



Ministry  
of Defence



Maritime &  
Coastguard  
Agency

# Memorandum of understanding

## Ministry of Defence Maritime & Coastguard Agency

**Operation and coordination of the safety management of Ministry of Defence shipping on non-commercial service.**

**Cooperation regarding the management of the Defence Shipping Register and maritime autonomy.**

**Cooperation regarding MOD application of the Port Marine Safety Code & Vessel Traffic Services.**



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# 1 Framework of Understanding

## 1.1 Introduction

- 1.1.1 United Kingdom (UK) merchant shipping legislation is developed to implement International Maritime Organisation and International Labour Organisation Conventions, and any additional domestic requirements. UK merchant vessels are subject to such applicable legislation wherever they may be. Outside UK waters, they may additionally be subject to international or national provisions applicable in those places. The regulation of UK merchant vessels worldwide and enforcement of foreign vessels in UK territorial waters is undertaken by the Maritime and Coastguard Agency (MCA) on behalf of the British Government.
- 1.1.2 The Secretary of State for Defence (SofS) Policy Statement<sup>1</sup> reinforces the requirement for Defence to comply with UK Health, Safety & Environmental Protection (HS&EP) legislation (which includes legislation giving effect to the UK's international obligations). Where legal requirements have the potential to adversely affect operations, there are some provisions that allow Defence disapplications, exemptions and derogations (DEDs) from legislation, although Defence is still required to follow the original intent of the legislation to the extent that it is reasonably practicable to do so.
- 1.1.3 To satisfy the SofS policy the MOD manages the safety and environmental protection of its maritime activities using the Defence Safety Regulatory Publication DSA02-DMR – Defence Maritime Regulations for Health, Safety and Environmental Protection.<sup>2</sup> However, the MOD recognises the benefits to certain shipping activities of application of elements of the Merchant Shipping Acts and other relevant international legislation. The Merchant Shipping (Ministry of Defence Ships) Order 1989 prescribes those sections of the Merchant Shipping Acts that will be applied to MOD (Government)<sup>3</sup> vessels on non-commercial service (see Annex B). Consequently, and to the extent that the Merchant Shipping Acts apply, the MOD benefits from independent assurance of its safety management systems relating to the operation of MOD vessels on non-commercial service through the application of UK or other applicable legislation overseen by the MCA. In addition, crews are afforded the benefits of UK terms and conditions, as applicable to merchant vessels. Further to these legislative requirements the MOD in agreement with the MCA may choose to apply further Merchant Shipping legislation on a voluntary basis. There is therefore a direct relationship between the MOD and the MCA, as the UK Flag Administration.

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<sup>1</sup> [Secretary of State for Defence Policy Statement for Health, Safety & Environmental Protection dated 2 January 2024](#)

<sup>2</sup> Referred to hereafter as the DSA02-Maritime Regulations

<sup>3</sup> Government vessels are vessels not forming part of His Majesty's Navy, but which belong to His Majesty, or are held by any person on behalf of or for the benefit of the Crown.

# 2 Application

## 2.1 Procedures

2.1.1 The MOD and MCA procedures described within this Memorandum of Understanding (MOU) apply to:

- a) MOD vessels on non-commercial service (for example Royal Fleet Auxiliaries and MOD Police launches);
- b) Vessels that are ordinarily subject to statutory regulation by the MCA; and
- c) Areas of cooperation regarding MOD application of merchant shipping legislation such as the Port Marine Safety Code, vessel traffic services, vessel registration and maritime autonomy.

## 2.2 Non-Application

2.2.1. The MOD and MCA procedures described within this MOU do not apply to Royal Navy (RN) warships (including warships under construction) which are regulated by Defence Maritime Regulator (DMR). The exception to this is when warships are commercially crewed (para 6.4.10).

# 3 Objective

3.1. The Objective of this MOU is to enable the MOD and the MCA to work together effectively to ensure the safety and environmentally sound management of MOD maritime activities in accordance with the regulations applicable to them. It is not intended to create a legal relationship or to be legally binding.

# 4 Scope

4.1. The scope of this Memorandum of Understanding<sup>4</sup> is to identify the roles of the participants to this MOU in the operation and co-ordination of the safe and environmentally sound management of MOD vessels on non-commercial service, and encourage effective working relationships in the agreed areas of cooperation.

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<sup>4</sup> It should be noted that other arrangements are also in place. These include the HSE-MCA-MAIB Operational Working Agreement, the MCA-RN Memorandum of Understanding concerning the Standards of Training, Certification and Watchkeeping for Warfare officers. Principles of cooperation between Royal Navy and MAIB. The MOD-HSE MOU, appropriate National Contingency Plans and written arrangements between the MCA and each of the UK authorised Classification Societies outlining allocation of delegated responsibilities.

# 5 Participants and Liaison

## 5.1 Participants

5.1.1. The participants involved in this MOU are described at Annex A and listed below:

- a) The MCA;
- b) The MOD.

## 5.2 Liaison Arrangements

5.2.1. The MOD and the MCA have established the following:

- a) MOU Management Committee
- b) DMR-MCA Working Group
- c) Acquisition Working Group
- d) Registration Working Group
- e) RFA Working Group
- f) Affected Services Working Group
- g) PMSC and VTS Working Group
- h) Maritime Autonomous Systems Working Group

5.2.2. The Terms of Reference for the Committee and the Working Groups are provided at Annex C.

# 6 Responsibilities of the participants in respect of this MOU

## 6.1 General

6.1.1. MOD vessels are established under red, white, or blue (defaced) ensigns dependent on role and ownership. British merchant ships generally fly the red ensign and come under Maritime and Coastguard Agency (MCA) jurisdiction. MOD vessel fly the following flags:

- a) The White ensign is flown by commissioned warships of the Royal Navy (RN) and Royal Marine (RM) vessels;
- b) A defaced blue ensign with a relevant badge insignia is flown by RFA vessels, Army vessels, royal yacht squadrons, and UK MOD Defence Police (MDP) craft;
- c) A Government Service Blue Ensign (GSBE) is flown by other vessels on Government Service.

6.1.2. MOD have a number of support vessels which fly the red ensign, which come under Maritime and Coastguard Agency (MCA) jurisdiction and inspection regime. However, when embarking military personnel or when deployed overseas on Government operations then the ensign is transferred to a GSBE.

6.1.3. The Department for Transport/MCA represents UK interests at international maritime forums such as the International Maritime Organisation. The MCA will, on request from the DMR, facilitate MOD's input to the national view where nations have the opportunity to input such views.

6.1.4. MOD and MCA representatives will attend the Working Groups identified at Annex C of this MOU. Issues that cannot be resolved will be discussed at the relevant working group. Proposed solutions, where appropriate, will be referred to the DMR-MCA Working Group.

## 6.2 Acquisition

### General

6.2.1. Where MOD and MCA are engaged on joint assurance of acquisition projects, the MOD and MCA will be required to work jointly to support the safe and environmentally sound introduction of new platforms.

6.2.2. The participants will decide on roles and responsibility during an acquisition and will decide a certification process for MOD Shipping.

6.2.3. There is a process formalised through this MOU which explains the responsibilities and roles of both participants in deciding non-compliances with legislation. This process is outlined in Annex E and should be utilised throughout the acquisition process to ensure timely delivery of certification.

6.2.4. The Acquisition Working Group is the forum through which issues related to acquisition are escalated for resolution.

## 6.3 Certification

### General

6.3.1. With respect to MOD vessels on non-commercial service, where the MOD has prescribed those sections of the Merchant Shipping legislation that will be applied voluntarily, the MCA, after deciding that the legislation is relevant and appropriate, will examine the vessel against merchant shipping statutory requirements and issue certification if appropriate.

6.3.2. The general criteria to be satisfied before certification showing compliance with merchant shipping statutory requirements will be granted by the MCA to those vessels submitted by MOD for survey is as follows:

- a) vessels fully comply with international and national legislation as appropriate; or
- b) compliance is achieved through equivalent or alternative arrangements (Annex E), including operational arrangements, that are decided by the MCA to be equivalent to the appropriate international or national legislation, to the extent that would be allowed for a merchant ship; or
- c) in cases where compliance through a) or b) cannot be achieved, the specific aspect will be identified to the MOD and managed through MOD risk processes (Annex E). It may be that due to the number and/or severity of non-compliances MCA certification will not be issued. Where compliance cannot be achieved the Accountable Person takes responsibility for authorising the proposed arrangement, on behalf of the SofS, and MCA take no

responsibility to receive, review or assess the 'Safety and Environmental Case' (SEC). If MCA issues certification then it will record that a Safety and Environmental Case has been declared to the Accountable Person's satisfaction.

6.3.3. Provided that the surveys show that the ship is in full compliance with the relevant merchant shipping legislation, or after acceptance of any equivalent arrangements or MOD risk assessment submission, the appropriate certificate, showing compliance with merchant ship standards, will be issued to the the Master or the operating company.

