

Title: High Speed Offshore Service Craft (HS-OSC Code of up to 500GT carrying up to 60 persons on board). Date: 23/12/2020 DMA No: DfTDMA168 Lead department or agency: Maritime and Coastguard Agency Other departments or agencies: Department for Transport		De Minimis Assessment (DMA)
		Stage: Consultation
		Source of intervention: Domestic
		Type of measure: Secondary
Summary: Rationale and Options		Contact for enquiries: Codes@mcga.gov.uk
Total Net Present Value £0.00m	Business Net Present Value £0.00m	Net cost to business per year <small>(EANDCB in 2020 prices)</small> £0.00m

Rationale for intervention and intended outcomes

Overview of problem

Developments in the energy industry, increasing demand, are driving the need for wind farms increasingly being developed further from the shore to maximise energy production. This creates logistical problems in providing operational support for the building and maintenance of turbine structures. In addition, workers on offshore wind farms are required to be fit and have marine safety and survival training (to industry standards), and on that basis may not be considered as ‘passengers’ in the normal sense of the word. Thus, defining them as ‘Industrial Personnel’.

Industry has approached the Maritime and Coastguard Agency (MCA) to develop an appropriate standard which will allow vessels to carry greater numbers of workers, due to some operators coming under pressure from Windfarm and other offshore energy operators to carry more than 12 workers. These workers that travel these routes regularly, unlike members of the public, are accustomed to emergency procedures in the event of an incident and will have to undertake relevant training to industry safety standards.

Vessels which currently transport workers to offshore energy installations including wind farms are only permitted to carry 12 of them as passengers. These vessels are classed as workboats and built to standards essentially in place for high speed cargo vessels. In order, to carry more than 12 passengers, vessels must comply with the more onerous safety requirements for passenger carrying services on passenger ships. Currently, we have approximately 46 vessels issued with exemption certificates allowing these High Speed Offshore Service vessels to continue to operate safely.

Intervention:

The reasoning for governmental intervention is to remove burdensome red tape for industry and to facilitate a regulatory regime of vessels that is fit for purpose which keeps safety at the forefront. The Government also needs to be able to introduce a robust new standard to respond to, and support developments in the wind farm sector and other offshore energy sectors, both in the UK and abroad in order for the UK to stay competitive and support safety, domestically and beyond UK waters. Furthermore, this proposed Code promotes the UK as a world-leading maritime nation and facilitate economic growth in emerging maritime sectors.

Legislation in other jurisdictions; Germany has already produced a specific Code for this type of operation which vessels must meet in order to work in the German offshore wind farm industry, the Netherlands and Belgium have also published or are working towards publishing their own codes. Owners of UK vessels and UK businesses have indicated that in order to compete for and win contracts they would consider transferring their vessels from the UK flag. Potentially, giving these other nations an advantage in retaining and growing their maritime sector. Though, current UK regulatory regime inadvertently imposes excessive costs upon the UK industry, i.e. increased administrative costs associated with applying for exemption certificates. The proposed regulations would only apply to those vessels who want to carry out these operations. Though, due to a number of queries received by the Maritime and Coastguard Agency (MCA) we anticipate there will be a growth in numbers of vessels. This adoption of the Code allows the UK to promote economic growth in this internationally emerging sector of the maritime industry and be at the forefront.

The Code for High Speed Offshore Service Craft (HS-OSC Code of up to 500GT carrying up to 60 persons onboard) provides a pragmatic and commercially viable solution for vessels which comply with it.

The UK has a draft HSOSC, which has already been subject to consultation, however, this was done 3-4 years ago and as such we are now reviewing the Code and revisiting whether a Statutory Instrument (SI) is required to underpin these specific vessels and their operations.

Currently, the MCA are issuing exemptions for compliance with existing vessel legislation this is not ideal and onerous on operators and the MCA. One example is that these vessels cannot comply with the requirement of the minimum distance between engine room escape and ventilators.

By way of background, the Crown Estate Offshore Wind Operational Report 2019¹ details the UK has 40 windfarms and around 2,200 turbines now generating in UK waters. The UK continues to lead the change in offshore wind across Europe. In 2019, the UK became the first major economy to make a legally binding commitment to reduce greenhouse gas emissions to net-zero by 2050. It is widely predicted that offshore wind will provide a significant and increasing role in this transition. Demand for wind power and therefore this legislative change is likely to be high following the Prime Ministers 10-point plan which highlighted by 2030 the UK will host 40GW of offshore wind, sufficient to power every home, Government, Stakeholders and Industry working together to make this a reality. The benefits associated with this policy also result in benefits in transportation for other offshore energy industries including oil and gas.

