



Law Society
of Scotland

Consultation Response

Consultation on the draft MGN 627 (M)
Amendment 1

24 August 2023



Introduction

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 consider and respond to the Maritime and Coastguard Agency consultation on the draft MGN 627 (M) Amendment 1.¹ The sub-committee has the following comments to put forward for consideration.

Questions

1. Is the MGN free of typographical errors?

Yes

No (if you tick this, please provide detail in the space below, continuing on a separate sheet if necessary)

In the reference on page 1 to the “Merchant Shipping (Safety Standards for Passenger Ships on Domestic Voyages) (Miscellaneous amendments) Regulations 2022”, the word “amendments” should be capitalised.

2. Do you believe the content is clear?

Yes

No (if you tick this, please provide detail in the space below, continuing on a separate sheet if necessary)

Please see our comments at question 5.

3. Do you believe the content included is appropriate for an MGN?

Yes

No (if you tick this, please provide detail in the space below, continuing on a separate sheet if necessary)

4. Do you believe there is any potentially helpful guidance which has been omitted?

Please see our comments at question 5.

¹ [Consultation on the draft MGN 627 \(M\) Amendment 1](#)

5. Do you have any additional comments to add to the response?

We note that there are several instances where the MCA suggest additional tests or to provide exemption according to the opinion of a surveyor. Whilst we recognise the value that providing surveyor expertise brings, we would also suggest some additional objective examples to reduce the subjectivity of an individual surveyor opinion.

In respect of paragraph 2.3, whilst the suggestion is clearly advantageous to operators, we suggest that a risk assessment should be required to additionally consider the possibility of an incident occurring at or just before sunset or the hour afterward which could result in people being in the water without lights in the gathering darkness.

In respect of paragraph 2.5, we note that this is another point which would rely on surveyor opinion. We consider it preferable to provide specific examples of what system would be acceptable, whilst recognising that not every arrangement can be covered – but guidance should seek to reduce as much subjectivity as reasonably possible.

As a general comment, we note concerns from members that having a range of MGNs – with potentially overlapping content and which may also be partially disappplied or superseded, e.g. for certain vessels or circumstances – can cause confusion. We would welcome a more user-friendly process, achieved by collating the relevant requirements into one easily accessible and fully up-to-date document (as is done with UK legislation). We would also welcome greater functionality and navigation between the various requirements, for example including hyperlinks to other relevant documents.

More generally we consider that it is not desirable from a legislative perspective that MGNs regularly need to be issued to clarify uncertain (often secondary) legislative provisions. It would be preferable for the legislative provisions to be as clear in their meaning and effect as possible, or amended to achieve this. This would avoid confusion in the industry and undoubtedly lead to greater compliance.

For further information, please contact:

Robbie Forbes
Policy Team
Law Society of Scotland
0131 476 816
policy@lawscot.org.uk