



Maritime &
Coastguard
Agency

Consultation Document:

The Merchant Shipping (Safety Standards for
Passenger Ships on Domestic Voyages)
(Miscellaneous Amendment) Regulations
2020

September 2020

Contents

<u>Section 1: Overview of this consultation</u>	1
<u>Aim</u>	1
<u>Views sought</u>	1
<u>Deadline for responses</u>	1
<u>Section 2: Areas for consideration</u>	1
<u>Background and Application</u>	1
<u>Proposed Changes</u>	2
<u>Summary of Options and Recommendation</u>	3
<u>Supporting Information (Penalties & Offences, Marine Notices)</u>	4
<u>Section 3: Responding to this consultation document</u>	4
<u>Consultees</u>	5
<u>Duration</u>	5
<u>Submitting your response</u>	5
<u>Freedom of Information and Data Protection</u>	5
<u>Section 4: Outline plans beyond this consultation</u>	7
<u>Section 5: Response form</u>	8
<u>Section 6: Conduct of this consultation</u>	10
<u>Consultation Principles</u>	10
<u>Feedback on conduct of consultation</u>	10
<u>MCA consultation feedback form</u>	11
Annex A: Draft Regulations: The Merchant Shipping (Safety Standards for Passenger Ships on Domestic Voyages) (Miscellaneous Amendments) (No. 2) Regulations 2020	14
Annex B: De Minimis Assessment	14
Annex C: Draft Marine Guidance Note (MGN) Safety Rules and Standards for Seagoing Domestic Passenger Ships: 2016 and 2017 Amendments.	14

Section 1: Overview of this consultation

Aim

1.1 This consultation seeks your views on a new Statutory Instrument (SI) which is required to amend the existing Regulations (SI 2000/2687: The Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000) and transpose the requirements of Directive (EU) 2017/2108 amending Directive 2009/45/EC on safety rules and standards for passenger ships.

Views sought

1.3 Consultees are invited to comment on any aspect of this consultation; however, you are specifically 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 are as follows:

- Area 1 – Vessels over 24m in length.
- Area 2 – vessels under 24m in length.

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 23/09/2020 Until 20/10/2020

Section 2: Areas for consideration

Background

2.1 Since 2015, the European Commission has reviewed numerous items of EU legislation under its Regulatory Fitness and Performance (REFIT) programme. REFIT is part of the Commission's current better regulation agenda and aims to ensure that EU laws deliver their intended benefits for citizens, businesses and society while removing red tape and lowering costs. It also aims to make EU laws simpler and easier to understand.

2.2 The UK has now left the EU, and is currently in a transitional period until the 31st December 2020. However, the UK Government is supportive of the proportionate measures this legislation brings to the Domestic Passenger fleet.

2.3 The result of the REFIT exercise being carried out on Directive 2009/45/EC on safety rules and standards for passenger ships is amending directive (EU) 2017/2108. Directive 2009/45 applies only to seagoing domestic passenger ships. These are ships that: -

- carry more than 12 passengers;
- go to sea; but,

- only undertake non-international voyages, back to the same port, or to a different port, within the same EU Member State.

The directive does not therefore apply to passenger ships that undertake international voyages¹, or those that do not go to sea

2.4 The amendments in directive 2017/2108 comprise mainly updates, clarifications and improvements to layout. There is however one important, substantive change to the technical safety requirements; the removal of ships below 24m length from scope of the directive. As the requirements in (the substantive) directive 2009/45 are underpinned by UK legislation, intervention is necessary to transpose directive 2017/2108 so that this amendment can be reflected, and any benefits that it represents made available to UK industry.

Application

2.5 These Regulations shall apply to—

- a new and existing United Kingdom passenger ship of Class A, B, C or D of 24 metres or over in length, engaged on domestic voyages; and
- a new and existing non-United Kingdom passenger ship of Class A, B, C or D of 24 metres or over in length, engaged on domestic voyages within the United Kingdom.

Proposed Changes

2.6 The purpose of these standards is to maintain a high level of safety and to remove barriers to trade, facilitating the EU single market in the provision of ships and services by ensuring a consistent standard of safety across all EU domestic passenger ships. The periodic amendments have aimed to keep the directive standards up to date with the international ones on which they are based.

2.7 The standards applied for domestic passenger ships are based on Safety Of Life At Sea (SOLAS) requirements; scaled to make them suitable and proportionate for domestic passenger ships. To facilitate this the directive defines four “Classes” of passenger ships based on the sea areas where the ship operates. The classes of ship within the directive are defined in the table below. The directive is applicable to vessels which operate at sea (outside of UK categorised waters²) on domestic voyages, carrying 12 or more passengers. EU Class A vessels, which operate on voyages over 20 nautical miles out to sea, are required to comply directly with SOLAS requirements, any amendments to which will be directly applicable. Vessels operating in EU Class B, C and D waters range from large multi vessel operators of large RO-RO vessels through to single vessel operators of small passenger craft operating lifeline services between islands.

