



Maritime &
Coastguard
Agency

Consultation Document:

The Merchant Shipping (High Speed Offshore
Service Craft) Regulations 2021 and
Accompanying Code.

10 August 2021

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Section 1: Overview of this consultation

Aim

- 1.1. This consultation seeks your views on a new Statutory Instrument (SI) and Code for High Speed Offshore Service Craft (HSOSC) which will provide a domestic legal underpinning for High Speed Offshore Service to operate and to transport 'Industrial Personnel' (IP) to and from offshore energy installations to carry out the construction and maintenance of them.
- 1.2. The Merchant Shipping (High Speed Offshore Service Craft) Regulations 2021 and accompanying Code of Practice apply to HSOSC of less than 500gt, allowing no more than 60 persons to be on board subject to a vessel's safety certification. This mirrors the International High Speed Craft Code (HSC) for vessels over 500gt.
- 1.3. The primary objective of the proposed Regulations is to provide bespoke UK legislation to allow these vessels to carry out their operational needs within the framework of safety regulations required carrying no more than 60 persons. Secondly, these regulations support innovation and growth in the offshore energy sector and define *Industrial Personnel*, based on the development of similar standards and discussions on technical standards and regulations for "Offshore Service Vessels" at the International Maritime Organization (IMO).

Views sought

- 1.4. 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.
- 1.5. A full list of consultation questions is contained in Section 5 of this consultation. We are interested to know your views on the draft Merchant Shipping (High Speed Offshore Service Craft) Regulations 2021 and the accompanying Code which is at Annex B of this consultation document.

Deadline for responses

- 1.6. Responses are welcomed from **10 August 2021** until **21 September 2021**.

Section 2: Areas for consideration

Background

- 2.1 The offshore energy industry is growing, for example the increasing demand is driving the need for wind farms 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.
- 2.2 Currently, HSOSC are required to comply with all the legislation relating to passenger vessels (if carrying more than 12 persons) and high speed craft regulations. This is onerous and not all elements can be complied with due to the operation and build of these specific vessels. The existing regulatory framework for HSOSC vessels does not identify and take into account that the workers are different from passengers (i.e., the public). Even though worker(s) have had the necessary training to mitigate the risk of being onboard a vessel and are onboard in a non-leisure capacity. The existing legislative framework not only impose costs onto the HSOSC industry but burden the UK Administration who are issuing exemptions and ensuring equivalences are in place for these vessels to operate safely.
- 2.3 We propose to introduce robust measures in the form of new standards to respond to the rising situation, and support developments in both the UK and abroad for the UK to stay competitive and support safety, domestically and beyond UK waters for offshore energy sectors. Removing burdensome red tape will enable HSOSC operators to have safety at the forefront by providing a service to the offshore industry, and to facilitate a regulatory regime for vessels that is fit for purpose.
- 2.4 The draft HSOSC Code published in 2017 for the UK, was subject to consultation. However, to ensure the Code is fit for purpose for this consultation, it has since been reviewed and amended. We have also revisited whether an SI is required to underpin these specific vessels and their operations. The MCA issue exemptions for compliance with existing vessel legislation. It is our view that for the purposes of safety and clarity new legislation is required. We understand there may be a need for the carriage of dangerous goods currently required to comply fully with the High Speed Craft Code over 500gt and whilst we do not intend to amend Dangerous Goods legislation at this time, there may be scope to allow limited quantities of specific dangerous goods to be carried under the HSOSC Code through exemptions.
- 2.5 The regulatory change will be applicable from the date the Statutory Instrument comes into force. In practice, there should be no adverse impact on the Industry as they are complying with the existing draft HSOSC Code. The new legislation and accompanying revised Code are modelled around what Operators are already expected to comply with.
- 2.6 In addition, we know that 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. Therefore, we want to contribute towards a level playing field in meeting these standards.
- 2.7 Several UK operators of these types of vessels 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 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 whilst being at the forefront.

