



Consultations

Maritime & Coastguard
Agency (MCA)

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Dear Consultee

Website: www.gov.uk

CONSULTATION ON AMENDMENT TO MARINE GUIDANCE NOTE 535(M) ON THE SMALL SEAGOING PASSENGER SHIPS (SSPS) CODE

This consultation seeks comments on a draft updated Marine Guidance Note (MGN) that we are seeking to update to reflect changes made in legislation relating to those domestic passenger ships which may be permitted to meet the standards contained in the Small Seagoing Passenger Ships (SSPS) Code.

Under the Maritime and Coastguard Agency's (MCA) M Notice system, Marine Guidance Notes (MGN) are guidance (although some of the content of MGNs may be mandatory by virtue of the fact it appears in a mandatory document elsewhere).

The consultation period will run for 4 weeks **from Friday 11 June to noon on Friday 9 July 2021.**

The consultation documents accompany this consultation letter.

Background

MGN 535(M) was originally published in 2015 introducing the non-statutory SSPS Code, which was an alternative construction standard, just to the Class III to VI(A) suite of Regulations at that time.

Since first publication, some changes have been made to wider domestic passenger ship legislation which mean the original version of the MGN is now, to some extent, out of date. The amendments proposed to the MGN are simply to reflect substantive changes which have already been made elsewhere, and do not form any new policy.

The Domestic Passenger Ships Directive, originally Directive 98/18/EC, replaced by Directive 2009/45/EC which was subsequently further amended, had been implemented into UK law by the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 (SI 2000/2687) ("the 2000 Regulations") (as amended). One of the subsequent amendments was Directive 2017/2108/EU, which was implemented into UK law by Merchant Shipping (Safety Standards for Passenger Ships on Domestic Voyages) (Miscellaneous Amendments) Regulations 2020 (SI 2020/1222) ("the 2020 Regulations").

Changes to be reflected in the revised version of MGN 535(M)

Changes brought about by Directive 2017/2108/EU and the 2020 Regulations.

The main change made to the 2000 Regulations by the 2020 Regulations was to remove from scope of the Domestic Passenger Ships Directive standards ships of less than 24 metres in length built of steel or equivalent material, which had up until that time had fallen under the scope of the Directive standards, implemented by the 2000 Regulations (as amended).

The ships of under 24 metres which had been subject to the Directive standards were given the choice of:

- a) remaining compliant with the 2000 Regulations, which reflect the Directive standards as they were on the last day of the UK's membership of the European Union; or
- b) complying with the Class III to VI(A) suite of Regulations; or
- c) complying with the SSPS Code.

The proposed changes (shown in Track Changes in the accompanying draft) to MGN 535(M) reflect this new situation.

The SSPS code itself will be reviewed and updated in due course, but this will be carried out as a separate exercise.

General Exemption

Attached to the existing MGN 535(M) is a General Exemption (GE). The effect of this is to disapply certain secondary legislation to ships which are compliant with the SSPS Code and meet certain conditions. A Schedule to the GE lists the secondary legislation which is disapplied.

It is intended to update this GE because some of the legislation quoted in the Schedule has been revoked and replaced, so the Schedule is out of date. The obligations contained in the revoked disapplied legislation have been transferred to the new legislation which has replaced it, so the replacement legislation needs now to be disapplied instead. This update will not change the effect of the GE, it will simply revise the list of disapplied legislation to correctly reflect where in law the disapplied obligations are contained. The GE will be re-issued with the amendment to MGN 535(M).

We would like to hear from you

We would welcome your comments about the proposed MGN. We are particularly interested in hearing your comments on the following aspects of the draft MGNs:

- a) any content which you believe to be inaccurate;
- b) any typographical errors;
- c) any non-statutory advice with which you disagree;
- d) any content you believe is unclear;
- e) any content you think is inappropriate to include, and should therefore be omitted;
- f) any content which has been omitted which you believe should be included.

Responding to the consultation

You are invited to submit comments on the form provided at Annex A. As many MCA staff are still working remotely at present, it is requested that the completed form be scanned or photographed and a clearly readable copy be forwarded by e-mail to dpv@mcga.gov.uk. If you do not have access to e-mail, please telephone the MCA's Passenger Vessel Team on 020 381 72379 or 72392 to discuss alternative options of submitting responses. **This consultation will close at 1200 on Friday 9 July 2021.**

A summary of consultation responses will be posted on the same GOV.UK page as the consultation in due course, and normally within 3 months of completion of the consultation. If you subscribe to notifications on the GOV.UK Policy and Consultations page, you will receive a notification when an Outcome Report is uploaded. Here is a link to the GOV.UK Policy and Consultations page: <https://www.gov.uk/search/policy-papers-and-consultations> . The

“organisation” drop-down menu on the left hand side can be used to select the MCA postings, this limiting your notifications to these.

Commenting on the way to consultation was conducted

An opportunity to comment on **how the consultation was conducted** is also available, and **a form is provided for this at Annex B**. If you have any such comments, it is requested that these comments also be forwarded electronically if possible - but these should be sent to consultation.coordinator@mcga.gov.uk. Please note that the Consultation co-ordinator is separate from the subject matter of the consultation and is not able to make changes to the draft documents. It is therefore important that any comments on the subject matter of the consultation (as opposed to the way it was conducted) are sent to dpv@mcga.gov.uk.

Freedom of Information

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004.

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/MCA. 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

The MCA is carrying out this consultation to gather evidence. The consultation is being carried out in the public interest to inform the development of guidance. 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.

The MCA will use your contact details to send you information about the consultation, for example if we need to ask follow-up questions, as part of its functions as a government department. Your information will be kept secure and will not be used for any other purpose without your permission.

To find out more about how the MCA looks after personal data, your rights, and how to contact our data protection officer, please go to: <https://www.gov.uk/government/organisations/maritime-and-coastguard-agency/about/personal-information-charter>

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 until no longer required.

If you do not wish to remain on this consultation list, please reply and let us know at dpv@mcga.gov.uk

Yours faithfully,

Matt Giacomini

Ship Standards Policy Lead (Passenger Ships)

Annexes:

Annex A: Questionnaire on the subject matter of the consultation.

Annex B: MCA consultation feedback form, for comments on the way in which the consultation was conducted