

EXPLANATORY MEMORANDUM TO

The Ship Recycling Facilities Regulations (Northern Ireland) 2015

SR 2015 No. 229

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of the Environment to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under section 2(2) of the European Communities Act 1972, and Article 6(6) of the Waste and Contaminated Land (Northern Ireland) Order 1997 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The purpose of the Statutory Rule is to implement Articles 13 and 14 of the EU Regulation 1257/2013 on ship recycling relating to the authorisation of ship recycling facilities. Articles 13 and 14 of the EU Regulation establish environmental and safety requirements for ship recycling facilities that recycle ships within its scope that will ensure the necessary controls are in place to protect the environment, the health and safety of workers and the population in the vicinity of the ship recycling facility caused by ship recycling activities. Once the EU Regulation applies, ships sailing under the flag of an EU member State that exceed 500 gross tonnes (excluding warships and naval auxiliary or others ships owned or operated by the state and used on government non-commercial service) will only be able to be recycled at a facility within the EU if it meets the requirements of Articles 13 and 14 and it is included on the European list established under the EU Regulation. Facilities outside the EU may also be added to the European List under Article 15.
- 2.2. The approach is intended to validate that Northern Ireland facilities meet the environmental and health and safety requirements of the EU Regulation when undertaking recycling activities on ships that fall within the scope of the Regulation.
- 2.3. The purpose of the Statutory Rule is to:
- 2.4.
 - Introduce the most appropriate measure for ensuring compliance with the relevant obligations in the EU Ship Recycling Regulation relating to the authorisation of ship recycling facilities in Northern Ireland;
- 2.5.
 - Ensure that Northern Ireland facilities that wish to undertake recycling activities on ships flying the flag of EU Member States have a means of becoming authorised and are able to compete with other EU and international companies in that market;
- 2.6.
 - Appoint a competent authority responsible for implementing and enforcing the relevant provisions of the EU Ship Recycling Regulation with regard to authorisation of Northern Ireland facilities;

- 2.7.
 - Develop an approach that doesn't impose unnecessary burdens on business and that implements a consistent method for authorising facilities, fully considering and integrating existing permitting, licensing and authorisation processes;
- 2.8.
 - Enable the competent authority to vary existing permits and approvals so that they also provide authorisation for the purposes of the EU Ship Recycling Regulation and therefore avoid unnecessary duplication of information and work by operators of ship recycling facilities.

3. Background

- 3.1. The EU Regulation 1257/2013 on ship recycling (the EU Ship Recycling Regulation) implements the EU's obligations under the Hong Kong Convention for the safe and environmentally sound recycling of ships.
- 3.2. Whilst the EU Ship Recycling Regulation doesn't impose mandatory authorisation of all EU ship recycling facilities, it does require authorisation for those facilities that wish to undertake recycling activities on ships that fall within the scope of the EU Regulation. The Regulation introduces requirements and conditions that EU ship recycling facilities must meet if they wish to be authorised. The main requirement is the submission of a ship recycling facility plan, as part of the formal application to become authorised.
- 3.3. Northern Ireland facilities wishing to have access to that market will therefore need to complete the necessary documentation and apply to the competent authority to become authorised.

4. Consultation

- 4.1. A UK-wide consultation on the introduction of draft GB and draft Northern Ireland Ship Recycling Facilities Regulations ran from 10 December 2014 to 20 January 2015 and focused on stakeholders involved in the recycling of ships in addition to statutory consultees.
- 4.2. The consultation addressed the following points:
- 4.3.
 - Introducing the most appropriate measure for ensuring compliance with the relevant obligations in the EU Ship Recycling Regulation relating to the authorisation of ship recycling facilities in the UK;
- 4.4.
 - Ensuring that UK facilities that wish to undertake recycling activities on ships flying the flag of EU Member States have a means of becoming authorised and are able to compete with other EU and international companies in that market;
- 4.5.
 - Appointing competent authorities responsible for implementing and enforcing the relevant provisions of the EU Ship Recycling Regulation with regard to authorisation of UK facilities;
- 4.6.
 - Developing an approach that doesn't impose unnecessary burdens on business and that implements a consistent method for authorising facilities, fully considering and integrating existing permitting, licensing and authorisation processes;

