



Law Society
of Scotland

Consultation Response

Consultation on methodology for assessing
navigation safety risk of aquaculture sites

23 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 methodology for assessing navigation safety risk of aquaculture sites.¹ The sub-committee has the following comments to put forward for consideration.

Questions

1. Is the document fit for purpose?

Yes, I agree

No, I disagree

2. Does it provide everything an applicant needs to complete the NRA?

Yes, I agree

No, I disagree

3. Is there any aspect not fully addressed?

No, everything is adequately covered

Yes, there are details missing

Please see our comments at questions 5 and 9.

4. Does it allow for a proportionate approach relative to the scale of the works (noting this guidance aims to fit all applications)?

Yes, I agree

No, I disagree

5. Are there any aspects which cause concern for your industry?

No, there is nothing to cause concern

¹ [Consultation on methodology for assessing navigation safety risk of aquaculture sites](#)

Yes, I have concerns

We suggest it would be appropriate to consider the risk that bays etc that have been previously useful to provide shelter in inclement weather become untenable due to fish farm development. The individual developer might not be able to consider this risk, this might be a wider consideration for the MCA Navigation Safety team.

6. Are the example templates clear and useful?

Yes.

No, I disagree

7. Does the draft MGN flow and is it easily understandable?

Yes.

No, I disagree

8. Any suggestions for further improvements?

Please see our comments at question 9.

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.

9. If you have any text specific comments or amendments to make, please note them in the table below following the example given.

Page number	Section or paragraph number	Comment
5	4.2.2	We suggest that it would be appropriate for the UK Chamber of Shipping to be added as a suggested consultee.

9	5.1	We suggest considering risks to other mariners from fish farm detritus / flotsam: for example ropes / feed pipe etc. Committee members note from previous roles that vessels had incidents with flotsam thought to come from fish farms entangled with ship propellers, rudders and other appendages.
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