

EXPLANATORY MEMORANDUM TO
THE MERCHANT SHIPPING (TECHNICAL REQUIREMENTS FOR INLAND WATERWAY
VESSELS) REGULATIONS 2010

2010 No. 1075

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

2. Description

2.1 The Regulations implement Directive 2006/87/EC of 12 December 2006 of the European Parliament and of the Council laying down technical requirements for inland waterway vessels and repealing Council Directive 82/714/EEC, as amended. The Regulations further implement Directive 2009/100/EC on reciprocal recognition of navigability licences for inland waterway vessels.

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

3.1 None

4. Legislative Context

4.1 These Regulations implement Directive 2006/87/EC laying down technical requirements for inland waterway vessels and repealing Council Directive 82/714/EEC. They also implement Directive 2009/100/EC on reciprocal recognition of navigability licences for inland waterway vessels (codified version). Full details are set out in the Transposition Note annexed to this memorandum.

4.2 The proposal which resulted in Directive 2006/87/EC was the subject of Explanatory Memorandum (EM) 14577/06 submitted to Parliament by the Department for Transport on 13th November 2006. The House of Commons European Scrutiny Committee considered the EM on 22 November 2006. The Committee recommended that the document was not legally or politically important, and cleared it (1st Report, Session 2006-2007, reference 27959). The House of Lords Select Committee on the European Union cleared the EM at the 1268th sif on 22 November 2006.

4.3 The proposal which resulted in Directive 2009/100/EC was the subject of Explanatory Memorandum (EM) 6046/08 submitted to Parliament by the Department for Transport on 20 February 2008. The House of Commons European Scrutiny Committee considered the EM on 27th February 2008. The Committee recommended that the document was not legally or politically important, and cleared it (Fifteenth Report, Session 2007-2008, reference 29417). The Chairman of the House of Lords Select Committee on the European Union cleared the EM in his sift of 26th February 2008.

4.4 The Department has utilised the derogation provision in Article 7.1(a) of Directive 2006/87/EC to grant an exemption from the Directive's requirements to all vessels that operate on Community waters¹ within the UK. It may be noted that the Republic of Ireland has no waterways listed in Annex I of the Directive, and therefore has no Community waterways. No question of a cross-border waterways link between the UK and Ireland therefore arises. The power in Article 7.2 for the UK to authorise derogations from the Directive therefore applies as respects all vessels which are subject to the Directive in the UK.

¹ The Directive only applies to vessels on Community inland waterways, as listed in Annex I of Directive 2006/87/EC.

4.5 The Department has utilised the power in paragraph 1A of Schedule 2 to the European Communities Act 1972 to refer in the Regulations to the Annexes to Directive 2006/87/EC as amended from time to time (regulation 2(2)(d) of the Regulations). The Annexes to Directive 2006/87/EC contain detailed provisions concerning the application of the Directive and technical requirements for vessels. The Directive has already been the subject of five amending Directives, four of which amended the Annexes. Further amending Directives are expected, in order to adapt the annexes to technical progress and to developments in other international organisations, and to complete provisions in the Annexes which are currently left void, such as Chapter 23 of Annex II on equipment of vessels with regard to manning. The Department therefore considers it necessary or expedient for references in the Regulations to refer to the Annexes to the Directive as amended from time to time.

5. Territorial Extent and Application

5.1 These Regulations apply to the whole of the United Kingdom.

5.2 The Regulations, other than regulation 11 and Schedule 1, apply to vessels as described in regulation 3(1), excluding vessels described in regulation 3(2), which are operating on waterways in the United Kingdom which are classified as Zone 1, 2, 3 or 4 waterways by Article 1 of and Annex 1 to Directive 2006/87/EC.

5.3 Regulation 11 of and Schedule 1 to the Regulations apply to the vessels described in regulation 3(4) navigating on the waterways of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

- *What is being done and why*

7.1 The aim of Directive 2006/87/EC (as amended) is to further harmonise of requirements for vessels operating on EU inland waterways, to better underpin safety, and to promote free movement of inland water transport, in accordance with the single European market principles.

