



Department
for Transport

Consultation on implementation of Directive 2014/90/EU and equipment standards for domestic ships and vessels.

May 2016

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Foreword

Marine equipment of a safety or anti-pollution nature (such as lifejackets, fire extinguishers, oily water separators, ships' radio and radar) installed on board UK ships is required to meet performance and testing standards to ensure it functions as required. Equipment required by the international instruments¹ is to be of an approved type and in the European Union this is achieved through Council Directive 96/98/EC² ("The MED"). For certain UK ships operating domestically, alternative standards and arrangements are required.

Difficulties have been observed in implementing the MED, particularly regarding protection of the EU market against non-compliant and fraudulent equipment and the communication of the applicable testing standards for equipment within the scope of the MED. National difficulties specific to the UK have also been experienced with regards to the application and enforcement of the MED due to impracticalities of using equipment within the scope of the international Conventions on certain domestic ships.

The EU has worked together to recast the MED by publishing Directive 2014/90/EU³ ("The recast MED"). This recast MED seeks to resolve difficulties observed in the existing MED and its provisions come into force on the 18 September 2016.

This consultation seeks to gain input on the proposed measures and analysis of impacts on the UK of the Regulations that transposes the recast MED and addresses national difficulties, by reducing regulatory burden on domestically operated ships and vessels.

¹ The International Maritime Organization (IMO) Conventions: The International Convention on the Safety of Life at Sea, 1974, The International Convention for the Prevention of Pollution from Ships, 1973/78 and The Convention on the International Regulations for Preventing Collisions at Sea, 1972, together with their circulars and resolutions, and the applicable testing standards of the standardization bodies (ISO, IEC, ETSI and CEN).

² Council Directive 96/98/EC on Marine Equipment (more commonly known as the Marine Equipment Directive (The MED)).

³ Directive 2014/90/EU³ of the EU Parliament and of the Council on Marine Equipment and repealing Council Directive 96/98/EC (commonly referred to as the recast MED).

Executive summary

- 1.1 This consultation document initiates a 6 week public consultation, being conducted in accordance with the consultation principles in Annex E of this document, for the UK transposition of the recast MED and the measures to reduce the regulatory burden on domestically operated ships and vessels.
- 1.2 This document contains details on how responses to this public consultation should be made, to whom they should be addressed and by when.
- 1.3 It gives an overview of our approach to the transposition of the recast MED and the reduction of the regulatory burden on domestically operated ships and vessels, which is achieved through the draft Merchant Shipping (Marine Equipment) Regulations 2016 (“draft statutory instrument”) and the draft Merchant Shipping Notice (“draft MSN”). The draft statutory instrument and draft MSN replace the existing instruments⁴ which transpose the existing MED into UK law.
- 1.4 The document also asks specific questions addressed to consultees which should be considered when reading the annexes (the draft Regulations, the draft Merchant Shipping Notice, Impact Assessments and Supplementary Information), answers to which should be included in the formal response to this Consultation.
- 1.5 To assist the consultee, the document finishes with some general Questions and Answers to which the Department has received regularly from affected stakeholders.

⁴ The Merchant Shipping (Marine Equipment) Regulations 1999 (S.I. 1999/1957), Merchant Shipping Notice 1734 M+F, The Merchant Shipping (Delegation of Type Approval) Regulations 1996 and Merchant Shipping Notice 1735 M+F.

How to respond

The consultation period began on 26 May 2016 and will run until 6 July 2016. Please ensure that your response reaches us before the closing date. If you would like further copies of this consultation document, it can be found at www.gov.uk/government/consultations/directive-201490eu-and-equipment-standards-for-domestic-ship or you can contact infoline@mcga.gov.uk if you would like alternative formats (Braille, audio CD, etc.).

Please send consultation responses to

Marine Equipment Quality Assurance
Marine Technology Branch
The Maritime and Coastguard Agency
2/27 Spring Place
105 Commercial Road
Southampton
SO15 1EG

Or preferably by email to: consultationsdmss@mcga.gov.uk

When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

A list of those consulted is listed at Annex F. If you have any suggestions of others who may wish to be involved in this process please contact us.

Freedom of Information

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004.

If you want information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the Data Protection Act (DPA) and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

The proposals

The proposal seeks to transpose the recast MED (Directive 2014/90/EU) and address national provisions for standards of marine equipment of a safety and counter pollution nature.

