

**EXPLANATORY MEMORANDUM TO
THE MERCHANT SHIPPING (FEES) REGULATIONS 2006**

2006 No. 2055

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

This memorandum contains information for the Joint Committee on Statutory Instruments

2. **Description**

2.1 This instrument revokes the Merchant Shipping (Fees) Regulations 1996 and instruments amending those Regulations. It prescribes new schedules of fees payable to the Maritime and Coastguard Agency (MCA) in respect of its merchant shipping functions. In particular it prescribes the marine survey, ship registration, examination and certification fees.

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

3.1. The changes in fixed fees and hourly rates vary but some rates are increased above the level of inflation.. Full details are given in the Explanatory Note.

4. **Legislative Background**

4.1 The MCA (on behalf of the Secretary of State) is empowered by s.302 of the Merchant Shipping Act 1995 to charge fees for carrying out its statutory functions under that Act. The Act does not apply to hovercraft and these Regulations should be read in conjunction with the Hovercraft (Fees) Regulations 1997 (S.I.1997/320) which are amended contemporaneously by S.I.2006/2053 , an instrument which is not required to be laid before Parliament but a draft of which is annexed hereto for information.

Changes to fixed fees and hourly rates are being introduced to ensure that the MCA complies with Treasury guidelines on full cost recovery for statutory fees charged.

5. **Extent**

5.1 This instrument applies to all 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

7.1 384 interested organisations were consulted by letter or email sent out on 6 March 2006. 22 responses were received. 8 were neutral or supportive while 14 raised concerns or objections to the proposals. The objectors included NUMAST, RMT, and the Chamber of Shipping who each represent a wider collection of individual members or shipping industry organisations.

7.2. Specific concerns were raised about the proposed hourly rate for marine surveys, the medical fitness examination fee, and the fact that some fees were increased above the rate of inflation. The MCA have replied to these objectors, providing further explanation and identifying increases in staff costs, including the employer's pensions and national insurance contributions, and accommodation expenses, including payments to utilities, as being the main contributory factors. The hourly rate for surveys and the main examination fees have not changed since September 2004 and those were based on the costs for 2003. Ship registration fees were last amended in April 2003 and other examination fees in December 2001. The medical examination fee is not one levied by the MCA itself but is a fee specified for external providers notwithstanding that it appears in these Regulations. A fuller analysis of the consultation is appended to the Regulatory Impact Assessment.

8. Impact

8.1 A Regulatory Impact Assessment relating to these Regulations and the Hovercraft (Fees) (Amendment) Regulations 2006 is attached to this memorandum.

8.2 The Regulations have no impact on the public sector.

9. Contact

Richard Ward at the Maritime and Coastguard Agency can answer any queries regarding the instrument.

Tel 023 8032 9509 or e-mail Richard.Ward@mcga.gov.uk.

2006 No.

HOVERCRAFT

The Hovercraft (Fees) (Amendment) Regulations 2006

Made - - - - 2006

Coming into force - - 11th September 2006

The Secretary of State for Transport, in exercise of the powers conferred by article 35 of the Hovercraft (General) Order 1972(1), and with the approval of the Treasury, makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Hovercraft (Fees) (Amendment) Regulations 2006 and come into force on 11th September 2006.

Amendment of Hovercraft (Fees) Regulations 1997

2.—(1) The Hovercraft (Fees) Regulations 1997(2) (“the principal Regulations”) are amended as provided in this regulation.

(2) In regulation 5, for “£78” there is substituted “£94”.

(3) For the table in regulation 9(1) there is substituted the following table—

<i>Subject of fee</i>	<i>Fee per hour or part of an hour</i>
1. Waiting time prior to the commencement of and during a survey or inspection conducted in the United Kingdom or abroad, after the first hour	£94
2. An abortive visit whether in the United Kingdom or abroad: time wasted—	
(a) after the first hour at the place of an inspection or survey	£94
(b) in travelling to and from that place	£94
3. Survey or inspection work (including time spent travelling) performed at the following times—	
(a) between 6 p.m. and 8 a.m. on Monday to Friday or at any time on Saturday	£47
(b) on Sunday or a day to be observed as a bank holiday under section 1 of, and Schedule 1 to, the Banking and Financial Dealings Act 1971(3)	£94

(1) S.I. 1972/674, amended by S.I. 1989/1351, 1996/3173 and 2004/302.
(2) S.I. 1997/320, amended by S.I. 2004/1976.
(3) 1971 c.80.

