



LONDON DUCKTOURS

55 YORK ROAD LONDON SE1 7NJ

TEL: 020 7928 3132

FAX: 020 7928 2050

WWW.LONDONDUCKTOURS.CO.UK

27 February 2015

Dear Sirs,

Thank you for the draft Marine Information Note (MIN) inviting businesses to comment. We have read the proposed changes to take effect from 1st April 2015 in respect of Passenger Certification procedures with interest. We make the following comments:

1. General

- 1.1. We believe the phased reintroduction of the pre 2003 certification procedure will create administrative chaos for both operators and the Regulator. The background to the proposed new MIN cites confusion as a principle behind the change. However a system that keeps MSN 1823 vessels on the 5 year certification system whilst moving MSN 1699 vessels back to the pre December 2003 procedure will *create* confusion because there are many operators who own multiple vessels, some certified under MSN 1699 and some under MSN 1823.
- 1.2. Additionally, the proposed change flies in the face of the Regulator's Code published by the Department for Business Innovation and Skills. It states:

"1.1 Regulators should avoid imposing unnecessary regulatory burdens through their regulatory activities and should assess whether similar social, environmental and economic outcomes could be achieved by less burdensome means."

The MIN will substantially increase the regulatory burden for many small businesses and dramatically increase costs arising from additional visits from an MCA surveyor. We urge the MCA to look at how its sister regulator, the DVSA, has used technology to reduce the regulatory burden on businesses whilst maintaining safety standards.

- 1.3. The pre-December 2003 system was flawed. If it had worked there would have been no need to create the General Exemption. The reasons given in the MIN do not warrant, in our view, reverting back to the same flawed old system with all its historical shortcomings.
- 1.4. The current system has, in the round, operated successfully for some 12 years. Most of the issues raised in the note can be addressed by changing the format of the certificate, training and/or introducing 21st Century technology.
- 1.5. There is a need in the UK for a simple straightforward and consistent set of national regulations. These new proposals do not achieve that objective.

2. Specific Points on MIN

- 2.1. Item 1.2: This is merely a simple training and education matter and in our view doesn't justify a change in the regulations.
- 2.2. Item 3, bullet point 1: This could be simply addressed by re-designing the front page of the Passenger Certificate (PC). Information on subsequent pages could then be recorded electronically and retained through operator and MCA computer systems and hard/on-line copies could be kept in accordance with the existing system. Should the MCA choose to take advice from the DVSA they will note how regulation for Passenger Service Vehicles has been simplified by the introduction of computer technology. The DVSA have created the highly successful five year Operators Licence (the "O" Licence) system that has stood the test of time. Additionally, tax and motor insurance can now be automatically verified and is instantly available through a central database which does not require paperwork to be displayed or audited. By adopting this approach, a PC may be continually updated within the five year renewal system. This would save time and resources as well as speed up the currently cumbersome process of physically issuing a PC.
- 2.3. Item 3 bullet points 2 and 3: LDT considers these points to be basic administrative errors and do not warrant a wholesale change in the system.
- 2.4. Item 3 bullet point 4: This would apply regardless of a one or five year certification system. Changes are always required during the period of certification of any vessel. It is thus not a valid reason to revert back to the old system.
- 2.5. Item 3 bullet points 5 & 6: These are straight forward training and education issues and should not have any bearing on the existing systems or regulations or again warrant a wholesale change.
- 2.6. Item 3 bullet point 7: It seems illogical for errors in Class VI certification to be given as a justification to change the whole system for the Class V industry. The Class VI issue can be solved with a straightforward training and education exercise.

3. The Informal Consultation Process

- 3.1. LDT contacted the Passenger Boat Association who confirmed their position following their attendance at the meeting on 18th November 2014. They stated to us that the proposal was for changing the whole of the industry to a one year system and they supported this. However, we understand the two tier system described in the MIN (ie the separation of MSN 1699 and MSN 1823) was not raised at the meeting nor was it stated at the MCA initiated Class V operators meeting on 13th November 2014 (prior to the 18th November 2014 DSPG meeting). This new and very late addendum to the proposal is already creating significant additional confusion and uncertainty. We suggest there has never been any prior mention of separating out MSN 1699 vessels from those operating under MSN 1823 and would argue the consultation process has not been followed correctly. Therefore, if matters are to proceed then the process needs to be cancelled and started again.

