

**BRIEFING FOR DISTRICT MARINE SAFETY COMMITTEES (DMSCs)  
October 2010**

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## **1. Legislation**

### **1.1 Alcohol Abuse / Limits**

Provisions in the Railways and Transport Safety Act 2003 introduce the same alcohol limit for seafarers as for those driving. The limit applies to the master and crew of a vessel operating commercially while on duty (i.e. with safety responsibilities, possibly including emergency safety responsibilities).

Breath testing follows an incident or a reasonable suspicion that an offence is being committed. Random testing is not proposed. Breath testing will be conducted by a police officer (who will follow procedures set down in the Road Traffic Act) on the request of a Marine Official, e.g. MCA Surveyor or Harbour Master.

It has also been proposed that the limits might apply to persons navigating recreational (pleasure) craft. The MAIB report into the CARRIE KATE and KETTS collision in St Mawes harbour recommended that alcohol limits should apply to pleasure craft. The MAIB report on the powerboat SEASNAKE re-iterated a recommendation for legislation.

An initial public consultation, regarding the need for alcohol limits for operators of pleasure vessel, was undertaken in 2004 by the Department for Transport. A further consultation was launched by DfT running from 11 February until 6 May 2009. This consultation was on draft regulations, and an impact assessment, on extending the alcohol limits to “non-professional mariners” but also introducing an exception for those navigating vessels that are: less than 7 meters in length; and, not capable of more than 7 knots maximum speed.

New Ministers are currently considering their options.

### **1.2 Alcohol Licensing**

#### **England and Wales**

The Licensing Act 2003 transferred the licensing function from the Courts to Local Authorities. Statutory Guidance to Licensing Authorities has been published (see [www.culture.gov.uk](http://www.culture.gov.uk)), and the Local Authority Co-ordinators of Regulatory Services and MCA have issued guidance on the application of the Act to vessels to ensure that local authorities are aware of the requirements already in place for passenger ships, and do not seek to duplicate MCA's regime.

The licences and terms of the Act have been in force since November 2005.

Fees for new and renewal applications are set by regulation, so there should not be variations between Licensing Authorities.

Information for licensing authorities, including about MCA's safety regime for domestic passenger ships, is available on the Department of Culture, Media and Sport website, under the following link:-

<http://www.heritage.gov.uk/images/publications/RevisedGuidanceJune2007.pdf>

As well as a premises licence, operators require a Designated Premises Supervisor (DPS) to take responsibility for the sale of alcohol. The DPS must hold an accredited licensing qualification. These are available from the British Institute of Innkeeping ([www.bii.org](http://www.bii.org)) and

Education Development International plc ([www.ediplc.com](http://www.ediplc.com)). See the DCMS website (under "Licensing Act 2003 Explained/Personal Licences") for details of further courses which may be accredited.

DCMS has recently concluded a consultation on draft regulations regarding procedures for dealing with "minor variations" to licences. Information can be found on the DCMS website under: [http://www.culture.gov.uk/reference\\_library/consultations/5349.aspx](http://www.culture.gov.uk/reference_library/consultations/5349.aspx) These proposals will have no effect on the principle already established regarding domestic passenger ships on which alcohol is sold. That is, if a vessel holds a passenger ship (and DMS) certificate, it should be normally accepted as fulfilling the Licensing Act's Public Safety Objective.

### **Northern Ireland**

#### Vessels that ply between a place in Northern Ireland and a place in another country:-

These vessels do not require a license provided they meet certain conditions:

- 1) the vessel is of a kind employed for the carriage of passengers
- 2) the vessel is one which plies between a place in N Ireland and a place in another country and that liquor is sold only during the period commencing one and a half hours before the time fixed for departure and the time of departure, and while the vessel is being navigated.

#### Vessels on coastal or inland waters of N Ireland

Vessels wishing to sell liquor must be licensed and the person applying for the license must apply to the court and satisfy the court of his/her suitability and the suitability of the vessel, in the same way as if the vessel were a premises. The license would be a pub or restaurant license and the hours would be the same as for a pub or restaurant.

### **Scotland**

Alcohol legislation came into force in the summer of 2009 with a transition period commencing in February 2008.

As with the England and Wales legislation, it is intended that there should be no duplication of inspections (e.g. with the Fire Brigade) and guidance should be produced to reinforce this.

Licences would be based on the vessel's home port and would not be affected by passing through different licensing areas. However vessels passing between England and Scotland would need 2 licences.

The qualifications to be a licensee are still under discussion. However, it is envisaged that the designated manager can only be the designated manager for 1 site, [but need not be on site all the time]. Those serving alcohol will require some form of training.

There will be a licensing standards office in place to look at whether operators are selling alcohol as per the legislation, and who would investigate complaints and give advice.

The costs involved have not been decided yet. Any comments on this should be put in writing to the Scottish Executive.

Corporate hospitality may well fall into this remit but is still under discussion.

Legislation applies to passenger ships carrying more than 50 persons<sup>1</sup>, except ferries.

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<sup>1</sup> As a result of The Licensing (Vessels) (Scotland) Regulations 2007 (SSI 2007 No. 545).

## **2. Personal Watercraft**

### **Legislation**

The Water Craft Order (WCO) arose as a result of a failed prosecution (the GOODWIN case) of a jetski user in 2005 under a Merchant Shipping Act 1995 (MSA'95) offence. The WCO was proposed in order to close the perceived loop hole.

The original recommendation from DfT legal was that the WCO should address jetskis and other specified craft, and make selective amendments to the MSA'95 in order to apply the offence relating to dangerous use, and also certain safety regulations made under the MSA'95. The issue is now 5 years old, and in time other objectives have been added to the scope of the WCO. A public consultation exercise on the WCO was run between July and Sep 2009.

The consultation on the watercraft order closed in Sep 2009. It highlighted a number of implications which will need to be considered before a decision is made on which option to take forward.

### **Other**

Some DMSCs continue to identify personal watercraft as a major problem, with many recorded incidents last summer. Compulsory registration will require legislation (this is not contained within the draft regulations). In Eastern Region, DMSCs Personal Watercraft Working Group, has been formed to consider further regional issues including legislation. Specific PWC initiatives are also being pursued in Kent and Dorset.

The SE DMSC have established a permanent working group on PWC issues; the Small Aquaplaning Craft Group. This meets at least twice a year and has been expanded recently to encompass a wider range of craft and coastal user interests, reflecting some of the more extreme sports now in vogue.

Identification of users is critical in seeking to take any action. Where possible, PWC users are encouraged to register their machines with Datatag (commercially operated) which is often required for insurance purpose. There are also over 600 PWC's registered on the RSS Small Ships Register @ £12 for 5 years.

Following a recent advertisement in 'Connect' we hope to shortly appoint a National Liaison Officer for PWC's.

## **3. Inland Waters - Hire Boat Code**

As a result of the BREAKAWAY V incident (hire boat overturned on the Broads, with one fatality) and in light of the MAIB recommendations, the MCA agreed to form and chair a working group of key interested parties from industry and local and navigational authorities to draw on current best practice.

The aim of the working group was to develop a national code of safe practice for boats let for hire on inland waterways, and to consider whether a code will give the industry a standard for their own protection.

Sub-groups were established for stability issues (encompassing power, sail, day, sleep aboard, skiffs and punts), risk assessment (who will look at life saving appliances and will also cover sail, motor, day, punts and handover issues), and a technical group (who will

keep a watching brief on any developments on relevant standards laid down with the Recreational Craft Directive .

British Marine Federation (BMF) took the lead on the stability testing and are in the final stages of considering stability requirements.

BMF have led the Industry-based drafting process for this code, the results of which are being reviewed. Although certain licensing-related issues have still to be resolved, the Hire Boat Code is now available as a recommendatory, best-practice guide.

#### **4. Inland Waters Small Passenger Boat Code**

Published in 2004 jointly between MCA and the Association of Inland Navigation Authorities. A number of Navigation and Harbour Authorities have implemented the Code under their local powers.

British Waterways (BW) adopted the Code as a condition of licensing for 2006, based on the Boat Safety Scheme (BSS) certification for third party safety issues and self declaration for other issues.

The Solent and Southern Harbour Masters' Association (SASHMA) have adopted the code and issued their own version adapted to the South Coast environment.

Following the SWAN incident at Bath, in 2004, the MAIB wrote to navigation authorities asking whether they issued licences, and recommending adoption of the IWSPB Code.

With regard to section 26 of the code, please note that since the end of September 2008, those acting as masters of these vessels need to hold a qualification; either a Boatmaster's Licence or one of the acceptable alternative qualifications listed in Annex 1 of MSN 1808. For more information on this, please contact Training and Certification Branch (Tushar Bijur).

#### **5. National Standards for Inland Waterway (non-passenger) vessels**

The proposed Technical Standards, and associated Fitness for Purpose (FFP) scheme have been available on the MCA's website for some time as a draft, voluntary scheme, pending introduction on a more formal basis. They cover vessels that operate only on categorised waters within the UK, which:-

- do not carry any passengers;
- are not certificated to operate at sea.