7.2 Article 7.1 of the Directive allows member States to authorise derogations for vessels on waterways that are not linked to those of another member State. The UK is utilising that Article, and regulation 4 of the implementing Regulations, to authorise a derogation and exemption from the Directive and the implementing Regulations for all vessels that operate on Community inland waterways² within the UK. The purpose of using this power of derogation is as follows:-

7.2.1 The UK has a robust national safety regime for inland waterway passenger vessels, enhanced following the MARCHIONESS disaster. Some of the UK safety requirements are of a higher standard than those laid down in the Annexes to Directive 2006/87/EC. In some respects the UK safety requirements are also of a higher standard than the additional national technical requirements allowed in accordance with Article 5.1 and 5.3 of and Annex III to the Directive. The UK considers that it can safeguard its national standards, and prevent lower safety standards from applying in the UK, by exercising its power of derogation through an exemption granted for passenger vessels under regulation 4 of the implementing Regulations. That exemption will then impose, as a condition of that

² Community inland waterways are those listed in Annex I of Directive 2006/87/EC.

exemption, a requirement on passenger vessels to comply with the UK's national safety standards.

7.2.2 The technical requirements laid down in the Directive for non-passenger vessels are heavily based on those developed for vessels on the Rhine. They reflect the scale of those vessels, and the operations and navigational environment of the Rhine and similar waterways. Those requirements would impose an excessive and unjustifiable burden on inland waterway non-passenger vessels within the UK, where the corresponding scales are much smaller, and the risk to safety is consequently less. Such vessels in the UK are currently subject only to minimal technical requirements relating to life-saving appliances and fire protection. The UK is therefore exercising its power of derogation through an exemption granted for non-passenger under regulation 4 of the Regulations. The UK safety standards which will apply to such vessels, as a condition of the exemption, are the standards relating to life-saving appliances and fire protection.

7.2.3 Finally, by utilising the power of derogation in Article 7.1 of the Directive, the UK is able to take advantage of the provision in Article 7.4 of the Directive which exempts it from the need to carry out technical inspections under Article 10 of the Directive and to issue Community inland navigation certificates under Articles 9 and 12 of the Directive.

8. Consultation outcome

- 8.1 In view of the tight deadline imposed by a Reasoned Opinion issued by the European Commission, a shortened (3 week) consultation has been undertaken, purely on the proposed policy for transposing the Directive. Consultees included: principle representative organisations for:-
- inland waterway vessel operators (passenger and non-passenger);
 - the leisure sector;
 - harbour and navigation authorities; and,
 - vessel and equipment manufacturers.
- 8.2 Some owners of private pleasure vessels over 20 metres in length, (notably those belonging to “DBA – The Dutch Barge Association”) have raised objections to the UK transposition policy because it does not provide for the survey of such vessels, and the issue of Community inland navigation certificates, by the UK authorities. Those who wish to operate such vessels on Community inland waterways in mainland Europe will therefore have to make arrangements with relevant authorities there.
- 8.3 Those who object would prefer to have their vessels surveyed and certificated within, or by, a UK administration rather than by authorities in other EU Member States. Some claim to have had unsatisfactory experiences in dealing with those authorities in other Member States. However, it is strongly considered that the cost to the UK of setting up such a system, which would not be required for equivalent vessels operating in the UK, would far outweigh any benefit to the UK. It is not therefore proposed to change the consultation policy as a result of the objections raised by this section of the leisure sector.
- 8.4 Responses have been received from some 20 persons and organisations representing interests including commercial freight vessel operators and pleasure vessel operators. The Chamber of Shipping and an owner of a UK based pleasure barge support the proposals to derogate and retain UK standards, and commercial passenger vessel operators have not objected. However owners of larger converted pleasure barges operating on European waterways, represented by the Dutch Barge Association, are strongly opposed to the proposal. They believe that UK certification system will somehow be cheaper and more straightforward than having their vessels certificated in Europe, even though a number of commentators recognise that surveyors would need to fly over from the Netherlands to carry out the surveys. They recognise the complexity of the regulations and difficulty that

European administrations have in applying them, but somehow assume that such difficulties will not apply to UK based surveyors who have no experience or tradition of applying these standards. The Commercial barge operators Association has also echoed these concerns although in more constructive approach. There have been no substantive objections except from the barge owners.