4. London Duck Tours Specific Issues

- 4.1. Under the proposed system LDT will be expected to administer 65 certificates over five years for our 13 vessels as opposed to 13 certificates under the 5 year programme. There will be an enormous increase in operating and management costs for a business putting aside other straight forward administrative work.
- 4.2. In 2001/2002, London Frog Company Ltd. (the former company who operated DUKWs in London) was regularly advised in writing from the MCA that the requirement to issue annual certificates on time was not sustainable. Emails were released to this former business allowing it to trade without a valid certificate due to pressure of work within the MCA. Such a system is demonstrably open to abuse and misunderstanding. It is also fundamentally undermines passenger safety as it relies upon an Ad-hoc “remembering” of emails to stay compliant rather than a standardised system. As it is public knowledge that the survey inspection regime has not be perfect to date, adding additional complications at this stage will weaken it further. If the system is reliant on memory, it logically follows that safety will be compromised leading to a non-compliant and non-seaworthy vessel unwittingly being used on the river.
- 4.3. Added to the 65 certificates over 5 years, will be the ongoing need for a DSM review and a mid-term audit. This would mean LDT would be seeing a surveyor 39 times a year for 13 vessels reducing the surveyor’s available time by approximately 15th of their total weekly hours for just one company. LDT asks whether the costs associated for such a time commitment are justifiable or proportionate to the savings given the budget constraints upon the MCA? In LDT’s case the need to prepare the vessel for the different types of audit would make an unreasonable demand on this small business as per the Regulator’s Code.

5. Impact Assessment - Evidence and Results

LDT considers any change must be assessed, objective and evidenced based in its approach:

- 5.1. Any Impact Assessment should show the proposal as not having a disproportionate and detrimental effect on both operators and the MCA surveying team. LDT requests that results from the Impact Assessment be made available. We would expect this information to include a table showing the number of vessels affected, the number of errors that have occurred since December 2003 and definitive evidence to warrant such a fundamental change in the system.
- 5.2. The MIN does not provide any evidence based data to substantiate its reasons for creating a two tier system. We believe a five-fold increase in work is not warranted simply based on the statements within the MIN.
- 5.3. LDT believes the proposals will put an unsustainable burden on the marine offices that deal with Class V certificates. We understand that the Orpington Marine office deals with approximately 75% of the Class V industry in this country and from our experience they are currently unable to cope with the present demand for the River Thames alone. It follows that an additional workload, which proved to be unsustainable in 2002/2003 would, in our judgement, be a recipe for failure.
- 5.4. If annual certificates required annual heel tests, out of water surveys etc. then this would not be possible with the reduced number of dry docks in London following the irreversible development of the Capital's riverside for residential use.
- 5.5. The increase in volume of paperwork which LDT believes will ensue from this change is completely disproportionate to the benefits (if there are any) of reverting back to the old inefficient system. We note that all emails from the MCA come with a warning which states, "Please consider your environmental responsibilities before printing this email". Is the MCA taking its environmental responsibilities seriously with this change?
- 5.6. LDT understands that the Government is seeking to reduce red tape and the MIN appears to contradict this. Michael Fallon, Minister of State for Business and Enterprise in his forward to the code states, "This Government is committed to reducing regulatory burdens and supporting compliant business growth through the development of an open and constructive relationship between regulators and those they regulate."
- 5.7. LDT does not see any data on how much money this would save the MCA. Are there other areas where equivalent efficiency savings could be made but with reduced risks?

6. Conclusions and Recommendations

- 6.1. LDT considers that there should be no change to any certification until the proposed changes to the DSM code are clarified (point 2.3 in the MIN document) and thus all changes can then be incorporated in a controlled and professional manner.
- 6.2. Redesign the existing PC (also reflecting proposed changes in the DSM code) and use technology as per the DVSA. The technical improvements made by the DVSA (and thus available to the MCA via The Department of Transport) should be explored first before any recommendations come forward.
- 6.3. The results of an impact study and its effects on the industry should be published well in advance and then a reasonable consultation period should be allowed before any decision is taken.
- 6.4. LDT would offer their services to contribute to any research project to facilitate an improved system that would eliminate many of the technical difficulties that are being experienced today.
- 6.5. If the MCA still consider it necessary, after receiving submissions from the industry, to bring in a change to the PC renewal system then LDT believes that the whole of the Class V industry should be changed over at the same time. This would streamline administration, improve understanding, avoid confusion and help facilitate the industry in preparing for the change.

Finally, if the change was introduced on 1st April, we believe the MCA Marine Offices would not be able to cope and the MCA would return to the shambolic practice of permitting a vessel to operate via an email whilst waiting for PCs to be produced. This is not best practice.

We trust our submission is of value and we look forward to hearing the outcome of the consultation in due course.

Yours faithfully,

John Bigos

A handwritten signature in black ink that reads "John Bigos". The signature is written in a cursive style with a long horizontal stroke at the end.

Managing Director

London Duck Tours Ltd