

**ABOLITION OF BRITISH
SHIPBUILDERS CORPORATION**

Consultation

FEBRUARY 2012

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Abolition of British Shipbuilders Corporation

1. Proposal

The Coalition Government has decided that it should reform the crowded public bodies landscape in the UK in order to enable the Government to deliver public services more efficiently. As part of this initiative it is proposed to abolish British Shipbuilders Corporation under the Public Bodies Act 2011, which received Royal Assent on 14 December 2011.

British Shipbuilders Corporation is no longer a trading enterprise but exists as a “shell” company. It is important to note that the purpose of this abolition is to simplify the funding and handling of British Shipbuilders Corporation’s residual liabilities. The proposed change will not impact on meeting the liabilities of the Corporation. The Coalition Government is committed to continue making relevant compensation payments to former employees of British Shipbuilders Corporation who have suffered personal injury (such as mesothelioma) as a result of their employment, fully in line with its legal obligations. Under the new arrangements the liabilities will become the direct responsibility of the Department for Business Innovation & Skills.

Issued: 2 February 2012

Respond by: 26 April 2012

Enquiries to: Peter Joyce, Marine Unit, Department for Business, Innovation & Skills, 1 Victoria Street, London SW1H 0ET 020 7215 1165 peter.joyce@bis.gsi.gov.uk

This consultation and the proposals made are likely to be of interest to the unions representing former British Shipbuilders Corporation shipyard workers and their families, Asbestos support groups in the former British Shipbuilders operational areas, Claimant solicitors, and the British Shipbuilders Corporation.

2. Background

British Shipbuilders Corporation was a public corporation that owned and managed the UK shipbuilding industry from 1977, being established by the Aircraft and Shipbuilding Industries Act 1977. This Act nationalised most of the major British shipbuilding companies.

British Shipbuilders Corporation has now privatised all of its active shipbuilding subsidiaries, initially through the privatisation of the war shipbuilding yards in 1985/86, and subsequently through the sale of the merchant yards and the one remaining engine building company. British Shipbuilders Corporation is, therefore, no longer a trading enterprise but exists as a “shell” company.

It is unsatisfactory that a corporation established by Parliament should be kept indefinitely in a state of suspended animation. In addition, winding up British Shipbuilders Corporation is consistent with the coalition Government’s policy to reduce the number of arm’s length bodies. The Aircraft and Shipbuilding Industries Act 1977 does not give the Secretary of State for Business, Innovation & Skills the power to cease all operations of British Shipbuilders Corporation or to wind up the corporation, and as a result British Shipbuilders Corporation must be abolished by legislation.

Corporation’s Liabilities and Funds

British Shipbuilders Corporation now exists solely to meet its residual liabilities (litigation, insurance claims and other contractual matters) relating to its former employees.

When the British shipbuilding industry was nationalised in 1977, it was assumed that British Shipbuilders Corporation would have more than sufficient assets to meet those liabilities. However, in recent years, the Corporation’s reserves were placed under increasing pressure.

First, the Corporation’s insurer, Chester Street Holdings Limited, entered into liquidation, and in April 2004, British Shipbuilders Corporation was obliged to take back its insured liabilities.

Secondly, the House of Lords ruling in *Fairchild*^{1[1]} led to an increase in the number of mesothelioma personal injury claims against British Shipbuilders Corporation. These unforeseen pressures resulted in the near insolvency of British Shipbuilders Corporation in July 2006. In order to prevent this, interim arrangements to fund British Shipbuilders using Public Dividend Capital was agreed by the then Department of Trade & Industry’s Permanent Secretary as a temporary measure, on the basis that a proposed Bill would enable a long-term solution for managing and funding the liabilities to be implemented involving them being transferred to the direct responsibility of Government. HM Treasury agreed this as a temporary measure in 2006 on the basis that a Bill to transfer liabilities to Department for Business, Innovation & Skills would provide a long-term solution for managing British Shipbuilders Corporation’s liabilities.

^{1[1]} *Fairchild –v- Glenhaven Funeral Services Ltd* [2002] UK HL 22 – the House of Lords held that a worker who contracted mesothelioma after wrongful exposure to asbestos at different times by more than one employer or occupier of premises could sue any of them, notwithstanding that he could not prove which exposure actually caused the disease. A defendant would be 100% liable for the whole injury.

As successor to the Department of Trade & Industry, the Department for Business, Innovation & Skills is currently continuing to fund this compensation using Public Dividend Capital.

Annual Report and Accounts

Information about the assets and liabilities of British Shipbuilders Corporation are published in its Annual Report and Accounts. The Corporation's latest Annual Report and Accounts were for 2010/2011 and can be viewed on the BIS website.