Government intervention is required to ensure a level playing field, provide a fit for purpose legal underpinning and support maintenance and growth in industry whilst supporting the wider strategic aims as summarised above.

Intended outcomes

- Support UK industry/operators and innovation in this sector;
- Provide clarity to industry on; what the requirements are for HSOSC vessels and present them in a clear, digestible way and to provide legal underpinning of the HSOSC Code
- Provide clarity to Recognised Organisations who carry out inspections i.e. the standards and requirements these vessels have to meet in order to operate
- Support a level playing field internationally and allow the UK to put into place a regulatory framework ,specifically, for the operation of HSOSC vessels
- Reduce burdensome process of issuing exemptions/certifications;
- And Promote safety and best practice with operators complying with the Code.

This proposed change of policy facilitates both growth and operational needs by providing bespoke regulation for this relatively new and unique sector of the maritime industry. It removes the need of having to comply with more onerous existing legislation intended for other types of vessels/operation, e.g. the existing passenger regulations, making regulation fit for purpose for these specific types of operations. Thus, resulting in a reduction of costs and aiding the growth of this industry. Government intervention will be required to regulate and are the only one able to introduce and amend legislation.

Describe the policy options considered

Option 0- Do Nothing (Counterfactual) - Option 0 would be 'do nothing' which would be the continuation of the current situation requiring exemption certificates issued for each vessel carrying industrial personnel, making it rather cumbersome and burdening on the Industry and administration. This option is not viable because clarity is required and adds no value to this growing bespoke industry.

Option 1 (preferred option) - Option 1 is the introduction of the HS-OSC Code along with underpinning legislation. The code has been developed to facilitate and add value to the growth of an expanding market in the UK for this type of vessel. The Statutory Code will provide a pragmatic equivalent safety standard appropriate for the construction and operation of wind farm support vessels. This is an alternative to either the 12 passenger-carrying workboats, or larger, specialised types of cargo ships with backing from the industry.

Option 2 (non-regulatory) – Review and re-publish the HSOSC Code as a non-statutory code. However, the issues would remain as discussed in Option 0 which will not give the desired results. This option is not feasible as it results in the continued burden of industry periodically seeking exemptions for these types of vessel to operate and impeding potential growth within the sector. In addition, the current Regulation (if not amended) would contradict the code. Legally industry would still have to comply with existing Regulations and therefore this option would be unfeasible.

¹ <https://www.thecrownestate.co.uk/media/3515/offshore-wind-operational-report-2019.pdf>

Rationale for DMA rating

The proposed implementation of the HSOSC Code is estimated to be 0.00M impact putting it well below the £5 million threshold for an Impact Assessment. We do envisage that this code is necessary to futureproof the international completeness of the UK flag and safety of UK-flagged vessels. This Code is also deemed as being uncontroversial or contentious, as it has been welcomed and requested by industry. It is therefore considered proportionate to carry out a de-minimis assessment (DMA) due to the low financial cost placed upon businesses and the favour associated benefits to industry.

Cost & benefits:

Costs

Familiarisation

The only cost which is being analysed with this DMA is the familiarisation cost of the code. The costs to business is estimated at £360 for the 46 individuals , one per firm who currently have exemptions to operate such vessels by the MCA, requiring familiarisation. Whilst the low and the high cost scenarios are estimated in the region of £150 and £1000, respectively, for the entire appraisal period.

Benefits

The benefits in this section are largely unmonetised, as a proportionate analysis has been undertaken, to obtain further evidence would be of disproportionate cost to the taxpayer. Additionally, due to the nature of future impacts being highly uncertain and establishing the impact of the regulations relative to other exogenous drivers of outcomes (economic growth, shocks, current strategic offshore power decisions and future realisation of these, etc). As a result, the amount of resource required to establish an appropriate range of estimates would be disproportionate to the benefit to decision making. Further evidence with regards to benefits will be sought via consultation.

Reduces cost to industry for seeking exemptions

It removes the need of having to comply with more onerous existing legislation. Thus, resulting in a reduction of regulatory engagement costs and aiding the growth of this industry.

Allows the UK to remain competitive internationally and promotes UK economic growth

These changes are welcomed by the Industry other Administrations such as Netherlands, Germany, Belgium and Denmark either have their own HSOSC Codes, similar to the UK draft HSOSC code, or are drafting a Code, thus creating a level playing field.

There are several UK operators of these types of vessels operating in those waters who are seeing growing numbers of requests from wind farm operators to be able to carry more personnel per trip. UK owners face losing contracts to the competition or having to change flag unless the new standards can be matched by UK vessels. This adoption of the Code allows the UK to promote economic growth in this internationally emerging sector of the maritime industry and be at the forefront. The intention, therefore, is to publish a Standard which can be applied domestically in UK waters as well as beyond, including the other Administration territories as stated above.

