Business Impact Technical Data and Fact Sheet

**Introduction**

The following information is intended to be used to complete an assessment of the impact on business for new MCA publications. You are invited to review this document and comment (ideally by providing feedback on the content and any data or evidence of potential business impacts) on the contents to help inform the assessment process. In particular, the MCA would be extremely grateful for industry comments on the assumptions and assertions on burdens as described in this document. Only with your feedback and input can the MCA make an objective assessment of the benefits and burdens of policy changes. This public consultation will run from 01 August 2018 to 26 September 2018.

All comments and feedback should be sent to: PleasureVessels@mcga.gov.uk

**Names of the Proposed Changes as Published**

1. Code of Practice for Intended Pleasure Vessels in Temporary Commercial Use at Sea
2. MGN on Intended Pleasure Vessels at Sea for Business Purposes
3. MGN on Intended Pleasure Vessels at Sea as a Race Support Boat
4. MGN to Replace MGN538 (on Pleasure Vessel Regulations)

**Summary of the Changes**

1 - A New Code of Practice as an Addendum to the Existing Codes (the IPV Code)

The MCA has worked closely with British Marine, RYA, Yacht Brokers, Designers, and Surveyors Association to develop a new Code as an addendum to the existing Small Commercial Vessel Codes of Practice enabled under SI1998/2771 and SI1998/1609 to allow for pleasure vessels to be in temporary commercial use at sea for specific purposes (explained below). This is a very positive step to provide a framework for what we know is wanted by the sector. Without this Code

The IPV Code is due for publication on 01 January 2019. The MCA, BM, RYA and YBDSA will be on hand at the Southampton Boatshow to answer any specific questions about this new Code.

The IPV Code is split into two parts; 1) Use at sea for business purposes, and 2) Use at sea as a race support boat. In each part there are requirements for owners and requirements for operators. For Part 1, Operators are the people using the boat for their business, which are manufacturers, brokers, repairers, surveyors and in some cases owners can also be operators too. For Part 2 the Operator is the person using the Race Support Boat.

Part 1 of The IPV Code allows for Intended Pleasure Vessels (boats which are normally Pleasure Vessels) to be in temporary commercial use at sea on a single-voyage basis for business purposes relating to sale, repair, post-production / post-repair or mid-survey sea trials, customer sea trials, or vessel delivery outside the definition of Pleasure Vessel. It is applicable to Intended Pleasure Vessels of any size which are United Kingdom vessels wherever they may be. It also applies to other Intended Pleasure Vessels operating from United Kingdom ports whilst in United Kingdom waters.

Part 2 of the IPV Code allows for Intended Pleasure Vessels to be in temporary commercial use at sea on a single-voyage basis as a Race Support Boat for the purpose of Race Support Activities of yacht or powerboat racing affiliated to the National Governing Body of the Sport. It provides a standard for small (<8m) Intended Pleasure Vessels used for no more than ten events per calendar year as a Race Support Boat outside the definition of Pleasure Vessel either by the Owner or persons authorised by the Owner to do so. It is aimed at open boats such as Rigid Inflatables but does not prohibit use for small (<8m) decked vessels. Operators of Race Support Boats are advised that other Codes of Practice may be more appropriate for decked vessels.

Any Pleasure Vessel owner (irrespective of whether it is owned by an individual or a company) is responsible for making sure that either all use of the vessel is in accordance with the Pleasure Vessel definition or, if not, then appropriate commercial standards are met. If a Pleasure Vessel is going to be taken to sea for business purposes or as a race support boat on a temporary basis then commercial Merchant Shipping regulations apply. Without the publication of the IPV Code this would currently mean survey and certification for a Load Line Exemption Certificate specific to each voyage – or Survey and Certification to the existing Small Commercial Vessel Codes of Practice. The IPV Code would remove the need for full survey and certification to the more onerous Blue, Yellow, Red, or Brown Codes if the Operator of the vessel has in place a safety management system and ensures that the vessel meets a minimum set of standards which are not dissimilar to those already required for pleasure vessels to meet the Recreational Craft Directive (plus the carriage of some leisure-sector safety equipment. There are restrictions on the use of the Code, for example it cannot be used for temporary charter operations.

If an owner is taking a vessel to sea for business purposes as an owner, manufacturer, broker, repairer or, surveyor then they become an Operator in accordance with this Code of Practice. If the use is not temporary then they would need to seek further advice from the MCA but if the use is temporary (according to the IPV Code definitions) then they can use this simple and easy to meet standard. The very basic requirement for use as an Operator is that they will need to have a safety management system in place but this need not be complicated. If the Operator is using a Pleasure Vessel in temporary commercial use greater than the threshold criteria for an audit (in the IPV Code) – such as more than 100 distinct operations of the Operator’s fleet – then an audit to Domestic Safety Management standards is required. This is typically going to be required for large manufacturing companies, brokers, survey companies, or repair facilities where they have a need to take more than 100 vessels to sea each year as part of their business. As part of this Impact Assessment and consultation, the MCA would like to learn if your company would be affected by this. Please do comment by reply to the dedicated email address.