9. Guidance

9.1 The MCA is publishing a Merchant Shipping Notice in support of these Regulations.

10. Impact

10.1 The impact on business, charities or voluntary bodies that operate UK vessels within the UK is zero. The impact on business, charities or voluntary bodies that operate other vessels within the UK is to maintain the UK's existing safety regime.

10.2 The impact on the public sector is negligible provided the intended policy is followed, and the UK does not create an inspection and certification system for vessels to which the Directive applies. The creation of such a system would involve considerable costs that would be disproportionate to any benefit for the UK.

10.3 An Impact Assessment is attached to this memorandum at Annex B and the Transposition Note is attached at Annex C.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 The legislation applies to all relevant businesses, regardless of size.

12. Monitoring and review

12.1 The situation will be kept under review in the light of future amendments to the Directive, and the needs of UK industry.

13. Contact

Richard Bone at the Department for Transport Tel: 023 8032 9209 or e-mail: inlandwaterstsd@mca.gov.uk can answer any queries regarding the instrument.

Summary: Intervention & Options

Department /Agency: MCA	Title: Impact Assessment of Regulations to implement Directive 2006/87/EC on technical requirements for Inland Waterway vessels.	
Stage: Implementation	Version: Final	Date: 26 March 2010
Related Publications: Directive 2006/87/EC (as amended) on Technical requirements for inland waterway vessels		

Available to view or download at:

<http://www.mcga.gov.uk/Guidance and Regulations/Inland Waterways/EC Directive...>

Contact for enquiries: Richard Bone

Telephone: 023 80 329 209

What is the problem under consideration? Why is government intervention necessary?
As an EC Member State, the UK is obliged to implement the above Directive, but may derogate in respect of certain vessels because the UK's designated inland waterways are unlinked to those of other EU Member States.

What are the policy objectives and the intended effects?
The Regulations implement this Directive, as per option C below. The effect of this will be that:
- vessels that operate only within the UK, and meet UK requirements, will be unaffected by the Directive;
- the UK's existing safety regime for domestic passenger ships (developed as a result of the Marchioness disaster) is retained and safeguarded;
- passenger vessels with Community (or Rhine) certificates will have to satisfy certain additional (UK) safety requirements in order to operate within the UK, which match the current requirements under existing regulations.

What policy options have been considered? Please justify any preferred option.
A. Derogate fully from the Directive requirements, and take no further action.
B. Derogate fully from the Directive, and notify Commission of additional UK requirements for passenger vessels with community certificates, and UK Regulations deemed equivalent to Directive.
C. Implement the Directive but derogate in respect of specific classes of vessels on UK inland waterways. Apply additional requirements to passenger vessels with Community certificates.
D. Implement the Directive, and require individual vessel owners/operators to apply for exemption from the requirement for their vessels to hold a Community certificate.
Option C is the preferred policy option as it is believed to satisfy the two main criteria, that of maintaining the UK domestic safety regime and meeting our obligation to transpose EU directives.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? Directive 2006/87/EC will be subject to an ongoing review, and amendment at two-yearly intervals. The UK will keep a watch on that process and participate in the relevant forums as appropriate.

Ministerial Sign-off For implementation stage Impact Assessments:

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) the benefits justify the costs.

Signed by the responsible Minister:

Paul ClarkDate: 29th March 2010

Summary: Analysis & Evidence

Policy Option: C	Description: Implement the Directive but derogate in respect of specific classes of vessels on UK IWs. Apply additional requirements to passenger vessels holding Community certificates.
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' No monetised costs		
	One-off (Transition)	Yrs			
	£ N/A	N/A			
	Average Annual Cost (excluding one-off)				
	£ N/A	N/A		Total Cost (PV)	£ 0
Other key non-monetised costs by 'main affected groups' 1) Compliance, survey and certification costs could arise for UK vessels that are to operate on Community Inland Waterways on mainland Europe. However, few commercial vessels are expected to transfer either way at present, and such vessels would be expected to be subject to the Community requirements regardless of the Regulations.					

