

Title: The Merchant Shipping (Passengers' Rights) Regulations 2013 ("the UK implementing regulations") IA No: DfT00167 Lead department or agency: Department for Transport Other departments or agencies: N/A	Impact Assessment (IA)		
	Date: 31/01/2013		
	Stage: Final		
	Source of intervention: EU		
	Type of measure: Secondary legislation		
Contact for enquiries: Damian de Niese Tel: 020 7944 2024			
Summary: Intervention and Options			RPC: RPC Opinion Status

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, Measure qualifies as One-Out?
£-0.48m	NQ	NQ	No
			NA

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

In the maritime sector, problems included (a) a lack of uniformity regarding the extent and depth of passenger rights protection; (b) a lack of a common framework regarding immediate and predefined solutions in cases of cancellations and delays; (c) a lack of information to passengers generally; and (d) potential discrimination against persons with reduced mobility (PRMs). The UK Government is providing an enforcement mechanism to protect rights and entitlement under EU Regulation 1177/2010, concerning the rights of passengers travelling by sea and inland waterway. The rationale for intervention is to ensure compliance with the EU Regulation. It is also a requirement of the EU Regulation.

What are the policy objectives and the intended effects?

The aims of the EU Regulation are (i) to establish new rights of access and agreed quality of service standards for PRMs when travelling by sea and inland waterway; (ii) to create a uniform system of rights for all passengers when travelling by sea and inland waterway; and (iii) to bring the maritime and inland waterway sector into line with the aviation and rail sectors with respect to passenger rights¹. The UK is only required to establish an enforcement mechanism to ensure all parties comply with the EU Regulation.

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

Under European Law the UK Government is required to provide for the enforcement of rights and entitlement under the EU Regulation, concerning the rights of passengers when travelling by sea and inland waterway by establishing an enforcement mechanism. Failure to provide an enforcement mechanism for the EU Regulation would lead to the instigation of infraction proceedings by the European Commission against the UK. Do nothing is the baseline against which the policy options are assessed. Only one policy option has been assessed in this Impact Assessment, which is to do the minimum required to provide an enforcement mechanism for the EU Regulation. This would involve introducing the UK implementing regulations to establish an enforcement mechanism to ensure compliance with the EU Regulation (Option 1). Option 1 is our preferred option, which should ensure full compliance with the EU Regulation.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 12/2017					
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: 06/02/2013

¹ In addition, Passenger Rights Regulations for buses and coaches are due to come into force in March 2013.

Summary: Analysis & Evidence

Policy Option 1

Description: Introduce the UK implementing regulations to establish an enforcement mechanism to ensure compliance with the EU Regulation

FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2013	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -0.57	High: -0.40	Best Estimate: -0.48

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	NA	0.05	0.40
High	NA	0.07	0.57
Best Estimate	NA	0.06	0.48

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

The costs to the Maritime and Coastguard Agency (MCA) of establishing and operating a national enforcement body to ensure compliance with the EU Regulation that it has been possible to monetise are estimated to be in the region of £46,000 to £66,000 per year, with a Best estimate of £56,000 (the mid-point of this range). This is based on the Department for Transport's current resourcing plan. However, it should be noted that this cost is very uncertain and that this estimate is sensitive to the assumptions made.

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

Several other costs have been identified but could not be monetised. 1.) There could be costs to business associated with engaging with the national enforcement body (e.g. the costs associated with providing information to it). 2.) There could be familiarisation costs to business. 3.) If there is non-compliance with the EU Regulation, there could potentially be further costs to businesses, but 100% compliance is assumed in this IA. 4.) Other costs to the MCA could include recruitment, training, travel and expenses.

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

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

It has not been possible to monetise any of the benefits that have been identified in this IA. However, a full qualitative description of these benefits is presented in the Evidence Base (pages 11 to 13) and the key non-monetised benefits are summarised below.

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

Benefits of the EU Regulation to passengers include improved access for disabled persons and PRMs, and assistance in case of cancelled or delayed departures. The UK implementing regulations could potentially contribute to realising these benefits by establishing an enforcement mechanism in the UK. However, the benefits of the UK implementing regulations would depend on the extent that there would be non-compliance with the EU Regulation in the absence of an enforcement mechanism in the UK.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5%

1.) In the absence of any evidence to the contrary, it is assumed that there would be 100% compliance with the EU Regulation under Option 1 for the purposes of this cost benefit analysis. 2.) As the EU Regulation is in force, operators will have a legal duty to comply with its requirements in the absence of an enforcement mechanism in the UK. Therefore, the costs to business of complying with the requirements of the EU Regulation are not counted as costs of the UK implementing regulations in this IA.

BUSINESS ASSESSMENT (Option 1)

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

Evidence Base (for summary sheets)

Government launched a public consultation on the UK's implementation of the EU Regulation on 5 October 2012. The six week consultation closed on 16 November 2012. Thirteen responses to the consultation were received.

Responses were generally supportive of the proposed three tier approach, whereby a passenger will make their complaint to the carrier / operator in the first instance (see section below for further details). The passenger can then raise their complaint with a voluntary complaint handling body if the complaint has not been resolved at the first stage. At the third stage, the enforcement body will be responsible for investigating whether there has been a breach of the EU Regulation in individual cases. Therefore, this approach has been confirmed in this updated Impact Assessment.

The Government consulted on the basis that (i) the Passenger Shipping Association (PSA) would act as the voluntary complaint handling body for England and Wales; and (ii) that the Scottish Government and the Consumer Council for NI (CCNI) take up this role in their respective areas. Following feedback from the consultation, a further complaint handling role for London TravelWatch was identified. London TravelWatch will be the complaint handling body for services operated and licensed by Transport for London (TfL).

The analysis in this Impact Assessment has been reviewed when finalising the Impact Assessment following the consultation and a number of changes have been made. This includes taking account of the limited evidence that was forthcoming in relation to the impact of the draft UK implementing regulations and the EU Regulation as part of the consultation, and making a number of other refinements to the analysis.

Section 1 – Purpose of Impact Assessment

The purpose of this Impact Assessment is to set out the impacts of introducing the Merchant Shipping (Passengers' Rights) Regulations 2013 ("the UK implementing regulations"), which establishes an enforcement mechanism in the UK to ensure compliance with the directly applicable EU Regulation on the rights of passengers when travelling by sea and inland waterway in the UK (EU Regulation No. 1177/2010). The Impact Assessment does not assess the costs of complying with the EU Regulation itself.

Section 2 – Background

2.1. The EU Regulation

The EU Regulation establishes the right of all passengers to assistance in cases of cancelled or delayed departures and lays down the right, in certain circumstances, to compensation in case of delay in arrival.

The EU Regulation also provides disabled persons or persons with reduced mobility (PRMs) with the same rights and accessibility assistance when travelling by water to those they have in other transport sectors.

The Final EU Regulation was adopted on 24 November 2010 and is split into six chapters and four annexes.

Chapter I provides for the general provisions of the EU Regulation and Chapter II provides for the rights of disabled persons and persons with reduced mobility when travelling by sea and inland waterway. Chapter III sets out the obligations of carriers and terminal operators in the event of interrupted travel. Chapter IV provides for general rules on information and complaints and Chapter V on enforcement of the EU Regulation. Chapter VI sets out the final provisions.

A summary of each of the individual Articles of the EU Regulation is provided at Annex A. If further information is required on the Articles within the EU Regulation, please refer to the Final Regulation itself, which can be found on the Official Journal of the European Union's website at –

2.2. Key Facts about the UK Ferry and Cruise Industries

- In 2011 there were 43 million sea passenger movements on UK domestic and international ferry services (excluding river ferries which separately handled 19.5 million passengers in 2011)¹.
- In 2011 there were 21.1 sea passenger movements on international ferry services (which included passengers to and from the Republic of Ireland). 10.6 million sea passenger movements were departures from UK ports and 10.5 million arrivals at UK ports.²
- Of these international sea passenger movements, 2.9 million were between Great Britain and the Republic of Ireland; 1.46 million were departures from GB ports to the Republic and 1.46 million were arrivals at GB ports from the Republic³.
- There were 22.3 million sea passenger movements on domestic ferry services (sea crossings and inter-island services). Of these 22.3 million, 2.1 million were sea passenger movements between Great Britain and Northern Ireland.⁴
- Total number of UK cruise passengers was 1.62 million in 2011⁵. The UK had 28% of the European cruise market in 2011⁶.
- 6.3 million passenger cars, motorcycles or passenger buses and 3.5 million road goods vehicles (light vans or heavy goods vehicles) travelled on domestic and international ferry services from/to UK ports in 2011⁷.
- As at 30 April 2012, the UK ship register included 1,440 merchant vessels over 100 Gross Tonnage (GT) with a total GT of 17.8 million GT⁸.
- As at 31 December 2011, there were 5 cruise ships, 108 roll-on roll-off passenger ships, 23 passenger ships and 4 general cargo-passenger ships of over 100 GT with a total of 1.28 million GT on the UK register⁹.

2.3. Key facts about disabled persons and persons with reduced mobility in the UK

It is estimated that around 20% of the UK's adult population has some form of disability. Estimates are similar for Europe as a whole. There is also a close correlation between disability and age – nearly half of disabled people are over state pension age¹⁰.

The number of people over 65 years old in Europe almost doubled between 1960 and 2001. By 2030 this group is expected to represent nearly a third of the total population¹¹. People who are either disabled or older, or both, will represent around 35% of the future population of Europe. With higher expectations among that group for travel, there is a huge potential market for the maritime industry to tap into. In fact, the collective spending power of disabled people in the UK is estimated to be around £80 billion a year¹².

¹ Source: "Sea Passenger Statistics", Department for Transport

² Source: "Sea Passenger Statistics", Department for Transport

³ Source: "Sea Passenger Statistics", Department for Transport

⁴ Source: "Sea Passenger Statistics", Department for Transport

⁵ Source: "Sea Passenger Statistics", Department for Transport

⁶ Source: European Cruise Council

⁷ Source: "Sea Passenger Statistics", Department for Transport

⁸ Source: "Shipping Fleet Statistics", Department for Transport

⁹ Source: DfT Statistics of UK registered ships, 31 December 2011; DfT analysis of IHS Fairplay world fleet data

¹⁰ Source: Department for Work and Pensions, Family Resources Survey 2010-11

¹¹ Source: The social situation in the European Union, 2003, European Commission

¹² Source: Department for Work and Pensions, 2006

Disabled people are not a homogenous group and have very different needs. Some people will have more than one disability. Some people are visibly disabled, such as someone who uses a wheelchair or a white cane, but many have disabilities which are not immediately obvious, such as learning difficulties. Some symptoms of disabilities may be intermittent, such that individuals may be effectively disabled or have reduced mobility at one time and yet will appear to be capable at other times, typical for someone with a disability such as multiple sclerosis. The following figures relate to the UK population and illustrate the numbers involved:

- 9 million deaf and hard of hearing people¹³, including 2 million hearing aid users, would benefit from visual information systems;
- 7.5 million people with arthritis¹⁴ would benefit from level surfaces, seating, handrails etc;
- around 2 million people with a sight problem¹⁵ would benefit from colour contrast, tactile surfaces as well as audible information systems;
- 1.2 million wheelchair users¹⁶ would benefit from lifts and ramps; and
- over 1 million people¹⁷ with learning disabilities would benefit from clearer information.

