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## **Media and Other Similar Organisations Using Ships and Fishing Vessels.**

**Notice to all shipowners, ship managers, masters, fishing vessel owners, fishing vessel managers and fishing vessel skippers and media and similar organisations.**

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### **PLEASE NOTE:-**

Where this document provides guidance on the law it should not be regarded as definitive. The way the law applies to any particular case can vary according to circumstances - for example, from vessel to vessel and you should consider seeking independent legal advice if you are unsure of your own legal position.

### **Summary**

- It is unlikely that when media or similar organisations use vessels for the purpose of their business, that the vessel will be considered as a 'pleasure vessel'.
- Ship and fishing vessel owners, managers and masters/skippers should ensure that their vessel is suitably certified for the activity it is being used for. Media and other similar organisations are recommended to verify that the vessel is suitably certified.
- The use, size and number of passengers the vessel carries determines the certification that it is required to have and the manning requirements for that vessel.
- Where it is not usual to carry passengers on a particular type of vessel, additional safety measures should be considered.
- When a project is taking place that will involve an unusual type or use of a vessel it is best practice to contact the MCA at an early stage to ensure that it is feasible.
- The safety of the vessel and the persons onboard should be the primary consideration at all times and instructions of the master/skipper should be complied with.

### **1. Introduction.**

1.1 From time to time the media, which could include film and television production companies, the printed or electronic press, advertising agencies or broadcasters, wish to use United Kingdom registered vessels or foreign vessels operating from United Kingdom ports whilst in United Kingdom waters to assist them in the production of their output. This MGN provides guidance on the legislative requirements.

1.2 This MGN was produced following discussions with media organisations. It informs media organisations of the currently applicable legislation, and also guides ship owners, managers and masters on their responsibilities. It provides a consistent approach for the shipping industry.

1.3 There will always be unusual cases where specific arrangements may be required. These can be dealt with case-by-case in co-operation with the MCA and it is advisable to make contact with the MCA at an early stage in the project planning process. MCA assistance in these projects will be charged at the standard hourly rate, which can be found in the Merchant Shipping (Fees) Regulations 2006 (SI 2006 No. 2055), as amended. The MCA recommends that production companies employ their own consultant(s) to assist in ensuring that the legal requirements are met.

## 2. Who to contact

2.1 In the first instance, the vessel's status, its classification and the qualifications of the crew can be obtained from the owner, manager or master. If there is any doubt, ship owners, managers or masters should contact their local MCA Marine Office for guidance, details of which are on our website..

2.2 If further guidance is required then MCA Vessel Policy Branch (**Tel:** 023 8032 9139 **Fax:** 023 8032 9104) or MCA Seafarer Training and Certification Branch (**Tel:** 023 8032 9231 **Fax:** 023 8032 9252 **E-mail:** exams.section@mcga.gov.uk) may be contacted.

2.3 Regulations, Codes of Practice and Guidance Notes are available on the MCA website at <http://www.mcga.gov.uk/c4mca/mcga07-home/shipsandcargoes/mcga-shipsregsandguidance>

## 3. Status of vessels.

3.1 In the United Kingdom any vessel that is not a "pleasure vessel" as defined in the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998 (SI 1998 No. 2771), as amended, is required to have onboard appropriate valid certification if it proceeds to sea ('to sea' means beyond categorised waters as defined in MSN 1776 (M+F)). The definition of pleasure vessel in the above Regulations is:

*"pleasure vessel" means-*

*(a) any vessel which at the time it is being used is:*

*(i)*

*(aa) in the case of a vessel wholly owned by an individual or individuals, used only for the sport or pleasure of the owner or the immediate family or friends of the owner; or*

*(bb) in the case of a vessel owned by a body corporate, used only for sport or pleasure and on which the persons on board are employees or officers of the body corporate, or their immediate family or friends; and*

*(ii) on a voyage or excursion which is one for which the owner does not receive money for or in connection with operating the vessel or carrying any person, other than as a contribution to the direct expenses of the operation of the vessel incurred during the voyage or excursion; or*

