

DISCUSSION POINTS FOR MEETING WITH BRIAN JOHNSON
TUESDAY 28 JULY 2020

Safety Standards for Domestic Passenger Ships (Grandfather Rights)

Since our last meeting we have had clearance from the Cabinet Committee, after walking colleagues at No. 10 through the detail, to proceed with the post-consultation write-round. I have **attached** our submission about restarting the process and additional briefing that were supplied as information before this meeting.

General Background to the Proposals

Around **600 vessels** constructed prior to 6 April 2010 fall within the scope of the Class III to VI(A) suite of Regulations, which the proposed Grandfather Rights legislation is amending. Modern vessels, constructed on or after 6 April 2010, fall under more recent safety regimes, and outside the scope of the proposals in question.

Potentially up to **83 vessels (worst case scenario)** out of the 600 affected are at risk of becoming economically unviable due to implementation of revised damage stability standards, although some may sidestep this by changing their mode/area of operation. Exact figures are not available without an in-depth survey and examination of each ship, **although feedback from consultees indicate a possible number of 20 to 30 vessels.**

The Regulations will implement the outcome of the review of standards for existing domestic passenger ships. The review was considered as necessary especially when you take into consideration the Thames Safety Inquiry (MARCHIONESS), a Formal Safety Assessment (FSA) Study of Domestic Passenger Ship Safety and Marine Accident Investigation Branch (MAIB) recommendations, which have already been implemented for newer ships.

The objective of this policy is to reduce potential loss of life onboard passenger ships that are at higher risk because they do not meet modern safety standards. The Regulations seek to prevent serious tragedies which could occur, possibly on the scale of the MARCHIONESS.

We have not yet set a laying date for these Regulations and welcome the opportunity to discuss this further.

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Marine Accident Investigation Branch recommendations

The current position is that we have 23 outstanding recommendations on our Action Plan – this is down from 46 when we introduced the plan in January 2019. We have **cleared 33 in that period**; we have since had 10 new recommendations from the MAIB.

Of the outstanding 23, 13 of them are covered by three areas:

Revision of the Fishing Vessel Safety Code (accounts for 7 recommendations)

We have already been talking with industry, ahead of the formal consultation, we conducted several roadshows around the UK. Delays since last autumn has meant that we have not been able to start a 12-week public consultation. We have recently had clearance via the write-round (with thanks to Private Offices) from No. 10 and final preparations for launching the public consultation are being made. We will issue the code if no substantive issues are raised during the consultation.

Small commercial vessels used for sport or pleasure (3 recommendations)

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Our aim is now to bring in Regulations by 30 April 2021.

Implementing electronic certification for survey & inspection (3 recommendations)

The introduction of a new system (Pelorus) has meant that we are now looking to close out these three recommendations and are in communication with the MAIB.

The remaining 10 – we plan to close seven this year, two in 2021 and one in 2022.

The impacts of resources elsewhere (EU withdrawal, purdah and the General Election followed by the impact of COVID-19) has meant that we will not achieve our original target date for 13 of the outstanding 23 recommendations. We continue to make every effort to clear these recommendations and would welcome the Minister's continued support, along with the Secretary of State, with our write-rounds and consideration and signing of Regulations. This has been more of a logistical challenge over the last four months; five pieces of legislation have been laid, four since our last catchup (Prevention of pollution of sewage and of garbage, Life-saving appliances and safety of navigation).

We will revisit the packages relating to Ballast Water Management and Radio installations in the late summer/early autumn; these were put on hold for six months at the Secretary of State's request because of implications of launching these during the pandemic. We have several packages, including some relating to the Safety of Life at Sea (SOLAS), that we will start, in the Autumn, the process of bringing in Regulations.

Both Private Offices are in regular contact with MCA colleagues on forthcoming legal priorities as well as other matters.

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IMO Instruments Implementation Code (III Code) Audit

The UK flag State (the UK, Crown Dependencies and Overseas Territories) was to be audited by International Maritime Organization (IMO) against the requirements of the III Code in September 2020 but due to the COVID-19 pandemic this has been postponed by a year, until September 2021. The UK has made a formal request to the IMO for an earlier audit date, the request has been positively received and the indication is that the UK has been the first IMO Member State to make such a request and will be prioritised accordingly.

The UK has also reached agreement with the IMO on the process and scope of the UK flag State's audit. Only the UK itself will be audited directly, the MCA's III Code mock audits of the other members will be submitted as evidence and treated by the IMO as proxy audits.

The key priorities are maintaining momentum towards compliance and audit readiness and post-audit, the Overseas Territories maintaining compliance with the III Code and realising the benefits of compliance, through reduced contingent liability risk, enhance blue economy opportunities or reputational growth, in line with the UK-OT Strategy Refresh.

Maintaining momentum pre-audit requires a mix of support, encouragement, intervention and occasionally political pressure.

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approach depending on the economic situation or ambition of their Government. The 60%

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UK - well on track, could be audited now with expectation of up to eight findings due to legislative backlog but compliant. We need to complete the UK's mock audits to be confident though and these have had to be delayed due to the pandemic restrictions.

