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Rob Taylor  
Code Vessel Team  
Ship Standards  
Maritime & Coastguard Agency  
Spring Place  
105 Commercial Road  
Southampton  
SO15 1EG

22 December 2022

Dear Mr Taylor,

### **SMI Response: The Merchant Shipping (Small Workboats and Pilot Boats) Regulations 2023**

I write as Chief Executive of the Society of Maritime Industries (SMI) to share our members' views with regard to the Maritime & Coastguard Agency (MCA) consultation on 'The Merchant Shipping (Small Workboats and Pilot Boats) Regulations 2023' and the accompanying 'The Safety of Small Workboats and Pilot Boats — A Code of Practice'.

The Society of Maritime Industries (SMI) is the trade association for the UK's maritime engineering, science and technology community – looking to enable maritime organisations and businesses of all sizes to thrive. This we do in various ways– including annual conferences, overseas events and trade missions. We support our members to raise their profile and enjoy meaningful collaborations. As a trusted advisor to the UK Government, we look to create new momentum and progress for the industry as a whole, and create new levels of maritime innovation, within our own member community and beyond.

In putting together SMI's response to this consultation, we have engaged with the Marine Autonomous Systems (MAS) Group and the Workboat Working Group (WWG) – two key groups within our membership. These groups have brought their own specialist expertise and viewpoint to the formulation of our collective response to this consultation.

Overall, while the maritime engineering, science and technology community understands the need to have an up-to-date set of regulations and supports this general principle, our members believe that the current proposals represent a direct threat to the survival of the UK business community in our industry. In recent years, UK businesses have garnered a reputation for being at the leading edge of innovation and competitiveness, but the Workboat Code Edition 3 risks undermining their economic foundations, especially in small and medium-size enterprises (SMEs). Indeed, the Workboat Code Edition 3 poses such an existential threat to the welfare of the business community within our industry that many companies are looking to set up activities in other maritime jurisdictions. For instance, a UK-based leading provider of innovative survey and inspection services to the offshore energy sector is actively seeking to establish a base in the Netherlands, with the potential of employing 80 people overseas rather than in the UK.

**Chief Executive: Tom Chant**

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Our members within the MAS Group have expressed particular disappointment with the MCA's failure to engage meaningfully throughout the development of these regulations. The MAS community had already created a code of practice, which has been upheld with unrivalled efficiency within the sector. It is regrettable that the MCA has failed to engage with this important cohort of the maritime sector to find the best way of incorporating the existing code of practice into the new regulations, as well as failing to take unmanned surface vessels (USVs) into appropriate consideration during the development of Annex 2. This one-size-fits-all approach, under which a USV measuring under 5 metres is mandated to have the same equipment as a much larger and faster craft, is simply unsuitable.

In conclusion, our members have expressed concern about the process behind the development of the Workboat Code Edition 3, not least because of its potential impact on the UK's business community within our industry. Therefore, we call on the MCA to engage more constructively with the maritime engineering, science and technology community to minimise the negative impact of the proposed regulation on business.

If you require any further information, please do not hesitate to get in contact with SMI's Policy and Research Manager, Giorgio Buttironi, at [Giorgio.Buttironi@maritimeindustries.org](mailto:Giorgio.Buttironi@maritimeindustries.org).

Yours faithfully,

A handwritten signature in black ink, appearing to read "T. Chant".

Tom Chant  
Chief Executive, Society of Maritime Industries (SMI)

## **THE MERCHANT SHIPPING (SMALL WORKBOATS AND PILOT BOATS) REGULATIONS 2023**

### **A RESPONSE FROM THE SOCIETY OF MARITIME INDUSTRIES (SMI)**

#### **Section 5 – Response Form**

**What is your name?** Giorgio Buttironi

**What is your email address?** [Giorgio.Buttironi@maritimeindustries.org](mailto:Giorgio.Buttironi@maritimeindustries.org)

**What is your job title?** Policy and Research Manager

**When responding please state whether you are responding as an individual or representing the views of an organisation:**

I am responding on behalf of an organisation (Society of Maritime Industries).