*(b) any vessel wholly owned by or on behalf of a members' club formed for the purpose of sport or pleasure which, at the time it is being used, is used only for the sport or pleasure of members of that club or their immediate family, and for the use of which any charges levied are paid into club funds and applied for the general use of the club; and*

*(c) in the case of any vessel referred to in paragraphs (a) or (b) above no other payments are made by or on behalf of users of the vessel, other than by the owner.*

*In this definition "immediate family" means-*

*in relation to an individual, the spouse or civil partner of the individual, and a relative of the individual or the individual's spouse or civil partner; and "relative" means brother, sister, ancestor or lineal descendant.*

- 3.2 Considering this definition of a pleasure vessel, it is highly unlikely that any of the members of the media or similar organisation that will be onboard the vessel will fall within the definition of "immediate family or friends" of the owner(s) of the vessel. Therefore it is likely that vessels that go to sea for media purposes will need valid certification onboard.
- 3.3 Financial contribution is not the defining factor in changing the status of a vessel to a 'non-pleasure vessel'. It is only important when everyone onboard are immediate friends or family of the owner(s), or employees or officers of the body corporate which owns the vessel. In this scenario only the direct costs of the voyage can be considered as a contribution in order for the vessel to remain as a pleasure vessel.
- 3.4 For vessels owned by or on behalf of a members club, only members of the club or their immediate family may be on board for the vessel to remain as a 'pleasure vessel'. Any charges levied should be paid into club funds for the benefit of the club.
- 3.5 If the vessel is carrying more than 12 passengers at any time, even as a pleasure vessel, it will be considered to be a Passenger Ship, and therefore must be surveyed and certificated as a Passenger Ship, and issued with a Passenger Ship Safety Certificate, regardless of where it is operating.
- 3.6 For ease of reference, Table 1 outlines where the vessel being used fits into the certification regime.

**Table 1. Guidance on certificates required for different types of ships.**

<b>Vessel Operation</b>	<b>Certificate Required</b>		
Fishing Vessels engaged in fishing for profit	<b>All Waters</b>		
	Fishing Vessel Decal	<15m LOA≥	Fishing Vessel Certificate
Vessels carrying more than 12 passengers	Passenger Ship Safety Certificate		
Vessels carrying no more than 12 passengers	<b>To Sea</b> (outside MSN 1776 categorised waters limits)		
	Small Commercial Vessel Certificate or Workboat Certificate	<24m load line length≥	Load Line Certificate
	<b>Inland Waters</b> (within MSN 1776 categorised waters limits)		
	Licensed for Commercial Pleasure	Certificate from Local Authority or the relevant Navigation Authority	
	Non-licensed Commercial Workboat	Class IX(A) vessel rules apply. No certificate required.	

#### **4. Using registered fishing vessels for filming.**

4.1 If the media organisation wishes to use registered fishing vessels as part of its production they should in the first instance make contact with the owner/manager/skipper of the vessel, and thereafter the owner/manager/skipper of the vessel and the media organisation should make contact with the MCA Press Office and the local Marine Office.

#### **4.2 Fishing vessels engaged in fishing.**

4.2.1 By definition a vessel is only a fishing vessel while it is “being used for, or in connection with fishing for sea fish [for profit]” (Merchant Shipping Act 1995, s.313), for which it is required to be registered at the Registry of Shipping and Seamen.

4.2.2 If the registered fishing vessel is carrying passengers while it is engaged in fishing for profit (including passage to and from the fishing grounds), it may do so, provided that it is equipped with adequate lifesaving appliances for all onboard and no more than 12 passengers are carried.

4.2.3 Fishing vessels under 15 metres length overall (LOA) may not have a Fishing Vessel Certificate. However, if it has successfully passed the MCA inspection process it should have a decal (a circular blue sticker with the MCA logo) displayed indicating this, with an expiry date. If a decal is not visible, or the expiry date is not shown, the local MCA Marine Office should be contacted to verify that the vessel has successfully completed an inspection in the last five years. From 1st July 2010, fishing vessels under 15m LOA will start to receive Small Fishing Vessel Certificates to replace the decals. These Certificates may take up to five years to be phased in. It is strongly recommended that a safety inspection of the vessel is undertaken by the MCA prior to the vessel being used by the media organisation.

