EXPLANATORY MEMORANDUM TO

THE MERCHANT SHIPPING (LIGHT DUES) (AMENDMENT) REGULATIONS 2010

2010 No. 629

1. This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These regulations reduce the increase, due to take effect on 1st April 2010, in certain light dues leviable by a general lighthouse authority in respect of aids to navigation under its management. Paragraph 3(1A) in Part II of Schedule 2 to the Merchant Shipping (Light Dues) Regulations 1997 (S.I. 1997/562, as most recently amended by S.I. 2009/1371), provided for the rate per ton[1] of these light dues to rise from 39p to 43p on 1st April. The present instrument further amends the 1997 Regulations so that the increase will instead be to only 41p, with a corresponding reduction in the maximum amount payable in respect of any one voyage.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 The General Lighthouse Fund dates from 1898 but is now administered under section 211 of the Merchant Shipping Act 1995 by the Secretary of State for Transport who is required to meet from the Fund the expenses incurred by the General Lighthouse Authorities in connection with the discharge of their functions in the United Kingdom and Ireland.

4.2 The Secretary of State is empowered by section 205 of the 1995 Act to make regulations with respect to the amounts and the levying of general light dues.

4.3 The amounts of light dues are currently set by the Merchant Shipping (Light Dues) Regulations 1997 (S.I. 1997/562 as amended), which the present instrument will amend.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

5.2 Light dues levied in the Republic of Ireland are set by the Minister of Transport of the Irish Government.

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.

1 Light dues are levied on the net registered tonnage (nrt) of a vessel which is a measure of its cargo-carrying capacity.

7. Policy background

- What is being done and why

7.1 The General Lighthouse Authorities have improved the cost effectiveness of their services in recent years through fewer ships, light vessels and lighthouses, fewer staff, reduced use of helicopters and revised working practices. Overall their operating costs have been reduced by 25% in the last ten years, and until last year light dues have not increased since 1993. Further cuts in running costs, of over £900,000 against their previously planned budgets, have been secured by negotiation with the three Authorities for 2010-11.

7.2 Despite these efficiency improvements and prudent management of the General Lighthouse Fund, the Department for Transport estimated last year that the Fund was facing a shortfall in income of £21m for the delivery of these essential safety services in 2009-10. This had arisen because, since light dues were last reduced in 2006 (at the request of the light dues payers), the income from dues had been insufficient to cover necessary spending by the General Lighthouse Authorities with the Fund relying on income from the investment of capital receipts generated by rationalisation to make up the difference. Substantial reductions in investment returns together with a strong Euro resulting in higher running costs for providing Irish Lights meant that this position had become unsustainable.

7.3 Faced with a shortfall in funding the Department for Transport consulted last year on increases in light dues to meet the General Lighthouse Authorities' essential operational requirements. It was proposed then that the rate of light dues payable by most commercial vessels would need to rise from 35p per net registered ton (nrt) to 41p from 1st July 2009. We also proposed (a) raising the maximum amount payable for any one voyage (the 'tonnage cap') from an amount corresponding to 35,000 to an amount corresponding to 50,000 nrt so that some of the very biggest vessels would pay more; and (b) increasing the number of chargeable voyages (the 'voyage cap') from 7 to 9 per year in order to spread the impact amongst different categories of shipping.

7.4 Following publication of those proposals, the General Lighthouse Authorities identified further savings in 2009/10 and the position on General Lighthouse Fund income improved from the assumptions made at the start of the consultation. By a careful combination of revised budgets and management of the Fund, it was possible to avoid some of the increase in dues and defer or reduce the changes which would have had the biggest impact.

7.5 The change actually made in 2009 was therefore a lesser increase in light dues from 35p to 39p per nrt starting on 1st July 2009 with a further increase from 39p to 43p per to be implemented on 1st April 2010. In recognition of the exceptionally difficult economic climate that the shipping sector has faced this year, it was also decided to reduce and defer the increase in the tonnage cap, so that it would rise only to an amount corresponding to 40,000 nrt with effect on 1st April 2010. The voyage cap was increased from 7 to 9 per year on 1st July 2009 as proposed in the consultation.