Summary

The EANDCB (Equivalent Annual Net Direct Cost to Business) of £0.0M (negligible costs), puts the expected cost of the regulation to be well below the De-Minimis Assessment threshold.

Will the policy be reviewed? Yes		If applicable, set review date: 31/03/2026		
Are these organisations in scope?	Micro Yes	Small Yes	Medium Yes	Large No

Senior Policy Sign-off:	✓	Date:	24/11/2020 Click here to enter a date.
Peer Review Sign-off:	N/A	Date:	
Better Regulation Unit Sign-off:	✓	Date:	23/12/2020

1.0 Background

- 1.1 There are approximately 46 vessels currently being issued exemption certificates in order to operate these vessels this number will increase due to the growth of the industry. There are already industry benefits in operating and this bespoke legislation and Code will provide a legal underpinning, clarity to Industry and simplification for the UK Administration.
- 1.2 These measures will be subject to further public consultation to test our assumptions that there will be limited costs to industry, will meet industry expectations and also to gather further anecdotal evidence about benefits. Questions will be framed to gain any evidence that can be assessed – examples below. The UK and Germany, followed by Denmark, have the world's greatest levels of development and investment in current and future offshore windfarms projects
- 1.3 Over the years, since the inception of this Code and the first consultation exercise in 2015 and updated version in 2017, extensive engagement with Industry has taken place on the development of the draft Code.
- 1.4 We consider the package to be de-regulatory, in so far as, the HS-OSC Code removes the requirement for manufacturers and operators to build to the full international standards of the High-Speed Craft Code that are not specifically drafted for this particular type of industrial activity or for the relatively smaller size of craft (under 500 gross tonnage) to which the HS-OSC Code will be applied. This is due to the fact that the HSOSC vessels were considered to fall under the purview of passenger vessel regulations. Whilst those who operate on HSOSC are workers and are not the general public, the passenger vessels regulations were designed to regulate and make safer. This means requirements and standards need not be as stringent as for passenger vessels as HSOSC workers are trained (to industry safety standards) and are accustomed to emergency procedures in the event of incidents. This is now being addressed by providing enabling legislation and providing a pragmatic, cost-effective equivalent standard without sacrificing safety.

2.0 Problem under consideration

- 2.1 Currently, HSOSC are required to comply with all of the legislation relating to passenger vessels (if carrying more than 12 persons) and high-speed craft this is onerous and not all elements can be complied with due to the operation and build of these specific vessels. The current legislation that these HSOSC vessels fall under fail to take into consideration that the workers differ from passengers (i.e. the general public) as they have had training to mitigate the risk of being onboard a vessel, and are onboard in a non-leisure capacity. The current regulations not only imposes costs onto HSOSC industry but also the UK Administration in issuing exemptions and ensuring equivalences are in place for the safe operation of these vessels.

3.0 The Intended Objective

- 3.1 The objectives of the proposed Regulations are to:
 - Firstly, to provide bespoke UK legislation to allow these vessels to operate safely and meet the operational needs of carrying up to 60 persons;
 - Secondly, to support innovation and growth in this sector;
 - Define *Industrial Personnel*, based on the development of similar standards at the IMO and discussions on technical standards and regulations for “Offshore Service Vessels”

Whilst:

- continuing to meet the UK's obligations for safety at sea; and, creating a level playing field.

4.0 Policy Options considered

- 4.1 **Option 0** Do nothing is considered an unviable option because the continuation of the current situation requiring exemption certificates issued for each vessel carrying industrial personnel, would remain, making it cumbersome and burdensome on the Industry and Administration. This option adds no value to this growing bespoke industry. Limiting the number of persons on board resulting in more trips and not the best use of resources. Clarity is required with regards to compliance.
- 4.2 **Our preferred: Option 1** is to introduce a HS-OSC Code with its own Statutory Instrument. The code has been developed to facilitate and add value to the growth of an expanding market in the UK for this type of vessel. The Code will provide a pragmatic equivalent safety standard appropriate for the construction and operation of wind farm support vessels.

Option 2 a considered is a non-regulatory option. This option would entail reviewing and re-publish the HSOSC Code as a non-statutory code. However, the issues would remain as discussed in Option 0. This option is not favourable as it results in continued burden of industry seeking exemptions for these types of vessel to operate and impeding potential growth within the sector. Both for Option 0 doing nothing and by introducing a non-regulatory Code we leave ourselves open to possible legal challenge as the basis for these specific vessels would remain unclear. Any challenge can be costly and reputationally damaging. Due to these reasons, this option will not be considered any further within this DMA

Application of the proposed regulation

- 4.3 The application of this proposed SI applies to only High-Speed Offshore Service Craft, their specific operations and seafarers.