6.3.4. Certification issues that need escalating should be raised with the DMR-MCA Working Group.

## **MCA**

6.3.5. Where MOD has voluntarily chosen to apply Merchant Shipping legislation for MOD vessels on non-commercial service, the MCA will issue Government Ship Certificates rather than statutory convention (trade) certificates.

6.3.6. At the time of the survey the MCA or Recognised Organisation (RO)<sup>5</sup> or Certifying Authority (CA),<sup>6</sup> as appropriate, will identify any deficiencies to be rectified to maintain compliance with the requirements of the certificate. The RO or CA will inform the MCA of any serious deficiencies they identify. It must be noted that enforcement (including detention) provisions applicable to merchant vessels do not apply and MOD may, particularly in circumstances where operational necessity prevails, defer the rectification of any deficiencies recorded on the report of inspection and take a ship to sea. This will be done in accordance with the provisions of the safety management system operated by the appropriate MOD Accountable Person MOD branch, and in the knowledge that the certificate must be temporarily suspended until such time as the outstanding deficiencies are rectified in accordance with MCA requirements and DMR will be notified.

6.3.7. Should a survey reveal a non-compliance against merchant ship requirements which, on notification to the attending MOD representative, is confirmed as one with which the MOD do not intend to comply precluding the continued certification of the vessel, then this must be designated as a "notified non-compliance" and the following steps taken:

- a) The non-compliances should be recorded on the audit report and/or reports of inspection as appropriate issued to the Master and attending MOD representative;
- b) A copy of the report with a copy of the existing certificate relevant to the non-compliance and any annexes must be forwarded with full details of the non-compliance and the harmonised<sup>7</sup> survey date to the MCA Customer Service Manager. The Manager must inform the vessels management organisation writing and include a copy of relevant documentation relating to major departures from certification requirements. The MOD will require the vessels management organisation to provide the MOD Accountable Person and the Defence Maritime Regulator with a copy of all relevant documentation; and

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<sup>5</sup> Merchant Shipping Notice (MSN) 1672

<sup>6</sup> Marine Information Note (MIN) 538

<sup>7</sup> The harmonised survey date allows for a single inspection visit to cover all certification surveys due within the inspection window thus reducing the number of visits required.

c) The existing certificate may be removed and a short-term certificate may be issued in accordance with internal MCA instructions and procedures until such time as a full-term certificate recording the non-compliance can be issued by the MCA Customer Service Manager.

## MOD

6.3.8. The MOD Accountable Person will ensure that the MCA and CA or RO are notified of intended alterations to their vessels affecting certification. Alterations implemented for operational reasons will subsequently be notified by MOD to MCA and CA/RO.

6.3.9. Should the ship not comply with the relevant merchant shipping legislation, the MOD Accountable Person and DMR will be advised in writing of the non-compliance. It will be for the MOD Accountable Person to decide whether the ship should be made compliant or decide the non-compliance. The MOD Accountable Person must inform MCA in writing of their decision (see also paras 6.3.6 & 6.3.7).

## 6.4 Registration

### General

6.4.1. The United Nations Convention on the Law of the Sea (UNCLOS) provides that ships shall sail under the flag of one State, and that every State shall fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory and for the right to fly its flag. In addition, States are required under UNCLOS to maintain a register of ships containing the names and particulars of ships flying its flag, except those which are excluded from generally accepted international regulations on account of their small size. Shipping registers identify recognised rules and standards for design and operation. The MCA manages the UK Ship Register (UKSR). Vessels belonging to His Majesty (UK MOD) have a disapplication from registration on the UKSR under the Merchant Shipping Act (MSA95).

6.4.2. To address this disapplication the DMR manages the UK Defence Shipping Register (known as the Defence Shipping Register (DSR)), so that the UK MOD standard remains 'at least as good as legislation'. The DSR details all vessels owned operated by, or operated on behalf of the UK MOD.

6.4.3. Some vessels are dual registered on both the UKSR and DSR. For example, MOD Government vessels such as the Royal Fleet Auxiliaries (RFAs) are brought back under specific elements of the MSA95 by the 1989<sup>8</sup> 'Order in Council' and so are registered on both the UKSR and the DSR.

6.4.4. Some contracted support vessels are registered on the UKSR, the details of which are verified and assured by the DMR for military activities. The information compiled in the DSR, detailed under DSA02-Maritime Regulation 601, aligns to that required by the MCA UKSR.

6.4.5. Short term charters, operating solely under merchant legislation, may not be registered on the DSR due to the short nature of the contract and because they comply with legislation.

6.4.6. The Registrar of the UKSR and the Defence Shipping Registrar will maintain a close working relationship under this MOU, and discuss matters of mutual interest.

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<sup>8</sup> The Merchant Shipping (Ministry of Defence) Order 1989 SI 1989/1991.

6.4.7. The Registration Working Group is the forum through which issues related to registration are escalated for resolution.

### **MCA**

6.4.8. The MCA will, on request from the MOD, consider any application to have a chartered vessel registered under the UK flag. (Such an approach will normally come from the Defence Supply Chain Operations and Movements (DSCOM) or Salvage and Marine Operations (SALMO) who should consult with the MCA at the earliest possible opportunity). The MCA may carry out a pre-registration inspection of the vessel to confirm compliance with merchant shipping legislation and to confirm suitability for inclusion on the UKSR. This requires arrangement with the existing management company.

### **MOD**

6.4.9. Provided warships under construction are registered on the DSR, they are outside the scope of the merchant shipping legislation and this MOU. The MOD is, however, committed to working with industry partners and other stakeholders to operate a safe working environment for all personnel. DSA02-Maritime Regulations and other relevant MOD policies relating to safety standards and environmental protection will apply to warships under construction, including those undergoing sea trials, subject to any necessary modifications decided with industry partners. As with warships in commission, the MOD may liaise with and seek advice from the MCA to ensure that safety and environmental protection and management arrangements are in place for warships under construction that produce outcomes that are, so far as reasonably practicable, at least as good as those required by UK commercial shipping legislation. MCA will not survey or issue any certification to warships under construction, and only provide advice on request.

6.4.10. In the situation that a warship under construction is commercially crewed for trials or delivery, the vessel is no longer considered a warship, but is still a government vessel. In such circumstances the MCA will restrict its involvement to the safety and wellbeing of those personnel. This will be determined on a case-by-case basis but may involve an ISM Interim Audit and/or trials exemption. In circumstances where more than 12 persons, who are not crew, are being carried, additional assurances will be required. The Master and the Accountable Person will be informed of the outcome of the audit/inspection. The overarching responsibility for taking the vessel to sea remains with MOD.

## **6.5 Survey and Inspection**

### **General**

6.5.1. When carrying out surveys and general inspections, MCA, CA or RO surveyors will have right of access to all parts of the vessels except, on occasion for security reasons, to certain nominated spaces and equipment. Where such spaces form an integral part of the strength of the vessel or impact a critical safety function then that aspect will be made available for survey or inspection subject to security controls.

6.5.2. Surveyors will carry out surveys at specified intervals, to verify vessels are compliant with requisite standards, in accordance with Section 10 Maintenance of Ship and Equipment of the International Safety Management Code.

6.5.3. The frequency of the surveys and inspections referred to above will be the same as that required under the relevant international conventions and the Merchant Shipping Regulations applicable to UK registered merchant vessels. Requests for extensions beyond survey dates will

be considered by the MCA. The validity of certificates is subject to satisfactory annual, intermediate, periodical and renewal surveys.

6.5.4. The DMR-MCA Working Group is the forum through which issues related to survey and inspection are escalated for resolution.

## **MCA**

6.5.5. Compliance with survey and certification requirements will be assessed in accordance with the process defined in the MCA publication Instructions for the Guidance of Surveyors – Survey and Certification Policy. Where MOD seeks compliance by presenting its own risk assessment and Safety & Environmental Case, suitable documentation to declare this will be sent to the MCA by the appropriate MOD Accountable Person via the appropriate MCA Customer Services Manager. The MCA take no responsibility for review or assessment of this Safety & Environmental Case. All equivalences and non-compliances will be recorded on appropriate Government Ship Certificates.

6.5.6. Should a complaint be received by the MCA regarding health, safety or environmental standards on an MOD ship, subject to merchant shipping legislation, an inspection may be carried out by them to the extent necessary to investigate that complaint.

6.5.7. In all cases MCA surveyors will raise non-compliances (i.e., deficiencies or non-conformities) in accordance with the process defined in the relevant MCA Instructions for the Guidance of Surveyors which is recognised by MOD.

## **MOD**

6.5.8. The MOD should ensure suitable arrangements are in place to facilitate any survey or inspection required by the MCA to monitor the degree of compliance with appropriate legislation.

6.5.9. In addition to para 6.5.5 RFAs, and other MOD vessels where appropriate, should also maintain compliance with classification society rules and regulations.

