

Title: The Merchant Shipping (International Safety Management (ISM) Code) Regulations 2013 ("the proposed UK Regulations") IA No: DfT0002 Lead department or agency: Maritime and Coastguard Agency Other departments or agencies: Department for Transport	Impact Assessment (IA)		
	Date: 30/04/2013		
	Stage: Final		
	Source of intervention: EU		
	Type of measure: Secondary legislation		
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Summary: Intervention and Options			RPC Opinion: GREEN

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Two-Out?	Measure qualifies as NA
£0	£0	£0	No	NA

What is the problem under consideration? Why is government intervention necessary?

The purpose of the International Safety Management (ISM) Code is to establish a suitable safety management system in shipping companies. Existing UK Regulations require a certain range of ships to comply with ISM (mainly ships operating internationally and High Speed Craft), but EU Regulation 336/2006 extended the requirement to include domestic passenger ships. Government intervention is necessary to introduce new UK Regulations which are required to implement the penalties to encompass all ships now covered by the EU Regulations for failure to comply. Failure to do so would mean that some ships would not face penalties for failing to comply and the UK would be in breach of its duties as an EU Member State.

What are the policy objectives and the intended effects?

The two policy objectives of the proposed UK Regulations are to:

- 1) Improve safety at sea for ships by the establishment, implementation and proper maintenance of the shipboard and shore-based safety management systems and the control thereof by flag and port state administrations through extending the enforcement regime to cover the additional ships newly recognised under EU Regulation 336/2006; and
- 2) Comply with the UK duties as an EU Member State in relation to Regulation 336/2006 to avoid the risk of infraction proceedings from the European Commission.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Do nothing would involve maintaining the status quo which would leave the UK out of line with the rest of Europe with regards to enforcement of the ISM Code against domestic vessels failing to comply with Regulation 336/2006. This is not a viable option but is used as counterfactual for the purpose of this IA.

Option 1: Introduce the proposed UK Regulations to supplement EU Regulation 336/2006 in the UK. This involves replacing the existing UK legislation with a new statutory instrument which reshapes the existing UK legislation to avoid overlap with EU Regulation 336/2006, and makes suitable provision to supplement that EU Regulation (specifically for providing sanctions for non-compliance). This policy option, insofar as it related to the provisions which are supplementing the EU Regulation, represents the minimum required to implement in the UK the decision taken at EU level. Option 1 is preferred as it would achieve the two policy options outlined above.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 07/2016					
Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A		Non-traded: N/A

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister: _____ Stephen Hammond _____ Date: 7th June 2014 _____

Summary: Analysis & Evidence

Policy Option 1

Description: Introduce the proposed UK Regulations to supplement EU Regulation 336/2006 with regards to penalties.

FULL ECONOMIC ASSESSMENT

Price Base Year N/A	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)		
			Low: £0	High: £0	Best Estimate: £0

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	£0	N/A	£0	£0
High	£0		£0	£0
Best Estimate	£0		£0	£0

Description and scale of key monetised costs by 'main affected groups'

Additional costs could potentially be incurred by the MCA if the need arises to take additional enforcement action as a result of the proposed UK Regulations. However, recent MCA surveys have identified that all extra ships required to have ISM under EU Regulation 336/2006 are already compliant. Therefore, MCA expects that no additional costs would arise as a result of the proposed UK Regulations.

Other key non-monetised costs by 'main affected groups'

N/A

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	£0	N/A	£0	£0
High	£0		£0	£0
Best Estimate	£0		£0	£0

Description and scale of key monetised benefits by 'main affected groups'

Introducing an effective enforcement regime could potentially have benefits for (a) seafarers/passengers and (b) the environment. However, recent MCA surveys have identified that all extra ships required to have ISM under EU Regulation 336/2006 are already compliant. Therefore, MCA expects that no additional benefits would arise as a result of the proposed UK Regulations.

Other key non-monetised benefits by 'main affected groups'

N/A

Key assumptions/sensitivities/risks

Discount rate (%)

N/A

1) As EU Regulation 336/2006 is already in force, operators already have a legal duty to comply with its requirements. The costs of complying with the requirements of the EU Regulation are therefore not counted as costs of the proposed UK Regulations in this IA. 2) The proposed UK Regulations would ensure that the UK has met its EU obligations and avoid the risk of infraction proceedings.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: £0	Benefits: £0	Net: £0	No	NA

Evidence Base

1. Results of the Consultation

A consultation was conducted between 16 October and 26 November 2012. The consultation made clear that compliance with EU Regulation 336/2006 was not optional and therefore not the focus of this particular consultation. The proposed UK Regulations were being introduced to extend the enforcement regime to those vessels now covered by the EU Regulation and the penalties for non-compliance. The consultation targeted all the main industry representative bodies, for example the Chamber of Shipping, the Passenger Boat Association, the Port of London Authority and the main seafarers unions.