Application

2.8 The Regulations shall apply to any High Speed Offshore Service Craft (“HSOSC”).

An HSOSC is a craft which—

- (a) is either a United Kingdom high speed craft or any other high speed craft in United Kingdom waters,
- (b) is operating—
 - (i) at sea, or
 - (ii) in Category A, B, C or D waters,
- (c) is of less than 500gt
- (d) is engaged in an operation to transport the following persons from one place to another, including any part of that operation where they are not on board—
 - (i) at least one industrial personnel, and
 - (ii) no more than 12 persons who are not industrial personnel or the Master or crew, is not, during that operation, carrying more than 60 persons on board at any point in time, whoever those persons are.

These draft Regulations do not apply to:

- a pleasure vessel,
- a warship, naval auxiliary or another craft owned or operated by a State and used, for the time being, only on government non-commercial service,
- propelled other than by mechanical means,
- a wooden craft of primitive build,
- a fishing vessel, or
- engaged in a voyage from a port in one State to a port in another State.

2.9 For the purposes of these draft Regulations “Industrial personnel” is defined as persons who are transported or accommodated on board for the purpose of offshore industrial activities performed on board other ships or offshore facilities. This is on a par with the IMO draft Industrial Personnel Code for High Speed Craft of 500gt or more, which is due to come into force in 2024.

2.10 In addition, offshore industrial activities are defined in these Regulations as the construction, maintenance, decommissioning, operation, or servicing of offshore facilities related to exploration and exploitation of resources by the renewable or hydrocarbon energy sectors, aquaculture, ocean mining or similar activities.

Proposed Changes

2.11 Currently, we are relying on existing legislation such as High Speed Craft Regulations 2004 for vessels over 500gt and issuing exemptions to operators on a regular basis is not optimal, particularly because we see a growth in HSOSC. The purpose of the HSOSC Regulations is therefore to introduce legislation that will give legal force to the UK HSOSC Code which has been developed to ensure that such craft are able to operate legally and safely within UK waters. The change to legislation is appropriate and reflects the operations and the size of these vessels (less than 500gt, carrying no more than 60 persons).

- 2.12 The introduction of the SI and Code will provide industry with a model framework structure on which those involved in the offshore supply and service industry can rely upon to safely construct, maintain and operate vessels and transport personnel. In addition, all vessels certified to the new HSOSC Code will be legally obliged, by the SI, to be assessed to the same standards of practice helping to ensure a level playing field across the sector and enable the sector to expand swiftly, keeping pace with increasing demand for services.
- 2.13 The introduction of the new SI and Code will increase the efficiency of the certification process and reduce the amount of time required to assess certification applications as there will be a specific standard to which the certifying authorities will assess vessels. This innovative approach will allow for a more rapid expansion of the fleet required to support a dynamically growing sector.
- 2.14 This draft Statutory Instrument is made under Sections 85 and 86 of The Merchant Shipping Act 1995 and is domestic legislation to support this growing sector.
- 2.15 Under the new SI, in consultation with Recognised Organisations, a complete inspection of the Structure including the outside of the craft's bottom and other related items is not required during periodical surveys. The vessel is required to have a minimum of two inspections during any five-year period at intervals not exceeding 36 months. Inspections should normally be carried out with the ship out of the water; however, consideration may be given to alternate inspections being carried out with the ship afloat.
- 2.16 There will be no transitional period and the Regulations will apply from the date they come into force. This is because industry is already largely compliant with the draft Code and these provisions are likely to come into force towards the end of the year, which should give industry ample time to adjust. Any vessels that already hold valid certification/exemptions issued under the draft HSOSC code (2017) will remain until the vessel's renewal survey. This period of three years for complete migration means the Administration has no further exemptions to issue to operators. There is no restriction upon Operators to request a renewal survey sooner if they wish to be under this Legislation.
- 2.17 The Survey and Certification Regulations will be amended by the Regulations to include, subject to meeting the requirements of a Certifying Authority, a HSOSC safety certificate. The certificate will have a validity not beyond 5 years.
- 2.18 Within the Code (pages 15 to 22) there are specific exceptions and additions to the HSC code applicable for HSOSC. These cover: Lifting equipment, periodical surveys including certification, Buoyancy and stability, Structures, Accommodation and escape measures, Fire safety, Life Saving Appliances, Ship borne navigational systems and Operating requirements such as manning.

