



Maritime &
Coastguard
Agency

Second consultation on the Merchant Shipping (Safety Standards for Passenger Ships on Domestic Voyages) (Miscellaneous Amendments) Regulations to implement changes resulting from the review of standards for older UK passenger ships

Consultation Outcome Report (2nd Consultation)

Summary of consultee comments and government responses to them

October 2019

Contents

Section 1: Introduction	3
Section 2: Consultation	5
Section 3: Consultation outcome	6
Questions posed	
Categories of measure	
a. Liferaft provision	6
b. Lifejacket provision	7
c. Lifejacket lights	7
d. Fire detection	8
e. Fixed firefighting	9
f. Containment of fire	10
g. Powered fire/bilge pumps	10
h. Bilge alarms	10
i. Damage stability	11
j. Phase-in requirements	12
k. Other comments	13
l. Summary	13
Section 4: Next steps	15

Section 1: Introduction

1. The Maritime and Coastguard Agency (MCA), an Executive Agency of the Department for Transport (DfT), carried out a second public consultation, which ran from 29 May 2019 to 10 July 2019, on proposals resulting from a review of the standards relating to older domestic passenger vessels, which are currently less stringent in some areas than those which are applied to newbuild vessels. Some proposals had been revised in the light of comments received during the first consultation, which ran from 6 November 2018 to 29 January 2019.
2. In some cases, there is a safety gap between the standards for new ships and those for older vessels. The review seeks to bring the standards applied to existing vessels into line, wherever possible, with those which apply to new vessels in key safety areas.
3. These proposals are to narrow the gap by means of new Regulations which amend the Merchant Shipping (Fire Protection: Small Ships) Regulations 1998 (SI 1998/1011), the Merchant Shipping (Passenger Ship Construction: Ships of Classes III to VI(A)) Regulations 1998 (SI 1998/2515), and the Merchant Shipping (Life Saving Appliances for Passenger Ships of Classes III to VI(A)) Regulations 1999 (SI 1999/2723). They focus on several facets of ship safety for improvement.
4. The second consultation set out to test the revised proposals for effectiveness, practicality, reasonableness and cost effectiveness, inviting consultees to give their views. In the main response document supplied with the consultation, a brief description of each of the 10 proposals was provided, each with a question asking whether the respondent agreed with the proposal. A Yes/No tick box was provided for the respondent to indicate if they agreed with the particular proposal, followed by a free text area in which the respondent could provide a fuller description of their views. The following supporting documents were provided with the consultation to show the actual amending text which was proposed to bring about the changes:
 - a) a draft Statutory Instrument (i.e. the proposed Merchant Shipping (Passenger Ships on Domestic Voyages) (Amendment) Regulations 2019);
 - b) a draft Amendment 3 to Merchant Shipping Notice (MSN) 1699(M) which forms part of the Merchant Shipping (Passenger Ship Construction: Ships of Classes III to VI(A)) Regulations 1998. This came in two parts, a covering MSN and a revised technical Annex;
 - c) a draft Amendment 1 to MSN 1670(M) which forms part of the Merchant Shipping (Fire Protection: Small Ships) Regulations 1998 and the Merchant Shipping (Fire Protection: Large Ships) Regulations 1998
 - d) a draft new Marine Guidance Note (MGN), which provides guidance on the changes brought about by the review and available exemptions against them.
5. The Impact Assessment which was published as part of the first consultation was updated following that consultation. Although not published with the second consultation, the MCA have kept it under review and made any appropriate adjustments to it as a result of costings and other comments provided during the second consultation, ahead of a final review by the Regulatory Policy Committee (RPC).

6. This Report gives a high-level outline of the comments received from respondents. It does not seek to cover every individual comment received, but all comments received have been taken into consideration. Where appropriate, individual respondents will receive individual, private, replies.