Transitional provision

3. Where an application for a survey or inspection of a hovercraft is made before 11th September 2006 and any work to conduct that inspection, survey, test or other function is carried out after 10th September, the hourly rate prescribed under these Regulations applies for the purpose of calculating—
the fee in respect of the survey and inspection work carried out after 10th September, and
any additional fee which becomes payable under regulation 9(1) of the principal Regulations by reason of an event occurring after 10th September.

Signed by authority of the Secretary of State for Transport

2006

Minister of State
Department for Transport

We consent to the making of these Regulations

2006

Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Hovercraft (Fees) Regulations 1997 by altering certain hourly fees as follows:–

<i>Subject</i>	<i>Old fee</i>	<i>New fee</i>
Survey or inspection of a hovercraft or its equipment under the Hovercraft (General) Order 1972 (S.I. 1972/674)	£78	£94
Application for an exemption under the Order	£78	£94
Waiting time before and during survey or inspection, per hour or part of an hour after the first hour:		
in the United Kingdom	£78	£94
abroad	£156	£94
Abortive visits, per hour or part of an hour (excluding the first hour):		
in the United Kingdom	£78	£94
abroad	£156	£94
Work at unusual hours:		
Mondays to Fridays 6 p.m. to 8 a.m. and Saturdays	£39	£47
Sundays and bank holidays	£78	£94

The remaining fees are unchanged.

The revised fees were last increased on 6th September 2004. The new fees will be payable in respect of work carried out on or after 11th September 2006.

A Regulatory Impact Assessment has been prepared in respect of these Regulations and the Merchant Shipping (Fees) Regulations 2006 (S.I. 2006/2055) and copies may be obtained from Finance and Contracts, Maritime and Coastguard Agency, Bay 3/11, Spring Place, 105 Commercial Road, Southampton SO15 1EG (telephone 023 8032 9509) or viewed on the Agency's website at www.mcga.gov.uk. A copy has placed in the library of both Houses of Parliament.

REGULATORY IMPACT ASSESSMENT

INCREASE IN THE MARINE SURVEY HOURLY FEE RATE AND CHANGES TO FIXED FEES FOR SEAFARERS' EXAMINATION & CERTIFICATIONS AND SHIP REGISTRATIONS

Issue:	An increase in the marine survey fee rate from £78 to £94 per hour and changes to the fixed statutory fees for seafarers' examinations & certification and ship registrations.
Purpose and Intended Effect:	An increase in the various fees is required to move towards HM Treasury's policy of full-cost recovery. There will be a cost to the shipping industry, and to individuals, as a result of the proposed changes. Such costs are highlighted below within this Regulatory Impact Assessment.
Consultation:	A twelve week period for public consultation with industry and other interested parties will commence in March. An analysis of the 22 responses received is attached as Annex A.
Risk Assessment:	If the proposed new fee rates do not come into force the MCA will continue to under recover its costs for statutory services provided, contrary to HM Treasury's policy on fees and charges.
Options:	<ol style="list-style-type: none">1. Amend fees and move towards full-cost recovery.2. Leave fees at their existing levels and allow an increasing deficit to be incurred.
Business Sector Affected:	All owners and operators of UK registered merchant and fishing vessels, which include some registered charities. This affects all UK flagship owners; it will also affect foreign registered vessels detained under Port State Control legislation in respect of subsequent inspections of items that caused the initial detention. In addition individuals, both UK and foreign citizens, who are seeking to gain maritime qualifications will be affected.
Small Firms Impact Test:	Total survey costs for all ship owners will increase by the same percentage, and therefore the increase will not fall on any particular part of the industry.
Benefits:	The MCA will move towards a situation of full-cost recovery in line with the user pays principle and in accordance with Government policy on fees and charges.