The MCA FFP scheme has been in operation on British Waterways since April 2005, and was made a requirement under their Freight Carriage Conditions. MCA currently carries out inspections of freight vessels operating on British Waterways against the FFP scheme. FFP was developed for existing vessels that have a proven history of safe operation in a particular area, and inspection against minimum safety standards.

Further work is needed on several aspects of the regime, including specific requirements for vessels carrying hazardous or polluting cargoes.

The National Standards are not expected to be finalised and in place until 2011, following public consultation.

## **6. EC Directive for Inland Waterway vessels**

Directive 2006/87/EC (as amended) lays down technical requirements for inland waterway vessels. The UK implemented this Directive in April 2010, but in such a way that vessels which operate only on UK inland waterways, and comply with applicable UK requirements, are exempted from the Directive's requirements. This exemption is set out in Annex 3 of MSN 1824.

Vessels that are to operate on community waterways in mainland Europe, will need to comply with the relevant requirements laid down in Directive 2006/87/EC (as amended), and hold a Community Inland Navigation Certificate. This includes private pleasure vessels over 20m in length. As MCA is not carrying out surveys under the Directive, or issuing Community Certificates, the owners/operators of such vessels will need to liaise with the relevant authorities in the country concerned.

## **7. Boatmaster's Licence**

"The Merchant Shipping (Inland Waterway and Limited Coastal Operations) (Boatmasters' Qualifications and Hours of Work) Regulations 2006" came into force on 1<sup>st</sup> January 2007.

- Guidance is available from the MCA website (Working at Sea/ Training and Certification/ Boatmasters' Licences)
- MSN 1808(M), MGN 333 and MGN 334 refer.
- Application forms are also available from the website.
- For guidance about the 'Grandfather Rights' for existing BML holders, refer to MGN 333.
- Alternative qualifications to the BML are accepted for operation of non-passenger vessels under 24m and small passenger vessels carrying not more than 12 passengers (see MSN 1808, Annex 1); RYA Inland Helmsman Certificate is also acceptable as an alternative for Category - A & Category- B waters.
- Certain types of small vessels operating in a low risk environment may be covered by the 'General Exemption'. Details available on the MCA website.

### **Background**

There is a two-tier system for the new Boatmasters' Licence.

Tier 1: National Licence -

Modular structure, generic module and then specialist endorsements for particular types of operation (including cargo handling, towage, and passenger operations), and for local knowledge, in certain areas.

Tier 1, Level 1 – valid for Category A and B and non-linked Category C waters;

Tier 1, Level 2 – valid for Categories A to D waters and for 3 miles to sea and no more than 15 miles from point of departure.

Tier 2: Restricted Licence -

Valid for the operations and area specified on the certificate. Tier 2 is available for Category A and B waters, and non-linked Category C waters.

(See amendment to BML Regulations for proposed changes in licensing structure)

Holders of a Tier 1, national licence will be able to convert it to a Boatmaster's Certificate, valid for operation on other EC waterways, subject to completing additional qualifying service time and a small amount of additional underpinning knowledge (CEVNI, EC waterway network, vessel and BML regulations and inland navigation rules).

Qualifications listed in Annex 1 of MSN 1808 will be accepted as alternatives to the BML, for Inland Waterway vessels carrying no more than 12 passengers; or Inland Waterway non-passenger vessels (freight or workboats) of under 24 metres.

**NB: Existing passenger BML holders will be issued with a new style licence at their next renewal, but there will be no additional requirements for them to continue to operate as they are currently doing.**

Existing masters of vessels who have not needed a licence previously:

Detailed guidance is available in MGN 333. Those who did not take up the opportunity of transitional arrangements for their respective category, may apply to MCA to be considered under exceptional circumstances. Otherwise these individuals will need to apply as a new entrant.

### Amendment to the BML Regulations

The first informal consultation proposing amendments to “The Merchant Shipping (Inland Waterway and Limited Coastal Operations) (Boatmasters’ Qualifications and Hours of Work) Regulations 2006” drew to a close on 7 March 2010. Responses to the consultation are available from [www.mcga.gov.uk](http://www.mcga.gov.uk) under Ships and Cargoes/ Current Consultations/ Closed Consultations.

Taking into consideration the feedback received, the process of drafting instructions to lawyers is underway. A second informal consultation will be circulated shortly, followed by a formal consultation containing the draft Statutory Instrument and MSN. It is anticipated that the amended Regulations will come into force October 2011. A restricted tidal licence will be introduced within the amended Regulations as a Tier 2 Level 2 licence. The current T2 restricted non-tidal licence will be renamed as Tier 2 Level 1. Parties interested in the amendment to regulations can contact Elaine Pang (email: [elaine.pang@mcga.gov.uk](mailto:elaine.pang@mcga.gov.uk)) of the Seafarer Training and Certification branch.

## **8. Review of National Water Safety Forum (NWSF) and MSCC/DMSC Structure**

It was not expected that MSCC would meet again after March 2008 as it was proposed that the committee would be subsumed into a revised National Water Safety Forum structure. These changes are, however, unlikely to impact greatly on matters at DMSC level.

Following extensive discussions with members of the MSCC and NWSF, DfT has considered the options and will be submitting the proposed restructuring of the water safety committees to Ministers very soon.

Once DfT has approached Ministers, and depending on the outcome, they will write to all committee members outlining their proposals.

## **9. Disability Access**

- The Disability Discrimination Act (DDA), requiring facilities to be available to those with disabilities, now applies to transport, but not yet to the vessels themselves. It does however apply to ports and their infrastructure, under part 3 of the DDA.
- There are regulations in place: EC Directive 2003/24/EC, amending 2009/45/EC, requires domestic seagoing passenger ships engaged in public transport to provide disability

access. This applies to new and existing vessels, the latter if reasonable and practical in economic terms.

- MCA worked closely with operators and with the Disabled Persons Transport Advisory Committee (DPTAC) to produce Marine Guidance Note (MGN) 306 “Designing and Operating Smaller Passenger Vessels: Guidance on Meeting the Needs of Persons of Reduced Mobility” which assists in assessing what is reasonable. MCA is in favour of this Guidance produced for small sea-going vessels being used as a “best practice” guide for inland waterway vessels.
- Industry and the MCA worked with DPTAC to update “The design of large passenger ships and passenger infrastructure: Guidance on meeting the needs of disabled people” document. The new document was published in May 2010 as a guidance document entitled “Access to Sea Travel”. This document seems to have been well received by industry and its aim as stated by DPTAC is for “travelling on boats, ferries and ships to be a realistic option for disabled people. DPTAC produced this guide to help make travelling on passenger vessels as easy and positive an experience for disabled people. The document may be downloaded at <http://dptac.independent.gov.uk/pubs/index.htm#02>
- There is another DPTAC document “The Design of Large Passenger Ships and Passenger Infrastructure: guidance on meeting the needs of disabled people”. This document meets the IMO requirement “to bring the approved recommendations to the attention of those concerned”. The update of this document was considered in parallel with the new passenger guidance however, it was too prescriptive; too technical; and was not acceptable to the industry, MC or Shipping Policy. As a result it has been agreed that the existing document remains “fit for purpose” and will be kept under review.
- In December 2008, the Commission issued a proposal for a new Regulation designed to establish rights across the European Union for domestic, international and inland waterway maritime passengers, including persons with reduced mobility (PRM). This proposed EU Regulation on the rights of passengers travelling by sea and inland waterway is now in the final stages of negotiation, and is due to be considered without discussion (an A point) at a Competitiveness Council meeting in Brussels on 11 October 2010.

The proposed Regulation will provide disabled persons and persons with reduced mobility with similar opportunities to travel by water as they have in the rail and aviation sectors across the EU. The Regulation aims to standardise the rights, service and the redress which they can expect. The Regulation will establish the right of all passengers to assistance in cases of cancelled or delayed departures and lays down the right, in certain circumstances, to compensation in case of delay in arrival. Shipping Policy in DfT are leading on the proposal.

- Any questions should be directed to Vessel Policy Branch or the Accessibility & Equalities Unit at DfT.

Susan Rooke, In-house Consultant for Ship Safety is co-ordinating this work for the MCA and may be contacted via email address: [susan.rooke@mcga.gov.uk](mailto:susan.rooke@mcga.gov.uk)

## **10. Emissions**

### **10.1 Non-Road Mobile Machinery Directive**

NON-ROAD MOBILE MACHINERY (NRMM) DIRECTIVE 97/68/EC, AS AMENDED BY DIRECTIVE 2004/26/EC

“On the approximation of the laws of the Member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery”

Directive 2004/26/EC (the third directive to amend 97/68, known as “NRMM”) was transposed into UK law by Statutory Instrument 2006 No.29, which came into force on 17 February 2006. This directive amended Dir.97/68/EC to include engines on locomotives and inland waterway vessels for the first time. It also provided for a Technical Review to be carried out by the European Commission, to confirm if resources were available to proceed with further emissions limits. It was proposed that locomotive engines should comply with the same standards as other NRMM engines, but in the case of inland waterway (IW) vessel engines, a separate, specific set of emissions standards was proposed.

