



Maritime &
Coastguard
Agency

The Merchant Shipping (Safety Standards for Passenger Ships on Domestic Voyages) (Miscellaneous Amendments) Regulations 2020

Consultation Outcome Report

Summary of consultee comments and government responses to them.

January 2021

Contents

Section 1: Introduction	3
Section 2: Consultation	4
Section 3: Consultation outcome	5 - 6
a. That the impacts of the Directive will be negligible	
b. Key areas where costs and benefits may arise for businesses	
c. Duration to fully become familiarized with the proposed amending SI and who would be responsible for the proposed changes within individual businesses.	
d. Potential of certain businesses to be disproportionately affected	
e. Possibility of any unintended consequences	
Section 4: Next steps	6
Annex A: Consultation questions and detailed government responses	7 - 12

Section 1: Introduction

1. The Maritime and Coastguard Agency (MCA), an executive Agency of the Department for Transport (DfT), carried out a public consultation from September to October 2020. The purpose of this instrument is to transpose Directive (EU) 2017/2108 which amended Directive (EC) 2009/45, pursuant to the UK's transposition obligations during the transition period which ended on 31st December 2020. This ensures a continued high standard of safety is maintained on UK seagoing domestic passenger ships, but with the advantage that such ships under 24 metres (m) in length, may now be covered by bespoke, and more proportionate, national safety standards. The consultation was published on .GOV.UK, and notifications of the consultation were sent to more than 200 shipping and marine industry companies, as well as relevant government departments, and maritime bodies with professional and specialist functions.
2. EU-wide safety rules and standards for seagoing domestic passenger ships are governed by the 2009 Directive which implements the standards of SOLAS with regards to ship construction, fire protection and safety equipment. In 2015 the EU passenger ship safety legislation was reviewed under the Regulatory Fitness and Performance (REFIT) program, as part of the EU better regulation program, a new, performance-based approach to the safety of small passenger ships.
3. In response, the 2009 Directive was amended by Directive (EU) 2017/2108 which is applicable only to seagoing passenger ships on domestic voyages within a Member State, constructed of steel or equivalent material. Directive (EU) 2017/2108 removed ships under 24 metres in length from the scope of the 2009 Directive, on the grounds that these smaller ships operate in a wide variety of different roles across the EU. This is reflected in diverse designs, construction methods and technical solutions. These variations make it difficult to apply common prescriptive requirements, which has been reflected in the low number (the Commission state 60) of ships less than 24 meters certified in accordance with the 2009 Directive.
4. This removal of ships below 24m length from the scope of the 2009 Directive is the only significant substantive change introduced by amending Directive (EU) 2017/2108. It will allow such ships to be dealt with under more appropriate and proportionate national safety regimes. This will be a potential benefit for seagoing domestic passenger ships under 24m in length operating around the UK.
5. The remaining changes comprise important updates to the references to international conventions, particularly SOLAS, that occur within the 2009 Directive, together with clarifications and removals of duplications. These changes maintain alignment of the Directive with SOLAS on the one hand, and improve its user-friendliness on the other, in accordance with the aims of the REFIT exercise.

Section 2: Consultation

6. The consultation was carried out between the 23rd September 2020 to 20th October 202. It can be found at: <https://www.gov.uk/government/consultations/consultation-on-proposed-implementation-of-amending-eu-directive20172108>
7. A total of two responses were received: one from a visiting Fellow at the University of Southampton and one from Nautilus International. Not all respondents answered every questions posed. Some additional comments have been received. These have been fully considered with responses provided under section 5.2 of Annex A.

Section 3: Consultation outcome

Questions posed

8. Questions were posed in the consultation, and these, together with the consultee comments on them and the government responses to the consultee comments, are shown in detail at Annex A. However, the main points are summarised below.

Main subject areas

That the impacts of the Directive will be negligible

9. There were no major objections or issues raised in relation to this question. The first consultee agreed with the assertion that there would be no negative impact as a result of the Directive. The second consultee raised wider questions in relation to the impact of the Directive but did so under section 5.2 of the Consultation Document: 'Additional Comments'. Subsequently, these have been addressed in Annex A, section 5.2 of this document.

Government response:

The government are in agreement that these Regulations will have a minor impact upon businesses. The amendments in Directive 2017/2108 comprise mainly updates, clarifications and improvements to layout.

Key areas where costs and benefits may arise for businesses

10. No responses from consultees were received in relation to this subject area.

Government response:

The government are in agreement that the Regulations will not present businesses, builders and/or operators with any new onerous costs. However, there is one important substantive change to the technical safety requirements which could have a financial impact; the removal of ships below 24m length from scope of the Directive. Subsequently, there are potential benefits for ships under 24 metres in length, particularly with regard to the carriage of Life Saving Appliances (LSA), and any benefits that it represents are available to wider UK industry.

Duration to fully become familiarized with the proposed amending SI.

11. No responses from consultees were received in relation to this subject area.

Government response:

The government believes that familiarization costs will be minimal and not prove onerous in respect of time needed.

Potential of certain businesses to be disproportionately affected

12. There were no major objections or issues raised in relation to this question. One consultee answered this question under section 5.2 of the Consultation Document: 'Additional Comments'. Subsequently, these have been addressed in Annex A of this document, however effectively the consultee states that small businesses might be more positively affected from the change in Regulation.

Government response:

The government agrees that there is cost saving opportunities for smaller vessels as a result of these Regulations, nevertheless safety standards are not diminished owing to Class III to VI(A) Regulations and the SSPS Code.

