



Maritime &
Coastguard
Agency

Consultation Document:

The Merchant Shipping (Counting and
Registration of Persons on Board Passenger
Ships) (Amendment) Regulations 2020

September 2020

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The following Annexes can be found with this consultation document in the Gov.UK web site: www.gov.uk/government/publications

Annex A: Draft Regulations

Annex B: DeMinimis Assessment

Annex C: Draft Merchant Shipping Notice

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 (The Merchant Shipping (Counting and Registration of Persons on Board Passenger Ships) Regulations 1999) (“SI 1999/1869”).

1.2 The main objective of The Merchant Shipping (Counting and Registration of Persons on Board Passenger Ships) (Amendment) Regulations 2020 requires passenger details to be recorded on a company’s shore-based passenger register prior to departure of the ship. Depending on the length of the voyage, different data is required to be reported. For vessels travelling 20 miles or fewer, only the numbers of those on board is required to be reported. For voyages exceeding 20 miles, the family name, forenames, sex, age category and, where volunteered by the passenger, information concerning the need for special care or assistance in emergency situations, are required to be reported to the company’s passenger registrar ashore.

1.3 The most notable change introduced by the amended regulation is that from 20 December 2023, passenger numbers are to be reported to the National Single Window (NSW) or, alternatively, via the ship’s Automatic Identification System (AIS). In regards personal passenger details such as forenames, date of birth and gender, these will need to be reported in the NSW.

1.4 Reporting through the NSW will promote the communication of diverse ship-related information by electronic means and, particularly, “a single window”. Currently within the UK, the principle means for compliance with this is through the Consolidated European Reporting System (CERS) which currently feeds into the European Union “SafeSeaNet” and therefore is considered a ‘National Single Window’. With regards to the practical process of transmitting data through to the NSW via CERS, this is still being developed. MSN 1974 is being redrafted as a result.

1.5 The NSW via CERS will comprise of an electronic “portal” through which the passenger information can be communicated. As mentioned above, CERS is linked to the “SafeSeaNet”, which is a vessel traffic monitoring and information system, established in order to enhance maritime safety, port and maritime security, marine environment protection and efficiency of maritime traffic and maritime transport. SafeSeaNet is administered by the European Maritime Safety Agency (EMSA). Following the UK’s exit from the EU, the CERS team within the MCA will continue to collect and collate information necessary for vessel reporting within the UK.

1.6 Automatic identification systems (AIS) are capable of providing information about the ship to other ships and to coastal authorities automatically. It is a broadcast transponder system which operates in the VHF mobile maritime band and is transmitted from the vessel itself.

Views sought

1.7 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:

- The preferred method of compliance to be adopted by industry in relation to the reporting of passenger numbers, NSW or AIS;
- The impact of the reduction in information reporting from time of departure (from 30 minutes to 15 minutes);
- The costs of compliance operators face via the AIS method:
 - Cost of Class A AIS equipment and installation
 - Potential impact of maintenance and familiarisation with equipment;
- The costs of compliance operators will face for reporting passenger information via the NSW;
- Time taken for operators to familiarise themselves with the proposed Regulations;
- Number of affected vessels.

1.8 A full list of consultation questions is contained in Section 5 of this consultation.

Deadline for responses

1.9 Responses are welcomed from 15/10/2020 Until 12/11/2020

Section 2: Areas for consideration

Background

2.1 Under current UK legislation, UK flagged passenger vessels which make voyages need to collect and report all passenger information to a designated shore-based passenger registrar. Passenger registrars are appointed by ship operators and are responsible for logging the passenger information. There is no set standard to report or hold this information resulting in numerous formats (paper, digital etc). This information is kept on hand for use in search and rescue activities carried out by HM Coastguard. This means that in practice, when an incident occurs, Coastguard will contact the shore side passenger registrars for said information to help in their rescue operations.

2.2 The Merchant Shipping (Counting and Registration of Persons on Board Passenger Ships) (Amendment) Regulations 2020 will change the way in which the registration and reporting formalities of persons sailing on board passenger ships. The amendments mean that passenger information such as names, gender and date of birth will be required be reported electronically in a shorter time frame (from initially within 30 minutes to within 15 minutes) and to the National Single Window (NSW). The NSW is a system which will be accessible by Search and Rescue authorities such as HM Coastguard. It should be noted that passenger numbers could be reported either via the ship's Automatic Identification System (AIS) or the NSW.

