EXPLANATORY MEMORANDUM TO

THE TONNAGE TAX (TRAINING REQUIREMENT) (AMENDMENT ETC.) REGULATIONS 2021

2021 No. 1030

1. Introduction

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

2. Purpose of the instrument

2.1 These Regulations amend the Tonnage Tax (Training Requirement) Regulations 2000 (S.I. 2000/2129) to increase the amounts to be used in calculating payments in lieu of training payable under those Regulations.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee

3.1 None.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the United Kingdom.

4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 The Tonnage Tax (Training Requirement) Regulations 2000 (the "2000 Regulations") are made under powers in Schedule 22 (Tonnage tax) to the Finance Act 2000 (c. 17). Schedule 22 provides shipping companies with an alternative regime for calculating their profits for the purposes of corporation tax. The regime only applies if a shipping company makes an election to that effect. The effect of an election is to bring into charge to corporation tax the company's tonnage profits in place of its actual shipping profits. Its tonnage profits are calculated by reference to the net tonnage (i.e. carrying capacity) of the qualifying ships operated by the company.

6.2 A company making a tonnage tax election (a "tonnage tax company") must meet certain minimum obligations in connection with the training of seafarers. A tonnage tax company may meet its obligations by making payments in lieu of training ("PILOT payments"). The 2000 Regulations prescribe the nature of the minimum training obligation and the basis for calculating PILOT payments. These amending Regulations increase the amounts to be used in calculating PILOT payments.

7. Policy background

What is being done and why?

7.1 One feature of the UK tonnage tax regime is to impose a minimum training obligation on companies entering the scheme. The requirement is to train one officer trainee per year for every 15 officer posts in the company's effective officer complement, and to give consideration to employment and training opportunities for ratings. The Tonnage Tax (Training Requirement) (Amendment) Regulations 2015 (S.I. 2015/788), introduced an option from October 2015 to provide training for three ratings trainees in place of each officer trainee. Eligible officer trainees or ratings trainees must be ordinarily resident in the UK and either a UK national, a national of another EEA State or a British citizen from the Channel Islands or the Isle of Man.

7.2 The training commitment has been part of the UK Tonnage Tax scheme requirement since its introduction in the Finance Act 2000 and was designed to reverse a long term decline since the 1970s in the number of new UK seafarers being trained. An increase in UK seafarers allows the UK to meet both its present needs at sea and for future jobs onshore in the maritime services sector. Prior to the amendment made by (S.I. 2015/788), training of ratings did not count towards the training commitment.

7.3 The 2000 Regulations provide that where a tonnage tax company does not meet its minimum training obligation as outlined in paragraph 7.1, the shortfall is to be made good by PILOT payments to the Maritime Training Trust ("MTT"), a body independent of government which holds and allocates the monies received by it for the purpose of promoting the training of seafarers.

7.4 PILOT payments represent the cost of training an officer cadet and consist of a basic rate plus an additional element to cover the MTT's overhead costs. The original rate of PILOT payments was agreed after discussion by the Shipping Working Group when tonnage tax was developed. The Group, established by the Deputy Prime Minister in 1997, included representatives from the maritime trades unions, the Chamber of Shipping and a number of government departments (Department for Education and Employment, Department of Trade and Industry, Department of Social Security and the Ministry of Defence); it sought to consider fiscal and employment issues in shipping. The initial rate was set to be slightly higher than the cost of having a trainee in post and social partners were aware that it would be increased annually in line with the Treasury GDP Deflator, to maintain its real value.

7.5 When tonnage tax was introduced, the MTT's overhead costs were set at 10% of the basic rate of PILOT payments. While the basic rate has increased each year at least in line with the Treasury GDP deflator, it has not been found necessary to increase the MTT overhead costs element every year and it is now less than 7.5% of the basic rate.

7.6 The government made a commitment to ensure that PILOT payments remain in line with actual training costs, to ensure there is no disincentive to train. It has always been a core principle that tonnage tax companies should fulfil their training commitment by the practical training of seafarers rather than the payment of PILOT payments and that, except in exceptional circumstances, PILOT payments should not be 'planned' but arise only in case of default.

7.7 The MTT made representations in April 2021 that the rate of PILOT payments, including the element in respect of the MTT's overhead costs, should be increased in line with the Treasury GDP Deflator. The basic rate will therefore be increased from

£1,218 to £1,234 from 1st October 2021 and the MTT's overhead costs will be increased from £91 per month to £92 per month.

7.8 The amount specified for calculating PILOT payments will therefore increase from £1,309 to £1,326 (regulation 15 (payments in lieu of training) of the 2000 Regulations). The basic rate is used for calculation of the higher rate (regulation 21 (higher rate of payment in case of failure to meet training requirement)). A company or group that fails to meet its training commitment (at least 50% trained) in the current year will see any PILOT payments due in the following year increase by 50%. This will be increased to 100% if the training requirement is not met in two consecutive years.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 Although the Regulations are the latest in a series of instruments to make similar amendments to the 2000 Regulations, the nature of the amendments made are not such as to merit consolidation of the 2000 Regulations.

10. Consultation outcome

10.1 No consultation took place on these Regulations. However, a consultation took place in 2010, and the consultation document stated the MTT's proposal that "there should be a regular review of the PILOT payment amount, say every two years, to ensure that it continues to be in line with actual training costs". Tonnage tax companies have an expectation that PILOT payments will increase at least in line with the Treasury GDP Deflator.

11. Guidance

11.1 The Department will write to tonnage tax companies in advance of the new statutory instrument coming into force.

12. Impact

12.1 The impact on business, charities or voluntary bodies is that those companies in the UK Tonnage Tax regime will have to pay an increased PILOT payment if they are unable to fulfil their training obligations. The cost of PILOT payments is calculated to be comparable to the cost of training and is not a penalty charge on the company. No impact is expected on charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 A full Impact Assessment has not been prepared for this instrument because the amounts involved fall below the threshold for producing one. The total annual gross cost to business of this measure is estimated at up to around £0.1m per year; the benefit is that the PILOT payment level will continue to be in line with actual training costs, so that there will be no disincentive for companies to train seafarers.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise regulatory burdens on small businesses.

13.3 The basis for the final decision on what action to take to assist small businesses is that although some small businesses may be tonnage tax companies, the majority of tonnage tax companies are not small businesses and the impact on any small businesses is likely to be minimal.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is the Department will keep PILOT payment rates under review with the intention of ensuring that they continue to be in line with actual training costs.

15. Contact

15.1 Simon Patten at the Department for Transport Telephone: 07976 435001 or email: simon.patten@dft.gov.uk can be contacted with any queries regarding the instrument.

15.2 Stephen Benzies, Deputy Director for Maritime Operations, at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.

15.3 Robert Courts MP, Parliamentary Under Secretary of State with responsibility for maritime policy at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.