The recast MED is, in simplistic terms, a product to market Directive. Its objective is to ensure a harmonised approach in accepting marine equipment on board ships registered with the EU Member States, as required by the international instruments. The recast MED applies to equipment which is placed on board an EU ship, where the international instruments require that equipment to be approved by the relevant ship's flag state Administration. It requires such equipment to be independently approved by a Notified Body which carries out the assessment of the equipment on behalf of the EU Member States. Further, the recast MED requires such equipment to be manufactured in accordance with an approved quality system in order to ensure equipment is manufactured consistently and will be the same as that which was independently approved.

The approval of equipment within the scope of the recast MED is assessed against the performance and testing standards of the international instruments to ensure it meets commonly accepted standards and therefore can be accepted by all of the Member States for use on board their ships. As the independent approval and assessment of manufacturers' quality systems is done by Notified Bodies, on behalf of the Member States, the Notified Bodies must meet a variety of requirements to demonstrate their technical capabilities and impartiality. These requirements are assessed by the Member States and this is commonly achieved through the use of accreditation through the National Accreditation Bodies (in the UK, The United Kingdom Accreditation Service). Additionally, the recast MED creates new requirements in addition to those above which are already seen in the MED (Directive 96/98/EC) in enforcement mechanisms. These are seen through new formal obligations put upon manufacturers, importers and distributors of equipment within the scope of the recast MED, and new market surveillance provisions which will see the Member States checking the compliance of equipment put on their national markets ahead of being installed on board ships.

Through transposing the recast MED, the proposal seeks to ensure the continued safety to persons on board UK ships and to the marine environment. The proposal also sets out requirements for marine equipment installed on board other UK ships to which the recast MED is now not applied to thought UK regulation unlike the existing provisions that transpose the MED which applied to all UK ships.

The measures within the recast MED build upon the lessons learnt in administering the MED (Directive 96/98/EC). Overarching objectives include:

- Added measures in order to enhance the implementation and enforcement mechanisms of the Directive;
- Simplification of the regulatory environment associated with the MED, specifically with standards for equipment;
- To offer the use of an electronic conformity mark in addition to the wheel mark to provide market surveillance authorities with additional, specific means to facilitate their task;
- To ensure that only compliant equipment is installed on board ships through issuance, endorsement or renewal of certificates as well as through market surveillance arrangements;
- A harmonised approach to appointing Notified Bodies; and
- Clearer communication of relevant performance and testing standards applicable to marine equipment with specific consideration of dates for supply and placing on board UK ships.

In addition to the provisions transposing the recast MED itself, the proposal also addresses regulatory burden put upon UK ships that are not within its scope. The existing instruments⁴ that transpose the MED were applied to all UK ships irrespective of their type or operation. The proposal is to apply the recast MED to ships within its scope and also to Domestic Passenger ships (operating on tidal waters) and large fishing vessels (Fishing vessels with a registered length of 24 meters or more) as these ship types are required to carry equipment which meets the standards of the international instruments and therefore this proposal will require relevant equipment to be MED approved, unless a carriage requirement for such a ship or vessel explicitly requires or permits equipment of a standard other than those in the international instruments. This change in policy will alleviate the regulatory burden put upon a large number of other

UK ships and vessels that are not required to carry equipment meeting the international instruments (due to the lesser number of passengers on board or the type of operation they are involved in).

In removing this regulatory burden, there will be instances of a carriage requirement with no performance or testing standard for ships now not regulated by the recast MED. Therefore, the proposal also looks to create minimum standards for equipment placed on board ships now not covered by the regulations that transpose the recast MED.

These proposals will be achieved by revoking existing UK instruments that implement the MED⁴ (Directive 96/98/EC) and transposing the recast MED with the draft statutory instrument and draft MSN which can be found in Annexes A and B of this document respectively which set out the requirements for various UK ships and the technical requirements for their marine equipment.

Consultation questions

Consultees are invited to comment on the implementation measures in Annex A (draft statutory instrument) and Annex B (draft Merchant Shipping Notice), and the impact assessment in Annex C.

The consultation questions below should be considered specifically when giving comments.