4.2.4 Fishing vessels over 15m LOA will have a Fishing Vessel Certificate which will indicate the maximum number of persons for which life-saving appliances are provided and an expiry date for the certificate.

4.2.5 Where passengers are carried, items that the skipper should brief the passengers on are provided in Annex 1.

#### **4.3 Fishing vessels not engaged in fishing.**

4.3.1 If a registered fishing vessel is being used for a purpose other than fishing for profit, or for example is asked to drop its nets purely for obtaining footage, this would be considered as being not engaged in fishing.

4.3.2 If the registered fishing vessel is under 24 metres load line length and not going to be engaged in fishing when the passengers are being carried, then the vessel should either meet the requirements of section 5 of this Guidance Note, or the skipper/manager/owner should contact the local MCA Marine Office and ask for the vessel to be surveyed for issue of a Load Line Exemption Certificate prior to the passengers being carried.

4.3.3 If the vessel is 24 metres load line length or over the skipper/manager/owner should contact the local MCA Marine Office and ask for the vessel to be surveyed for issue of a Load Line Exemption Certificate prior to the passengers being carried.

4.3.4 The MCA’s standard hourly charges (see paragraph 1.3) will apply for any survey and certification requested.

#### **4.4 Passenger training.**

4.4.1 Any passengers that are to be carried onboard fishing vessels are strongly recommended to undertake personal sea survival training.

#### **5. Small Commercial Vessels**

5.1 Vessels under 24 metres load line length that carry 12 or less passengers may be used within the limits of their certification provided that they have a valid Small Commercial Vessel Certificate, a valid Workboat Certificate, or a valid Pilot Boat Certificate.

5.2 These vessels have various limitations on their operation dependent upon the vessel's certification or the certification of the skipper, whichever allows the lower area category of operation. Further guidance can be found in one of the following Codes of Practice, depending on how the vessel has been certified:

- The Safety of Small Commercial Sailing Vessels – a Code of Practice.
- The Safety of Small Commercial Motor Vessels – a Code of Practice.
- The Code of Practice for the Safety of Small Workboats and Pilot Boats.
- The Code of Practice for the Safety of Small Vessels in Commercial Use for Sport or Pleasure Operating from a Nominated Departure Point (NDP).
- Marine Guidance Note 280 (M) - *Small Vessels in Commercial Use for Sport or Pleasure, Workboats and Pilot Boats – Alternative Construction Standards*

#### **6. Vessels on the UK's inland waters (excluding fishing vessels).**

6.1 The UK's inland waters are known as 'categorised waters', guidance on which can be found in Merchant Shipping Notice 1776 (M+F) - *Categorisation of Waters*.

6.2 Vessels that have been issued a safety certificate by an Inland Navigation Authority (INA) or a Licence by a Local Authority (LA) should be considered as suitable for use within the limitations of the certificate issued.

6.3 Vessels that have not been issued certificates may be used provided that:

.1 if the vessel is on waters under the control of an INA, that the INA does not have any requirements for the certification or operation of the vessel; or

.2 the vessel is operating from a mooring based within a Local Authority area that issues Local Authority Licences, and the vessel is not being let for hire for pleasure purposes; or

.3 the vessel is operated on waters where the LA does not issue Local Authority Licences for pleasure boats or pleasure vessels to be let for hire from its area,

and that the vessel meets as a minimum the requirements for a vessel of Class IX(A) which are provided for in:

- The Merchant Shipping (Life-saving appliances for ships other than Class III-VI(A)) Regulations 1999 (SI 1999/2721), as amended, and
- The Merchant Shipping (Fire Protection: Small Ships) Regulations 1998 (SI 1998/1011), as amended.