Possibility of any unintended consequences

13. No substantive comments from consultees were received in answer to this question. One consultee believed that there are unlikely to be any unintended consequences.

Government response:

The Government firmly believes that Directive (EU) 2017/2108 introduces no substantive changes to the technical safety requirements set out in Annex 1 of Directive 2009/45/EC (as previously amended). It does introduce numerous clarifications of existing requirements, and updates to various references, usually to international conventions. These changes simply bring the Directive requirements more in line with corresponding requirements for passenger ships on international voyages, in SOLAS. Cost implications are negligible for industry and Administrations and therefore, given all of the above, there is unlikely to be any substantial unintended consequences.

Section 4: Next steps

14. The government will finalise the Regulations with a view to bringing them into force in late January 2021

Consultation questions and answers

CONSULTATION QUESTIONS, CONSULTEE ANSWERS AND GOVERNMENT RESPONSES TO THE ANSWERS

The Response form was Section 5 of the Consultation Document

Section 5.1 – Questionnaire

Question	a) It is expected that the impacts will be negligible. Are you in agreement? If not please provide evidence of likely costs implications for your business.
Summary of consultee views	One consultee responded that they agreed.
Government response	The government has noted the comments.
Question	b) What are the key areas where costs and benefits may arise for your business?
Summary of consultee views	One consultee responded, expressing no opinion on this matter as the question was not applicable to their area of work.
Government response	The government has noted the comments.

Question **c) How long do you expect familiarisation with the proposed amending SI and who will be required in your organisation to familiarise themselves with the proposed changes? (role and time)**

Summary of consultee views One consultee responded, expressing no opinion on this matter as the question was not applicable to their area of work.

Government response The government has noted the comments

Question **d) Will any businesses be disproportionately affected?**

Summary of consultee views There were no responses to this question.

Government response The government has noted that there were no comments.

Question **e) Are there likely to be any unintended consequences?**

Summary of consultee views One consultee expressed the opinion that the changes to the Regulations were unlikely to produce any unintended consequences.

Government response The government has noted the comments

Question

f) What impact do you think the proposed changes will have upon safety standards?

Summary of
consultee views

One consultee responded that they do not foresee any adverse consequences as vessels under 24m no longer have to comply with EU safety requirements, but will nevertheless have to comply with bespoke UK standards namely the SSPS Code that will be more suitable for vessels of that size.

Government
response

The government has noted the comments

Section 5.2 – Additional Comments

Question

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

Summary of
consultee views

One consultee responded that they are familiar with the proposed legislation and the rationale for transposing amending Directive 2017/2108 into UK law. It is the opinion on the consultee that smaller operators of vessels under 24m in length might benefit more noticeably in the long term from potential cost savings, provided they are able to survive the effects of the Covid-19 pandemic which has had a massive impact on the sector. The consultee concurred with the government's view that the proposed changes are unlikely to have any impact on current safety standards.

A further consultee raised concerns regarding, what they perceived, as the reduction in safety standards that could result from amending of Directive 2017/2108. The consultee asked that as the UK has left the EU, it is not a binary choice between either transposing the new amendments or not? Further, with regards to the proposed solution of applying the SSPS code to vessels of less than 24m, the consultee noted that the code is intended for vessels operating within 15 miles from a refuge and less than 5 miles from shore. It was the opinion of the consultee that a vessel which was previously complying with the Directive would not necessarily have operated under these restrictions.

Government
response

The government has noted the initial comment.

In respect of the second comment, the government has the following response;

Firstly, to clarify, as Directive 2017/2108 came into effect prior to the UK's exit from the EU, the UK are still under legal obligation to transpose requirements into UK law. If the UK does not do this, there is a high risk that the UK will face infraction proceedings in the Court of Justice of the European Union (CJEU). Therefore, the implementation choices for the UK remain those set by the context of this EU legal instrument.

Although the UK recognises that the Regulations implementing the EU Domestic Passenger Ship Directive can be seen as the most rigorous of the domestic passenger ship regimes that we have, the UK considers that our other regimes are all appropriately tailored to vessels according to their size, number of passengers carried, and area of operation.

There are currently only 8 vessels under 24m certified under these Regulations, and the vessels being removed from scope only fell under the Directive because of their build material, which we consider has little, if any, bearing on the appropriate level of LSA that should be carried.

Options for vessels which no longer fall under the Directive are compliance with one of the following:

- a) the Class III to VI(A) suite of Regulations;
- b) the Small Seagoing Passenger Ship (SSPS) Code;
- c) continued compliance with the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 (as amended) (SI 2000/2687) which give effect to the Directive standards in UK law.

As the vessels being removed from the scope of the Directive are all seagoing, options available under (a) above are Class III, Class VI and Class VI(A). These Classes of ship are restricted in the distance they can operate from the coast, namely 18 miles, 3 miles and 3 miles respectively (although the distance from point of departure are greater than this). Meanwhile, under the SSPS Code, vessels are restricted to operation of up to 5 miles from the coast, and 15 from their point of departure. Whichever option is chosen, the vessels will need to comply with it in its entirety, and will not be able to "cherry pick" between regimes, so a vessels which becomes subject to the Cass III to VI(A) Regulations or the SSPS Code will be limited by the relevant mileage restrictions.

This means that any vessel owners who have been operating their vessels under the Directive at a greater distance than that wish to continue doing so, will need to choose the option of continuing operation under the 2000 Regulations, and consequently maintain their current levels of LSA.