

# The Merchant Shipping (Cargo and Passenger Ship Construction and Miscellaneous Amendments) Regulations 2022

<b>Lead department</b>	Department for Transport
<b>Summary of proposal</b>	The Regulations will implement into UK law the latest construction standards for passenger and cargo ships engaged on international voyages, concerning structure, subdivision and stability, machinery and electrical installations.
<b>Submission type</b>	Impact assessment (IA) – 10 November 2022
<b>Legislation type</b>	Secondary legislation
<b>Implementation date</b>	29 March 2023
<b>Policy stage</b>	Final
<b>RPC reference</b>	RPC-DfT-5244(1)
<b>Opinion type</b>	Formal
<b>Date of issue</b>	09 January 2023

## RPC opinion

<b>Rating<sup>1</sup></b>	<b>RPC opinion</b>
<b>Fit for purpose</b>	The IA is proportionate and fit for purpose. The IA provides a highly detailed qualitative assessment of impact and explains satisfactorily why it would not be practical or proportionate to further try to quantify impacts. The RPC can confirm the measure as non-qualifying for the Business Impact Target under the international obligations exclusion.

## Business impact target assessment

	<b>Department assessment</b>	<b>RPC validated</b>
<b>Classification</b>	Non-qualifying	Non-qualifying (international)
<b>Equivalent annual net direct cost to business (EANDCB)</b>	Not quantified	

<sup>1</sup> The RPC opinion rating is based only on the robustness of the EANDCB and quality of the SaMBA, as set out in the [Better Regulation Framework](#). RPC ratings are fit for purpose or not fit for purpose.

<b>Business impact target (BIT) score</b>	Not quantified	N/A
<b>Business net present value</b>	Not quantified	
<b>Overall net present value</b>	Not quantified	

## RPC summary

<b>Category</b>	<b>Quality<sup>2</sup></b>	<b>RPC comments</b>
EANDCB	<b>Green</b>	The IA states that the majority of the requirements will be cost-neutral, but there is a lack of evidence around the scale of the costs already incurred, even following a consultation with industry. The RPC agrees that further work to quantify these impacts would likely be disproportionate. The measure is non-qualifying for the Business Impact Target under the international obligations' exclusion.
Small and micro business assessment (SaMBA)	Not required	As a measure implementing an international obligation, a SaMBA is not required but the IA includes a useful discussion in this area.
Rationale and options	<b>Satisfactory</b>	The rationale for intervention is explained well in terms of ensuring the safety of seafarers, passengers and vessels. The IA considers two regulatory options against the "do nothing" counterfactual. Option 2 is the Department's preferred option because it reduces administrative burdens, provides legal certainty to the industry and creates a more level playing field between UK ships calling at foreign ports and foreign-flagged ships calling at UK ports.
Cost-benefit analysis	<b>Satisfactory</b>	The IA does not quantify any costs and benefits of this policy due to lack of data and the likely low impact of the changes. Those measures thought not to be cost-neutral are described qualitatively in the annex. This approach appears proportionate. The IA would benefit from providing a narrative around the nature, frequency and potential impact of possible future amendments under ambulatory referencing.
Wider impacts	<b>Satisfactory</b>	The IA contains a brief competition assessment which states that the policy maintains a level playing field. It could be improved by considering the impacts of the requirements on innovation (in safety) and the wider economy in providing the materials and parts needed to meet the technical standards.
Monitoring and evaluation plan	<b>Satisfactory</b>	The IA includes a commitment to conduct a low-evidenced post-implementation review of the policy in five years. It explains that the review will analyse data from the Maritime and Coastguard Agency's ship survey and inspection databases to evaluate

<sup>2</sup> The RPC quality ratings are used to indicate the quality and robustness of the evidence used to support different analytical areas. Please find the definitions of the RPC quality ratings [here](#).

---

compliance and safety standards, as well as collating feedback from stakeholder engagement. This approach appears proportionate.

---

## Summary of proposal

The Regulations will implement into UK law the latest construction standards for passenger and cargo ships engaged on international voyages, concerning structure, subdivision and stability, machinery and electrical installations, as laid down in Chapter II-1 of the Annex to the International Convention for the Safety of Life at Sea, 1974 (“SOLAS”). This meets the UK’s international obligations to amend domestic law to bring it into line with international requirements.

### EANDCB

The IA states that the majority of the requirements will be cost-neutral. Of the other requirements, most of the costs will have already been incurred by businesses since almost all of them will have ensured they are meeting the required standards internationally.