6.5.10. Where a vessel is undergoing upkeep the MOD should ensure suitable arrangements are made for presentation for survey, which, with the exception of structural items, should normally be on completion of the upkeep period. The MOD should ensure that the ship and its equipment are fully maintained and fit for use before presentation to the surveyor. MCA will not be expected to undertake surveys without a representative of the vessel present.

6.5.11. The passenger ship and safety equipment documents issued for MOD vessels should state that the life-saving appliances (LSA) are suitable for a specified number of personnel. Cargo ships are permitted to carry up to 12 passengers provided accommodation and LSA are available. If, at any time, the number of passengers exceeds that specified, MOD should determine the additional provisions required, their condition and suitability. The MCA must be informed of this and the relevant MCA certificates will be temporarily suspended for the period that their conditions of issue are not met.

## 6.6 RFA

### General

6.6.1. Arrangements between the MCA and the RFA principally relate to the safety and seaworthiness of RFA vessels, safety of seafarers and protection of the maritime environment. All these elements are the responsibility of the MOD, represented by Commodore RFA on behalf of the Secretary of State for Defence.

6.6.2. For survey and inspection see section 6.5.

6.6.3. Where, as a result of the investigation of an accident there are serious doubts as to a seafarer's fitness to continue to hold a certificate of competency, or certificate issued under Section 47 of the Merchant Shipping Act 1995, the circumstances and evidence will be considered by the MCA who will decide whether an inquiry under Section 61 or 63 respectively of that Act is called for. Commodore RFA will co-operate with the MCA in any further investigations, which are necessary, and in the institution of such an Inquiry.

6.6.4. The RFA Working Group is the forum through which issues related to the RFA are escalated for resolution.

### MCA

6.6.5. The MCA is the authority in relation to certificates of competency and endorsements for crew qualifications

6.6.6. The MCA recognises employment in RFA vessels as qualifying service for certificates of competency and endorsements to those certificate. The MCA approves the clauses of RFA Crew Agreements.

### MOD

6.6.7. Agreements of the terms and conditions of employment conforming to the statutory regulations in force will continue to be maintained by the RFA.

6.6.8. The Official Log Book will be maintained in RFA vessels which, on completion, will be deposited with the Registrar General of Shipping and Seamen. The Official Log Book for RFA vessels will not contain any reference to the ship's position when at sea and exceptionally may not refer to the location in Port.

6.6.9. Commodore RFA will ensure that the number of certificated personnel employed shall not be less than the minimum manning levels of Merchant Shipping legislation as stated in the Safe Manning Document and shall have adequate training required in support of the safety management system, in accordance with the International Safety Management (ISM) Code Part A.

6.6.10. In principle, accommodation for RFA personnel will be provided and maintained to the standards required by the current regulations for crew accommodation as they apply to merchant vessels on commercial service.

## 6.7 Affected Service

### General

6.7.1. An activity will be identified as an Affected Service only after all routes to conform with commercial ship regulation have been considered and eliminated as inappropriate.

6.7.2. Vessels may operate on an Affected Service (as defined in Annex F) in support of MOD activities. These vessels may be commercially owned or Government owned and commercially operated. The list of Affected Services is set out at Annex D. This list is not exhaustive, and DMR will consult with MCA on other services not on the list.

6.7.3. In order for a service to be managed as an Affected Service, the MOD and MCA must first decide that the service falls within the definition of an Affected Service and that it is an essential MOD activity not within the scope of Merchant Shipping legislation.

6.7.4. Agreed Affected Services are recorded at Annex D to this MOU. Any addition to Affected Services that does not align with those of Annex D needs to be approved by the Defence Maritime Regulator and managed accordingly.

6.7.5. An MOU cannot change the obligations imposed by legislation. Where the requirements of an activity conflict with the specific provisions of legislation that activity cannot be considered to be an Affected Service and the activity cannot be undertaken unless covered by a relevant disapplication, exemption, or derogation.

6.7.6. The Affected Services Working Group is the forum through which issues related to Affected Services are escalated for resolution.

### MCA

6.7.7. MCA take no responsibility to receive, review or assess the SEC for an Affected Service but only to record that such a case has been declared to the responsible MOD Accountable Person's satisfaction and can pass onto civilian organisations such as HM Coastguard and UK Border Force for awareness.

6.7.8. The primary contact point for Affected Services is [HQSurvey@mcga.gov.uk](mailto:HQSurvey@mcga.gov.uk) alternatively the Head of International Survey Operations, phone: 020 381 72224.

### MOD

6.7.9. The MOD Accountable Person is responsible for ensuring that there is a legitimate operational requirement for the service to take place. This could include training or development activities in support of operational capability. The Accountable Person must ensure that a SEC for the service is produced that contains sufficient arguments, risk assessments and evidence to demonstrate that the risk posed by the provision of the service is as low as is reasonably practicable (ALARP) and, where appropriate, the environmental impacts correspond to best practicable environmental option (BPEO).

6.7.10. The operator is responsible for operating and maintaining the vessels in accordance with all relevant UK and International maritime legislation; this will form the "baseline" for the SEC for the Affected Services.

6.7.11. Activities defined as Affected Services do not normally conflict with Merchant Shipping legislation, but may carry a level of risk that is higher than would normally be acceptable for a merchant vessel under Sections 94 or 100 of the Merchant Shipping Act 1995. Where such conflicts or deviations are identified as necessary to achieve the MOD outcomes (for example, to replicate attacks on warships from Fast Inshore Attack Craft (FIAC) where there will be a necessary deviation from the COLREGs a comprehensive hazard analysis should be conducted, and appropriate controls established. The MOD will produce a statement recording the arrangement between MOD and MCA that the MOD was the competent body to decide what level of safety is permissible and declaring that the Defence Maritime Regulator was content in principle with the arrangements for safe working.

6.7.12. The vessel operator will present evidence of a safe system of work for the Affected Services in the form of a SEC Report for endorsement by the MOD Accountable Person as required by the procedures of the organisation conducting Affected Services.

6.7.13. The SEC must meet the requirements of MOD policy and DSA02-Maritime Regulations, and be endorsed by the MOD Accountable Person. It is to cover the normal activities of the vessel that come under the jurisdiction of the MCA, and include the agreed Affected Services. It must clearly define the roles and responsibilities for provision of any Affected Service, making clear which aspects are under MOD control and which aspects the Master takes responsibility for under the Merchant Shipping Act.

6.7.14. On receipt of an updated vessel's SEC Report (SECR), the MOD Accountable Person will should ensure that they are satisfied with its contents and endorse it. The MOD Accountable Person should confirm in writing to the operator, MCA and DMR, their acceptance of the declared Affected Service. The letter should confirm that Affected Services have been accepted and that the MOD Accountable Person is content that adequate safety controls and management have been implemented by the operator. The Affected Service is not to be undertaken until the letter has been formally issued.

6.7.15. The start and finish of an Affected Service should be formally recorded in the vessel's log book.

6.7.16. Masters (Commanding Officers) of vessels providing Affected Services remain responsible for operating their vessels in accordance with the SEC for those services, but it is recognised they may not have full management control of all activities when some Affected Services are being conducted. The Master remains responsible for ensuring that the services are only provided when conditions on the day are suitable and within the operating envelope defined in the SEC and the vessel's limitations. Services that are not provided in accordance with the SEC for an agreed Affected Service will be deemed not to be Affected Services.

6.7.17. In all cases the vessels which are engaged on an Affected Service should carry written confirmation of the MOD's satisfaction of their SEC, and the MCA retains no regulatory risk associated with these operations.

6.7.18. MOD Accountable Persons should formally notify the MCA of the vessels cleared to undertake Affected Services as listed in Annex D and should update that notification in the event of any modification to either the scope of services or vessels undertaking those services.

## 6.8 Vessels Chartered by the MOD

### General

6.8.1. Vessels chartered by the MOD should follow merchant shipping legislation. The Merchant Shipping (Ministry of Defence Commercially Managed Ships) Order 1992 makes provision for the registration as British ships, for the purposes of the Merchant Shipping Act, of a special class of Government ships, namely those in the service of the Ministry of Defence the commercial management of which the Secretary of State for Defence has entrusted to some other person pursuant to a contract.

6.8.2. Where vessels are contracted by the MOD to undertake activities that are, or could be, outside merchant shipping legislation, the MCA and DMR will decide the regulatory regime under which they will operate. Where appropriate due to the activities being undertaken, these vessels may be permitted to fly the GSBE.

6.8.3. DSCOM is the business unit responsible for the tasking of MOD strategic sealift vessels and acquiring additional sealift vessels from commercial markets as required. It operates a Safety and Environmental Management System, in accordance with DSA02-Maritime Regulations that is designed to balance safety risks in respect of the ship and the cargo it is intended to carry. DSCOM will, on occasions, seek to register foreign vessels under the UK flag and in doing so it should interact directly with the MCA.

6.8.4. Other business units of MOD such as SALMO may also charter vessels, e.g. for ocean towing situations. They will operate an appropriate Safety and Environmental Management System in accordance with DSA02-Maritime Regulations, and will interact directly with the MCA in relation to merchant certification and registration as appropriate.