Summary of Options

- 2.19 The proposal is subject to De Minimis Assessment (DMA) no. DfTDMA168 which is included in this consultation document at ANNEX A
- 2.20 The Options considered are:

Option 0- Do Nothing scenario.

One option 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. It will also see the UK not in line with other foreign Administrations who are capturing and supporting these types of vessels to operate more safely and enforce the law on those who don't follow the law.

Option 1 – Amend Legislation and publish a statutory Code.

The preferred option is the introduction of the HSOSC 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 Code is statutory, providing 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 and issue exemptions against current legislation to enable operation.

Review and re-publish the HSOSC Code as a non-statutory code. However, the issues would remain as discussed in the Option (0) which will not give the optimised results. This option is not feasible as the implication will result in the continued overburdening of the industry seeking exemptions for these types of vessel to operate safely and impeding significant potential growth within the sector.

- 2.21 Our preferred option is Option 1 to amend legislation, in essence it would give these vessels bespoke legislation required to operate safely thus improving safety, providing clarity and reducing unnecessary burdens between the Administration and its Operators.

Supporting Information

Merchant Shipping Notice

- 2.22 It is our intention to publish the Code as a Merchant Shipping Notice, to provide statutory guidance on the amended requirements that are expected to come into force in November 2021. This will outline what HSOSC Operators will be required to follow to continue to operate. In practice, operators should find a more robust and structured system in place giving them more time focus on essential safety aspects.

- 2.23 The Code can be found at Annex B as part of this consultation.

Offences and Penalties

- 2.24 The MCA, as the UK's maritime regulatory and enforcement authority, has responsibility for both delivering and enforcing the Government's maritime policy relating to ships, seafarers and the seas around the UK. The MCA's approach to breaches of maritime legislation relies on a range of civil and criminal remedies in which, like many other regulatory regimes in the UK, civil and criminal sanctions sit alongside each other to enable the MCA to take the most proportionate action in relation to a particular breach. The decision on what is the most proportionate approach is determined by matters such as the importance of the requirement being breached, the gravity of the contravention, the effect of the contravention on third parties etc.

2.25 MCA surveyors have enforcement and sanction powers which can be applied locally to ships calling at UK ports. The MCA's powers to use civil sanctions are primarily contained in the Merchant Shipping Act 1995 ("MSA"). These powers, including improvement and prohibition orders, are limited in scope and available only for specific purposes. Other than the power to detain a ship, it is not possible to replicate all the civil sanctions in the MSA in secondary legislation implementing international obligations or other policy objectives as there is no power to do so in the MSA. Because these civil sanctions are contained in primary legislation (the MSA), if they are needed, the sanctions will be enforced directly under the MSA. The general policy approach, in line with the MCA's published enforcement policy, is to use these civil sanctions whenever possible before using criminal offences. The MCA is aware that other legislation provides a means of introducing new civil sanctions, and this is currently the subject of a formal review.

2.26 If there is a breach of the HSOSC Code or failure to meet its requirements then as a consequence enforcement action may be taken as per regulation 5 of the Merchant Shipping (High Speed Offshore Service Craft) Regulations 2021.

As a consequence of an offence committed under paragraph (1) is punishable—

- a. on summary conviction in England and Wales by a fine;
- b. on summary conviction in Scotland or Northern Ireland by a fine not exceeding the statutory maximum;
- c. on conviction on indictment, by imprisonment for a term not exceeding two years or by a fine, or by both.

Dangerous Goods - the carriage of dangerous goods on HSOSC.

2.27 As part of this consultation the following presents the proposed options for the carriage of dangerous goods, as defined in the IMDG Code, on HSOSC coded vessels. These options are aimed at accommodating the operational aspects that are specific to HSOSC.

2.28 It is recognized that some <24m HSOSC vessels are also certificated as workboats under the Workboat Code. The proposed options listed below are specifically aimed at vessels when operating as high speed craft rather than as workboats.