Compliance Costs for a “Typical” Business:	The following costs are for Option 1. Option 2 imposes no additional costs on a business.				
Recurring:	<p>Compliance costs will vary significantly depending on the types of vessels and surveys involved and the number of ships owned by each company. At the extremes two examples of total recurring compliance costs are given below:-</p> <p style="text-align: right;">£s</p> <p>Passenger Certificate Class I Renewal 12,408 Passenger Ship Class V – VIA Renewal 564</p> <p>Compliance costs for other typical surveys can be summarised as follows:-</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 80%;">Safety Equipment Certificate</td> <td style="text-align: right;">846</td> </tr> <tr> <td>Fishing Vessel Renewal Certificate</td> <td style="text-align: right;">940</td> </tr> </table>	Safety Equipment Certificate	846	Fishing Vessel Renewal Certificate	940
Safety Equipment Certificate	846				
Fishing Vessel Renewal Certificate	940				
Non-Recurring:	None.				
Total Compliance Costs:					
Recurring:	<p>The extra cost to the shipping industry of the increase in the survey fee rate is estimated to be in the region of £0.4m. Total cost to industry would be approximately £4.4m.</p> <p>The additional cost to individuals is estimated to be approximately £0.1m for ship registration. No additional cost for examinations and certification, as overall fee increases are balanced by significant increased volume against fees that are decreasing.</p>				
Non-Recurring:	None.				
Competition Assessment:	Not relevant, as the proposed fees have been calculated to ensure full cost recovery in accordance with HM Treasury fees and charges policy.				
Other Costs:	Nil.				

Summary and Recommendations	Option 1.	Option 2.
Business	£4.4m (increase of £0.4m).	£4.0m (no change).
Charities	Slightly higher costs.	No change in costs.
Citizens	Higher survey and ship registration fees could be passed on in charges, but for larger organisations such fees represent only a very small percentage of overall costs.	<i>No change.</i>
Government	Move very close to a £nil deficit on statutory activities.	Increasing the deficit on statutory activities, £0.419m as reported in 2004-05 accounts.
It is recommended that Option 1 be taken. Option 2 would result in the Agency incurring increasing deficits on marine survey work in contravention of HM Treasury policy.		
Enforcement, Sanctions, Monitoring and Review:	The Maritime and Coastguard Agency will implement the changes to the fees. Costs of marine surveys and other statutory activities, and the revenue therefrom, will be reviewed on an annual basis.	

Declaration:

I have read the Regulatory Impact Assessment and I am satisfied that the balance between cost and benefits is the right one in the circumstances.

Signed
Responsible Minister S.J. Ladyman.

Date 18th July 2006.

Contact point: Richard Ward, Financial Manager, Maritime and Coastguard Agency, Spring Place, 105 Commercial Road, Southampton, SO15 1EG.

Annex A- Overview of Consultation on MCA Fee Proposals

The MCA have held the required 12 week consultation period with industry and other interested parties between 6th March and 28th May 2006. A total of 241 letters plus 143 emails were distributed to maritime industry contacts with 22 responses being received.

Of the 22 responses received (see table 1 below), 8 were neutral or in support of the proposals and 14 voiced objection. It should be noted that negative responses were received from the National Union of Marine, Aviation and Shipping Transport Officers (NUMAST), the National Union of Rail, Maritime and Transport Workers (RMT) and the Chamber of Shipping, each of whom either represent a large number of individual members or shipping industry organisations.

Six responses raised specific objections against the proposed survey hourly rate (increasing by 20.5% - £78 per hour to £94 per hour) with a further six objecting to the fee for examination for a medical fitness certificate (increasing by 27% - £63 to £80). Within the fourteen negative responses, seven commented on the increases being above the rate of inflation.

The last increase in hourly survey rate and main examination fees was in September 2004. Fees for registration were increased in April 2003 and other examination fees amendments were made in December 2001.

The main contributory factors to the current fee amendments are increases in staff costs (employer's contributions for pensions and national insurance) and accommodation (utilities). The medical fee increase has been necessary to catch up with market conditions. It is a fee specified for external providers of a service that would normally be left to the market to decide. The fee proposed brings this in line with, or still below, the fees for comparable procedures elsewhere in the public and private sectors.

The MCA has communicated its obligation to comply with HM Treasury rules to ensure full cost recovery for statutory services provided but also remain committed to continuously improving services offered to customers in terms of quality and value.