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' No monetised benefits		
	One-off	Yrs			
	£ N/A	N/A			
	Average Annual Benefit (excluding one-off)				
	£ N/A			Total Benefit (PV)	£ 0
Other key non-monetised benefits by 'main affected groups' 1) Implementing the Regulations will allow the UK to meet its European obligations and avoid the risk of infraction proceedings. 2) There could be a benefit to the operators of inland waterways passenger vessels from other member states, which will be subject to inspections rather than surveys under the Regulations.					

Key Assumptions/Sensitivities/Risks 1.) Few UK inland waterway commercial vessels are likely to operate in other EU countries at present, although a number of private pleasure vessels may do. 2.) Few vessels from EC States are expected to come to the UK currently, although some vessels are expected to come to the Thames towards the 2012 Olympics. 3.) There is no effect on, or additional costs for, those operating vessels only in the UK, due to UK exemptions. 4.) Given uncertainties and the limited available evidence base, it has not been possible to monetise the costs and benefits identified in the IA.

Price Base Year 0	Time Period Years 0	Net Benefit Range (NPV) £ 0	NET BENEFIT (NPV Best estimate) £ 0
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What is the geographic coverage of the policy/option?				UK - National	
On what date will the policy be implemented?				26 April 2010	
Which organisation(s) will enforce the policy?				MCA	
What is the total annual cost of enforcement for these organisations?				£ insignificant	
Does enforcement comply with Hampton principles?				Yes	
Will implementation go beyond minimum EU requirements?				No	
What is the value of the proposed offsetting measure per year?				£ N/A	
What is the value of changes in greenhouse gas emissions?				£ N/A	
Will the proposal have a significant impact on competition?				No	
Annual cost (£-£) per organisation (excluding one-off)		Micro	Small	Medium	Large
Are any of these organisations exempt?		No	No	N/A	N/A

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

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

1 Background

1.1 General

EU Directive 2006/87/EC lays down technical requirements for inland waterway (IW) vessels, including passenger ships (those carrying more than 12 passengers).

1.2 UK Scope to derogate

Because its inland waterways are not linked to other Community waterways, the UK is utilising the provision for derogation from the Directive, under Article 7(1). This means that vessels which operate only on inland waterways within the UK, and meet applicable UK requirements, will be exempted from the requirement to obtain a Community inland navigation certificate. They will continue to be covered by the relevant UK legislation.

2 Rationale for Government Intervention

As an EC Member State, the UK is obliged to implement Directive 2006/87/EC, but may derogate in respect of certain vessels because the UK designated inland waterways are unlinked to those of other EU Member States. Government intervention is therefore required to implement Directive 2006/87/EC in the UK.

3 Options

There are four possible options:

A. Do Nothing. Derogate fully from the Directive requirements, and take no further action.

B. Derogate fully from the Directive, and notify Commission of additional UK requirements for passenger vessels with community certificates, and UK regulations deemed equivalent to Directive.

C. Implement the Directive but derogate in respect of specific classes of vessels on UK inland waterways. Apply additional requirements to passenger vessels with Community certificates.

D. Implement the Directive, and require individual vessel owners/operators to apply for exemption from the requirement for their vessels to hold a Community certificate.

Option C is the preferred policy option as it is believed to satisfy the two main criteria, that of maintaining the UK domestic safety regime and meeting our obligation to transpose EU directives. By adopting this policy, it is hoped that the Commission will consider our obligations met, and therefore cease the infraction proceedings that UK is currently subject to on Directive 2006/87/EC.

4 Benefits of the Regulations (Option C)

The UK's implementation of this Directive, and associated derogation for specific classes of vessels operating on IWs, are being put in place to:-

- avoid infraction proceedings;
- respect EU Single Market principles;
- safeguard the UK's safety regime for inland waterway passenger vessels (enhanced following the MARCHIONESS disaster;

- avoid substantial compliance costs that would arise if non-passenger (eg freight) vessels that operate only within the UK were required to comply with the standards laid out in the Directive; and
- potentially reduce costs for EC passenger vessels coming to the UK with a Community (or Rhine) Certificate, because they will not normally have to undergo full survey and certification procedures.

