

<b>Title:</b> The PIR of the Merchant Shipping (Marine Equipment) Regulations 2016 <b>PIR No:</b> DfTPIR0044 – 22/10/2021  <b>Original IA/RPC No:</b> DfT00335 <b>Lead department or agency:</b> MCA <b>Other departments or agencies:</b> DfT  Contact for enquiries: <b>MEQA@mca.gov.uk</b>	<b>Post Implementation Review</b>
	<b>Date:</b> 05/12/2021
	<b>Type of regulation:</b> EU
	<b>Type of review:</b> Statutory
	<b>Date measure came into force:</b> 05/12/2016

## 1. What were the policy objectives of the measure?

The Marine Equipment Directive (MED) sets out approval requirements for marine equipment placed on board ships. The most recent iteration of the EU Council Directive (2014/90/EU) was transposed into UK law by the Merchant Shipping (Marine Equipment) Regulations 2016 S.I. 2016/1025 (the '2016 Regulations') (see Annex A).

The 2016 Regulations form part of the UK's harmonised approach to ensuring the safety of UK ships and the protection of the marine environment. They aim to maintain a level playing field with EU member states for UK manufacturers of marine equipment by transposing the requirements of the 2014 Directive and thus the policy objectives could be summarised as:

1. Maintain harmonised approval of marine equipment required by International Maritime Organization (IMO) Conventions.
2. Ensure UK manufacturers' equipment remains accepted on ships registered with EU Member States, promoting the UK's economic growth through export.
3. Ensure the marine equipment used on board UK ships continues to meet the performance and testing standards within the international instruments without the need to create a UK specific approval regime, and to enhance safety and pollution prevention at sea.
4. Ensure marine equipment placed on the UK market and on board UK ships is lawfully placed on the market and on board ships, and that non-compliant equipment does not enter the UK market.

## 2. What evidence has informed the PIR?

The Impact Assessment for the 2016 Regulations concluded that the impacts, in relation to the costs and benefits, were noted to be £0.613m in costs to industry and £0.852m in benefits. Resulting in an NPV of £0.15m and EANDCB of £-0.12m placing it below the de-minimis threshold of £5m annual costs/benefits, under better regulation guidance<sup>1</sup>. Due to the low costs and benefits put on industry it was deemed appropriate and proportionate to undertake a light touch PIR.

Evidence which has informed the PIR:

- There has been engagement with industry stakeholders relating to the 2016 Regulations, and to the accompanying EU-Exit related amendments in 2019. Annex B outlines this in further detail.
- Data on the UK fleet of merchant vessels over 100GT from 2015 – 2021<sup>2</sup>
- 2016 Regulations Impact Assessment
- Number of investigations into non-compliant equipment

<sup>1</sup> Better Regulation Framework - <https://www.gov.uk/government/publications/better-regulation-framework>

<sup>2</sup> Data collected from the UK Ship Register, which is an internal MCA administrative database, accessed June 2021

### 3. To what extent have the policy objectives been achieved?

The original policy objectives were:

1. Maintain harmonised approval of Marine Equipment required by International Maritime Organization (IMO) Conventions.
2. Ensure UK manufacturers' equipment remains accepted on ships registered with all EU Member States, promoting the UK's economic growth through export.
3. Ensure the marine equipment used on board UK ships continues to meet the performance and testing standards within the international instruments without the need to create a UK specific approval regime, and to enhance safety and pollution prevention at sea.
4. Ensure marine equipment placed on the UK market and on-board UK ships is lawfully placed on the market and on board ships, and that non-compliant equipment does not enter the UK market.

Until the UK left the EU, the 2016 Regulations achieved their original policy objectives. The 2016 Regulations implemented the 2014/90/EU MED, which met the UK's obligation as an EU member state at that time. Objective 1 has been met: there is a consistent approval of marine equipment, and this currently remains in line with the EU's approach. Objective 4 has also been met. The 2016 Regulations have resulted in at least six investigations into non-compliant equipment. The 2014/90/EU MED, implemented by the 2016 Regulations, introduced an enhanced market surveillance regime to be used by EU Member States to ensure enforcement of the Directive took place uniformly across the EU. The 2016 Regulations have therefore successfully met, and continue to meet, objective 4 regarding this.