Section 3 – Problem under consideration

The UK Government is providing an enforcement mechanism to protect rights and entitlement under EU Regulation 1177/2010, concerning the rights of passengers travelling by sea and inland waterway, which will help address some of the following specific problems. The following bullets refer to the situation before the EU Regulation entered into force on 18 December 2012.

- **Lack of uniformity regarding the extent and depth of passenger rights protection:** Every member state had some regulations regarding passenger rights, and some countries even had special provisions for PRMs passengers. But there were important differences between them, not only concerning the level of detail and issues covered, but also the kind of law applicable and the authorities in charge of producing, enforcing, monitoring and revising regulations.
- **Lack of a common framework regarding immediate and predefined solutions in cases of cancellation and delays:** For passengers in general, there was no international or European Community legislation that determines automatic and immediate solutions when a journey by ship was interrupted by a critical event. Passenger ship carriers had done little collaboratively to tackle the issue of standardising passenger rights or quality standards among themselves through their European and international organisations.
- **Lack of information to passengers in general and to PRM passengers in particular, regarding their rights in case of a critical event:** Diversity amongst countries was even greater on the amount and quality of information provided to passengers about their rights in such cases. The situations with regard to availability of information differed widely, ranging from none at all to detailed information in Braille.
- **Potential discrimination against PRMs:** In maritime transport, market forces alone do not enable the actual needs of persons with reduced mobility to be met. The demand for travel from persons with reduced mobility was not sufficiently significant to drive the necessary adaptations in ports and onboard ships. The resulting lack of dedicated facilities in maritime transport in turn, discouraged persons with reduced mobility from making reservations on boats.

¹³ Source: RNID

¹⁴ Source: Arthritis: The Big Picture, Arthritis Research Campaign (2002) Introduction and General Principles

¹⁵ Source: RNIB

¹⁶ Source: Improving Services for Wheelchair Users, Department of Health, 2004

¹⁷ Source: Foundation for People with Learning Difficulties/ Institute for Health Research, Lancaster University (2004)

Section 4 – Rationale for intervention

The EU Regulation establishes the right of all passengers to assistance in cases of cancelled or delayed departures and lays down the right, in certain circumstances, to compensation in case of delay in arrival. The EU Regulation also standardises the basic rights, service and redress disabled persons and persons with reduced mobility (PRMs) can expect when travelling by sea and inland waterway.

Under European Law, the UK Government is required to provide for the enforcement of rights and entitlement under the EU Regulation, concerning the rights of passengers when travelling by sea and inland waterway by establishing an enforcement mechanism. Under Article 25 of the EU Regulation, there is a requirement for each member state to designate a body responsible for enforcement, which should encourage all parties to comply with the EU Regulation. Passengers are to be entitled to lodge a complaint that an operator does not have the required complaints procedures / mechanisms in place with the enforcement body, and member states are required to introduce penalties for infringements (Article 28). The enforcement body is required to publish a report by 1 June 2015 and every 2 years thereafter, containing a description of actions taken in connection with the EU Regulation, including details of sanctions applied and statistics on complaints and sanctions (Article 26).

Failure to provide an enforcement mechanism for the EU Regulation would lead to the instigation of infraction proceedings by the European Commission against the UK.

Furthermore, although the EU Regulation is directly applicable in the UK, a failure to provide an enforcement mechanism for the EU Regulation would mean the EU Regulation would be difficult to enforce in the UK. There could be knock on consequences for members of the public. Whilst some carriers and terminal operators would offer passengers the same rights as prescribed in the EU Regulation, some other carriers may not. Any lack of consistency would create confusion and would result in a range of different standards applying within the UK. It would also mean that passengers travelling elsewhere within the EU would have access to the same safeguards and benefits when travelling on water as they do when they travel by air or rail, whilst passengers travelling on water from the UK would be afforded very little protection.

Also, if the UK Government fails to provide an enforcement mechanism for the EU Regulation, this does not prevent passengers suing for damages both under their existing common law rights and also bringing claims against the UK Government in respect of its failure to provide an enforcement mechanism for the EU Regulation properly (“Frankovich damages”).

Government intervention is therefore needed to provide an enforcement mechanism for the EU Regulation in the UK. In particular, Government intervention is required to establish an enforcement and penalties mechanism to ensure compliance.

Section 5 – Policy Objectives

The aims of the EU Regulation are (i) to establish new rights of access and agreed quality of service standards for PRMs when travelling by sea and inland waterway; (ii) to create a uniform system of rights for all passengers when travelling by sea and inland waterway; and (iii) to bring the maritime and inland waterway sector into line with the aviation and rail sectors with respect to passenger rights.

Under the EU Regulation, there is a requirement for each member state to designate a body responsible to enforce the EU Regulation.

The UK implementing regulations are being introduced to ensure compliance with the EU Regulation, allowing the above policy objectives to be realised.

Section 6 – Description of options considered

The UK Government is required to provide an enforcement mechanism for the EU Regulation in the UK, to establish rights for passengers travelling by sea and inland waterway. Under Article 25 of the EU Regulation, there is a requirement for each member state to designate a body responsible for enforcement, which should encourage all parties to comply with the EU Regulation. Member states are required to introduce penalties for infringements (Article 28). The enforcement body is also required to publish a report by 1 June 2015 and every 2 years thereafter, containing a description of actions in connection with the EU Regulation, including details of sanctions applied and statistics on complaints and sanctions (Article 26).

Therefore, the Government is introducing the UK implementing regulations to establish an enforcement mechanism to ensure compliance with the EU Regulation (Option 1), which is the minimum required. This is in line with the Coalition Government's Principles of Regulation.

Under Option 1, the Maritime and Coastguard Agency (MCA) is designated as the national enforcement body for the EU Regulation in the UK. The MCA will be responsible for investigating whether there has been a breach of the EU Regulation in individual cases; be required to take the measures necessary to ensure compliance with the EU Regulation and be required to publish a report on its activity approximately every 2 years. The UK implementing regulations also introduce a regime of penalties for infringements of passengers' rights, and the MCA, as the enforcement body, is responsible for any prosecutions or other action it deems necessary to ensure compliance with the EU Regulation. The penalties and enforcement framework will mirror the well established structure of maritime regulatory enforcement which already exists in the UK and which is well understood within the maritime community. The penalties are also in line with those imposed in the similar Air Regulations¹⁸. Option 1 is our preferred option and the option that will be taken forward as it should encourage and ensure full compliance with the EU Regulation.

Option 1 is the only policy option that has been fully assessed in this Impact Assessment. The 'Do nothing' scenario is the baseline against which Option 1 has been assessed. The EU Regulation has been in force and directly applicable in the UK from 18 December 2012. Therefore, businesses already have a legal duty to comply with the requirements of the EU Regulation when applicable to them from this date under the 'Do Nothing' scenario.

The EU Regulation also allows for the national enforcement body or any other competent body designated by the Member State to act as an appeal body for complaints. However, currently there is no all encompassing regulator of consumer activity in the maritime sector in the UK who could act immediately as an appeals body for maritime passenger rights. Hence, the option of setting up an appeals body is not being taken up, so is not assessed in this Impact Assessment.

An explanation of how complaint handling in relation to the EU Regulation would work under Option 1 is provided below.

6.1. The approach for Complaint Handling

Where a passenger covered by this EU Regulation wants to make a complaint, the issue should initially be raised with the carrier / terminal operator's complaint handling mechanisms (stage 1), as Article 24 of the EU Regulation requires carriers and terminal operators to set up or have in place an accessible complaint handling mechanism for rights and obligations covered by this EU Regulation.

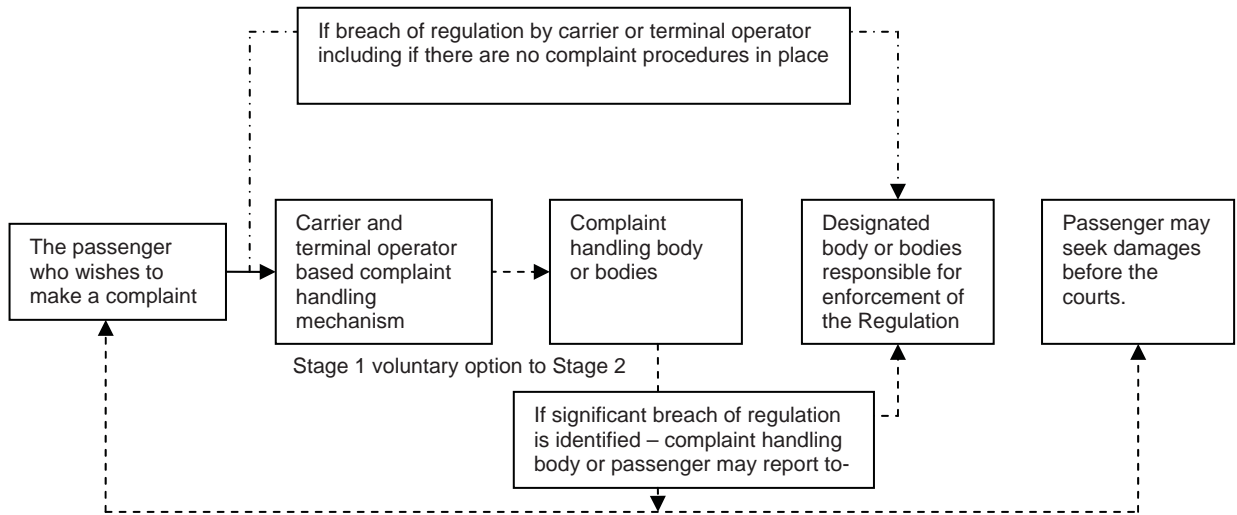
If the complaint cannot still be resolved, the complaint may then be referred to a complaint handling body on a voluntary basis (stage 2).

The Department will non-financially support a voluntary undertaking by the Passenger Shipping Association to act as the complaint handling body for England and Wales. The Consumer Council for Northern Ireland and the Scottish Executive will take up similar voluntary roles in their respective areas. London TravelWatch will be the complaint handling body for services operated and licensed by Transport for London (TfL). This is explained in further detail in the relevant section below.

If the carrier or terminal operator does not have the required complaint handling procedures / mechanisms in place the passenger may report this to the national enforcement body for investigation. See Article 25 of the EU Regulation.