“Class A”	means a passenger ship engaged on domestic voyages in Areas A, B, C and D. <i>Note that the UK currently has no Class A ships.</i>
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¹ It may be noted that voyages to Northern Ireland are domestic but those to Ireland are international, as are voyages to the Isle of Man or the Channel Islands because these are not within the UK.

² As defined and listed in Merchant Shipping Notice 1837.

“Class B”	means a passenger ship engaged on domestic voyages in Areas B, C and D.
“Class C”	means a passenger ship engaged on domestic voyages in Areas C and D.
“Class D”	means a passenger ship engaged on domestic voyages in Area D.

2.8 The original 1998 directive defined and established four domestic sea areas: A, B, C and D, and the four classes of seagoing domestic passenger ships, corresponding to the area/s in which they operate. The area B, C and D definitions are amended in Directive 2017/2108, and no longer refer to distances from the coast and areas of refuge where shipwrecked persons may land. These current definitions are shown in the following table.

“Area A”	means a sea area outside of areas B, C and D.
“Area B”	means a sea area, whose geographical coordinates are at no point more than 20 miles from the line of coast, corresponding to the medium tide height, but which is outside of areas C and D.
“Area C”	means a sea area, whose geographical coordinates are at any point no more than 5 miles from the line of coast, corresponding to the medium tide height, but outside of sea area D if any. Additionally, the probability of the significant wave height exceeding 2,5 metres shall be smaller than 10% for a period of one year for all-year-round operation, or for a specific period for seasonal operation, such as summer period operation.
“Area D”	means a sea area, whose geographical coordinates are at any point no more than 3 miles from the line of coast, corresponding to the medium tide height. Additionally, the probability of the significant wave height exceeding 1,5 metres shall be smaller than 10% for a period of one year for all-year-round operation, or for a specific period for seasonal operation, such as summer period operation.

2.9 Majority of amendments is aligning the Directive to current legislation, references to international conventions and tidies up the Directive.

Summary of Options and Recommendation

2.10 The proposal is subject to De Minimis Assessment (DMA) no. DfTDMA109 which is included in this consultation document in ANNEX B.

2.11 The following options were considered:

- **Option 1.** Do nothing – This is not considered a desirable option, chiefly because UK ships of under 24m length will continue to be covered by current UK legislation, and thus the requirements of Directive 2009/45/EC prior to its amendment by 2017/2108. Additionally, some other important exclusions from the directive’s scope, which the UK actively negotiated for, will not be clarified under UK law. These include sailing vessels, offshore supply vessels and tenders.
- **Option 2.** Transpose amending Directive (EU) 2017/2108 (the MCA’s preferred option) – This option is considered to be the best one for UK industry at this time. Additional compliance costs for ships of 24m or more in length are estimated to be negligible. Ships of under 24m length will no longer have to comply with the EU requirements or operate under the UK’s equivalence arrangement (see 3 below) and can instead comply with bespoke domestic standards.

2.12 A comparison has been carried out between the safety requirements of the Directive, and those of the SSPS Code. Apart from carriage requirements for Life Saving Appliances (LSA), which are more onerous in the Directive, there is a moderately high degree of equivalence between these two regimes. Where divergences do occur, they may be attributed to the fact that the Directive applies to much larger ships than the SSPS Code.

Supporting Information

2.13 **Marine Notice:** It is intended to publish a Marine Guidance Note (MGN) to update MGN 572³ “Safety Rules and Standards for Seagoing Domestic Passenger Ships: Directive (EU) 2016/844 Amendments” as necessary.

2.14 In addition Merchant Shipping Notice MSN 1747⁴ lists the designated sea areas C and D around the UK. It does not list any areas B because these are not defined with significant wave height criteria, as are areas C and D. So, a sea area B around the UK would be any area outside of the criteria for area C but within 20 miles from the line of coast, as per the definition in the table at paragraph 2.7. Areas A are simply outside of the defined areas B, C and D; in theory they have no limit except the practicalities of a domestic – non-international – voyage.

2.15 Furthermore, the current exemptions for ships under 24m in length currently complying to the Directive can be found in MGN 622.

2.16 **Offences and Penalties:** there are no changes to the current Offences and Penalties, which remain as follows;

- Any contravention of these Regulations other than regulation 7B in respect of a ship shall be an offence by both the owner and the master of that ship punishable on summary conviction by a fine not exceeding the statutory maximum and on conviction on indictment by imprisonment for a term not exceeding two years or a fine, or both.

- Any contravention of regulation 7B(1) or (3) of these Regulations by the operator of a regular service shall be an offence by that operator punishable on summary conviction by a fine not exceeding the statutory maximum, and on conviction on indictment by imprisonment for a term not exceeding two years, or a fine, or both.