This is an engine emissions directive that places responsibility on the manufacturer to ensure that a new engine complies with current emissions limit values when it is first placed on the market. However, an engine coming from outside of the EU, including one already installed on a vessel which is purchased or visiting, is also considered to be placing the engine on the EU market for the first time, and should comply with emission values in force at that time.

There were already IW vessel engine emissions standards in place on the Rhine and work is underway to achieve equivalence between the NRMM Directive and the Rhine Rules. Industry; the Rhine Commission (CCNR); and EC Member States, including the UK, have attended a working group with a view to reaching global harmonisation between four sets of international requirements (MARPOL/US/EU/CCNR) and when harmonisation is reached the standards will be incorporated into the IW vessel technical standards Directive 2006/87/EC (as Chapter 8a of Annex II).

A summary of a presentation to the EU Expert Group on emissions from on-road mobile machinery engines (GEME) in February 2006 in Brussels, and the working program for the reduction of IW engine emissions limits are set out below:

### **EC Technical Review - Inland Waterway Vessels**

- For further emissions reduction consider a two-step process:
  - Step 1 using engine internal measures by 2012. Joint EC-CCNR-Industry experts' working group defining details of x% reduction of the current limit values.
  - Step 2 investigating after-treatment options, not before 2016. As a prerequisite for defining limit values studies and test programs are required to investigate on the feasibility and maturity of after-treatment technologies
- Joint EC-CCNR-Industry working group
  - to ensure the development and proposal of a *sole* inland waterway emissions regulation
  - to ensure the alignment with forthcoming US-EPA marine regulations
- Exclude engines for seagoing ships, to be handled by IMO (power cap suggested > 3000 kW)

Work still continues to achieve adoption by CCNR of all future stages of the NRMM Directive as the standard for the Rhine Navigation, and harmonisation between the EU Directive, CCNR and US requirements. However, a joint inland waterways emissions position that can be adopted by the GEME review committee does not seem to have been reached.

## **10.2 The “Fuel Quality Directive” 2009/30/EC**

Among other measures, this Directive limits the amount of sulphur present in gas-oil or diesel fuel used by inland waterway vessels to 10ppm. From 1 January 2011, fuel suppliers will not be permitted to sell any fuel with a higher sulphur content.

There are certain concerns with regard to the effect some of the low-sulphur fuels might have on older engines, and the storage and management of those which contain biofuel. There are also potential issues with engine and fuel system seals, and fuel hoses.

DfT Cleaner Fuels and Vehicles Division are leading on the implementation of this Directive (not MCA). They are running an (extended) public consultation on this issue until the end of September. The consultation pack can be seen under the following link:-

<http://www.dft.gov.uk/consultations/open/2010-26/>

DfT have also produced an overview of Directive 2009/30/EC and its requirements, the link to which is:-

<http://www.dft.gov.uk/pgr/roads/environment/fuel-quality-directive/pdf/fuelquality.pdf>

The majority of inland waterways stakeholders will now be aware of Directive 2009/30/EC and its implications. Important points to bear in mind are that this measure does not apply to vessels at sea; and it places duties on fuel suppliers, rather than vessel operators.

Further advice regarding inland waterway vessels may be developed in due course.

## **11. Code of Safe Working Practices for Merchant Seamen – Carriage on Small Passenger Ships**

There is a statutory requirement for copies of the Code of Safe Working Practices for Merchant Seamen (CSWP) to be carried on all UK ships.

CSWP is intended for the information and education of members of the crew, and should be readily available for their reference.

However, MCA recognises that on the smallest vessels, there are difficulties with storage space for documentation, and a shortage of suitable areas on board where the crew may go to read the Code.

Alternative arrangements have therefore been agreed in particular cases, as outlined in the document attached at Annex 2.

These arrangements should be discussed and agreed with the local MCA surveyors where considered necessary for a particular vessel.

A further amendment to the Code (amendment 10) will be published in November 2010. In particular this revises guidance in Chapter 17 (Entry into Dangerous Spaces), and takes account of new regulations on work at heights, chemical agents and biological agents.

Annex 3 gives an outline of the Code for the information of seamen. Operators may wish to use this to draw the attention of crews to the Code.

## **12. Other areas of interest**

### **12.1 Radio Spectrum Liberalisation**

Following a second consultation by OFCOM on Administered Incentive Pricing (AIP) in the maritime and aviation sector, a statement was published by Ofcom on the way forward that it proposes for maritime:

[stakeholders.ofcom.org.uk/consultations/aip\\_maritime/statement/](http://stakeholders.ofcom.org.uk/consultations/aip_maritime/statement/).

The existing setup of VHF licences based on individual transmitters will be replaced either with area defined licences (the area can be anything up to national coverage), or a new pricing structure dependant on the type of transmission i.e. simplex or duplex. These arrangements will enter force early next year.

Other proposals include MCA managing the SAR channels. Revised licensing arrangements for using shore based radars were not included in this consultation though Ofcom intimated that the UK Government should examine this issue, code for HM Treasury to take the initiative!

Work continues in examining ways in which the frequency band allocated for S Band (10cm) radar can be shared with non maritime/aviation/MoD users. Pressure continues to build from (for example) providers of wireless broadband to use some of this band, which could have potential harmful interference effects. We are participating in this work to ensure that sufficient protection to radars is maintained.

Potential interference to Cospas/Sarsat (C/S) systems from the release of spectrum adjacent to 406.1MHz remains an issue. There is an ongoing debate between MCA, Ofcom MoD and the C/S secretariat on the potential inability to detect EPIRB signals were extensive use to be made of the adjacent spectrum. The MCA has raised objections to this release pending satisfactory safeguards being put into place.

The European Commission has recognised the need for spectrum issues to be more centrally coordinated. Whilst currently competency on this issue largely remains with individual Member States it is likely that in future Brussels will exert greater influence in this area.

## **12.2 Wind farm Developments**

The Crown Estate announced the consortiums representing the Round 3 Offshore Wind Farm (OWF) developments in January 2010. Round 3 is intended to produce 25GW of electricity compared with Round 1 and 2 combined producing 8GW. There are 9 major Round 3 Zones:

1. Moray Firth;
2. Firth of Forth;
3. Dogger Bank;
4. Hornsea;
5. Norfolk;
6. Hastings;
7. West of Isle of Wight;
8. Bristol Channel;
9. Irish Sea.

The Crown Estate is also awarding Round 1 and 2 site extension options for 5 projects:

Kentish Flats 2, Thanet 2, Galloper, Burbo Bank and Walney.

Latest information on Crown Estates website at:

[http://www.thecrownestate.co.uk/offshore\\_wind\\_energy](http://www.thecrownestate.co.uk/offshore_wind_energy)

## **Licensing Bodies**

Infrastructure Planning Commission is the independent body which examines applications for significant infrastructure projects in England and Wales. This includes wind farm developments over 100 megawatts.

Marine Scotland is now responsible for the Food Environment Protection Act (FEPA) and Coast Protection Act (CPA) licences required by offshore developers in Scotland. This anticipates the single 'marine licence' (defined by the Marine (Scotland) Act 2010) which will come into force in April 2011 and which replaces the current licensing regime.

Marine Scotland has commissioned an SEA of offshore wind energy development in Scottish Territorial Waters (STW). This has been triggered by the Scottish Government's commitment to generate 20% of all energy from renewables by 2020, as well as the Crown Estate's leasing round in STW in 2009

The Marine Management Organisation (previously The Marine and Fisheries Agency) licences construction, coastal defences, dredging and the disposal of waste below the mean high water spring tide mark in England. This includes the licences under FEPA, CPA, Electricity Act Section 36 and the Telecommunications Act 1984. They also licence wind farm developments between 1 and 100 megawatts.

The Welsh Assembly Government is responsible for works in Welsh Waters.

All queries from developers of Offshore Renewable Energy Installations should be referred to the Navigation Safety Branch at Spring Place.

MGN 371 has replaced MGN 275 Offshore Renewable Energy Installations (OREIs): Guidance on UK Navigational Practice, Safety and Emergency Response Issues which includes more particular guidance to wave and tidal developments and the Wind Farm Shipping Route and Emergency Response and Co-operation Plan templates. Both are available on the MCA website.

MGN 372 Offshore Renewable Energy Installations (OREIs): Guidance to Mariners Operating in the Vicinity of UK OREIs has also been published and includes information to ensure that appropriate voyage planning decisions can be made.

A report, Investigation of Technical and Operational Effects on Marine Radar Close to Kentish Flats Offshore Wind Farm, by Marico Marine, is available on the British Wind Energy Association website at [www.bwea.com](http://www.bwea.com) (RenewableUK). This report is also accessible as a PDF document, from the MCA website.

The Department for Energy and Climate Change (DECC) funded a series of projects, examining the inter-relationship of wind farms with the marine environment and those who use it, which has now been published as the Offshore Energy SEA Environmental Report, and is available at [http://www.offshore-sea.org.uk/site/scripts/book\\_info.php?consultationID=16&bookID=11](http://www.offshore-sea.org.uk/site/scripts/book_info.php?consultationID=16&bookID=11) .

