



Maritime &
Coastguard
Agency

Consultation Document:

The Draft Merchant Shipping (Inspections of
Ro-Ro Ferry and High-Speed Passenger
Craft) Regulations 2021

July 2021

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Supplementary documents forming part of this consultation.

Annex A: Draft Regulations. The Merchant Shipping (Inspections of Ro-Ro Ferry and High-Speed Passenger Craft) Regulations 2021

Annex B: MGN 635 (M) Mandatory Inspections of Ro-Ro and High-Speed Passenger Craft.

Section 1: Overview of this consultation

Aim

1.1 This consultation seeks your views on aspects of the replacement of the existing Merchant Shipping (Mandatory Surveys for Ro-Ro Ferry and High-Speed Passenger Craft) Regulations 2001 (SI 2001/152) with the proposed draft Merchant Shipping (Inspections of Ro-Ro Ferry and High-Speed Passenger Craft) Regulations 2021 (Annex A) (The Regulations) and accompanying guidance MGN 635 (M) Mandatory Inspections of Ro-Ro and High-Speed Passenger Craft (Annex B). The Regulations aim to simplify the existing safety inspection regime for ro-ro passenger ships and high-speed craft and ensure that the UK's inspection regime for these ships will meet our international requirements for the future benefit of this sector of the industry.

1.2 The main objective of the proposed Regulations is to eliminate any overlaps between Port State Control inspections and the inspection regime applicable to ro-ro passenger ships and high-speed passenger craft in regular service. It will reduce the inspection effort of the Maritime and Coastguard Agency (MCA) and will benefit the shipping industry by maximising the time in which the affected vessels can be commercially exploited, whilst continuing to ensure high safety standards.

Views sought

1.3 Consultees are invited to respond to the consultation questions in Section 5. A more in-depth explanation of the areas for consideration can be found in Section 2 of this document. The areas covered in that section are as follows:

- Inspections of UK and non-UK flagged ships operating a service between UK ports
- Inspections of UK flagged and non-UK flagged ships operating a service out of UK ports to non-EU ports

1.4 A full list of consultation questions is contained in Section 5 of this consultation.

Deadline for responses

1.5 Responses are welcomed from 19/07/21 Until 16/08/21

Section 2: Areas for consideration

Background

2.1 Ferries operating a regular service between the UK and ports in other countries are vital for the transport of people and goods to and from the UK. The current regulations, The Merchant Shipping (Mandatory Surveys for Ro-Ro Ferry and High-Speed Craft) Regulations 2001 transposed an EU Directive and put into place an inspection regime for ro-ro passenger ships and high-speed craft across the EU to promote a high level of safety in the sector and prevent accidents and loss of life.

2.2 Since then, other EU legislation relating to ship inspection has been introduced, which added risk-based port state control inspection and greater parity of approach between EU Member States. The purpose was to ensure that all ships calling at ports and anchorages within the Paris Memorandum of Understanding (Paris MOU)¹ are regularly inspected. Inspections concentrate on substandard ships, while quality ships are rewarded by undergoing less frequent inspections. This overlaps with the original inspection regime for ro-ro passenger ships and high-speed craft and created a duplication of inspection effort. A Directive, developed as a result of the EU Regulatory Fitness and Performance check on EU passenger safety legislation addressed this for the EU Member States by simplifying the inspection requirements to the benefit of the shipping industry and participating maritime administrations.

2.3 The survey regime was applicable to ro-ro ferry and high-speed passenger craft operating out of a UK port on a regular service, irrespective of the flag state of the ship. These surveys were important for safety but required combined inspection by all the EU Member States with a port, where these ships called, for every inspection. These states were known as the “host states”.

2.4 The MCA now proposes to update our legislation, keeping parity with the current EU standards for the operational and safety benefits of our industry and passengers. Most of the changes relate to the terminology and the recording of the inspections or the removal of some existing obligations. These do not bring about any substantial changes to the inspection regime. All applicable ships continue to be inspected twice a year by the MCA. Reports of inspections of UK ships will be recorded on the MCA database and those of foreign ships on the port state control database. This reduces overlap and introduces a clear demarcation between inspection of UK flagged ships under the proposed Merchant Shipping (Inspections of Ro-Ro Ferry and High-Speed Passenger Craft) Regulations 2021 and those inspected under port state control.

2.5 Ships will continue to be inspected twice a year at approximately six-monthly intervals with those consecutive inspections no less than four months and no more than eight months apart. The shipping operators will not observe any change in frequency or length of inspection.

