



Law Society  
of Scotland

# Consultation response

Consultation on a revised code of practice for the safety of fishing vessels of less than 15m length overall

October 2020



## Introduction

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The Law Society of Scotland is the professional body for over 12,000 Scottish solicitors. With our overarching objective of leading legal excellence, we strive to excel and to be a world-class professional body, understanding and serving the needs of our members and the public. We set and uphold standards to ensure the provision of excellent legal services and ensure the public can have confidence in Scotland's solicitor profession.

We have a statutory duty to work in the public interest, a duty which we are strongly committed to achieving through our work to promote a strong, varied and effective solicitor profession working in the interests of the public and protecting and promoting the rule of law. We seek to influence the creation of a fairer and more just society through our active engagement with the Scottish and United Kingdom Governments, Parliaments, wider stakeholders and our membership.

Our Marine Law Sub-committee welcomes the opportunity to respond to Maritime and Coastguard Agency's *Consultation on a revised code of practice for the safety of fishing vessels of less than 15m length overall*<sup>1</sup>. We have the following comments to put forward for consideration.

## General comments

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We note that the consultation states the following objectives:

"The objectives of the Small FV Code of Practice are twofold:

- to reduce the number of lives lost and the number/severity of accidents by improving safety standards on all UK fishing vessels
- by improving the safety and raising the standards of vessels under 15m through aligning more closely the standards of fishing vessels with small commercial vessels and workboats."<sup>2</sup>

As referred to in the consultation, there continues to be fatalities on small fishing vessels. The practical measures proposed for improving the safety for fishermen are welcomed particularly on smaller vessels with one or two crew.

We consider that aligning the safety standards of fishing vessels with small commercial vessels is a worthy objective in the context of reducing the number of lives lost and the number/severity of accidents. We note however that there remains an inconsistency with commercial vessels in relation to the oversight of the adherence of skippers to the requirements of the Code. Small fishing vessels are only required to be inspected by a third party at the time of construction or 'flag in' (i.e. transferring onto the UK ship registry), and

<sup>1</sup> <https://www.gov.uk/government/consultations/consultation-on-a-revised-code-of-practice-for-the-safety-of-fishing-vessels-of-less-than-15m-length-overall>

<sup>2</sup> Paragraph 2.1.

therefore once every five years unless there is a change of ownership meantime. Under the proposed revised code, there is no change to this arrangement. The skipper/owner is required to self-certify annually which may be of limited value compared to an independent, third party inspection. This differs from the position for small commercial vessels which are required to have annual inspection by third parties.

While we recognise that there are likely to be challenges associated with requiring annual surveys/inspections of small fishing vessels (for example, cost to the fishermen, lack of capacity within the MCA and increased regulation), if safety is the only or primary consideration, it appears difficult to justify not aligning the requirement for inspection of small fishing vessels into line with those for small commercial vessels.

At present, the Small Fishing Vessel Inspection Certificate becomes invalid on a change of ownership and the new owner must have the vessel inspected again. We understand that, in Scotland, the MCA has generally given a new owner a three-month grace period to obtain a new Certificate in order to maintain its registration. We consider that this is a pragmatic approach to allow business operations to continue immediately after a transfer of ownership while maintaining a fairly short deadline for reinspection. We note that the requirement for reinspection where there is a change of ownership remains under the proposed new Code of Practice (draft Code, paragraph 1.4.1.2). While we favour the requirement continuing, we consider that it would be appropriate in the interests of clarity and certainty to formalise the grace period commonly applied in Scotland and apply it consistently across the UK.

**For further information, please contact:**

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