Research is continuing on the implications of OREIs on SAR activity, particularly with respect to wind farms and the new MCA helicopters.

Wind farms commissioned as of May 2010 –

- Robin Rigg
- Barrow (Walney Island)
- Rhyl Flats (Colwyn Bay)
- Burbo Bank (Liverpool Bay)
- North Hoyle (Liverpool Bay)
- Kentish Flats (Thames Estuary)
- Gunfleet Sands (Clacton on Sea)

- Lynn & Inner Dowsing (Skegness)
- Scroby Sands (Off Great Yarmouth)

Wind farms consented: Thanet, Greater Gabbard, Walney, Sheringham Shoal, Ormonde, Lincs, London Array, Teeside, West of Duddon Sands and Gwynt y Mor.

Wind farms under consideration: Humber Gateway; Docking Shoal; Race Bank; Dudgeon; Westermost Rough.

Wave/tidal consented: Strangford Lough (Marine Current Turbines), Beatrice Wind Farm demonstrator project, South West Wave Hub, Siadar Wave Energy Project (North Coast of Lewis).

### **12.3 Vessel Traffic Monitoring and Information System Directive (VTMIS)**

The EU VTMIS Amending Directive 2009/17/EC was published on 23 April 2009, and Member States are required to implement the new requirements within 18 months of publication. The MCA is currently working hard to ensure this deadline is achieved.

Following completion of the review of VTMIS related M-notices, MIN 313 has now been replaced by MGN 405 and MSN 1817 is subject to an Amendment. Once the Amending Directive is fully implemented MSN 1817 will be revised in its entirety.

The amending Directive 2009/17/EC provisions provide in particular for:

- Introducing a specific reporting mechanism (SafeSeaNet)
- Introducing the concept of Long Range Identification and Tracking (LRIT) systems
- Introducing measures in the event of risks posed by ice
- Widening the carriage of AIS to Fishing Vessels between 15M and 45m in length
- Adding additional criteria for exemptions from reporting requirements
- Tightening the confidentiality requirements for data gathered in accordance with the Directive.

MSN 1817 will also reflect the change in procedure for data transfer via the CERS system. The MCA has written to the Ports to give formal notification of its decision to remove the 'contact details where DPG manifest can be obtained 24 hours a day' option for the transfer of dangerous and polluting goods information via the CERS system. This is in line with European initiatives to progress to solely electronic methods of data transfer. This change will also be reflected in the revised version of MSN 1817.

For further information about the VTMIS Amending Directive, contact [Richard.jackson@mca.gov.uk](mailto:Richard.jackson@mca.gov.uk)

### **12.4 Fishing Vessel Exemption from Pilotage Act**

It was questioned at MSCC in 2004 why fishing vessels under 47.5 metres are exempt from the Pilotage Act, while other commercial vessels of similar size are covered. MCA have been asked by MSCC to co-ordinate a case for the Pilotage Act to be amended taking this exemption into consideration.

The original intention of the Pilotage Bill was that there should be no lower limits. However, during the passage of the Bill, limits of 47.5 fm for fishing vessels and 20 metres for leisure vessels were introduced. It is not known how these particular limits were arrived at.

DfT has submitted proposals for a Bill to the Minister, which may provide an opportunity for agreed adjustments to the Pilotage Act 1987. DfT Ports Division considers, subject to consultation, that there should be no lower limit at all for pilotage, if risk assessments show that the measure is necessary as a risk reduction measure.

MSCC felt that seeking an amendment to the Act, to lower the minimum size of fishing vessels for pilotage, would give Competent Harbour Authorities the freedom to act on the basis of their risk assessment under the Port Marine Safety Code.

MCA will continue to look at the scale of the problem, identifying how many fishing vessels under 47.5 metres are operating in UK ports and how many have a Pilotage Exemption Certificate (PEC). All research and evidence should be collected prior to July 2006.

Department for Transport, Ports Division, are aware of the discussions concerning the size of vessels exempted from pilotage directions, and the safety concerns arising from this exemption, at some UK harbours.

Department for Transport, Ports Division, reported that some exemptions under the Pilotage Act (e.g. less than 47.5m for fishing vessels) may not be included in a new Bill.

Latest update as of September 2010, is that DfT are still awaiting the draft Marine Navigational Bill to go through Parliament.

However, fishing vessel non exemption has not been included in this draft. This could however be added at a later date if there is a general consensus of opinion from Ports to include it in the Bill.

### **12.5 DMSC links with Search and Rescue Committees**

Attached at Annex 1 is a table showing the current links between Local SAR Committees (LSARC) and DMSCs. There is no straight forward link between the committees as the LSARCs are based on the Constabulary boundaries which do not fit the DMSCs. The increasing emphasis on Civil Contingencies has also meant that the frequency of LSARC meetings may have been reduced.

On some occasions, an LSARC meeting is held straight after a DMSC meeting, to make it more cost effective for those members who attend both. With the introduction of the Civil Contingencies Act there have been moves to look to introduce the LSARC meetings into the Local and Regional Resilience Forums as a sub group with specific emphasis on SAR. The idea of incorporating the LSARC with the Resilience forums is to reduce the amount of travelling for individual organisations. LSARCs can not be fully encompassed within the Civil Contingencies arrangements as not all LSARCS organisations are represented through the Civil Contingencies Act, so there remains a requirement to hold SAR specialist meetings. Primarily LSARCs remain practitioner focused however some Committees are discussing opportunities to look at the TORs to seek to establish better communication lines with the LRFs.

### **12.6 New Inland Waters Signage System**

The new water safety signs project is now complete, approved by AINA and recommended for adoption by its members. The system is being adopted by British Waterways (BW) and the Environment Agency.

BW's policy is to install the new design as existing signs become in need of replacement; or where a need for new signs arises as a result of risk assessments. The new sign system is based upon the best practice as identified by BSI and ISO. The signs have been designed to be readily understandable by the novice boater (unlike CEVNI) without training, and follow the familiar highways practice.

The relevant AINA document "Navigation signs and symbols: an industry standard for UK inland waterways, 2006" is available from the AINA website under the following link:-  
[http://www.aina.org.uk/work\\_programme/documents/NavigationSignsAndSymbols.pdf](http://www.aina.org.uk/work_programme/documents/NavigationSignsAndSymbols.pdf)

## **12.7 MCA Recreational Safety update**

### Lifejacket Awareness Campaign

One of the Agency's three year 'themes' is an awareness campaign to encourage more recreational boaters to wear their lifejackets. For the last three years an expert panel has been organised bringing together stakeholders and industry experts who by consensus of opinion decided that during 2007/2009 it was considered appropriate for the casualty to have been wearing a lifejacket in 80 incidents.

In 81% of these incidents (65 fatalities) the panel agreed that a life may 'probably' or 'possibly' have been saved if the casualty had been wearing a lifejacket. The results tell us that in the last three years angling, sailing, and commercial fishing are the activities which have the highest percentage of incidents where a life may 'probably' or 'possibly' have been saved if a lifejacket had been worn. And it is these areas we are now focussing our campaign efforts.

### Customer Population Survey (Arkenford)

The report 'Watersports and Leisure Participation Survey 2009' commissioned in partnership with BMF, RYA, RNLI and IPC Media is now available on the MCA website:  
[http://www.mcga.gov.uk/c4mca/watersports\\_and\\_leisure\\_omnibus\\_2009\\_final\\_public.pdf](http://www.mcga.gov.uk/c4mca/watersports_and_leisure_omnibus_2009_final_public.pdf).

### Tombstoning Campaign

Jumping from piers and cliffs into the water, what the media calls 'tombstoning', has been a growing problem area for the last few years, with an increase in deaths and injuries and subsequent media coverage. The MCA has been working in conjunction with the National Water Safety Forum and has produced posters to encourage people not to 'jump into the unknown'; as well as being distributed they will become available for download from our website for those who may wish to display them. Contact Joanne Groenenburg for more information ([joanne.groenenburg@mcga.gov.uk](mailto:joanne.groenenburg@mcga.gov.uk)).

### MCA Guidance for Pleasure Craft

The MCA published this leaflet in June 2010. It is aimed at new pleasure craft users, with information about which legislation applies to them, combined with best practice safety guidelines. Copies are available from EC group at email: [mca@ecgroup.co.uk](mailto:mca@ecgroup.co.uk)

### National Liaison Officers

We currently have National Liaison officers in place for:  
Diving – Ken Bazeley

Canoes/Kayaks	–	Anne Young
Angling	–	Hamish Young
Motorboating	–	Garry Hall
Sailing	–	Jeremy Pilcher

These willing volunteers in addition to collecting information on fatalities and incidents are promoting the key messages from our Recreational Safety Strategy:

- Get trained
- Check the weather and tides
- Wear a lifejacket
- Avoid alcohol
- Keep in touch

and the risks associated with Cold Water Shock.