Section 2: Consultation

7. This second consultation was carried out between 29 May 2019 and 10 July 2019. It can be found at: <https://www.gov.uk/government/consultations/second-consultation-on-the-review-of-standards-for-older-passenger-ships>.
8. While the consultation was promulgated on GOV.UK for any member of the public who wished to read it and/or respond to it, and triggered notifications for anyone who is subscribed to received such government notifications, additionally, the Maritime and Coastguard Agency (MCA) individually notified over 450 consultee addresses. These comprised a mixture of Domestic Passenger Vessel representative organisations, individual operators, government Departments and other interested parties, included those contacted through Working Groups. All persons and organisations who had specifically requested notification were included. The MCA also made the consultation known through its Domestic Passenger Ship Safety groups, comprising government, industry and other interested parties, namely the Domestic Passenger Ship Safety Group (DPSSG) and the Domestic Passenger Ship Safety Ro-Ro Group (DPSSG Ro-Ro), and also representative bodies including the Passenger Boat Association (PBA), the Passenger Vessel Operators' Association (PVOA), National Historic Ships and the UK Chamber of Shipping.
9. A total of **52** responses were received from across the UK. Consultees were invited to indicate the type of respondent they were on their consultation response. Where they did not do this, MCA scrutinising officials allocated to them the description which appeared to be best fit from the information provided. Some respondents identified themselves in more than one category. Of the **52** respondents, **31** of these described themselves as Vessel Owners or Vessel Operators, or both. **Eight** were Domestic Passenger Vessel representative organisations, although some of these also identified themselves in also belonging to other categories, e.g. Vessel Owner or Operator. **Four** were government bodies of some sort, although not part of central government. **Five** described themselves as individuals, **two** of these being government employees responding as individuals.
10. This is the second of two public consultations on this subject. The government will consider the comments received during this second consultation in addition to those already considered from the first consultation. It is planned to bring the new Regulations into force during January 2020, although vessel owners and operators will have at least two years to implement any necessary changes.

Section 3: Consultation outcome

Questions posed

11. The government's revised proposals were described in the consultation document, which then posed ten questions. These questions cut across nine proposed safety measures plus proposed phase-in requirements. Each question started with a tick box for the respondent to indicate whether in general they agreed with the proposal. A free text area was then provided for respondents to amplify their answers. The tick boxes were used to assist government with measuring the level of agreement with the proposals and produce appropriate statistics, so that the subjectivity involved with ascertaining whether a respondent was in overall agreement with the measure from their narrative was minimised. While most respondents completed the tick boxes some did not. It is believed that some of the latter category did not indicate their views in the tick boxes because the particular measures were not applicable to them, although they were not excluded from responding for this reason. Their neutral responses were not counted in the Yes/No statistics. Numbers derived in this way were not necessarily statistically significant.
12. There were nine proposed safety measures contained in the consultation as detailed below. Where the proposals had been revised since the first consultation, they were consulted upon in their revised form. Where they had not been changed, they were consulted upon again in their original form. This gave consultees who had not responded to the first consultation the opportunity to give their views on the both proposals which had been revised and also those which remained the same. It also gave consultees who had responded to the first consultation the opportunity to provide any views which they needed to update as a result of the revisions. NB: The proposal on fire containment measures was dropped following feedback from the first consultation and did not therefore feature in the second consultation.

a) Liferaft provision

Currently some vessels are permitted to carry liferafts for fewer than 100% of persons onboard.

The original proposal was that all vessels operating on Category C and D waters and at sea should have 100% liferaft provision.

This proposal had not been changed since the first consultation.

Consultee comments

There was broad support for this measure. Of those respondents who completed the agree/disagree check boxes, 34 respondents indicated they agreed with the proposal, and four indicated that they disagreed.

The agreement of two consultees was subject to the additional liferaft requirement being instead of buoyant apparatus rather than in addition to them.

Another consultee said it was completely unacceptable for passenger boats to be operating in the UK in the 21st century without liferaft capacity for 100% of the passengers onboard.

Another respondent said they could not fit liferafts due to size and stability issues.

Another had concerns that the additional liferaft(s) would cause stability issues.

Government comments

The government welcomes the widespread support for this proposal and can confirm the liferaft requirement is instead of buoyant apparatus provided that the 10% buoyant apparatus requirement is complied with, i.e, buoyant apparatus may be removed to make room for the additional liferafts to meet the 100% liferaft provision.

b) Lifejacket provision

Currently older vessels operating on Category B waters are not required to carry lifejackets.

The proposal was that all vessels operating on Category B waters should be required to carry lifejackets and/or buoyant aids sufficient for 100% of persons onboard. This proposal remains in place, but a revision has been added to allow flexibility for owners/operators of vessels operating in Category B waters who can demonstrate to the relevant MCA surveyor's satisfaction that in an emergency, persons can be evacuated to the bank and do not need to enter the water. Exemptions granted will be subject to this condition.

Consultee comments

There was broad support for this measure. Of those respondents who completed the agree/ disagree check boxes, 33 respondents indicated they agreed with the proposal, and 3 indicated that they disagreed.

