



Maritime &
Coastguard
Agency

Consultation on the Marine Guidance Notes (MGN) to replace M.1386 and M.1409 on the provision of Emergency Information to Passengers on Classes III to VI(A) ships and Classes I, II and II(A) ship respectively

Consultation Outcome Report

Summary of consultee comments and government responses to them

September 2020

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Section 1: Introduction

1. The Maritime and Coastguard Agency (MCA), an Executive Agency of the Department for Transport (DfT), carried out a public consultation, which ran from 24 June to 20 August 2020, on Marine Guidance Notices to replace Merchant Shipping Notices M.1386 and M.1409, which provide guidance on Emergency Instructions and Announcements for Passengers for Class III to VI(A) and Classes I, II and II(A) passenger ships respectively.
2. Existing M Notices M.1386 and M.1409 were created before the current system of designating M Notices was introduced in the year 2000, namely as either a Merchant Shipping Notice, (MSN), Marine Guidance Notice (MGN) or Marine Information Note (MIN). Previously, all M Notices were termed Merchant Shipping Notices and prefixed simply with the letter “M”.
3. Under the current system MSNs have mandatory status, MGNs are guidance (although some of the content of MGNs may be mandatory by virtue of the fact it appears in a mandatory document elsewhere) and MINs provide factual information, e.g., course dates, and are generally expected to remain valid for a shorter period than the others, the default being a year. MSNs, MGNs, and MINs bear “M” and/or “F” suffixes to indicate whether they are relevant to merchant ships (M), fishing vessels (F) or both (M+F).
4. M.1386 and M.1409 require updating as some of the legislation from which they are derived has changed. The Merchant Shipping (Passenger Ship Construction) Regulations 1980 (SI 1980/0535) and the Merchant Shipping (Passenger Ship Construction and Survey) Regulations 1984 (SI 1984/1216) have been revoked. As M.1386 and M.1409 deal with similar information for different categories of ship, they have been reviewed together.
5. The Merchant Shipping (Emergency Information for Passengers) Regulations 1990 (SI 1990/0660) are still in force, and the Merchant Shipping (Musters, Training and Decision Support Systems) Regulations 1999 (SI 1999/2722) have been introduced since M.1386 and M.1409 were published. The 1999 Regulations make reference to Decision Support Systems and Muster Lists, as well as Training in the way of Emergency Drills. These have been mentioned in the new MGNs, although on occasions the Notice cross-references to the Regulations for further detail when this is expressed clearly in the Regulations. While the opportunity existed to broaden the scope of the M Notices in the light of new requirements in different, but related, areas, that has been largely resisted so as not to dilute the central purpose of the provision of Emergency Information to Passengers, or unnecessarily complicate the M Notices.

Section 2: Consultation

6. This consultation was carried out from 24 June to 20 August 2020. It can be found at: <https://www.gov.uk/government/consultations/consultation-on-marine-guidance-notes-for-emergency-information-and-instructions-to-passengers>
7. While the consultation was promulgated on GOV.UK for anyone who wished to read it and/or respond to it, and triggered notifications for anyone who is subscribed to receive such government notifications, additionally, the MCA individually notified over 450 consultee addressees. These comprised a mixture of Domestic Passenger Vessel representative organisations, individual operators, Government Departments and other interested parties, including those contacted through Working Groups. However, on this occasion, all persons and organisations who had specifically requested notification were included.
8. A total of **6** responses were received from across the UK. Consultees were invited to indicate the type of respondent they were on their consultation response. Where they did not do this, MCA scrutinising officials allocated to them the description which appeared to be best fit from the information provided. Of the **6** respondents, **2** were passenger vessel operators, **1** was a government body, **1** a crew member, **1** a legal body and **1** an MCA surveyor.
9. The Government is considering the comments received during this consultation, and will review the draft MGNs in the light of these.

