

Title: Merchant Shipping (Maritime Labour Convention)(Minimum Age) Regulations IA No: Lead department or agency: Maritime and Coastguard Agency (MCA) Other departments or agencies: Department for Transport	Impact Assessment (IA)
	Date: 16/04/2013
	Stage: Consultation
	Source of intervention: International
	Type of measure: Secondary legislation
	Contact for enquiries: Rosemary Nelson Tel: 023 8032 9328
Summary: Intervention and Options	RPC: RPC Opinion Status

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as Two-Out?	
N/Q	N/Q	N/Q	No	NA

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

It is considered that no person under the age of 16 should work at sea and that young persons under the age of 18 should be protected at work. Employment conditions at sea vary across the world, with some seafarers working under unacceptable conditions and ship operators which operate substandard ships gaining a competitive advantage. Effective international standards are therefore needed to address these issues. The Maritime Labour Convention 2006 (MLC) aims to provide minimum working conditions for seafarers that are globally applicable and uniformly enforced including on minimum age requirements. In the UK, new legislation is required to ratify the MLC, which in turn would avoid the costs of not ratifying.

What are the policy objectives and the intended effects?

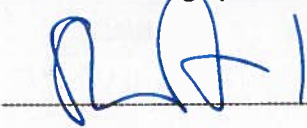
The purpose of the proposed Regulations is to promote decent living and working conditions for seafarers globally and a more level competitive playing field for shipping by bringing UK legislation into line with the minimum global standards for the minimum age of seafarers. Once the entire package of legislation is in place, this will enable the UK ratification of the MLC, which would allow the MCA to issue certification to UK flagged ships, reducing potential delays in countries which have ratified the MLC; and to enforce these global minimum standards for minimum age on non UK registered ships that call at UK ports. Specific objectives for minimum age for seafarers are found in the Evidence base.

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

Doing nothing is not considered to be an appropriate course of action as the new legislation is required to enable the UK to ratify the MLC, and the British Chamber of Shipping and the seafarers' Trade Unions support ratification of the MLC. Failure to ratify the MLC would limit its effectiveness at addressing the issues on seafarer living and working conditions discussed above and would result in UK ships not being able to obtain MLC certification. The preferred policy option is therefore to introduce the proposed Regulations (Policy Option 1) which would make the minimum changes to existing legislation to implement the provisions on MLC on minimum age, taking into account existing European and UK legislation in this field. No further measures have been deemed necessary and so only one policy option has been considered in this impact assessment.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 08/2018					
Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		Micro Yes	< 20 Yes	Small Yes	Medium Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)		Traded: NA		Non-traded: NA	

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: 8/8/2013

Summary: Analysis & Evidence

Policy Option 1

Description: To implement the minimum requirements of the Maritime Labour Convention, 2006 in respect of minimum age

FULL ECONOMIC ASSESSMENT

Price Base Year N/A	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/Q	N/A	N/Q	N/Q
High	N/Q		N/Q	N/Q
Best Estimate	N/Q		N/Q	N/Q

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

It has not been possible to monetise any of the costs that have been identified in this impact assessment.

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

There are potential costs for businesses with self-employed seafarers, where these seafarers currently do work which will be prohibited by the proposals, which would have to pay other workers to do this work. There is no reliable evidence for the number of seafarers affected, but this is expected to be very small.

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

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

It has not been possible to monetise any of the benefits that have been identified have been identified in this impact assessment.

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

There is the potential for minor safety benefits from the more tightly drawn provisions on hazardous activities and night work, and clearer guidance on exceptions. However, this area is considered to be well-covered in existing legislation and best practice so any benefits are expected to be small.

Key assumptions/sensitivities/risks

It is assumed that proportion of 16 - 17 year olds working on ships mirrors that in the general population.

Discount rate (%)

N/A

BUSINESS ASSESSMENT (Option 1)

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

EVIDENCE BASE

Key definitions

ILO = International Labour Organization

MCA = Maritime and Coastguard Agency

MLC = ILO Maritime Labour Convention 2006

1. TITLE OF PROPOSAL

Implementation of Title 1.1 of the Maritime Labour Convention, 2006 on Minimum Age – The Merchant Shipping (Maritime Labour Convention) (Minimum Age) Regulations 201X to be referred to hereafter as “the proposed Regulations”.

2. PROBLEM UNDER CONSIDERATION

It is considered that no person under the age of 16 should work at sea and that young persons under the age of 18 should be protected at work. However, employment conditions for seafarers vary across the world, with some seafarers working under unacceptable conditions and shipowners operating substandard ships, thus gaining a competitive advantage. In particular, ILO (2012) suggests that “seafarers often have to work under unacceptable conditions, to the detriment of their well-being, health and safety and the safety of the ships on which they work.” In addition, ILO (2012) suggests that flag States and shipowners which provide seafarers with decent conditions of work “face unfair competition in that they pay the price of being undercut by shipowners which operate substandard ships.”

The IMO reports that 90% of world trade makes use of maritime transport, depending on 1.2 million seafarers¹ to operate ships. Many of these seafarers are working a great distance from their homes on ships operating under a flag different from their country of origin. Seafarers are frequently exposed to difficult working conditions.

The specific problem under consideration which the proposed Regulations would directly address are how to ensure that no persons under the age of 16 are employed on ships and that young people (under the age of 18) are protected at work.