The IA’s analytical approach is consistent with the RPC case histories on counterfactuals for international obligation measures, acknowledging that these costs should, in principle, be included in the EANDCB for BIT accounting purposes for international measures. However, the IA explains that there is a lack of evidence around the scale of the costs already incurred, even following a consultation with industry, and *“it is not possible to reliably assess the ‘typical’ changes to the shipbuilding process that resulted from the new rules”* because different vessels are likely to have taken different approaches to complying. Nevertheless, the IA provides a highly detailed qualitative assessment of impacts at annexes A and B.

The RPC guidance allows for the Department to discuss the practicability and proportionality of making such an assessment on a case-by-case basis and the RPC accepts that further work to try to quantify these impacts would likely be impractical and disproportionate. The measure is classified for BIT reporting purposes as a non-quantified, non-qualifying (international) measure. The Department notes that the absence of evidence means that it is not possible to attach certainty to the cost of the measure falling below the *de minimis* threshold of £5 million EANDCB but that it considers that overall costs are unlikely to have been significant. On the basis of the detailed qualitative assessment provided, this appears to be a reasonable conclusion.

### SaMBA

As a measure implementing an international obligation, a SaMBA is not required but the IA includes a useful discussion in this area. The IA states that exemptions for medium, small and micro businesses would not be appropriate, presumably due to the international safety requirements of the policy, but this is not explained. The IA should also consider mitigation for such businesses, but the RPC assumes this would not be appropriate for similar reasons.

Regardless, the IA states that available data from Companies House shows that the majority of companies involved in ship building are unlikely to meet the definition of a

small or micro business and therefore such businesses are extremely unlikely to be affected.

The IA acknowledges that some medium-sized businesses are likely to be impacted by the measures.

## Rationale and options

The rationale for intervention is explained well in terms of ensuring the safety of seafarers, passengers and vessels, and that regulation is necessary to ensure that “*safety is guaranteed across the sector, and that no operator can benefit by implementing lower standards*”.

The IA considers two regulatory options against the “do nothing” counterfactual. Option 1 brings UK law in line with recent updates to the Chapter II-1 requirements by transposing them into UK law via traditional statutory instruments. Option 2 does the same as Option 1 but includes an ambulatory reference provision for future amendments. This means that any new amendments to the international convention in future will automatically become UK law without the need for further statutory instruments to bring them into force. Option 2 is the Department’s preferred option because it reduces administrative burdens, provides legal certainty to the industry and creates a more level playing field between UK ships calling at foreign ports and foreign-flagged ships calling at UK ports.

## Cost-benefit analysis

The IA does not quantify any costs and benefits of this policy due to lack of data and the likely low impact of the changes. Further, since the standards have been in place internationally for some time, the costs required to meet these standards are thought to have already been incurred by UK operators.

The IA acknowledges that there will have been some initial familiarisation costs to industry, but these are thought to be very small. It also states that the majority of the measures are thought to be cost-neutral, due to being clarificatory, technical or extremely minor, but a small number of the requirements will have imposed ongoing costs to industry. These are not monetised but are described qualitatively in the annex. The IA would benefit from providing further justification in places for the elements judged as cost neutral assessment at annex A and from discussing further the possible scale of impact for the unquantified net impact elements at annex B. Nevertheless, the approach overall appears to be proportionate.

### *Ambulatory referencing*

The more detailed discussion at annex C around ambulatory referencing is welcome but the IA would benefit from providing a narrative around the nature, frequency and potential impact of possible future amendments (in this annex and summarised around paragraph 2.17). The IA would also benefit from explaining further why this approach is preferred and from describing in more detail the process of consultation and consideration at an international level before any changes are agreed (and the means by which these changes are communicated to UK vessel operators).

## Wider impacts

The IA contains a brief competition assessment which states that the policy maintains a level playing field.

It could be improved by considering the impacts of the requirements on innovation (in ship safety) and the wider economy in providing the materials and parts needed to meet the technical standards. The IA could also expand on the expected impacts on international trade and investment indicated on the first page.

## Monitoring and evaluation plan

The IA includes a commitment to conduct a low-evidenced post-implementation review of the policy in five years. It explains that the review will analyse data from the Maritime and Coastguard Agency's ship survey and inspection databases to evaluate compliance and safety standards, as well as collating feedback from stakeholder engagement. This approach appears proportionate.

This review could also be used as an opportunity to fill many of the gaps in the evidence in this impact assessment once the costs and benefits have been realised.

### Regulatory Policy Committee

For further information, please contact [regulatoryenquiries@rpc.gov.uk](mailto:regulatoryenquiries@rpc.gov.uk). Follow us on Twitter [@RPC\\_Gov\\_UK](https://twitter.com/RPC_Gov_UK), [LinkedIn](#) or consult our website [www.gov.uk/rpc](http://www.gov.uk/rpc). To keep informed and hear our views on live regulatory issues, subscribe to our [blog](#).