



Maritime &
Coastguard
Agency

Consultation Report:
Consultation on the proposed Merchant
Shipping (Radiocommunications)
(Amendment) Regulations 2021

September 2021

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Section 1: Introduction

1.1 This consultation sought views on proposed changes to domestic legislation regarding the implementation of Chapter IV of the Annex to the International Convention for Safety of Life at Sea (SOLAS) 1974 as it applies to ships in UK law. The Merchant Shipping (Radiocommunications) (Amendment) Regulations 2021 (“the 2021 Regulations”) propose to do this by implementing the up-to-date version of Chapter IV in UK law and give direct effect to future changes to Chapter IV by means of a power to make an ambulatory reference to those international requirements.

1.2 The 2021 Regulations will amend the existing Merchant Shipping (Radio Installations) Regulations 1998 (“the 1998 Regulations”) to limit their application to ships engaged on non-international voyages which fall outside the scope of Chapter IV.

1.3 This package of legislative changes included the introduction of two new M Notices¹; a Merchant Shipping Notice that will revise the (Global Maritime Distress and Safety System (GMDSS)) requirements in the 1998 Regulations and a Marine Guidance Note that gives guidance on aspects of the application of certain provisions in Chapter IV.

1.4 The consultation was carried out from 16th March 2021 to 11th May 2021. It can be found at: <https://www.gov.uk/government/consultations/consultation-on-the-proposed-merchant-shipping-radiocommunications-amendment-regulations-2021>

1.5 Consultees were invited to comment on any aspect of this consultation; but more specifically to respond to the consultation questions as outlined in section 2 of this report.

1.6 In total, four responses to the consultation were received; this report details the key findings, summary of responses, MCA response and who responded.

1.7 MCA would like to take this opportunity to thank all parties that took the time to read and respond to this consultation.

Section 2: Key Findings

2.1 The initial objectives in relation to the proposal to introduce the Merchant Shipping (Radiocommunications) (Amendment) Regulations 2021 were to: amend the Merchant Shipping (Radio Installations) Regulations 1998; establish the use of the power to make ambulatory references to implement future changes to Chapter IV of the Annex to SOLAS in UK law; to establish and assess the impact of the changes on the UK shipping industry and seafarers; to establish the relevance of the accompanying M notices and to clarify the proposed changes to the penalties for existing offences.

2.2 Upon launch of the consultation, as well as being publicly available on the Gov.uk website, the MCA notified at least sixty industry associations and organisations via email.

2.3 As outlined below, seven questions were posed to consultees within the consultation:

1. Do you agree that using the power to make ambulatory reference to implement Chapter IV of SOLAS is the most appropriate way of ensuring our legislation remains

¹ In addition, MSN 1690 has been amended and will only apply to ships not engaged on international voyages.

up-to-date with all amendments as soon as they enter force and that this will benefit the UK shipping industry?

2. Do you agree with the reasons for removal of all reference to 1.6GHz and VHF distress beacons from domestic legislation?

3. Are the attached M-Notices clear and contain all relevant information?

4. Do you feel the proposed amendments to the penalties are fair?

5. Do you feel the proposed penalties will act as an effective deterrent for noncompliance the respective statutory instrument?

6. Do you feel the amendment of the Merchant Shipping (Radio Installations) Regulations 1998 appropriate and accurate?

7. Do you agree with the cost identified in the De Minimis Assessment? If not please provide alternative evaluations.

2.4 Of the four replies received there was only one response which gave a detailed answer to one of the questions presented within the consultation. This reply can be seen in section 3.

2.5 The remaining responses did not specifically comment on any aspect of the consultation but did note that there were no concerns within their organisation regarding the aforementioned proposals and detail of updates.

Section 3: Summary of Responses

3.1 The majority of responses received did not provide specific answers to questions posed in the initial consultation. However, as previously stated, one organisation gave a detailed answer to one of the questions presented within the consultation which can be seen later in this document.

3.2 All responses received raised no issues with the consultation, with all in favour of the proposed changes in relation to Chapter IV. There were no points of concern with the consultation raised by respondents.

3.3 One key point raised by consultation responses was the continued importance of suitable public and stakeholder opportunities for consultation in relation to proposed changes to SOLAS Chapter IV. Although this does not directly impact this consultation, MCA are in full agreement that this is of importance and will continue to strive to keep stakeholders as informed as possible with the proposed changes to SOLAS Chapter IV. The detailed response is as below.

Question 1:

Do you agree that using the power to make ambulatory reference to implement Chapter IV of SOLAS is the most appropriate way of ensuring our legislation remains up-to-date with all amendments as soon as they enter force and that this will benefit the UK shipping industry?

Industry response:

We consider that the proposed approach to ambulatory reference in relation to Chapter IV appears to be sensible and we note the potential benefits of using such power. In particular, we support the simplicity and savings, legal certainty and clarity, and reduced burdens on businesses which this approach is likely to deliver.

However, we note that it remains important that there are suitable opportunities for consultation and scrutiny. It will therefore remain crucial for the UK to be part of the consultation and negotiation process in relation to any proposed changes to Chapter IV of SOLAS. There may require to be enhanced opportunities for domestic consultation and scrutiny when changes are being considered at IMO level. It is important that relevant stakeholders who will be affected by any changes are consulted. Consultations themselves are often a trigger point for the industry to become aware of planned rule changes. We therefore consider that awareness-raising will be crucial to the success of use of the ambulatory reference provisions. This will help to ensure that industry stakeholders have the ability to influence and scrutinise the provisions, are aware when changes are made, and may guide their conduct based on a clear understanding of the legal framework.

We consider it appropriate that the Secretary of State will retain the power to make regulations to prevent an unwanted amendment to SOLAS from becoming UK law, recognising, however, that the measures concerned will be international legal obligations with which UK ships are required to comply regardless of the amendments not taking effect in UK law. It is important that these obligations are respected and that in the event of divergence, steps are taken to raise awareness of the situation within the sector.

Section 4: MCA Response

4.1 As no objections were noted, MCA will proceed with the proposed changes outlined in the consultation documents ensuring that the request for opportunities for consultation and scrutiny are adhered to where appropriate.

Section 5: Who Responded

5.1 Three out of the four replies received in response to this consultation were from organisations, the final was a response from an individual. The organisational responses were from the Royal Navy, Law Society Scotland, and the UK Chamber of Shipping.

5.2 MCA would like to take this opportunity to again thank all respondents and those that took the time to review this consultation.