Management of Claims

In practical terms, British Shipbuilders Corporation's solicitors, Simpson & Marwick, manage the ongoing claims. All claims (currently served against 'British Shipbuilders' and following the transfer of liabilities to the 'Secretary of State of the Department for Business, Innovation & Skills') should be sent to:

Simpson & Marwick Solicitors LLP
Collingwood Buildings,
38 Collingwood Street,
Newcastle upon Tyne
NE1 1JF

Day-to-day oversight of British Shipbuilders Corporation's activities are undertaken by officials in the Coal Liabilities Unit in the Department of Energy and Climate Change under arrangements agreed with the Department for Business, Innovation & Skills. This relates to providing day-to-day operational handling advice for the Corporation and compensation claims against it. The officials also lead on the governance responsibilities of the Corporation including the role of Chair and Directors. This arrangement draws on the extensive experience of the Coal Liabilities Unit in managing health related compensation claims arising from the liabilities of the former British Coal Corporation.

Transferring the liabilities from the British Shipbuilders Corporation directly to Department for Business, Innovation & Skills will provide a long-term solution for managing them and provide continuity of funding responsibility for the period that claims continue to be presented. It is envisaged that the officials of the Coal Liabilities Unit will continue to play a role in oversight of claims post the winding up of the British Shipbuilders Corporation.

British Shipbuilders Corporation's liabilities currently cost about £7 million a year in compensation payments. This is mainly spent on dealing with health compensation claims from former shipyard workers, suffering primarily from asbestos related diseases. It is estimated that there will be liabilities to be met at least into the late 2040s.

Administration of unrecorded Pension Liabilities

In addition to the role of Simpson & Marwick, Capita Hartshead is contracted to British Shipbuilders Corporation to provide residual pension services. This involves investigating and handling of unrecorded pension claims from former employees of the British Shipbuilders Corporation. Such enquiries should be sent to:

Capita Hartshead
Aspect Court
116 West Regent Street
Glasgow
G2 2QD

We envisage arrangements will continue to be made for handling such claims post winding up of the British Shipbuilders Corporation.

3. Consultation question

Do you agree the Government proposal to wind up British Shipbuilders Corporation and transfer legal responsibility of British Shipbuilders Corporation to the Department for Business, Innovation & Skills to be the most suitable option to ensure claimants continue to receive compensation awarded by the courts against British Shipbuilders Corporation where liability is agreed or established?

4. Basic information

To: We are keen to hear from everyone who may feel concerned by this proposal.

Duration: The consultation runs for 12 weeks from 2 February to 26 April January 2012.

How to respond: If you wish to respond to this consultation please write to:

Peter Joyce
Marine Unit
Department for Business, Innovation & Skills
1 Victoria Street
London
SW1A 0ET

Email: peter.joyce@bis.gsi.gov.uk

After the consultation: Responses will be analysed and a 'Response to Consultation' document will be published. This response will take the form of a final decision and include a summary of the views expressed.

5. Confidentiality & Data Protection

Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want information, including personal data 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.

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.

Annex 1: The Consultation Code of Practice Criteria

Formal consultation should take place at a stage when there is scope to influence policy outcome.

Consultation should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

Consultation exercise should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

Comments or complaints

If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please write to:

Sameera De Silva,
BIS Consultation Co-ordinator,
1 Victoria Street,
London
SW1H 0ET

Telephone Sameera on 020 7215 2888
or e-mail to: Sameera.De.Silva@bis.gsi.gov.uk

Annex 2: List of Individuals/Organisations consulted

Tony Whitston
Chair
GMAVSG
Windrush Millennium Centre Unit 2.5
70 Alexandra Road
Moss Side
Manchester
M16 7WD

Deborah Evans
Chief Executive
Association of Personal Injury Lawyers
3 Alder Court
Rennie Hogg Road
Nottingham
NG2 1RX

Barrow Asbestos Support Group
Barrow Asbestos- Related Disease Support
St Mary's Hospice
Ford Park
Ulverston
Cumbria
LA12 7JP

Ian McKenzie
Chairman
British Shipbuilders Corporation
c/o Department of Energy & Climate Change
3rd Floor, Area A
3 Whitehall Place
London SW1A 2AW

Clydesdale Asbestos Group
8 Crown Avenue
Radnor Park
Clydebank
G81 3BW

Clydeside Action on Asbestos
245 High Street
Glasgow
G4 0QR

Keith Hazlewood
GMB
National Office
22/24 Worple Road
London
SW19 4DD

Mesothelioma UK
c/o Hospital Management Offices
Glenfield Hospital
Leicester
LE3 9QP

NASAG - Northeast Asbestos Support and Awareness Group
4 The Cloth Market
Newcastle upon Tyne
NE1 1EE

Tayside Asbestos Action
Ground Floor
Royal Exchange Building
Panmure Street
Dundee
DD1 1DU