No comments were received to the consultation despite the impact assessment requesting consultees to:

- a) provide additional evidence of cost, including evidence of any other costs to the shipping industry not yet identified;
- b) provide additional evidence of benefits, including evidence on i) the number of ships required to comply with the EU Regulations but are not currently compliant and ii) the benefit of compliance with the International Safety Management (ISM) Code;
- c) offer data, analysis or other evidence on the potential implications and costs for small firms; and
- d) offer further evidence and analysis on the potential for competitiveness effects.

The Maritime and Coastguard Agency (MCA) have conducted surveys on all of the ships newly covered by the EU Regulation and have found them all to have the correct International Safety Management (ISM) systems in place. Therefore, the proposed UK regulations will have no effect on them as the extension of the enforcement regime will not need to be applied in practice. Industry accept the enforcement provisions as they are in line with the existing provisions and therefore focus their efforts on complying with the ISM requirements which came into force in 2006.

2. Background

The International Safety Management (ISM) Code for the Safe Operation of Ships and for Pollution Prevention has as its objectives; ensuring safety of life at sea, preventing human injury and loss of life, avoiding damage to the environment (particularly the marine environment) and avoiding damage to property. This is to be achieved through:

- A safety and environmental protection policy;
- Instructions and procedures to ensure safe operations of ships and protection of the environment in compliance with relevant international and flag State legislation;
- Defined levels of authority and lines of communication between, and amongst, shore and shipboard personnel;
- Procedures for reporting accidents and non-conformities with the provisions of the Code;
- Procedures to prepare for and respond to emergency situations; and
- Procedures for internal audits and management reviews.

Council Regulation (EC) No 3051/95 of 8 December 1995 on the safety management of roll-on/roll-off (ro-ro) passenger ferries made the ISM code mandatory at Community level with effect from 1 July 1996. This applied to all ro-ro passenger ferries operating on a regular service to and from ports of Member States, on both domestic and international voyages and regardless of their flag. This was a first step to ensuring uniform and coherent implementation of the ISM Code in all Member States. UK legislation (Statutory Instrument (SI) 1997/3022 Merchant Shipping (ISM Code) (Ro-Ro Passenger Ferries) Regulations 1997) was introduced in response to this EU Regulation.

On 1 July 1998, the ISM Code became mandatory under the provisions of Chapter IX of the International Convention for the Safety of Life at Sea (SOLAS) for companies operating passenger ships, including high-speed passenger craft, oil tankers, chemical tankers, gas carriers, bulk carriers and cargo high speed craft of 500 gross tonnage and upwards on international voyages. Additional UK legislation (SI

1998/1561 Merchant Shipping (International Safety Management (ISM) Code) Regulations 1998) was introduced in response to this SOLAS Regulation.

On 1 July 2002, the ISM Code became mandatory for companies operating other cargo ships and mobile offshore drilling units of 500 gross tonnage and upwards, on international voyages. UK legislation (SI 1998/1561) was consequently amended to include these ships. This amendment also applied ISM to all UK High Speed Craft irrespective of their operating area (this is considered gold plating and is discussed further in the IA under section 12.1).

The European Commission (EC) felt that the safety of human life at sea and the protection of the environment may be effectively enhanced by applying the ISM Code strictly and on a mandatory basis. EU Regulation 336/2006 on the implementation of the ISM Code within the Community and, repealing Council Regulation (EC) 3051/95, further applies the ISM Code directly to ships flying the flag of a Member State as well as to ships, regardless of their flag, engaged exclusively on domestic voyages or on a regular shipping service operating to or from ports of Member States as well as maintaining compliance of those ships to which the previous EU Regulation applied. Field investigation by the MCA indicates that the EU Regulation 336/2006 required approximately 30 additional UK vessels (5 cargo ships and 25 passenger ships) to comply with the ISM Code compared to the existing UK legislation. Recent surveys have established that all 30 ships are already in compliance with the requirements.