Option 1 – Aside from limited and excepted quantities (in certain classes and in compliance with the IMDG Code for limited and excepted quantities), the carriage of dangerous goods on HSOSC vessels is prohibited (noting that ships' stores are not dangerous goods for the purpose of the IMDG Code and may be carried outside of the Code in quantities up to 30kg/l).

Option 2 – Retain the status quo, that is, dangerous goods may be carried by HSOSC craft provided that this is in compliance with the HSC Code, the vessel's DoC DG and the IMDG Code (and Dangerous Goods Regulations, which implement the IMDG Code in the UK and noting the same points re limited and excepted quantities and ships' stores).

Option 3 – Specific requirements for the carriage of packaged dangerous goods on HSOSC certificated vessels. Option 3 may for example include specific requirements for the carriage of dangerous goods, detail particular classes of permitted dangerous goods or a table of specific UN numbers along with quantity limits and carriage requirements which would take

account of the operational functions of the vessel. Any such measures would be in full compliance with dangerous goods regulations.

We would like you to tell us what dangerous goods (please cite UN numbers) are currently carried on HSOSC vessels (when operating as an HSOSC vessel), in what quantities and with what frequency.

Careful consideration will be given on any allowance of DG and what will be reflected in the final version of the Code.

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 published on GOV.UK for any member of the public who wishes to read it and/or respond to it. Maritime Coastguard Agency has specifically notified other Maritime Associations such as The Workboat Association, Recognised Organisations, other interested parties, including Government departments.

Duration

- 3.3. Regular engagement has taken place with those with an interest in this consultation throughout the policy development therefore this consultation is open for 6 weeks from 10 August 2021. The deadline for responses is **21 September 2021**.

Submitting your response

- 3.4. The preference is for consultation responses to be emailed to Codes@mca.gov.uk. Any questions should also be sent to this email address. You can also send in your response by post. During the current COVID-19 pandemic we are working away from the office and the collection of post is limited.
- 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

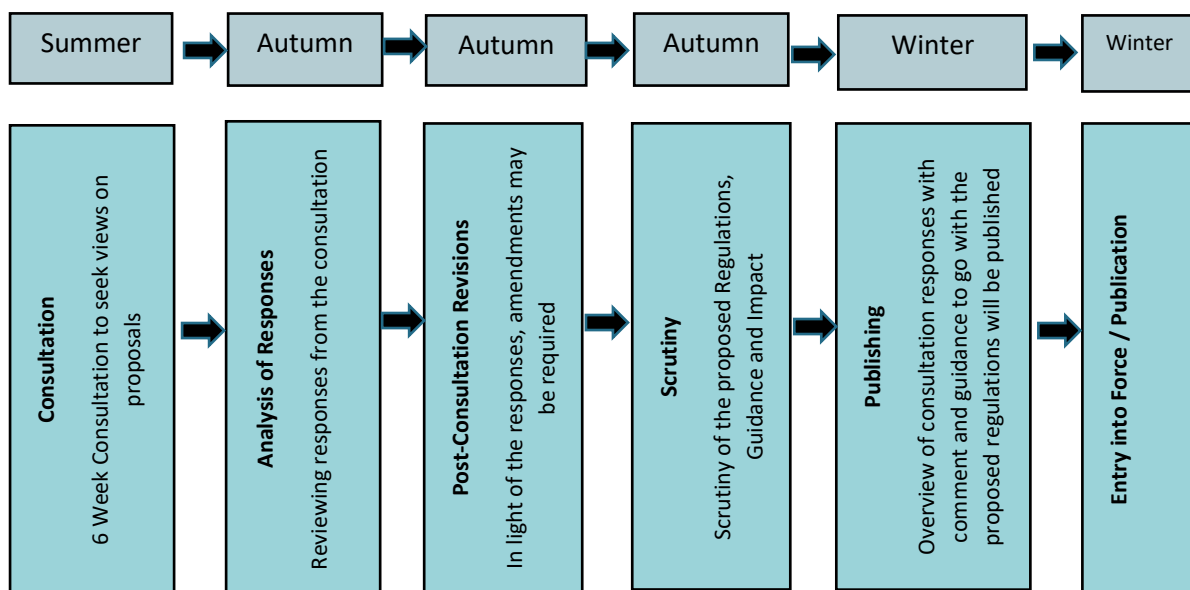
- 3.6. Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004.
- 3.7. If you want the information that you provide 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/MCA.
- 3.9. The MCA will process your personal data in accordance with the data protection framework and, in most 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 – *please complete*].
- 3.14. If you do not wish to remain on this list, please let us know at Codes@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 Autumn 2021. Our aim is to publish an overview of the responses and the MCA's comments in Autumn 2021, which will be available on www.gov.uk along with the consultation.
- 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 Regulations to come into force early 2022. The Regulations will be published on www.legislation.gov.uk
- 4.5. Every effort will be made to publish the revised accompanying guidance on gov.uk in advance of Regulations coming into force.
- 4.6. An overview timetable 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

