



Maritime &  
Coastguard  
Agency

Consultation Report:

The Merchant Shipping (Additional Safety  
Measures for Bulk Carriers) Regulations 2022

September 2021

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## **Section 1: Introduction**

The Maritime and Coastguard Agency (MCA), an executive agency of the Department for Transport, held an eight-week public consultation on the proposed Merchant Shipping (Additional Safety Measures for Bulk Carriers) Regulations 2022. This ran from 16<sup>th</sup> June 2021 to 10<sup>th</sup> August 2021. The consultation sought views on the proposed Regulations, and the accompanying Marine Guidance Note (MGN). The consultation was published on GOV.UK, and notifications of the consultation were sent to industry stakeholders, including Trade Unions, operators of bulk carriers, Class Associations, the Devolved Administrations of Scotland, Wales and Northern Ireland, and others. An email reminder was also sent to industry stakeholders two weeks prior to the consultation closing. The consultation was also publicised on the MCA's social media channels, and a press release was issued. The MCA would like to thank those who took the time to consider the consultation.

The proposed Regulations apply to sea-going bulk carriers of 500 gross tons (GT) or over, which are United Kingdom bulk carriers (located anywhere in the world) or non-United Kingdom bulk carriers while in United Kingdom waters. The proposed Regulations would replace the Merchant Shipping (Additional Safety Measures for Bulk Carriers) 1999 (SI 1999/1644), in order to implement the most up to date requirements of the International Convention for the Safety of Life at Sea, 1974 (SOLAS) affecting bulk carriers, which are primarily contained in Chapter XII of SOLAS (additional safety measures for bulk carriers). The updated requirements to Chapter XII of SOLAS, which the proposed Regulations seek to implement, include amendments to requirements for bulk carriers of double-side skin construction constructed on or after 1<sup>st</sup> July 2006, standards and criteria for side structures of bulk carriers of single-side construction, and standards for owner's inspection and maintenance of bulk carrier hatch covers.

The proposed Regulations will further improve the safety standards for bulk carriers. The Regulations would also include an ambulatory reference provision to ensure that future amendments to SOLAS referred to in the proposed Regulations are given direct effect in UK law.

In total, one response to the consultation was received. The low response rate is perhaps unsurprising, considering the high compliance rate of industry with the standards that the proposed Regulations seek to implement. This is because all of the 29 UK flagged bulk carriers are classed with the International Association of Classification Societies, which has already implemented these requirements into their class rules. Therefore, all 29 of the UK flagged bulk carriers are already compliant with the requirements.

## **Section 2: Key Findings**

Seven questions were asked in the consultation, and these, along with the responses to the consultation and the government's comments, are detailed in Annex A. It should be noted that respondents did not respond to the consultation questions, and

additional comments were received. These have been given full and careful consideration and are addressed in Section 3.

After reviewing the consultation responses, no changes to the policy were made.

## **Section 3: Summary of Responses**

### **3.1 Ambulatory Reference**

The response to the introduction of an ambulatory reference provision was a positive one. However, an important point was raised that it should not prevent suitable opportunities for consultation and scrutiny from stakeholders who will be affected by future changes.

#### **Government Response**

The government agrees and is committed to ensuring that there are suitable opportunities for consultation and scrutiny regarding potential changes to the proposed Regulations and Chapter XII of SOLAS, and other SOLAS provisions that are referenced in the proposed Regulations. The United Kingdom government and the Maritime and Coastguard Agency, as an executive agency of the Department for Transport, are committed to ensuring that high quality legislation and regulation is produced through open discussions with stakeholders.

In relation to any proposed amendment in the International Maritime Organization (IMO), the government will actively participate in discussions and working groups at IMO and will seek the views of those parts of the shipping industry likely to be affected at an early stage. It should be noted that UK industry stakeholders are represented at the IMO through affiliation with non-governmental international organisations, who are granted consultative status with IMO to add their technical expertise to the discussions. These organisations include international representatives of the seafarers' unions, shipowners and shipbuilders.

In the event that the UK does not agree with an amendment, the government can object to the amendment, and make provision in the Regulations to exclude it should the ambulatory reference provision pick it up as a change. This means that the UK would not be required by international law to implement it.

However, though objections are legally possible, it is extremely unlikely in practice that the UK would need to lodge an objection, since the UK strives within the negotiation process to reach a point where a proposed amendment to SOLAS can be accepted.

### **3.2 Implementation timescale**

The point was raised that 'the draft regulations provide for entry into force on the "22<sup>nd</sup> day after the day on which they are made" which does not provide much time for awareness raising among those that will be affected by the Regulations.'

## **Government Response**

The 22-day period between the Regulations being made, and coming into force, is the standard coming into force period after an instrument is made.