There is no conclusive evidence that there is a higher incidence of accidents involving seafarers who are under 18 years old on UK ships, than for seafarers who are over 18. However, there is very little data on this matter. This is likely to be because there is already UK legislation which requires additional protection for young people at work at sea, and as discussed in Section 6.3.2, this is likely to be applied widely as best practice whether or not it strictly applies to a given situation. Nevertheless, working at sea is a hazardous occupation, and young people (under 18 years) are considered to be at greater risk of harm than their older colleagues as a result of their inexperience and, accordingly, reduced perception of risk. (The European Union has addressed this concern with a directive on the employment of young persons, which requires additional protection measures for those under the age of 18 years.) They are also vulnerable because they are likely to be working away from home for the first time, without the support of family and friends. It is therefore considered necessary to require employers to take particular measures to protect the health and safety of young persons up to the age of 18.

Given that there are costs of providing seafarers with decent conditions of work (e.g. not employing those under the minimum age and providing additional protection for those under the age on 18 years), this means that shipowners' who operate substandard ships can potentially undercut shipowners' who provide seafarers with decent conditions of work, and can consequently potentially

¹Source: IMO (2012)

gain a competitive advantage. This suggests that, in the absence of government intervention, shipowners' may not ensure that young people are protected from the risks of working at sea. The ILO has therefore considered it necessary to lay down additional requirements designed to protect the health and safety of young persons up to the age of 18 in the MLC.

3. RATIONALE FOR INTERVENTION

Given the international nature of the shipping industry, it is considered that effective international standards are needed to address the issues and risks that have been raised in Section 2, and to provide decent working conditions and a level playing field for ships of different flags. This is why the MLC has been developed in the ILO by government, employer and seafarer representatives as a global instrument to address these. The MLC aims to provide minimum rights for all seafarers that are globally applicable and uniformly enforced, including on minimum age and protection for young persons. It was adopted in the ILO by a record vote of 314 in favour and none against (two countries abstained for reasons unrelated to the substance of the MLC). The ratification criteria to bring the Convention into force internationally were met on 20 August 2012, and the MLC will therefore come into force internationally on 20 August 2013. It is expected to be widely ratified. The Government's social partners, the shipping industry and the seafarer's Trades Unions, strongly support ratification of the MLC in the UK.

Ratification of the MLC in the UK requires a package of new legislation to be introduced to implement some of the provisions of the MLC in UK law, including some provisions of the MLC regarding minimum age for all seafarers. Doing nothing is therefore not considered to be an appropriate course of action.

Widespread ratification of the MLC, including the provisions on minimum age and the improved enforcement mechanisms introduced by the Convention could improve the consistency on minimum age standards between ships of different flags, and could help to ensure that young seafarers – including UK nationals - have a reasonable expectation of safe working conditions on ships of any flag where they work. The proposed Regulations would bring existing legislation for UK registered vessels into line with the minimum global standards for minimum age and protection of young persons provided for in the MLC. In addition, once the UK has ratified the MLC, the proposed Regulations would allow the UK to enforce international minimum global standards on these issues for seafarers on non-UK registered vessels visiting UK ports on a "no more favourable treatment" basis.

Furthermore, UK ratification of the MLC would avoid the costs of not ratifying the MLC. In particular, regardless of whether the UK ratifies the MLC, UK registered vessels would still be subject to the provisions of the MLC on a "no more favourable treatment" basis when operating in foreign ports in countries that have ratified the MLC. This could result in UK registered vessels being delayed due to inspections to check their compliance with the MLC. By enabling the UK to ratify the MLC once the entire package of legislation is in place, the proposed Regulations would enable UK registered vessels to benefit from the system of MLC certification, avoiding or reducing the likelihood of delays related to inspections in foreign ports in countries that have ratified the MLC.

Therefore, implementing the proposed Regulations would help to promote decent working and living conditions for seafarers globally and a more level competitive playing field for shipping.

Although the primary reason for UK ratification of the MLC is the benefits it will bring to UK shipping and to avoid the risks of not ratifying, it should also be noted that there is a European Social Partners Agreement which seeks to implement the MLC. Council Directive 2009/13/EC annexes the Agreement between the European Community Shipowners' Association (ECSA) and European Transport Workers' Federation (ETF) on the MLC and the agreement on amendments to the Agreement on the Organisation of Working Time of Seafarers dated 30 September 1998 (set out at Annex A to the Annex). When it is in force, Member States will be required by virtue of Directive 2009/13/EC to implement the European social partners' agreement on the MLC. The provisions of Regulation 1.1 and Standard A1.1 are transposed in full into the Annex to the agreement. The Directive will come into force on the date on which the MLC comes into force, which will be 20 August 2013. At that point the UK will have a duty to implement the social partners' agreement, which in practice will mean that the UK is under a European law requirement to implement some (but

not all) MLC provisions in UK law. The transposition deadline is 12 months from the coming into force date i.e. 20 August 2014. However, as explained above, to support the UK shipping industry there is a need for the UK to ratify the MLC when it comes into force internationally, which is earlier than the transposition deadline for the European Directive. Implementation of the minimum changes required to bring UK legislation fully into line with Title 1.1 of the MLC on minimum age will also implement the provisions on minimum age aspects of Directive 2009/13/EC. The Directive is not therefore considered further in this IA.

