

# The Merchant Shipping (Prevention of Air Pollution from Ships) (Amendment) Regulations 2023

<b>Lead department</b>	Department for Transport
<b>Summary of proposal</b>	The Government are introducing amendments to the Merchant Shipping Regulations (MSRs) to bring the UK in line with International Maritime Organization (IMO) measures.
<b>Submission type</b>	Impact assessment (IA) – 20 January 2023
<b>Legislation type</b>	Secondary legislation
<b>Implementation date</b>	April 2023
<b>Policy stage</b>	Final
<b>RPC reference</b>	RPC-DfT-5256(1)
<b>Opinion type</b>	Formal
<b>Date of issue</b>	02 March 2023

## RPC opinion

<b>Rating<sup>1</sup></b>	<b>RPC opinion</b>
<b>Fit for purpose</b>	<p>The IA includes a clear description of the broader merchant shipping policy, setting out the counterfactual and baseline positions, as well as the amendments that are being made at this time. The Department has identified a good range of impacts, quantifying these where possible to provide illustration of the impact arising due to the regulations being adopted in the UK, while acknowledging the need for compliance by those already undertaking international voyages. The IA notes the difficulty in establishing the number of small and micro businesses (SMBs) in scope of the policy, but includes further discussion considering the likely presence of, and impact upon, SMBs. The Department discusses the potential trade, competition and environmental impacts of the policy, however the IA could have also considered any distributional or localised impacts. The IA includes a clear monitoring and evaluation (M&amp;E) plan.</p>

<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.

## Business impact target assessment

	<b>Department assessment</b>	<b>RPC validated</b>
<b>Classification</b>	Non-qualifying regulatory provision	Non-qualifying regulatory provision (international)
<b>Equivalent annual net direct cost to business (EANDCB)</b>	£42.6 million	£42.6 million <i>(2019 prices, 2020 pv)</i>
<b>Business impact target (BIT) score</b>	n/a	n/a
<b>Business net present value</b>	£-0.1 million	
<b>Overall net present value</b>	£-0.5 million	

## RPC summary

<b>Category</b>	<b>Quality<sup>2</sup></b>	<b>RPC comments</b>
EANDCB	<b>Green</b>	The Department identify a good range of impacts and has quantified them appropriately. The IA clearly sets out the baseline and counterfactual positions, which are complex given the international regulations which in scope vessels would already need to be compliant with.
Small and micro business assessment (SaMBA)	<b>Green</b>	As a non-domestic measure, there is no framework requirement for a SaMBA. The IA notes the difficulty in attaining robust estimates of the number of SMBs in scope, as well as providing sufficient further consideration of the likely SMBs affected and the type of impacts upon them. The IA should be improved by reconsidering its position on whether SMBs would be disproportionately impacted or not.
Rationale and options	<b>Satisfactory</b>	The IA clearly sets out the current policy position, as well as the international context in which the policy changes originate. The IA clearly explains that non-regulatory options are not considered as they would be ineffective in meeting international obligations.
Cost-benefit analysis	<b>Satisfactory</b>	The Department uses a good range of evidence to support the analysis in the IA. The calculations that inform estimates are clearly set out and there are continual acknowledgement of potential risks and uncertainty in the analysis. The IA should be improved by clearly describing the evidence to support familiarisation assumptions.
Wider impacts	<b>Good</b>	The IA includes a detailed consideration of the environmental, trade and investment, and competition impacts of the policy. However, the IA could be improved by also considering whether the impacts (costs and benefits) may be concentrated in specific areas surrounding ports, as well as whether there will be impacts upon innovation.
Monitoring and evaluation plan	<b>Good</b>	The Department commit to undertaking a post-implementation review (PIR) for the policy and discuss the initial M&E plan. The IA could be improved by providing detail of what would need to be seen in the evidence sources mentioned, to determine the effectiveness of the policy.

<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](#).

## Summary of proposal

Under the UK's international obligations, requirements set out by the IMO must be incorporated into UK domestic law via amendments to the Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008. These new measures have already come into force internationally and took effect as of 1 January 2023. The IA discusses two options:

- Option 0 – Do nothing; and
- Option 1 – Full implementation of the latest international regulations into UK law for UK-flagged vessels that perform international voyages.

The IA presents the main costs of option 1 to be the initial familiarisation costs for UK-flagged vessels performing international voyages, the costs faced by the public sector of enforcing the MSRs and the costs to ship operators from making their vessels more carbon efficient (in line with internationally set standards). In addition, the IA discusses the benefits as being the carbon dioxide (CO<sub>2</sub>) reductions and the avoidance of the risk for the UK to fail to meet its international obligation.

## EANDCB

### Counterfactual/baseline

The IA clearly sets out the current position regarding the MSRs, as well as clarifying the status of the international obligations. The IA would be improved by providing additional detail on how the impacts discussed in paragraph 4.24 (relating to the increase in the total number of vessels in the fleet), factor into the baseline. It also establishes the likelihood that regardless of the UK introducing the policy, UK flagged vessels undertaking international voyages would need to be compliant with the requirements due to said international obligations being present globally. The Department has included an appropriate counterfactual for the analysis, in accordance with RPC guidance<sup>3</sup>.

