

Memorandum of Understanding between the Health and Safety Executive, the Maritime and Coastguard Agency and the Marine Accident Investigation Branch for health and safety enforcement activities etc at the water margin and offshore

FRAMEWORK OF UNDERSTANDING

1. Introduction

1.1 This Memorandum of Understanding is made between the Deputy Chief Executive, Health and Safety Executive (HSE), the Chief Executive of the Maritime and Coastguard Agency (MCA) and the Chief Inspector of Marine Accidents, Marine Accident Investigation Branch (MAIB). Its purpose is to ensure effective co-ordination between those organisations where their duties for health and safety enforcement and accident investigation overlap at the water margin, offshore and on inland waterways.

1.2 The organisations undertake to use their best endeavours to co-operate effectively to enable and assist each other to carry out their responsibilities and functions, and to maintain effective working arrangements for that purpose. Such co-operation should improve the effectiveness of each of the parties and avoid difficulties which might arise from uncoordinated approaches by the organisations.

1.3 The underlying principles that have been followed are:

- the need to secure consistent standards of protection for all seafarers, shore based personnel, those who work offshore, and others affected by their work activities; and
- to avoid, so far as is possible, duplication of inspection, accident investigation and enforcement.

2. Status of the parties to this Memorandum of Understanding

2.1 The HSE is a statutory body, whose main function is to make arrangements to secure the health, safety and welfare of people at work and to protect the public from dangers arising from work activities. It was created by the Health and Safety at Work etc Act 1974 (HSWA), as amended by the Legislative Reform (Health and Safety Executive) Order 2008. The HSE's statutory powers and responsibilities are derived from the Health and Safety at Work etc Act 1974 (HSWA) and associated relevant statutory provisions including the Docks Regulations 1988 and other related legislation. HSE is sponsored by the Department for Work and Pensions. HSWA applies in Great Britain only, and to the extent covered by the Health and Safety at Work etc Act (Application Outside Great Britain) Order 2001.

2.2 The Maritime and Coastguard Agency was established on 1 April 1998 as an Executive Agency created by the merger of the Coastguard Agency and the Marine Safety Agency. Its main functions are to develop, promote and enforce high standards of marine safety, to minimise loss of life amongst seafarers and coastal users, and to minimise pollution from ships of the sea and coastline. The MCA's statutory powers and responsibilities derive primarily from the Coastguard Act 1925, the Merchant Shipping Act 1995 and the Merchant Shipping and Maritime Security Act 1997 and associated secondary legislation. MCA is an agency of the Department for Transport (DfT).

2.3 HM Coastguard is responsible for search and rescue co-ordination in the UK SAR Area, which includes all estuarial, coastal and territorial waters, and may promulgate safety advice for non-regulated pleasure craft.

2.4 The Marine Accident Investigation Branch (MAIB) was set up in 1989 with responsibility for investigating accidents to determine their circumstances and causes with the sole objective of avoiding similar accidents in the future. It is not the purpose of an MAIB investigation to determine liability nor, except so far as is necessary to achieve its objective, to apportion blame. Its legislative powers are primarily contained in Part XI of the Merchant Shipping Act 1995 and associated secondary legislation. The Chief Inspector of Marine Accidents reports directly to the Secretary of State on the investigation of specific accidents. MAIB is in the International Networks and Environment Group of the Department for Transport (DfT) for administrative purposes.

2.5 The Director of Maritime and Dangerous Goods, DfT, is responsible for policy oversight and co-ordination of the MCA, MAIB, and the Shipping Policy and Ports Divisions.

3. Powers and Responsibilities

3.1 MCA surveyors appointed under section 256 of the 1995 Act have powers under Section 258 of that Act to inspect UK ships (anywhere in the world) as well as foreign vessels whilst in UK waters (this does not apply to non-UK ships on innocent passage). MCA's interest is in the seaworthiness of the vessel, the safety and competence of the crew and as a prosecuting authority. Surveyors may detain unsafe ships. Section 256 of the 1995 Act provides for the appointment of inspectors who, under section 259 of the Act, have additional powers including the power to enter any premises in the UK, for the purposes of making such examination or inspection as the inspector considers necessary. Inspectors may issue improvement or prohibition notices in respect of any regulated activity. (However not all surveyors are appointed as inspectors). Departmental Inspectors investigate incidents with a view to prosecution.

3.2 MAIB inspectors have powers to investigate accidents involving or occurring on board UK ships (anywhere in the world), and any ships in the UK territorial sea. They are appointed under section 267 of the Merchant Shipping Act 1995 and have the power under section 259 to enter any premises in the UK or board any UK ship wherever it may be in the world and any other ship which is present in the UK or in UK waters for the purposes of making such examination or inspection as the inspector considers necessary. MAIB inspectors do not have the power to prosecute or otherwise bring disciplinary proceedings for unsafe working practices.