#### Coasteering Safety Working Group

The MCA has been working with the National Water Safety Forum to provide guidance on best practice for coasteering activities. The guidance includes pre-activity safety guidelines such as risk assessments leading to risk control measures. It identifies the hazards and the impact on them as well as suggested key safety measures to ensure a safer event. The group will meet on the 7<sup>th</sup> October 2010 in Poole to review the draft guidance and discuss the draft Training Document.

#### **12.8 Civil Contingencies legislation (in force since Nov 05)**

Refer to Annex 4.

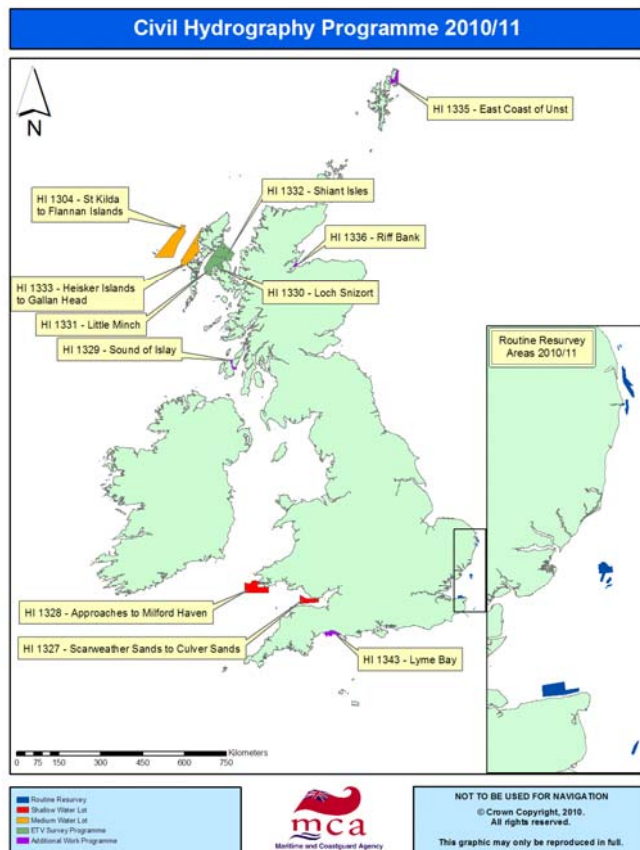
The MCA is a 'Category 1' responder under this legislation, and harbour authorities are 'Category 2'. The shipping industry isn't formally included but could well have a significant role in major emergency response.

It might be useful for DMSC members to keep abreast of the various resilience groups meeting around them, on which the MCA is usually represented by HMCG officers. Local updates will be available from or through the local Coastal Safety Manager.

#### **12.9 Civil Hydrography Programme (CHP)**

The CHP is a rolling seabed survey programme tasked with prioritising and surveying navigationally significant waters off the UK coast to IHO Order 1a for the primary purpose of updating our nation's nautical charts and publications. Currently, around 23% of UK waters have been charted to the required standard.

Responsible for an area broadly in line with the UK Exclusive Economic Zone (EEZ) - a region of seabed in excess of 720,000 km<sup>2</sup> - the CHP makes extensive use of Geographic Information Systems (GIS) to prioritise survey areas using a dynamic risk analysis methodology capable of reflecting the changing pressures of the maritime environment.



With the exception of the MCA's Emergency Towing Vessel (ETV) *Anglian Sovereign*, much of the hydrographic survey work commissioned for the CHP is undertaken by contractors offering turn-key solutions. These contractors are required to gather and report seabed data using their own personnel, equipment and vessels. Work packages are typically split between:

- **Routine resurvey** – navigationally critical shallow water areas with mobile seabed;
- **Shallow water** – 0 to 40m water depth;
- **Medium water** – greater than 40m water depth;
- **Anglian Sovereign** – survey operations conducted onboard the MCA's Emergency Towing Vessel (ETV) during periods of standby.

To support the work of the CHP, the MCA specifies state-of-the-art survey technologies including high resolution multi-beam echo sounders (MBES), digital

side scan sonar, magnetometry (to augment wreck detection) and Real-Time Kinematic (RTK) Global Positioning Systems (GPS) to ensure accurate, high quality hydrographic information is gathered. In addition, ancillary measurements are also made, including focused high resolution multibeam wreck investigations, wire sweeping of wrecks in less than 40m of water and seabed grab sampling.

To ensure data is gathered to the highest possible quality for navigational charting, technical personnel from both the MCA and UKHO routinely visit CHP survey vessels during scheduled operations to verify data integrity. Prior to final survey data being accepted from contractors, it passes through a rigorous quality assurance process at the UKHO's Bathymetric Data Centre (BDC).

At the BDC, checks are made against items such as data density, inter-line consistency, geodetic parameters and tidal observations, for example. Once data has passed verification, it is archived to the UKHO's hydrographic database ready for inclusion in their range of Admiralty products.

### “Gather Once, Use Many Times”

To supplement the work undertaken by the CHP, the MCA regularly collaborate with other organisations on hydrographic projects in order to increase efficiencies under the ‘gather once, use many times’ principle. Despite the recent economic downturn, the proliferation of offshore activity across the UK construction, energy, fisheries and shipping sectors, combined with an increasing demand for areas of marine conservation, has driven Government appetite for accurate, high resolution seabed mapping to support marine spatial planning.

In the past, Government commissioned data gathering programmes responsible for collecting this information were on the whole uncoordinated. Following the introduction of a pan-Government Memorandum of Understanding (MoU) on Hydrographic Data Sharing in 2009, the MCA has championed a unified approach to hydrography across UK Government.

Under this strategy, the MCA have made the CHP more accessible by:

- co-ordinating Government-commissioned survey effort where practical;
- sharing the CHP hydrographic survey specification;
- providing technical / survey management advice and consultation;
- making CHP data freely available to MoU partner organisations; and
- making CHP seabed grab samples freely available to the British Geological Survey (BGS).

In addition to this, the MCA has recently won over £3m of EU funding for a 3-year project to support cross-border hydrography between Ireland, Northern Ireland and Scotland – INIS Hydro. INIS Hydro is an INTERREG IVA project within Priority 2 (co-operation for a more sustainable cross border region), theme 2 (Infrastructure:Environment) call. The project's aims are to facilitate standardisation and cooperation between cross border gatherers of seabed depth data and capitalise on this by gathering standardised and high quality marine mapping baseline data in key geographical areas.

### **Civil Hydrography Annual Seminar**

Building on the *gather once, use many times* approach, the MCA hosts the Civil Hydrography Annual Seminar (CHAS). This year's event was held in Southampton on February 4<sup>th</sup>.

Proving increasingly popular - with over 80 attendees participating at this year's meeting - the event is a rare opportunity to learn of the hydrographic survey work being undertaken not just by the MCA, but by UK Government as a whole.

CHAS is the only Government lead marine event of its kind that opens its doors to the UK hydrographic community. The aims of the seminar are:

- to provide an open forum for Government organisations to come together and consult on their data gathering programmes;
- encourage co-operative working; and to
- realise the financial benefits of co-funding such work.

A number of successful partnerships with the MCA have arisen out of CHAS, most notably the South-East Regional Coastal Monitoring Programme with the Channel Coastal Observatory (CCO), and the recent Lyme Bay pSAC survey with Natural England.

The next Civil Hydrography Annual Seminar is scheduled for February 2011.

For further information on the Civil Hydrography Programme, or the work the MCA and its partners undertake in hydrography, visit [www.mcga.gov.uk/hydrography](http://www.mcga.gov.uk/hydrography). A number of downloads are available from the site including an ESRI shapefile featuring a catalogue of the MCA's multibeam survey assets and plans, plus a PDF of the CHP annual brochure.

## **12.10 Smoking on Ships**

The Government introduced restrictions on smoking in enclosed workplaces, public places and vehicles in England from 1 July 2007. These provisions are described in The Health Act 2006 and aim to save thousands of lives over the next decade by reducing both exposure to hazardous second-hand smoke and overall smoking rates.

The Health Act 2006 includes provisions designed to prohibit smoking in enclosed public places and vehicles, but does not cover ships operating at sea or on inland waters. Therefore, the Government stated its intention to introduce similar provisions to provide protection from second-hand smoke for people on ships operating in UK waters (including the territorial sea and inland waters).

In 2007, the Department for Transport held a consultation exercise seeking first views on how such restrictions should be applied. Following that consultation, draft Regulations have now been produced and have been made available for public consultation from 9 July.

The draft Regulations being consulted on are made under the Merchant Shipping Act 1995. They would apply to all ships operating within the 12 mile UK territorial waters, which include inland waters, providing they carry passengers or employees, unless the ship is exercising the right of innocent passage or the right of transit passage through straights used for international navigation. These provisions would extend to England, Scotland, Wales and Northern Ireland so that a consistent set of UK restrictions can be applied.

Under the draft regulations, smoking would be prohibited except in areas of the ship designated by the Master in accordance with the Regulations which may include designated smoking cabins on cruise ships or passenger ferries. The Maritime and Coastguard Agency would hold the responsibility for enforcement of these provisions with a scale of penalties similar to those laid down in the Health Act.