## 6.9 Accident Reporting and Investigation

6.9.1. There is a separate MOU between MAIB-DSA-RN.<sup>9</sup>

6.9.2. The MAIB will be informed of every accident (within the meaning of the Merchant Shipping (Accident Reporting and Investigation) Regulations) involving a MOD ship, other than a ship of His Majesty's Navy. For MOD vessels subject to merchant shipping legislation this requirement is mandatory.

6.9.3. In the case of an accident involving only MOD vessels or warships in addition to para 6.9.2 and the MOD-MAIB MOU the Accountable Person will commission an appropriate level investigation. The report will be made available to the MAIB edited as appropriate to remove any items of a classified defence nature and subject to any other legislative constraints imposed.

## 6.10 Port Marine Safety Code (PMSC) and Vessel Traffic Services (VTS)

### General

6.10.1. The MOD recognises the UK PMSC as articulation of best practice in the safe management of its ports, harbours and marine facilities worldwide. This adoption is formalised in Defence Maritime Regulations, and MOD ports are subject to independent audit and inspection regimes in accordance with principles laid out in the PMSC Guide to Good Practice.

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<sup>9</sup> MOU between MAIB-DSA-RN dated 19 August 2021

6.10.2. MOD and MCA representatives may witness PMSC or VTS audit and inspection activity within each other's areas of responsibility, as observers, if mutually decided and beneficial to each participant.

6.10.3. The PMSC and VTS Working Group is the forum through which issues related to PMSC and VTS are escalated for resolution.

## **MOD**

6.10.4. The DMR Principal Inspector Ports & Boats will work, in tandem with the DMR Duly Authorised Organisation (DAO) Port Operations (Compliance & Assurance) in maintaining a close working relationship under this MOU with the MCA Ports Lead.

## **6.11 Maritime Autonomy**

6.11.1. This MOU captures the interactions between the MOD and the MCA in the field of maritime autonomy across Defence and Industry including:

- a) Supporting the development of appropriate international and national regulations;
- b) Discussing strategic issues arising and relevant new policy developments that will impact upon this MOU;
- c) Improving the understanding of Maritime Autonomous Systems (MAS)<sup>10</sup>; and
- d) Developing a consistent, coherent and coordinated approach to the management of Safety and Environmental protection of MAS across the domain;
- e) Proposing arrangements that provide outcomes that are, so far as reasonably practicable, at least as those provided by UK legislation, where legislation cannot be met due to military requirements or operation;
- f) Determining whether the current and proposed arrangements for assurance satisfies legislation and the the DSA02-Maritime Regulations and Naval Ship and Naval Submarine Codes;
- g) Identifying future trends and reviewing developments and best practice;
- h) Understanding civil and MOD practice for regulating, assessing compliance and managing non-compliances of MAS;
- i) Identifying and sharing learning from experience to MOD ships, submarines and other domains.

6.11.2. There are new and novel aspects to MAS, which mean that there is a risk that work, being conducted for first time under a number of concurrent projects, may be done in isolation. Lessons/solutions need to be consistent between the MOD and the MCA.

6.11.3. The MAS Working Group is the forum through which issues related to MAS are escalated for resolution.

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<sup>10</sup> MCA use Maritime Autonomous Surface Ships (MASS) here but for the MOU use Maritime Autonomous System so not to exclude subsurface platforms.

# 7 Effective date and duration of the MOU

## 7.1 Effective Date

7.1.1. This MOU will be effective from the date appended by the signatories hereto, it supersedes all previous versions immediately that it becomes effective. Withdrawal by any participant will be subject to written notice of withdrawal and signifies an immediate cancellation of the understanding. The DMR-MCA Working Group will review the ongoing effectiveness and function of the MOU.

## 7.2 Amendment

7.2.1. This MOU may be amended at any time in writing by the agreement of all participants and will be signified by an up-issue from, for example version 1.0 to version 2.0. Normally this will take place at the time of the review as indicated in para 7.3. Interim updates may be made by arrangement of the staff offices of the signatories, without the need for a formal reissue of the MOU. After deciding at the annual MOU Management Committee the secretariat will incorporate these changes and update the amendment number for example, from version 2.0 to version 2.1, unless it is decided that a major up-issue is required.

## 7.3 Review

7.3.1. This understanding will be reviewed within five years from the date of signature.

## 7.4 Signatures

7.4.1. This MOU is signed by:

[Redacted]

Head Defence Maritime Regulator  
Defence Safety Authority  
Ministry of Defence

Dated: 19 November 2024

Mr Fraser Heasley

Director UK Technical Maritime Services  
Maritime & Coastguard Agency

Dated: 19 November 2024

[Redacted]



## Annex A - A description of the participants involved in the MOU and their regulatory relationship

### A1. Maritime and Coastguard Agency

The MCA was established on 1 April 1998 and is an Executive Agency of the Department for Transport, its main functions are to develop, promote and enforce high standards of marine safety, to minimise loss of life amongst seafarers and coastal users, and to minimise pollution from vessels of the sea and coastline. The MCA's powers and duties stem primarily from the functions of the Secretary of State under the Merchant Shipping Act 1995 and a wide range of secondary legislation, much of which implements international maritime conventions. This includes:

- Merchant Shipping (Registration of Ships) Regulations 1993
- Merchant Shipping (Health and Safety at Work) Regulations 1997
- Merchant Shipping (Accident Reporting and Investigations) Regulations 1999
- Merchant Shipping (Port State Control) Regulations 2011
- Merchant Shipping (International safety management (ISM) Code) Regulations 2014
- Merchant Shipping (Survey and Certification) Regulations 2015
- Merchant Shipping (Safety of Navigation) Regulations 2020
- Merchant Shipping (Standards of Training, Certification and Watchkeeping) Regulations 2022

The more important international conventions include the:

- International Convention for the Safety of Life at Sea (SOLAS), 1974;
- Convention on the International Regulations for Preventing Collisions at Sea (COLREGs), 1972;
- International Convention on Standards of Training, Certification and Watch-keeping for Seafarers (STCW), 1978;
- International Convention on Maritime Search and Rescue (SAR), 1979;
- International Convention for the Prevention of Pollution from Ships (MARPOL), 1973;
- International Convention on Load Lines, 1966;
- Maritime Labour Convention (MLC), 2006.

The MCA's statutory duties and functions include:

- Operating the United Kingdom ship registry
- Survey and certification of ships
- Carrying out Port State Control inspections of foreign-flagged vessels
- Enforcement of standards relating to health and safety at sea
- Regulation and assessment of seafarer training
- Prevention of maritime pollution
- Provision of a national 24-hour maritime search and rescue (SAR) and emergency response service that can operate through the UK, at sea and internationally.

A1.1. Under the Merchant Shipping Act 1995 MCA surveyors have the power to survey UK merchant vessels and inspect UK merchant vessels anywhere in the world and non-UK merchant vessels in UK ports. They may take a range of enforcement actions including prosecution, detention and issue of improvement and prohibition notices.

A1.2. The MCA is responsible for enforcing all merchant shipping and associated regulations in respect of occupational health and safety, the safety of vessels, safe navigation and operation (including manning levels and crew competency). Merchant shipping and associated health and safety regulations extend to all those working on the ship and all shipboard activities carried out by the crew under the control of the ship's master. In general the Health and Safety Executive is responsible for enforcing the Health and Safety at Work Act in respect of land based and offshore work activities, including loading and unloading a ship, and for all work activities carried out in a dry dock.

## **A2. The Ministry of Defence**

A2.1. A number of business units within the MOD are responsible for the operation of MOD vessels. Top Level Budget holders, or agency Chief Executives, are designated as Senior Accountable Persons in respect of these vessels. The responsibility for the safe and environmentally sound management of MOD vessels at the operational level is vested in the Accountable Person. The safe and environmentally sound operation and conduct of defined onboard activities is delegated to the Commanding Officer/Master. Management of engineering support, design and construction and equipment safety is vested in the Platform Authority. This is detailed in the DSA02-Maritime Regulations.

A2.2. The Secretary of State for Defence has published a policy statement on health, safety and the environment in Defence. Under this policy the default position is that within the United Kingdom (UK) Defence complies with all applicable health, safety and environmental legislation. In circumstances where the nature of Defence and Security activities inevitably conflict with safety requirements and thus Defence has Derogations, Exemptions, or Dis-applications from health, safety and environmental legislation, or where other circumstances indicate the need for Defence regulation of activities, Defence maintains Departmental arrangements that produce outcomes that are, so far as is reasonably practicable, at least as good as those required by UK legislation.

A2.3. Independently of the business units, the Defence Safety Authority (DSA) regulates safety and environmental protection for MOD activities and assures compliance with the Secretary of State's Policy Statement. For MOD shipping it does this through the Defence Maritime Regulator who sponsors DSA02-Maritime Regulations.

