

EXECUTIVE NOTE

THE PUBLIC HEALTH (SHIPS) (SCOTLAND) AMENDMENT REGULATIONS 2007 (S.S.I. 2007/515)

The above instrument was made in exercise of the powers conferred by section 1(1) of the Public Health (Scotland) Act 1945. The instrument is subject to negative resolution procedure.

Policy Objectives

The purpose of the instrument is to fulfil some of the requirements of the International Health Regulations (IHR) 2005 of the World Health Organisation (WHO), which came into effect on 15 June 2007 (although many of its provisions can be implemented over a number of years). The United Kingdom is a State Party of the WHO and, as such, is bound by its requirements.

The IHR 2005 are a legally binding international instrument, the purpose of which is to 'prevent, protect against, control and provide a public health response to the international spread of disease in ways that are commensurate with international trade and traffic. 'Disease' is defined as an illness or medical condition, irrespective of origin or source, that presents or could present significant harm to humans.'

This definition is significantly wider than that operating under the previous IHR of 1969, which was concerned with measures against a limited number of diseases such as cholera, plague and yellow fever. Accordingly, the IHR 2005 provide for ships engaged in international journeys to be issued with Ship Sanitation Control Exemption Certificates (where the public health authorities have inspected a ship and found no evidence of infection or contamination), or with Ship Sanitation Control Certificates (where the public health authorities are satisfied that procedures necessary to rid the ship of infection or contamination have been effectively carried out). These will replace Deratting Certificates and Deratting Exemption Certificates as the internationally-recognised documents which certify that there is no evidence of infection or contamination on board a ship arriving from a foreign port, or that procedures necessary to rid the ship of infection or contamination have been carried out.

The instrument therefore implements for Scotland the new arrangements for the inspection of ships and the issuing of ship sanitation certificates, replacing the existing international deratting certificated system. This entails amendments to the Public Health (Ships) (Scotland) Regulations 1971, as amended in 1974 and 1978 ("the principal Regulations"). The form of each of the two new ships sanitation certificates, which must conform to the IHR model will, following these amendments, now be reproduced at Schedule 3 to the principal Regulations, to replace the current deratting certificates which had formed Schedule 3.

The Regulations also update the principal Regulations to list the diseases to which they are applicable; altering provisions on charging by local authorities for services provided in relation to inspecting ships and issuing or extending certificates; and replacing the previous Maritime Declaration of Health with a new form of declaration as prescribed by IHR 2005.

The Regulations are being made at this time as the current deratting certificate regime will shortly become obsolete at an international level, following the coming into force of the IHR 2005. Arrangements are provided to ensure a smooth transition to the new certification procedure, with current Deratting Certificates and Deratting Exemption Certificates being

treated during the period of their validity as though they are Ship Sanitation Control Certificates or Ships Sanitation Control Exemption Certificates respectively.

Section 89 of the Public Health etc (Scotland) Bill, which was introduced to the Scottish Parliament on 25 October, provides that Scottish Ministers may make regulations to implement any obligations of the United Kingdom created by, or arising from, IHR 2005. The amendments provided by this instrument, therefore, are a temporary measure to enable Scottish ports to move now (as required internationally) from the deratting certificated system to the ships sanitation certificated system until such time as new regulations are made under section 89 of the Bill, when enacted, which regulations will give full effect to the provisions of IHR 2005.

Consultation

There has been no formal consultation on the content of this instrument, although there has been informal discussion with port health interests in local authorities, who are concerned that the new arrangements come into force as soon as possible. A transfer to the new certification arrangements is necessary for Scotland to comply with IHR 2005 and to ensure that Scottish ports are not disadvantaged compared to ports in other parts of the UK and many around the world (where the necessary ship sanitation certificate arrangements are already in place). Ships' operators expect to be issued with Ship Sanitation Certificates that will be recognised internationally.

Regulations subsequently drafted under section 89 of the Public Health etc (Scotland) Bill (once enacted), which will give full effect to IHR 2005, will be subject to comprehensive consultation and will not be made without the approval of the Scottish Parliament. In the meantime, this instrument simply makes the minimum changes necessary at this time to the existing Public Health (Ships) (Scotland) Regulations 1971 (as amended) under the current powers contained in section 1(1) of the Public Health (Scotland) Act 1945, regulations made under that power being subject to the negative resolution procedure.

Financial effects

This instrument has no significant financial effects on the Scottish Executive, the NHS, local government or on business. Whilst there is the possibility that ship inspections will now take longer and so will cost more, or more like to identify the need for a health measure, or measures to be applied, in practice existing checks on ships for a number of reasons, e.g. food safety, can be combined with these, without significant additional effort.

The charging regime for the new ship sanitation procedures allows local authorities to recover the costs of inspection from ships' operators, an arrangement which will apply across all WHO state parties. There will therefore be no financial disadvantage to ships' operators in respect of the provisions applying in Scotland.

A Regulatory Impact Assessment will be prepared in respect of any regulations made under section 89 of the Public Health etc (Scotland) Bill which, as above, will make more wide scale provision in respect of the IHR 2005 and will be subject to full consultation.