



DRAFT: Marine Equipment Directive - Market Surveillance - Strategy, Reporting and Enforcement

Notice to all - Manufacturers, Importers and Distributors of Marine Equipment and Ships' Chandleries

- Masters, Officers, Superintendants and Skippers of: Merchant Ships, Fishing Vessels, Small Commercial Vessels and Pleasure Vessels**
- Ship: Builders, Designers, Operators, Owners and Managers**
- Marine Consultants, Recognised Organisations, Certifying Authorities and Notified and Nominated Bodies**

This note should be read with The Merchant Shipping (Marine Equipment) Regulations 2016 and the Merchant Shipping Act 1995

This note replaces MGN 178 (M+F)

Summary

This Guidance Note gives information regarding the MCA's policy for enforcing the requirements of the Marine Equipment Directive (commonly known as 'Market Surveillance'). This concerns those involved in the purchase and inspection of marine equipment, which has been issued EU conformity assessment in accordance with the Marine Equipment Directive (Directive 2014/90/EU). It also gives information regarding action that should be taken if such equipment is suspected to be non-compliant.

1. Introduction

- 1.1 Where one of the IMO Conventions (SOLAS [Footnote: The International Convention for the Safety of Life at Sea, 1974], COLREG [Footnote: The Convention on the International Regulations for Preventing Collisions at Sea, 1972], or MARPOL [Footnote: The International Convention for the Prevention of Pollution from Ships, 1973/78]) require equipment to be approved, the Marine Equipment Directive [Footnote: Directive 2014/90/EU] ("the MED") requires that equipment be certificated by an independent body (a "Notified Body") when installed on a ship of an EU Member State. These items of equipment are marked with the MED's mark of conformity (the "Wheel Mark") and have certification issued by a Notified Body.
- 1.2 The MED is transposed into UK law by the Merchant Shipping (Marine Equipment) Regulations 2016 ("the Regulations") and Merchant Shipping Notice 1874 (M+F).



1.3 The MED and the EC Regulation for Market Surveillance [Footnote: Regulation (EC) 765/2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products] provide for EU Member States to carry out activities of Market Surveillance on equipment placed on board ships flying their flag or made available on their internal markets. This allows monitoring of equipment offered for supply to each Member State's ships to ensure that equipment meets the required standards and will function correctly in a maritime operational environment or emergency.

1.4 Market Surveillance activities do not involve the type approval or pre-production quality assurance of equipment. They only apply to products after they are placed on the market [Footnote: defined in the MED as: "supply of marine equipment on the Union market in the course of a commercial activity, whether in return for payment or free of charge"] or on board a ship, and does not replicate the conformity assessment of the MED Notified Bodies.

2. UK Market Surveillance for the Marine Equipment Directive

2.1 In the UK, Market Surveillance will be carried out by the Maritime and Coastguard Agency ("the MCA") on behalf of the Secretary of State for Transport. UK law [Footnote: Regulation 25 of the Regulations and the Merchant Shipping Act 1995 ("the Act")] provides for the Secretary of State to carry out sample checks on equipment marked with the Wheel Mark and therefore MED approved / or claiming approval in accordance with the MED.

2.2 This sample checking of marine equipment offered for supply in the UK will take place in the following ways:

2.2.1 By MCA personnel visiting chandleries, marine equipment suppliers, distributors and importers, and manufacturers' storage facilities to inspect the products available; verifying details relevant to any approval issued pertinent to the MED and assess the overall safety, performance or compliance of the product (where practicable). Particular attention will be paid to the presence of the Wheel Mark, the Notified Body details, year of manufacture, applicable testing standards and the presence of (and details in) the Declaration of Conformity. In carrying out this activity, MCA personnel will work with manufacturers, manufacturers' authorised representatives, importers and distributors in carrying out market surveillance activities, and as a last resort, will explore and utilise suitable legal avenues for entering premises via the MCA's Enforcement Unit.

2.2.2 By owners, superintendents or masters of ships and vessels reporting to the MCA using the form in Annex 1 to this Note, any equipment they are offered which they consider does not meet the applicable standards or otherwise does not comply with the MED.