This process is represented in diagrammatic form below.

¹⁸ SI 2005 No. 975 and SI 2007 No. 1895



The dashed line option (at the bottom of the diagram) between the passenger and the courts recognises that there is nothing in the EU Regulation which precludes passengers from seeking damages before national courts at any stage in the process. See Article 21 of the EU Regulation.

In the majority of cases, we would expect passengers covered by the EU Regulation to submit their complaint through the complaint handling process of the EU Member State in which they embarked upon their journey.

The EU Regulation advocates that a complaint concerning assistance in a port or on board a ship should preferably be addressed to the body or bodies designated for the enforcement of the EU Regulation in the Member State where the port of embarkation is situated, and for ferry services from a non-EU country, where the port of disembarkation is situated.

However, it is important to recognise that there may be valid explanation for why a passenger chooses not to submit their complaint following the above approach. For example, the passenger may choose to submit a complaint to a complaint handling body (or enforcement body) in their home country, irrespective of where the passenger embarked the vessel. Amongst other reasons, this may be due to barriers around language required to make the complaint.

In certain circumstances, there may also be a case when a complaint handling body feels that it is appropriate to take up the complaint on behalf of the passenger in the first instance. For example, this could be when the passenger could be considered vulnerable.

6.2. The Complaint Handling Body (or Bodies)

The Department will non-financially support a voluntary undertaking by the Passenger Shipping Association (PSA) to act as the complaint handling body for England and Wales.

The PSA is the trade association for the cruise and ferry industry in the UK. It represents passenger shipping interests within the UK. The PSA is run by a London-based team and is supported by a Council of Management drawn from cruise and ferry operator representatives.

Following the introduction of the Package Travel and Package Holiday Tours Regulations in 1992, the PSA set up a scheme to settle disputes between consumers and its members from the cruise and ferry operators industry. Therefore the PSA already has conciliation service for its members in place. The PSA also has a number of associate members.

The PSA as the designated complaint handling body for England and Wales would be expected to draw on their knowledge of the industry to offer advice and assistance to all passengers (not just on complaints relating to their members), provide them with an evidence-based reply to any complaint as well as monitoring the number of complaints and any associated trends.

The Consumer Council for Northern Ireland and the Scottish Executive will take up similar voluntary roles in their respective areas.

London TravelWatch will also have a role to play for any complaints relating to services specifically operated and licensed by Transport for London.

Setting up maritime complaint handling bodies is **not a mandatory requirement** of the UK implementing regulations as it is not part of the EU Regulation. For clarity, we are **not** establishing these bodies in legislation as it could be considered to be going beyond the minimum required to comply with the EU Regulation.

The complaint handling bodies will offer advice and assistance to passengers, provide them with an evidence based reply to any complaint as well as monitor the number of complaints and any associated trends. They would work closely with the national enforcement body to help ensure compliance by the industry.

As the role of complaint handling body is purely voluntary and not a requirement of the EU Regulation or UK implementing regulations, the costs and benefits associated with establishing a complaint handling body are not covered in Section 7 of this Impact Assessment.

Devolved Administrations

The Scottish Government will take up the voluntary maritime complaint handling role for Scotland. There are a number of reasons why the Scottish Government is well placed to put in place arrangements relating to complaint handling:

- Some ferry services are already managed by the Devolved Administrations under public service contracts;
- Responsibility for policy relating to commercial ports in Scotland rests with the Devolved Administrations;
- Tourism is an important part of Scotland's economy and it is in their best interests to satisfactorily resolve any complaint themselves; and
- They will better understand the operations, the facilities and the local environment and would be able to react to, and advise on, local events and situations and be well placed to advise the national enforcement body on local trends.

The Consumer Council will take up the voluntary maritime complaint handling role for Northern Ireland. The Consumer Council is an independent consumer organisation so has specialist skills and knowledge in this area.

London

London TravelWatch will be the complaint handling body for services operated and licensed by Transport for London (TfL).

London TravelWatch, officially known as London Transport Users Committee, was established in July 2000. London TravelWatch is the independent, statutory watchdog for transport users in and around London. Based on their existing statutory remit, London TravelWatch look into complaints from people that are dissatisfied with the response they have received from their transport provider.

Following responses received to the consultation, London TravelWatch should continue their existing role for maritime complaints relating to Transport for London services.

6.3. National Enforcement Body

Each Member State is required to designate a body or bodies responsible for the enforcement of the EU Regulation, which should encourage all parties to comply with the EU Regulation. See Article 25 of the EU Regulation.

Unlike the aviation and rail sectors which have the Civil Aviation Authority (CAA) and the Office of Rail Regulation there is not a regulator of economic activities in the maritime sector and therefore not a natural home for delivering the UK's enforcement obligations.

In the maritime sector, the National Enforcement Body that will be established under Option 1 will be responsible for investigating whether there has been a breach of the EU Regulation in individual cases, and will be required to take the measures necessary to ensure compliance with the EU Regulation. However, the MCA will not adjudicate on levels on individual claims for compensation or act as an appeals body in such cases. (see section below).

The national enforcement body that would be established under Option 1 is also required to publish a report by 1 June 2015 and every 2 years thereafter, containing a description of actions in connection with the EU Regulation, including details of sanctions applied and statistics on complaints and sanctions (Article 26). The body will also be required to exchange information with other Member States which will be particularly important in relation to those States at the other end of the UK's international ferry routes.

Any enforcement body should, for reason of consistency, have jurisdiction for the whole of the UK. The Department for Transport and its executive agency – the Maritime and Coastguard Agency (MCA) has authority across the whole of the UK.

The MCA is being appointed as the National Enforcement Body for the UK that would be established under Option 1. The MCA is also industry's preferred option due to their sectoral knowledge. However, the MCA's existing remit does not extend to the rights of passengers or consumer protection.

Therefore, we are providing the MCA with a power to request information and documents from industry for the purposes of, or in connection with their role as the national enforcement body. This power is included in the UK implementing regulations.

The existence of voluntary complaint handling bodies in this process should ensure that the vast majority of all consumer complaints are resolved within the maritime sector.

However, it should be recognised that even if such complaint handling bodies were not to exist in this process, we would not anticipate a substantial increase in the number of complaints the MCA would be required to consider, as the MCA will only look at whether there has been a breach of the EU Regulation. The MCA will not adjudicate on levels on individual claims for compensation or act as an appeals body in such cases.

6.4. Appeals Body

The EU Regulation allows for the national enforcement body or any other competent body designated by the Member State to act as an appeal body for complaints. However, currently there is no regulator of consumer activity in the maritime sector in the UK, and therefore no appropriate organisation who can act as an appeals body for maritime passenger rights in the UK. Hence, the option of setting up an appeals body is not being taken up so it is not assessed in this Impact Assessment.

Section 7 – Costs and benefits of Option 1

Due to the limitations of the available evidence, it has not been possible to monetise some of the costs and benefits that have been identified in this Impact Assessment. Where it has not been possible to monetise a cost or benefit, a full qualitative description of the cost or benefit has been provided in this Impact Assessment.

As part of the public consultation launched on 5 October 2012, consultees were invited to submit any additional evidence on the costs and benefits of Option 1. Very limited evidence was made available following this request. The evidence received has been taken into account when finalising the assessment of the costs and benefits of Option 1 that is presented in this Impact Assessment. The analysis presented in this Impact Assessment has also been reviewed when finalising the Impact Assessment following the consultation and a number of changes have been made to ensure that it reflects the best available evidence.

7.1. Scope of the Impact Assessment

This Impact Assessment assesses the additional costs and benefits that would arise as a result of introducing the UK implementing regulations under Option 1 compared to those that would arise under the 'Do nothing' scenario. At this point, there is uncertainty regarding the date when the UK implementing regulations will enter into force, but this is expected to be in early 2013. As a simplifying assumption, it is assumed that the UK implementing regulations will enter into force on 1 March 2013 for the purposes of this cost benefit analysis. The appraisal period in this Impact Assessment therefore runs for a period of 10 years from this date.

Under the 'Do nothing' scenario, the EU Regulation is already in force and directly applicable in the UK from 18 December 2012. Therefore, businesses already have a legal duty to comply with the requirements of the EU Regulation when applicable to them from this date. Consequently, for the purposes of this Impact Assessment, the costs to business associated with the complying with the requirements of the EU Regulation are not counted as costs of the UK implementing regulations. Further details on the costs of the EU Regulation are included in Annex C.

This Impact Assessment therefore assesses only the additional costs and benefits of introducing the UK implementing regulations to establish an enforcement mechanism to ensure compliance with the EU Regulation.

The focus of this Impact Assessment is on the impacts of the policy option which fall upon the UK, including any impacts on the public sector in the UK, UK businesses, the third sector in the UK and impacts on UK consumers.

7.2. Sectors and groups affected

The EU Regulation will apply to ferry services where the port of embarkation is situated in the territory of a member state, or where the port of embarkation is situated outside the territory of a member state and the port of disembarkation is situated in the territory of a member state, provided that the service is operated by a union carrier¹⁹.

The EU Regulation will also apply to cruises where the port of embarkation is situated in the territory of a Member State. However, a small number of Articles of the EU Regulation do not apply to cruise passengers. These are Articles 16(2), 18, 19 and 20(1) and 20(4).

The EU Regulation also includes a number of exemptions that are designed to exclude small boats and to protect small businesses. For example, it does not apply to ships certified to carry up to 12 passengers; ships which have a crew of not more than 3; where the distance is less than 500 metres one way; on excursion and sightseeing tours other than cruises; and on ships not propelled by mechanical means.

7.3. Benefits of Option 1 – Establish an enforcement mechanism to ensure compliance with the EU Regulation

The UK implementing regulations would introduce an enforcement regime for the EU Regulation in the UK and could potentially help to realise the benefits of the EU Regulation, as organisations will have a greater incentive to comply with the EU Regulation if there is an enforcement body in place. However, the contribution of the UK implementing regulations to realise these benefits is uncertain and would depend largely on the number of ships which would not comply with the EU Regulation under the 'Do Nothing' scenario. No evidence is available on the number of ships which would not comply with the EU Regulation under the 'Do Nothing' scenario. It has not therefore been possible to monetise the contribution of the UK implementing regulations to realising the benefits of the EU Regulation in this Impact Assessment. However, it should be noted that if all of the relevant ships would comply with the EU Regulation under the 'Do Nothing' scenario then the UK implementing regulations would not contribute to realising the benefits of the EU Regulation. A high-level summary of the benefits of the EU Regulation is provided in the box beginning on the next page for information. Further details on the benefits of the EU Regulation are included in Annex C.

¹⁹ For the EU Regulation, 'union carrier' means a carrier established within the territory of a Member State or offering transport by ferry service operated to or from the territory of a Member State.