A2.4. Except where there is a pressing operational need in the context of the operational imperative, the Secretary of State for Defence requires MOD to demonstrate equivalence with relevant provisions of the Merchant Shipping Act 1995.

A2.5. On 25 July 1997 the UK acceded to the UN Convention of the Law of the Sea 1982. Under its provisions it should be noted that Royal Fleet Auxiliaries (RFA) are unambiguously non-commercial vessels whose activities are solely in support of the armed forces. They therefore have sovereign immunity from coastal jurisdiction.

A2.6. Given the dangers that may be present for crews from activities not consistent with normal merchant shipping operation, MOD will undertake to ensure that there are suitably qualified and experienced crew levels for the tasks to be performed.

## **A3. The Regulatory Relationships**

A3.1. The MOD is responsible for complying with the health and safety at work legislation except where specifically exempted. Enforcement is the responsibility of the MCA and/or the Health and Safety Executive (HSE).

A3.2. HSE has, for example, power of entry to all work places, including docks and offshore installations, to inspect health and safety conditions and also to investigate accidents to dock workers etc. working in a port or while (onboard) loading or unloading a ship. It can investigate accidents occurring to a ship's crew where they arise from dock operations. HSE inspectors derive their powers principally from Sections 20 - 23 of the Health and Safety at Work etc. Act 1974 and associated legislation. They may issue improvement or prohibition notices or can prosecute those responsible for offences under the Health and Safety at Work Act and the relevant statutory provisions. With regard to vessels belonging to the Crown, both RN and other Government vessels, alternative procedures exist for enforcement by HSE. These include Crown censures and Crown improvement and prohibition notices. These procedures are set out in Cabinet Office Personnel Information Note 45.

A3.3. Under Section 308 of the Merchant Shipping Act 1995 vessels on non-commercial service belonging to His Majesty are not subject to Merchant Shipping legislation except where the Secretary of State for Defence provides for such application by Order. The main Order is The Merchant Shipping (Ministry of Defence Ships) Order 1989 (Statutory Instrument 1989 Number 1991) whose schedule prescribes those sections of the Merchant Shipping Acts that should be applied. An exception to this general principle is Merchant Shipping health and safety legislation, made under the powers of the Merchant Shipping Act 1995 and the European Union (Withdrawal) Act 2018, which does apply directly to Government vessels.

A3.4. The Merchant Shipping Act 1995 consolidated and re-enacted provisions of the Merchant Shipping Acts of 1894 and 1970, covering almost all aspects of Merchant Shipping. Although the 1989 Order predates the Merchant Shipping Act 1995, it has effect as if it were made under section 308.<sup>11</sup> Therefore, the relevant sections specified in the Schedule of the 1989 Order should be derived from the 1995 Act, or other subsequent legislation.

A3.5. The lines of responsibility between the MCA, the MAIB and the HSE including a definition of their powers and the legislation under which they operate can be found in the MOU between the MCA, the MAIB and the HSE regarding health and safety enforcement activities at the water front and offshore.<sup>12</sup> Arrangements regarding the method by which the HSE will address legislative issues within the MOD are defined in the MOD-HSE MOU.<sup>13</sup>

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<sup>11</sup> Interpretation Act 1978 section 17(2)(b).

<sup>12</sup>

[https://assets.publishing.service.gov.uk/media/614b19728fa8f561101f38bd/HSE\\_MAIB\\_MCA\\_OW\\_A\\_2021\\_FINAL\\_MAY\\_.pdf](https://assets.publishing.service.gov.uk/media/614b19728fa8f561101f38bd/HSE_MAIB_MCA_OW_A_2021_FINAL_MAY_.pdf)

<sup>13</sup> <https://www.hse.gov.uk/agency-agreements-memoranda-of-understanding-concordats/assets/docs/mod-mou-redacted.pdf>

## **Annex B - Sections of the Merchant Shipping Act 1995 made applicable to government vessels on non-commercial service by The Merchant Shipping (Ministry of Defence Ships) Order 1989**

### **Merchant Shipping Act 1995 1995 Chapter 21**

#### Section

10. Registration regulations.
25. Crew agreements.
26. Regulations relating to crew agreements.
27. Discharge of seamen.
28. Seamen left behind abroad otherwise than on discharge.
29. Discharge of seamen when ship ceases to be registered in UK.
30. Payment of seamen's wages.
31. Account of seaman's wages.
32. Regulations relating to wages and accounts.
33. Power of superintendent or proper officer to decide disputes about wages.
34. Restriction on assignment of and charge upon wages.
35. Power of court to award interest on wages due otherwise than under crew agreement.
36. Allotment notes.
37. Right of person named in allotment to sue in own name.
38. Right, or loss of right, to wages in certain circumstances.
39. Protection of certain rights and remedies.
40. Claims against seaman's wages for maintenance, etc. of dependants.
41. Remedies of master for remuneration, disbursements and liabilities.
47. Manning.
48. Power to exempt from manning requirements.
50. Production of certificates and other documents of qualification.
51. Crew's knowledge of English.
52. Unqualified persons going to sea as qualified officers or seamen.
55. Young persons.
57. Uniform.
58. Conduct endangering ships, structures or individuals.
59. Concerted disobedience and neglect of duty.
61. Inquiry into fitness or conduct of officer.
62. Disqualification of holder of certificate other than Officers.
63. Inquiry into fitness or conduct of seaman other than officer.
64. Re-hearing of and appeal from inquiries.
65. Rules as to inquiries and appeals.
66. Failure to deliver cancelled or suspended certificate.
67. Power to restore certificate.
68. Power to summon witness to inquiry into fitness or conduct of officer or other seaman.
69. Procedure where inquiry into fitness or conduct of officer or other seaman is held by sheriff.
70. Civil liability for absence without leave.
71. Civil liability for smuggling.
72. Civil liability for fines imposed under immigration laws.
73. Relief and return of seamen etc. left behind and shipwrecked.
74. Limit of employer's liability under section 73.
75. Recovery of expenses incurred for relief and return, etc.
77. Official log books.
78. Lists of crew.

- 79. British seamen's cards.
- 80. Discharge books.
- 84. Interpretation.
- 103. Stowaways.
- 104. Unauthorised presence on board ship.
- 105. Master's power of arrest.
- 106. Unauthorised persons: offences relating to safety.
- 108. Returns of births and deaths in ships, etc.
- 117. Drunkenness on duty.
- 185. Limitation of liability for maritime claims.
- 186. Exclusion of liability.
- 259. Powers of inspectors in relation to premises and ships.
- 260. Provisions supplementary to section 259.
- 267. Investigation of marine accidents.
- 268. Formal investigation into marine accidents.
- 269. Re-hearing of and appeal from investigations.
- 270. Rules as to investigations and appeals.
- 271. Inquiries into deaths of crew members and others.
- 287. Admissibility in evidence and inspection of certain documents.

## Annex C - Committees and Working Groups – Terms of Reference.

### C1. MOD-MCA MOU Management Committee

#### C1.1. Purpose

- a) The MOU Management Committee will oversee the MOD-MCA relationship.
- b) The Committee will meet once a year as a minimum, alternating between the DMR and the MCA Southampton locations, with an online attendance option available.
- c) The Committee will be jointly chaired by the senior MOD and MCA representatives who will be appropriately empowered to conduct business on behalf of their organisations.

#### C1.2. Tasks

##### C1.2.1. The Committee must consider:

- a) The ongoing interaction between the MOD and the Maritime and Coastguard Agency and where appropriate:
  - i. re-affirm the extent of application of Health and Safety Executive and Merchant Shipping legislation to MOD Shipping;
  - ii. identify regulatory gaps;
  - iii. consider whether the status quo should be maintained; or
  - iv. if not, what alternative arrangements would be appropriate;
- b) The provisions and implications of the MOD-HSE MOU<sup>14</sup> where appropriate and the need for any issue to be escalated within the MOD as required; and
- c) The provisions and implications of the HSE-MCA-MAIB Operational Working Agreement<sup>15</sup> and the need for any change in the current system as appropriate.

C1.2.2. The Committee will ensure the resolution of disagreements and address problems that may arise from the implementation of the MOU and the arrangements made or developed under it.

C1.2.3. The Committee is to recommend how any changes decided in the work above could best be implemented and to direct the following Working Groups:

- a) DMR-MCA;
- b) Acquisition;
- c) Ship Registration;
- d) Royal Fleet Auxiliaries;
- e) Affected Services;
- f) Port Marine Safety Code & Vessel Traffic Services;
- g) Maritime Autonomous Systems.

