day basis.

4. Potential Project Management and Risks Issues?

If factors surface in the consultation phase these will need to be considered.

5a. Will the aim of the function, policy or strategy, along with any of its intended outcomes eliminate discrimination, promote equality of opportunity and/or promote good relations between different groups?

Yes No Please explain below

5b. From the available evidence, what level of impact, if any, is the delivery of this function, policy or strategy going to have on the different equality groups set out below.

| Equality Group | Positive impact | | | Negative impact | | | No impact | Reason and evidence supporting your assessment for each of the equality groups |
|---------------------------|-----------------|---|---|-----------------|---|---|-----------|--|
| | H | M | L | H | M | L | | |
| H = High | | | | | | | | |
| M = Medium | | | | | | | | |
| L = Low | | | | | | | | |
| Gender | | | X | | | | | Clarification of the equality rules applicable for maritime passenger services |
| Religion or Belief | | | X | | | | | Clarification of the equality rules applicable for maritime passenger services |
| Age | | | | | | | X | As per existing legislation, age will continue to be a characteristic not covered by equality legislation, though this may change in future |
| Disability | | | | | | | X | As per existing legislation in general but it is proposed that any prohibition against discrimination, harassment and victimisation because of disability in relation to transporting people or a service provided on a ship or hovercraft under Part 3 will not apply until an EU Regulation on the rights of |

passengers travelling by sea and inland waterway applies in the UK from late 2012. The existing legislation, as it relates to disability discrimination in those circumstances has been saved by the Order and those provisions would continue to apply until further Regulations are introduced in 2012.

Clarification of the equality rules applicable for maritime passenger services

Clarification of the equality rules applicable for maritime passenger services

Clarification of the equality rules applicable for maritime passenger services

Ethnicity & Race X

Sexual Orientation X

Transgender X

6. If you have indicated that there is a high or medium negative impact on any group in Q5b, can it be justified under the Equality legislation?

Yes please go to Q7

No please go to Q8

7. Follow Up Action

a) Is there any action that could be taken to minimise or remove any negative impact of low significance in Q5b?

Yes please go to 7b No please explain why below?

Implementation of the EU Regulation on the rights of passengers travelling by sea and inland waterway applies in the UK, which is currently under negotiation. This is expected to be from late 2012.

b) Please complete the table below with details of the monitoring arrangements that will be put in place to address the not known response(s) in Q5b.

| Action | By Whom | By When |
|--------|---------|---------|
| | | |
| | | |
| | | |
| | | |
| | | |

Please seek clearance from the Press Office to publish this EqIA on the DfT Website.

<http://www.dft.gov.uk/consultations/eqias/>

Signed off by: Name *Scott Parnell*

Job Title: Senior Policy Advisor