2.2.3 By ships' chandleries or other marine equipment outlets reporting objective evidence using the form in Annex 1 to this Note regarding equipment not in compliance with the MED, especially when markings such as the Wheel Mark or Notified Body details are missing or incomplete, or a Declaration of Conformity is not available.

2.3 Equipment may be evaluated after installation on board a UK ship providing that only operational performance tests required by the IMO Conventions for safety and / or pollution prevention equipment are conducted and do not duplicate the conformity-assessment procedures already carried out. This aspect of market surveillance will be carried out by:

2.3.1 MCA surveyors and inspectors undertaking safety surveys or general inspections.

2.3.2 Owners, superintendents or masters reporting problems with equipment after installation leading to the MCA undertaking follow up action.



- 2.3.3 Recognised Organization surveyors conducting safety surveys on behalf of the MCA and reporting their findings to the MCA, which will then undertake follow up action.
- 2.3.4 Small Commercial Vessel Certifying Authority surveyors conducting surveys on behalf of the Certifying Authority they represent and reporting their concern to the MCA which will then undertake follow up action.
- 2.4 Annex 1 to this Note is a form which may be used to report any failings found with MED approved equipment or equipment purporting to be MED approved in any of the circumstances mentioned. On completion, this should be sent to the MCA's Marine Equipment Quality Assurance (MEQA) team at the address below or email to: MEQA@mcga.gov.uk
- 2.5 Marine Equipment Quality Assurance
Marine Technology Branch
Maritime and Coastguard Agency
Bay 2/27 Spring Place
105 Commercial Road
Southampton
SO15 1EG

3. MCA Market Surveillance Strategy

- 3.1 The MCA will carry out its inspections and other investigatory work using a risk-based system. This will take into account considerations such as, but not limited to; the number of complaints received regarding a particular product type; the number of non-compliant articles previously found; the size and nature of the equipment; and the number of products produced/ placed on board ships, as well as the potential consequence of such equipment failing to operate correctly.

4. Enforcement

- 4.1 Those involved in the manufacture, distribution, importation and otherwise offering marine equipment for supply to the UK market are reminded that the Regulations set out offences with regard to this activity.
- 4.2 Where an offence is committed the MCA will seek correction in a proportionate method but the reader is reminded that any offence in accordance with the Regulations is liable to a penalty.
- 4.3 MCA inspectors (for the purpose of Market Surveillance) are those that are responsible for inspections at the locations cited in 2.2 above.
- 4.4 Before an inspection begins, the MCA inspector(s) will make themselves known to the representatives of the facility being inspected as soon as they are on site and will seek invitation of the representatives of the site to enter the premises.
- 4.5 Should an inspector become aware of any non-compliance with the Regulations or the Act with regards to marine equipment, the inspector will gather evidence in any way it sees fit and will make the premises representative aware of any such issue.
- 4.6 Should an inspector be denied access to the premises, the inspector will seek assistance from the MCA's Enforcement Unit which holds extensive enforcement powers.



4.7 The reader is reminded that the MCA market surveillance strategy is to use enforcement powers only as a last resort and instead will look to work with UK industry in ensuring the safety to the life of those on board UK ships and to the UK marine environment.

More Information

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Safer Lives, Safer Ships, Cleaner Seas



ANNEX 1



Marine Equipment Quality Assurance
External Reporting Form for Market Surveillance

Please complete all fields which are not greyed out. Where there is an option i.e. Yes / No please circle. N.B it is encouraged that this is emailed to MEQA@mcga.gov.uk for expedited action by the MCA, however the MCA will continue to accept this form in hard copy through the post.

NAME:		ADDRESS:	
REPRESENTING (company name, if applicable):			
DATE:			
Product Description / Model:		Wheel Mark Present?	YES / NO
Manufacturer:		Notified Body No:	
Serial/ Batch #:		Date affixed (year following NB No above):	
MED Item No. (A.1/#.## or MED/#.##):		Date of Expiry (if applicable):	
<i>It is useful to include any photographs or other useful information as part of this report.</i>			
Additional Comments:			