### Direct and indirect impact(s)

The Department clearly set out and discuss the process through which impacts have been classified as direct and indirect, in accordance with RPC guidance<sup>4</sup>. In addition, the IA clearly discusses the status of this measure with regards to its exclusion from the Business Impact Target (BIT), given that it derives from an international obligation.

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<sup>3</sup> <https://www.gov.uk/government/publications/rpc-case-histories-counterfactuals-september-2020--2>

<sup>4</sup> <https://www.gov.uk/government/publications/rpc-case-histories-direct-and-indirect-impacts-march-2019>

## SaMBA

### Scope

As a non-domestic measure, there is no framework requirement for a SaMBA. Nevertheless, the IA includes a short SaMBA. While the Department notes the difficulty in establishing the number of SMBs in scope of the policy, it goes on to provide a good degree of discussion and consideration of alternative means of assessing the scope of SMBs affected. The IA provides an appropriate proxy, using typical crew size, to reflect the likely number of SMBs. The IA provides an acceptable level of discussion of the impact to SMBs, discussing how overall, the impacts are expected to scale along with vessel activity, and as such it is not expected that SMBs would be disproportionately affected. However, the Department should provide more detail on why SMBs are not expected to be disproportionately impacted, particularly if SMBs who are in scope may only have one vessel and less scope to absorb potentially significant capital costs.

### Exemption and mitigation

The Department clearly establish that exemption for SMBs would not be possible, as it would otherwise risk the UK's compliance with the international obligations set by the IMO. The IA could be strengthened by considering whether there are any mitigating actions that could be taken to support SMBs.

### Medium-sized business exemption

As with the consideration of exemption for SMBs discussed above, the IA should have discussed whether medium-sized businesses (MSBs) should also be exempt. This would align with the principle behind the Government's announcement<sup>5</sup> that, from October 2022, departments should first look to exempt MSBs from new regulation.

## Rationale and options

### Rationale

The IA notes the UK's international obligation to introduce the amendments, set out by the IMO, to the MSRs. In addition, the IA discusses the rationale for why global shipping standards are necessary, citing the need for co-ordination to ensure compliance in a globally operating industry.

### Options

The Department clearly explain why non-regulatory options are not suitable, citing that such options would not allow for the UK to meet its international obligations. The IA also notes the prior consultation process that has helped to shape the policy (as well as ruling out of options previously considered) and analysis considered in the IA.

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<sup>5</sup> <https://www.gov.uk/government/publications/better-regulation-framework/medium-sized-business-regulatory-exemption-assessment-supplementary-guidance>

## Cost-benefit analysis

### Evidence and methodology

The Department make use of a good range of evidence sources, including previous modelling of the impacts on vessel owners from complying with the legislation. The IA clearly sets out the methodological approach taken when estimating the impacts of the policy. Additionally, the IA uses an 8-year appraisal period, which the Department provide a suitable justification for.

### Assumptions, risks and sensitivity

The Department, in the estimation of familiarisation costs, has not provided evidence to support the assumptions that have been made. Specifically, those relating to the number of individuals who shall familiarise themselves and the time spent doing so. The Department should have clearly indicated what evidence has been used to form the basis of these assumptions.

The IA continually highlights areas of uncertainty, either in the approach to the analysis or the evidence used, including appropriate caveats as necessary. In addition, the IA includes sensitivity analysis to combat some of this uncertainty.

## Wider impacts

### Innovation

The IA has not considered the impacts upon innovation. The Department could have discussed whether the development of low carbon technologies, to support the maritime sector in making the necessary changes to ensure compliance, will be accelerated by the measures.

### Competition

The Department has undertaken a sizeable assessment of the potential impacts to competition. The IA specifically addresses the impact on competition within the maritime sector, as well as competition across different modes of transport.

### International trade and investment

The Department include a good level of discussion on the impacts to the maritime trade market, international trade more broadly and the impact of these upon the UK economy. However, the IA could be strengthened by discussing in more detail, even if only qualitatively, the potential impacts upon investment, in particular if these might be concentrated in specific local areas/regions.

### **Equity/distributional impact**

The IA has not included any discussion of the localised impact of the policy. As the policy relates to the maritime sector and specifically those operating internationally, the IA could be improved by considering whether the impacts, be that the compliance costs upon businesses or simply the preserved international maritime activity, may be focused in specific locations (e.g., international ports and surrounding communities).

## **Monitoring and evaluation plan**

The Department commit to undertaking a PIR for the policy. In addition, the IA sets out that the IMO are required to review the effectiveness of the international requirements, from which these amendments are derived, before 2026.

While the IA notes that the primary responsibility to review the policy (internationally) lies with the IMO, the UK will need to undertake M&E to be able to contribute to this review, as well as evaluate the effectiveness of the policy from a UK perspective. The IA discusses some details of what the Department will seek to answer through the PIR, including briefly describing the evidence that will be considered. While the IA notes that it may be difficult to attribute outcomes to the policy, the IA could discuss what the Department would be looking to see in the aforementioned sources of evidence, if the policy were to be successful.

### **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](#).