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| **Consultation Responses – Transposition of Directive 2014/90/EU on marine equipment, and standards for domestic ships.** | | | | |
| **ID #** | **Consultee** | **Consultation Question** | **Consultee Response** | **MCA Response** |
| 1 | BAE Systems Naval Ships | Do you agree or disagree with the transposition approach proposed? | Agree | No further response required. |
| 2 | Is it clear from the draft statutory instrument what your responsibilities are as the owner or master of a ship (if applicable)? If No, please provide details. | No. There is an inconsistency regarding the applicability of the Act, the Directive and the Regulations regarding Her Majesty’s Ships. The Merchant Shipping Regulations 2016 state the regulation applies to any United Kingdom Ship. This definition would include Government Ships and HM Ships. However, The Merchant Shipping Act has numerous sections which either are or are not applicable to the above. The Impact extension of the MED to apply to all ‘EU ships’ - means a ship flying the flag of a Member State and falling within the scope of the international conventions. ‘international conventions’ means:  - the 1972 Convention on the International Regulations for Preventing Collisions at Sea (Colreg).  - the 1973 International Convention for the Prevention of Pollution from Ships (Marpol),  - the 1974 International Convention for the Safety of Life at Sea (Solas).  Discussions with MCA have enabled further clarification, that “The Merchant Shipping (Marine Equipment) Regulations 2016” applies to warships only in relation to equipment covered by Colregs as Colregs is the only one of the three international conventions applicable to warships. | Having considered the consultation response from BAE Systems Naval Ships, we conclude that the 2016 Regulations do not apply to Royal Navy ships. The Regulations apply to United Kingdom ships wherever they are. United Kingdom ships include government ships which are defined in section 308(4) of the Merchant Shipping Act 1995 as “ships not forming part of Her Majesty’s Navy which belong to her Majesty, or are held by any person on behalf of or for the benefit of the Crown (and for that reason cannot be registered under Part II of the Merchant Shipping Act).” The definition excludes Royal Navy ships, which, as a result, do not fall within the definition of United Kingdom ships to which these Regulations apply. |
| 3 | Is it clear from the draft statutory instrument what your responsibilities are as a manufacturer, importer or distributor of marine equipment to which approval is issued/ applied for under the recast MED (if applicable)? If no, please provide details. | No. Due to the lack of clarity and consistency regarding the applicability of the legislation to warships or ships intended for use in Her Majesty’s Navy or the Navy of a foreign crown, the requirements for supplying marine equipment for use within such ships is unclear within the current documentation. Only through discussions with MCA has it been possible to come to a clear understanding. | As per the response to 2 above, we feel that the regulations are clear in that they do not apply to ships forming part of Her Majesty’s Navy. |
| 4 | Do you have any comments on the draft statutory instrument or the draft Merchant Shipping Notice? If yes, please provide details. | Yes. The applicability to “all UK Ships” is not consistent with the MED applicability to a ship flying the flag of a Member State and falling within the scope of the international conventions.  Some further detail to describe the applicability for UK ships that do not fall within the scope of the international conventions. Eg warships. | Further to our response to 2 above we feel the applicability is in harmony with Directive 2014/90/EU on marine equipment. |
| 5 | Do you agree or disagree with the analysis for the impact assessment? If you disagree please provide reasons. | Disagree. The potential inclusion of warships will mean that the conformance marking strategies of UK built warships will need to be reviewed. Due to the complexity and lengthy timescales of these ship build programmes, the work around conformance and acceptance criteria is significant and may prove costly to alter within a current build programme.  Previously the MED stated clearly that; “warships shall not be covered”.  Due to the non-applicability of the Wheelmark to equipment placed on board a warship, BAE Systems warship build strategy has included contracting suppliers to provide CE marking as evidence of conformity.  The new requirements will mean that Wheelmarking will become the legal requirement for equipment covered by Colregs placed onboard a warship. | Further to our response to 2 above we do not feel that warships should be included in the Impact Assessment as the regulations do not apply to them and therefore any cost or benefit will not affect such ships. |
| 6 | Are there any additional costs and benefits that have not been identified in the Impact Assessment? If yes, please provide details. | Yes. The non-monetised benefits in reducing the gold plating has been calculated using the difference between MED and non-MED equipment. However, no non-monetised costs related to the increased scope of applicability to warships has been recognised. | As the scope of applicability does not include warships we do not feel the non-monetised costs need to include such ships. |
| 7 | Does the assumed number of newly flagged vessels that will no longer be bound by the recast MED, seem reasonable? If no, please provide details. | No. Not if the warships exclusion is removed and warships now need to comply with equipment covered by Colregs. | As previously indicated, warships are still excluded from application of the regulations in accordance with the definition of United Kingdom ship within the Merchant Shipping Act and the draft Regulations. Accordingly these draft Regulations will not affect cost to warships. |
| 8 | We have assumed a number of additional regulatory costs to manufacturers of equipment approved in accordance with the recast MED, from the changes in the recast MED in comparison with the existing MED. Are the assumptions used reasonable and do you have any evidence to validate/dispute these assumptions? If yes, please provide details. | Yes. There is no consideration of the costs to ship manufacturers in ensuring the equipment they select for placing on board meets the change. | As previously indicated, warships are still excluded from application of the regulations and therefore we do not feel it appropriate to include them in the analysis within the Impact Assessment. |
| 9 | Bureau Veritas | Is it clear from the draft statutory instrument and/or draft MSN what your responsibilities are as a notified or nominated body (if applicable)? If no please provide details. | Yes as a nominated body. | No further response needed. |
| 10 |  | Do you have any comments on the draft statutory instrument or the draft Merchant Shipping Notice? If yes, please provide details. | It is noted that the document “The Merchant Shipping (Marine Equipment) Regulations 2016 in its Part 3 article 15.3.c.(ii) quotes: “the last two digits of the year in which the mark is affixed”.  We comment that the Directive 2014/90/EU in its Chapter 2 article 10 sub-article 3 quotes: “ The wheel mark shall be followed by the identification number of the notified body, where that body is involved in the production control phase, and by the year in which the mark is affixed.  Our understanding is that the format of marking as far as the identification of the year is concerned is different under the recast MED (the year is to be marked) from the one of the MED 96/98/EC (the last two digits of the year were marked). | After considering the consultation response received from Bureau Veritas and referring to the text of Directive 2014/90/EU on marine equipment, it is also our understanding that the Directive requires equipment to have the year and not the last two digits of the year in which the mark is affixed displayed with the mark of conformity as per Article 10 of the Directive. Accordingly, we will amend the draft Statutory Instrument to reflect this. |