#### C1.3. Membership

C1.3.1. The Committee will consist of the following primary representatives (other participants may

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<sup>14</sup> <https://www.hse.gov.uk/agency-agreements-memoranda-of-understanding-concordats/assets/docs/mod-mou-redacted.pdf>

<sup>15</sup> Operational Working Agreement Between the Health and Safety Executive, the Maritime and Coastguard Agency and the Marine Accident Investigation Branch, May 2021

be invited to attend depending on need):

#### MOD

- Defence Maritime Regulator Head
- DMR Registrar Defence Shipping & Shipping Section Head
- DMR R&C Section Head
- DMR Deputy Registrar Defence Shipping
- DMR Legislation Lead
- Naval Authority and Technology Group Head
- Standing members will include MOD representatives from each Working Group

#### MCA

- MCA Director UK Technical Maritime Services
- MCA Deputy Director Regulations & Standards
- MCA Deputy Director Technical Operations
- MCA Assistant Director Technical Services Operations
- MCA Head of International Survey Operations
- Standing members will include MCA representatives from each Working Group

## **C2. DMR-MCA Working Group**

### C2.1. Purpose

- a) The DMR-MCA Working Group will oversee the MOD-MCA relationship in line with this MOU.
- b) The Working Group will meet monthly or as required.
- c) The Working Group will be chaired by the MOD. Representatives will be appropriately empowered to conduct business on behalf of their organisations.

### C2.2. Tasks

#### C2.2.1. The Working Group will consider:

- a) Ongoing issues as escalated from the Working Groups for awareness and/or comment
- b) Upcoming changes to legislation

#### C2.2.2. The Working Group will provide clarification:

- a) On the application of DMR/MCA requirements to new projects as they arise
- b) To all Working Groups regarding any aspect of the MOU, including survey and certification.

#### C2.2.3. The Working Group will:

- a) provide the secretariat function to the MOD-MCA Management Committee
- b) Report to the MOD-MCA MOU Management Committee, highlighting any unresolved issues.

C2.2.4. As directed by the MOD-MCA Management Committee the Working Group will create and oversee sub-groups as required for the review and update of this MOU, and any other document relating to formulation and implementation of policy regarding regulation, certification and survey.

### C2.3. Membership

C2.3.1. The Committee will consist of the following primary representatives (other participants may be invited to attend depending on need):

#### MOD

- Defence Maritime Regulator Head
- DMR R&C Section Head
- DMR Registrar Defence Shipping & Shipping Section Head
- DMR Deputy Registrar Defence Shipping
- DMR Legislation Lead

#### MCA

- MCA Head of International Survey Operations

### C3. Acquisition Working Group

#### C3.1. Purpose

- a) The Acquisition Working Group will oversee the MOD-MCA relationship with respect to providing early engagement between MOD acquisition teams and DMR/MCA with regards to regulatory and registration requirements.
- b) The meeting will oversee the joint working processes on joint assurance, approaches to certification and non-compliance against UK statutory requirements identified during acquisition and build programmes. The outline process is in Annex E.
- c) The Working Group will meet as required.
- d) The Working Group will be jointly chaired by the senior MOD and MCA representatives who will be appropriately empowered to conduct business on behalf of their organisations.

#### C3.2. Tasks

C3.2.1. To develop and review procedures and guidance related to acquisition the Working Group must consider:

- a) The working relationship and processes between the MCA and MOD on acquisition projects.
- b) The approach to assurance and certification of acquisition projects which require input from the MCA and DMR.
- c) MOD Certification Strategies where UK Statutory requirements underpin safety arguments.
- d) The management processes, and performance of these processes, regarding non-compliances against UK Statutory requirements.

C3.2.2. The Working Group to provide a forum where MOD projects can raise feedback and issues regarding the assurance of acquisition projects, and where resolutions or improvements can be made.

C3.2.3. The Working Group to raise concerns as necessary to the DMR-MCA Working Group and;

C3.2.4. The Working Group to report to the MOD-MCA MOU Management Committee, highlighting any unresolved issues.

### C3.3. Membership

C3.3.1. The Committee will consist of the following primary representatives (other participants may be invited to attend depending on need):

#### MOD

- DMR Registrar Defence Shipping & Shipping Section Head
- DMR R&C Section Head
- DMR Deputy Registrar Defence Shipping
- NATG Certification Manager

#### MCA

- MCA Head of International Survey Operations

## C4. Registration Working Group

### C4.1. Purpose

- a) The Registration Working Group will oversee the MOD-MCA relationship with respect to the shipping registration arrangement between the MOD and the MCA. It is responsible for ensuring consistency between the Defence Shipping Register (DSR) and UK Merchant Shipping Register (UKSR), and that any procedures and guidance produced is consistent between both organisations.
- b) The Registration Working Group will meet as required.
- c) The Working Group will be jointly chaired by the senior MOD and MCA representatives who will be appropriately empowered to conduct business on behalf of their organisations.

### C4.2. Tasks

The Registration Working Group will:

- a) Coordinate the consistent registration of vessels across the DSR and UKSR
- b) Liaise between MOD and MCA to ensure consistency across registration procedures and guidance as applicable
- c) Consider and resolve the day-to-day registration questions and issues between MOD and MCA
- d) Raising concerns as necessary to the DMR-MCA Working Group and;
- e) Reporting to the MOD-MCA MOU Management Committee, highlighting any unresolved issues.

### C4.3. Membership

C4.3.1. The Working Group will consist of the following primary representatives (other participants may be invited to attend depending on need):

#### MOD

- DMR Registrar Defence Shipping & Shipping Section Head
- DMR Deputy Registrar Defence Shipping

- NATG Deputy Head Ships
- NATG Deputy Head Submarines
- NATG Deputy Head Platform Systems

#### MCA

- MCA Assistant Director Technical Services Operations
- MCA Head of International Survey Operations
- Assistant Director, Customer Operations, UK Maritime Services
- Commercial Director, UK Shipping Register

### **C5. Royal Fleet Auxiliaries (RFA) Working Group**

#### C5.1. Purpose

C5.1.1. The RFA Working Group will oversee the MOD-MCA relationship with respect to the arrangements between the MCA and the RFA which principally relate to the safety and seaworthiness of RFA vessels, safety of seafarers and protection of the maritime environment, discuss strategic issues arising and relevant new policy developments which will impact upon these arrangements.

C5.1.2. The RFA Working Group will meet a minimum of once per year.

C5.1.3. The Working Group will be jointly chaired by the senior MOD and MCA representatives who will be appropriately empowered to conduct business on behalf of their organisations.

#### C5.2. Tasks

C5.2.1. Within the constraints of the general policy outlined above in section 6, the Working Group will:

- ensure vessels will be certified in accordance with MCA procedures for issue of Government Ship certificates;
- ensure exemptions, alternative arrangements or equivalences are formally reviewed and accepted;
- monitor the non-compliances identified by the MCA and ensure the processes in section 6.3 are adhered to;
- Raising concerns as necessary to the DMR-MCA Working Group and;
- Reporting to the MOD-MCA MOU Management Committee, highlighting any unresolved issues.

#### C5.3. Membership

C5.3.1. The Working Group will consist of the following primary representatives (other participants may be invited to attend depending on need):

#### MOD

- NAVY AFSUP QSM SO1 (as RFA DPA)
- NAVY FGEN-Dep Dir AFSUP (Commodore RFA)
- DES Ships NSS-RFA-TL
- NAVY AFSUP-CSOE DACOS
- DMR Registrar Defence Shipping & Shipping Section Head
- DMR Senior Inspector Ships
- DES Ships NSS-RFA-CTS
- NAVY PEOPLE-RFA OPS Hd
- DES SHIPS NSS-RFA-HP-CNA Chief Naval Architect RFA
- Representative from NATG

#### MCA

- MCA Customer Service / Account Manager
- MCA Deputy Customer Service Manager

### **C6. Affected Services Working Group**

#### C6.1. Purpose

C6.1.1. The Working Group will oversee the MOD-MCA relationship with respect to MOD Affected Services and their compliance with international and national legislation as are appropriate, discuss strategic issues arising and relevant new policy developments which will impact upon these arrangements.

C6.1.2. The Working Group will meet as required.

C6.1.3. The Working Group will be chaired by Defence Marine Services (DMS).

C6.1.4. All members will be appropriately empowered to conduct business on behalf of their organisations.

#### C6.2. Tasks

C6.2.1. Within the constraints of the general policy outlined above in Section 6, the Working Group will ensure that:

- a) vessels are managed in accordance with this MOU
- b) Affected Services arrangements set in place are working effectively.
- c) concerns are raised as necessary to the DMR-MCA Working Group and;
- d) they report to the MOD-MCA MOU Management Committee, highlighting any unresolved issues.