- 4.7. • Enabling the competent authorities to vary existing permits and approvals so that they also provide authorisation for the purposes of the EU Ship Recycling Regulation and therefore avoid unnecessary duplication of information and work by operators of ship recycling facilities.
- 4.8. One response to the public consultation was received from a Northern Ireland ship recycling facility, Harland and Wolff Heavy Industries LTD. The respondent supported the proposed approach.
- 4.9. Having considered the response to consultation, no amendments to the proposed approach are deemed necessary.

5. Equality Impact

- 5.1. The Department considers that the Statutory Rule will have no differential impact on any of the groups specified in Section 75 of the Northern Ireland Act 1998.

6. Regulatory Impact

- 6.1. The impact of the new requirements introduced by this Statutory Rule are expected to be low with UK facilities largely already meeting the requirements of the EU Regulation.

7. Financial Implications

- 7.1. Costs of complying with the new EU Ship Recycling Regulation will fall upon the UK ship recycling facilities wishing to become authorised in accordance with the EU Regulation. They will consist of a cost to the facility to produce a ship recycling facility plan, for the plan to be assessed by the competent authorities and an authorisation issued. There will also be a renewal cost after five years.
- 7.2. Defra prepared a Regulatory Triage Assessment (RTA) to assess the impacts of the new measures on stakeholders. The RTA showed that there are minimal costs associated with the measures and, given the low costs, further efforts to monetise other impacts would be disproportionate.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The Statutory Rule complies with Section 24 of the 1998 Northern Ireland Act.

9. EU Implications

- 9.1. This Statutory Rule implements Articles 13 and 14 of Regulation (EU) No 1257/2013 of the European Parliament and of the Council on ship recycling (OJ No L 330, 10.12.2013, p 1). A transposition note is not required in this instance since the regulations implement rather than transpose the EU Regulation.

10. Parity or Replicatory Measure

- 10.1. This Statutory Rule is adapted from the G.B. Statutory Instrument 2015/430, the Ship Recycling Facilities Regulations 2015 and contains similar provisions.

- 10.2. An equivalent to regulation 6 (Health and Safety Fees) of The Ship Recycling Facilities Regulations 2015 is not included in The Ship Recycling Facilities Regulations (Northern Ireland) 2015. The Department already has the power to charge such fees under Article 15 of the Waste and Contaminated Land Order (NI) 1997, and therefore it is not appropriate to include fees in these regulations. NIEA and HSENI have been liaising on this issue and are content for any fees to be paid to DOE with the division of the fee undertaken administratively between NIEA and HSENI.
- 10.3. An equivalent to regulation 7(1) and (2) (European list of facilities at which ships flying the flag of a member State may be recycled) of The Ship Recycling Facilities Regulations 2015 is not included in The Ship Recycling Facilities Regulations (Northern Ireland) 2015. It is the responsibility of the Member State (UK) to communicate to the Commission a list of ship recycling facilities they have authorised. The Department, acting jointly with the HSENI as the competent authority, will be aware of authorised facilities and will inform DEFRA for inclusion on the UK list to be notified to the Commission.
- 10.4. An equivalent to regulation 8 (Review) of The Ship Recycling Facilities Regulations 2015 is not included in The Ship Recycling Facilities Regulations (Northern Ireland) 2015. This is required in GB under the Better Regulation regime. There is no such requirement in Northern Ireland.
- 10.5. Regulation 7 of The Ship Recycling Facilities Regulations (Northern Ireland) 2015 amends regulation 12 of The Waste Management Licensing Regulations (Northern Ireland) 2003 to enable the inclusion of health and safety provisions in a ship recycling permit.

11. Additional Information

- 11.1. Not applicable.