2. Problem under consideration

A number of costs result from the actions of users of maritime transport but are not incurred by them. These costs are known as 'external costs'. In particular, a number of 'external costs' result from the impacts of maritime transport on the environment. This includes 'external costs' that arise as a result of water pollution and air pollution. 'External costs' can arise in the course of normal activity in the maritime transport sector, as a result of accidents or due to illegal activity¹.

The problem under consideration is how to further enhance the safe operation of ships and prevent pollution in order to reduce the 'external costs' of maritime transport. The purpose of the ISM Code is to establish a management system in shipping companies to ensure the safe operation and the prevention of pollution.

Before the new EU Regulation 336/2006 came into force, under existing UK Regulations and EC Regulation 3051/95, the ISM Code applied to certain ships which trade in international waters, to ro-ro ships on regular shipping services and to all Passenger High Speed Craft. EU Regulation 336/2006 requires a wider range of ships to comply with the ISM Code in order to enhance the safe operation of ships and prevent pollution. This extends the requirement to implement the ISM Code to some additional vessels trading in domestic waters which did not previously have to comply with it.

Although the EU Regulation 336/2006 has direct application in all the EU Member States (including the UK) it does not apply in itself the penalties and sanctions to enforce it. Member States are required to introduce enforcement within their own national law.

3. Rationale for intervention

The purpose of government intervention in this area is to supplement EU Regulation 336/2006, by providing sanctions for non-compliance to the extra ships covered by the EU Regulation. The proposed UK Regulations provide penalties for failures to comply and give the UK the powers to enforce breaches of EU Regulation 336/2006.

In addition, the proposed UK Regulations reshape the existing UK legislation so as to avoid overlap with the EU Regulation.

Failure to give effect to EU Regulation 336/2006 in the UK would mean that some ships would not face penalties for failures to comply with EU Regulations 336/2006. This could potentially result in vessels plying on domestic waters which are not in compliance with EU Regulation 336/2006 and the UK would not have a means of enforcing EU Regulation 336/2006. This could lead to infraction proceedings from the EC against the UK, with possible financial penalties for the UK. It would also be incompatible with the UK's EU obligations to purport to regulate through domestic legislation those ships which are

¹ European Commission Joint Research Centre (2006) External costs of Transportation Case Study: maritime transport. Available at <http://publications.irc.ec.europa.eu/repository/handle/111111111/7577>

regulated directly by an EU Regulation, and so it is necessary to reshape the existing UK legislation accordingly.

4. Policy objective

There are two policy objectives:

1. to improve safety at sea for ships which operate in domestic waters by the establishment, implementation and proper maintenance of the shipboard and shore-based safety management systems and the control thereof by flag and port state administrations through implementing an enforcement regime for the EU Regulation 336/2006; and
2. to comply with the EU Regulation 336/2006 and avoid the risk of infraction proceedings from the EC against the UK.

5. Description of options considered (including do nothing)

5.1 Do Nothing

Doing nothing is not a viable option. The UK would not be implementing the decision taken at EU level with regards to the application and enforcement of ISM to the additional types of ships introduced by EU Regulation 336/2006. This could lead to infraction proceedings from the EC against the UK.

5.2 Option 1- Introduce the proposed UK Regulations which would supplement EU Regulation 336/2006

Option 1 would involve introducing the proposed UK Regulations which would replace a number of existing UK Regulations in this area, and extend with the UK the power to enforce breaches of EU Regulation 336/2006 on all applicable ships. **Option 1 is the preferred option because it would achieve the two policy objectives.**

6. Scope of the proposed UK Regulations (Option 1)

a) The proposed UK Regulations would implement an enforcement regime for EU Regulation 336/2006.

EU Regulations 336/2006 applies to:

1. Cargo ships of 500 gross tonnage and above operating in 'sea areas' (EU Class A, B, C and D waters) to or from a port in an European Economic Area (EEA) State;
2. Mobile Offshore Drilling Units (MODUs) of 500 gross tonnage and above flying the flag of an EEA State; and
3. Passenger ships operating in EU Class A and B sea areas and ro-ro passenger ferries to and from a port in an EEA State.