Due to the UK's exit from the EU, the 2016 Regulations required amendments in 2019 to clarify potential discrepancies that may have occurred during the withdrawal arrangements. The amending instruments were:

- The Merchant Shipping (Marine Equipment) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/470); and
- The Merchant Shipping (Marine Equipment) (Amendment) (UK and US Mutual Recognition Agreement) (EU Exit) Regulations 2019 (S.I. 2019/1304)

The UK is currently in a standstill period following its departure from the EU. This means that as matters currently stand, EU-approved marine equipment will no longer be accepted on UK ships from 1 January 2023<sup>3</sup>. Therefore objective 3 (Ensure the marine equipment used on board UK ships continues to meet the performance and testing standards within the international instruments without the need to create a UK specific approval regime, and to enhance safety and pollution prevention at sea) will no longer be met. This is because marine equipment must be approved by a UK Approved Body and affixed with the UK Conformity Mark from 1 January 2023. Additionally, this means that objective 2 (Ensure UK manufacturers' equipment remains accepted on ships registered with all EU Member States, promoting the UK's economic growth through export) may also no longer be met, unless UK manufacturers choose to go through both the UK Approval process and the EU Approval process for marine equipment.

There are limited options to be taken to meet objectives 2 and 3 following the end of the standstill period on 1 January 2023. The UK's departure from the EU has meant that there has been a change in priorities, as well as presenting potential opportunities for new trade agreements

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<sup>3</sup> EU approved marine equipment placed on board a UK flagged vessel before the 1<sup>st</sup> January 2023 can remain on board for the duration of its operational life, and only when items are replaced after the 1<sup>st</sup> January 2023 must they be replaced with UK approved marine equipment.

beyond those possible as an EU member state. Such options were not possible, and therefore not considered, when the original policy objectives were formed.

Industry is content with the 2016 Regulations, and with the 2019 EU Exit amendments. There has been no negative feedback from industry regarding undue costs or burden to industry, following engagement with stakeholders in 2020. See Annex B for further details.

However, because the UK has left the EU, it means that the 2016 Regulations are likely to need updating again before the 1 January 2023 deadline when EU-approved equipment will no longer be accepted on UK ships. Analysis will be undertaken in due course to better understand the changes that may need to be made to the Regulations.

It is recommended that the 2016 Regulations remain in place, but that relevant amendments are made when necessary to reflect changes to the UK's relationship with the EU, and changes to the acceptance of EU equipment following the end of the standstill period on 1 January 2023.

Sign-off for Post Implementation Review: Chief economist/Head of Analysis and Minister

***I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.***

Signed: ***Katy Ware***

Date: 23/11/2021

## Further information sheet

Please provide additional evidence in subsequent sheets, as required.

### 4. What were the original assumptions?

The Impact Assessment, which was completed before the UK voted to leave the EU, assumed the original costs of the Regulations to be £0.613m over 10 years. This considered only direct costs where they are first encountered (e.g. to UK manufacturers, UK Notified Bodies etc). The figure includes familiarisation costs for manufacturers, formal obligation costs (such as the requirement to provide ships with a Declaration of Conformity), and translation costs. This also included transitional costs to Notified Bodies, and costs to the MCA of regulation and enforcement, including market surveillance. A table from the impact assessment carried out for the 2016 Regulations outlining costs and benefits can be found in Annex C.

The original benefits of the Regulations were valued at £0.852m over 10 years. It was also assumed that an important non-monetisable benefit of this regulation for ship operators is the reduction in the use of non-compliant marine equipment. This is through the enhanced market surveillance and enforcement programme across the EU, which was expected to lead to a reduction in the use of non-compliant equipment. This would have safety benefits for those on-board EU flagged ships, and would reduce negative impacts on the marine environment.

### 5. Were there any unintended consequences?

Since the Regulations came into force on 5 December in 2016, there has been an overall decline in the number of vessels on the UK Ship Register (this only includes Merchant vessels over 100 Gross Tons (GT)).

Table 1 in Annex D shows the annual number of registered vessels between 2015 - 2021, as well as the total gross tonnage of the fleet. The figures included from June 2015 and 2016 provide a baseline from before the 2016 Regulations came into force. Figure 1 in Annex D provides a visual representation of the trend in the number of vessels on the UK Ship Register since 2015. This shows that, until June 2018, the number of vessels on the UK Ship Register remained relatively stable.

The decline in the number of vessels could be due to a variety of factors, including the fact that during this period the UK voted to leave the EU. It is therefore difficult to attribute any change in figures to the implementation of the Merchant Shipping (Marine Equipment) Regulations 2016.