2.3 It is envisaged that the risk of lives at sea will be minimised as a result of digitised passenger information being sent in a shorter time frame to a centralised portal which is accessible to the Coastguard. Ship operators both domestically and internationally can only benefit from search and rescue authorities having access to all available information regarding the persons onboard vessels, thus lowering the risk to lives at sea. HM Coastguard would have immediate access to passenger information without having to contact the passenger registrar which would in turn assist with efficient and better assessed

incident responses. This will help the travelling public in UK waters and anyone onboard a UK flagged passenger ship to continue to have the benefit of the latest procedures and technology for notifying their details to Search and Rescue authorities in the event of an incident. Thereby reducing the risks of fatalities and injuries faced by persons onboard.

2.4 It is important also to note that the establishment of the “single window” derives from an international obligation since April 2019, the Convention on Facilitation of International Maritime Traffic, 1965, as amended makes it mandatory for ships and ports to exchange FAL data electronically and encourages the use of the so named “single window”, in which all the many agencies and authorities are involved in the exchange of data via a single point of contact.

Application

2.5 The draft Regulations shall apply to any–

- (a) United Kingdom passenger ship wherever it may be; and
- (b) other passenger ship while it is within United Kingdom waters.

2.6 These Regulations shall not apply to any–

- (a) ship of war;
- (b) troop ship;
- (c) pleasure vessels;
- (d) passenger ship to which the Merchant Shipping (Passenger Ships) (Safety Code for UK Categorised Waters) Regulations 2010 apply;
- (e) vessel to which the Merchant Shipping (Technical Requirements for Inland Waterway Vessels) Regulations 2010 apply; or
- (f) ship engaged exclusively in port areas.

Proposed Changes

2.7 In SI 1999/1869, for voyages of up to 20 miles, the passengers are to be counted. For voyages of more than 20 miles, the following information is required to be collected and communicated, in addition to the passenger numbers: -

- the family names of the persons on board;
- their forenames or initials;
- their gender;
- an indication of the category of age (adult, child or infant) to which each person belongs, or the age, or the year of birth;
- when volunteered by a passenger, information concerning the need for special care or assistance in emergency situations.

2.8 The main change introduced by The Merchant Shipping (Counting and Registration of Persons on Board Passenger Ships) (Amendment) Regulations 2020 is the **method** by which passenger numbers and passenger personal information is required to be transmitted. **From 20 December 2023**, **passenger numbers** must be reported digitally to the relevant authorities in the following ways;

- via the National Single Window (NSW) or,

- via the ship's Automatic Identification System (AIS).

2.9 In regards passenger personal information, this must be reported into the NSW.

2.10 Compliance of the new amended regulations will be required after a six-year transitional period.

2.11 Personal passenger information that is held must also strictly adhere to current data protection regulations and this will be incorporated in the draft SI to ensure that once each voyage has concluded, the passenger information held on record is erased without undue delay.

Summary of Options and Recommendation

2.12 The proposal is subject to De Minimis Assessment (DMA) no. DfTDMA140 which is included in this consultation document in ANNEX B.

2.13 The following options were considered:

“Do nothing” is the baseline against which Option 1 and 2 is assessed against.

“Do nothing” Scenario

2.14 The “Do nothing” scenario would maintain the status quo leaving current passenger recording and reporting requirements unchanged, this option is not deemed appropriate as it would leave persons onboard these vessels at a higher level of risk above what could be achieved.

Option 1 - Encourage voluntary adoption of digitized passenger reporting via standardised form

2.15 One way this could be done is through publishing a Marine Information Notice (MIN), these are notices issued by the MCA on the Gov site which provide guidance and information to industry. The MIN could highlight the benefits of digitally reporting passenger information and encourage industry to use and send the same standardised form to the NSW. This option is not considered credible as it would present an opportunity for operators to continue to under the status quo leaving risks to lives at sea at higher level than is necessary.