EU Regulation 336/2006 explicitly does not apply to:

- Ships of war;
- Troopships;
- Other ships owned or operated by an EEA State and used exclusively for government non commercial purposes;
- Ships not propelled by mechanical means and wooden ships of primitive build;
- Pleasure vessels;
- Fishing vessels; and
- MODUs for which the flag state is not an EEA State.

b) The proposed UK Regulations would also apply to certain additional ships to which EU Regulation 336/2006 does not apply. These are set out in Regulation 5(2). The ships to which Regulation 5(2) apply are ships which are currently required to comply with the ISM Code by virtue of existing UK legislation and to which EU Regulation does not apply (see Regulation 5(3)). The existing UK Regulations go beyond the EU Regulations in so far as requiring passenger High Speed Craft operating

in EU Class C and D sea areas² and UK Category A, B, C and D waters³ to comply with the ISM Code. This requirement was introduced by the 'Merchant Shipping (High Speed Craft) Regulations 2004 (SI 2004/302)⁴ because the MCA considered at the time that all passenger High Speed Craft should be required to comply with the ISM Code due to the operational issues involved and safety concerns related to passenger High Speed Craft following some passenger High Speed Craft disasters in the past. This existing gold-plating is discussed in more detail under Section 12.1.

c) The proposed UK Regulations would apply to foreign ships in UK waters. The EU Regulations apply to foreign ships plying exclusively on domestic voyages in the UK or ply to and from UK ports on a regular shipping service.

7. Extent of changes that would arise due to the proposed UK Regulations (Option 1)

The proposed UK Regulations would introduce an enforcement regime for EU Regulation 336/2006 and restate existing domestic legislation on the ISM Code in a manner that avoids overlap with the EU Regulation. The sanctions available under the proposed UK Regulations would remain the same as under existing UK legislation for those ships already required to comply with the ISM Code under existing UK legislation. For ships already required to comply with the ISM Code under existing UK legislation, the position will therefore remain the same under the proposed UK Regulations. For ships to which the EU Regulation applies and which were not previously required to comply with the ISM Code under existing UK legislation, these sanctions are new.

8. Costs of the proposed UK Regulations (Option 1)

The costs of the proposed UK Regulations (Option 1) that have been identified are set out below.

8.1 Introduction

The objective of the IA is to assess the additional costs and benefits that would arise due to the proposed UK Regulations. An EU Regulation is law in all EU Member States as soon as it is in force. EU Regulation 336/2006 is already in force. Consequently, operators already have a legal duty to comply with the requirements of both EU Regulation 336/2006 and existing UK legislation regardless of the proposed UK Regulations. Therefore, the costs and benefits of both EU Regulation 336/2006 and existing domestic regulation that is restated in the proposed Regulations are not counted as costs of the proposed UK Regulations for the purposes of the IA.

8.2 Costs of the proposed UK Regulations (Option 1) compared to the Do Nothing scenario

The MCA have identified two potential costs of the proposed UK Regulations (Option 1).

8.2.1 Potential Costs to the MCA of the proposed UK Regulations (Option 1)

It is considered that there would be no additional costs to the MCA due to the introduction of the proposed UK Regulations.

Whilst there would be costs for investigating and taking enforcement action against companies/ships which do not comply if necessary, this is the case even with the existing UK Regulations. The MCA will not be required to undertake additional enforcement action as a result of the proposed UK Regulations as all additional ships now covered by EU Regulation 336/2006 are already in compliance with the ISM requirement.

For reference, there are currently on average about three to five prosecutions per year relating to ISM breaches but prosecutions tend to be undertaken for cumulative breaches in a number of areas not just an ISM breach on its own. The MCA estimate that the approximate costs of taking different types of enforcement action would be as follows:

- Magistrates court (uncontested): £5,000
- Magistrates court (contested): £10,000
- Crown court: £50,000

² EU Sea Areas "C" and "D" are defined in <http://www.dft.gov.uk/mca/m.1747.pdf>

³ UK Category A, B, C and D waters are defined in <http://www.dft.gov.uk/mca/1827.pdf>

⁴ Available at <http://www.legislation.gov.uk/uksi/2004/302/made>

8.2.2 Costs to the Shipping Industry of the proposed UK Regulations (Option 1)

Ship operators that are required to comply with EU Regulation 336/2006 but that are not currently compliant could potentially incur costs due to the implementation of an enforcement regime as a result of the proposed UK Regulations. For example, such ship operators would incur costs of putting in place a safety management system to comply with EU Regulation 336/2006 if picked up for failure to comply or not fully comply with EU Regulation 336/2006. The penalties for failures to comply are as follows. Offences under the proposed UK Regulations shall be punishable on summary conviction by a fine not exceeding the statutory maximum (£5,000), or on conviction on indictment by imprisonment for a term not exceeding two years, or a fine, or both.