Engagement took place with industry stakeholders (please see Annex B for further details), and there was no negative feedback from industry regarding undue costs or burden to industry of the Regulations.

Therefore, given the relatively low-cost burden of the regulations, the introduction of the Merchant Shipping (Marine Equipment) Regulations 2016 is unlikely to have been a causal factor in the declining trend in the number of vessels on the UK Ship Register.

## 6. Has the evidence identified any opportunities for reducing the burden on business?

It historically reduced the burden on industry, through the removal of gold-plating, but analysis of the evidence has not uncovered any other opportunities for reducing burden on industry.

## 7. How does the UK approach compare with the implementation of similar measures internationally, including how EU member states implemented EU requirements that are comparable or now form part of retained EU law, or how other countries have implemented international agreements?

EU Directives must be incorporated into national legislation by EU member states. It is therefore expected that EU states have implemented the requirements in a similar way to the UK, and around a similar period to the UK. However, although compliance with the Marine Equipment Directive is mandatory for any ship issued with a safety certificate in accordance with IMO Conventions, during the initial transposition (in 1999) it was decided to extend the application of the Marine Equipment Directive to UK domestic ships. This is because no equivalent approval system for marine equipment was available and aimed to ensure marine equipment would not jeopardise the safety of any UK ship or to the UK marine environment wherever UK ships operate.

For example,

- Denmark introduced legislation implementing the Marine Equipment Directive, which came into force on 18 September 2016<sup>4</sup>
- Luxembourg introduced regulations relating to the Marine Equipment Directive on 23 December 2016<sup>5</sup>
- The Republic of Ireland introduced Regulations (S.I. 177/2017) to implement the requirements of the Marine Equipment Directive, which came into force on 1 May 2017<sup>6</sup>

From engagement with industry stakeholders (see Annex B), there have been no issues raised by industry that the 2016 Regulations (and amendments) are either too costly or burdensome. The UK's departure from the EU means that the UK no longer has an obligation to comply with the EU's Marine Equipment Directive and could choose to do things differently after the end of the standstill period on 1 January 2023. However, at present, there is no desire to significantly deviate from the EU approach. This is because this comparable approach simplifies processes for industry that may wish to sell into both UK and EU markets as far as is possible.

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<sup>4</sup>Denmark -

<https://www.dma.dk/Vaekst/Rammevilkaar/Legislation/Orders/Order%20on%20marine%20equipment.pdf#search=2014%2F90%2Feu>

<sup>5</sup>Luxembourg - [http://maritime.lu/sites/maritime.lu/files/files/pdf/legislation/legis\\_nation/rqd\\_dir201490.pdf](http://maritime.lu/sites/maritime.lu/files/files/pdf/legislation/legis_nation/rqd_dir201490.pdf)

<sup>6</sup>Republic of Ireland - <http://www.irishstatutebook.ie/eli/2017/si/177/made/en/print>

## **Annex A: Background**

International Maritime Organization (IMO) Conventions require ships to carry safety equipment and counter pollution equipment that is approved by the ship's Flag Administration. However, the requirements of the IMO leave room for interpretation given that potentially differing levels of safety may be experienced on board ships flying the flags of the various IMO member states. Therefore, the European Community considered it necessary to create an EU-wide system of approvals for marine equipment to reduce inconsistencies in approval of marine equipment, and thus introduced Council Directive 96/98/EC on Marine Equipment (MED). The MED requires the uniform application of the relevant International Instruments by all Member States for marine equipment placed on board EU flagged ships and was transposed into UK law by the Merchant Shipping (Marine Equipment) Regulations 1999.

Compliance with the existing MED is mandatory for any ship issued with a safety certificate in accordance with the IMO Conventions. This is mainly internationally trading passenger ships and internationally trading cargo ships over 500 Gross Tonnage (GT). However, during initial transposition, it was decided to extend the application of the MED to UK domestic ships as no equivalent approval system for marine equipment was available and aimed to ensure marine equipment would not jeopardise the safety of any UK ship or to the UK marine environment wherever UK ships operate.

Experience of operating the MED (96/98/EC) led the European Commission and Member States to identify a number of issues. In order to address those issues, the European Commission decided to recast and repeal Directive 96/98/EC

The resultant Directive, EU Marine Equipment Directive 2014/90, was transposed into UK law by the Merchant Shipping (Marine Equipment) Regulations 2016.