Implementing Instruments – Draft Statutory Instrument and Draft Merchant Shipping Notice:

1. Do you agree or disagree with the transposition approach proposed? Agree/Disagree. If you disagree, please state why.
2. Is it clear from the draft statutory instrument what your responsibilities are as the owner or master of a ship (if applicable)? Yes/No. If No, please provide details.
3. Is it clear from the draft statutory instrument what your responsibilities are as a manufacturer, importer or distributor of marine equipment to which approval is issued/ applied for under the recast MED (if applicable)? Yes/No. If no, please provide details.
4. Is it clear from the draft statutory instrument and/or draft MSN what your responsibilities are as a notified or nominated body (if applicable)? Yes/No. If no please provide details.
5. Do you have any comments on the draft statutory instrument or the draft Merchant Shipping Notice? Yes/No. If yes, please provide details.
6. Are you aware of any other equipment that should be included in Annex 2 of the draft MSN? If yes, please give details.
7. For the list of equipment in Annex 3 of the draft MSN, do you think the proposed standards are suitable? If no, please provide details. Additionally, are you aware of any other equipment that should be included in this list? If yes, please give details.

Cost/benefit calculations in the Impact Assessment, Annex C:

Section 5 of the Impact Assessment details the assumed impacts of the recast MED, to manufacturers, notified bodies and the MCA.

1. Do you agree or disagree with the analysis for the impact assessment? Agree/Disagree. If you disagree please provide reasons.
2. Are there any additional costs and benefits that have not been identified in the Impact Assessment? If yes, please provide details.
3. Does the assumed number of newly flagged vessels that will no longer be bound by the recast MED, seem reasonable? If no, please provide details.
4. Are you aware of how many of these will be flagged by small and micro businesses (i.e. a business employing fewer than 250 people or a businesses employing fewer than 50 people)? If yes, please provide details.
5. We have assumed that existing ships that will no longer be bound by the recast MED, will not benefit as there is no financial gain from replacing equipment approved in accordance with the recast MED with other equipment. Is this a reasonable assumption? If no, please provide details.
6. We have assumed a number of additional regulatory costs to manufacturers of equipment approved in accordance with the recast MED, from the changes in the recast MED in comparison with the existing MED. Are the assumptions used reasonable and do you have any evidence to validate/dispute these assumptions? If yes, please provide details.
7. We have also assumed a number of additional regulatory costs to UK based notified bodies. Are the assumptions used reasonable and do you have any evidence to validate/dispute these assumptions?
8. Do you have any other comments to make on the impact assessment? Yes/No. If Yes, please provide details.

General:

1. Are there any further comments you would like to make on the issues raised in this consultation document? If yes, please provide details

What will happen next

A summary of responses, including the next steps, will be published within three months of the consultation closing on [\(web address\)](#). Paper copies will be available on request.

Question and answer brief

Below is a list of frequently asked questions about the proposals. If you still have questions after you have read this section please contact:

Marine Equipment Quality Assurance
Marine Technology Branch
The Maritime and Coastguard Agency
2/27 Spring Place
105 Commercial Road
Southampton
SO15 1EG
Andy.wibroe@mcga.gov.uk

1.

Q: When are dates for the Implementing Acts (Article 35 of the Directive) to be Published?

A: There is no set date for the Commission Regulations to come into force with regards the implementing acts. Until such a time as they do the existing Annex A to the MED (Directive 96/98/EC) in its latest form will remain in place.

2.

Q: How often will the Commission Regulations be amended, will they be a live document and who is responsible?

A: It is understood that the Commission Regulations will be monitored by EMSA and updated by the Commission, in consultation with the Member States on an interval of at least annually to ensure the updating of applicable Marine Equipment and relevant standards are kept up to date.

3

Q: Is there a definition of placed on board, for the purpose of the recast MED?

A: There is no hard and fast rule with regards the definition placed on board, however, the Commission in cooperation with the Member States

intends to use a differing definition for each item of equipment to take into account the specifics of each equipment type noting that what is considered the date of placing on board an equipment like a fire extinguisher may not be the same for a structural item such as an A class fire division where the construction of the ship is dependent on this equipment.

4

Q: What will happen to existing certification issued to marine equipment issued pertinent to the Marine Equipment Directive (96/98/EC) after the 18 September 2016 and will all existing valid certification require reissue?