Further details of the requirements for and benefits of UK ratification of the MLC are provided in Annex 3.

4. POLICY OBJECTIVES

The purpose of the proposed Regulations is to bring existing UK legislation into line with the requirements of the MLC related to minimum age and to enable the UK to ratify the MLC in order to:

- secure decent working and living conditions for seafarers on ships globally, including on minimum age;
- promote a more level competitive playing field for shipping by enforcing these standards on non-UK registered vessels that call at UK ports;
- enable the MCA to issue MLC certification to UK registered vessels, reducing the potential for UK flagged vessels to experience delays in foreign ports in countries that have ratified the MLC; and
- comply with the UK's European legislative obligations in relation to the provisions in the MLC covered by Directive 2009/13/EC, thus avoiding the risk of infraction proceedings being taken against the UK.

In particular, the proposed Regulations would bring UK legislation into line with Title 1.1 of the MLC.

5. DESCRIPTION OF POLICY OPTIONS

Description of options considered

5.1 Do nothing

Existing UK legislation is not currently in compliance with the MLC 2006 in respect of minimum age. A 'do nothing' option would not achieve the policy objectives that are outlined above, and is not therefore considered to be an appropriate course of action as the UK government's social partners, the shipping industry and the seafarers' Trade Unions, support prompt ratification of the MLC. The risks of not ratifying the MLC are summarised at the end of Annex 3.

5.2 Policy Option 1

There is no alternative to regulation if the UK is to ratify the MLC. Therefore, only one policy option is being considered which will implement the minimum mandatory requirements of the MLC in respect of minimum age. To fully implement the MLC these provisions must apply to all commercially operated ships subject to the MLC, and to all young persons working on board, regardless of their employment status.

- (a) The MLC requires that no-one under the minimum age set by the MLC should be allowed to work in any capacity on a ship to which the Convention applies; the minimum age under the MLC is 16 years.

Existing legislation applying in the UK regarding minimum age is as follows:

- Section 55 of the Merchant Shipping Act 1995 prohibits any person under school leaving age from working on a ship. This applies to all ships but does not apply to the self-employed.
- Section 55(1A) of the Merchant Shipping Act 1995 prohibits any person under the age of 16 from working on a seagoing ship. This does not apply to government ships or to self-employed seafarers,

The proposals would replace section 55(1A) for ships subject to the MLC and introduce a new regulation prohibiting those under the age of 16 being employed or working on any ship to which the MLC applies.

- (b) The MLC requires that those under the age of 18 should not be allowed to carry out certain types of work which may jeopardise their health and safety; these types of work should be specified by the competent authorities after the consultation.

The MCA considers that the Merchant Shipping and Fishing Vessel (Health and Safety at Work) (Employment Young Persons) Regulations 1998 ("the 1998 Regulations") together with Marine Guidance Note (MGN) 88, which gives guidance on types of work considered to be hazardous to young people, largely implement this provision, requiring employers to provide protection for young persons on the basis of a risk assessment. However, the MGN currently has guidance status and would need to become mandatory at least in part. In addition, the 1998 Regulations apply to all ships including government ships but do not apply to the self-employed.

The existing legislation would be reinforced by a provision prohibiting those under the age of 18 from working on a ship where the work would jeopardise their health and safety, rather than relying on the employer's risk assessment. The new provisions would also be extended to protect self-employed seafarers. The 1998 Regulations which specify the requirement for risk assessment would remain in force for those not subject to the MLC requirements, since it is contrary to ILO principles to reduce existing standards through implementation of a new Convention.

- (c) The MLC requires that those under the age of 18 should not be required to carry out work at night except where necessary for training as determined by the competent authority.

The Merchant Shipping (Hours of Work) Regulations 2002 ("the 2002 Regulations") includes a prohibition on night work for those under the age of 18. There is a provision for 16 and 17 year olds to work at night if this forms part of an established programme of training, the effectiveness of which would be impaired by a ban on night work. The 2002 Regulations apply to all commercially operating vessels but not to government ships operating commercially, or to self-employed seafarers. This provision would be repealed and replaced with a provision applying to all ships and seafarers subject to the Convention. However exceptions could still be allowed where required for training or for nature of the work, subject to agreement in consultation with shipowner and seafarer representatives that such work is not detrimental to the health and safety of young seafarers. The circumstances where such exceptions would be allowed will be specified in a merchant shipping notice.

Option 1 is the only option which would fulfil policy objectives and is therefore the preferred option.

6. COSTS AND BENEFITS OF THE PROPOSED REGULATIONS (OPTION 1)

Given the limitations of the available evidence base it has not been possible to monetise any of the costs and benefits of the proposed Regulations (Option 1) that have been identified in this impact assessment (IA). For example, there is no data available on the types of work carried out by young persons working on board merchant ships, or on the employment status of young persons working on ships. A full qualitative description of each of the costs and benefits that have been identified is therefore provided below.

Following the consultation, we will consider whether further analysis could be undertaken to attempt to monetise some of the costs and benefits of the proposed Regulations (Option 1). To assist with this process, **Consultees are invited to submit additional evidence on the costs and benefits of the proposed Regulations (Option 1.)** Any additional evidence that is submitted will be taken into account when the IA is updated after the consultation.