6.4 Further guidance on these requirements can be sought from the local MCA Marine Office.

## **7. Vessels carrying more than 12 passengers.**

- 7.1 Vessels that carry more than 12 passengers on any voyage, whether to sea or on categorised waters, are required to have a valid Passenger Ship Safety Certificate. These can only be issued by the local MCA Marine Office, although the MCA can accept certain EC certificates issued to non-UK vessels. The MCA should be consulted if a non-UK certificate is presented and an inspection of the vessel by the MCA may be required. Where the vessel does not have an EC Passenger Ship Safety Certificate, the MCA must issue a UK Passenger Ship Safety Certificate.
- 7.2 Where the owners/managers of a vessel which normally carries 12 or fewer passengers plan to carry more than 12 passengers on a one-off or very limited basis, it may be appropriate for the MCA to issue an Exemption Certificate if the vessel does not have a Passenger Ship Safety Certificate. Exemptions will only be issued on a case-by-case basis, normally with conditions and restrictions, in consultation with the local MCA Marine Office, subject to the vessel achieving an equivalent level of safety to a passenger ship. Media organisations should always try to find a suitably certificated vessel for the proposed operation where possible before requesting an Exemption Certificate.
- 7.3 Vessels issued with a Passenger Ship Safety Certificate will be considered suitable for carrying more than 12 passengers onboard within the limits of their Certification, including *Passenger Counting and Registration of Persons On Board Passenger Ships Regulations Approval*.

## **8. Vessels going to sea that have no certification.**

- 8.1 Where a vessel which does not normally proceed to sea and has no sea-going certification is going to sea on a one-off or very limited basis, it may be appropriate for the MCA to issue a Load Line Exemption Certificate. These will only be issued on a case-by-case basis by the local MCA Marine Office and will be subject to satisfactory survey. Any survey and certification activity will be charged at the standard hourly rate (see paragraph 1.3).

## **9. Large Ships (excluding Fishing Vessels and Passenger Ships)**

- 9.1 The certification issued to sea-going vessels of 24 metres load line length and over will usually allow the vessel to operate with media passengers onboard (so long as there are no more than 12 passengers, including the media). However care needs to be taken to ensure that the vessel's certification is suitable for that number. Where it is not, there may be risks, including that the vessel is not carrying enough life-saving appliances, or it may not be stable. Where there is uncertainty over the certification of the vessel the local MCA Marine Office should be contacted.

## **10. Additional safety considerations.**

- 10.1 The captain/skipper of the vessel has overall responsibility for the safety of everyone onboard, and for the safety of the vessel. Their instructions must be followed at all times and if they feel that what they are being asked to do is unsafe they should not be pressured to carry out that request.
- 10.2 There is a general duty that the owner/skipper should carry out a risk assessment in accordance with the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997. This risk assessment should consider the health and safety of both the crew and any other person onboard the vessel.

- 10.3 When production equipment or any other props are used onboard a ship or fishing vessel, careful consideration should be given to the location of that equipment. Equipment should be placed where it will not prevent easy access to and use of the safety equipment carried. Evacuation routes should be kept clear at all times.
- 10.4 It is strongly recommended that, where possible, safety drills are conducted prior to departure with as many of those involved in the production team taking part as possible.
- 10.5 Further guidance on pre-departure briefing considerations is provided in Annex 1.
- 10.6 A safe means of access should be provided at all times in accordance with the requirements of the Merchant Shipping (Means of Access) Regulations 1988, (SI 1998/1637) as amended. Further guidance is provided in MGN 337 (M+F) - *Provision of Safe Means of Access to Fishing and Other Small Vessels*.

## 11. Manning.

- 11.1 Due to the wide variety of manning requirements for different vessels, it is recommended that advice is sought from the local MCA Marine Office or MCA's Seafarer Training and Certification Branch if there is any doubt as to the manning requirements.

## More Information

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## ANNEX 1

### **List of considerations for skippers of fishing vessels prior to departure with passengers onboard.**

1. All passengers should be briefed on the stowage and use of personal safety equipment such as lifejackets, thermal protective aids and lifebuoys, and the procedures to be followed in cases of emergency.
2. Safety drills such as fire drills and drills on the use of life-saving appliances are recommended prior to departure to make passengers aware of what to do in an emergency.
3. Passengers should be made aware of where the safe areas onboard are, and of any dangers that there may be onboard. It may be appropriate to restrict passengers from certain areas of the vessel, such as the engine room. Such areas should be clearly identified as such.
4. Passengers should be made aware of the escape routes from the accommodation.