The technical requirements of the Directive are substantially based on those developed for vessels operating on the Rhine, and reflect the scale of vessels and operations on that and similar waterways, as well as an historically different approach to inland waterway vessel standards.

A similar case exists in relation to the standards laid out in the Directive for non-passenger vessels. These standards relate to the much larger operations and vessels that operate on mainland Europe, and the requirements of the standard are proportionally higher. The standards of the UK need not be so onerous due to the size and extent of our inland waterways. Requiring the UK fleet to comply with the standards laid out in the Directive would incur substantial costs to our operators, as they brought their vessels up to the level required in the Directive.

The UK's national safety regime for inland waterway passenger vessels (developed post-Marchioness) will be unaffected by the Directive. However, UK passenger vessels will need to obtain and carry a Community (or Rhine) certificate in order to operate on the (non-UK) Community waterways of mainland Europe, as listed in Annex I of the Directive. Vessel owners/operators will need to arrange this with the relevant authority/ies in one of the member State in which they are to operate.

In the UK, there is currently no parallel safety regime for non-passenger vessels on inland waterways. The only regulations that currently apply cover basic requirements for the carriage of life saving, and fire safety, appliances. Those requirements are not underpinned by any survey regime, although these vessels may be inspected by MCA. It is intended that UK non-passenger inland waterways vessels will be covered, in due course, by separate regulations underpinning a set of bespoke National Standards, developed to suit the scale of vessels and operations, and the navigational environments, encountered on UK inland waterways. There will be a separate IA for those regulations.

5 Costs of the Regulations (Option C)

5.1 UK passenger vessels (i.e. those carrying more than 12 passengers)

Due to the UK's derogation, the technical requirements laid down in the Directive will not be applied to inland waterway passenger vessels operating only in the UK, provided they comply with applicable UK requirements. There will thus be no additional costs incurred by the owners and operators of those vessels.

However, the relevant requirements of the Directive will apply to vessels that are to be operated on the designated inland waterways of other EC Member States (as listed in Annex I of the Directive). The additional cost to UK inland waterway passenger vessels seeking to operate in other member States will be insignificant in most cases, because the UK's requirements for these vessels are comparable with, and more onerous in some respects than, the Community requirements. In addition, such vessels would be expected to be subject to the Community requirements regardless of the Regulations, as the remaining member states in Europe are expected to transpose the Directive.

5.2 UK non-passenger vessels

Due to the UK's derogation, the technical requirements laid down in the Directive will not be applied to inland waterway non-passenger vessels (e.g. freight vessels and workboats) operating only in the UK, provided they comply with applicable UK requirements. There will thus be no additional costs incurred by the owners and operators of those vessels.

For UK non-passenger inland waterway vessels seeking to operate on the designated waterways of other EC Member States, however, the additional compliance costs are potentially much greater. This is because, the range of requirements (including construction standards) that have to be satisfied for a non-passenger vessel to obtain a Community certificate is very much wider than the requirements that currently apply to such vessels within the UK. The MCA expect, however, that few commercial UK vessels, passenger or non-passenger, will seek to operate in other EC Member States in the near future. In addition, such vessels would be expected to be subject to these requirements regardless of the Regulations, as the remaining member states in Europe are expected to transpose the Directive.

5.3 UK private pleasure vessels

Private pleasure vessels operating only on UK inland waterways will be unaffected by the Regulations, on a similar basis to commercial vessels.

As the Directive applies, however, to such vessels over 20m in length, they will need to satisfy the relevant "recreational craft" requirements for a Community certificate if they are to operate on Community waterways within mainland Europe. However, such vessels would be expected to be subject to these requirements regardless of the Regulations, as the remaining member states in Europe are expected to transpose the Directive.

5.4 Passenger vessels wishing to operate in the UK with Community certificates

The UK will recognise Community, and Rhine, certificates carried by inland waterway passenger vessels from other EC Member States. However, in order to operate within the UK, these vessels may have to meet certain additional technical requirements in line with the existing UK Domestic regime and requirements. This is because some of the UK safety requirements concerning the carriage of Life Saving Appliances, and wheelhouse visibility, are higher than those laid down in the Directive.