¹The UK is a founder member of the Paris MOU which exists to promote ship safety and prevent pollution incidents at sea within the region it covers. <https://www.parismou.org/about-us/organisation>

Application

2.6 The scope of the proposed draft Regulations is confined to ships providing regular ro-ro passenger ship and high-speed passenger craft services between ports within the UK, or between a port in the UK and a port in another non-EU country.

2.7 With regard to vessels carrying out regular ro-ro passenger ship and high-speed passenger craft services out of an EU Member State, the Port State Control Directive should apply if the flag is not the same as the flag of the Member State(s) in question.

Proposed Changes

2.8 The following changes in terminology have been introduced:

- a) the term “surveys” has been replaced by “inspections”;
- b) initial survey” is now called” pre-commencement inspection”;
- c) “regular specific surveys” are now called “regular inspections”;
- d) The EU concept of “host state” has been removed as it is no longer applicable

2.9 A time period has been introduced for carrying out the annual regular inspections. The requirement is for the inspection in regular service/in port to take place not before 4 months but not later than 8 months after the previous inspection.

2.10 Ships operating in domestic waters or to a third country will be inspected under the proposed Regulations and all other ships will be inspected under the Merchant Shipping (Port State Control) Regulations 2011 (SI 2011/2601).

2.11 This will reduce the inspection effort of the Maritime and Coastguard Agency (MCA) and will benefit the shipping industry by maximising the time in which the affected vessels can be commercially exploited, whilst continuing to ensure high safety standards. The new legislation limits requirements to carry out mandatory inspections to UK registered vessels, wherever they may be, or non-UK vessels, while they are within UK waters, who are operating a regular service between a UK port and a non-EU country, or operating a regular service between ports in domestic waters. The proposed Regulations will keep our inspection regime in step with the inspection regimes of the EU Member States to the benefit of those shipping operators who run regular services between The UK and EU ports.

2.12 As referred to in paragraph 2.11, the proposed Regulations extend to inspection of foreign flagged vessels, while they are within UK waters, who are operating services between ports in the UK and operating services from UK ports to non-EU countries so as to ensure a level playing field for safety standards for industry on domestic routes.

Summary of Options and Recommendation

2.13 The costs and benefits have been analysed though a full impact assessment scrutinised by the Regulatory Policy Committee has not been prepared as we have assessed the impacts to be below the Government’s threshold of £5m per year,

There are effectively two policy options which have been considered:

2.14 Option 0: “Do nothing”- Counterfactual: The present UK Regulations require inspections to be carried out on UK flagged vessels operating to an EU Member State in addition to UK flagged vessels operating to a foreign port (outside the EU) and draw powers from an EU Directive. The Directive has been revoked, whilst there are general powers of detention available under the Merchant Shipping Act, inspectors would not have specific powers to inspect/survey under the current Regulations to ensure that deficiencies are rectified.

2.15 This will mean that inspections would be carried out as per the existing Regulations but with limited means of enforcement. The present UK Regulations require inspections to be carried out on UK flagged vessels operating to another EU Member State in addition to the UK flagged vessels operating to a foreign port (outside the EU). The “do nothing” option is non-viable as the current Regulations refer to EU legislation that has been revoked and replaced with a new inspection regime, and the UK is no longer a member of the EU. To continue with the existing regime would in any event continue to cause administrative burden on shipowners and the MCA.

2.16 Option 1 (preferred option): Implementation of the proposed Regulations, which aligns the UK with the current EU inspection regime. Ships in scope of the Regulations operating between the UK and a non-EU country are inspected by the MCA, as are ships operating between ports in category A waters. The number of inspections will be reduced because the MCA no longer has to carry out host state inspections.

2.17 This option would result in an intervention to rationalise the inspection burden, therefore, saving both time and money for shipowners and the MCA. Moreover, it would retain parity of inspection regime between the UK and EU Members States which UK ships visit. In addition, it avoids the loss of the UK reputation from not meeting our obligations as a member of the Paris MoU and maintains the international compliance of the UK regulatory regime.

2.18 This option will result in a relaxation of regulation. The only cost associated with this proposed SI is small familiarisation costs. The implementation of this proposed SI will reduce the administrative burden to industry and the MCA.

Section 3: Responding to this consultation

3.1 There are specific questions highlighted in section 5 of this document and information on how to respond to this consultation document.

Consultees

3.2 Anyone may respond to this consultation and consideration will be given to all responses. We will be particularly interested to hear from owners/operators of ro-ro passenger ferries and high-speed passenger craft operating out of UK ports.

Duration

3.3 This consultation is open for 4 weeks from 19 July 2021. The deadline for responses is 16 August 2021

Submitting your response

3.4 Consultation responses should be emailed to hq_inspectionops@mcga.gov.uk. Any questions should be sent to this email address.

3.5 When responding, representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions.

Freedom of Information

3.6 Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004).