Unite Union
Unite House
128 Theobald's Road
London
WC1X 8TN

Ian McFaul
Thompsons (England)
St Nicholas Building
St Nicholas Street
Newcastle upon Tyne
NE1 1TH

Laura Blane
Thompsons (Scotland)
285 Bath Street
Glasgow
GL2 4HQ

Irwin Mitchell
Gainsborough House
34-40 Grey Street
Newcastle Upon Tyne
NE1 6AE

Carolann Hepworth
Pickerings
Etchell Court
Bonehill Road
Tamworth

Staffordshire B78 3HQ

Rodney Nelson Jones
Field Fisher Waterhouse LLP
35 Vine Street
London
EC3N 2AA

Steven Eldred
Thomas Eggar
Brunel House
21 Brunswick Place
Southampton
Hampshire
SO15 2AQ

Roberts Jackson
Blackbox Business Centre
Beech Lane
Wilmslow
Cheshire
SK9 5ER

Paul Spinelli
Corries Solicitors Ltd
Pentagon House
Washington Street
Glasgow
G3 8AZ

Corries Solicitors Ltd
Rowntree Wharf
Navigation Road
York
YO1 9WE

Capita Insurance Services
2 The Embankment
Sovereign Street
Leeds
LS1 4HW

Mike Klaiber ACII
Chartered Insurer
UK Disease Claims Manager
UKGI Claims
Zurich Insurance plc
The Grange
Bishop's Cleeve
Cheltenham GL52 8XX

Dominic Claydon
UK General Insurance Claims Director
Aviva UK General Insurance
Rosso 1
Surrey Street
Norwich
NR1 3DH

Annex 3: Impact on legislation

A number of pieces of primary and secondary legislation will require amendment as a result of the abolition of the British Shipbuilders Corporation. In addition, the following legislation will be repealed:

Primary legislation

Aircraft and Shipbuilding Industries Act 1977

Modifies British Shipbuilders' functions and organisation of British Shipbuilders' activities

<http://www.legislation.gov.uk/ukpga/1977/3/contents>

British Shipbuilders Act 1983

Makes further provision with respect to functions and activities of British Shipbuilders

<http://www.legislation.gov.uk/ukpga/1983/15/contents>

British Shipbuilders (Borrowing Powers) Act 1983

Increases limits on borrowing by British Shipbuilders and its wholly owned subsidiaries and on its public dividend.

<http://www.legislation.gov.uk/ukpga/1983/58/contents>

British Shipbuilders (Borrowing Powers) Act 1987

Increases limits on borrowing by British Shipbuilders and its wholly owned subsidiaries and on its public dividend.

<http://www.legislation.gov.uk/ukpga/1987/52/contents>

Secondary legislation

Shipbuilding Industry Board (Dissolution Provisions) Order 1971

<http://www.legislation.gov.uk/uksi/1971/1939>

Abolishes the Shipbuilding Industry Board.

Aircraft and Shipbuilding Industries (Aircraft Industry Vesting Date) Order 1977, S.I. 1977/539

Specifies the vesting date for the 1977 Aircraft and Shipbuilding Industries act.

<http://www.legislation.gov.uk/uksi/1977/539/contents/made>

Aircraft and Shipbuilding Industries (Shipbuilding Industry Vesting Date) Order 1977, S.I. 1977/540

Specifies the vesting date for the 1977 Aircraft and Shipbuilding Industries act.

<http://www.legislation.gov.uk/uksi/1977/540>

British Shipbuilders Regulations 1977, S.I. 1977/626

Rules and regulations of the Corporation

<http://www.legislation.gov.uk/uksi/1977/626/contents/made>

Aircraft and Shipbuilding Industries (Issue of Compensation Stock) Regulations 1977, S.I.1977/754

Certifies the particulars of the persons entitled to compensation stock, the amount they are entitled to, the persons to whom certificates are to be issued and for the registration of these details by the Bank of England

<http://www.legislation.gov.uk/uksi/1977/754>

Shipbuilding Industry (Pension Schemes) Regulations 1978, S.I. 1978/232

Transfers pensions to British Shipbuilders Corporation.

<http://www.legislation.gov.uk/uksi/1978/232>

British Shipbuilders Borrowing Powers (Increase of Limit) Order 1988, S.I.1988/1401

Sets out the limits the aggregate of the borrowings by British Shipbuilders and its wholly owned subsidiaries, and where this can be increased.

<http://www.legislation.gov.uk/uksi/1988/1401>

British Shipbuilders Regulations 1991, S.I.1991/1560

Reduces the number of members and quorum for the Corporation

<http://www.legislation.gov.uk/uksi/1991/1560/made/data.pdf>

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Department for Business, Innovation and Skills
1 Victoria Street
London SW1H 0ET
Tel: 020 7215 5000

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