7.6 As a consequence of further improvements in investment returns and the additional efficiency savings identified by the General Lighthouse Authorities for 2010-11, and in the light of consultations carried out by the Department for Transport with the Authorities themselves, the non-executive directors nominated or appointed by the Secretary of State to the Authorities' Boards, and the Lights Advisory Committee appointed under section 301 of the 1995 Act, it has now been possible to reduce the increase in the light dues rate due to come into effect on 1st April to 41p. This also has the effect of cutting the maximum charge payable per voyage from £17,200 to £16,400 (still corresponding to a tonnage cap at 40,000 nrt).

8. Consultation outcome

8.1 Since the formal consultation on light dues last year, stakeholders have been constantly engaged and their counsel sought. As this light dues revision is a reduction no formal consultation was held on the proposals to reduce the levies charged on industry.

9. Guidance

9.1 None

10. Impact

10.1 An Impact Assessment is attached to this memorandum.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Department for Transport will liaise with the General Lighthouse Authorities and the General Lighthouse Fund managers to ensure the fund is able to fund the continued work of the General Lighthouse Authorities.

13. Contact

Cameron Clark at the Department for Transport, Tel: 020 7944 5455 or email: Cameron.Clark@dft.gsi.gov.uk, can answer any queries regarding the instrument.

Summary: Intervention & Options

Department /Agency: Department for Transport	Title: Impact Assessment for revising the level of light dues to be charged from April	
Stage: Implementation	**Version:** FINAL	**Date: 4 March 2010**

Related Publications: Related Publications: The Merchant Shipping (Light Dues) Regulations 1997 and the draft Merchant Shipping (Light Dues) (amendment) regulations 2009 and 2010

Available to view or download at: http://www.dft.gov.uk/consultations/closed/lightduesamendment/

Contact for enquiries: Cameron Clark **Telephone:** 020 7944 5455

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

After a full consultation exercise on light dues levels last year, in June 2009 we announced a two-stage increase in light dues, with the second stage coming into effect this April. Light dues are paid into the General Lighthouse Fund, which then pays for the work of the General Lighthouse Authorities.

The General Lighthouse Fund is now, due to its careful administration and management by the Secretary of State together with better than expected investment income return over the last year, in a robust enough position to reconsider the level of light dues to be charged starting in April.

What are the policy objectives and the intended effects?

The policy objective of this change is to ensure that the General Lighthouse Fund is adequately financed from light dues to pay for the work of the General Lighthouse Authorities without it holding excessive reserves.

What policy options have been considered? Please justify any preferred option.

1) Continuing as planned with an increase in light dues, which would have come into effect on 1st April.

2) Reducing the planned increase by 2p from 43p per net registered ton to 41p, while maintaining the previously announced increase in the maximum tonnage per vessel on which the dues are payable. This option was preferred, as it will enable the finances of the General Lighthouse fund to remain sufficiently robust while reducing the cost for the shipping industry.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

Annually

Ministerial Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

Paul Clark 4th March 2010

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ANNEX C

1.Summary: Analysis & Evidence

Policy Option: Reduce LD by 2p	**Description: Adjustment to LD Rate and Formula on 1 April 2010**

ANNUAL COSTS	Description and scale of **key monetised costs** by 'main affected groups'	
One-off (Transition) **Yrs**		
£ 0	Transfer of money from shipping industry to GLF.	
Average Annual Cost (excluding one-off)		
£ -4m	**Total Cost** (PV)	**£ -12m**
Other **key non-monetised costs** by 'main affected groups' N/A		

ANNUAL BENEFITS	Description and scale of **key monetised benefits** by 'main affected groups'	
One-off **Yrs**		
£ 0	Transfer of money from shipping industry to GLF, enabling the GLAs to continue undertaking essential duties.	
Average Annual Benefit (excluding one-off)		
£ -4m	**Total Benefit** (PV)	**£-12m**
Other **key non-monetised benefits** by 'main affected groups' Safety benefits resulting from the safeguarding of the continued work of the GLAs.		