These Regulations are subject to the enhanced pre-laying procedure under the European Union Withdrawal Act 2018. As such, they will be published in draft for 28 days on gov.uk. They will also be laid in draft before both Houses of Parliament and published on legislation.gov.uk. This will be followed by two debates on the Regulations before they can be made. The MCA has consulted with industry with a draft of the Regulations, and industry are already familiar with the requirements in Chapter XII of SOLAS, which these Regulations seek to implement. This is demonstrated by the fact that the 29 UK flagged bulk carriers are already compliant with the requirements.

In addition, the MCA has received no communication from industry to express concern over the timescales. The implementation timescales are therefore considered adequate.

## **3.3 Offences and Penalties**

The response received was supportive of the rationale for using civil sanctions whenever possible before using criminal offences.

The response raised a point about there being a restricted opportunity for scrutiny by creating offences by way of regulations. It highlighted the need to raise awareness of the proposed Regulations and the accompanying criminal offences and penalties amongst those operating in the sector before the Regulations and offences come into force.

## **Government Response**

The government notes the point made in relation to the offences and penalties and has considered this carefully. The Regulations and their associated offences and penalties have been communicated to industry bodies, including Trade Unions, who were notified of the consultation and invited to respond.

As explained above, prior to laying the Regulations in draft, the Regulations will be published (in draft) for 28 days on gov.uk, after which they will be laid in draft before both Houses of Parliament and published on legislation.gov.uk. This will be followed by two debates, after which the Regulations can be made. Once the Regulations have been made, there will be 22 days before the Regulations come into force.

The government therefore considers there to be sufficient notice of these Regulations, and the offences and penalties contained in them, ahead of them coming into force. Furthermore, there have been no responses from industry expressing concern relating to the introduction of new criminal sanctions.

## **Section 4: MCA Response**

The responses to the consultation have highlighted a potential lack of clarity around the use of ambulatory referencing. These points have been clarified above in Section 3.

The process has resulted in no amendments to the proposed Regulations, or to the accompanying Marine Guidance Note. The low response rate can be interpreted as a sign that industry are ready for the changes, and hold no objections.

## **Section 5: Next Steps**

The government will now seek to finalise the Regulations. The Regulations are anticipated to be laid in draft in early 2022, with two debates to follow, and with a view to the Regulations coming into force in early Spring 2022.

## **Section 6: Who Responded**

The following organisations and individuals submitted a response to the consultation:

- The Law Society of Scotland

## Annex A: Consultation Questions and Answers

<b>Question 1</b>	<b>It is an assumption of the analysis that all UK flagged bulk carriers would already be compliant with the updated international requirements. Therefore, it is expected that the impacts of the proposed changes will be negligible. Do you have any evidence in support of, or to challenge, this rationale? If so, please provide evidence of likely costs implications for your business.</b>
Summary of consultee views	No comments were received
Government response	The government notes that no comments were received and will therefore progress with publishing and laying the Regulations in draft as planned.
<b>Question 2</b>	<b>Do you know of any costs that a vessel that is compliant with the current UK regulations would need to incur to be compliant with the proposed changes? If so, please provide any evidence.</b>
Summary of consultee views	No comments were received
Government response	The government notes that no comments were received and will therefore progress with publishing and laying the Regulations in draft as planned.
<b>Question 3</b>	<b>What are the key areas, if any, where costs and benefits may arise for your business due to the proposed changes?</b>
Summary of consultee views	No comments were received
Government response	The government notes that no comments were received and will therefore progress with publishing and laying the Regulations in draft as planned.
<b>Question 4</b>	<b>Do you know if any businesses will be disproportionately affected by the proposed changes?</b>
Summary of consultee views	No comments were received
Government response	The government notes that no comments were received and will therefore progress with publishing and laying the Regulations in draft as planned.

<b>Question 5</b>	<b>Do you know of any likely unintended consequences resulting from the proposed changes?</b>
Summary of consultee views	No comments were received
Government response	The government notes that no comments were received and will therefore progress with publishing and laying the Regulations in draft as planned.
<b>Question 6</b>	<b>What impact do you think the proposed changes will have upon safety standards? Please provide any evidence to support this.</b>
Summary of consultee views	No comments were received.
Government response	The government notes that no comments were received and will therefore progress with publishing and laying the Regulations in draft as planned.
<b>Question 7</b>	<b>If you are an operator of a bulk carrier of double-side skin construction, what impact do you think the requirements to adhere to the same standards as single-side skin constructed bulk carriers, as outlined in this consultation document, have on you?</b>
Summary of consultee views	No comments were received.
Government response	The government notes that no comments were received and will therefore progress with publishing and laying the Regulations in draft as planned.