
Merchant Shipping (Ship-to-Ship Transfers) Regulations 2010 and (Amendment) Regulations 2012

Department for Transport

RPC rating: fit for purpose

Description of proposal

The Post Implementation Review (PIR) explains that the Merchant Shipping (Ship-to-Ship Transfers) 2010 Regulations, as amended by the 2012 Regulations, were intended to:

- provide operators with a wider choice of safe locations for ship-to-ship (STS) transfer of cargo and bunkers (fuel oil used for international aviation and maritime transport) within approved harbour areas or within a single designated area of the UK territorial sea (off the coast of Southwold). Harbour authorities can apply for oil transfer licences to deliver a wider choice of safe locations for STS transfers;
- reduce the risk of STS transfers being undertaken in less safe areas outside of the UK territorial sea;
- leave small scale bunkering and lightering (the process of transferring cargo between vessels of different sizes) operations unaffected by the regulations; and
- implement EU requirements on the conservation of natural habitats and of wild fauna where cargo transfers are likely to significantly affect a European site.

Impacts of proposal

The impact assessment for the amended 2012 regulations estimated an annual net saving to business of £0.56m. The PIR does not attempt to quantify the actual savings to business or verify the assumptions on which these savings were estimated.

The impact assessment anticipated that the Maritime and Coastguard Agency (MCA) would incur the principal cost of the regulation as a result of dealing with applications for STS transfers. These costs were estimated at approximately £9,500 per year.

The PIR discusses costs to operators from the changes, including familiarisation and changes to reporting requirements, but these have not been quantified.

The main benefits identified by the impact assessment were that operators would be allowed to carry out STS transfers in a designated area in the UK territorial sea,

outside the waters of harbour authorities. This meant that operators could benefit from a corresponding reduction in port charges under the 2010 Regulations.

As this measure has a limited and net beneficial overall impact on business, the Department has produced a light-touch PIR based on desk research and evidence gathered from an informal stakeholder engagement letter and questionnaire, which received eight responses (from a total of 17 questionnaires sent). The Department has said that the 17 stakeholders contacted are 'key stakeholders' but have not indicated whether they form a representative sample of all the businesses affected by the regulations.

Data was gathered from the MCA regarding the number and types of vessels undertaking STS transfers in UK territorial waters and whether any incidents have occurred. The Department also consulted with the five harbour authorities currently licenced to authorise STS transfers in their waters.

Based on the MCA data and an assessment of the responses to the stakeholder engagement exercise, the Department considers that the objectives and intended effects of the STS Regulations have been successfully achieved. On the whole, the comments indicated that the current arrangements are effective and that there is no significant evidence that changes would be necessary.

With regard to the number of STS transfers taking place in UK territorial waters off the coast of Southwold, the Department notes a significant decrease since the STS Regulations came into force (from 201 in 2012 to 39 in 2014). However, the reduction appears to be due to a combination of factors including changes in the oil market. The Department's assessment is that the reduction in STS transfers is not due to the STS Regulations.

With regard to spillages, MCA shows that there have been no incidents within the UK territorial sea since the STS Regulations were implemented. Given the two minor spillages in 2009 this may indicate that the regime has reduced risk.

Quality of submission

As noted above, the Department has not attempted to quantify actual savings to business.

The Department states that *"we considered it appropriate to only carry out a light touch PIR, and as a consequence we have not carried out a full assessment of the actual costs and benefits of the regulation. Under this a revised IA would only be produced if there was relevant new information that came to light that a significant change was required to the regulations. No such information has been found either*

through our analysis of evidence provided via the MCA or through our stakeholder engagement exercise and so no full assessment of costs/benefits has been produced to update on the figures in the 2011 version... The stakeholder engagement exercise did find that in general, the costs and benefits were as expected”.

The IA would benefit from providing more information to support the conclusion that costs and benefits were as expected.

While a light-touch PIR appears proportionate in this case, it is disappointing that the Department has not produced more robust and quantitative evidence on the actual impact of the measures on business to date.

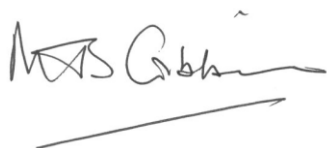
However, the qualitative feedback appears to support the Department’s preferred option of renewing the regulations.

With regard to the Department’s assessment that the significant reduction in STS transfers is not due to the STS Regulations, in view of the lack of evidence of policy impacts, we suggest that the Department should keep this under review.

Departmental recommendation	Renew
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RPC assessment

Is the evidence in the PIR sufficiently robust to support the departmental recommendation?	Yes
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Michael Gibbons CBE, Chairman