Section 3: Consultation outcome

Questions posed

10. The Government's revised proposals were described in the consultation document, which then posed six questions. Each question started with a tick box for the respondent to indicate whether in general they agreed with the statement. A free text area was then provided for respondents to amplify their answers. The tick boxes were used to assist Government with measuring the level of agreement with the documents and produce appropriate statistics, so that the subjectivity involved with ascertaining whether a respondent was in overall agreement with the measure from their narrative was minimised. While some respondents completed the tick boxes some did not. If respondents views were clear enough answers to tick boxes were drawn from the text of their responses. Numbers derived in this way were not necessarily statistically significant.
11. Not all respondents who did complete tick box responses completed all the tick boxes. All the comments received are being fully considered, and Government is reviewing the draft MGNs in the light of these comments. This Report provides an overview of the most significant comments received, but all comments received will be taken into account.
12. The focus of the original M.1386 and M.1409 notices was the provision of emergency information for passengers; these new MGNs were intended to replace them like for like, however, there were some developments where new associated requirements have been introduced since M.1386 and M.1409 were written in 1990, e.g., obligations for drills, decision systems, etc. When drafting, it was felt that if the subject matter was broadened too much that this would make the already complex MGNs clumsy and confusing, and may detract from the central message about providing information to passengers, as opposed to other safety related functions – which of course are also important, but are better kept separate. However, this question was aimed at obtaining consultees views on this.
13. Question 1 - Do you believe that the MGNs are accurate?

This question was designed to check that statutory requirements matched the obligations in legislation.

One consultee pointed out that the new Merchant Shipping (Life-Saving Appliances and Arrangements) Regulations 2020 (SI 2020/501) which came into force on 9 June 2020, a few days prior to this consultation being launched, disapplied the Merchant Shipping (Musters, Training and Decision Support) Regulations 1999 (SI 1999/2722) from ships on international voyages.

A vessel operator felt that the examples of information and announcements at Annexes to the MGNs had the effect of encouraging persons to enter the water in an emergency, whereas the aim should be dry-shod evacuation, where evacuation was required.

Government initial comments

The recent disapplication of SI 1999/2722 means that the references to it in the MGN to replace M.1409 are no longer correct. As many of the obligations reflected in the MGN are derived from these Regulations, this brings into question the value of the

MGN as it applies mostly to passenger ships which operate internationally. The Government will review the need for the MGN to replace M.1409.

The Government agrees that the aim is for dry-shod evacuation whenever possible, and modern legislation and guidance should seek to promote this. Therefore, additional text has been added to clarify this point. However, the government recognises that while this is the aim, there may be occasions when this cannot be achieved, and despite best efforts of all concerned, persons will enter the water.

14. Question 2 - Do you believe the MGNs are free of typographical errors?

This question was designed to simply check that outstanding typographical errors were identified and could be corrected.

Consultees identified some typographical errors which will be rectified.

15. Question 3 - Do you agree with non-statutory advice or statements given in the MGNs? (NB: any advice based on statutory requirements needs to reflect those requirements until such time as they are changed in law.)

This question was designed to check that non-statutory guidance on good practice was sound. Respondents commented and gave a number of detailed comments about the content.

One respondent mentioned that the term “musters” and “muster stations” had been replaced by “assembly” and “assembly stations” in the context of passengers and suggested that the latter term should be used consistently throughout the text. This respondent also pointed out that in the MGN to replace M.1409, the phrase “*ships where a muster is not held on departure*” is redundant as all musters / assemblies are now required to happen before departure. The respondent also mentioned that references to persons entering the water were not helpful as the aim is now to achieve dry-shod evacuation, and that Annex B to the replacement for M.1386 refers to inflatable lifejackets when most passengers are supplied with non-inflatable ones.

Government initial comments

The government accepts the suggestion about the use of the word “assembly” and the phrase “*ships where a muster is not held on departure*” and will make adjustments accordingly. The government agrees that the emphasis should be placed on dry-shod evacuation, but that the possibility of persons entering the water cannot be entirely ruled out. The text will therefore be reviewed to consider nuancing the text accordingly, although it believes that some reference to entering the water will need to remain. The reference to inflating lifejackets will be removed.

Another respondent said they thought it was difficult to differentiate between statutory requirements and non-statutory advice.

Government initial comments

The government will review the text in relation to statutory requirements and non-statutory advice, however, the approach taken is that statutory requirements are cross-referenced with the appropriate source of law, and the word “must” is used, whereas non-statutory advice has no such cross reference and the word “should” is used when recommending the action in question.