Pleasure vessels such as yachts, motor cruisers, and small private fishing vessels, would be exempted from the smoke free provisions. However, any such vessels carrying fare paying passengers, or operating with an employed crew would fall into scope of the Regulations.

Copies of the consultation paper and draft Regulations were sent to a wide range of representatives in the shipping industry, the consultation period closed on 9 October 2009 and can be located at <http://www.dft.gov.uk/consultations/closed/>.

The decision on whether to proceed with these regulations is dependant on Ministerial deliberations ongoing as part of the comprehensive spending review due to report on 20<sup>th</sup> October 2010.

## Annex 1

### LINK BETWEEN DISTRICT MARINE SAFETY COMMITTEES AND LOCAL SEARCH AND RESCUE COMMITTEES

AREA	DMSC	LSAR (details obtained from SAR Branch)
Scotland & Northern Ireland	Scotland and Northern Ireland DMSC	None
East Scotland	East of Scotland Marine Safety Committee	None

	<p>Union Canal Working Group</p> <p>Orkney Sub-Committee</p> <p>Shetland Sub-Committee</p> <p>Highland/Moray Sub-Committee</p> <p>Forth and Tay DMSC Sub-Committee</p>	
West Scotland	<p>West of Scotland Marine Safety Committee</p> <p>Western Isles SC</p> <p>Dumfries and Galloway SC</p> <p>Canals &amp; Inland Lochs SC</p> <p>River Clyde SC</p> <p>Coast &amp; Inland SC</p> <p>Small Passenger Ships SC</p>	None
Northern Ireland	<p>Northern Ireland Marine Safety Committee</p> <p>Strangford Loch WG</p> <p>Larne Lough WG</p> <p>Coastal Ports South WG</p> <p>Loch Erne WG</p> <p>Lough Neagh / River Bann</p> <p>Coastal Ports North</p> <p>Belfast Lough WG</p>	None
Wales	<p>Wales and West of England Region DMSC</p> <p>Mid &amp; North Wales DMSC</p> <p>Milford Haven DMSC</p>	South Wales Committee
West	<p>North West of England DMSC</p> <p>Sub-com. 1 - Kendal</p> <p>Sub-com. 2 – Southport</p> <p>Sub-com. 3 – Warrington</p> <p>Bristol Channel DMSC</p>	
Devon & Cornwall	Devon & Cornwall Safety Committee	Devon & Cornwall Committee
Avon		Avon Somerset & Gloucester Committee

South East Dorset Thames Hampshire Kent Sussex Essex Norfolk	East of England DMSC  South East (London) DMSC  Class V Sub-Committee BML Working Group  East Anglian Marine Safety Sub-Committee	Dorset   Hampshire and IOW Committee Kent Committee Sussex Committee Essex and South Suffolk Committee Norfolk Committee
North East Northumberland & Cleveland   Lincolnshire Yorkshire Humberside	Amble Working Group Teeside Marine Safety Sub-Committee  Berwick to Seaham Marine Safety Sub-committee  Berwick, Beadnell Bay, Seahouses and Farne Island Marine Safety Group Lincolnshire Coast & Rivers Marine Safety Sub-Committee Yorkshire Coast & Rivers Marine Safety Sub-Committee Humber Port Marine Safety Sub-Committee	Northumberland, Tyne and Wear, and Durham Committee   Lincolnshire Committee North Yorkshire (Dormant) Committee <b>Humberside Committee</b>

Key:

DMSCs – District Marine Safety Committee LSAR – Local Search and Rescue Committee  
WG – Working Group SC – Sub-Committee

Districts: Aberdeen, Belfast, Brixham, Clyde, Dover, Falmouth, Forth, Holyhead, Humber, Liverpool, Portland, Solent, Swansea, Thames, Yarmouth

## Annex 2

### DOCUMENTATION REQUIRED BY PASSENGER SHIPS

- 1** Passenger Certificate
- 2** Safety Management (ISM / DSM)
- 3** Code of Safe Working Practices for Merchant Seamen
- 4** SAR co-operation plan
- 5** Passenger counting

### CARRIAGE OF THE CODE OF SAFE WORKING PRACTICES FOR MERCHANT SEAMEN (COSWP)

Under the Merchant Shipping (Code of safe Working Practices for Merchant Seamen) Regulation 1998 [S.I.1998 No.1838] every vessel must carry a Code. However, due to restricted space on certain **vessels under 15 metres** and the practicality of holding a copy on an open vessel, MCA is prepared to relax the requirements for every vessel to carry the Code providing:

1. The vessel is **LESS THAN 15 metres** in length, whether an “open” or an “enclosed” vessel.
2. The vessel carries **FIVE or LESS Seafarers**. (It should be noted that **ALL** persons who work on board, whether permanent or casual, are **Workers and therefore Seafarers**.)
3. The Code is made **FREELY** available to **ALL Workers/Seafarers** and that it is clearly stated where each copy of the Code is kept (i.e. at each main permanent “Departure Point” or common point where seafarers meet at each “Area of Operation”).
4. The **NUMBER** of Codes made available, for Companies with more that one vessel will be on the basis of **ONE COPY** per **THREE** vessels. Copies may be electronic, provided that at least one hard copy is readily accessible.
5. The Company Management places the above Guidance in the vessel Domestic Safety management (DSM) File, **ON BOARD EACH VESSEL** and direct seafarers to read the relevant chapters.

**N.B. ALL other Small Domestic Passenger Vessels, that DO NOT satisfy POINTS 1. and 2. above, MUST carry a Code on board.**

## Annex 3

### NOTES FOR THE SEAFARER

#### Code of Safe Working Practices for Merchant Seamen (COSWP)

**ALL seafarers** should familiarise themselves with the Occupational Health & Safety information held within COSWP. COSWP is the seafarers' book and was written for them with a great deal of input and assistance by the maritime industry. Additionally, the seafarer's employer has a duty under the law to disseminate this information.

To assist the seafarer on Small Passenger Vessels in what they need to know in the first instance the following Chapters should be read:

**Chapter 1 Risk Assessments**

This chapter outlines the requirements of how to develop Risk Assessments for ALL jobs carried out for the running of the vessel. Annex 1.1; Annex 1.2 and Annex 1.3 provide proformas to assist the seafarer and managers developing these risk assessments.

**Chapter 2 Health Surveillance**

This chapter outlines the duty of the seafarers' employer; the purpose of health surveillance, its application and what to do.

**Chapter 3 Safety Officials**

This chapter in the main outlines larger vessel practice but there are several useful sections which will assist the seafarer as follows:

**3.10** Advice on compliance with safety requirements; investigation of accidents and dangerous occurrences and duty to stop dangerous work.

**Annex 3.1** gives an example of a check list for a safety inspection.

**Chapter 4 Personal Protective Equipment**

This chapter outlines the Employer's duties; Seafarers' duties and types of protection available.

**Chapter 5 Safety Signs**

This chapter outlines the general requirements and Seafarers' responsibilities and should be read in conjunction with **Chapter 28** and the Safety Signs indicated in **Annex 28.1**.

**Chapter 6 Means Of Access and Safe Movement**

This chapter in the main outlines larger vessel practice but there are several useful sections which will assist the seafarer as follows:

**6.1** Advice means of access

**6.2** Use of equipment

**6.4** Safe Movement

**6.5** Entry Into Dangerous Spaces. This part of the chapter may be useful to Seafarers' on some of the larger small passenger vessels where access may be needed for maintenance to void spaces under the passenger areas.

**Chapter 8 Safety Induction**

This chapter outlines the importance for the Seafarer of being given a thorough safety induction when joining a vessel. Of great importance to the seafarer it covers the personal requirements of the seafarer such as: what to do in the event of an emergency; what to do in the event of a fire; what to do in the event of accidents and medical emergencies; health and hygiene; good housekeeping; environmental responsibilities and occupational health and safety overall responsibilities of the employer and the seafarer.

**Chapter 9 Fire Precautions**

This chapter outlines general information on the subject of fire precautions and references Electrical gear, engine compartments and galley areas.

**Chapter 10 Emergency Procedures**

This chapter outlines the action in the event of a fire and the importance of musters and various safety drills including fire drills.

**Chapter 13 Safe Movement**

This chapter, although in the main for larger vessels, contains several parts which are useful to the small passenger vessels. These are:

- 13.1 General Advice
- 13.2 Drainage
- 13.3 Transit Areas
- 13.4 Lighting
- 13.5 Guarding of Openings.

**Chapter 14 Food Preparation and Handling**

This chapter is only applicable to the larger of the small passenger vessels that cater for the passengers they carry which will mainly be for particular passenger functions on board.

**Chapter 15 Safe Systems of Work**

This Chapter introduces safe systems for working aloft which in certain vessels will be on top of the passenger cabin or above the wheelhouse. It also covers the uses of portable ladders and work in the engine compartments.

**Chapter 16 Permits-To-Work**

This chapter outlines the Permit-To-Work system and in general the only permit that is applicable is to be found in **Annex 16.1.5 - working aloft**. For the larger small passenger vessels Annex 16.1.2 – entry into enclosed spaces and Annex 16.1.3 – machinery or equipment may be useful. Use of Permits-To-Work should be referenced and aligned with Risk Assessments.