2 – A New MGN on Intended Pleasure Vessels at Sea for Business Purposes

This MGN sets out the compliance criteria for the IPV Code Part 1. The MCA would welcome your feedback (regardless of whether you are an owner or operator of a pleasure vessel) on the content of this MGN and on the parallel Part of the IPV Code. Please explain whether the cost of the equipment required to be carried represents any additional expenditure compared to your normal equipment carriage as a Pleasure Vessel. The MCA would also welcome your feedback of developing a Safety Management System but please note that unless the criteria requiring an audit have been exceeded, the Safety Management System need only be a documented explanation of how you keep people safe on board.

3 – A New MGN on Intended Pleasure Vessels at Sea as a Race Support Boat

This MGN sets out the compliance criteria for the IPV Code Part 2. The MCA would welcome your feedback (regardless of whether you are an owner or operator of a pleasure vessel) on the content of this MGN and on the parallel Part of the IPV Code. Please explain whether the cost of the equipment required to be carried represents any additional expenditure compared to your normal equipment carriage as a Pleasure Vessel. The MCA would also welcome your feedback of developing a Safety Management System but please note that unless the criteria requiring an audit have been exceeded, the Safety Management System need only be a documented explanation of how you keep people safe on board.

4 – A New MGN to Replace MGN538 on Pleasure Vessel Regulations

The MCA has re-written the MGN on the regulations applicable to Pleasure Vessels. Any changes to regulations described in the MGN would have already been through an Impact Assessment with the exception of the IPV Code. The new MGN gives a better explanation of the regulatory framework for Pleasure Vessels, it introduces the term “Intended Pleasure Vessel” and it includes two key new things. Firstly, we have amended the Class XII LSA Exemption for Pleasure Vessels of 13.7m in length and over to phase-out the use of ORC liferafts (this is relevant to Pleasure Vessel owners). Secondly, we have introduced a new Exemption which allows for RCD compliant vessels to not follow Class XII Regulations for certain fore protection measures (this is relevant to Pleasure Vessel manufacturers). Finally, the entire document has had a complete re-fresh and we’ve update all references and improved the flow and simplified the explanations. That being said, we’d still really appreciate your feedback so please do take a look at the draft and let us know what you think as part of the Consultation.

**Consideration of Burdens and Safety Benefits for Impact Assessment Purposes**

1. With the IPV Code some business would require an annual DSM audit (if they exceed the IPV Code DSM audit criteria when Operating an Intended Pleasure Vessel). We worked with British Marine to try to set the criteria to capture the end of the market where the greatest risk resides. Please feedback as part of the Consultation on whether you feel your business would be included within the scope of the criteria requiring DSM audit and please explain in your feedback what burdens you foresee that causing to your business in terms of the normal operation of your business or the work that would be needed to comply. If possible, specific information about how much working time you expect it would require to comply with the DSM audit would be particularly useful.
2. With the IPV Code, it should be noted that even current use for business purposes at sea outside of the Pleasure Vessel definition would require compliance with a commercial standard. What we are looking to do is create a framework to legitimately permit such activities to be completed with minimal burdens. Any Pleasure Vessel owners who feel that this new IPV Code would represent a new burden for how they use their vessel should first study all of the documents provided as part of the consultation and the reply to the consultation email address with data on the burdens you foresee. Your comments shall be taken into account but there should be no additional burden because compliance with existing codes should already be achieved for any commercial use at sea. Any evidence you can provide on the extent of perceived or actual impact would be gratefully received.
3. With the new (revised) LSA Exemption for Class XII vessels (Pleasure Vessels of 13,7m and over), which is Annex 1 to the MGN replacing MGN538, the MCA is looking to phase-out the use of ORC liferafts. This will mean that they will no longer be acceptable on any Class XII vessel by the year 2024. In their place, owners of Class XII Pleasure Vessels will have to purchase an ISO liferaft instead. Businesses who hire-out ORC liferatfs will be impacted for all of the Class XII vessels to which they hire ORC rafts. Manufacturers of ORC liferafts will be impacted for all of the Class XII vessels to which they directly sell rafts, and for all of the chandleries to which they sell their products. Chandleries selling ORC liferafts would be impacted by the reduction in the sale of ORC liferafts. If your business hires or sells ORC liferafts, or if you are a Class XII Pleasure Vessel owner who uses an ORC liferaft please reply to the consultation email address including any data on the extent of burden to you or your business.
4. With the new Close-Down of Machinery Spaces Exemption for Class XII Pleasure Vessels which is Annex 3 to the MGN replacing MGN538, small craft manufacturers will no longer need to fit fire-flaps on naturally ventilated machinery space air intakes (but they will be required if that vessel then is used for commercial operations to comply with the blue, yellow, red, or Brown Codes or MGN280). This new Exemption removes gold-plating of the Class XII Regulations for Recreational Craft Directive compliant Pleasure Vessels. The MCA would be keen to hear from small craft manufacturers on the potential financial benefits of this change in legislation. Please respond to the consultation with any data that you may have. Please also comment on your views from a safety perspective.
5. Any vessel which would have historically sought the Load Line Exemption route in place of code vessel compliance for temporary commercial use at sea would now be able to take advantage of the new IPV Code. The MCA would be keen to hear from anyone in this position and if they foresee any benefits or burdens as a result.