3.7 If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

3.8 In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

3.9 The MCA will process your personal data in accordance with the data protection framework and, in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

Data Protection

3.10 The MCA is carrying out this consultation to gather evidence to inform the development and implementation of policy and legislation under the enabling provisions of the Merchant Shipping Act 1995 Part IV Section 85. This consultation and the processing of personal data

that it entails is necessary for the exercise of our functions as a government department. If your answers contain information that allows you to be identified, under data protection law, the MCA, as an Executive Agency of the Department for Transport, will be the Controller for this information.

3.11 The MCA will use your contact details to send you information about the consultation, for example if we need to ask follow-up questions. You do not have to give us this personal information but if you do choose to provide it, it will not be used for any other purpose without your permission.

3.12 Details about how the MCA looks after personal data, your rights, how to complain, and how to contact our Data Protection Manager can be found on gov.uk at: <https://www.gov.uk/government/organisations/maritime-and-coastguard-agency/about/personal-information-charter>

3.13 Your information will be kept securely on the MCA's IT system and any written responses will be held in a secure file and cabinet and kept for up to five years, until a post-implementation review has been completed.

3.14 If you do not wish to remain on this list, please let us know at prasad.panicker@mcga.gov.uk

Section 4: Outline of plans beyond this consultation

4.1 Once this consultation closes, we will review all responses. In considering the responses we will apply appropriate weight to those from organisations and individuals with specialist knowledge of the subject area.

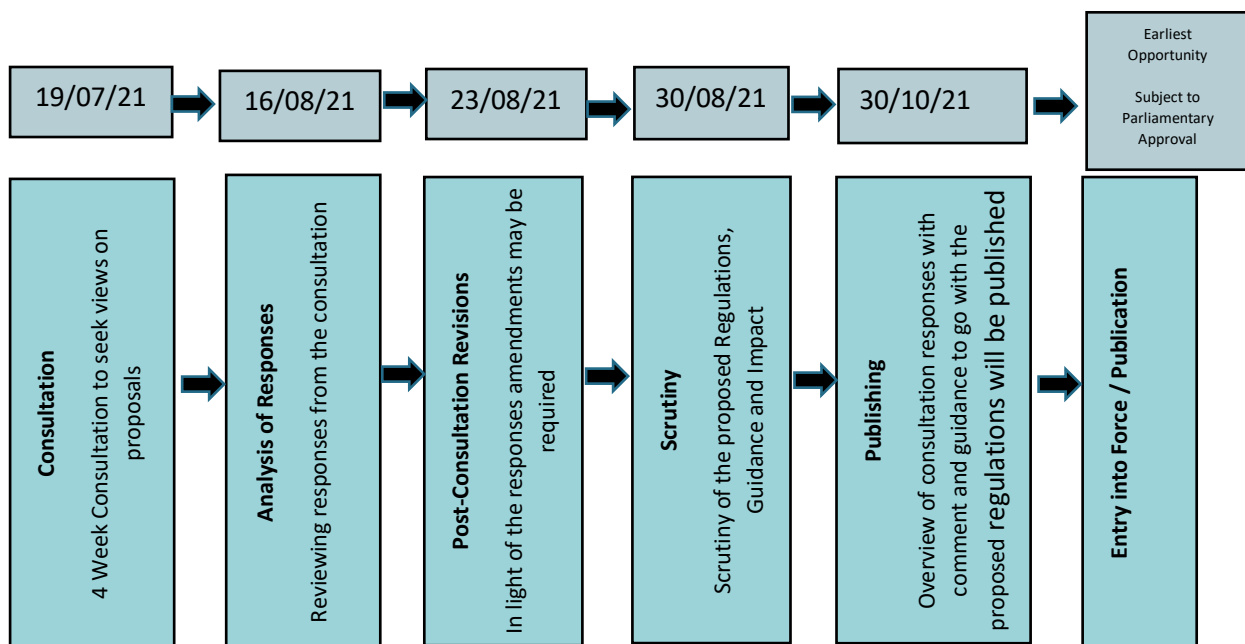
4.2 Our aim is to publish an overview of the responses and the MCA's comments by October 2021, which will be available from: www.gov.uk/government/publications

4.3 Where appropriate the draft Regulations/Guidance, accompanying guidance and impact assessment will be revised to take into consideration the consultation responses.