6.1 Affected Groups

Seafarers aged 16-17 are expected to be only a very small proportion of the workforce on UK registered ships.

The UK fleet currently consists of around 1,020 ships on the UK Ship Register (Merchant Ships), and an estimate 5,500 small commercial vessels, a large number of which are not registered. The MCA does not have accurate figures for the number of people working on the UK fleet, but it is estimated that around 89,000 seafarers are working on UK registered ships (merchant ships). According to Labour Market Statistics as at December 2012, around 1.1% of all employed people in the UK are aged 16-17.

The latest DfT statistics for seafarers (December 2012) indicate that no officers or ratings² active on UK registered ships are below the age of 18, with the exception of UK officer cadets where data on age is not available. There are 2,160 UK officer cadets. A proportion of these officer cadets may be under the age of 18. These statistics do not cover seafarers working on the estimated 5,500 UK small commercial vessels, where there may also be seafarers under the age of 18.

The MCA's statistics for seafarer medical examinations carried out between 2005 and 2012 show that, on average, around 1% of the total medical examinations conducted by MCA approved doctors were for those under the age of 18 years, which supports the assumption that the number of seafarers under 18 years as a proportion of the total number of seafarers approximately mirrors the proportion in this age group in the working population as a whole. However, the figures cannot reliably be used for the number of under 18 year olds working on UK ships, because UK approved doctors – who are based mainly in the UK, but with a few based abroad - may carry out UK seafarer medicals for young persons working on ships of any flag.

6.2 Comparison with “Do nothing” scenario

The “Do Nothing” scenario represents what would happen if the Government does not take any action. Under the “Do Nothing” scenario, the MLC will come into force internationally in August regardless of whether the UK is ready or not.

A large number of nations have already ratified and many more are expected to have done so by then. Being a Convention with worldwide application, and given that any UK ships visiting ports in ratifying countries (which are expected to be by most countries within a fairly short timescale) will have to be compliant, its effects will be virtually impossible to escape for ships wishing to trade internationally.

Therefore, MCA expects that a significant proportion of UK ships would comply with the MLC requirements under the “Do Nothing” scenario, and that a proportion of any costs of complying with the minimum requirements of the MLC in respect of minimum age would have been incurred under the “Do Nothing” scenario.

As this proportion is uncertain, we do not know the extent to which any costs of complying with the minimum mandatory requirements of the MLC in respect of minimum age are truly additional costs of the proposed Regulations or whether they would have occurred anyway under the “Do Nothing” scenario.

Given these uncertainties, this IA assesses the additional costs to business of complying with the minimum mandatory requirements of the MLC in respect of minimum age, relative to the requirements of existing UK legislation or existing industry practice as applicable. These costs are outlined on the summary sheets, and are considered to be low. However, as discussed above, we do not know the extent to which even these low costs are truly additional costs of the proposed Regulations.

² UK Officers with a certificate of competency, Non-UK Officers with Certificates of Equivalent Competency, Uncertified officers and Ratings

6.3 Costs to UK business of meeting the minimum mandatory requirements of the MLC in respect of minimum age

Three groups of businesses would be affected. These are discussed in turn below.

6.3.1 Businesses with employees under the age of 18 working on seagoing, commercially operated ships (excluding Government ships)

The Merchant Shipping and Fishing Vessels (Health and Safety)(Employment of Young Person) Regulations 1998 ("the 1998 Regulations") require employers to carry out risk assessments and not to employ persons under the age of 18 on these ships to do work which could jeopardise their health and safety. The proposed Regulations will prohibit seafarers under the age of 18 from carrying out certain types of work which may jeopardise their health and safety.

The Merchant Shipping (Hours of Work) Regulations 2002 ("the 2002 Regulations") prohibit seafarers under the age of 18 from working at night on these ships, except if the work forms part of an established programme of training, the effectiveness of which would be impaired by the prohibition. The proposed Regulations will change the criteria for exceptions.

The MCA has discussed the above changes with the social partners in the MLC Tripartite Working Group (TWG) and the National Maritime Occupational Health and Safety Committee (NMOHSC), comprising the UK Chamber of Shipping, Trade Unions and representatives from the Red Ensign Group. It was agreed by the TWG and NMOHSC that the changes would have no impact on business. Therefore, MCA expects that these changes would not have an impact on these businesses.

The proposed Regulations will prohibit any person under the age of 16 from working on these (and other) ships. As Section 55(1A) of the Merchant Shipping Act 1995 already prohibit any person under the age of 16 from being employed on these ships, this will have no impact on these businesses.

Consultees are invited to submit any additional evidence on whether there would be any costs to these businesses in order for them to meet the minimum mandatory requirements of the MLC in respect of minimum age, or to confirm the view of the Committees referred to above.

6.3.2 Businesses with employees under age of 18 working on seagoing, commercially operated Government ships (see Section 6.3.2 for further details on these ships)

The proposed Regulations will apply the same requirements to employees working on seagoing, commercially operated Government ships. The 1998 Regulations apply to these employees, but the current provisions in the Merchant Shipping Act 1995 and the 2002 Regulations do not. However, MCA expects that any company operating government owned ships would comply with existing legislation on a voluntary basis (see the box below for more details). Consequently, MCA expects that the impacts on these businesses would be the same as the impacts on businesses with employees under age of 18 working on other seagoing, commercially operated ships, and that these changes would therefore have no impact on these businesses.