As part of the public consultation launched on 5 October 2012, consultees were invited to submit any additional evidence on the impact the enforcement measures would have on compliance with the overall EU Regulation. No evidence was made available following this request.

Benefits of the EU Regulation

(i) Improved access for disabled persons and PRMs

The EU Regulation will provide disabled persons and PRMs with the same opportunities to travel by water as they do in the rail and aviation sectors across the EU. The EU Regulation will standardise the rights, service and the redress which they can expect. PRMs travelling on maritime routes will benefit from the increased ease and comfort associated of making journeys under the EU Regulation compared to that which existed previously.

(ii) Potential increase in journeys by PRMs

Due to the benefit explained in (i), it is considered that disabled persons and PRMs could be encouraged to travel by sea and inland waterway more often. Such encouragement could be likely to result in more journeys being taken by disabled persons and PRMs residing in the UK as well as greater desire to take part in cruise activities for pleasure or recreational purposes. Additional trips could be likely to be taken at both a domestic and an international level. However, there is only limited evidence available on this issue, so it is not possible to robustly determine how many additional passenger journeys would be made to and from the UK, particularly as travel is affected by a number of factors, including the wider economic situation and the costs of travel.

(iii) Assistance in case of cancelled or delayed departures

The EU Regulation establishes the passenger's right to assistance in case of cancelled or delayed departures. In situations where the service is cancelled or the carrier expects the departure to be delayed for more than 90 minutes, passengers shall be offered free of charge snacks, meals or refreshments in reasonable relation to the waiting time, provided they are available, or can be reasonably be supplied. For prolonged delays, further assistance including overnight accommodation, where appropriate, must be provided. Such assistance does not apply to passengers with open tickets, if the passenger is informed of the cancellation or delay before the purchase of the ticket or if the cancellation or delay is caused by the fault of the passenger.

Such assistance will have a direct benefit to the travelling passenger; there could also be some less significant indirect benefits to local services such as shops and restaurants as carriers provide snacks, meals or refreshments. It is assumed that this impact represents a transfer from industry to passengers. It is important to note that in some instances, such as when passengers are delayed in remote locations, it may not be possible to provide such assistance. It would also not be appropriate to provide such assistance to those which would prefer to be re-routed or reimbursed their ticket price.

(iv) Compensation of the ticket price in case of delay in arrival

In the absence of the EU Regulation, passengers did not benefit from any statutory compensation arrangements for any delay in arrival to their scheduled journey. Under the EU Regulation, passengers will be entitled to a minimum level of compensation, which shall be 25% of the ticket price for a delay of at least:

- a) 1 hour in the case of a scheduled journey of up to 4 hours;
- b) 2 hours in the case of a scheduled journey of more than 4 hours but not exceeding 8 hours;
- c) 3 hours in the case of a scheduled journey of more than 8 hours but not exceeding 24 hours; or
- d) 6 hours in the case of a scheduled journey of more than 24 hours.

If the delay exceeds double the time set out in points a) to d) the compensation shall be 50% of the ticket price. The compensation of the ticket price shall not be reduced by financial transaction costs such as fees, telephone costs or stamps. Compensation payments are not available where the cancellation or delay is caused by weather conditions endangering the safe operation of the ship or in extraordinary circumstances hindering the performance of the passenger service.

(v) Accessible complaint handling procedures

Under the EU Regulation, passengers will benefit from the new carrier and terminal operator based complaint handling mechanisms that would be available to them in order to seek redress of their complaint. If industry based procedures did not resolve the complaint, the passenger would have recourse to the newly established national enforcement body to help resolve alleged infringements.

7.4. Costs of Option 1 – Establish and operate a national enforcement body to ensure compliance with the EU Regulation

Three potential groups of costs of the UK implementing regulations have been identified in this Impact Assessment and are discussed below.

7.4.1 Costs to the Maritime and Coastguard Agency (MCA) of establishing and operating a national enforcement body for the EU Regulation

7.4.1.1. Background

All of the costs discussed in Section 7.4.1 are a cost to the UK taxpayer and not a cost to business.

Under Article 25, the EU Regulation requires each Member State to designate a body responsible for the enforcement of this EU Regulation. The enforcement body would also be required to have powers in order to ensure that its decisions were complied with by carriers and terminal operators. This would be an entirely new cost for the UK.

In the UK, the Maritime and Coastguard Agency (MCA) will be the enforcement body for the EU Regulation.

The MCA would be responsible for investigating whether there has been a breach of the EU Regulation in individual cases, and would be required to take the measures necessary to ensure compliance with the EU Regulation.

Where a passenger is covered by the EU Regulation and wishes to make a complaint then this will need to be raised in the first instance with the carrier / terminal operator, with the aim of resolving any complaints at this stage. If the complaint cannot be resolved at this stage, it may then be referred to the relevant voluntary complaint handling body for resolution. At the third stage, the enforcement body will be responsible for investigating whether there has been a breach of the EU Regulation in individual cases.

This three tier approach should ensure that the number of complaints that the enforcement body has to investigate is lower than if the voluntary complaint handling bodies were not present in the complaint handling process.

Furthermore, it is anticipated that the MCA in their role as the enforcement body for the Maritime EU Regulation will look at only a small minority of complaints in detail, where it is perceived that there has been a fundamental breach of the EU Regulation.

7.4.1.2. Number of complaints that would be submitted to the MCA

The number of complaints that would be submitted to the MCA is subject to a range of uncertainties. The analysis in this section is based on information included in the European Commission's Impact Assessment for the EU Regulation²⁰, which draws on evidence from the aviation sector

The European Commission's Impact Assessment for the EU Regulation²¹ indicates that following the introduction of similar European legislation on air transport (Regulation 261/2004²²), complaints were received by national enforcement bodies at a rate equivalent to 44 for every million passengers departing from EU airports. This is based on the "Review of Regulation 261/2004" which was prepared by Steer Davies Gleave (February 2007).²³

²⁰ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SEC:2008:2950:FIN:EN:PDF>

²¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SEC:2008:2950:FIN:EN:PDF>

²² <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:046:0001:0007:en:PDF>.

²³ http://ec.europa.eu/transport/modes/air/studies/doc/passenger_rights/2007_02_passenger_rights.zip

In 2011, DfT Maritime Statistics indicate that there were 10.6 million sea passengers departing from UK ports on international ferry services, 22.3 million sea passenger movements on domestic ferry services within the UK, 19.5 million passenger movements on river ferries within the UK and 1.62 million passengers embarking on or disembarking from cruises at UK ports²⁴. This suggests that there were of the order of 54 million passengers departing from UK ports by sea and inland waterway in 2011.

If it is assumed that 54 million passengers departing from UK ports would be covered by the EU Regulation each year, and that the equivalent of 44 complaints per million passengers departing from UK ports would be submitted to the MCA in line with the rate for the aviation sector used in the European Commission's Impact Assessment for the EU Regulation²⁵, it is estimated that the total number of complaints submitted to the MCA could be in the region of 2,400 per year.

However, the EU Regulation has a number of exemptions. For example, the EU Regulation does not apply in respect of passengers travelling on ships certified to carry up to (and including) 12 passengers, on ships which have a crew responsible for the operation of the ship composed of not more than three persons or where the distance of the overall passenger service is less than 500 metres one way. The EU Regulation also does not apply to passengers travelling on excursion and sight seeing tours other than cruises.

An example of a ferry service that is likely to be out of scope of the EU Regulation is the Woolwich Ferry service. The Woolwich Ferry is a boat service across the River Thames in London. The service is operated by Serco Group under licence from Transport for London and carries both foot passengers and vehicles. The number of passengers carried exceeds 2 million per year²⁶. However, the service is of less than 500 metres in length one way, therefore would be considered to be out of scope of the EU Regulation.

The existence of these exemptions means that not all passengers departing from UK ports will be covered by the EU Regulation. Holding other factors constant, this suggests that the number of complaints received by the MCA would be substantially lower than estimated above. However, the Department does not have access to any analysis of the proportion of passengers departing from UK ports that will be covered by these exemptions, so the precise number of passengers departing UK ports that will be covered by the EU Regulation is subject to uncertainty.

Therefore, on the basis of the analysis presented in this section, it has been assumed that up to in the region of 2,400 complaints would be submitted to the MCA each year where relevant in Section 7.4.1.3.

Nonetheless, it is important to recognise that it is uncertain how the rate of complaints will differ between the aviation and maritime sectors (e.g. due to any differences between the sectors and any differences between the legislation that applies to each of the sectors), and how the rate of complaints that will be received by the MCA will differ from the EU average for all national enforcement bodies. Some sensitivity analysis regarding the rate of complains per million passengers departing from UK ports that would be submitted to the MCA is therefore included in Section 7.4.1.4.

7.4.1.3. Estimated costs to the MCA

Based on discussions with the MCA, it is assumed that establishing and operating a national enforcement body would require one employee at the MCA. This is the DfT's current resourcing plan.

This assumption is broadly derived from European Commission's Impact Assessment for the EU Regulation²⁷, which estimated that the number of complaints from passengers travelling by sea and inland waterways to be handled by national enforcement bodies for the EU Regulation per year will be between 10,507 to 13,490 for all EU Member States. The European Commission's Impact Assessment further estimated that the designated national enforcement bodies for the EU Regulation will have to employ at most 7.6 full time equivalent (FTE) employees to handle these complaints. If 7.6 FTE employees would be required to handle 13,490 complaints, this equates to approximately 0.56 FTE

²⁴ The statistics for cruise passengers include passengers arriving at and departing from UK ports, and will therefore represent an overestimate of the number of cruise passengers departing from UK ports.

²⁵ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SEC:2008:2950:FIN:EN:PDF>

²⁶ <http://www.tfl.gov.uk/corporate/modesoftransport/1562.aspx>

²⁷ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SEC:2008:2950:FIN:EN:PDF>

employees per 1,000 complaints. Therefore, based on the analysis of the number of complaints that could be submitted to the MCA in Section 7.4.1.2 (i.e. assuming 44 complaints per million passengers departing from UK ports and therefore that up to in the region of 2,400 complaints would be submitted to the MCA each year), the assumption of one employee for the UK national enforcement body seems reasonable. However, it should be noted that the number of employees that would be required for the UK national enforcement body is subject to a number of uncertainties. Some sensitivity analysis is therefore included in Section 7.4.1.4.

Furthermore, based on discussions with the MCA, it is assumed that this individual would be employed at either the Senior Executive Officer (SEO) or the “S” Level SEO/MS1 (MS1) pay bands.

For the purposes of this Impact Assessment, it is assumed that, at the margin, the costs to the MCA of employing an FTE employee would be equal to their gross wages plus non-wage labour costs such as national insurance and pensions, and any other overheads that would change as a result of a marginal change in the number of FTE employees that are employed at the MCA.

