 Regulatory Policy Committee	Opinion	
Impact Assessment (IA)	Merchant Shipping (Maritime Labour Convention) (Hours of Work) (Amendment) Regulations (“the 2013 Regulations”)	
Lead Department/Agency	Department for Transport	
Stage	Final	
IA number	DFT00227	
Origin	International	
Expected date of implementation (and SNR number)	20 August 2013 (SNR6)	
Date submitted to RPC	08/10/2013	
RPC Opinion date and reference	06/11/2013	RPC13-DFT-1849(2)
Overall Assessment	GREEN	
<p>RPC comments</p> <p>The IA is fit for purpose. The revised IA addresses the key issues raised in our previous Opinion (dated 19/08/2013), in particular with regard to the One-in, Two-out (OITO) assessment of the seafarer’s right to take a case to an Employment Tribunal, have been addressed. The Committee now considers the OITO assessment, an ‘IN’ with an Equivalent Annual Net Cost to Business (EANCB) of £0.1m, to be robust.</p>		
<p>Background (extracts from IA)</p> <p><i>What is the problem under consideration? Why is government intervention necessary?</i></p> <p>It is considered that seafarers should be entitled to adequate paid annual leave. However, employment conditions for seafarers vary across the world, with some seafarers working under unacceptable conditions whilst ship operators operating substandard ships gain a competitive advantage. Effective international standards are needed to address these issues. The ILO Maritime Labour Convention 2006 (MLC) aims to provide minimum living and working conditions for seafarers that are globally applicable and uniformly enforced, including provision for leave. Achieving this requires a package of new UK legislation to permit UK ratification, which would also avoid the costs of non-ratification.</p> <p><i>What are the policy objectives and the intended effects?</i></p> <p>The purpose of the 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 annual leave in the MLC, and to allow seafarers to enforce their leave entitlement by an Employment Tribunal claim. They will also, once the entire package is in place, allow the UK to ratify the MLC, thus enabling the Maritime and Coastguard Agency (MCA) to issue MLC certificates to UK ships and enforce these standards on non-UK ships calling at UK ports. Option 1 is the minimum required to ratify the MLC. Options 2 would align seafarers’ entitlements with those for workers ashore. Specific objectives can be found in the evidence base.</p> <p>What policy options have been considered, including any alternatives to</p>		

regulation? Please justify preferred option (further details in Evidence Base)

The British Chamber of Shipping and the Seafarers' Trades Unions support ratification of the MLC. Doing nothing is not therefore considered appropriate, as new legislation is required to enable the UK to ratify the MLC. Failure to ratify the MLC would limit its effectiveness at securing seafarer living and working conditions and would prevent UK ships obtaining MLC certification, risking potential delays at ports in ratifying countries. Option 1 is to introduce regulations which follow the approach of the MLC very closely, leaving uncertainty as to public holiday entitlements. Option 2 explicitly provides 8 days paid leave in respect of public holidays (avoiding different entitlements in different parts of the UK), giving seafarers similar entitlements to workers ashore; and provides the right to take a case to an employment tribunal on annual or additional paid leave. It is the preferred option as it provides certainty about seafarers' entitlements.

Comments on the robustness of the OITO assessment

Seafarer's right to take a case to an Employment Tribunal. The Department has addressed the comments in our previous opinion (dated 19/08/2013). The IA now identifies and monetises costs to compliant businesses relating to the seafarer's right to take a case to an Employment Tribunal on annual or additional paid leave matters. As the implementation here goes beyond minimum international requirements, this is correctly now scored as an 'IN' for OITO purposes, The estimated EANCB of £0.1m appears to be robust.

Seafarer's right to paid leave. The IA also provides further explanation to support the Department's position that the proposal for a seafarer's right to paid leave is consistent with minimum implementation of the Maritime Labour Convention.


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

For the parts of the proposal that are meeting minimum international requirements, a SaMBA is not required. A SaMBA is also not required for the seafarer's right to take a case to an Employment Tribunal as all of the measures are coming into force before 1 April 2014.

However, there is a section in the IA (10.3, page 34) that provides an assessment of impacts on small firms. The IA says "*the UK is making use of any flexibility in the convention designed for smaller vessels or likely to apply to small companies*" and that no specific issues for small firms were raised during the consultation from those representing small firms. This section should specifically address the potential impact of the measure that goes beyond minimum international requirements, including the applicability of the micro-business moratorium.

Quality of the analysis and evidence presented in the IA

The Department has addressed the comments in our previous opinion. The monetisation of the costs of a seafarer's right to take a case to an Employment Tribunal now addresses impacts on compliant vs non-compliant businesses.

Signed		Michael Gibbons, Chairman
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