The level of these costs would depend on the current rates of compliance. Following recent MCA surveys of the ships which are newly required to comply with the EU Regulation, it has been identified that all 30 ships are already fully compliant. Based on this experience, MCA expects that any new ships joining the UK flag would also be fully compliant with EU Regulation 336/2006 in the absence of the proposed UK Regulations. This is because any ships wishing to join the UK flag must be compliant with all local legislation of which the EU Regulation is one. Therefore, MCA does not consider that the proposed UK Regulations will have any additional impact on the shipping industry.

In any case, it should be noted that the costs of complying with EU Regulations 336/2006 should not be counted as costs of the proposed UK Regulations for the purposes of this IA. This is because an EU Regulations is law in all EU Member States as soon as it is in force and consequently operators already have a duty to comply with EU Regulation 336/2006.

8.3 Costs of the provisions of the proposed UK Regulations (Option 1) that go beyond minimum EU requirements

The provisions of the proposed UK Regulations go beyond minimum EU requirements by maintaining the requirement for all High Speed Craft to comply with the ISM Code irrespective of the operating area. However this requirement is already a feature in the existing UK Regulations. Therefore, these provisions would result in no additional costs compared to the Do Nothing scenario.

9. Benefits of the proposed UK Regulations (Option 1)

The benefits of the proposed UK Regulations (Option 1) that have been identified are set out below.

9.1 Benefits of the proposed UK Regulations (Option1) compared to the Do Nothing scenario

9.1.1 The proposed UK Regulations (Option 1) would ensure compliance with the ISM Code

The proposed UK Regulations would introduce an enforcement regime for EU Regulation 336/2006 in the UK and could potentially help to realise the following benefits (see sections below). However, it should be noted that all relevant ships are currently complying with EU Regulation 336/2006. Therefore, MCA do not expect that the proposed UK Regulations would have any additional contribution to realising the benefits of applying the ISM code to the relevant ships. Further details on the benefits of applying the ISM Code to the relevant ships are included below for information.

9.1.1.1 Improved Safety Standards

The main benefit of the ISM Code is the potential to improve the safety at sea of those ships that operate in domestic waters. In particular, the ISM Code could potentially better equip ships and the company operating them with procedures for shipboard operations, emergency preparedness, correct actions, continual improvement, etc. All of the newly required 30 ships, which the EU Regulation applies to, are compliant and safety management is now imbedded into the running of the ships.

9.1.1.2 Protection of the Marine Environment

The ISM Code includes the requirement that ship operators develop an environmental protection policy. By mandating that operators consider the consequences of their actions on the environment and developing procedures to limit the negative impacts, the ISM Code could potentially therefore help to conserve the marine environment. In particular, there is the requirement to have an environmental protection policy in place which would drive an environmental management system. Having appropriate management systems in place could prevent environment pollution (sea and air).

9.2 Benefits of the provisions of the proposed UK Regulations (Option 1) that go beyond minimum EU requirements

The proposed UK Regulations keep the existing requirement for certain High Speed Craft to comply with the ISM Code, this goes beyond the minimum EU requirements. This requirement is unchanged compared to the existing UK Regulations. Therefore, these provisions would result in no additional benefits compared to the Do Nothing scenario.

10. Rationale and evidence that justify the level of analysis used in the IA (proportionality approach)

Evidence indicates that compliance already exists therefore, the extension of the enforcement regime to cover the additional ships will have no impact on the maritime industry, it is merely a safeguard.

11. Risks and assumptions

11.1 Risks

Failure to appropriately supplement the European Regulation could result in infraction proceedings being taken by the EC against the UK. The proposed UK Regulations would remove this risk.

In addition, there is a risk that ships already covered by the existing UK legislation could potentially be disadvantaged compared to those additional ships required to have ISM following the publication of EU Regulation 336/2006 with regards to enforcement. This is because should existing ships be identified as non compliant, they would be subject to the enforcement provisions; however, if the proposed UK Regulations were not brought into force, the additional 30 ships would not be covered under the existing enforcement if they were found to be non compliant in the future. Introduction of the proposed UK Regulations will address this risk. However, it should be noted that it has been identified that the additional 30 ships are all already fully compliant with EU Regulation 336/2006, and MCA expects that any new ships joining the UK flag would also be fully compliant with EU Regulation 336/2006 in the absence of the proposed UK Regulations (see Section 8.2.2 for details).