16. Question 4 - Do you believe that all the content of the MGNs is expressed clearly?

This question was designed to check that a non-Government person would be able to understand the content of the MGNs.

One consultee suggested that it should be made easier for the reader to identify which aspects of the content were statutory requirements and which were non-statutory advice/ guidance.

Government initial comments

The government will consider clarifying which parts of the MGN content are mandatory and which are guidance.

17. Question 5 - Do you believe that all the content included in these MGNs is appropriate to be included in these MGNs (i.e., that these MGNs are the appropriate vehicles for this content)?

A respondent felt that for the larger ships all areas of statutory compliance detailed in the MGN will have been considered during the commissioning phase of the ship, so there was little merit in the MGN.

Government initial comments

The government will review the need for the MGNs in the light of these comments.

Other respondents made suggestions about the focus of the MGNs regarding whether they should deal with emergency information only, or venture into other areas, too.

Government initial comments

The government recognised this is a big subject and that the MGNs are necessarily complex. However, extending the scope to include areas beyond their original intention would further increase this complexity, which the government is reluctant to do.

18. Question 6 - Do you believe that these MGNs contain or reference all the necessary content which is appropriate to include?

In a similar vein to Question 5, Question 6 is the conserve question, in that Question 5 asked for views on whether what was included should be included, and Questions 6 sought to gather consultee views on whether anything which had been omitted should have been included.

One respondee suggested referencing to International Safety Management (ISM) and Domestic Safety Management (DSM) systems as appropriate.

Government initial comments

The government considers these are valid comments and will consider revisions of the text accordingly.

19. Other comments

Some consultees offered free text comments to address issues beyond those covered in the questions. The Government is also taking these comments into account. These included the following.

Two respondents mentioned that no reference had been made to clarify the fact that the guidance does not cover UK domestic passenger vessels falling under the

European Union (EU) domestic passenger ships Directive (Directive 2009/45/EC (as amended)) standards and the UK domestic legislation implementing them, namely the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000.

Government initial comments

The title of “Class III to VI(A)”, when strictly applied, already excludes EU, MSN 1823(M) and SSPS vessels, but the Government agrees that further clarification would be useful.

Other consultees also made comments about the focus of the MGNs in respect of Classes of ship with which they dealt. One consultee queried the fact that the MGN replacing M.1386 was aimed only at Class III to VI(A) ships, but did not include High Speed Craft, EU Domestic Passenger Ships, or ships falling under the Small Seagoing Passenger Ships (SSPS) Code or MSN 1823(M).

Government initial comments

The Government is aware that the replacement for M.1386 focusses on Classes III to VI(A) vessels, and that EU domestic passenger ships, MSN 1823(M) and the SSPS and High Speed Craft Codes did not exist when the M.1386 was originally written. It is also aware that for this reason some readers might have expected guidance for these categories of ship to be included in any re-write of M.1386. However, the documentation for these regimes is generally self-contained in those regimes in a way which the Class III to VI(A) suite of Regulations are not, and MSN 1823(M) and the Codes especially are designed not to require any ancillary explanation or guidance. It was therefore felt that to make an already complex MGN even more complex by adding in requirements which were duplicated elsewhere would not be helpful.

Section 4: Next steps

20. The Government will further review the comments and consider the way forward on the MGNs which form the subject matter of this consultation, including their usefulness, and their quality and content.
21. To be informed of the publication of final versions of these and any other Marine Notices, the reader may subscribe free of charge to M Notice publication notifications here: <https://www.gov.uk/email-signup?topic=/topic/ships-cargoes/m-notices> . This is strongly advised for consultees to keep informed of developments.
22. To be informed of the publication of any future public consultations issued by the Maritime and Coastguard Agency (MCA) or any other Government Department or Agency, the reader may subscribe free of charge to the notification service on GOV.UK here: <https://www.gov.uk/search/policy-papers-and-consultations> and clicking “Get email alerts” or “Subscribe to Feed” as desired. The notification service may be further refined by use of the criteria on the left hand side of the page, which will allow the user to narrow notifications down to particular Government Departments or Agencies, or by certain other criteria. This action is strongly advised for consultees to keep informed about government consultations.