3.3 HSE inspectors derive their powers principally from Sections 20-23 of HSWA and associated legislation. They have, for example, power of entry to all work places, including docks and offshore installations, to inspect health and safety conditions and also to investigate accidents to dock workers etc working in a port or while loading or unloading a ship. They can similarly investigate accidents occurring to a ship's crew. They may issue improvement or prohibition notices, or can prosecute those responsible for offences under HSWA and the relevant statutory provisions.

3.4 Offshore, HSE inspectors also have powers to require transport to, and accommodation on, offshore installations. In this document, "offshore" refers to the installations, works and activities mentioned in Appendix 2, paragraph 2.5.1

3.5 As regards Devolution, the Merchant Shipping Act 1995 and the Health and Safety at Work etc Act 1974 are reserved legislation.

4. Enforcement

4.1 MCA is responsible for enforcing all merchant shipping regulations in respect of occupational health and safety, the safety of vessels, safe navigation and operation (including manning levels and crew competency). Merchant shipping health and safety regulations extend to all those working on the ship, and all shipboard activities carried out by the crew under the control of the ship's master.

4.2 In general HSE is responsible for enforcing HSWA in respect of land based and offshore work activities, including loading and unloading a ship, and for all work activities carried out in a dry dock¹. The specific details are set out in the appropriate section, which also deals with overlapping legislation.

4.3 HSE and MCA are both parties to The Prosecutors' Convention which provides for structures for effective co-operation on prosecution matters where two or more prosecuting authorities may have an interest.

5. Accident Investigation

5.1 MAIB investigates accidents related to ships and crew. HSE investigates land based and offshore accidents. Where there is overlapping legislation the accident investigation provisions are set out in the appropriate appendix, but each organisation is able to call on the expertise of the other as the need arises and their legislation permits.

5.2 It should be noted that there are situations where an employer or a master of a ship has a duty to report the same accident to both HSE (under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR) and MAIB (under the Merchant Shipping (Accident Reporting and Investigation) Regulations 2005). In these situations, the person filing the report with one organisation will be advised and the report passed on to the other.

6. General principles of co-operation

6.1 In keeping with the underlying principles set out in paragraph 1.3, the following objectives are agreed. The organisations will, where their legislation allows:

- ensure that the health and safety enforcement activities of the MCA and HSE in relation to work activities at the water margin and offshore are consistent, co-ordinated and, wherever possible, comprehensive;
- avoid the duplication of activity where legislation empowering HSE and MCA/MAIB overlaps, by facilitating co-operation in all aspects of policy development and implementation;
- avoid so far as is possible conflicting requirements being put on dock operators, ships' masters, offshore duty-holders, other employers or persons in control of or at

¹ Note: Local Authorities will enforce the Health and Safety at Work etc Act 1974 for certain marine and leisure activities. See Appendix 2, paragraph 2.3.2.

work, thus minimising the burden on industry, particularly where there is overlapping legislation;

- ensure effective and efficient prosecution of offences by a co-ordinated approach to the decision making process and wherever possible the timing of any joint public announcement of the final prosecution decision;
- promote flexible and practical working level contacts and procedures, and clear lines of communication for HSE and MAIB inspectors and MCA surveyors thus providing mutual support for all parties concerned to carry out their respective responsibilities.

6.2 Where there is overlapping or abutting legislation, the same level of protection should be available, so far as is practicable, regardless of which legislation applies. In order to achieve these objectives, action will be taken to:

- consult on proposals of mutual interest at an early stage;
- provide for exchanges of information in a timely and structured manner;
- follow the guidance set out in the appendices and seek prior agreement with the other parties to any situations which may require variation from the agreed procedures, e.g. on allocation of responsibilities, set out in the appendices;
- identify common interests for research, and exchange information thereon;
- identify common interests in the capabilities for carrying out investigations, and liaise thereon.

7. Lead Authority

7.1 MCA and MAIB are the lead authorities for the inspection and investigation of accidents on any ship (see 3.1 and 3.2 for their respective roles/interests). HSE will be the lead authority for enforcement and investigation of occupational accidents (including accidents to workers on the vessel) resulting from land-based works or undertakings, including e.g. dock work, drilling into the seabed and related activities.

7.2 The responsibilities of a lead authority are to co-ordinate any joint inspection activities, accident investigations etc and to take the lead in setting standards via the agreed liaison procedures. HSE inspectors and MCA surveyors and/or MAIB inspectors should contact their local opposite number when any matter likely to concern or be of interest to the other comes to their attention.