- It shall be a defence for a person charged under these Regulations to show that he took all reasonable steps to avoid the commission of the offence.

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: Ship Owners and Operators.

³ MGN 572 is available on www.Gov.UK

⁴ MSN 1747 is available on www.Gov.uk

Duration

3.3 This consultation is open for 4 weeks from Wednesday 23rd September 2020. The deadline for responses is 23:59 Tuesday 20th October 2020.

Submitting your response

3.4 Consultation responses should be emailed to Marinetechology@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. 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.

Data Protection

3.8 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. 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.

3.9 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.

3.10 Details about how the MCA looks after personal data, your rights 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>

3.11 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.

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

Section 4: Outline of plans beyond this consultation

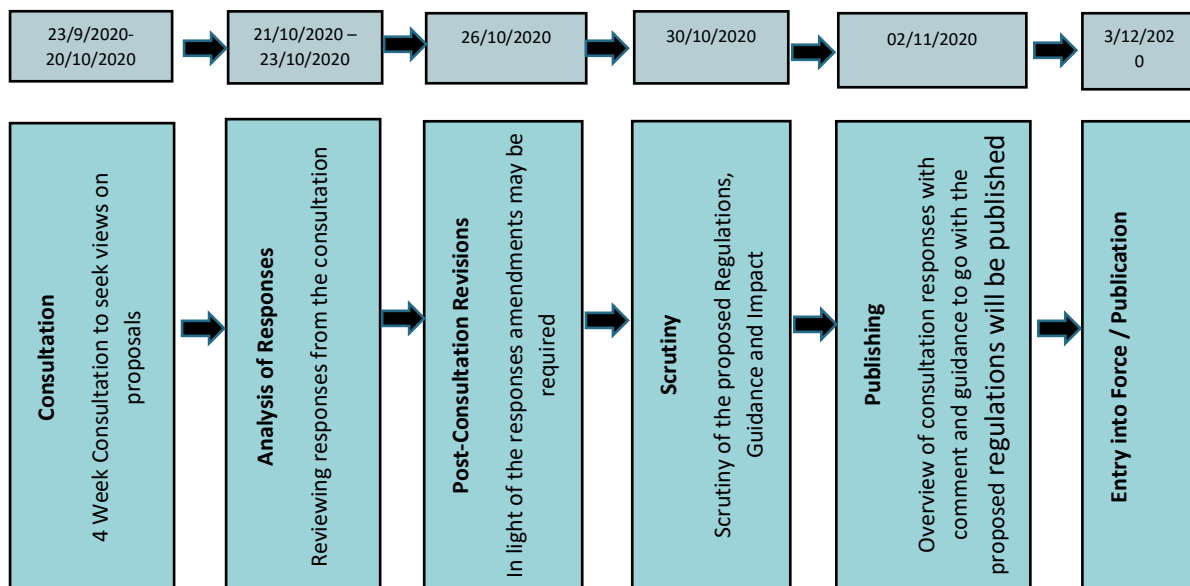
4.1 Once this consultation closes, we will review all responses. In considering the responses we will apply appropriate weight to those from organisations and individuals with specialist knowledge of the subject area.

4.2 We will be analysing the responses during 21/10/2020 – 23/10/2020 Our aim is to publish an overview of the responses and the MCA’s comments by 2nd November 2020, 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 Merchant Shipping (Safety Standards for Passenger Ships on Domestic Voyages)(Miscellaneous Amendments) Regulations 2020 to come into force on **3rd December 2020** The Regulations will be published on www.legislation.gov.uk

4.5 An overview timetable 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

5.1.1 - It is expected that the impacts will be negligible. Are you in agreement? If not please provide evidence of likely costs implications for your business.

5.1.2 - What are the key areas where costs and benefits may arise for your business?

5.1.3 - How long do you expect familiarisation with the proposed amending SI and who will be required in your organisation to familiarise themselves with the proposed changes? (role and time)

5.1.4 - Will any businesses be disproportionately affected?

5.1.5 - Are there likely to be any unintended consequences?

5.1.6 - What impact do you think the proposed changes will have upon safety standards?

Section 5.2

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

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

Alternatively, responses may be posted to:

Peter Rollason,
Ship Standards Policy Lead
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) _____

2b. If you are representing a company, please indicate the size of your company:

- Micro (1-9 employees)
- Small (10-49 employees)
- Medium (50-249 employees)
- Large (250+ employees)

2c. 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.

Annex A: Draft Regulations: The Merchant Shipping (Safety Standards for Passenger Ships on Domestic Voyages) (Miscellaneous Amendments) Regulations 2020

Annex B: De Minimis Assessment

Annex C: Draft Marine Guidance Note (MGN) Safety Rules and Standards for Seagoing Domestic Passenger Ships: 2016 and 2017 Amendments.