Of those responses who commented as well as ticking the Yes/ No box, views were mixed. A respondent said that they disagreed with the flexibility proposed for Category B operators who can demonstrate dry shod evacuation, saying they believed either the situation was safe or it was not, although the proposal was welcomed by others. Another was concerned about consistency of application of the exemption for evacuation to the bank.

Government comments

The government welcomes the widespread support for this proposal. All Exemptions will continue to be cleared through MCA HQ to ensure consistency.

c) Lifejacket lights

Currently older vessels operating on Category C and D waters are not required to have lights fitted to lifejackets.

The original proposal was that all vessels operating on Category C and D waters outside daylight hours must have lights fitted to lifejackets carried.

This proposal had not been changed since the first consultation.

Consultee comments

There was broad support for this measure. Of those respondents who completed the agree/ disagree check boxes, 27 respondents indicated they agreed with the proposal, and 4 indicated that they disagreed.

Although only a few respondents disagreed, those few expressed strong views against the requirement for lifejacket lights. Some cited costs and/or that they considered retroreflective tape to be sufficient.

Two respondents also queried why the new legislation applied the lifejacket light requirement to all vessels operating in Category C and D waters, replying on an exemption to exclude those operating only in daylight hours, instead of having the exclusion for daylight only vessels being written into the legislation.

Government comments

The government welcomes the widespread support for this proposal.

The government does not consider retroreflective tape to be sufficient as this requires a light to be shone directly on the lifejacket in order to show up in a night-time search, whereas lights can be seen without being specifically located.

Including the exclusion for daylight operating vessels was considered but ruled out for legal drafting reasons. However, vessels which are considered to only operate during daylight hours will be given an exemption and this will achieve the same effect.

d) Fire detection

Currently some older vessels are not required to have fire detection fitted.

The original proposal was that all Class III to VI(A) vessels should have fire detection systems fitted within machinery spaces and any passenger sleeping areas onboard the vessel.

i) This proposal had been clarified since the first consultation, which did not make clear whether fire detection systems would be required to meet Marine Equipment Directive (MED) standards. The proposal now is that such systems will not be required to meet MED standards provided they comply with the BS EN 54 standard.

ii) The proposal had also been refined in that the requirement for a fire detection system will not apply in machinery spaces which are permanently manned while the ship is in operation.

Consultee comments

There was broad support for this measure. Of those respondents who completed the agree/ disagree check boxes, 37 respondents indicated they agreed with the proposal, and 1 indicated that they disagreed.

The fact that the government took into account comments during the first consultation that fire detectors should not be required to be Marine Equipment Directive (MED) compliant, was widely welcomed. No respondents argued against the revised requirement that detectors would need to comply with BS EN 54.

The revision of the proposal to exclude vessels with engine rooms which are permanently manned while the vessel is operating was also welcomed by two consultees.

Another consultee did not believe that the measure was cost effective or justified by statistics.

Government comments

The government welcomes the widespread support for this proposal.

The rationale for these measures is based on a number of factors including a comprehensive research project of passenger vessel safety. The government is satisfied that the overall approach is proportionate.

e) Fixed Firefighting

Currently not all vessels are required to have fixed firefighting systems fitted in main machinery spaces.

The original proposal was that fixed firefighting systems would be required in machinery spaces of all vessels in Classes III to VI(A). However, the proposal included some flexibility for small vessels with boxed engines on the basis that it was not necessary to open a machinery space to fight a fire therein.

i) This proposal had been clarified since the first consultation, which did not make clear whether fixed firefighting systems would be required to meet Marine Equipment Directive (MED) standards. The proposal now is that such systems will not be required to meet MED standards but will need to be approved by the Secretary of State (via the Maritime and Coastguard Agency (MCA)).

ii) The proposal had also been further refined in that the intention is now to amend the existing Merchant Shipping (Small Ships: Fire Protection) Regulations 1998 in such a way as to allow for any other firefighting medium which is not covered by the existing Regulation 8 (i.e. not water-based, gas based and high-expansion foam based) provided it is approved by the Secretary of State (via the MCA).

Consultee comments

There was broad support for this measure. Of those respondents who completed the agree/ disagree check boxes, 37 respondents indicated they agreed with the proposal, and 3 indicated that they disagreed.

A concern was expressed about the cost/ benefit of this proposal, and another about the clarity of whether the fixed firefighting systems would be required in all machinery spaces or just unmanned ones, particularly in the context of coal-fired steamships.

