



Law Society  
of Scotland

# Consultation response

Consultation on the Merchant Shipping (High Speed Offshore Service Craft (HSOSC)) Regulations 2021 and accompanying code

September 2021



## Introduction

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The Law Society of Scotland is the professional body for over 12,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Marine Law Sub-committee welcomes the opportunity to respond to the Maritime and Coastguard Agency's *Consultation on the Merchant Shipping (High Speed Offshore Service Craft (HSOSC)) Regulations 2021 and accompanying code*<sup>1</sup>. We do not seek to respond to the consultation questions but have the following general comments to make.

## General comments

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We favour the introduction of bespoke legislation for the operation of High Speed Offshore Service Craft. Tailored legislation and guidance will help to bring clarity and certainty to the sector, particularly in relation to safety management systems, and will mean that operators no longer require to comply with all the legislation relating to passenger vessels (if carrying more than 12 persons) as well as high speed craft regulations.

### Definition of 'high speed craft'

We note that the definition of a High Speed Craft under the proposed Regulations is by reference to the definition set out in Paragraph 2 of The Merchant Shipping (High Speed Craft) Regulations 2004, being a *craft capable of a maximum speed (in metres per second) equal or exceeding  $3.7 \nabla^{0.1667}$  where  $\nabla$  is the volume of displacement corresponding to the design waterline in square meters excluding craft the hull of which is supported clear above the water surface in non displacement mode by aerodynamic forces generated by ground effect.*

This definition appears to be complex and so it may be difficult for operators to determine whether a vessel falls within scope. In addition, the proposed High-Speed Offshore Service Craft Code (the proposed Code) defines 'high-speed craft' as per the IMO International Code of Safety for High-Speed Craft 2008, as amended. It could be confusing for operators that different references are made under the proposed Regulations and the proposed Code in relation to the definition of 'high speed craft'. In the interests of clarity and certainty in the law, we suggest that the proposed Regulations and Code should use the same definition

<sup>1</sup> <https://www.gov.uk/government/consultations/consultation-on-the-merchant-shipping-high-speed-offshore-service-craft-hsosc-regulations-2021-and-accompanying-code>

for 'high speed craft'. We consider that detailed guidance would be of benefit to the sector in order to assist with interpretation of the definition, including a reference to hovercraft and hydrofoils.

In addition, we note that alternative definitions of high speed crafts are available – for example, The Merchant Shipping (Boatmasters' Qualifications, Crew and Hours of Work) Regulations 2015 as they relate to a 'fast craft endorsement' define a 'fast craft' as: "*a vessel capable of a maximum speed when fully laden of at least 20 knots (where "maximum speed" means the speed achieved at the maximum continuous rating of the vessel's propulsion machinery).*"<sup>2</sup> This definition would appear to be simpler for operators to use in order to determine whether a vessel is within scope.

**For further information, please contact:**

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<sup>2</sup> Paragraph 6.