A: It has been discussed between the Member States and the EU Commission and agreed at Member State Expert level that the following will be used in determining the validity of placing marine equipment on board a ship after the 18 September 2016:

Existing certificates issued under the Marine Equipment Directive 96/98/EC will remain valid until either:

They reach their expiry date (according to MarED Approved Recommendation GEN 006, 5 years for a Module B certificate);

The conditions of the certificate's validity are breached;

or

Marine equipment meeting the specified standards within the existing certification is no longer accepted for being placed on board an EU ship in accordance with the Commission Regulations pertinent to Article 35(2) and (5) of Directive 2014/90/EU.

5

Q: What is meant by the term representative sample in the new Module B of the recast Directive 2014/90/EU?

A: It is the initial understanding of the UK and other Member States that this is intended to allow for sampling of an equipment where the exact equipment would be too large to examine i.e. an entire structural fire protection bulkhead would not be type approved, only a representative sample in accordance with the FTP Code. Further, the MarED group of

EU Notified Bodies has been tasked with creating a recommendation ahead of 18 September 2016 to come to common agreement for this purpose.

Annex A Draft Statutory Instrument

Annex B Draft Merchant Shipping Notice

Annex C Impact assessment

When responding to the consultation, please comment on the analysis of costs and benefits, giving supporting evidence wherever possible.

Please also suggest any alternative methods for reaching the objective and highlight any possible unintended consequences of the policy, and practical enforcement or implementation issues.

(Insert impact assessment, electronically signed and dated if necessary.)

Annex D Supplementary Impact Information

Annex E Consultation principles

The consultation is being conducted in line with the Government's key consultation principles which are listed below. Further information is available on the Better Regulation Executive website at <https://www.gov.uk/government/publications/consultation-principles-guidance>

If you have any comments about the consultation process please contact:

Consultation Co-ordinator
Department for Transport
Zone 1/29 Great Minster House
London SW1P 4DR
Email consultation@dft.gsi.gov.uk

Please do not send consultation responses to this address.

Annex F List of those consulted

ABS		
ACR Electronics Inc	AMERC	Applied Tech
AST Global	Atlantas	Avon Inflatables / Zodiac
Babcock International Defence Systems Technology	BABT	BAE Systems
BCB International Ltd	DBIS	BMEA
BP	BRE	British Marine Equipment Association
BSI Group	BTTG Testing	BV
Calmac Ferries Ltd	Carnival UK	Cayman Islands
The UK Certifying Authorities	Chamber of Shipping (UK)	CIRM
CNITA	Commissioner of Irish Lights	Compliance Maritime LTD
Consultant Members of the UKRNES	Crewsaver	Daniamant
The Devolved Administrations (Northern Ireland, Scotland and Wales)	DNVGL	Donut International
Drew Marine Signal & Safety	Evergreen Marine	Exova Warrington Fire

Fibreight Developments	Fireboy-Xintex	Fleetwood Test House
Fluruno	GLA	Griffin Fire and Training Ltd
Harding Safety Netherlands B.V.	Harding Safety UK Ltd	Holland America Group
IMIS Global	Inmarsat	INSPEC
International Association of Institutes of Navigation	International Safety Products Ltd	Isle of Man
ISC	Isles of Scilly Steamship Company	Jason's Cradle
John Lilley & Gillie Ltd	JRC	Kelvin Hughes
Kilo Marine	Innovate UK	Liferaft Systems Australia
LPCB	LR	Maersk
MAIB	Marinex	McMurdo
Met Office	MOD	Mullion
NFFO	Nautical Institute	Nautilus
Navitron	Noble Marine Services Ltd	Northern Ireland Fish Producers Org
Northern Lighthouse Board	Ocean Engineering	Ocean Safety Ltd
Ocean Signal Ltd	Ofcom	P&O Ferries
PG Products	PLA	Princess Cruises
QinetiQ	Raymarine	The UK Recognized Organizations

Red Funnel	The Red Ensign Group	Resmar Ltd
RFA	RINA	RNLI
RYA	SARTECH	Scottish Fishermens Federation
SCS	Sea Fish Marine Services	Selex
SES	Sperry Marine	STC
Stena Line	Survitec Group	Survival Systems International
Thrane	Trinity House	TUV SUD BABT
Tyco Fire & Security	UKHO	UKMPA
UoS	Viking	Warsash Maritime Academy
Yaesu		