Currently, the MCA subjects incoming passenger vessels from another member State to a full survey. This is resource-intensive, and a fee is levied on the vessel owner/operator at the current statutory rate of £94 per hour. However, under the Regulations, passenger vessels holding Community (or Rhine) certificates will be inspected by MCA to determine whether they meet those additional UK requirements. Such inspections will not attract the statutory fee, and are less intensive and time consuming than a full survey. This change could thus represent a benefit to some vessel operators.

The MCA expect the number of such vessels seeking to operate on UK inland waterways to be low currently, but that this will probably increase during the run-up to the 2012 Olympics, when it is expected that some EC passenger vessels may wish to operate on the Thames.

5.5 Non-passenger vessels wishing to operate in the UK with Community certificates

Non-passenger vessels from other EC Member States, that hold Community certificates, will have had to satisfy a far wider range of requirements (including construction standards) than UK non-passenger vessels. Currently, the latter are subject only to basic requirements for the carriage of life saving, and fire extinguishing, appliances. A non-passenger inland waterway vessel with a Community (or Rhine) certificate will be accepted as fully satisfying UK requirements, and MCA will not inspect these vessels in order for them to operate in the UK. They will however be subject to occasional inspection under the same terms as corresponding

UK vessels (of Class IX(A) or IX(A)(T)). There will consequently be no additional costs to non-passenger vessels seeking to operate in UK inland waterways, with Community certificates.

5.6 The MCA

Because the UK is utilising the derogation provisions in the Directive, inland waterway vessels that meet applicable UK national requirements will not have to meet the technical requirements laid down in the Directive, and hold a Community certificate. The UK safety regime for domestic passenger ships (developed following the MARCHIONESS disaster) will therefore be unaffected. Similarly, the (basic) UK requirements for inland waterway non-passenger vessels will remain. Therefore, the Directive will not cause any change to the MCA's cost burden of surveying, certifying or inspecting UK inland waterways vessels that operate only on UK inland waterways.

In line with the UK's derogation, MCA will not carry out surveys under the Directive, or issue Community certificates. Therefore, MCA's current survey and certification regime will be unaffected and there is no change to the current associated cost burden for MCA.

For passenger vessels holding Community Certificates and wishing to operate in the UK, there is a difference between action taken by MCA before, and after, implementation of the Directive. Currently, the MCA subjects incoming passenger vessels from another member State to a full survey. This is resource-intensive, and a fee is levied on the vessel owner/operator at the current statutory rate of £94 per hour. Under the Regulations, if the incoming passenger vessel holds a Community (or Rhine) certificate, it will not be surveyed. It may however be inspected (a less intensive exercise) specifically in respect of those UK passenger vessel safety requirements identified as additional to those laid down in the Directive .

Such inspections will not attract the statutory fee, and are less intensive and time consuming than a full survey. Therefore, implementation of the Directive could represent a resource saving to the MCA and a cost saving to the owners/operators of incoming inland waterways vessels from other Member States.

For non-passenger vessels, implementation of the Directive represents no change to the current survey or inspection regime, and so no change to costs incurred by the MCA. The MCA may inspect such vessels as it does corresponding UK ("Class IX(A)" or "IX(A)(T)") vessels. If they hold Community (or Rhine) certificates, these EC vessels will already have met a much wider range of requirements than the UK currently has in place for such vessels.

5.7 Summary of costs of the Regulations (Option C)

Given the low, but uncertain, numbers of vessels from other Member States expected to seek to operate on UK inland waterways, insignificant cost to owners/operators of UK passenger vessels seeking to operate in the designated waters of other Member States, and no change to the certification regime of UK vessels operating solely on UK waters, the costs of implementing the Directive have not been quantified in this Impact Assessment.

6 Future review of the Directive

The Directive has a built-in facility for review and amendment on an ongoing basis. This is to ensure that harmonisation with the Rhine rules is maintained, and it reflects advances in vessel technology, safety and accepted best practice. There have so far been three sets of amendments to the technical Annexes of the original Directive 2006/87/EC: 2008/87/EC; 2008/126/EC; and 2009/46/EC. It is expected that future amendments will be issued at two yearly intervals. The UK will keep a watch on the development of those amendments to ensure that UK commercial interests are safeguarded.