5.0 Costs and Benefits

Costs and benefits of option 1.

Costs

Transition Costs: Familiarisation costs

- 5.1 All operators of approximately 46 UK Vessels² (as this is the number of vessels who currently seek exemptions from the MCA to operate HSOSC services currently) as explained will need to read and familiarise themselves with the new regulation. There is a cost attached to this, as it takes time that could be employed elsewhere (opportunity cost). The time taken and cost for ship masters to read these regulations required are calculated using the Gross Hourly Earnings data sourced from the Provisional 2020 Annual Survey of Hours and Earnings (ASHE) dataset². The *managers and directors in transport and logistics* code were used which is assumed to be a reliable source of information.
- 5.2 A range of hourly labour costs and time taken to read the amendments have been taken into account to acknowledge the different salaries and reading speeds of the shipmasters. This is all represented by the low, central and high case scenarios of what the total familiarisation costs could be. It has been assumed there is only one ship master/owner or operator per vessel which will be the only one to have read the policy change in full, for the purpose of the calculations.

² Source: internal (unpublished) HSOSC MCA exemption register data

5.3 The time taken for ship masters to familiarise themselves with the regulation is assumed to be 30 minutes in our central scenario based on average reading time to read the estimated 10 page HSOSC Code (outlined in 5.5). With the mean wage taken from the managers and directors in transport and logistics salary in the ASHE (2020 provisional) dataset³, taking the 30th and 80th percentile used for the low and high case scenarios respectively. These cost ranges and assumptions will be tested at consultation.

- **High case scenario**, 60 minutes to read and 80 percentile wage for 46 individuals.
- **Central case scenario**, 30minutes to read and median wage for 46 individuals.
- **Low case scenario**, 15 minutes to read and 30 percentile wage for 46 individuals.

5.4 Total cost = (time to read × hourly wage rate) × number of vessels affected⁴

Methodology of reading times:

5.5 The average reading times for the best-case scenario is based on 200 words per minute (wpm) (based on ReadingSoft (speed reading software)⁵). Whilst the low and the high estimates have been based upon reading speed of 100 wpm and 400 wpm respectively, to encapsulate the variation of reading speeds.

Table 2 – Total familiarisation costs (Undiscounted)

	Low	Central	High
<i>Time to familiarise (mins)</i>	15	30	60
<i>Hourly Labour cost</i>	£12.78	£15.64	£21.91
<i>Number of individuals requiring Familiarisation</i>	46	46	46
Total cost	£150	£360	£1000

Source: MCA estimates based on ONS data (Totals rounded so may not sum)

5.6 Under our central cost scenario, the cost to industry to familiarise themselves with the new regulations is estimated to cost £360 ranging between to £150 to £1000 in our low and high cost scenarios respectively.

On-going cost

5.7 There is negligible cost imposed on business, as it is deregulatory and therefore only the transition costs will be analysed as above.

Benefits

5.8 It is difficult to monetise the impacts because this is essentially opening up a new sector of the industry. The HS-OSC Code will facilitate growth and the backing of industry is evidence of a clear business need. Due to this difficulty to monetises the benefits to business. Though it will be illustrated that the benefits associated to this code are under the DMA threshold. As it would require a greater than £100,000 per vessel (£5,000,000/46) per year benefit to be over the £5 million pound per year cost or benefit to industry threshold. The slight administrative saving for the removal of need of application for the exemption would be much lower per vessel that the DMA threshold.

³ <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/allemployeesashtable1> - Table 14.5a Hourly pay - Gross (£) - For all employee jobs: United Kingdom, 2020 provisional data for managers and directors in transport and logistics job

⁴ This assumes one person per vessel familiarises with the regulation

⁵ Table 5: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/609201/business-impact-target-guidance-appraisal.pdf

5.9 Therefore the benefits will be analysed below in a non-monetised qualitative way.

Non-monetised benefits

Clear direction and flexibility for operators of HSOSC vessels

5.10 Offshore wind energy is a growing market sector that is seeing projects developed on a larger scale and further offshore. From an operational perspective, the industry needs to be cost-effective and efficient, which may include operating from ports in more than one country. The commercial benefits derived from the flexibility of being able to operate carrying numbers of personnel beyond the limit of 12 further from shore, as this means the operator does not to take multiple journeys, with the number of passengers under 12 passengers. The original legislation that these vessels fall under was not designed with HSOSC vessels in mind. This potentially results in more frequent journeys, resulting in increased: fuel consumption, operator personal costs and opportunity costs, making vessels of this type less likely to flag to the UK and instead to another countries flag which has bespoke HSOSC legislation. This proposed Code futureproofs a flexible regulatory environment for these types of vessel, which is especially important as the potential demand grows.

