**Consultation Document**

**Consultation Start Date: 01 August 2018**

**Consultation Closing Date: 26 September 2018**

Intended Pleasure Vessels in Temporary Commercial Use and Pleasure Vessel Exemptions

The MCA has: -

1. developed a new Code of Practice for Intended Pleasure Vessels in Temporary Commercial Use at Sea (including race support boats in UK coastal waters) to allow for pleasure vessels to be used for business purposes on a single-voyage basis with limited and proportionate oversight; This new Code of Practice is supplemented by two new Marine Guidance Notices to explain and sign-post the existence of the new Code of Practice.
2. drafted an amendment to the Class XII Pleasure Vessel Exemption to phase-out the use of ORC liferafts. This is attached to a revised MGN giving general guidance on the Pleasure Vessel regulatory framework;
3. drafted an Exemption to merchant shipping regulations on the close-down of machinery spaces for RCD compliant vessels. This is also attached to an MGN giving general guidance on the Pleasure Vessel regulatory framework;

The proposed documents (one Code of Practice, two new MGNs and a replacement to MGN538) have been developed in a draft combined package after discussion with British Marine (BM), RYA, and the Yacht Brokers, Designers and Surveyors Association (YBDSA). We have also updated the revision to MGN538 to include the most recent best practice guidance and advice on Regulations for Pleasure Vessels.

Your feedback on the proposed changes (briefly explained below) is kindly requested by reply to PleasureVessels@mcga.gov.uk using the subject heading of “Pleasure Vessels Consultation”. In particular, the MCA is seeking feedback on the potential impact of the changes. As far as is possible, please explain very clearly which document and part of document is the focus of the feedback you are providing.

Opportunity will be provided at Southampton Boatshow 2018 to discuss the proposed changes with the responsible MCA policy staff. Further details will be published.

**Freedom of Information**

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

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

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

The MCA will process your personal data in accordance with the data protection framework and, in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

**Data Protection**

The MCA is carrying out this consultation to gather evidence. The consultation is being carried out in the public interest to inform the development of policy.

The MCA will use your contact details to send you information about the consultation, for example if we need to ask follow-up questions, as part of its functions as a government department. Your information will be kept secure and will not be used for any other purpose without your permission.

To find out more about how the MCA looks after personal data, your rights, and how to contact our data protection officer, please go to:

<https://www.gov.uk/government/organisations/maritime-and-coastguard-agency/about/personal-information-charter>

If you do not wish to remain on this list, please reply and let us know.

**Summary of Changes**

Code of Practice for Pleasure Vessels in Temporary Commercial Use at Sea

Vessels intended and in normal use as a Pleasure Vessel may at times fall outside the Pleasure Vessel definition for a temporary period such as pre-purchase or repair sea-trials, survey, or delivery to boatshows.

For Pleasure Vessels to be certificated to the existing Small Commercial Vessel Codes or comply with the Merchant Shipping Regulations on LSA, Fire and Load Line for such a short period would be too onerous and burdensome for vessels not normally used outside of the Pleasure Vessel definition. Note that it’s the use of the vessel that determines whether it is Pleasure of Commercial, not how it was designed or built.

This Code of Practice is a significant positive for the pleasure vessel sector and permits legitimate use of vessels within a framework that sets proportionate standards and requires a limited amount of oversight. It places requirements on the Operator of the vessel but the Owner of the vessel is still required to make sure that the Operator has measures in place to meet the Code through a Safety Management System.

The Code of Practice requires a self-declaration certification for the majority of cases where it would be used. The remainder of cases (more than 100 uses beyond 3 miles to sea) require a simple Domestic Safety Management audit from the MCA. We have amended MGN538 (Pleasure Vessel guidance note) to include guidance on the application of the proposed new Code but the Code itself would be a stand-alone document, not an Annex to an MGN. A draft revision of the MGN is included in this consultation package. Your feedback on the new Code and the draft MGNs is sought.

Further, Pleasure Vessels are at times used on a temporary commercial basis as support boats for races outside of the Pleasure Vessel definition. We have drafted a Part 2 of the Code of Practice for Intended Pleasure Vessels in Temporary Commercial Use to set a framework for this temporary commercial use. There is no requirement for survey. A self-declaration certificate is to be signed by the Operator.

Two Marine Guidance Notices are also drafted (one on Intended Pleasure Vessels in commercial use for business purposes and one for commercial use for race support boats. Your feedback on these is also sought.

Phase-out of ORC Liferafts from the Class XII Exemption on Life-saving Appliances

The Class XII Exemption on Life-saving Appliances is the document that allows for Pleasure Vessels over 13.7m to carry leisure-sector equipment rather than merchant shipping equipment. We have re-drafted the Exemption so that from 01-Jan-2019 a 5yr phase out of ORC liferafts is in place in response to the concerns on the appropriateness of these liferafts for seagoing use.

The overwhelming feedback from industry is in favour of this measure. It would require the re-signing of the Exemption. The intention is that the revision to the Pleasure Vessel guidance in MGN538 will continue to act as the vehicle for communicating the Class XII LSA Exemption, just as its preceding versions have done so.

Removing Gold-Plating of the RCD by Class XII Fire Protection Regulations

The Merchant Shipping Class XII Regulations require close-down of machinery spaces with fire flaps in all cases for the purpose of fire protection. This is in excess of the Recreational Craft Directive (RCD) requirements for those vessels which fall within both RCD scope and Class XII Scope. To address the risk of gold plating the RCD and to mitigate the safety issues, we have drafted an Exemption from the Class XII Regulation requiring fire flaps but this only exempts from close-down of natural ventilation, it does not exempt from the need to close down the forced air machinery intakes. A draft new Exemption has been prepared for the replacement to MGN538 and it highlights the risks of not closing down machinery spaces in the event of fire.