The MCA has estimated the average pay costs per FTE employee per year at £46,208 for the SEO pay band and £53,173 for the MS1 pay band in 2012/13 prices. Costs taken into account in these estimates include wages, pensions and national insurance. As the average for an MS1 is higher than the average for an SEO, the average pay costs for an SEO have been assumed for low estimates and the average pay costs for an MS1 have been assumed for the high estimates.

The MCA has also estimated the average overheads per FTE employee per year at £11,971 in 2010/11 prices; this is the latest estimate that the MCA has produced of this. Overheads taken into account in this estimate include HR, accommodation, IT, Finance and Chief Executive Office. As no analysis of how these overheads would change as a result of a marginal change in the number of FTE employees that are employed at the MCA is available, the extent that these overheads would change in response to a marginal change in the number of FTE employees is uncertain. A wide range of assumptions have therefore been made in this Impact Assessment to reflect this uncertainty. For the low estimates, it is assumed that an increase or decrease in the number of FTE employees would not change these overheads. In contrast, for the high estimates, it is assumed that an increase or decrease in the number of FTE employees would increase or decrease these overheads by the average overheads per FTE employee per year estimated by the MCA. As part of this analysis, this estimate has been converted from 2010/11 prices to 2012/13 prices using the GDP deflator²⁸ resulting in average overheads per FTE employee per year of £12,531 in 2012/13 prices.

On the basis of these assumptions, the cost to the MCA of establishing and operating the national enforcement body has been estimated at around £46,000 to £66,000 per year in 2012/13 prices, with a Best estimate of around £56,000 per year (the mid-point of this range)²⁹. The appraisal period is 10 years. The present value of the total cost to the MCA over the 10 year appraisal period has therefore been estimated at around £0.40 million to £0.57 million in 2012/13 prices, with a Best estimate of around £0.48 million. Due to space limitations, the Price Base Year is stated as 2012 on the ‘Summary: Analysis & Evidence’ sheet.

7.4.1.4. Sensitivity analysis

As discussed above, it should be noted that the cost to the MCA is uncertain at this stage and that this estimate is sensitive to the assumptions that have been made as the likely number of complaints that would be received by the MCA and the number of employees that would be required by the MCA to deal with these complaints are both very difficult to estimate. For example, some consultation responses have indicated that there is likely to be an ‘initial spike’ in the number of complaints around the time that the EU Regulation entered into force. This could be explained by an increased passenger awareness of the EU Regulation and passenger rights generally.

Some sensitivity analysis has therefore been undertaken to test the sensitivity of the results to the assumptions that have been made and illustrate the impact different assumptions on the estimated cost to the MCA of establishing and operating the national enforcement body.

²⁸ http://www.hm-treasury.gov.uk/data_gdp_fig.htm

²⁹ These estimates have been rounded to the nearest £1,000 when they are presented in the IA.

Firstly, this section assesses what would happen if the number of complaints were higher or lower than has been assumed in Section 7.4.1.3.

A consultation response included information on the number of complaints received by the Civil Aviation Authority (CAA) in the UK, including in relation to Regulation 261/2004³⁰. For this aspect of the sensitivity analysis, the latest statistics on the number of complaints received by the CAA in recent years have been obtained from the CAA, and analysis has been undertaken to estimate the number of complaints per million passengers departing from UK airports.

The “Review of Regulation 261/2004”³¹ indicates that the key categories of complaints in relation to Regulation 261/2004 were those relating to delays, cancellation and denied boarding (which are also issues that are covered by the EU Regulation in relation to the maritime sector). So, this analysis has estimated both the total complaints and the complaints relating to denied boarding, cancellation and delay per million passengers departing from UK airports. This analysis has informed the following sensitivity test. The total complaints per million passengers departing from UK airports in the highest year is used as an upper bound on the number of complaints for this sensitivity analysis, and the complaints relating to denied boarding, cancellation and delay from all passengers per million passengers departing from UK airports in the lowest year is used as a lower bound for this sensitivity analysis. This conservative approach for the upper bound has been taken in recognition that there is uncertainty surrounding the proportion of the other categories of complaint that relate to Regulation 261/2004.

Year	Total Complaints from all passengers at UK airports ³² [A]	Complaints relating to denied boarding, cancellation and delay from all passengers at UK airports ³² [B]	Passengers departing from UK airports (millions) ³³ [C]	Total complaints from all passengers per million passengers departing from UK airports	Complaints relating to denied boarding, cancellation and delay from all passengers per million passengers departing from UK airports [B divided by C]
2009	5,089	2,463	109.06	47	23
2010	11,898	9,086	105.33	113	86
2011	6,434	4,109	109.64	59	37

Using the UK-level aviation statistics as a sensitivity test, if it was assumed that 54 million passengers departing from UK ports would be covered by the EU Regulation each year (see Section 7.4.1.2), that between 22 and 113 complaints would be received by the MCA for every million passengers from UK ports, and that 0.56 FTE employees would be required per 1,000 complaints (see Section 7.4.1.3), it is estimated that the total number of complaints submitted to the MCA could be in the region of 1,200 to 6,100 per year, and the number of FTE employees required for the UK national enforcement body could be in the region of 0.7 to 3.4 FTE employees.

If it was assumed that 0.7 FTE employees would be required for the UK national enforcement body, the estimates would be 70% of the estimates in Section 7.4.1.3. The range would therefore be estimated at around £32,000 to £46,000 per year, with a best estimate of around £39,000 per year³⁴; and the present value over the 10 year appraisal period would be estimated at around £0.28 million to £0.40 million, with a Best estimate of around £0.34 million.

Alternatively, if it was assumed that 3.4 FTE employees would be required for the UK national enforcement body, the estimates would be 340% of the estimates in Section 7.4.1.3. The range would therefore be estimated at around £157,000 to £223,000 per year, with a best estimate of around £190,000 per year³⁵; and the present value over the 10 year appraisal period would be estimated at around £1.35 million to £1.92 million, with a Best estimate of around £1.64 million.

³⁰ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:046:0001:0007:en:PDF>

³¹ http://ec.europa.eu/transport/modes/air/studies/doc/passenger_rights/2007_02_passenger_rights.zip

³² CAA statistics on passenger complaints from <http://www.caa.co.uk/default.aspx?catid=80&pagetype=88&pageid=27&sqlid=27>

³³ This assumes that the number of departing passengers is half of the total number of terminal passengers. The total number of terminal passengers is taken from https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/9674/avi0101.xls.

³⁴ These estimates have been rounded to the nearest £1,000 when they are presented in the IA.

³⁵ These estimates have been rounded to the nearest £1,000 when they are presented in the IA.

However, it should be recognised that the existence of the exemptions means that not all passengers departing from UK ports will be covered by the EU Regulation, and that it is uncertain how the rate of complaints will differ between the aviation and maritime sectors.

Secondly, this section assesses the impact of what would happen if the number of FTE employees required to handle complaints was higher than assumed in Section 7.4.1.3.

The European Commission's Impact Assessment for the EU Regulation³⁶ estimates that at most 7.6 FTE employees would be required at the designated national enforcement bodies for the EU Regulation. The assumption of the number of FTE employees that could be required at the UK national enforcement body that is made in Section 7.4.1.3 is based on this estimate.

The European Commission's Impact Assessment for the EU Regulation also indicates that the number of FTE employees working on the enforcement of Regulation 261/2004 was 0.09 FTE employees per million passengers departing from EU airports on average.

If 0.09 FTE employees were required for the enforcement of the EU Regulation per million passengers departing from EU ports on average, the total number of FTE employees that would be required at the designated national enforcement bodies for the EU Regulation would be higher than estimated in the European Commission's Impact Assessment for the EU Regulation.

So, for this aspect of the sensitivity analysis, this average is used to estimate the number of FTE employees that could be required for the UK national enforcement body.

Using this average as a sensitivity test, if it was assumed that 54 million passengers departing from UK ports would be covered by the EU Regulation each year (see Section 7.4.1.2), and that 0.09 FTE employees would be required per million passengers departing from UK ports, it is estimated that the number of FTE employees required for the UK national enforcement body could be in the region of 4.9 FTE employees.

If it was assumed that 4.9 FTE employees would be required for the UK national enforcement body, the estimates would be 490% of the estimates in Section 7.4.1.3. The range would therefore be estimated at around £226,000 to £322,000 per year, with a best estimate of around £274,000 per year³⁷; and the present value over the 10 year appraisal period would be estimated at around £1.95 million to £2.77 million, with a Best estimate of around £2.36 million.

However, it should be recognised that the existence of the exemptions means that not all passengers departing from UK ports will be covered by the EU Regulation, and that it is uncertain how the resource required will differ between the aviation and maritime sectors.

7.4.1.5. Non-monetised costs to the MCA

The following non-monetised costs to the MCA have been identified.

The MCA would need to publish a report by 1 June 2015 and every 2 years thereafter, containing a description of actions taken in connection with the EU Regulation, including details of sanctions applied and statistics on complaints and sanctions, which could require further resources. It is assumed that the primary drafting of the report would be undertaken by the one employee at the MCA outlined in Section 7.4.1.2. However, there are also likely to be other costs associated with publishing a report. For example, these costs could include gathering the information, publishing costs, communications resource and senior management time checking a report prior to publication. We are not able to monetise the costs of undertaking these tasks at this point.

Furthermore, there is also the potential for there to be additional costs related to recruitment, training and travel and expenses which it has not been possible to monetise at this stage due to the uncertainties involved.

7.4.2 Costs to business as a result of the creation of a national enforcement body

As explained above, the costs to business of complying with the requirements of the EU Regulation are not counted as costs of the UK implementing regulations in this Impact Assessment.

³⁶ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SEC:2008:2950:FIN:EN:PDF>

³⁷ These estimates have been rounded to the nearest £1,000 when they are presented in the IA.

If there is non-compliance with the EU Regulation, there could be costs to business as a result of enforcement action undertaken by the national enforcement body under Option 1. This could potentially include a) the costs associated with engaging with the national enforcement body (e.g. the costs associated with providing information to it) and b) the costs of any fines and penalties.

The EU Regulation on Maritime Passenger Rights is a new type of legislation for the maritime sector and hence there is no evidence available on the likely level of compliance.

However, compliance with legislation in the maritime sector is good, and there is no evidence to suggest that this situation will be different for this new piece of legislation.

In the absence of any evidence to the contrary, it is therefore assumed that there will be 100% compliance with the EU Regulation under Option 1 for the purpose of this cost benefit analysis. This approach has been taken based on the guidance in the Impact Assessment toolkit³⁸.

Nevertheless, it is possible that there could be some small additional costs to business that are compliant with the EU Regulation due to the creation of the national enforcement body for the EU Regulation.

In certain circumstances, an operator may be asked to provide the national enforcement body with evidence relating to a specific passenger complaint. This is likely to be by way of a letter explaining why the operator rejected the complaint.