The Royal Fleet Auxiliary (RFA) is the only substantial employer with large government owned ships operating with large crew numbers. There are 12 RFA vessels operating commercially. The RFA has a cadet training scheme and so could employ seafarers under the age of 18 years. For example:

- a. RFA Rating (Deck and Engineering): Trainee Ratings must be at least 16 years of age before they can apply to join.
- b. RFA Officer Cadet (Deck and Engineering): Officer Cadets may apply to join the RFA from the age of 16.
- c. RFA Officer (Deck and Engineering): Deck and Engineering Officers must be at least 16 years of age when they apply to join the RFA. As a result of the duration of the training required for RFA Officer Cadets there will be no RFA officers below the age of 18 years.

However, the RFA already voluntarily applies the Merchant Shipping Health and Safety Standards, MCA expects that there will be no impact on the RFA as a result of these changes.

There may be other government ships which occasionally operate commercially, for example when they charter vessels for commercial use, but the number of seafarers involved is considered small. However, MCA expects that any company operating government owned ships, like the RFA, would comply with existing legislation on minimum age provisions on a voluntary basis.

Therefore, MCA considers it is unlikely that there will be any persons under the age of 16 employed on ships that are government owned and operating commercially, and expects that those few who are under the age of 18 are being protected in accordance with the current regulations and supporting Marine Guidance Note.

Consultees are invited to submit any additional evidence on whether there would be any costs to these businesses in order for them to meet the minimum mandatory requirements of the MLC in respect of minimum age.

6.3.3 Businesses with self-employed workers under the age of 18 working on seagoing, commercially operated ships

The proposed Regulations will apply the same requirements to self-employed seafarers on these ships. The current provisions in the Merchant Shipping Act 1995, the 1998 Regulations and the 2002 Regulations do not apply to the self-employed. Nonetheless, MCA expects there will no self-employed persons under the age of 16 working on these ships. In addition, data published by Office of National Statistics indicates that self-employed aged 16 and 17 only accounted for around 0.01-0.03% of the total number of self-employed and employees in the United Kingdom in July 2011 to June 2012³. If this ratio was replicated in the shipping industry, this suggests that there could be of the order of 10-30 self-employed seafarers aged 16 and 17 working on UK ships. Therefore, even if all self-employed seafarers under the age of 18 currently carry out the types of work which will be prohibited by the proposed Regulations (i.e. the certain types of work which may jeopardise their health and safety; and night work which is not covered by the exceptions described above), it is considered likely that the costs to these businesses would still be significantly below £1 million.

Consultees are invited to submit any additional evidence on whether there would be any costs to these businesses in order for them to meet the minimum mandatory requirements of the MLC in respect of minimum age.

The impacts on these businesses are discussed in more detail below.

6.3.3.1 Scope of impact

The MCA does not have any evidence on the employment status of seafarers. From MCA experience, and based on the low percentage of self-employed persons aged 16 or 17 in the UK working population as a whole, it is not expected that there would be self-employed seafarers under the age of 18 working on merchant ships.

However, there may be some under going on the job training or working under the age of 18 on small commercial vessels. The small commercial vessel operator may have a commercially endorsed Certificate of Competency issued by the Royal Yachting Association (RYA). The minimum age for holders of these certificates is either 17 or 18. Some of the certificates which may be held by operators of small commercial vessel are RYA Yachtmaster Offshore, RYA Coastal Skipper, RYA Powerboat Advanced and RYA Yachtmaster Ocean.

6.3.3.2 Potential impacts

The proposed regulations will prohibit self-employed workers under the age of 18 from carrying out certain types of work which may jeopardise their health and safety. The relevant types of work will be set out in a Merchant Shipping Notice. According to Marine Guidance Note MGN 88 the types of work which may jeopardise health and safety may include working in enclosed spaces, working at

³ <http://www.ons.gov.uk/ons/about-ons/what-we-do/publication-scheme/published-ad-hoc-data/labour-market/october-2012/number-of-employees-and-self-employed-by-age-and-sex-2001-2012.xls>

height or handling dangerous cargoes, however on small commercial vessels this would be unlikely to occur as a result of the small size of the vessels concerned.

In addition, there would be restrictions on night work for self-employed persons aged 16 or 17.

The MCA does not have any evidence for the number of self-employed young persons who may currently undertake work which may jeopardise their health and safety on small commercial vessels, or how many small commercial vessels may operate at night.

As discussed above, the number of self-employed persons under the age of 18 is likely to be small. In addition, from MCA experience of the sector, it is assumed that a large proportion of small commercial vessels do not regularly operate at night (e.g. many charter yachts, day tripping vessels, etc). However, on a small code boat with a small crew, for example engaged in night angling, the change might have an impact. It is proposed to hold a meeting with representatives of the small commercial vessel sector during public consultation to seek views on the validity of the assumption that the number of vessels affected will be small.