MOD-MCA-AS WG Agenda below:

Agenda Items:

1. Introduction
2. Previous Minutes and Actions
3. Review of MOU Annex D Affected Services – Vessels providing services in support of Defence
4. Formal Recognition for Affected Services Management (AtAMS DoC)
5. Defence Maritime Regulator Brief
6. Merchant Industry Regulatory Brief
7. Assurance Activities, Incident and Accident Management
8. Updates to Affected Services Certificates of Compliance
9. Emergent Affected Services Tasks / trials
10. GSBE Authorisation
11. Items for Escalation to DMR-MCA Working Group
12. Any Other Business
13. Confirmation of Actions and Date of Next Meeting

### C6.3. Membership

The Working Group will consist of the following primary representatives (other participants may be invited to attend depending on need):

#### MOD

- NAVY FGEN-DMS Delivery Section Leader
- DMR Principal Inspector Ports and Boats
- DMS Marine Services Officer 1 HSEQ Manager
- DMS Marine Services Officer 2 HSEQ Officer
- Representative from DSCOM
- Representative from SALMO

#### MCA

- MCA Head of International Survey Operations
- MCA Customer Service / Account Manager

## **C7. Port Marine Safety Code (PMSC) and Vessel Traffic Services (VTS) Working Group**

### C7.1. Purpose

- a) The Working Group will oversee the MOD-MCA relationship with respect to the safe management of MOD ports, harbours and marine facilities using the PMSC as articulation of best practice together with the use of VTS.
- b) This is an ad hoc Working Group and will meet as required.
- c) The Working Group will be jointly chaired by the senior MOD and MCA representatives who will be appropriately empowered to conduct business on behalf of their organisations.

### C7.2. Tasks

C7.2.1. The Working Group will consider effective workings of:

- a) safety management arrangements in place, following the principles of the PMSC;

- b) VTS arrangements;
- c) the reporting of dangerous goods.

C7.2.2. The Working Group will ensure that:

- a) the day-to-day PMSC and VTS questions and issues between MOD and MCA are considered and resolved;
- b) concerns are raised as necessary to the DMR-MCA Working Group and;
- c) they report to the MOD-MCA MOU Management Committee, highlighting any unresolved issues.

C7.3. Membership

C7.3.1. The Committee will consist of the following primary representatives (other participants may be invited to attend depending on need):

MOD

- DMR Maritime Assurance Section Head
- DMR Principal Inspector Ports and Boats
- Captain(X) RFA Port Operations

MCA

- Head of Navigation
- Ports Lead

## **C8. Maritime Autonomous Systems Working Group**

C8.1. Purpose

C8.1.1. The Working Group will oversee the MOD-MCA relationship with respect to the field of maritime autonomy across defence and statutory regulators. The Working Group will:

- a) Determine a UK approach to relevant international and national regulations as appropriate;
- b) Discuss strategic issues arising and relevant new policy developments that will impact upon these arrangements;
- c) Improve the understanding of MAS;
- d) Develop a consistent, coherent and coordinated approach to the management of Safety and Environmental protection of MAS across the domain.

C8.1.2. The Working Group will meet as required.

C8.1.3. The Working Group will be chaired by MOD.

C8.1.4. Members will be appropriately empowered to conduct business on behalf of their organisations.

C8.2. Tasks

C8.2.1. Within the constraints of the general policy outlined above in section 6, the Working Group will:

- a) Provide DMR/NATG/MCA update on MAS activities;
- b) Prepare for and feed into the UK MOD MAS WG;
- c) Review and, where appropriate, develop MAS guidance documents and Defence regulations;
- d) Discuss updates to legislation, rules, codes, and standards; and
- e) Develop collaborative research opportunities supporting maritime autonomy;
- f) Ensure concerns are raised as necessary to the DMR-MCA Working Group and;
- g) Report to the MOD-MCA MOU Management Committee, highlighting any unresolved issues.

### C8.3. Membership

C8.3.1. The Working Group will consist of the following primary representatives (other participants may be invited to attend depending on need):

#### MOD

- DMR Maritime Assurance Section Head
- DMR Principal Inspector Futures and Risk
- NATG Propulsion and Manoeuvring Systems Section Head
- DMR Senior Inspector Autonomy
- NATG Navigation Lead

#### MCA

- Survey Operations Specialist (Autonomy)
- Maritime Autonomy Policy Lead
- Ship Standards Maritime Autonomy Policy Advisor

## Annex D - Affected Services – Vessels Providing Services In Support Of Defence

### D1. Services Agreed to be Affected Services

D1.1. The following services have been identified and agreed as Affected Services between MCA and MOD:

D1.1.1. Delivery, collection, transportation and provision of a secure afloat storage for military explosive stores within the confines of the Dockyard Ports of Portsmouth and Plymouth, in accordance with MOD regulations.

D1.1.2. An afloat service to conduct the lifting of military explosive in accordance with MOD JSP 975, or commercial equivalent, in support of the delivery, collection and transportation service described at D1.1.1.

D1.1.3. Passenger transfers of MOD sponsored personnel to/from warships, submarines and Royal Fleet Auxiliary vessels which take place whilst underway and making way, when considered, for any reason, to entail greater risk than conventional commercial pilot and personnel transfer activities.

D1.1.4. Support to military training exercises and operations, carriage of excess MOD sponsored personnel above a vessel's passenger carrying certificated capacity but within lifesaving appliance capability of vessel.

D1.1.5. Support to military training exercises and operations:

- a) Carriage, stowage and safe issue of military explosives in support of worldwide military training exercises and operations in accordance with MOD policy and regulations,
- b) At sea military personnel boarding exercises,
- c) At sea military personnel fast roping from aircraft,
- d) Marine target towing in support of sea to sea and/or air to sea military weapon and firing training, or
- e) Small/fast craft swarm attack simulation including the deviation from Collision Regulations.

D1.1.6. Provision and support of Maritime Interdiction Operations (MIO) / Maritime Interdiction Scenarios (MIS).

D1.1.7. Launch, recovery and storage of trial variant torpedoes where the TVT has a harmful propellant or can pose risks to crew.

D1.1.8. Provision of a dedicated surface target vessel during tests involving trial variant torpedoes within designated UK sea range areas.

D1.1.9. Military specific sea survival techniques and drills for military service aircrew.

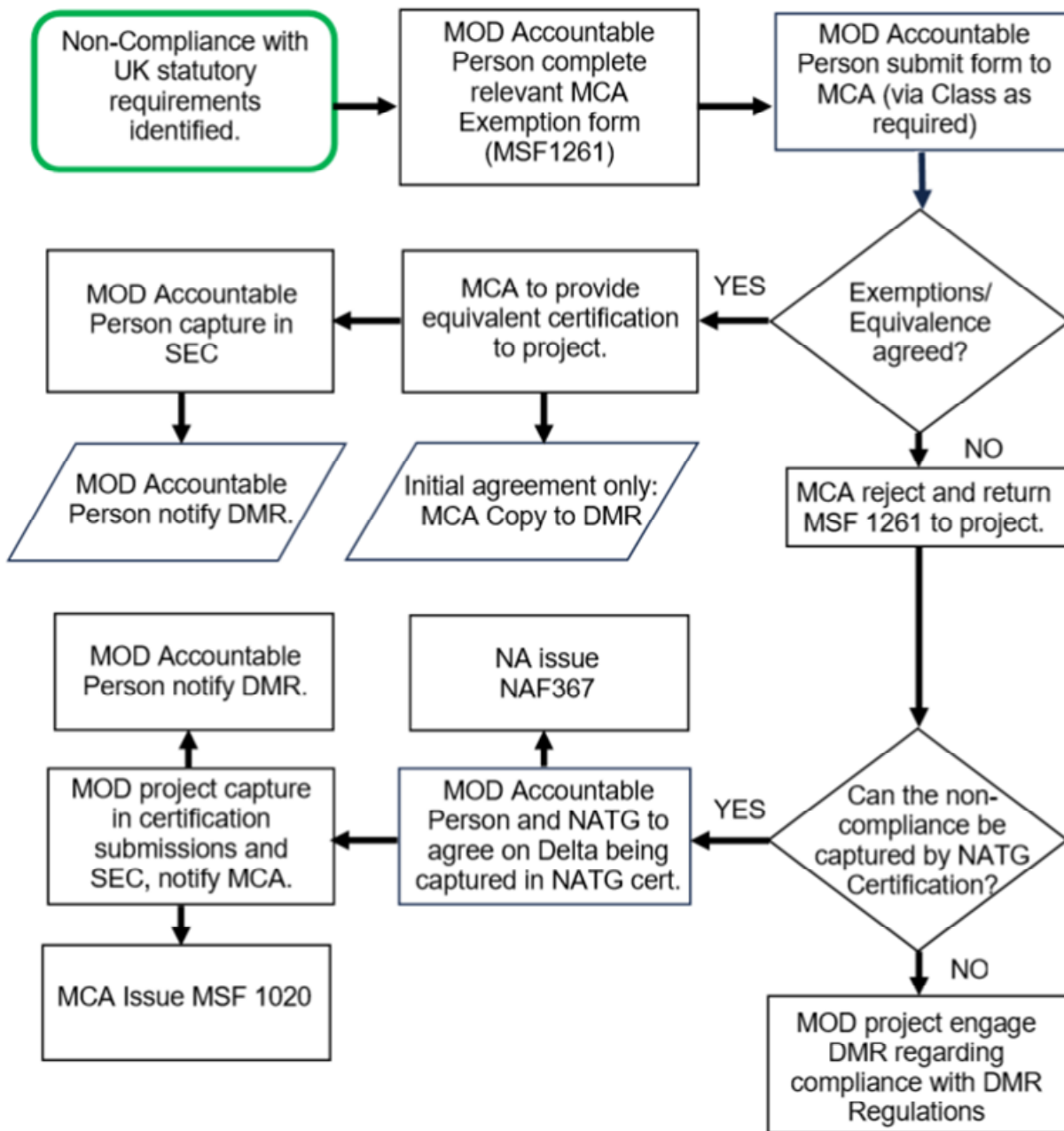
D1.1.10. Sub-surface, surface and above surface operations on non-commercial service with Maritime Autonomous Systems (MAS).