- Q1. Are you in favour of the proposed HSOSC 2021 Regulations to enable HSOSC to operate? Yes / No. Please provide a brief explanation why.
- Q2. Do you consider the proposed Statutory HSOSC Code is fit for purpose? Please provide further explanation for your answer.
- Q3. Do you know of any dangerous goods (please cite UN numbers) are currently carried on HSOSC vessels (when operating as an HSOSC vessel), in what quantities and with what frequency?
- Q4. The proposal in the revised HSOSC Code does not allow the provisions of sleeping berths, which is in line with work currently underway at the IMO for vessels more than 500GT carrying industrial personnel. Do you agree with this approach? If not, please provide reasoning, and include any mitigating factors that might allow the provision of sleeping berths. In view of the synergies between this code and the work currently underway at the IMO, you might like to also consider this in the context of vessels less than 500GT.
- Q5. Please provide any comments and views in relation to the proposed offences and penalties alongside any evidence of which you deem relevant.
- Q6. Do you believe the costings which have been monetised (visible in table X) provide an accurate representation of the cost incurred for those vessels operating? If not, how would you expect the estimated costs to vary?
- Q7. Do you agree with the assumption that the only cost imposed onto business is the cost of familiarisation to the new Code? If not please provide any insight/ evidence and outline any other costs you believe will be incurred.
- Q8. Are you/ do you know of a small and/or micro business(es) who will be disproportionately affected by any of the measures outlined? (If so, please provide relevant detail and evidence)
- Q9. Do you foresee any unintended consequences of the proposed Code that have not been mentioned in this document? (If so, please provide any relevant insight and/or evidence)

Section 5.2

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

Please return completed response forms to Codes@mcga.gov.uk and in the subject box include ref: HSOSC Consultation 2021

Alternatively, responses may be posted, however please note due to the current covid pandemic there is limited presence at the office as staff are working from alternative places:

Joanne Wake
Code Vessel Team
Ship Standards
Maritime & 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 [Consultation Principles 2018](#)

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 considered 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.

List of Consultees

UK Major Ports Group
Chamber of Shipping
Workboat Association
British Ports Association
Recognised Organisations
Bureau Veritas
DNV-GL – Maritime
International Institute of Marine Surveying
Burness Corlett Three Quays (Southampton) Ltd.
Lloyd's Register EMEA
BMT-NG
Society of Consulting Marine Engineers and Ship Surveyors
Royal Yachting Association
RINA UK LTD
RMT
MECAL Ltd
Marine Management Organisation
Red Ensign Group
Bermuda
British Virgin Islands
Cayman Islands
Gibraltar
Guernsey
Isle of Man
Jersey
Macduff Shipyards
Southboat IOW Ltd

UK Maritime Pilots Association

MAIB

Nautilus

TGWU

Public through Gov.uk website

Devolved Administrations

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

Annex A: De Minimis Assessment

Annex B: MSN XXX – HSOSC Code

Annex C: The Merchant Shipping (High Speed Offshore Service craft) Regulations 2021