On the basis that the operator investigated the complaint fully with the passenger at the start of the complaint handling process, this information should take very little time to collate, and have minimal resource effect on the operator.

7.4.3 Familiarisation Costs to Business

Some businesses may incur familiarisation costs due to the need for operators to familiarise themselves with the UK implementing regulations.

Assuming that businesses have already familiarised themselves with the content of the EU Regulation, they will only need to familiarise themselves with the nomination of the Maritime and Coastguard Agency as the national enforcement body for the UK, and the penalties for specific offences. This is likely to result in a very small and insignificant time resource to UK businesses to read and understand the short UK implementing regulations.

However, it should be noted that no evidence is currently available on this issue. Therefore, this cost has not been monetised for the purpose of this assessment as both the time that it would take to familiarise, and the number of businesses that would need to do this, are uncertain.

7.4.4 Overall Costs to Business

On the basis of the available evidence, it is considered likely that the overall costs to business would be significantly below £1 million per year.

Whilst no quantitative evidence is available on the likely costs to business, the order of magnitude of the costs to the MCA of establishing and operating a national enforcement body to ensure compliance with the EU Regulation is likely to provide some context for the potential order of magnitude of these costs.

Section 8 – Risks and Uncertainties

Failure or significant delay in providing an enforcement mechanism for the EU Regulation would lead to the instigation of infraction proceedings by the European Commission against the UK, and could have knock on consequences for passengers, as set out in Section 4 of this Impact Assessment. This is an effect of following the Do Nothing scenario.

³⁸ "When planning to introduce a Regulation, costs and benefits should assume 100% compliance, unless there is evidence of the contrary."
<http://www.bis.gov.uk/assets/biscore/better-regulation/docs/i/11-1112-impact-assessment-toolkit.pdf>

Section 9 – One-In, Two-Out

The UK implementing regulations do not go beyond the minimum required to comply with the EU Regulation. As this is an EU measure, it is out of scope of One-In, Two-Out.

Given that this is an EU measure with no gold-plating, the “Net cost to business per year” and “Business Net Present Value” boxes on the “Summary: Intervention and Options” sheet and the boxes in the “Direct impact on business (Equivalent Annual) £m” section of the “Summary: Analysis & Evidence” sheet take into account all of the direct impacts on business that have been identified in this Impact Assessment (even though none of these impacts are in scope of One-In, Two-Out).

No direct benefits to business have been identified in this Impact Assessment. Therefore, £0 has been entered in the “Benefits” box in the “Direct impact on business (Equivalent Annual) £m” section of the “Summary: Analysis & Evidence” sheet.

Although a number of direct costs to business have been identified in this Impact Assessment, it has not been possible to quantify any of these direct costs to business. Therefore, NQ (Not Quantified) has been entered in the “Net cost to business per year” and “Business Net Present Value” boxes on the “Summary: Intervention and Options” sheet and the “Costs” and “Net” boxes in the “Direct impact on business (Equivalent Annual) £m” section of the “Summary: Analysis & Evidence” sheet.

Section 10 – Specific Impact Tests

10.1 Equalities Assessment

Under Option 1, the UK implementing regulations would establish an enforcement mechanism to ensure compliance with the EU Regulation, which provides rights to all passengers when travelling by sea and inland waterway within the scope of the EU Regulation irrespective of their gender, race, nationality or ethnic origin. The EU Regulation will bring rights for disabled persons and PRMs when travelling by sea into line with the provisions that already exist in the aviation and rail sectors. It is anticipated that the EU Regulation will encourage more disabled persons and PRMs to travel and should make travelling easier for such persons; thus the EU Regulation strongly supports disability equality. An Equalities Impact Assessment for the UK implementing regulations was published for consultation and has been updated at Annex B of this Impact Assessment.

10.2 Competition Assessment

Under Option 1, the UK implementing regulations would establish an enforcement mechanism to ensure compliance with the EU Regulation. There is no evidence available to suggest that enforcement action would be targeted on a particular group more than any other group. So, it is not anticipated that the UK implementing regulations would have a significant impact on competition within the maritime sector.

Furthermore, the EU Regulation is based on similar legislation which already exists in the aviation and rail sectors; it aims to provide passengers on maritime and inland waterway services with general passenger rights in the event of a delay or cancellation to scheduled services, and for PRMs. Therefore, enforcing the EU Regulation is not expected to have a significant impact on competition between these modes of transport.

Consultees were invited to submit any additional evidence of the impacts of Option 1 on competition. No evidence was submitted. However, feedback from the public consultation suggested that the UK is ahead of other EU Member States in providing an enforcement mechanism for this EU Regulation. This led to concerns that UK ferry and cruise routes could be unfairly disadvantaged. However, the EU Regulation is directly applicable across EU Member States from the 18 December 2012, irrespective of Member States progress on implementing regulations.

10.3 Small Firms Impact Test

The UK has sought, as far as possible to exclude operators of small ships and port terminals from the scope of the EU Regulation.

The EU Regulation will not apply to ships certified to carry up to 12 passengers, ships with a crew responsible for the operation of the ship of not more than three persons or where the distance of the overall passenger service is less than 500 metres, one way. The EU Regulation applies to cruises but not to excursion and sightseeing tours.

Enforcement action under Option 1 would only have an impact on those small firms that are not caught by these exclusions.

Consultees were invited to submit any additional evidence of the impacts of Option 1 on small firms. No evidence was submitted.

10.4 Other Specific Impact Tests

Greenhouse Gas Assessment

To the extent that the existence of an enforcement regime for the EU Regulation contributes to an increase in disabled persons and PRMs using maritime transport, there could be an impact on greenhouse gas (GHG) emissions under Option 1. No quantitative evidence is currently available on the extent of this impact. However, it is anticipated that any impact on GHG emissions under Option 1 would be very limited.

Consultees were invited to submit any additional evidence of the impacts of Option 1 on greenhouse gas emissions. No evidence was submitted.

10.5 Human Rights Assessment

The UK implementing regulations would have no adverse impact on human rights. The UK implementing regulations would establish an enforcement mechanism to ensure compliance with the EU Regulation. The EU Regulation will provide disabled persons and PRMs with new rights when travelling by water, similar to those that exist in the rail and aviation sectors across the EU.

Section 11 – Regulatory Policy Committee (RPC) Opinion on consultation-stage Impact Assessment

The RPC assigned the consultation-stage Impact Assessment (IA) an ‘Amber’ rating on 13 August 2012. The RPC concluded that this IA is fit for purpose. However, the RPC made a few comments on how the IA could be improved. These comments were addressed where possible prior to publishing the consultation on 5 October 2012. In other areas, consultees were invited to submit evidence. An explanation of the changes that were made to the IA in response to the RPC’s comments prior to publishing the consultation is provided below. In addition, the RPC’s comments have been reviewed in light of the responses to the consultation and any further changes that have been made following the consultation are explained below. Where it has not been possible to address one of the RPC’s comments, an explanation has also been provided below.

a. The RPC commented that the IA should undertake sensitivity analysis on the monetised staff time cost to the Maritime and Coastguard Agency (MCA) and provide any further details on how that cost is built up. In response to this comment, the IA was modified to include some sensitivity analysis on the resource implications in section 7.4.1 above, and also include further details on how the cost has been built up in the same section to address the RPC’s comments. This analysis and the associated sensitivity analysis has been updated when finalising the Impact Assessment following the consultation

b. The RPC commented that the IA could have provided an estimate of the cost of producing the required biennial report. In response to this comment, the intention is that the primary drafting of the report will be undertaken by the one employee at the MCA outlined above. Furthermore, the Impact Assessment was modified to highlight that there are also likely to be additional costs associated with publishing a report. However, we are not able to monetise the costs of undertaking these tasks. This situation has not changed following the consultation. See section 7.4.1 above.

c. The RPC commented that the IA would be improved by cross-referencing to estimates of costs and benefits of the overall EU Regulation. An annex containing further details on the costs and benefits of the

EU Regulation was added to this Impact Assessment. This can be found in Annex C. Annex C has been updated when finalising the Impact Assessment following the consultation.

d. The RPC commented that the IA would be improved by greater clarity on how the consultation period will inform the impact of the enforcement measures covered by this IA. In response to this comment, the IA was modified to specifically invite consultees to submit any additional evidence on the impact the enforcement measures would have on compliance with the overall EU Regulation. However, as explained above, no evidence was received.

Section 12 – Review Arrangements

A review date of December 2017 has been set for the UK implementing regulations, approximately 5 years after the date in which the EU Regulations entered into force.

The European Commission will also report to the European Parliament by 19 December 2015 on the operation and the effects of the EU Regulation.

Annex A

A brief summary of the Articles of EU Regulation 1177/2010 is provided below –

Chapter I - General Provisions

Article 1 to Article 6 sets out the general provisions applying the EU Regulation.

Article 2 sets the scope of the EU Regulation. It will apply to passenger services and cruises where the port of embarkation is situated in the EU. The EU Regulation will apply to passenger services when the port of embarkation is outside the EU, if the port of disembarkation is within the EU, provided the vessel is operated by an EU carrier. It will also apply on a cruise where the port of embarkation is situated in the territory of a Member State.

The EU Regulation will not apply to ships certified to carry up to 12 passengers, ships with a crew responsible for the operation of the ship of not more than three persons or where the distance of the overall passenger service is less than 500 metres, one way. The EU Regulation does not apply to excursion and sightseeing tours.

Article 3 sets out the definitions.

Article 4 requires carriers to issue a ticket to the passenger.

Article 5 highlights the relationship between the carriers, travel agent, tour operator or terminal operator and other performing parties entrusted with obligations and identifies where the liabilities lay.

Article 6 stresses that obligations under this EU Regulation shall not be limited or waived by a derogation or restrictive clause in the transport contract.

Chapter II - Rights of Disabled Persons and Persons with Reduced Mobility

Article 7 prohibits carriers, ticket vendors and tour operators from refusing to issue, or making an additional charge for, a ticket or reservation to a disabled persons and PRMs on the grounds of disability or of reduced mobility.

Article 8 allows a carrier to derogate from the provisions of **Article 7** for justified safety reasons established by law.

Article 9 requires carriers and terminal operators to produce and make publicly available non-discriminatory access conditions for the transport of disabled persons and PRMs.

Article 10 establishes the right to assistance in ports, including embarkation and disembarkation, and onboard ships to disabled persons and PRMs. Such assistance shall be provided free of charge.

Article 11 sets out the conditions under which assistance established in **Article 10** is provided. It states that carriers and terminal operators shall provide such assistance when notification is received at the latest 48 hours before the assistance is needed, the disabled person or person with reduced mobility presents themselves at a designated point prior to the scheduled departure. If prior notification is not received, the carrier and terminal operator shall make all every reasonable efforts to ensure assistance is provided.