Key Assumptions/Sensitivities/Risks

The model has assumed a small reduction in shipping traffic calling at UK and Irish ports for 2010-11, as a result of the current economic climate, with traffic returning to 2008/09 levels in 2011-12.

Price Base Year 09/10	Time Period Years 3	**Net Benefit Range** (NPV) **£ 0**	**NET BENEFIT** (NPV Best estimate) **£ 0**

What is the geographic coverage of the policy/option?			UK and Ireland	
On what date will the policy be implemented?			1 April 2010	
Which organisation(s) will enforce the policy?			DfT	
What is the total annual cost of enforcement for these organisations?			£ unchanged	
Does enforcement comply with Hampton principles?			Yes	
Will implementation go beyond minimum EU requirements?			No	
What is the value of the proposed offsetting measure per year?			£0	
What is the value of changes in greenhouse gas emissions?			£0	
Will the proposal have a significant impact on competition?			No	
Annual cost (£-£) per organisation (excluding one-off)	Micro n/a	Small n/a	Medium n/a	Large n/a
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)			(Increase - Decrease)
Increase of £ 0	Decrease of £ 0	**Net Impact**	**£ 0**

Key: **Annual costs and benefits: Constant Prices** **(Net) Present Value**

1. Evidence Base (for summary sheets)

Background

This Impact Assessment (IA) relates to the setting of light dues (LD) levels for 2010-11.

A significant budgeted shortfall arose in 2009-10 in the General Lighthouse Fund (GLF), which is made up of LD receipts from ship owners, employees' pension contributions and commercial/investment income. The GLF funds the three General Lighthouse Authorities (GLAs):

- Trinity House for England, Wales, the Channel Islands and Gibraltar;
- Northern Lighthouse Board for Scotland and the Isle of Man; and
- Commissioners of Irish Lights for the whole island of Ireland.

Government intervention to ensure the adequate provision of maritime aids to navigation (AtoN) is necessary given the market failure that results from their public good aspects, i.e. the provision of AtoN such as lighthouses are 'non-rival' in consumption as use by a given ship does not detract from that of other vessels.

It is also difficult to exclude ships from using these services (although since most of the benefits of lighthouses accrue to ships using particular ports, a charge for users can be made via port user fees as is the case with light dues). However, these public good aspects mean that the socially optimal quantity of AtoN would be unlikely to be provided by the market and so government intervention is required in order to maintain maritime safety.

The objective of intervention is to to ensure that the GLF is sufficient to fund the GLAs and that it is able to maintain a reserve level which is prudent, but not excessive.

Intervention in this instance was required in July 2009 to address a predicted shortfall in the level of the GLF, which finances the GLAs provision of AtoN. The GLF aims to start each financial year with an opening balance above the Minimum Reserve Fund Level (MRFL). The MRFL is set at around £67m in order to make provision for staff pension contributions (around £46m), uninsured losses (£5m) and working capital (£16m – equivalent to operating costs for around two months).

The GLA provided AtoN make an essential contribution to maritime safety (helping to avoid both loss of life/injury and damage to the marine environment). After a full consultation exercise on LD levels last year, in June 2009 we announced a two-stage increase in LD, with the second stage coming into effect in April 2010. We proposed the staged rather than single increase in order to provide LD payers with financial planning stability, offering them time to adjust their pricing structure to reflect the new payment regime.

A reduction in the planned level of April's LD has been possible as the GLF is now, due to its careful administration and management together with better than expected investment income return over the last year, in a robust enough position for the level of light dues to be charged in April to be reconsidered. We have also worked closely with the GLAs to identify efficiency savings over and above the 5.6% reductions announced last year and have identified a further reduction of 5% largely in back-office running costs 2010-11. The Atkins report on the provision of aids to navigation makes recommendations for further GLA efficiences. All of these outcomes have reduced the expected call on the GLF, meaning that the GLF is now predicted to close 2009-10 at a level of about £85m compared to the original prediction of £62m. This means that it is possible to increase light dues by a smaller amount on 1 April 2010 than originally expected.