On the basis of the information provided by industry representatives for merchant ships discussed in Section 6.3.1 above, the MCA expects that these changes will not introduce changes to current practices. However, since the small commercial vessel sector is not directly represented on the NMOHSC or the MLC TWG, there is some uncertainty about this assumption in relation to small commercial vessels. When the consultation commences, the validity of this assumption will be discussed with the Small Commercial Vessel operators.

The implications if self-employed seafarers aged 16 and 17 working on UK ships were actually affected by the proposed Regulations are discussed in Section 6.3.3.3 below.

6.3.3.3 Potential costs if any work could no longer be undertaken by self-employed seafarers aged 16-17 years old

For the purposes of this IA, under the proposed Regulations, if self-employed seafarers aged 16-17 years old could no longer undertake any types of work which they are currently undertaking, it is assumed that workers in an adjacent age group would carry it out instead⁴.

For all employee jobs in the United Kingdom, data published by Office of National Statistics indicates the mean average gross hourly pay for employees aged 16-17 is around 70% of the mean average gross hourly pay for employees aged 18-21⁵.

If it is assumed that those seafarers aged 18-21 receive the mean annual gross pay in the Water Transport Sector (estimated to be around £32,000 per year)⁶, and this is uplifted by 30% to account for overheads in line with the Standard Cost Model⁷, this implies that the difference in costs of employing a seafarer aged 18-21 compared to a seafarer aged 16-17 could be of the order of around £12,000 per year.

Given that the number of self-employed seafarers aged 16 and 17 working on UK ships is expected to be very low (e.g. the information presented above suggests that this could be of the order of 10 to 30), it is therefore considered likely that the costs to any affected businesses would be significantly below £1 million even if all self-employed seafarers aged 16 and 17 working on UK ships were affected by the proposed Regulations.

6.4 Familiarisation Costs

MCA will publish information about the proposed changes as either Merchant Shipping Notices or Marine Guidance Notes. The Agency has consulted with the Tripartite Working Group on the MLC,

⁴ <http://webarchive.nationalarchives.gov.uk/+/http://www.dti.gov.uk/access/ria/pdf/workingtime.pdf>

⁵ <http://www.ons.gov.uk/ons/rel/ashe/annual-survey-of-hours-and-earnings/2012-provisional-results/2012-provisional-table-6.zip>

⁶ <http://www.ons.gov.uk/ons/rel/ashe/annual-survey-of-hours-and-earnings/2012-provisional-results/2012-provisional-table-16.zip>

⁷ <http://www.berr.gov.uk/files/file44503.pdf>

the Domestic Passenger Ship Steering Group (DPSSG). The MCA has also had a number of events publicising the changes resulting from the MLC as a whole. These actions will minimise the costs for shipowners and seafarers of becoming familiar with the new requirements, which are considered to be too small to quantify for this element alone.

Consultees are invited to submit any additional evidence on the familiarisation costs associated with the proposed Regulations.

6.5 Benefits of the proposed Regulations

There is the potential for minor safety benefits from the more tightly drawn provisions on hazardous activities and night work, and clearer guidance on exceptions. However, this area is considered to be well-covered in existing legislation and best practice. This view is supported by the fact that, on UK ships, there is no evidence to suggest that there is a higher accident rate for those under the age of 18 than for those of eighteen years and older.

Extending the protection in the regulations to self-employed persons should help to ensure consistent standards of health and safety for young persons on board ships, regardless of the employment status of the seafarers.

The introduction of global minimum standards through the MLC on minimum age and protection of young persons may improve protection for UK seafarers serving on non-UK ships flagged with countries which have ratified the MLC. As a result of the "no more favourable treatment" clause in the MLC, which allows ratifying countries to apply MLC standards to the ships of non-ratifying countries calling at their ports, seafarers working on ships flagged with non-ratifying countries will also benefit.

Consultees are invited to submit any additional evidence on the benefits of the proposed Regulations

6.6 Costs to Non-UK ships

After UK ratification of the MLC, the MCA would have the authority to enforce these minimum global standards for health and safety on non-UK registered vessels that call at UK ports under the no more favourable treatment clause. The costs associated with this are discussed in the IA for the 'Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations'.

6.7 Benefits of UK Ratification of the MLC

Section 3 and Annex 2 discuss the overall benefits of UK ratification of the MLC. The proposed Regulations will be necessary in order for these benefits to be realised. However, it is not possible to determine the precise contribution of the proposed Regulations to realising these benefits.

Consultees are invited to submit any additional evidence on the benefits of UK Ratification of the MLC

6.8 Monitoring and Enforcement

The requirements contained in the proposed Regulations would be monitored and enforced by the Maritime & Coastguard Agency in the UK, and other maritime safety administrations when UK ships visit ports in other countries, as part of their maritime labour inspections. The Survey and Certification costs will apply across all requirements of the MLC and are investigated in the IA for the 'Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations'.

7. RATIONALE AND EVIDENCE THAT JUSTIFY THE LEVEL OF ANALYSIS IN THIS IA

The MLC was developed on a tripartite basis and is strongly supported by UK shipowner and seafarer representative organisations, which also support the ratification of the MLC. Discussions on the proposals for implementing the MLC provisions on minimum age at the MLC Tripartite Working Group and the National Maritime Occupational Health and Safety Committee have been non-controversial, with both sides of industry stating that they reflect current good practice. Further evidence on specific

impacts will be sought through the consultation exercise. Further analysis of the impacts at this stage is not therefore considered necessary.