**Please check the box that best describes you as a respondent and the size of your organisation:**

**Respondent Type** Other (Trade Association)

**Size of Organisation** Micro business (up to 9 staff)

#### **Section 5.1 – Consultation Questions**

**Q1. Are you in favour of the proposed Merchant Shipping (Small Workboats and Pilot Boats) Regulations 2023 and accompanying Code of Practice (“Workboat Code Edition 3”)? Yes/No. Please provide a brief explanation why/why not.**

While our members would agree in principle to the benefits of having an up-to-date and working set of regulations in place, there are significant concerns about the proposed Merchant Shipping (Small Workboats and Pilot Boats) Regulations 2023 and their accompanying Code of Practice (also known as the “Workboat Code Edition 3”).

First, SMI members have questioned the capacity of the MCA to process load line exemptions within an acceptable timeframe for the business community, particularly in light of its current track record of slow speed in processing its existing workload.

Second, SMI members have pointed to the detrimental effect that the proposed regulation would have on SMEs, adding new regulatory requirements which, when taken into consideration with the associated compliance costs, would seriously undermine their financial viability. Manufacturers and operators within SMI’s membership have also argued that the proposed regulations in their current form are not workable for USVs, underlining that many companies already have vessels flagged in foreign maritime jurisdictions and that the Workboat Code Edition 3 might lead to an exodus of business away from the UK.

Finally, our WWG pointed to the risk that crew certification levels are currently too low for workboats and do not give individuals the necessary training to carry out the job effectively. Although measures to standardise and provide clarity are a step in the right direction, concerns remain about the adverse effect this will have with regard to health & safety and maintenance considerations.

**Q2. Do you consider the restructuring of Workboat Code Edition 3 adds clarity to the requirements and assists the reader in navigating their way through the Code of Practice? Yes/No. Please provide a brief explanation why/why not.**

SMI members expressed the view that the restructuring of the Workboat Code Edition 3 made it easier to understand the content, as well as making it less complicated to find out the specific information when it is needed. However, the MCA should make a clear distinction between the responsibilities of operators and those of manufacturers within the Code. Without this distinction, significant ambiguity of responsibility is introduced. Members also pointed out that parts of the Code contradict with one another.

**Q3. Do you consider the new definitions which have been included in Section 2 of the Workboat Code Edition 3 to be appropriate and fit for purpose? Yes/No. Please provide a brief explanation why/why not.**

Looking at Annex 2 of the Workboat Code Edition 3, SMI members – especially within the MAS community – have highlighted a number of issues with the provisions prohibiting Remotely Operated Unmanned Vessels (ROUVs) from towing (subsection 2.1.2) and being fitted with a lifting device (subsection 2.1.3). Our WWG agreed with the assessment from the MAS community that these provisions would not only prove excessively onerous, but they gave the impression – unfairly or otherwise – that the MCA was abdicating its responsibility of providing guidelines in this respect.

Further concerns were expressed with regard to the recording of all cameras feeds and data retention for 2 years (subsection 2.2.3), which would constitute an unworkable regulatory burden for our industry, especially SMEs. Moreover, the rules around crewing and personnel transfers are counter to many standard operating procedures in use today. These new restrictions would significantly hamper the future growth of the industry. Standard practice for many USVs is to operate as “optionally uncrewed”, effectively transitioning back and forth between USVs and standard human operated workboats multiple times during a single voyage. The new code should not prohibit this widespread standard practice.

**Q4. In Section 5.3.3 of the Workboat Code Edition 3 there are two options for acceptable construction standards for vessels which have not been built under survey of a UK Load Line Assigning Authority:**

- a) .2 in accordance with the hull certification standards for small craft as provided in MIN XXX and as verified by a Notified Body in compliance with RCR Module B (EU type-examination) together with either Modules C, D or F, Module G (conformity based on unit verification) or Module H (conformity based on full quality assurance). A Post Construction Assessment as defined in the RCR carried out by a Notified Body may also be accepted. OR,
- b) .2 in accordance with the hull certification standards for small craft as provided in MIN XXX with verification of structural strength and build by a Load Line Assigning

**Authority, Certifying Authority or Notified Body. A post construction assessment can be accepted subject to 5.3.3.2, supported by a structural survey**

**Please indicate your preferred solution, (a) or (b), and provide a brief explanation why.**

Although members agreed that option (a) would ensure safety protection of crew on vessels due to higher standards, they agreed that Section 5 of the Workboat Code Edition 3 should look in greater detail into the compatibility of this document with similar regulations in other maritime jurisdictions.