Growth for the UK Industry

5.11 This Code facilitates competitiveness and growth for UK Industry; both domestically and offshore by levelling the playing field internationally, as other countries have already introduced legislation on these type of vessels within their regulations. This regulation also provides scope for the creation a bespoke regulatory environment for HSOSC whose growth is expected in the appraisal period as the UK shift towards more energy generated to renewable means.

Provides a regulatory framework for a new maritime sector

5.12 Furthermore, this can facilitate the UK to continue leading in proportionate safety measures and regulation including Industry Standards. This also provides a regulatory framework for these types of vessels and facilitated more fit for purpose and legally sound vessels to operate in this growing maritime area and flag to the UK.

Lower Burden and reduced costs for business and the MCA

5.13 The adoption of this proposed Code also lowers the burden on the MCA and operators for issuing exemptions for these types of vessels. Implementation of this proposed code would remove the inadvertently imposed costs upon the UK industry, i.e. the administrative costs associated with applying for exemption certificates. Industry will not need to adhere to unnecessarily complex and costly requirements for this particular type of service. (Passenger legislation and High-Speed Cargo legislation).

6.0 Risks and Unintended Consequences

6.1 Risk of this proposed option is uncertainty of the future market for these offshore vessels. That is, impacts into the future could be much larger than illustrated here if there is higher demand for these vessels than the current 46. This seems very likely given the decarbonisation ambitions. However, these regulations would allow better utilisation of each of these vessels. Though this will put disproportionate burdens on the taxpayer to calculate these highly uncertain forecasts (instead of assumed 46 vessels exist over the appraisal period). There would be increased benefits associated with decreased administrative burden on operators should an increased number of operators choose to operate HSOSC vessels under the UK flag.

Unintentional consequences

- 6.2 Likelihood and severity of unintentional consequences is low due to only approximately 46 vessels are affected. However there is an expectation that the number of vessels affected over the appraisal period (10 years) could be larger. However, the prior training that industry personnel are required to undertake before working on the vessels mitigates much of the risk associated with passenger vessels.

Wider impacts

Small and Micro Businesses

Small and microbusiness will be expected to be the only vessels affected by this measure given the size and operation of HSOSC vessels (since HSOSC are by design small vessels they likely have few employees and therefore would be classed as small or micro businesses. As the HS-OSC Code proposes up to 500GT carrying up to 60 persons onboard). It expected that only businesses with less than 50 employees that would be affected by this measure. The reduced burden on administrative staff and certainty in the regulatory environment of HSOSC would in result favourable benefits to small and microbusinesses.

Equalities Impact Assessment

The MCA considers that there are no effects, positive or negative, on outcomes for persons in relation to their age, disability, gender assignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

7.0 Post implementation review

1. **Review status:** Please classify with an 'x' and provide any explanations below.

<input type="checkbox"/>	Sunset clause	<input checked="" type="checkbox"/>	Other review clause	<input type="checkbox"/>	Political commitment	<input type="checkbox"/>	Other reason	<input type="checkbox"/>	No plan to review
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Regulations to be reviewed every five years to ensure continued suitability.

2. **Expected review date** (month and year, xx/xx):

1	2	/	2	6	Five years from when the Regulations come into force
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8. **Rationale for PIR approach:**

- **Will the level of evidence and resourcing be low, medium or high? (See Guidance for Conducting PIRs)**

The level of evidence and resourcing needed to carry out a PIR for these regulations is estimated to be medium, as the main changes being implemented have little impact on industry as vessels of this type can already operate with MCA exemption.

- **What forms of monitoring data will be collected?**

Through qualitatively evaluating the number of vessels who operate in subsequent 5 years and monitor the change in vessels of this type on the UK Ships register. In addition to quantitatively reviewing any accident statistics of this types of vessels

- **What evaluation approaches will be used? (e.g. impact, process, economic)**

Impact

- **How will stakeholder views be collected? (e.g. feedback mechanisms, consultations, research)**

Regular Stakeholder engagement and feedback through industry as the MCA will keep in regular contact with the appropriate associations on a working level. In addition, each company's vessel will have a marine office contact and will feedback through them. There will also be a survey sent out to industry in advance of the PIR to capture any positives or challenges with the implementation of the code.