## **Annex B: Industry engagement**

In 2020, the MCA held four industry engagement events to assist industry in understanding the change from the MED to the UK system, including the 2019 EU Exit amendments to the Regulations, the Mutual Recognition Agreement with the United States, Marine Information Note (MIN) 590 Amendment 4, and Merchant Shipping Notice (MSN) 1874. This was arranged following a number of questions received from industry regarding how the new system would work. These industry engagement sessions were held in October and November 2020, with 102 attendees from various organisations. These included representatives from Class Organisations, Trade Unions, Notified Bodies, and others. Although no specific questions relating to costs or burden to industry were asked of industry stakeholders, opportunity for industry to ask questions was provided and there was no negative feedback from industry regarding undue costs or burden to industry.

## Annex C: Overview of IA costing and benefits table

Table 14

Policy Option 2 (Best estimate)	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Total (undiscounted)
<b>Costs not in scope of OI30</b>											
Costs to manufacturers - Familiarisation costs	£7,605	£0	£0	£0	£0	£0	£0	£0	£0	£0	£7,605
Costs to manufacturers - Adding formal obligations	£2,105	£2,105	£2,105	£2,105	£2,105	£2,105	£2,105	£2,105	£2,105	£2,105	£21,045
Costs to manufacturers - Translation costs	£63,180	£0	£0	£0	£0	£0	£0	£0	£0	£0	£63,180
Costs to Notified bodies - Transitional costs	£70,000	£20,900	£20,900	£20,900	£20,900	£20,900	£20,900	£20,900	£20,900	£20,900	£258,100
Costs to the MCA of regulation and enforcement	£16,400	£16,400	£16,400	£16,400	£16,400	£16,400	£16,400	£16,400	£16,400	£16,400	£164,000
Costs to the MCA for electronic tagging	£45,000	£0	£0	£0	£0	£0	£0	£0	£0	£0	£45,000
<b>Total costs out of scope of OI30</b>	<b>£204,290</b>	<b>£39,405</b>	<b>£39,405</b>	<b>£39,405</b>	<b>£39,405</b>	<b>£39,405</b>	<b>£39,405</b>	<b>£39,405</b>	<b>£39,405</b>	<b>£39,405</b>	<b>£558,930</b>
<b>Total Costs</b>	<b>£204,290</b>	<b>£39,405</b>	<b>£39,405</b>	<b>£39,405</b>	<b>£39,405</b>	<b>£39,405</b>	<b>£39,405</b>	<b>£39,405</b>	<b>£39,405</b>	<b>£39,405</b>	<b>£558,930</b>
<b>Benefits in scope of OI30</b>											
Benefits of the reduction of some Gold Plating	£84,591	£84,193	£83,796	£83,398	£83,000	£82,602	£82,204	£81,806	£81,408	£81,010	£828,009
<b>Total benefits in scope of OI30</b>	<b>£84,591</b>	<b>£84,193</b>	<b>£83,796</b>	<b>£83,398</b>	<b>£83,000</b>	<b>£82,602</b>	<b>£82,204</b>	<b>£81,806</b>	<b>£81,408</b>	<b>£81,010</b>	<b>£828,009</b>
<b>Net Benefit</b>	<b>-£117,458</b>	<b>£45,275</b>	<b>£44,877</b>	<b>£44,479</b>	<b>£44,081</b>	<b>£43,683</b>	<b>£43,285</b>	<b>£42,887</b>	<b>£42,489</b>	<b>£42,092</b>	<b>£275,690</b>
<b>Net Benefit OI30</b>	<b>£84,591</b>	<b>£84,193</b>	<b>£83,796</b>	<b>£83,398</b>	<b>£83,000</b>	<b>£82,602</b>	<b>£82,204</b>	<b>£81,806</b>	<b>£81,408</b>	<b>£81,010</b>	<b>£828,009</b>

## Annex D: UK fleet (2015 – 2021)

Table 1 – UK Merchant ship fleet (100GT and over)

Month-Year	No. of Vessels	Total GT
Jun-15	1,327	14,365,222
Jun-16	1,332	15,268,917
Jun-17	1,310	16,067,921
Jun-18	1,321	16,508,905
Jun-19	1,233	10,469,832
Jun-20	1,159	10,290,376
Jun-21	1,102	10,326,773

Figure 1 – UK Merchant ship fleet graph (100GT and over)

UK Fleet - Merchant over 100GT