**Useful Data for Consideration**

The MCA will look to use data on the impacts and benefits to the UK fleet. The following numbers are key for this purpose but the MCA would like to seek your comments about the data below as part of the consultation. Please feel free to provide feedback using the consultation email address provided at the top of this page.

The MCA annual fee for survey, inspection and audit activity is £94 per hour though this is under review.

A DSM Audit of an Operator meeting the criteria (such as 100 voyages to sea but beyond the mile box zone from the coast) may take one day (7.4hrs) if it is a small one-office UK brokerage but may take up to ten days if it is a large UK manufacturer or manufacturer’s UK agent.

British Marine statistics state that 10,000 vessels were produced in the UK in 2016 for domestic and international markets. This may include fully commercial vessels as well as Pleasure Vessels. Further analysis of the UK production of small craft is required to determine the number of purely Pleasure Vessels manufactured in the UK in one calendar year.

Assuming half of the 10,000 vessels were Pleasure Vessels used in UK waters for sea trials, delivery or delivery to exhibition and all of those were not normally certificated for commercial use, approx. 5,000 vessels per year could be Operated as temporary commercial use at sea under the IPV Code. Of those, the aim of the policy is to only require the top 10% (top meaning most frequent temporary commercial uses) would require an audit of the Operator. 10% of 5,000 is 500 vessels and this corresponds to the approximate figure the MCA discussed with British Marine as the number of IPV Code vessels produced by the five largest small craft manufacturers in the UK.

Each of those 500 vessels would need sales trials and at some point a sales delivery or business relocation delivery. Many will also be used by a surveyor but without data surveyor usage it can be assumed that approx. 500 vessels per year would fall into the top 10%.

The DSM audit is not undertaken on the vessels, it is undertaken on the Operator and this can be estimated to be the five largest manufacturers for the 500 distinct vessel uses in the top 10%. Not all of these will be undertaking activities at sea.

Further, there will be an extra number of activities undertaken by Brokers of new and second-hand boat sales. There are approx. 10 large national yacht brokers but each has multiple offices around the UK coast with potentially 100 or more sales per year per office. The MCA would like to know the industry’s thoughts on whether this is a reasonable assumption or if more objective data are available. There are also many more smaller brokers and sales agents.

There are thousands of small vessel repair yards in the UK including individual persons. This ranges from rigging specialists, osmosis specialists, general repair yards, interior fit-out yards, sail repairers, engine specialists and so on. Data would need to be sought and not all of these will be undertaking activities at sea. Please provide us specific examples of the types of repair yards and please direct the MCA to any objective data on the number of businesses engaged in repair of pleasure vessels.

We can assume a very small number of Pleasure Vessels would be in temporary commercial use at sea as a Race Support Boat. The RYA indicates that this is likely to mostly be popular with top level tuition for children and young adults at the top end of the sport. The RYA has indicated that the 10 uses per year per vessel maybe low (the cut-off for application of Part 2 of the IPV Code) but this is only temporary use at sea and does not preclude use not at sea (such as in the Solent).

Data on the numbers of Pleasure Vessels used as Race Support Boats at Sea would need to be obtained. If you have any objective data or would like to comment on this from an experiential perspective then please do so.

For the new (replacement) Exemption on LSA for Class XII Vessels the major change is the phase-out of ORC liferafts. An ORC Liferafts can cost anything between £600 and £1,500 to purchase. An ORC liferaft can cost anything between £45 and £80 per day to hire.

For the new Exemption on close-down of Machinery Spaces for Class XII Vessels the major changes is manufacturers not fitting fire flaps but they would need to assure compliance with ISO9094 instead. The MCA would like to ask for data on the costs of installing fire-flaps at production stage of a pleasure vessel and costs of the completion of fire tests to comply with ISO9094 so that we may compare them.