7 Specific Impact Tests

7.1 Small firms impact test

A large proportion of inland waterway operators are small firms. However, the Regulations will apply to all operators in the inland waterways sector, and no one area of the industry is penalised over others. There will be no changes in respect of vessels that only operate on inland waterways within the UK, and therefore no negative impact on UK operators.

The Directive applies to all vessels operating on the inland waterways of Europe. The specific requirements will have to be met by each vessel regardless of the company operating it. Consequently no specific impact on small firms is envisaged in implementing these Regulations.

7.2 Competition assessment

The inland waterway industry is highly fragmented, and includes individual operators as well as larger concerns. The Regulations will apply to all operators in the inland waterways sector. There will, however, be no changes for vessels operating only within the UK. Equally the status quo will be maintained for vessels temporarily operating within the UK, as our Domestic standards must still be met but as applied through the requirements of the Directive. The MCA therefore consider that the Regulations will not have a significant impact on competition.

7.3. Race Equality, Gender Equality, Disability Equality

The MCA believes that the Regulations will have no negative impact on race, gender or disability equality. Please see Annex 1 for further information.

Specific Impact Tests: Checklist

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

Annexes

Annex 1:

Name of the function, policy or strategy – Current or proposed: Implementation of Directive 2006/87/EC – Laying down technical requirements for inland waterway vessels							
Person completing the assessment: Richard Bone, MCA, Policy Advisor –Inland Waterways					Date of assessment: January 2010		
Purpose of the function, policy or strategy: UK Implementation of Directive 2006/87/EC (as amended)							
Questions – Indicate Yes or No for each group	Gender	Religion or belief	Age	Disability	Ethnicity and race	Sexual Orientation	Transgender
Is there any indication or evidence that different groups have different needs, experiences, issues or priorities in relation to the particular policy?	No	No	No	Yes ³	No	No	No
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
Is there 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
Is there any stake holder (staff, public, unions) concern in the policy area about actual, perceived or potential discrimination against a particular group(s)?	No	No	No	No	No	No	No
Is there an opportunity to better promote equality or opportunity or better community relations by altering the policy or working with other government departments or the wider community?	No	No	No	No	No	No	No
Is there any evidence or indication of higher or lower uptake by different groups?	No	No	No	No	No	No	No
Do people have the same levels of access? Are there social or physical barriers to participation (e.g. language, format, physical access/proximity)?	No	No	No	Yes ⁴	No	No	No

³ The very nature of the small, commercially orientated vessels in the UK IW non-passenger vessel fleet may mean that the needs of a disabled person might not be met readily by the vessel's arrangement.

⁴ The close confines, and various access ways onboard IW vessels may present physical barriers to disabled people that would prevent them from working onboard.

TRANSPPOSITION TABLE

Directive 2006/87/EC	The Merchant Shipping (Technical Requirements for Inland Waterway Vessels) Regulations 2010
Article 1	
Article 1: Classification of waterways	Regulation 2(2)
Article 2	
Article 2.1(a) application : vessels by length	Regulation 3(1)(d)(i)
2.1(b) application: vessels by volume	Regulation 3(1)(d)(ii)
Article 2.2(a) application: tugs etc	Regulation 3(1)(a)
2.2(b) application: passenger vessels	Regulation 3(1)(b)
2.2(c) application: floating equipment	Regulation 3(1)(c)
Article 2.3 exclusion from application	Regulation 3(2) and (3)
Article 3	
Article 3.1(a) craft on Zone R waterways	Not transposed: geographically inapplicable to the UK
3.1(b) craft on other waterways	Regulation 6
Article 3.2 form of inland navigation certificate	Regulation 9(1)
Article 4	
Article 4.1 craft carrying Rhine Navigation certificate	Regulation 8(1) (implemented subject to Article 4.2 of the Directive)
Article 4.2(a) Zone 3 and 4 reduced requirements	Regulation 8(4)
4.2(b) Zone 1 and 2 additional requirements	Regulation 8(2) and (3)
Article 4.3 form of supplementary inland navigation certificate	Regulation 9(2)
Article 5	
Article 5.1 Zone 1 additional requirements	Regulation 6(a)(i)
Article 5.2 Zone 3 passenger vessels: additional requirements	Regulation 6(b)(i)
Article 5.3 Restriction on additional requirements, notification of Commission	Regulation 6(a)(ii) and (iii) Regulation 6(b)(ii) and (iii)
Article 5.4 inland navigation certificate to specify additional requirements	Regulation 9(3)(a)
Article 5.5 Transitional provisions in Chapter 24a of Annex III	Regulation 2(2) definition of “technical requirements of Annex II to Directive 2006/87/EC”
Article 5.6 Zone 4 reduced requirements	Regulation 7, regulation 9(3)(b)
Article 5.7 Zone 3 and 4 reduced requirements	Not transposed: discretionary power not exercised by UK
Article 6	
Article 6 Dangerous goods	Article repealed by Article 11 of Directive 2008/68/EC on the inland transport of dangerous goods (O.J. L 260, 30.9.2008, p.13.)
Article 7	
Article 7.1 Derogations	Regulation 4
Article 7.2 Derogations	Regulation 5
Article 7.3 Notification of derogations	Regulations 4 and 5
Article 8: Issuance of certificates	Not transposed: Article 8 is