D1.1.11. Sub-contracted / supplier vessel (temporary addition) undertaking MOD Affected Service activities in support of military training, operations or trials as authorised.

## Annex E - Process for managing non-compliances and equivalences

### E1. Introduction

E1.1. The purpose of this Annex is to demonstrate the process arrangement between the MOD and MCA on the agreement of non-compliances with the MCA's standards and regulatory regime. As referenced earlier in this MOU, there are elements of the MCA's regime which the MOD may enter into voluntarily to gather assurance that the arrangements, design of vessels and safety mitigations deliver in accordance with the SofS Policy Statement on HS&E. The outline process is captured in this annex, however variations made be required on a case by case basis.



## Annex F - Definitions

### Accountable Person

The individual held accountable by a Statutory or Defence Regulator for reducing risk of harm. The person who is in a position of authority, responsibility and competence to conduct activity and carry out improvement within an organisation.

[DMR]

### Affected Service

Affected Services are activities that meet all the following: –

- a) activities that are not covered by statutory legislation;
- b) the MOD require their civilian contractors to perform or support the activity;
- c) are essential military training, trials or operations that carry more inherent risk than would be normally accepted for merchant vessels; and
- d) are decided by MOD and the MCA to be affected services.

[DMR]

### British Ship

A ship is a British ship if—

- (a) the ship is registered in the UK under Part II [of the MSA]; or
- (b) the ship is, as a Government ship, registered in the UK in pursuance of an Order in Council under section 308 [of the MSA]; or
- (c) the ship is registered under the law of a relevant British possession; or
- (d) the ship is a small ship other than a fishing vessel and—
  - (i) is not registered under Part II, but
  - (ii) is wholly owned by qualified owners, and
  - (iii) is not registered under the law of a country outside the UK.

[MSA]

### Commercial

“mercantile: having profit as the main aim”

[Chambers]

### Government Vessel

Vessels not forming part of His Majesty's Navy which belong to His Majesty or are held by any person on behalf of or for the benefit of the Crown (and for that reason cannot be registered under Part II [of the MSA]).

[amendment from the MSA]

### Maritime Autonomous Systems

A ship, including subsurface platforms, that is capable of being operated without a human onboard in charge of that ship and for which the level of control may encompass any of the levels of autonomy. Used to encompass a vessel and all associated onboard, offboard and Remote Command & Control (RCC) systems.

[DMR]

### Merchant Vessel

A vessel, other than a warship, an auxiliary vessel, or a State vessel such as a customs or police vessel, that is engaged in commercial or private service.

[San Remo]

### Ministry Of Defence Commercially Managed Ship

A Government ship in the service of the Ministry of Defence, the management of which is entrusted by the Secretary of State to some other person pursuant to a contract.

[SI1992/1293]

### Ministry Of Defence (MOD) Vessel/Ship

A Government vessel in the service of the Ministry of Defence.

[amendment from SI1989/1991]

**Platform Authority**

The person charged with development and maintenance of the management regime, on behalf of the Accountable Person, so a platform is safe to operate.

[DMR]

**Royal Fleet Auxiliary Vessel**

A fleet auxiliary vessel manned by a mercantile crew, owned (or operated on long-term charter) and managed by the Ministry of Defence (Navy) for the purposes of the naval service.

[QRRN]

**Senior Accountable Person**

The person with overall responsibility for safety and environmental protection management of MOD Shipping on behalf of the Secretary of State.

[DMR]

**Ship**

Every description of vessel used in navigation.

[MSA]

**Vessel**

Every description of watercraft, non-displacement craft, submersibles, personal watercraft, sailboard, and craft of every kind however navigated, propelled or moved.

[amended from Plymouth Order]

**Warship**

A ship belonging to the armed forces of a State bearing the external marks distinguishing such ships of its nationality, under the command of an officer duly commissioned by the government of the State and whose name appears in the appropriate service list or its equivalent and manned by a crew which is under regular armed forces discipline.

[UNCLOS]

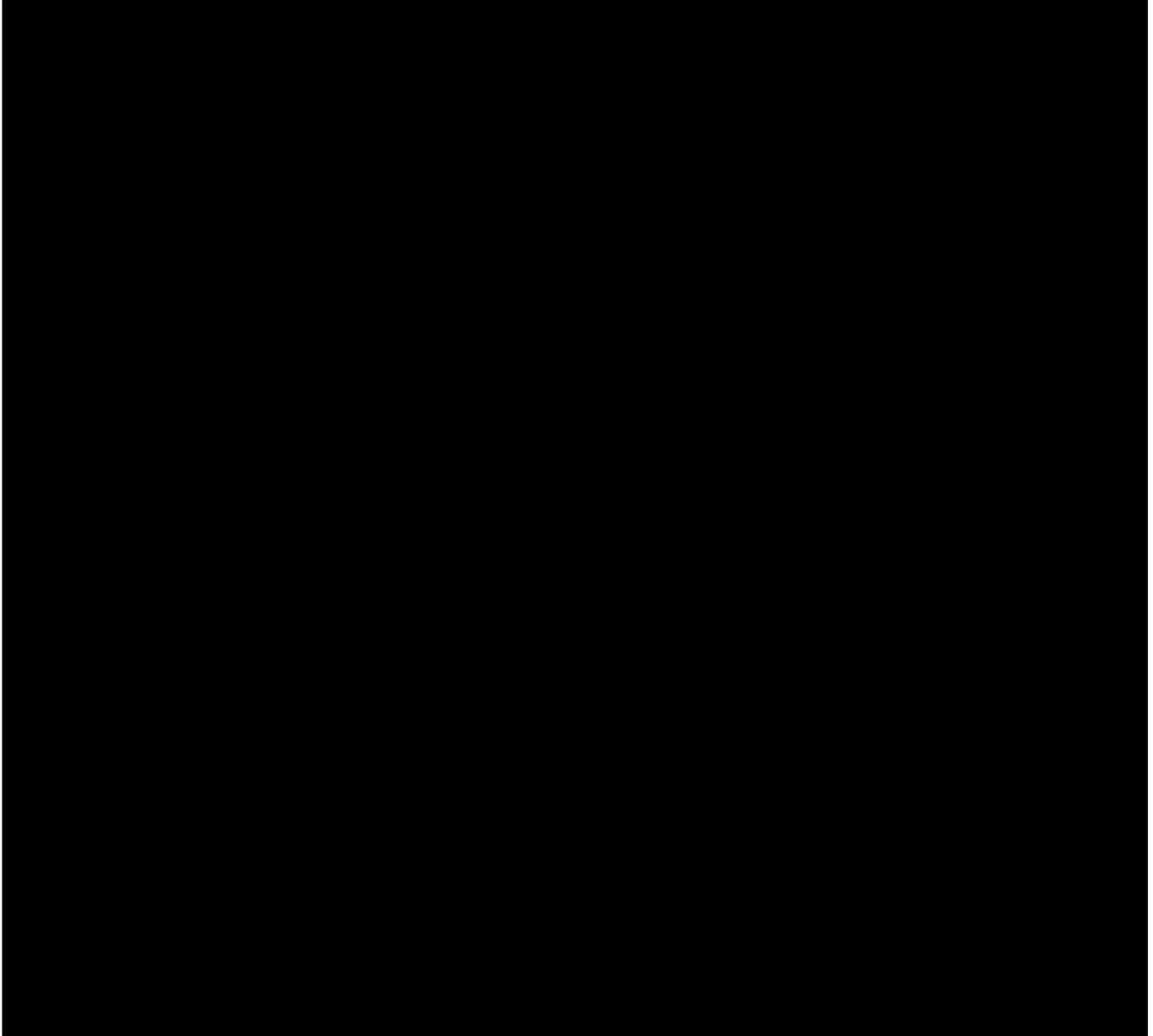
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- [Chambers] Chambers English Dictionary
- [MSA] Merchant Shipping Act 1995.
- [Plymouth Order] The Dockyard Port of Plymouth Order 2020
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- [SI1989/1991] Merchant Shipping (Ministry of Defence Ships) Order 1989
- [SI1992/1293] Merchant Shipping (Ministry of Defence Commercially Managed Ships) Order 1992
- [UNCLOS] Article 29 of the United Nations Convention on the Law of the Sea (UNCLOS) – Part II
- [DMR] MOD Defence Maritime Regulator

## Annex G - Points of Contact

Date: 19 November 2024

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