4.4 Our aim is for the proposed Regulations to come into force at the earliest opportunity, subject to Parliamentary approval. The Regulations will be published on www.legislation.gov.uk

4.5 Every effort will be made to publish the revised accompanying guidance on GOV.UK in advance of the date the regulations enter into force

4.6 An indicative timetable is below is below for reference:



Section 5: Response form

What is your name? _____

What is your email address? _____

What is your job title? _____

When responding please state whether you are responding as an individual or representing the views of an organisation:

- I am responding as an individual
- I am responding on behalf of an organisation

(name of organisation) _____

Please check the box that best describes you as a respondent and the size of your organisation:

Respondent Type

- Classification Society
- Government Agency/Department
- Individual
- Legal representative
- Protection & Indemnity
- Seafarer
- Ship Operator
- Ship Owner
- Trade Union
- Other

(please describe) _____

Size of Organisation

- Large business (over 250 staff)
- Medium business (50 to 250 staff)
- Micro business (up to 9 staff)
- Small business (10 to 49 staff)

Section 5.1 Consultation Questions

During the consultation phase for these proposed Regulations (Annex A) and guidance notice MGN 635 (Annex B), we ask that consultees provide evidence of the costs and benefits of this policy wherever possible.

- 1) Are there any cost or benefits that you believe should have been analysed within our cost and benefit analysis other than familiarisation cost (see table 1 below) on industry. If so, please provide any relevant evidence to support the suggested omitted costs and/or benefits?

Table 1 – Total familiarisation costs

	Low cost	Central Cost	High Cost
Reading time (in minutes)	10	15	30
Hourly Labour cost	£ 12.33	£ 17.17	£ 21.34
Individuals requiring familiarisation	85	85	85
Total cost	£170	£360	£910

- 2) Do you foresee any unintended consequences of the proposed Regulations, that have not previously been mentioned?

If so, please provide any relevant evidence.

- 3) Do you think that the revised logistics for organising the mandatory inspections are simpler now that the requirement for multiple host states to attend has been removed?

- 4) Do you anticipate any practical difficulties from the new regime where the inspections have to be carried out not less than 4 months and not more than 8 months from the previous inspection?

Please provide any evidence to support your answer

- 5) We welcome your views and evidence on any other aspects of these changes.

Section 5.2 Do you have any additional comments to add to the response?

Please return completed response forms to hq_inspectionops@mcga.gov.uk

Alternatively, responses may be posted to:

**Head of Inspection Operations
Directorate of Maritime Safety and Standards
Maritime and Coastguard Agency
Spring Place
105 Commercial Road
Southampton
SO15 1EG**

Section 6: Conduct of this consultation

6.1 This consultation has been conducted in accordance with the Cabinet Office Consultation Principles.

Consultation principles

6.2 The Cabinet Office Consultation Principles can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/492132/20160111_Consultation_principles_final.pdf

Feedback on conduct of consultation

6.3 If you have any comments regarding the conduct of this consultation, please contact the Consultation Co-ordinator at consultation.coordinator@mcga.gov.uk.

6.4 We are continually trying to improve the way in which we conduct consultations and appreciate your views. We would be grateful if you could complete and return the attached feedback form. These should be submitted to the Consultation Co-ordinator and are not affected by the deadline for this consultation.

6.5 If you require this consultation in an alternative format, please contact either the Consultation Co-ordinator or the named official conducting this consultation.

MCA CONSULTATION FEEDBACK FORM

1. Please indicate on which Consultation you are providing feedback:

.....

2a. Please indicate whether you are responding on behalf of:

- Yourself as an Individual
- A Trade Association
- A Company
- A Government Organisation
- A Trade Union
- Other
(please specify) _____

2a. Please indicate whether you accessed this consultation package through:

- Post
- Email
- Website

3. Please rate the quality of this consultation regarding accuracy, good English and spelling:

- Very good
- Good
- Average
- Poor
- Very Poor

4. Please rate the format of the consultation presentation (layout, Annexes etc.):

- Very good
- Good
- Average
- Poor
- Very Poor

5. Please rate the consultation in terms of how clear and concise you felt it was:

- Very good
- Good
- Average
- Poor
- Very Poor

6. Did you feel that the consultation was conducted over a sufficient period of time?

- Yes
- No

7. Were any representative groups, organisations or companies not consulted who you felt should have been?

Yes

No

If yes, who? _____

8. Please let us have any suggestions for improvement or other comments you wish to make about this consultation below:

Thank you for your time. Please return this form to:

Consultation Co-ordinator,
Maritime and Coastguard Agency,
Spring Place, Bay 3/26, 105 Commercial Road
Southampton SO15 1EG

Or e-mail it to: consultation.coordinator@mcga.gov.uk

If you are happy to supply your name in case we need to contact you to discuss your views further, please enter it below (this is optional, and your feedback will still be taken into account if you wish to remain anonymous):

Name _____

Tel. No. _____

Please note that the deadline for responses to the Consultation itself does not apply to the return of this form.

