

EXPLANATORY MEMORANDUM TO
THE TONNAGE TAX (PRESCRIBED AND SPECIFIED MATTERS)
REGULATIONS 2018

2018 No. 238

1. Introduction

- 1.1 This explanatory memorandum has been prepared by HM Revenue & Customs on behalf of HM Treasury and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 These regulations:

- prescribe a three year period, and
- specify the meaning of the percentage of the tonnage tax fleet which is “Community-flagged” (registered in the European Union (EU) or European Economic Area (EEA))

for the purposes of paragraph 22C(1)(a) of Schedule 22 to the Finance Act 2000. This facilitates the making of an order under paragraph 22B(2) of that Schedule which cannot be made until the Treasury is satisfied the percentage of the tonnage tax fleet which is Community-flagged has not decreased on average over a three year period that is prescribed in regulations.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 Tonnage tax is an alternative method of calculating corporation tax profits, for companies operating ships, by reference to the net tonnage of the ship operated. The tonnage tax regime is provided for by Schedule 22 to the Finance Act 2000. If during a financial year a company in the tonnage tax regime starts to operate a new ship that is not registered in the EU or EEA, they must first carry out a “flagging test” under paragraph 22A of the Schedule to determine whether that new ship can enter the tonnage tax regime.
- 4.2 But if the financial year has been designated by order under paragraph 22B(2) as an excepted year, the company does not have to carry out the flagging test and the new ship will qualify for tonnage tax.

- 4.3 Before a financial year can be designated as excepted, paragraph 22C(1)(a) of the Schedule requires that the Treasury is satisfied the percentage of the tonnage tax fleet which is Community-flagged has not decreased on average over a prescribed three year period.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is the United Kingdom.
5.2 The territorial application of this instrument is the United Kingdom.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 This instrument prescribes the three year period as the period beginning on 2 October 2014 and ending on 1 October 2017 and specifies the meaning of the percentage of the tonnage tax fleet which is Community-flagged by reference to the calculation provided by paragraph 22B(3) of the Schedule.
7.2 This will facilitate the making of an order, before 1 April 2018, designating financial year 2018 as an excepted year for the purposes of the tonnage tax. This will provide additional flexibility for ship-owners operating ships within the tonnage tax regime.

Consolidation

- 7.3 There are no implications for consolidation.

8. Consultation outcome

- 8.1 No consultation is needed as this instrument is procedural.

9. Guidance

- 9.1 HMRC guidance “Tonnage tax: shipping companies” and the HMRC Tonnage Tax Manual will be updated to show financial year 2018 as an excepted year.

10. Impact

- 10.1 There will be a benefit of increased flexibility for ship-operating companies. There is no impact on charities and voluntary bodies.
10.2 There is no impact on the public sector.
10.3 A Tax Information and Impact Note has not been prepared for this instrument as it contains no substantive changes to tax policy.

11. Regulating small business

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

- 12.1 This instrument will not be subject to monitoring or review, as it deals with a procedural issue for a single year.

13. Contact

- 13.1 Victor Baker at HM Revenue & Customs email: victor.j.baker@hmrc.gsi.gov.uk can answer any queries regarding the instrument.