Option 2 – Amend current legislation

2.16 This option would amend current regulations to require all passenger vessels to send digitised passenger numbers to the relevant authorities either via AIS or to the NSW. Passenger information such as forenames, gender and date of birth will have to be reported within a shorter timeframe (within 15 minutes of the ship's departure) via the NSW. This will help the travelling public in UK waters and anyone onboard a UK flagged passenger ship to continue to have the benefit of the latest procedures and technology for notifying their details to Search and Rescue authorities in the event of an incident. Thereby reducing the risks of fatalities and injuries faced by persons onboard.

Preferred option

2.17 The preferred option is option 2, because it will require ship operators to use more efficient data reporting processes in conjunction with Search and Rescue authorities with higher compliance compared to option 1. This will allow HM Coastguard to act more efficiently as they will have quicker access to passenger information, subsequently reducing the risks to lives onboard.

Supporting Information

Merchant Shipping Notice

2.18 It is intended to publish a Merchant Shipping notice (MSN) to update MSN 1794 - Counting and Registration of Persons On Board Passenger Ships, to provide statutory guidance on the amended requirements that are expected to come into force, effectively on 20 December 2023.

Offences and Penalties:

2.19 If there is any breach of the requirements of these Regulations in respect of a passenger ship, the owner and, in respect of a breach of draft regulation 5(6), the master shall be guilty of an offence 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.

2.20 Any person contravening draft regulation 10 shall be guilty of an offence punishable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to imprisonment for a term not exceeding two years or a fine, or both.

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 While the consultation is promulgated on GOV.UK for any member of the public who wishes to read it and/or respond to it, and triggered notifications for anyone who is subscribed to receive such government notifications, additionally, the Maritime and Coastguard Agency (MCA) individually notified over 450 consultee addresses. These comprised a mixture of Domestic Passenger Vessel representative organisations, individual operators, Government departments and other interested parties.

All persons and organisations who had specifically requested notification were included. The MCA also made the consultation known through its Domestic Passenger Ship Safety groups, comprising government, industry and other interested parties, namely the Domestic Passenger Ship Safety Group (DPSSG).

Duration

3.3 This consultation is open for 4 weeks from the 15th of October 2020. The deadline for responses is the 12th of November 2020.

Submitting your response

3.4 Consultation responses should be emailed to Robert.gale@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 would like 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.

3.8 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.

3.9 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

3.10 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 86. 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.

3.11 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.

3.12 Details about how the MCA looks after personal data, your rights, how to complain, 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>

3.13 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.

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

Section 4: Outline of plans beyond this consultation

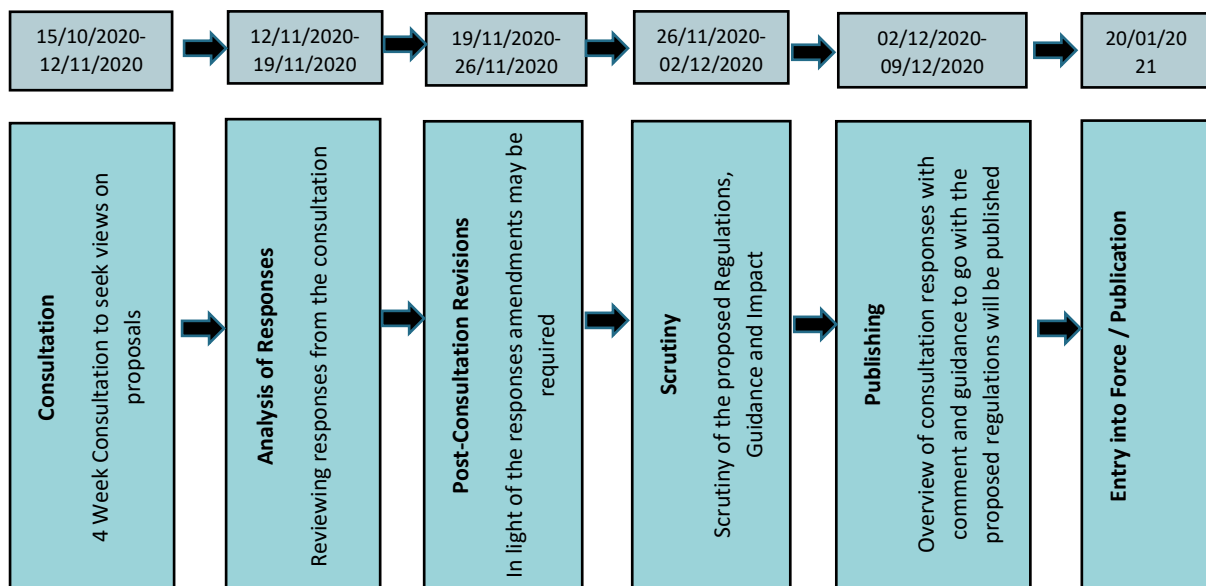
4.1 Once this consultation closes, we will review all responses. In considering the responses we will apply appropriate weight to those from organisations and individuals with specialist knowledge of the subject area.