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Beach Safety

Two submissions on this the matter of Beach Safety have recently been sent and for ease these are **attached**.

The responsibilities for safety on beaches are unclear and a cross-Whitehall group has been convened by the Cabinet Office involving DEFRA, Home Office, Ministry of Housing, Communities and Local Government and the Department for Transport to explore the issues.

The Cornwall Coroner is conducting inquests in two deaths off Cornish beaches in May and has asked about an independent review of the legal responsibilities for beach safety that the MCA received in summer 2019 as a result of the death of seven young men in two incidents at Camber Sands in 2016. That independent review concluded that there is a lack of legal certainty around safety responsibilities at the foreshore. It also highlighted the complexity of the situation – even the complexity of defining what a beach is.

Last year's General Election and events since then got in the way of us publishing the review, although we did take immediate action in the Summer of 2019 to update our beach safety guidance around risk assessments by beach owners. We hope to publish the review soon and to use it to spark wider discussions around beach safety responsibilities and the role of beach landowners. There has been good cross-Whitehall support for broader discussions. Our first submission asks whether there should be a legislative approach to tackling any of the issues raised by the independent review.

This matter was highlighted because of recent deaths on beaches where there were no lifeguards, often supplied under contract by the RNLI. The RNLI's rollout of their contracted lifeguard service was delayed because of COVID-19. There are currently lifeguards at around 170 beaches and that number will increase slightly during July, although they will not necessarily be at all of their usual 250 locations this year. The official guidance to the public on gov.uk is clear and people should only swim where lifeguards are present.

It is likely that this situation will remain confused for quite some time into the future.

The Cornwall Coroner has sought input from the MCA regarding two deaths, one of which was close to a beach that would normally be lifeguarded. Our response is the subject of the second submission.

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Migrant issues

The number of migrants crossing the channel has dramatically increased – often more than 100 migrants in a day. The Border Force and the Royal Navy are now looking at interventions and we, HM Coastguard, are involved in these discussions. Whilst it is for the Border Force to decide whether there are grounds for an intervention outside the provisions of the SOLAS (Saving of Life at Sea) convention, we are supporting with information and aerial capability. The key parameters for any solution from a Coastguard perspective are:

- If Border Force decide that they are going to intercept a migrant boat outside SOLAS, there must be a clear and formal handover process.
- The Coastguard will coordinate search and rescue, not interception.
- The RNLI cannot be tasked for anything outside saving of lives.

Her Majesty's Coastguard operate within Search and Rescue frameworks, the International Convention for the Safety of Life at Sea (SOLAS) and the United Nations Convention for Law of the Sea (UNCLOS) with the aim of the preservation of life in UK territorial waters. HM Coastguard treat all migrant incidents as "persons in distress" due to there being minimal life-saving equipment onboard, the small boat both taking water and being overloaded. As the UK tasking authority, we will task the most appropriate resource, either a declared facility (e.g. lifeboat, helicopter, fixed wing) and/or additional facilities (e.g. UK Border Force) to perform search and rescue.

We continue to support Home Office initiatives, including the wider use of Coastguard planes with enhanced infra-red camera capability within the UK Search and Rescue Region, conducting reconnaissance operations along the French Coast where legislation permits, and increasing the number of flights for search and rescue prevention activities. This could identify potential groups attempting to cross the channel prior to them entering the water; sharing information with interested stakeholders and French counterparts to try and stop the attempts from the French shoreline. This could reduce/eliminate the risk to life, under the International Convention for the Safety of Life at Sea (SOLAS).

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Second Generation Aviation Search and Rescue (UKSAR2G)

The UKSAR2G Programme will replace all Coastguard aviation – helicopters and planes – currently operating under different contracts with something more integrated, innovative and collaborative.

In response to recommendations, we are using data to drive the future structure of aviation services operated on behalf of HM Coastguard. UKSAR2G will benefit from greater use of historic tasking data through the delivery of a more tailored aviation solution that matches demand with the aircraft and locations from which they operate.

- The UKSAR2G Programme is making very good progress and has not been held back by any of the COVID-19 restrictions.
- Plans are well developed, and the Programme team is up to strength following recent recruitment campaigns.
- Two major products in support of the Programme have been delivered. The first version of the data modelling tool which will guide bidders as to what aircraft they can position and where for UKSAR2G has been completed and is working in line with its design brief. It will now be passed to industry volunteers for beta testing.

A significant level of demand for HM Coastguard’s helicopters and planes originates from the Police and Ambulance Services. This support is critical to the work of those other emergency responders but is currently provided on a best-endeavours basis. We will address that issue under UKSAR2G with a more clearly defined user requirement that strengthens the support to those other users but with a clear intent to drive down the costs of the services procured under UKSAR2G compared with what we are paying now.

UKSAR2G is very likely to be the first example of where unmanned aircraft are routinely operated in UK airspace without restriction beyond line of sight. This innovation is game changing. It could reduce our costs under UKSAR2G and will likely produce significant benefits to the UK aerospace sector more generally.