Table 1. Responses to MCA Fees Proposals

<u>RESPONSE FROM</u>	<u>NATURE OF RESPONSE</u>	<u>REPLY FROM MCA</u>
Hovertravel Limited (C)	Above inflation increase to surveys/inspections. Only hovercraft fees charged per hour or part thereof? Reduction to overseas surveys penalises UK surveys.	Survey increase necessary for full cost recovery. Hourly rate per hour or part thereof relates to all surveys (not just hovercraft). Overseas rate reflects the true cost to the MCA & now in line with UK rate.
Anglo Trust (A)	Very fair proposals.	No action required.
Nexus (A)	Little change to business (Surveys up, Revalidations down).	No action required.
Shetland Islands Council (A)	Satisfied Option 1 (amend fees for full cost recovery) is only way ahead.	No action required.
Chamber of Shipping (C)	Medical fee increase not justified.	Awaiting further responses before collating and reporting back to BMA. Follow up response sent out on DfT advice, providing greater explanation and justification of the proposed medical fee.
Royal Navy (A)	Reasonable increase to the medical examination fee.	Follow up response sent out on DfT advice, providing greater explanation and justification of the proposed medical fee.
National Maritime Occupational Health & Safety Committee (C)	Medical fee increase not justified.	Awaiting further responses before collating and reporting back to BMA. Follow up response sent out on DfT advice, providing greater explanation and justification of the proposed medical fee.
Northern Ireland Fishermen's Federation (C)	Survey rate increase too high. Privatisation of surveys? Possible further comment to add following findings of report on fishing survey hours.	Acknowledged comments, MCA will share findings of report to identify fishing survey hours as proportion of total & consider suggestion of privatisation of surveys.

P&O Ferries (C)	Survey rate & medical fee increase too high. Suggest increases should be phased in as opposed to one hit.	Awaiting further responses before collating and reporting back to BMA. Survey rate under recovering as far back as 1999. Phased increases not permitted by Treasury as would be subsidisation. Follow up response sent out on DfT advice, providing greater explanation and justification of the proposed medical fee.
Knutsen OAS (UK) Ltd (B)	Reviewed fee proposals but no comment to add.	No action required.
DML Devonport (C)	Disappointed by increases but recognised balance of fee increases and reductions. No amendments to make to the fees.	No action required.
NUMAST (C)	Increase to Medical fee cannot be justified. Suggest reconsider proposals and limit increase in line with current rate of consumer prices index.	Awaiting further responses before collating and reporting back to BMA. Follow up response sent out on DfT advice, providing greater explanation and justification of the proposed medical fee.
Chamber of Shipping (C)	Support views of P&O's letter of 19th April. Despite 2 years since last increase, the overall increases are well above inflation and will cause significant rise in costs to shipping companies. Critical comments from other members that increases place disproportionate costs to shipowners.	Acknowledged comments, and provided figures behind increases to staff costs / accommodation over last 2 years.
American Bureau of Shipping (B)	Reviewed fee proposals but no comment to add.	No action required.
Germanischer Lloyd (A)	Agree with content of fees review and no further comments to add.	No action required.
British Rig Owners Association (C)	Noted that 2 years since last increase, overall increase not justified. Would be disincentive to register vessels in UK.	Comments noted.

Fisheries Government, Falklands (B)	No particular comments to make as it is accepted that any increase in survey hourly rate reflects inflation over a number of years since the last increase.	No action required.
IMarEST (C)	Surprised by 20% increase to survey fee and also concerned by changes for COC but consider little impact to total costs of running a UK flagged ship.	Comments noted.
BAE Systems (C)	Concerned at highly significant increase of 20.5% to surveys.	Comments noted.
Association of Sea Training Organisations (C)	Unacceptable increases to fees for: exam for medical fitness, issue of COC, surveys & inspections (these all make up majority of MCA charges to ASTO members). These increases are a considerable higher cost. Propose discounted or waived for UK registered sail training charities.	Comments noted. Not allowed to charge lower fee to charities as would need to be subsidised by other companies. Not permitted by Treasury as cross-subsidisation. Follow up response sent out on DfT advice, providing greater explanation and justification of the proposed medical fee.
RMT (C)	Increases significantly more than normal increases to cost of living. Concerned about Medical Fitness Certificate fee. Fees for renewal of discharge books, British seamen's cards and boatmaster's licence fees above inflation	Comments noted. Explained difference in costs, in years since last increase, where previous costs were not projected forward to the in-force date. Follow up response sent out on DfT advice, providing greater explanation and justification of the proposed medical fee.
Scottish Fishermen's Federation (C)	Rise is a long way above inflation. Fishing industry in considerable financial trouble from EU restrictions on catches and rise in cost of fuel. MCA has contributed to this with increase in legislation and costs.	Comments noted.

Summary of Responses / Comments

<u>In Favour</u> (A)	<u>No comment / Neutral</u> (B)	<u>Objections Raised</u> (C)
5	3	14