8. RISKS

The proposed Regulations need to be implemented in order to allow the UK to ratify the Maritime Labour Convention, 2006. The risks of ratifying the Convention and of not ratifying the Convention are explored in Annex 3.

9. SPECIFIC IMPACT TESTS

9.1. Equalities Assessment

The proposed Regulations would be applicable to all seafarers working on UK sea-going vessels to which the Regulations apply, irrespective of their age, ethnic origin, gender, nationality, race, sexual orientation or disability. The Maritime Labour Convention, 2006 is based on the fundamental rights and principles of workers (Article III):

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour; and
- (d) the elimination of discrimination in respect of employment and occupation.

These proposals are therefore considered to have no adverse impact as regards statutory equality duties.

9.2 Competition Assessment

The proposed Regulations would primarily bring existing UK legislation into line with the requirements of the MLC. The MLC aims to provide a benchmark for the decent employment of seafarers globally, and it is expected that the MLC would be very widely implemented internationally.

By introducing a set of minimum standards that apply internationally, the MLC should promote a more level competitive playing field internationally and reduce the ability of ship operators to gain a competitive advantage through poor treatment of seafarers.

It is likely that this would reduce the competitiveness of ship operators that are currently less compliant with the requirements of the MLC and improve the competitiveness of ship operators that are currently more compliant with the requirements of the MLC. However, the magnitude of this impact is uncertain.

By enabling the ratification of the MLC in the UK, it is possible that the proposed Regulations could have an impact on competition. The precise impact would depend on how the proposed Regulations affect relative costs.

Internationally, it is considered that the MLC is more likely to provide a competitive benefit to UK firms. Ratification of the MLC would allow the MCA to issue MLC certification, which would ensure that UK flagged vessels are not subject to unnecessary delays when visiting ships in ports of ratifying states. This should ensure that UK flagged vessels do not suffer a competitive disadvantage as a result of the introduction of the MLC globally.

Consultees are invited to offer any additional evidence on the potential for the proposed Regulations to impact on competition.

9.3. Small Firms Impact Test

It is appropriate that the working conditions for all workers should be underpinned by common minimum standards regardless of the size of the company for which they work. Any costs arising from these proposals would inevitably have the greatest impact on small firms with a small turnover.

As the MLC sets minimum standards for "decent work", it does not generally make concessions in those standards. The UK is making use of any flexibility in the MLC designed for smaller vessels or likely to apply to small companies.

In the case of regulations on minimum age and protection for young persons, existing legislation already applies to all ships where workers are employed, regardless of size and to all sizes of business. The current proposals broaden the scope of existing legislation to cover the self-employed.

For the public consultation exercise on the draft regulations, consultees will include micro, small, medium and large businesses. In particular, during the consultation period on these proposals, a meeting will be held with representatives of the small commercial vessel sector, in order to discuss the impact of the proposals on the micro-businesses and SMEs in that sector.

Consultees are invited to provide any additional evidence on the potential impacts of the proposed Regulations on small firms.

9.4 Health Impact Assessment

The objective of the MLC is to provide all seafarers with decent employment by setting minimum global standards for living and working conditions, providing an effective regime to ensure that those standards are enforced, and a framework for continuous improvement.

Regulation and Standard 1.1 and A1.1 of the MLC are intended to promote the health and well being of young seafarers. We have no data to demonstrate that there is a problem under the existing legislative framework so it will not be possible to assess the impact of the proposals.

9.5 Human Rights

The proposed Regulations implement provisions of the International Labour Organization's Maritime Labour Convention, 2006 which requires respect for the following fundamental rights and principles of workers (Article III):

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour; and
- (d) the elimination of discrimination in respect of employment and occupation.

There are no Human Rights compatibility issues arising from these Regulations.

9.6 Justice System

The main enforcement mechanism for these proposed Regulations will be through the inspection and certification of UK ships under the MLC by MCA surveyors. There are however also offences and penalties laid down in the existing Regulations amended by these proposals. In the current proposals those will remain unaltered. MCA will review these offences and penalties with the Ministry of Justice and HSE to ensure a consistent approach in all sets of regulations implementing the MLC, and as far as appropriate with similar offences and penalties in the equivalent legislation applying to shore-based workers.

10. REDUCING REGULATION POLICY

10.1 Direct costs and benefits to business calculations (following OITO methodology)

As these requirements are international in origin, and the proposals do not gold plate the requirement (i.e. not going beyond the minimum necessary), the measure is outside the scope of OITO.

10.2 Copy out

In preparing the regulations, Government policy on "copy out" has been applied as a means of transposing international legal requirements wherever possible. However, the Convention was not always drafted in a manner which facilitates this approach, and further elaboration is required in some cases. Particular difficulties are:

- Requirements which are set by reference to existing “national laws, regulations and other measures”, and
- Provisions which require the Member to determine a particular standard in consultation with shipowner and seafarer representative organisations.

In addition, where existing UK legislation is considered to meet Convention standards, changes to adopt the language of the Convention have not always been made to avoid costs to business from dealing with unnecessary changes.

10.3 Alternatives to regulations

Introducing the requirements without recourse to legislation has been considered. However, as one of the key objectives is to enable the UK to ratify the MLC, UK legislation must be brought fully into line with the MLC, and the Convention explicitly requires ratifying States to take action to deliver the measures. Therefore no satisfactory alternative mechanism has been identified at this stage.