Another consultee requested that the MCA initiate the certification of alternative systems.

Government comments

The government welcomes the widespread support for this proposal.

The government notes the comment on cost/ benefit but believes that the benefits of fixed firefighting systems outweighs the cost.

The basic requirement for a fixed firefighting system would apply to all ships as a default, but it is recognised that steamships in particular may require special consideration due to the nature of their propulsion. However, this type of situation will be dealt with on a case by case basis, with exemption where justified. Incorporating the exceptions into legislation was considered but this has not been possible for legal drafting reasons.

f) Containment of fire

This proposal was dropped following feedback from the first consultation and did not therefore feature in the second consultation.

Consultee comments

There was broad support for dropping this measure. Of those respondents who completed the agree/ disagree check boxes, 37 respondents indicated they agreed with the dropping proposal, and 3 indicated that they disagreed.

Three respondents expressed concern about the government dropping these proposals, however, overall there was widespread support for this.

Government comments

The government welcomes the widespread support for dropping this proposal.

g) Powered bilge/ fire pumps

Currently vessels are permitted to carry hand pumps for pumping bilges and pumping water to fight fires.

The original proposal was to require bilge pumping and fire pumping capacity to be met with powered pumps. However, the proposal contained relaxation for smaller vessel where arrangements rendered them unsuitable for fixed powered pumps.

The proposal to require powered fire pumps had been dropped following feedback from the first consultation.

Consultee comments

There was broad support for this proposal, i.e. to retain the original proposal for powered bilge pumps, but to drop the proposal to require powered fire pumps. Of those respondents who completed the agree/ disagree check boxes, 36 respondents indicated they agreed with this, and 1 indicated that they disagreed.

Some comments were received about hand pumps being reliable and easy to use.

One accepted the proposal provided it did not introduce a requirement for vessels to have emergency power where this requirement did not previously exist.

Government comments

The government welcomes the widespread support for this proposal.

The government would like to emphasise the effectiveness of powered pumps over hand pumps and therefore favours the former.

The government can confirm that this obligation will not be accompanied by a requirement for an emergency power system on vessels for which this requirement does not already exist.

h) Bilge alarms

Currently no requirement exists to fit bilge alarms.

The original proposal was to require bilge alarms to be fitted in all compartments containing machinery and in any other compartment where bilge water can accumulate.

This proposal had not been changed since the first consultation.

Consultee comments

There was broad support for this measure. Of those respondents who completed the agree/ disagree check boxes, 37 respondents indicated they agreed with the proposal, and 3 indicated that they disagreed.

One operator said that water in bilges would be visible through their wooden floorboards.

Another asked if the proposal was just to have a bilge alarm in the central keel.

Government comments

The government welcomes the widespread support for this proposal.

The government reiterates that bilge alarms will be required in any areas where water can accumulate.

i) Damage stability

Currently many vessels have no provision for post-damage survivability.

The original proposals required all vessel operating on Category C and D waters and at sea to meet either the one compartment survivability standard or achieve compliance with the buoyancy test standard through added buoyancy. However, the original proposals permitted vessels on non-tidal Category C waters to continue to operate with their existing requirements subject to a risk assessment carried out to an agreed standard and covering an agreed set of minimum considerations.

While the damage stability requirements themselves had not been changed, the application of the obligations had been narrowed such that:

i) Class VI vessels had been entirely removed from scope. These vessels have inbuilt operational restrictions in their certification and are therefore limited to daylight only operations between April and October in favourable weather only;

ii) Class V vessels operating in daylight on Category C non-tidal waters had been removed from scope. This revision reflects the operational environment of these vessels and the nature of other traffic in the area;

iii) Class V vessels operating in areas of lower operational risk – as demonstrated by a risk assessment carried out to an agreed standard and covering an agreed set of minimum considerations - may be exempted from the new requirements.

Consultee comments

Views on this measure were more mixed. Of those respondents who completed the agree/ disagree check boxes, 25 respondents indicated they agreed with the proposal, and 16 indicated that they disagreed.

While many respondents supported the changes, others – mostly owners and operators significantly affected by the proposals, were strongly opposed. Due to a

number of the affected vessels being many decades old, it was said that it would not be possible in practice to bring them into compliance with the updated safety standards or would not be cost-effective to do so.