Date	LD	Voyage Cap	Tonnage Cap (nrt)
01-Apr-06	35p	7	35,000
01-Jul-09	39p (+4p)	9 (+2)	35,000
01-Apr-10	41p (+2p)	9	40,000 (+5,000)

The above table shows the level of light dues charged and their new levels from 1 April 2010; the two-fold increase is clearly set out with the first increase implemented last year. In the initial impact assessment, the GLAs' prediction of the net LD operating requirement was £89.1m for 2009-10; this has now fallen £66m however the main reason for this change is the growth in value of the investment portfolio, if this is discounted it would be around £81m.

An impact assessment undertaken last year considered the effects of the light dues increases at that time. The impact assessment provided analysis of light dues rates at 43p and the tonnage cap at 40,000 tons. Conversely, this impact assessment considers the affects of the reduction in light dues by 2p from 43p to 41p.

Preparation of the IA

Consequently, this IA has been prepared to reflect the 2p reduction in light dues. LD will be revised as set out in the following table, which also shows the rates applicable before and after the changes made on 1 April 2010:

	Date	LD	Voyage Cap	Tonnage Cap (nrt)
Originally proposed	01-Apr-10	43p (+4p)	9	40,000 (+5,000)
Rates to be introduced	01-Apr-10	41p (+2p)	9	40,000 (+5,000)

Analysis of Impacts

Groups and sectors affected

Commercial shipping industry

As payers of LDs, the commercial shipping industry is affected by light dues revisions.

GLAs

The three GLAs of the United Kingdom and Ireland have statutory responsibility for the provision of maritime AtoN around the British Isles.

Government

The Government is ultimately responsible for administration and management of LD and the GLF. The Secretary of State for Transport sets the level of LD to be charged in the UK.

Costs

This section sets out the expected costs of the proposal for each of the affected groups in turn followed by an analysis of net costs from the point of view of society as a whole.

Shipping industry

The increases are lower for all types of shipping than those that would have occurred had the changes made in July 2009 gone ahead. The table below shows the net reduction in LD receipts that will be raised under the new rates.

Net reduction in LD receipts generated at 41p instead of 43p			
Year	43p LD receipts generated	41p LD receipts generated	Net benefit
2010-11	£88m	£84m	£4m
2011-12	£88m	£84m	£4m
2013-14	£88m	£84m	£4m

Nevertheless, there will still be an increase in actual LD levels in April compared to now, and the table below shows the additional revenue that these new rates will generate from commercial shipping.

Net impact of LD rising to 41p from 39p and the tonnage cap to 40,000			
Year	LD 39p and 35,000 tonnage cap	LD 41p and 40,000 tonnage cap	Net dis-benefit
2010-11	£78m	£84m	£6m
2011-12	£78m	£84m	£6m
2013-14	£78m	£84m	£6m

There will be no significant change to the administration burdens placed on businesses, as there are no proposed changes.

GLAs

There are no cost implications for GLAs as there will be no change to the provision of maritime AtoN.

Government

There are no cost implications for Government as there will be no change to the administration and management of LD and the GLF.

Society

The wider society will not be affected by this decision.

Benefits

This section sets out the expected benefits of the proposal for each of the affected groups in turn followed by an analysis of net benefits from the point of view of society as a whole.

Shipping industry

Users of ports in the UK and Ireland will benefit from the continued provision of AtoN, at a slightly reduced cost than was expected.

GLAs

The GLAs will benefit from the change, as it will provide a sustainable funding position.

Government

The Government will benefit from being able to maintain the GLF above the MRFL as this will facilitate responsible stewardship of pensioners' interests.