10.4 Review clauses

The proposed Regulations include a clause which requires a Ministerial review five years after they are made, and every five years thereafter, in line with the “review policy” on introducing international obligations.

The basis of this review will be the “Article 22 report” required by the International Labour Organisation (ILO). Parties to the Maritime Labour Convention, 2006 will be required to submit a report to the ILO, under Article 22 of the ILO Constitution, providing evidence of effective implementation of the Convention. Preparing for this review will enable the UK to establish the effectiveness of the policy (enforcement action taken) and identify any necessary amendments to UK or to the Convention.

The review will examine UK MLC inspection reports and of any enforcement action taken under the regulations, and of the port state control record of UK ships in non-UK ports. In addition, complaints from seafarers on UK Ships to the UK as a flag state, and from seafarers in non-UK ships in UK ports, and the results of MCA investigations will be analysed.

A continuously reducing number of serious breaches and deficiencies in UK MLC inspections and Port State inspections, and complaints to MCA would demonstrate that the regulations were improving the standards on ships.

Successful resolution of complaints would also demonstrate that the regulations were having a positive impact.

11. SUMMARY AND PREFERRED OPTION

The proposed Regulations will implement the minimum changes required to ensure that the minimum age requirements for seafarers on UK ships fully comply with Regulation 1.1 and Standard A1.1 of the MLC. They will extend minimum age regulations to cover all seafarers, not just those who are employed.

Although these changes have relatively minor impacts on UK ships, they will contribute to allowing the UK to ratify the MLC, which in turn will enable the UK to enforce the same minimum age standards on all ships calling at UK ports, whether or not they fly the flag of a country which has ratified the MLC.

12. IMPLEMENTATION PLAN

The Regulations are part of a package of Regulations that are required to allow the UK to ratify the Maritime Labour Convention. Both the tonnage threshold for the Convention to come into force internationally (ratification by flag states representing 33% of the world’s tonnage) and the number of ratifications (30 countries) have been met and the Convention will come into force internationally on 20 August 2013. It is intended to bring these Regulations into force on that date.

A Marine Guidance Note would be published to accompany the Regulations which would explain the provisions and give guidance on their practical interpretation. Information would also be available on the MCA website. MGN88 (M+F) on the Merchant Shipping and Fishing Vessels (Health and Safety)(Employment of Young Persons) Regulations, would also be reviewed and republished as a Merchant Shipping Notice.

The primary enforcement mechanism for these regulations on UK ships would be through Flag State inspections for issue or renewal of a Maritime Labour Certificate. MCA surveyors would check the provisions for minimum age and protection of young persons in the shipowners' declaration of maritime compliance (DMLC) Part II as part of the inspection of UK ships.

Furthermore, shipowners must have published procedures to deal with seafarers' complaints about their working and living conditions and seafarers would also have the right to complain to an MCA surveyor in the UK or to any port state control officer in other countries, if they are not receiving their entitlements.

Both the inspection of the DMLC Part II and the requirement for a complaints procedure will be implemented in UK law by the draft 'Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations and are therefore not assessed in this IA. The consultation document and IA on these regulations is being consulted on separately.

Annex 1

References

No.	Legislation or publication
1	Maritime Labour Convention, 2006 http://www.ilo.org/global/standards/maritime-labour-convention/WCMS_090250/lang--en/index.htm
2	ILO (2001) The impact of seafarers' living and working conditions of changes in the structure of the shipping industry. Report JMC/29/2001/3 http://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_PUBL_9221122379_EN/lang--en/index.htm
3	European Commission (2006) Communication from the Commission under Article 138(2) of the EC Treaty on the strengthening of maritime labour standards. http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2006:0287:FIN:EN:PDF .
4	ILO (2012) Maritime Labour Convention, 2006: Frequently asked questions. http://www.ilo.org/global/standards/maritime-labour-convention/WCMS_177371/lang--en/index.htm
5	ILO (2011) Advantages of the Maritime Labour Convention, 2006. http://www.ilo.org/global/standards/maritime-labour-convention/WCMS_153450/lang--en/index.htm
6	Merchant Shipping and Fishing Vessels (Health and Safety)(Employment of Young Persons) Regulations 1998 http://www.legislation.gov.uk/uksi/1998/2411/contents/made
7	Merchant Shipping (Hours of Work) Regulations 2002 http://www.legislation.gov.uk/uksi/2002/2125/contents/made
8	Merchant Shipping Act 1995 http://www.legislation.gov.uk/ukpga/1995/21/contents
9	Update of mortality for workers in the UK merchant shipping and fishing sectors – Report for the Maritime and Coastguard Agency and the Department for Transport July 2007 http://www.dft.gov.uk/mca/rp_578_final_report_revsion_2-2.pdf
10	IMO (2012) International Shipping Facts and Figures – Information Resources on Trade, Safety, Security, Environment http://www.imo.org/KnowledgeCentre/ShipsAndShippingFactsAndFigures/TheRoleandImportanceofInternationalShipping/Documents/International%20Shipping%20-%20Facts%20and%20Figures.pdf

Annexes 2 to 6 are provided under separate cover.