**Q5. Vessels where bulk cargo is loaded into and carried in the vessel's hold or tanks are considered to be small tankers or bulk carriers and shall not be certified under the provisions of this Code. Do you consider the Workboat Code Edition 3 would benefit from adding reference to the definitions of 'bulk cargo' and 'in bulk' from The Merchant Shipping (Carriage of Cargoes) Regulations 1999 (SI 1999/336) in order to clarify the limitations of cargo carrying for vessels certificated under the Workboat Code Edition 3? Yes/No. Please provide a brief explanation why/why not.**

On balance, members agreed that the Workboat Code Edition 3 would not benefit from the addition of reference to the definitions of 'bulk cargo' and 'in bulk' from The Merchant Shipping (Carriage of Cargoes) Regulations 1999, as any such amendment would apply only to vessels longer than 24 metres length.

**Q6. Do you consider the saving and transitional arrangements reasonable and appropriate? Yes/No. Please provide a brief explanation why/why not.**

Our members noted that it is highly unusual for any standard to be applied retrospectively on vessels in the manner in which it is proposed within the Annex, arguing that it would make compliance quite onerous on operators. The MCA needs to clarify whether vessels that meet compliance previous to the publication of the new code will not be impacted by the new regulations, if a load line exemption has already been granted. Otherwise, it would be unfair for people currently operating to go through the same process again, especially for SMEs that will struggle to bear the cost. To provide an example, a member explained that applying for a new load line exemption for a 5-metre vessel with no engine is likely to cost the business upwards of £10,000 – an amount which many small companies will not be able to afford.

**Q7. Do you believe the costings which have been monetised (visible in figures 5-8) provide an accurate representation of the cost incurred for those vessels operating? If not, how would you expect the estimated costs to vary?**

SMI members did not provide any specific feedback with regards to the costings in the aforementioned section and, consequently, whether or not they accurately represent the costs incurred for those vessels operating.

**Q8. Do you agree with the assumption that the only cost imposed onto business is the cost of familiarisation to the new Code? If not, please provide any insight/ evidence and outline any other costs you believe will be incurred.**

SMI members do not agree with the MCA's assessment that the only cost imposed onto business is linked to familiarisation with the new Code. Firstly, from a general perspective, there is a sense within our membership that the MCA has underestimated the extent of the cost for businesses to familiarise

with the new Code. Secondly, there are several additional costs beyond familiarisation, including those related to applications for new load line exemptions for each sensor package and for complying with the requirement of recording videos and storing associated data for up to 2 years.

SMI Members within the MAS community have also pointed out that regulations put on ROUVs appear to be significantly more onerous than those for manned vessels. Moreover, they have also indicated that software suppliers could have costs for complying with IEC 61508 (Functional Safety Standard).

**Q9. Are you/do you know of a small and/or micro business(es) who will be disproportionately affected by any of the measures outlined? (If so, please provide relevant detail and evidence)**

Several companies involved in the construction and use of USVs will be negatively impacted by the regulations outlined in Annex 2. Many of the technical requirements are not fitted to current vessels, which would either need an expensive retrofit programme or an extensive redesign. Our members also pointed out that the MCA's proposals do not take into account the diversity within the USV sector, which makes such a one-size-fits-all approach counterproductive as it imposes additional burdens on smaller USVs operated by small businesses.

**Q10. Do you foresee any unintended consequences of the proposed Code that have not been mentioned in this document? (If so, please provide any relevant insight and/or evidence)**

When asked about the unintended consequences of the proposed Code, our members pointed out that some areas within Annex 2 would stop USV development in certain sectors within the UK. For instance, banning passenger or personnel transfer or the use of USVs for transporting dangerous goods would impact the UK's strategy for developing USVs, handing over the lead in this sector to other maritime economies in competition with the UK. In short, despite being useful, Annex 2 is too prescriptive for the USV industry at such an early stage of development.

Our WWG also noted that, as a consequence of the previous edition, the Workboat Code Edition 3 is not fit for purpose to work on offshore wind farms and renewable energy projects outside of UK waters, meaning that businesses would have to apply for separate load line certifications in order to operate in different jurisdictions.

This means that UK vessels will encounter difficulties in getting work on offshore wind farms – a growing sector which will be key to the Government's decarbonisation strategy. The proposed Code risks making it more difficult for UK vessels to meet international standards for such a key industry and, consequently, jeopardise its environmental ambitions under the National Shipbuilding Strategy Refresh and Maritime 2050.