	wholly and necessarily dependent on Articles 9 and 10, to which Article 7.4 applies so as to not require transposition
Article 9: Competent Authorities	Not transposed: Article 7.4 applies so as to not require transposition of Article 9
Article 10: Technical inspections	Not transposed: Article 7.4 applies so as to not require transposition of Article 10
Article 11: Validity of certificates	Not transposed: Article 11 is wholly and necessarily dependent on Articles 9 and 10, to which Article 7.4 applies so as to not require transposition
Article 12: Replacement of certificates	Not transposed: Article 7.4 applies so as to not require transposition of Article 10
Article 13: Renewal of certificates	Not transposed: Article 13 is wholly and necessarily dependent on Articles 9 and 10, to which Article 7.4 applies so as to not require transposition
Article 14: Extension of validity of certificates	Not transposed: Article 14 is wholly and necessarily dependent on Articles 9 and 10, to which Article 7.4 applies so as to not require transposition
Article 15: New certificates	Not transposed: Article 15 is wholly and necessarily dependent on Articles 9 and 10, to which Article 7.4 applies so as to not require transposition
Article 16: Refusal and withdrawal of certificates	Not transposed: Article 16 is wholly and necessarily dependent on Articles 9 and 10, to which Article 7.4 applies so as to not require transposition
Article 17: Additional inspections	Regulation 12
Article 18: Recognition of 3 rd country certificates	Regulation 10
Article 19: Committee procedure	Not transposed
Article 20: Adaptation of the Annexes, etc.	Not transposed
Article 21: Continued applicability of Directive 76/135/EEC	Regulation 11 and Schedule 1 (and see further table below)
Article 22: Transitional period for existing national requirements	Not transposed (transitional period expired 30/06/2009)
Article 23: Reference to Directive 2006/87/EC	Explanatory Note
Article 24: Penalties	Regulation 13
Article 25: Repeal of Directive 82/714/EEC	Not transposed
Article 26: Entry into force	Not transposed
Article 27: Addressees	Not transposed

Directive 2009/100/EC	The Merchant Shipping (Technical Requirements for Inland Waterway Vessels) Regulations 2010 and Merchant Shipping Notice 1805
Article 1: vessels to which Directive applies	Regulations, regulation 3(4)
Article 2: issuing of navigability licences	Merchant Shipping Notice 1805, paragraph 2.1 and 2.2
Article 3: Recognition of valid navigability licences, including Rhine Vessel inspection certificates and ADNR requirements	Regulations, Schedule 1, paragraphs 1 and 2
Article 4	
Article 4.1 withdrawal of navigability licences	Not transposed: discretionary power not exercised by UK
Article 4.2 inspection	Schedule 1, paragraph 3(1)
Article 4.3: information to Member State	Schedule 1, paragraph 3(3).
Article 4.4: information to party concerned	Schedule 1, paragraph 3(2)
Article 5: repeal of Directive 76/135/EEC	Not transposed
Article 6: entry into force	Not transposed

Department for Transport
25 March 2010