The Programme’s Senior Responsible Owner, Name would welcome the opportunity to provide further detail on Microsoft Teams at a convenient point.



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Decarbonisation

The new Maritime Future Technologies function has been formed with a vision to support delivery of Maritime 2050 by:

- Becoming a driving force for change to reach zero emission shipping
- Enabling implementation of future technologies through the regulatory framework
- Equipping seafarers to safely operate future technologies
- Enabling vessels with varying degrees of autonomy to be safely operated domestically
- Leading and promoting development of maritime autonomy domestically and internationally
- Challenging thinking on future regulation

We have made good progress on recruiting the required technical expertise to deliver on these outcomes, with a full contingent expected to be in place by 31 August.

Significant progress has been made in forming partnerships with key stakeholders:

- A Memorandum of Understanding has been signed with Lloyds Register and 18 joint projects covering future fuels, automation and remote surveying are now live.
- Collaboration with Southampton University includes three PhD placements working on MCA projects that will accelerate thinking on decarbonisation and automation, with more placements planned as new technologies emerge.
- Work is also underway with Cardiff University on developing ammonia as a future fuel alternative.
- Advanced discussions with DNV, Lloyds Register and other flag-States are aiming towards formation of an International Maritime Policy Forum, where influence can be exerted on the convergence towards viable, sustainable future fuel solutions for shipping.

There is a substantial and increasing pipeline of automation projects coming from industry, often using waterborne vessels to test advanced technologies such as artificial intelligence systems. The Maritime Future Technologies team is equipped to provide necessary safety guidance before the projects reach go-live status and in advance of survey and inspection activity.

As new more advanced technologies emerge this team will play a key role in reshaping seafarer training to be suitably equipped for more complex and advanced operations.

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COVID-19 update

The pandemic has had no real impact on absence rates across the MCA – in fact, attendance is up (including those who are not working remotely). Social distancing measures were introduced for our Coastguard Operations Centres and the joined-up national network that allows any maritime incident to be handled from any location has coped with demand.

Initially that demand was exceptionally low, mirroring strong compliance with lockdown measures across the UK. Our coastguard operations became exceptionally busy in late May as people headed to the beaches in glorious weather – we saw incident levels similar to a hot August Bank Holiday. That influx to the coast coincided with the RNLI being unable to provide its usual beach lifeguarding service to beach owners because lifeguards had not been recruited or trained during the lockdown period.

Our helicopter fleet was physically adapted to carry COVID-19 patients and crews were supplied with the appropriate personal protective equipment. A protocol was agreed with the ambulance services for calling on the support of our helicopter fleet. Although some use was made of the fleet to support island communities, this was fairly limited and less than we anticipated. The adaptations will remain for now.

Our ship survey and inspection services were stopped once we went into lockdown-mode from 23 March. Arrangements were put in place to extend the validity of ship and seafarer certification, and some surveys of ships abroad were delegated to recognised organisations. Our operational expertise was particularly helpful to the Department for Transport's work to get passengers and seafarers repatriated from ships around the world.

The ship survey and inspection services are being ramped up again from 20 July. The priority will be inspections of small passenger vessels and fishing vessels. Sensitive &

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We have also restarted seafarer oral examinations supported by online assessment techniques.

Our business continuity arrangements have worked well. Many staff have successfully worked from home and there is some evidence that people have risen to the challenge and teams have worked more effectively in some cases. Others have found it more difficult and have missed the more casual interaction with colleagues that comes with the office environment. We have made our premises COVID-secure and teams and individuals are beginning to consider the right balance for them in terms of working at home or at an MCA location; we remain clear that working at home is a privilege. We will continue to follow government advice on these matters.

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Some positives to come from this first round of the pandemic include:

- A more formal relationship with the RNLI about the services they will provide and how we will call upon them (this was more of an ad-hoc “gentlemen’s agreement” in past).
- Better use of our available aviation flying hours to proactively support safety rather than just reacting to search and rescue calls.
- More proactive placement of our volunteer Coastguard Rescue Teams at busier beaches to support public safety and provide a visible emergency services presence.
- More regular and rigorous testing of our critical coastguard infrastructure to check that we can effectively manage loss of systems, premises or people.
- The more widespread use of online assessment tools to screen out seafarers not yet ready to take their formal oral examination (akin to the driving theory test).
- An opportunity for some colleagues with caring responsibilities to find a better way to juggle their home and work lives more effectively.
- Greater understanding of the importance of good business continuity plans, all of which have been reviewed and updated and include an annex dealing specifically with steps to take in the event of another pandemic.

Despite the restrictions imposed by the COVID-19 pandemic, we worked with the support of the International Maritime Organization, the International Labour Organization and the International Transport Federation, as well as representatives from the Indonesian embassy and the Bahamas Maritime Authority to deal with six cruise ships where there were concerns about seafarer welfare. The ships were inspected and five were detained in Tilbury and Bristol. We were greatly praised for our action to tackle these breaches. Arrangements were subsequently made for the repatriation of crews to their home countries.

Brian Johnson
Maritime & Coastguard Agency
24 July 2020