**Chapter 17 Entering Enclosed or Confined Spaces**

This chapter is only applicable to the larger small passenger vessels.

**Chapter 18 Boarding Arrangements**

This chapter outlines the importance of the safe positioning of boarding equipment, good lighting and safety of movement.

**Chapter 19 Manual Handling**

This chapter outlines the general occupational health and safety needs of the seafarer. **Annex 19.1** lists the factors to be considered for manual handling risk assessments whereas **Annex 19.2** gives pictorial techniques in manual handling.

**Chapter 25 Anchoring, Mooring and Towing Operations**

This chapter outlines mooring operations and the dangers of “Snap-Back” Zones. See pictorial views in **Annex 25.1**.

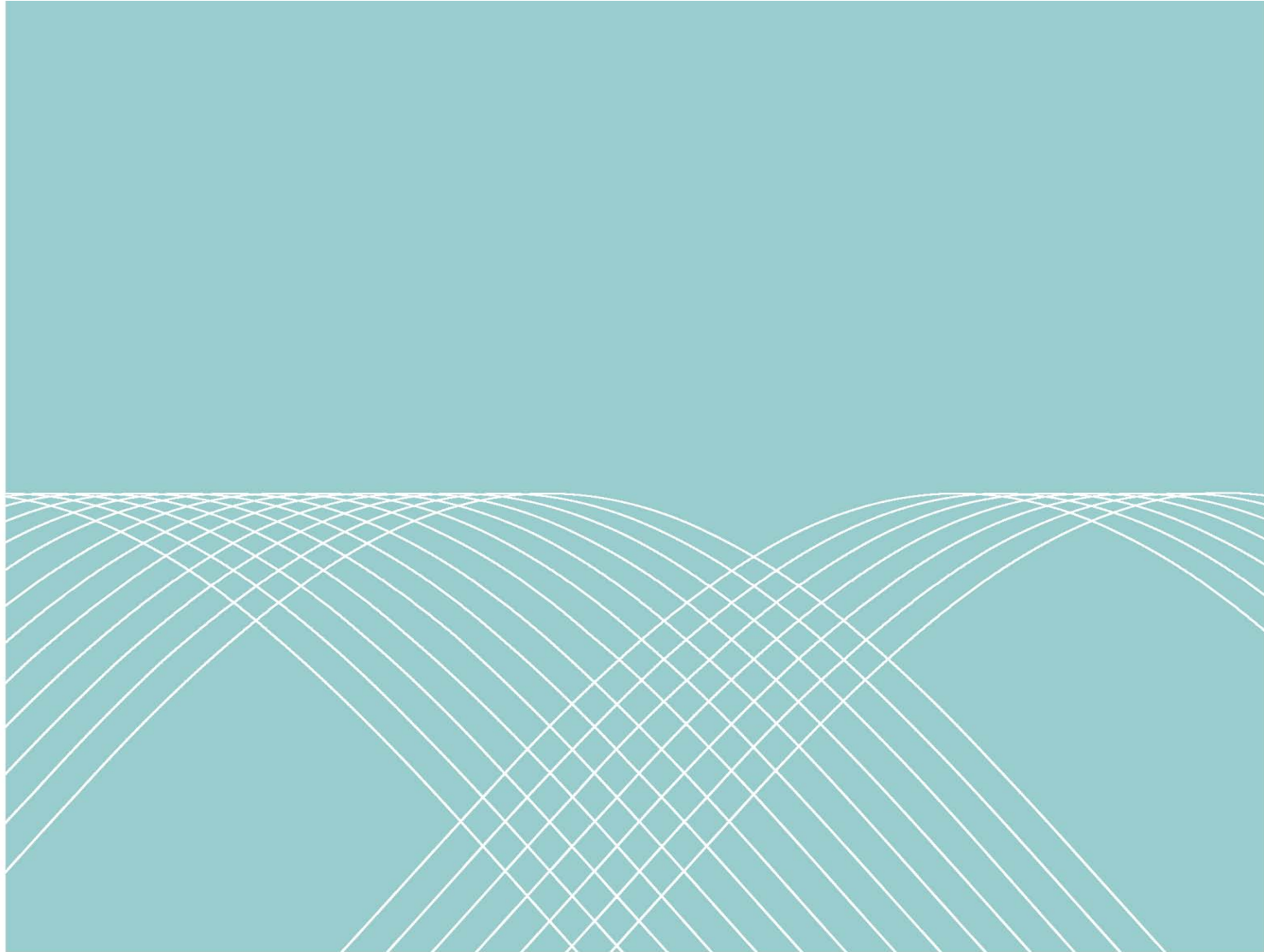
**Chapter 28 Use Of Safety Signs**

This chapter outlines the requirements to display pictorial type EU standards safety signs. **Annex 28.1** shows the respective signs for the following groupings:

- (i) Prohibition Signs
- (ii) Warning Signs
- (iii) Mandatory Signs
- (iv) Emergency Escape, First Aid and Safe Condition Signs
- (v) Fire Equipment Signs.



Civil Contingencies Act 2004: a short guide (revised October 2005)





## **Background**

Following the fuel crisis and the severe flooding in the autumn and winter of 2000 and the outbreak of Foot and Mouth Disease in 2001, the Deputy Prime Minister announced a review of emergency planning arrangements. The review included a public consultation exercise which reinforced the Government's conclusion that existing legislation no longer provided an adequate framework for modern civil protection efforts and that new legislation was needed.

Following public consultation on a draft Bill from June to September 2003 and pre-legislative scrutiny by a Joint Parliamentary Committee, the Civil Contingencies Bill was introduced to Parliament on 7 January 2004. Its development was informed from the start by close consultation with key stakeholders in what was an open and inclusive policy-making process. The Bill received Royal Assent on 18 November 2004 and henceforth became known as the Civil Contingencies Act 2004 (the "Act").

This guide gives a brief overview of the main provisions of the Act and outlines the implementation timetable.

## **Overview of the Act**

The Act, and accompanying regulations and non-legislative measures, will deliver a single framework for civil protection in the United Kingdom capable of meeting the challenges of the twenty-first century.

The Act is separated into two substantive parts:

- Part 1: focuses on local arrangements for civil protection, establishing a statutory framework of roles and responsibilities for local responders.
- Part 2: focuses on emergency powers, establishing a modern framework for the use of special legislative measures that might be necessary to deal with the effects of the most serious emergencies.

Key to modernising existing legislation is updating the definition of what constitutes an "emergency".

## **Definition of Emergency**

Civil Protection activity at the local level previously took place under Civil Defence legislation dating from 1948. This legislation defined the events local responders should prepare for in terms of "hostile attack" from a foreign power. With the ending of the Cold War such a threat evaporated and local efforts have been focused on preparing for civil emergencies such as localised flooding and major transport accidents. Emergency Powers legislation is older still. The Emergency Powers Act 1920 defines an emergency in terms of interference with specified services and resources which will deprive the community of the essentials of life. A great deal has changed since 1920. The list of services and resources in the 1920 Act was out of date. In addition, the focus of the 1920 Act on essential services and resources failed to reflect the kinds of emergency which the UK now faces (for example, the 1920 Act did not clearly cover terrorist threats or threats to the environment).



In modernising the legislation, it was necessary to introduce a new updated definition of an emergency which focuses on the risks we face in the 21st century. The definition of emergency in the Act focuses on the consequences of emergencies. It defines an emergency as:

- an event or situation which threatens serious damage to human welfare;
- an event or situation which threatens serious damage to the environment; or
- war, or terrorism, which threatens serious damage to security.

For Part 1 of the Act the definition sets out the range of possible incidents for which local responders must prepare when fulfilling their civil protection duties. For Part 2 it sets out the situations in which it may be possible to use emergency powers if the appropriate safeguards are met.

This does not mean that the definition of “emergency” is the same in both Parts. In Part 1, the threat must pose a threat of serious damage to human welfare or the environment of a “place” in the United Kingdom. This reflects the fact that Part 1 is designed to deal with preparations by local responders for localised emergencies. In Part 2, the threat must pose a threat of serious damage to human welfare or the environment of one of the English Regions, or one of the other constituent parts of the UK (Scotland, Wales or Northern Ireland). This higher threshold reflects the fact that Part 2 is designed for use in very serious emergencies which affect a larger geographical area.

### **Part 1: local arrangements for civil protection**

The purpose of Part 1 of the Act is to establish a new statutory framework for civil protection at the local level. Local responders are the building block of resilience in the UK, and the Act will enhance existing arrangements by:

- Establishing a clear set of roles and responsibilities for local responders;
- Giving greater structure and consistency to local civil protection activity; and
- Establishing a sound basis for performance management at a local level.

The Act divides local responders into two categories depending on the extent of their involvement in civil protection work, and places a proportionate set of duties on each.