12. Direct costs and benefits to business calculations (following OITO methodology)

Keeping the existing gold-plating with regards to High Speed Craft means that the requirements that are applied to these vessels are unchanged compared to the existing UK Regulations. Therefore, these provisions would result in no additional costs or benefits to the Do Nothing scenario.

Whilst several potential additional costs and benefits of the proposed UK Regulations compared to the Do Nothing scenario have been identified in the IA, these potential costs and benefits arise as a result of implementing the EU obligation.

Retaining pre-existing higher UK regulation is considered 'gold-plating' but is exempted from being in scope of One-in, Two-out.

Therefore, it is considered that the proposed UK Regulations fall outside the scope of the OITO Rule.

12.1 Existing gold-plating

As mentioned previously the proposed UK Regulations maintain the existing gold-plating of the existing UK Regulations. This aspect of gold-plating in the existing regulations has been looked at during the Red Tape Challenge and was offered up for improvement. Policy leads considered whether full ISM was needed or whether the Domestic Safety Management (DSM) System would prove more appropriate to High Speed Craft operating in UK domestic waters. The number of High Speed Craft incidents has fallen in the last few years therefore it has been agreed to remove the ISM requirement to High Speed Craft would be appropriate but only when the legislation is in place for owners/operators of these High Speed Craft to have a DSM system in place. This removal of gold-plating will be undertaken as part of the Red Tape Challenge and in longer term.

13. Specific Impacts Tests

13.1 Small Firms Impact Test

The MCA considers that most of the ship operators that would be affected by EU Regulation 336/2006 and could consequently be affected by the proposed UK Regulations would be small firms. However,

given that an EU Regulation is law in all EU Member States as soon as it is in force, and following recent surveys of the additional vessels, these ship operators have already incurred the costs of compliance with EU Regulation 336/2006. Therefore, there will be no further costs to these vessels.

13.2 Competition Assessment

As the costs of compliance with EU Regulation 336/2006 have already been incurred by the vessels affected, the proposed UK Regulations will not have an impact on competition.

13.3 Equality Assessment

There is no effect, positive or negative, on outcomes for persons in relation to their age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation because every ship is compliant so there will be no change.

13.4 Wider Environmental Impact Test

The proposed UK Regulations have the potential to benefit the environment as discussed in section 9.1.1.2 of this IA. However, the proposed UK Regulations would only result in benefits to the environment if some ships were not currently complying or fully complying with EU Regulation 336/2006. MCA surveys show that this is not the case and all additional 30 vessels are in compliance with the ISM requirement.

14. Summary and preferred option with description of implementation plan.

Option 1 is the preferred option because it would achieve both the objective: to contribute to improving safety at sea for ships which operate in domestic waters by the establishment, implementation and proper maintenance of the shipboard and shore-based safety management systems and the control thereof by flag and port state administrations through implementing an enforcement regime; and complying with the EU requirements thereby removing the risk of infraction proceedings.

The proposed UK Regulations would also replace a number of existing UK Regulations in this area, avoiding duplication and extend with the UK the power to enforce breaches of EU Regulation 336/2006 on all applicable ships. This consolidation and simplification by the revocation of existing Regulations is in line with the Coalition's Reducing Regulation initiative.

Field investigation by the MCA indicates that the EU Regulation 336/2006 required approximately 30 additional UK vessels (5 cargo ships and 25 passenger ships) to comply with the ISM Code compared to the existing UK legislation. Recent surveys have established that all 30 ships are already in compliance with the requirements.

In line with the statutory duty to review clause, an implementation review will be undertaken three years after the proposed UK Regulations come into effect. The review will involve checking MCA records or audits and inspections to ensure that any applicable ships are in compliance with the EU Regulation 336/2006. In addition, a study will be undertaken with the MCA enforcement team to establish whether any detentions or prosecutions have been undertaken against this proposed UK Regulation.

15. Enforcement, Sanctions and Monitoring

Enforcement of the requirements would be carried out by MCA surveyors during company and ship audits. Ships which are found not in compliance with the requirements may be liable to detention. The ship operating company, Master and the Designated Person Ashore who fail to comply or make false declaration may be liable to prosecution.

Offences under the proposed UK Regulation shall be punishable on summary conviction by a fine not exceeding the statutory maximum or on conviction on indictment by imprisonment for a term not exceeding two years, or a fine, or both.

A Justice Impact Test has been conducted and the Criminal Offences Gateway gave clearance on 18 April 2013.