Submission from Mr Richard Greenhill


The explanatory note underneath the Regulations states that they were made to implement the amendments to the Maritime Labour Convention 2006 that were approved by the 103rd session of the International Labour Conference on 11 June 2014 ("the 2014 amendments" to "the 2006 convention").

Nowhere in the Regulations, in the explanatory note nor in the Department for Transport's accompanying explanatory memorandum is it stated when the 2014 amendments took effect in international law.

However, the Regulations are accompanied on the legislation.gov.uk website by a "DfT Regulatory Triage Assessment" dated 27 April 2016 which gives as 18 January 2017 the "expected date of implementation" of what were then proposed to become the Merchant Shipping (Maritime Labour Convention) (Amendment) Regulations 2017.

In May and June 2016, the DfT triage assessment was signed off by "Policy", "Economist" and "Better Regulation Unit" officials to confirm "that the proposed measure is suitable for Fast Track".

The Maritime and Coastguard Agency consulted on all these proposals between 10 October and 5 December 2016 and published the outcome on 11 May 2018.

It seems that the changes proposed by the triage assessment were in the event made partly (mainly in respect of the 2014 amendments) by the above Regulations of 31 May; and partly (in respect of various corrections to UK implementation of the original 2006 convention) by the Merchant Shipping (Maritime Labour Convention) (Miscellaneous Amendments) Regulations 2018 of 20 February (SI 2018/242).

The original 2006 convention, including related Codes, was ratified by the UK on 7 August 2013 with binding effect from 7 August 2014. It is unfortunate, but perhaps understandable given the breadth of the convention, that it took nearly four years from the date of effect for various errors in the UK's overall implementation to be corrected (see below for reference to your recent reports relating to other maritime conventions).

According to the International Labour Organization, the 2014 amendments were ratified by the UK on 18 July 2014 and, as the triage assessment predicted, the 2014 amendments came into force internationally on 18 January 2017. It may be in fact that, by virtue of the somewhat complex provisions of Article XV of the 2006 convention ("Amendments to the Code"), the UK as a party to the original 2006 convention sooner or later became automatically bound by the 2014 amendments without further ratification, though a formally deposited disagreement deferred the date until 18 January 2017.

The explanatory memorandum takes care to note when the original 2006 convention was ratified and came into force, but omits to do so in respect of the more pertinent 2014 amendments.
Your committee may wish to consider why the explanatory memorandum fails to state:

(a) that the 2014 amendments are already binding on the UK
(b) that they entered force in international law on 18 January 2017
(c) whether the 2014 amendments came into force automatically or by the UK’s ratification (and if the latter, why the UK chose to ratify obligations that it had not implemented)
(d) why the UK did not attempt sooner to bring its domestic law into line with its amended international obligations
(e) why the DfT’s "fast track" process will have taken more than four years from when the 2014 amendments were internationally agreed (and nearly 1½ years from when they came into force) until when they will be transposed into UK law.

You will recall that your 20th and 21st reports of the present session inquired into the Merchant Shipping (Prevention of Pollution from Noxious Liquid Substances in Bulk) Regulations 2018 (SI 2018/68) and the Merchant Shipping (International Load Line Convention) (Amendment) Regulations 2018 (SI 2018/155). However, those reports concerned the issue of international legislation being incorporated into domestic law by ambulatory references and the issue of admitted failure to keep up to date with other international conventions, rather than undisclosed failure as appears to be the present case.

So although there is in one respect a degree of overlap, I would suggest that there is a matter of distinct interest in the latest Regulations, for which the explanatory memorandum omits relevant information. To the extent that there is an overlap, you might consider whether that compounds rather than duplicates your earlier concern.

Given the contemporary Brexit-related interest in the UK’s capacity to make and implement international agreements, I would submit that the delay in implementing the 2014 amendments is potentially indicative of more serious challenges ahead. Is Britain a seaworthy legislative vessel?

I hope that is of further assistance to you in your work.

8 June 2018