Category 1 responders are those organisations at the core of emergency response (e.g. emergency services, local authorities). Category 1 responders are subject to the full set of civil protection duties. They will be required to:

- Assess the risk of emergencies occurring and use this to inform contingency planning;
- Put in place emergency plans;
- Put in place Business Continuity Management arrangements;
- Put in place arrangements to make information available to the public about civil protection matters and maintain arrangements to warn, inform and advise the public in the event of an emergency;
- Share information with other local responders to enhance co-ordination;
- Co-operate with other local responders to enhance co-ordination and efficiency; and
- Provide advice and assistance to businesses and voluntary organisations about business continuity management (Local Authorities only).



The definition of emergency in the Act defines the sorts of events or situations that Category 1 responders should be preparing for. Section 2 of the Act additionally establishes a threshold that events or situations would need to meet to constitute an emergency, and thus to trigger the duties in Part 1 of the Act. This provides that Category 1 responders' duties under the Act only apply to events or situations which require the use of assets beyond the scope of normal operations and require a special deployment.

Category 2 organisations (e.g. Health and Safety Executive, transport and utility companies) are "co-operating bodies" who while less likely to be involved in the heart of planning work, will be heavily involved in incidents that affect their sector. Category 2 responders have a lesser set of duties – co-operating and sharing relevant information with other Category 1 and 2 responders.

The detail of what this means in practical terms is fleshed out in the Contingency Planning Regulations 2005 and statutory guidance Emergency Preparedness which can be found at <http://www.ukresilience.info/ccact>. Category 1 and 2 responders are also required to come together to form 'Local Resilience Forums' (based on police force areas outside London) which will help co-ordination and co-operation between responders at the local level.

A full list of Category 1 and 2 responders can be found at Annex A. The Act enables the Minister to alter the membership of both Categories of responder in order to ensure flexibility and to take account of future developments.

## **Part 2: emergency powers**

In the UK emergency powers allow the making of special temporary legislation to deal with the most serious of emergencies. They are not a means for instigating martial law, for undermining Parliament, banning political parties or anything else of that nature. An essential point to note is that Emergency Powers legislation is a mechanism for dealing with only the most serious of emergencies that require an urgent response, an instrument of last resort. The previous emergency powers legislation (the Emergency Powers Act 1920) was used twelve times in its eighty-four year history, the last time being in 1974. In the years since, a considerable amount of sector specific emergency legislation has been introduced which reduced the need to resort to emergency powers, in part because of a recognition that Emergency Powers legislation was inadequate.

Nevertheless, there is still a need for a latent capacity to rapidly make new temporary statutory provision where this is the most effective way of enabling the resolution of an emergency situation. The Government needs a tool that can be deployed to address all forms of disruptive challenge where existing legislation is insufficient.

The Act repeals the existing legislation (the Emergency Powers Act 1920 and its Northern Ireland counterpart, the Emergency Powers Act (Northern Ireland) 1926), and the emergency powers provisions of the Act extend to the whole of the UK. It sets out a new definition of what constitutes an emergency appropriate to the times in which we live and incorporating new risks and threats which were not so relevant in 1920, including terrorist attacks, contamination of land following a biological or chemical terrorist attack and loss of communications systems on which we now depend.



As with the 1920 Act, the Act allows the making of temporary special legislation aimed at dealing with a serious emergency that fits within the definition. The Queen, as Head of State, will formally indicate that emergency powers are necessary as part of the Order in Council that makes the regulations themselves. For the first time a fallback option has been included to cover the possibility that emergency powers will be needed, where the Queen is, for whatever reason, unable to act. The Act therefore allows for a senior Minister or the Prime Minister to make the regulations in the unlikely event that Her Majesty is not able to do so.

The Act introduces a range of other new features, mostly designed to ensure emergency powers cannot be misused and can be used in a more targeted and proportionate manner. The centre piece of these is the “triple lock”, which ensures emergency powers will only be available if:

- an emergency that threatens serious damage to human welfare, the environment or security has occurred, is occurring or is about to occur;
- it is necessary to make provision urgently in order to resolve the emergency as existing powers are insufficient and it is not possible to bring forward a Bill in the usual way because of the need to act urgently; and
- emergency regulations must be proportionate to the aspect or effect of the emergency they are directed at.

In addition emergency regulations:

- cannot prohibit or enable the prohibition of participation in, or any activity in connection with, a strike or other industrial action;
- cannot instigate any form of military conscription;
- cannot alter any aspect of criminal procedures;
- cannot create any new offence other than breach of the regulations themselves;
- must be compatible with the Human Rights Act and EU law; and
- are open to challenge in the courts

For the first time it is possible to use emergency powers on a regional and/or devolved administration basis. This ensures any special temporary legislation will apply only in the part of the UK affected by the emergency, leaving those elsewhere unaffected.

The Act also requires the appointment of a ‘Regional Nominated Co-ordinator’ (“Emergency Co-ordinator” in the devolved administrations). If emergency powers are used, he/she will act as the focal point for co-ordination of response efforts at the regional or devolved administration level.

As with the existing legislation, emergency regulations must be presented to Parliament for its approval as soon as practicable after being made. Parliament may amend the regulations and must approve them within seven days of laying. If Parliamentary approval is not forthcoming, the regulations cease to have effect. The maker of emergency regulations would be subject to an obligation to protect and restore the ability of Parliament to scrutinise emergency regulations, and the ability of the Courts to entertain challenges.



The Government has given a commitment to ask a senior Privy Councillor to conduct an inquiry within one year of any use of emergency powers. The report would be published and debated in both Houses of Parliament.

## **Devolution**

The Act applies to the whole of the UK and reflects the various devolution settlements:

### Part 1

Civil protection is largely devolved to Scotland. However, the Scottish Parliament consented to Part 1 of the Act being extended to Scotland. In light of this, the powers conferred on Ministers under Part 1 of the Act (power to make regulations and guidance etc.) are, in relation to devolved matters in Scotland, exercisable by Scottish Ministers. The Scottish Ministers and UK Ministers must consult each other when exercising their legislative powers under Part 1.

In Wales, UK Ministers will make legislation and issue guidance in relation to responders in Wales. However, the Act requires the UK Ministers to obtain the consent of the Assembly before taking action in relation to a responder in Wales which falls within devolved competence.

In Northern Ireland different administrative arrangements at the local level make it impossible for Part 1 to apply to Northern Ireland in the same way as it applies in the rest of the UK. It does apply to certain bodies in Northern Ireland who exercise non-devolved functions (e.g. Maritime and Coastguard Agency, Police Service of Northern Ireland). In addition, the Northern Ireland Administration is currently developing the Northern Ireland Civil Contingencies Framework, which will ensure that responders falling within transferred competence act in line with the duties set out in the Act.

### Part 2

Emergency powers are a reserved matter. However, Part 2 ensures the devolved administrations will be consulted, if emergency powers are to be used in their territory, wherever possible. It allows emergency powers to be used in Scotland, Wales or Northern Ireland alone for the first time, though the use of emergency powers remains with Westminster.

Concordats are currently being finalised with each of the devolved administrations setting out, in particular, more detail about how these arrangements will work in practice. These will be published in due course.

## **Commencement timetable**

Part 2 of the Act was brought into force on 10 December 2004. The bulk of the duties in Part 1 of the Act will come fully into force on 14 November 2005, with the duty on local authorities to give business continuity advice coming into force on 15 May 2006.

## **Further information**

The Act, and all accompanying documents, can be found at <http://www.ukresilience.info/ccact/index.htm>.



If you would like to know more about any specific aspect of the Act, you can email the Act Implementation Team at [ccact@cabinet-office.x.gsi.gov.uk](mailto:ccact@cabinet-office.x.gsi.gov.uk) or call us on 020 7276 5053.

## **ANNEX A CIVIL CONTINGENCIES ACT 2004: LIST OF RESPONDERS**

Schedule 1 of the Civil Contingencies Act lists the responders subject to its provisions. As described in Annex 1A, the Act splits local responders into two categories and imposes a different set of requirements on each category. Category 1 and 2 responders in England and Wales are listed below.

Section 13 of the Act enables Ministers to amend the list of responders with the agreement of Parliament.

### **Category 1 responders (“core responders”)**

#### Emergencies services

- Police forces
- British Transport Police
- Fire authorities
- Ambulance services
- Maritime and Coastguard Agency

#### Local authorities

- All principal local authorities (i.e. metropolitan districts, shire counties, shire districts, shire unitaries)
- Port Health Authorities

#### Health bodies

- Primary Care Trusts
- Acute Trusts
- Foundation Trusts
- Local Health Boards (in Wales)
- Any Welsh NHS Trust which provides public health services
- Health Protection Agency

#### Government agencies

- Environment Agency
- Scottish Environment Agency



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**Category 2 responders (“co-operating responders”)**Utilities

- Electricity distributors and transmitters
- Gas distributors
- Water and sewerage undertakers
- Telephone service providers (fixed and mobile)

Transport

- Network Rail
- Train Operating Companies (passenger and freight)
- London Underground
- Transport for London
- Airport operators
- Harbour authorities
- Highways Agency

Health bodies

- Strategic Health Authorities

Government agencies

- Health and Safety Executive