Society

It would be expected that there would be a net safety benefit to society as a whole as a result of the steps being taken to safeguard the continued operation of the GLAs. However, we are not aware of any evidence that would allow estimation of the value of this impact in monetary terms.

Environmental and Social Impacts

No social impacts are expected as a result from the changes to LD. The work of the GLAs to prevent incidents with potential to cause damage to the marine environment would continue as before.

Summary of costs and benefits

The key costs consist of a slight reduction in revenues to the GLF caused by a decrease in light dues from 43p per ton to 41p per ton. However, this reduction in revenue will be met by improved performance and reduced running costs of the GLAs.

The key benefits consist of a slight reduction in costs to the shipping industry, which will benefit from the same level of provision of aids to navigation as before.

There are no changes in un-monetised benefits from the continuing work of the GLA to improve safety, as there will be no changes to the overall provision of maritime aids to navigation. No environmental impacts are expected because of the changes to light dues and the work of the GLA to prevent incidents with potential to cause damage to marine environments would continue as before.

Hence, the overall economic impact of this change is neutral, given that there is no change to the service provided, and there is a nominal transfer from one group to another. Given the evidence that is currently available, DfT economists consider that this impact assessment represents a reasonable view of the likely costs and benefits.

Impact Tests

Competition Assessment

The preferred option will not place anti-competitive restrictions on the number or range of suppliers within the shipping industry and will not reduce incentives to compete as it will impact on all vessels which call at ports in the UK. Therefore, the proposal is unlikely to raise competition issues.

Small Firms Impact Test

The proposal will revise LDs charged to all commercial vessels other than tugs and fishing vessels calling at ports in the UK or the Republic of Ireland. The receipts fund the work of GLAs, maintaining maritime safety providing benefits to all vessel owners. Commercial fleets are regularly made up of a variety of vessel with differing configurations and specifications, therefore these proposals will not impact smaller firms.

Race, Gender and Disability Equality

There are no race, gender or disability impacts to these proposals.

Legal Aid

There are no legal aid implications.

Sustainable Development

The proposal des not conflict with any of the five principles of sustainable development.

Carbon Assessment

There are no significant carbon emissions implications. The changes to the scheme are unlikely to impact on shipping patterns.

Other Environment

There are no significant other environmental implications.

Health Impact Assessment

There are no health and wellbeing, or health inequalities implications.

Human Rights

There are no human rights implications.

Rural Proofing

There are no rural proofing implications.

Consultation

The initial consultation document on the 2009 revision of light dues is at:

http://www.dft.gov.uk/consultations/closed/lightduesamendment/

1.Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	***Results in Evidence Base?***	***Results annexed?***
Competition Assessment	No	No
Small Firms Impact Test	No	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	No	No
Disability Equality	No	No
Gender Equality	No	No
Human Rights	No	No
Rural Proofing	No	No

1. Annexes

Annex A - Amended legislation

Amendment of the Merchant Shipping (Light Dues) Regulations 1997

The Secretary of State makes the following Regulations in exercise of powers conferred by section 205(5) of the Merchant Shipping Act 1995(**2**):

Citation and commencement

1.—(1) These Regulations may be cited as the Merchant Shipping (Light Dues) (Amendment) Regulations 2010.

(2) They come into force on 31st March 2010

Amendment of the Merchant Shipping (Light Dues) Regulations 1997

2. In paragraph 3(1A)(b)(**3**) of Part II (Scale of Payments) in Schedule 2 to the Merchant Shipping (Light Dues) Regulations 1997(**4**)—

(a) for "43 pence" substitute "41 pence"; and

(b) for "£17,200" substitute "£16,400".

(**1**) 1995 c.21.

(**2**) Sub-paragraph (1A) of paragraph 3 was substituted by S.I. 2009/1371, regulation 2(1) and (2), in place of the sub-paragraph inserted by S.I. 2006/649, regulation 2(1) and (2)(b).

(**3**) S.I. 1997/562; relevant amending instruments are S.I. 2006/649 and 2009/1371.