There were concerns expressed about vessels which could not be modified to meet the damage stability requirements being taken out of service, with resultant failure of businesses and loss of jobs. Fears were expressed that these numbers could be significant. There was also concern expressed about the knock-on effect of the proposals on other local businesses and tourist attractions which are currently served by the routes on which the affected vessels operate, and local boatyards which could lose business because of the demise of the vessels in question.

Some consultees requested more information on the risk assessments to be permitted in areas of low operational risk, and on the meaning of area of low operational risk. More guidance on carrying out risk assessments will be developed, but a definitive list of factors will not be produced, as each case will be slightly different, and the government believes this could cause flexibility to be limited. Any factor which can affect the level of risk associated with a vessel's operation can be taken into account as part of a risk assessment.

A respondent said that all the Recommendations of the Thames Safety Inquiry (MARCHIONESS) have been implemented apart from the application of 27.2 relating to the technical standards applied to older passenger vessels. They also said that it was fortunate that the hundreds of incidents on the River Thames since 2010 had not resulted in fatalities, but that if some of these incidents had involved older vessels, the outcomes would very likely have been much more severe. They added that the public would have little sympathy for delayed implementation of clear safety advice as the cause of multiple deaths, however small or remote the risk of such an event might seem in advance.

Government comments

The government welcomes the widespread support for this proposal, but recognises concerns associated with the failure of businesses, job losses and provision of transport to other business and tourist locations.

The government has therefore sought to be as proportionate as possible with the application of the damage stability provisions and has reduced the scope of the proposals since the first consultation such as to limit them to the areas of higher operational risk.

More guidance will be provided in due course about the proposed risk assessment for vessels operating on Category C tidal waters. However, it is emphasised that this would be dealt with on a case by case basis, so it is difficult to be too prescriptive without removing flexibility, and also that it is a relaxation to the standards and not part of the main regime, the alternative being full compliance.

The government also recognises the urgency involved with implementing the updated standards for older vessels and is progressing the implementation accordingly.

j) Phase-in requirements

A phase-in period of two years following the making of the Regulations had originally been proposed.

The two-year phase-in period proposal has been retained, but with the flexibility that this could be extended if the owner were to draw up an implementation plan which was agreed by the Secretary of State (via the MCA). This would be achieved by granting an exemption from the requirements of the Regulations during this additional period. NB: This avoids unnecessary delay but allows for flexibility where genuinely needed. It will also help to avoid “clustering” where third parties (e.g., shipyards) are engaged by owners to carry out work required for compliance at a late stage in the phase-in period, as the risk associated with this is that demand may outstrip supply, rendering some vessels non-compliant on the date the obligations come into effect.

Consultee comments

Of those respondents who completed the agree/ disagree check boxes, 26 respondents indicated they agreed with the proposal, and 11 indicated that they disagreed.

Several respondents expressed concern that a 2-year phase-in period was too short, while others thought it was acceptable. Another said that it was high time Thames Safety Inquiry Recommendations were implemented for older ships.

Government comments

The government welcomes the widespread support for the two-year phase-in period. The flexibility outlined in the consultation permits this period to be extended if a plan is drawn up by the owner and agreed by the MCA. This will have the effect of providing additional time where this is genuinely required but will mitigate any disadvantage which might occur for owners who implement the changes promptly when others delay.

k) Other comments

A number of comments were made which were additional to answers provided to the specific questions posed.

Financial assistance

The issue was raised of whether financial assistance to mitigate costs/losses incurred as a result of the changes could be provided. Financial compensation is not being offered.

Government comments

Financial assistance is not being offered. The government approach to safety legislation across the board is that businesses will not be funded to comply with the latest safety standards, and the government has no funds allocated for this purpose.

l) Summary

There was broad support for most of the proposals.

The proposal which elicited the greatest amount of opposition was the one relating to damage stability. As might be expected, the strongest opposition to this measure came from operators whose vessels would be most affected by the proposals.

There was also some resistance to the requirement to have lights on lifejackets for vessels operating in hours of darkness.

13. Not all respondents answered all the questions posed. All the comments received have been fully considered, and government is reviewing the revised proposals in the light of these comments.

Section 4: Next steps

14. The government will finalise the Regulations with a view to bringing them into force by the end of January 2020, but at least a two-year period from the coming into force date will be permitted for implementation, with the possibility of this being extended if the owner produces a plan which demonstrates the need to take more than two years, and this plan is agreed by the Maritime and Coastguard Agency (MCA).