Article 12 requires carriers, terminal operators, travel agents and tour operators to take all measures necessary for the reception, and subsequent transfer of notifications made in accordance with **Article 11**.

Article 13 sets out the quality standards for assistance to be established by carriers and terminal operators operating port terminals or passenger services with a total of more than 100,000 commercial passenger movements during the previous calendar year.

Article 14 lays down the requirement to ensure appropriate training for personnel with regard to disability issues; and

Article 15 establishes the right to compensation for lost or damaged wheelchairs and other mobility equipment when they are being handled at ports or onboard ships. The compensation shall correspond to the replacement value of the equipment concerned or, where applicable, to the costs relating to repairs.

Chapter III - Obligations of carriers and terminal operators in the event of interrupted travel

Article 16 establishes the obligation to provide passengers with information in the event of interrupted travel.

Article 17 establishes the passenger's right to assistance in case of cancelled or delayed departures. In situations where the service is cancelled or the carrier expects the departure to be delayed for more than 90 minutes, passengers shall be offered free of charge snacks, meals or refreshments in reasonable relation to the waiting time, provided they are available, or can reasonably be supplied.

Article 18 creates a right for passengers to be re-routed to the final destination or reimbursed the ticket price in cases when there has been a cancellation or a delay of 90 minutes or more. This article does not apply to passengers with open tickets.

Article 19 provides for compensation for a passenger in case of delay in arrival at the final destination in the transport contract. This reference to the transport contract has the effect of excluding a passenger who is not a party to the contract.

Article 20 defines the relevant exemptions which apply to **Articles 17, 18** and **19** which are referenced above.

Article 21 confirms that nothing in the EU Regulation precludes passengers from seeking further compensation in respect of the loss resulting from cancellation or delay of transport services before national courts.

Chapter IV - General rules on information and complaints

This chapter sets out the requirements in **Article 22** for carriers and terminal operators to provide passengers with adequate information throughout their travel and in **Article 23** for carriers and terminal operators to ensure that information on the rights of passengers under this EU Regulation is publicly available on board ships and in port terminals alongside the designated contact details of the enforcement body. **Article 24** places an obligation on carriers and terminal operators to set up an accessible complaint handling mechanism as well as defining the applicable time frames for submission of complaints and final reply.

Chapter V - Enforcement and national enforcement bodies

Article 25 requires each Member States to designate a new or existing body or bodies responsible for the enforcement of this EU Regulation, which is independent of commercial interests. Each body shall take the measures necessary to ensure compliance with this EU Regulation. Passengers are permitted to submit complaints to the national enforcement body or bodies about alleged infringements of this EU Regulation. A Member State may however request any passenger which has not submitted their complaint to the carrier or terminal operator to do so prior to any consideration by the national enforcement body. Equally the national enforcement body shall act as an appeal body for complaints not resolved by the industry's complaint handling mechanism.

Article 26 requires the national enforcement body or bodies, every 2 years, to publish a report on its actions, details of sanctions applied and statistics on complaints and **Article 27** requires cooperation between enforcements bodies to the extent necessary for the coherent application of this EU Regulation.

Article 28 requires Member States to lay down penalties applicable to infringements and requires Member States to take all the measures necessary to ensure that they are implemented. The penalties provided must be effective, proportionate and dissuasive.

Chapter VI - Final provisions

This chapter deals with the final provisions of the EU Regulation. **Article 29** requires the Commission to report to the Council and the European Parliament on the operation and the effects of the EU Regulation 3 years after its entry into force.

Article 30 refers to a consequential amendment to EC Regulation 2006/04 and **Article 31** states that the EU Regulation will apply from 24 months after the date of publication and therefore will apply from December 2012.

Annex B

Equality Impact Assessment Screening Proforma

Enforcement of EU Regulation 1177/2010 relating to the rights of passengers when travelling by sea and inland waterway								
Person completing the assessment: Damian de Niese (Maritime Trade and Liability Branch)					Date of assessment: 31 January 2013			
Purpose of the function, policy or strategy: The purpose of the policy is to enforce the EU Regulation to ensure the effective protection of the rights of passengers, including the rights of disabled persons and persons with reduced mobility (PRMs).								
Questions - Indicate Yes, No or Not Known for each group								
	Age	Disability	Gender	Ethnicity and race	Religion or Belief	Sexual Orientation	Transgender	Pregnancy and Maternity
Is there any indication or evidence that different groups have different needs, experiences, issues or priorities in relation to the particular policy?	Yes	Yes	No	No	No	No	No	Yes
Is there potential for, or evidence that, this policy may adversely affect equality of opportunity for all and may harm good relations between different groups?	No	No	No	No	No	No	No	No
Is there any potential for, or evidence that, any part of the proposed policy could discriminate, directly or indirectly? (Consider those who implement it on a day to day basis)?	No	No	No	No	No	No	No	No
Is there any stakeholder (staff, public, unions) concern in the policy area about actual, perceived or potential discrimination against a particular group(s)?	No	Yes	No	No	No	No	No	No
Is there an opportunity to better promote equality of opportunity or better community relations by altering the policy or working with other government departments or the wider community?	No	Yes	No	No	No	No	No	No
Is there any evidence or indication of higher or lower uptake by different groups?	Yes	Yes	No	No	No	No	No	No
Are there physical or social barriers to participation/access (e.g. language, format, physical access/proximity)?	Yes	Yes	No	No	No	No	No	No

Background

- Currently in the maritime sector, there is (i) a lack of uniformity regarding the extent and depth of passenger rights protection; (ii) a lack of a common framework regarding immediate and predefined solutions in cases of cancellations and delays; (iii) a lack of information to passengers generally; and (iv) potential discrimination against disabled persons and persons with reduced mobility.

- The UK Government is required to provide an enforcement mechanism to protect rights and entitlement under EU Regulation 1177/2010, concerning the rights of passengers travelling by sea and inland waterway. The rationale for intervention is the direct applicability of the EU Regulation in the UK, and the requirement to establish an enforcement mechanism to ensure compliance with the EU Regulation.
- The aims of the EU Regulation are (i) to establish new rights of access and agreed quality of service standards for disabled persons and persons with reduced mobility travelling by sea and inland waterway; (ii) to create a uniform system of rights for all passengers when travelling by sea and inland waterway; and (iii) to bring the maritime and inland waterway sector into line with the aviation and rail sectors with respect to passenger rights¹.
- The UK is required to establish an enforcement mechanism to ensure all parties comply with the EU Regulation, which is the focus of the UK implementing regulations and the associated Impact Assessment.

Further Information

- Enforcing the EU Regulation should ensure the effective protection of the rights of passengers, including the rights of disabled persons and persons with reduced mobility, when travelling by sea and inland waterway.
- Enforcement of the EU Regulation will provide disabled persons and persons with reduced mobility with the same opportunities to travel by water as they do in the rail and aviation sectors across the European Union.
- Enforcing the EU Regulation will standardise the rights, service and the redress which they can expect. Disabled persons and persons with reduced mobility travelling on maritime routes will benefit from the increased ease and comfort associated of making journeys under the enforced EU Regulation compared to that which existed previously.
- The enforcement of this EU Regulation provides some scope for eliminating discrimination and promoting better equality of opportunity, and promoting good relations between different groups.

Damian de Niese

31 January 2013

¹ In addition, Passenger Rights Regulations for buses and coaches are due to come into force in March 2013.

Annex C – Costs and benefits of the EU Regulation

This annex provides more detail on the costs and benefits of the EU Regulation. Consultees were invited to submit any additional evidence on the costs and benefits of the EU Regulation. The specific areas where consultees were invited to submit additional evidence are highlighted below. There were 13 responses to the consultation. The evidence that was submitted in relation to each of these areas is explained below. Some other minor changes have also been made to this annex when finalising this Impact Assessment following the consultation.

Further information on the costs and benefits of the EU Regulation is available in the European Commission's Impact Assessment which is available from the following website address -

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SEC:2008:2950:FIN:EN:PDF>

A.1. Benefits of the EU Regulation

A.1.1 Improved access for disabled persons and persons with reduced mobility.

The EU Regulation will provide disabled persons and persons with reduced mobility with the same opportunities to travel by water as they do in the rail and aviation sectors across the EU. The EU Regulation will standardise the rights, service and the redress which they can expect. Disabled persons and persons with reduced mobility travelling on maritime routes will benefit from the increased ease and comfort associated of making journeys under the EU Regulation compared to that which existed previously.

Consultees were invited to submit any additional evidence on the benefits of improved access that will be provided to disabled persons and persons with reduced mobility as a result of the EU Regulation. No evidence was forthcoming as part of the consultation exercise.

A.1.2. Potential increase in journeys by disabled persons and persons with reduced mobility

Due to the benefit explained in section A.1.1, it is considered that disabled persons and persons with reduced mobility could be encouraged to travel by sea and inland waterway more often. Such encouragement could be likely to result in more journeys being taken by disabled persons and persons with reduced mobility residing in the UK as well as greater desire to take part in cruise activities for pleasure or recreational purposes. Additional trips could be likely to be taken at both a domestic and an international level. However, there is only limited evidence available on this issue, so it is not possible to robustly determine how many additional passenger journeys would be made to and from the UK, particularly as travel is affected by a number of factors, including the wider economic situation and the costs of travel.

Consultees were invited to submit any additional evidence on the potential for the number of journeys undertaken by disabled persons and persons with reduced mobility to increase as a result of the EU Regulation and the benefits that would arise from an increase in the number of journeys by disabled persons and persons with reduced mobility. No evidence was forthcoming as part of the consultation exercise.

A.1.3. Assistance in case of cancelled or delayed departures

The EU Regulation establishes the right of all passengers to assistance in case of cancelled or delayed departures. In situations where the service is cancelled or the carrier expects the departure to be delayed for more than 90 minutes, passengers shall be offered free of charge snacks, meals or refreshments in reasonable relation to the waiting time, provided they are available, or can be reasonably be supplied. Such assistance does not apply to passengers with open tickets, if the passenger is informed of the cancellation or delay before the purchase of the ticket or if the cancellation or delay is caused by the fault of the passenger. It is important to note that in some instances, such as when passengers are delayed in remote locations, it may not be possible to provide such assistance. It would also not be appropriate to provide such assistance to those which would prefer to be re-routed or reimbursed their ticket price.

Where a stay of one or more nights or a stay additional to that intended by the passenger becomes necessary where there is a cancellation or a delayed departure the carrier shall, where and when physically possible, offer passengers departing from port terminals adequate accommodation free of charge onboard or ashore, up to €80 per night for a maximum of three nights and transport to and from the port terminal. Such assistance does not apply to passengers with open tickets, if the passenger is informed of the cancellation or delay before the purchase of the ticket or if the cancellation or delay is caused by the fault of the passenger. Access to adequate accommodation is also not available where the cancellation or delay is caused by weather conditions endangering the safe operation of the ship.