4.2 We will be analysing the responses during September 2020. Our aim is to publish an overview of the responses and the MCA's comments in September 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 (Counting and Registration of Persons on Board Passenger Ships) (Amendment) Regulations 2020 to come into force in November 2020. The Regulations will be published on www.legislation.gov.uk

4.5 An overview timetable is below 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

Methods of compliance questions – We invite consultees to submit any evidence or relevant information on the methods of compliance set out in the proposed regulations (Option 2).

There are currently two methods set out for operators to choose from in compliance with the proposed Regulations in regards the reporting of passenger numbers (NSW and AIS). In regards the reporting of personal passenger information however, operators would be required to report such information via the NSW. Based on this, it is assumed there are two potential scenarios industry could follow in adherence with the proposed Regulations.

- Operators use NSW specific passenger reporting technology once available to report both passenger numbers and passenger personal information;
- Operators use a mixture of methods. AIS equipment (only applicable for the reporting of passenger numbers) and NSW to report passenger information.

The MCA assumes that most operators will likely opt to use existing AIS equipment onboard for the reporting of passenger numbers as all internationally operating passenger vessels will need to have AIS fitted for compliance with SOLAS. Consultees are invited to provide evidence around the following points:

Q1. We ask consultees to provide evidence and opinions on:

Do the possible scenarios outlined accurately reflect all possible methods of compliance? Are there any other methods of compliance which we have not considered? Is the assumption that the majority of industry will opt for AIS to report passenger numbers realistic?

Q2. We ask consultees to provide evidence on:

whether they are already in possession of the necessary Class A AIS equipment.

Q3. We ask consultees to provide evidence on:

- Costs faced when installing class A AIS equipment
- Costs associated with use and maintenance of Class A AIS equipment

Costs and benefits questions – we invite consultees to submit any additional evidence or other relevant information on the costs and benefits of the proposed Regulations (Option 2).

Q4. We ask consultees to provide evidence on:

- Whether the estimated costs for class A AIS equipment and installation are accurate?
- When would operators look to install class A AIS during the transition period?
- Would the installation of AIS equipment require day-to-day operations to cease?

Q5. We ask consultees to provide evidence on:

- Whether the assumptions used are realistic and reflect the real time taken and wage of operators?
- How many personnel would these documents be mandatory for to read?
- Evidence on the time and number of personnel it would take to familiarize yourselves with the proposed regulations (MSN and SI)

Q6. We ask consultees to provide evidence on whether this assumption is realistic.

- Would the reduction in reporting time from departure require changes to current practices?
- What impact would this have on your business?

Q7. We ask consultees to provide evidence on the impact of how the changing role of the passenger registrar will affect your business operations, specifically on:

- How much time does it take to collate this data into the necessary database and send it to the NSW? How much time will now be saved?

Q8. We ask consultees to provide details of any additional costs and benefits of the proposed Regulations (Option 2) that have not been identified and provide any additional evidence or other relevant information that is available on these costs and benefits arising from these Regulations.

Q9. We ask consultees to highlight any concerns you may have with regards to how the NSW will be the reporting method for passenger information in December 2023.

Wider impact questions – we invite consultees to submit any additional evidence or other relevant information on the wider impacts associated with the proposed Regulations (Option 2).

Q10. We ask consultees will compliance with the new proposed Regulations and the associated impacts have any disproportionate effects on small and micro businesses?

Section 5.2

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

Please return completed response forms to Robert.gale@mcga.gov.uk

Alternatively, responses may be posted to:

Robert Gale
Marine Technology Policy Manager – Ship Standards
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.

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Annex B: DeMinimis Assessment

Annex C: Draft Merchant Shipping Notice