The EU Regulation creates a right for passengers to be re-routed to the final destination or reimbursed the ticket price in cases when there has been a cancellation or a delay of 90 minutes or more. This does not apply to passengers with open tickets.

The total additional benefits of the EU Regulation in a given year would depend on the number of voyages where passengers would be eligible for assistance under the EU Regulation, the number of eligible passengers travelling on each of these voyages that would receive assistance, the value of the assistance that would be received by each of these passengers and the proportion of this assistance that would be additional to what would be provided in the absence of the EU Regulation. For a specific voyage where passengers are eligible for assistance, the additional benefits would depend on the circumstances specific to that voyage.

For example, for a voyage where the departure is expected to be delayed by 100 minutes, passengers shall be offered free of charge snacks, meals or refreshments in reasonable relation to the waiting time, provided they are available, or can be reasonably be supplied. As a purely illustrative example, if it is assumed that the ship is carrying 1,000 passengers, 500 of these passengers are in possession of types of open tickets that make them ineligible for assistance, and the value of snacks, meals or refreshments that would be provided to the remaining 500 passengers under the EU Regulation is £5 per passenger, the total value of the snacks, meals or refreshments provided to the 500 passengers that are not in possession of open tickets would be £2,500. If it is assumed that the value of snacks, meals or refreshments that would be provided to these passengers in the absence of the EU Regulation would be £3 per passenger, the additional benefits of the EU Regulation in this instance would be £2 per passenger and total £1,000 for these passengers.

Consultees were invited to submit any additional evidence on the number of voyages where assistance would need to be provided under the EU Regulation, the number of passengers that would travel on these voyages, the value of the assistance that would be provided to these passengers and the proportion of this assistance that would be additional to what would be provided in the absence of the EU Regulation. It was noted that this could include evidence on the absolute number of - and the proportion of – passengers travelling on different routes that would receive the different types of assistance, evidence on the average costs of providing the different types of assistance, and evidence on the extent that the different types of assistance would be provided in the absence of the EU Regulation. No evidence was submitted as part of the consultation.

A.1.4. Compensation of the ticket price in case of delay in arrival

Passengers currently do not benefit from any statutory compensation arrangements for any delay in arrival to their scheduled journey. Under the EU Regulation, passengers would be entitled to a minimum level of compensation, which shall be 25% of the ticket price for a delay of at least:

- a) 1 hour in the case of a scheduled journey of up to 4 hours;
- b) 2 hours in the case of a scheduled journey of more than 4 hours but not exceeding 8 hours;
- c) 3 hours in the case of a scheduled journey of more than 8 hours but not exceeding 24 hours; or
- d) 6 hours in the case of a scheduled journey of more than 24 hours.

If the delay exceeds double the time set out in points a) to d) the compensation shall be 50% of the ticket price. The compensation of the ticket price shall not be reduced by financial transaction costs such as fees, telephone costs or stamps. Compensation payments are not available where the cancellation or delay is caused by weather conditions endangering the safe operation of the ship or in extraordinary circumstances hindering the performance of the passenger service. In addition, the compensation outlined in the EU Regulation is not provided automatically. It would be up to the passenger to make a compensation claim.

The total additional benefits of the EU Regulation in a given year would depend on the number of voyages where passengers would be eligible for compensation, the number of eligible passengers travelling on each of these voyages that would submit a compensation claim, the value of the compensation that would be received by each of these passengers and the proportion of this compensation that would be additional to any compensation that would be received in the absence of the EU Regulation. For a specific voyage where passengers are eligible to claim compensation, the amount of compensation that is received by each eligible passenger would depend on the length of the delay, the length of the scheduled journey, and the ticket price that the passenger paid.

For example, for a voyage with a schedule length of 3 hours where arrival is delayed by 90 minutes, the minimum level of compensation would be 25% of the ticket price. As a purely illustrative example, if it is assumed that the ship is carrying 1,000 passengers, 500 of these passengers are in possession of types of open tickets that make them ineligible for compensation, 80% of the remaining 500 passengers submit a claim for compensation and that the average ticket price of these passengers is £100, 400 passengers would each receive £25 compensation on average, and the total compensation that would be received by these passengers under the EU Regulation would be £10,000. If it is assumed that these

passengers would receive £15 compensation on average in the absence of the EU Regulation, the additional benefits of the EU Regulation in this instance would be £10 per passenger and total £4,000 for these passengers.

Consultees were invited to submit any additional evidence on the number of voyages where passengers would be eligible for compensation, the number of eligible passengers that would claim compensation, the value of the compensation that would be received by these passengers and the proportion of this compensation that would be additional to what would be provided in the absence of the EU Regulation. It was noted that this could include evidence on the absolute number - and the proportion - of passengers travelling on different routes that would receive the different levels of compensation, evidence on the average ticket prices on different routes and evidence on the extent that such compensation would be provided in the absence of the EU Regulation. No evidence was submitted as part of the consultation.

A.1.5. Accessible complaint handling procedures

Under the EU Regulation, passengers will benefit from the new carrier and terminal operator based complaint handling mechanisms that would be available to them in order to seek redress of their complaint. If industry based procedures did not resolve the complaint, the passenger would have recourse to the newly established national enforcement body to help resolve alleged infringements.

Consultees were invited to submit any additional evidence on the additional benefits associated with the requirement for accessible complaint handling procedures. It was noted that this could include evidence on the absolute number - and the proportion - of passengers that would be likely to be making use of this facility, and the extent that such accessible complaints handling procedures would be provided in the absence of the EU Regulation. No evidence was submitted as part of the consultation.

A.2. Costs of the EU Regulation

A.2.1. Cost of providing improved access for disabled persons and persons with reduced mobility

Under the EU Regulation, some carriers and terminal operators would be required to provide greater assistance and information to disabled persons and persons with reduced mobility. However, the EU Regulation is not prescriptive in identifying how carriers and terminal operators would be required to provide greater assistance.

Additional costs could include the provision of additional staff time, the introduction of enhanced visual and audible information systems, the levelling of surfaces, additional seating and handrails, better colour contrasting, the need for new access ramps and clearer information in general.

Some information on the costs of potential measures is included in the European Commission's Impact Assessment. For example, this indicates that guide ways and warning markings could cost in the region of €100 per metre, automatic doors and accessible toilets could cost in the region of €15,000 each, and lift access between two floors could cost in the region of €450,000.

The extent that such measures would need to be implemented by different carriers and terminal operators in the UK to comply with these requirements would need to be determined on a case by case basis. However, it is clearly stated that nothing in the EU Regulation shall be understood as constituting technical requirements imposing obligations on carriers, terminal operators or other entities to modify or replace ships, infrastructure, ports, and port terminals.

Consultees were invited to submit any additional evidence on the additional costs associated with the requirements of the EU Regulation on providing access for disabled persons and persons with reduced mobility. It was noted that this could include evidence on the different types of costs of meeting these requirements, including both one-off costs and reoccurring costs, and evidence on the extent that the necessary access for disabled persons and persons with reduced mobility would be provided in the absence of the EU Regulation. No quantitative evidence was submitted as part of the consultation. However, respondents did highlight that some infrastructure already provides access for disabled persons and persons with reduced mobility.

A.2.2. Costs of providing training and instructions to personnel

Under the EU Regulation, carriers and where appropriate, terminal operators shall establish disability-related training procedures, and ensure that personnel providing direct assistance to disabled persons and persons with reduced mobility and those personnel who are responsible for the reservation and selling of tickets or embarkation and disembarkation are appropriately trained in accordance with the Annex to the Regulation. There is a further requirement for refresher training as and when appropriate.

The European Commission's Impact Assessment includes estimates of the cost of providing training. For example, in the European Commission's Impact Assessment, the cost of providing this initial training is estimated at around €170 per employee in ports. On the basis of this estimate, the European Commission's Impact Assessment estimated the cost of training front office port staff in the UK to be around €210,000, and the cost of training back office port staff in the UK to be around €71,000.

Consultees were invited to submit any additional evidence on the additional costs associated with the requirements of the EU Regulation on providing training and instructions to personnel. It was noted that this could include evidence on the different types of costs of meeting these requirements, including both one-off costs and reoccurring costs, and evidence on the extent that the necessary training would be undertaken in the absence of the EU Regulation. No evidence was submitted as part of the consultation.

A.2.3. Cost of providing assistance in case of cancelled or delayed departures

As explained in Section A.1.3, the EU Regulation establishes the passenger's right to assistance in case of cancelled or delayed departures. The circumstances under which assistance would be provided are described in Section A.1.3.

The additional cost to carriers and terminal operators would be in direct correlation to the additional benefits that would be received by passengers. The additional benefits that would be received by passengers are discussed in Section A.1.3.

Consultees were invited to submit any additional evidence on the additional costs associated with the requirements of the EU Regulation on providing assistance in case of cancelled or delayed departures. As well as the evidence discussed in Section A.1.3, it was noted that this could include evidence on any other costs that would be incurred by carriers and terminal operators, including both one-off costs and reoccurring costs. No evidence was submitted as part of the consultation.

A.2.4. Compensation payments to passengers in case of delay and or cancellation

As explained in Section A.1.4, some passengers would be entitled to a minimum level of compensation for delay or cancellation to their service under the EU Regulation. The circumstances under which compensation would be provided are described in Section A.1.4.

The additional cost to carriers and terminal operators would be in direct correlation to the additional benefits received by passengers through the payment of compensation. The additional benefits that would be received by passengers are discussed in Section A.1.4.

Consultees were invited to submit any additional evidence on the additional costs associated with the requirements of the EU Regulation on compensation payments to passengers in case of delay and or cancellation. As well as the evidence discussed in Section A.1.4, it was noted that this could include evidence on any other costs that would be incurred by carriers and terminal operators, including both one-off costs and reoccurring costs. No evidence was submitted as part of the consultation.

A.2.5. Costs of setting up an accessible compliant handling mechanism

The EU Regulation requires carriers and terminal operators to set up or have in place an accessible complaint handling mechanism to deal with any complaints made under the EU Regulation as well as claims by passengers for compensation due to disrupted travel. The large majority of carriers and terminal operators already have customer service procedures in place for complaint handling, and it is assumed that many of the larger carriers would therefore be able to absorb this requirement within their existing customer service units, whereas some of the smaller operators may need to establish these mechanisms.

Consultees were invited to submit any additional evidence on the additional costs associated with the requirements of the EU Regulation on accessible complaint handling procedures. As well as the evidence discussed in Section A.1.5, it was noted that this could include evidence on the different types of costs of meeting these requirements, including both one-off costs and reoccurring costs, and evidence on the absolute number of - and the proportion of - businesses that already have systems in place for complaint handling. No evidence was submitted as part of the consultation.