7.3 This arrangement does not exclude the lesser interest, and it is possible that in certain circumstances another organisation may have the lead or joint inspections or accident investigations may be appropriate. Any organisation may, where appropriate, call on the expertise of another. The arrangement does not mean that inspectors or surveyors should not deal with matters in areas where responsibilities overlap.

7.4 Where immediate action is required, HSE or MAIB inspectors or MCA surveyors will be expected to take it and to notify each other's organisation accordingly.

7.5 NB - This section does not apply offshore. Please refer to [Appendix 6 paragraph 6.3 and Schedules 1-3](#) for lead responsibilities offshore.

8. Areas of mutual interest

8.1 The following have been identified as areas of mutual interest. (See paragraph 5.1 for accident investigation):

- docks and harbours (including the loading and unloading of fishing vessels) - see [Appendix 3](#);
- coastal and inland waters - see [Appendix 4](#);
- shipbuilding, ship repair and dismantling (including dry docks) - see [Appendix 5](#);
- offshore - see [Appendix 6](#);
- construction work - see [Appendix 7](#);
- chain ferries - pending a change in the legislation, are the subject of an [Agency Agreement](#), whereby MCA inspect the ferries on behalf of HSE;
- diving -
 - Inshore - HSE is responsible for enforcement of HSWA and the relevant statutory provisions, in particular the Diving at Work Regulations 1997 in respect of diving operations, including certification of divers, equipment safety, accident investigation etc. MCA is responsible for enforcement of relevant safety legislation including the Merchant Shipping (Diving Safety) Regulations 2002, in respect of diving support vessels. MAIB is responsible for investigating any accidents to or on diving support vessels which do not result directly from the diving operations. Accidents resulting directly from diving operations will be investigated by HSE as above;
 - Offshore - covered in the Offshore Appendix 6;
- Hovercraft - MCA is responsible for enforcement of relevant legislation concerning the safe operation of hovercraft, even when the craft has left the water. MAIB is responsible for investigating any accidents to or on these craft. HSE would be responsible for enforcement of HSWA in respect of the loading and unloading of passengers, vehicles and handling of cargo.
- Arrangements for ship to shore and shore to ship transfer of bulk cargoes such as e.g. liquid natural gas, including the use of jetty structures and the equipment and procedures used to facilitate such transfer.

9. Ships owned by the Crown

9.1 **Ships of HM Navy** This refers to ships of HM Navy, which includes both Royal Navy (RN) Warships and Submarines and vessels operated by the Army and Royal Marines. Such fighting vessels are not subject to Merchant Shipping legislation, but can be subject to HSWA legislation. Under this MoU, the HSE will act as enforcing authority for occupational health and safety while RN ships are moored in dock, when undergoing refits or repair, when shore-based workers are affected by any work activities, and whilst they are in navigation, within the baseline and are carrying out activities covered by the Application Outside Great Britain Order. [Note - HSE have a General Agreement (GA) regarding inspection arrangements - Annex C of that GA deals with HSE inspections of the Royal Navy.]

9.2 **Other Government Ships** This refers to ships owned by the Crown, but not forming part of HM Navy (as defined above). It includes ships belonging to the Royal Fleet Auxiliary, HM

Revenue and Customs and MCA. Such ships are subject to Merchant Shipping health and safety legislation. Enforcement will be carried out by MCA or by HSE, and accident investigation by MAIB or HSE, depending on the circumstances as described elsewhere in this MoU (and in an MoU between MCA/MOD/MAIB (not in the public domain) covering survey and certification of MOD shipping on non-commercial service).

9.3 Accident Investigation MAIB is responsible for investigating accidents to, or on board Royal Fleet Auxiliary (RFA) ships (unless the Commodore RFA investigates an accident occurring when the ship is under the operational command of the Commander in Chief Fleet, and only a warship or MoD vessel is involved, or if it is agreed to have a joint MAIB/RFA investigation following an incident involving a third party.). MAIB has a letter of understanding with RFA. MAIB also investigates accidents to, or on board those smaller auxiliary ships (the former RMAS fleet) which are now operated by contractors. Accidents to or on any vessels directly operated by RMAS are reported to HSE under RIDDOR.

10. Liaison Arrangements

10.1 The organisations shall maintain arrangements:

- to monitor the functioning of the agreement; and
- to ensure the efficient and effective conduct of business between the organisations.

11. Monitoring of the agreement

11.1 The working of the agreement and the need for changes to the text of the memorandum (e.g. possible additional Appendices) is kept under review by the organisations. Any amendments proposed would need to be agreed by all parties.

11.2 In particular, there may be a meeting held periodically by the Chief Executive of MCA, the Chief Inspector of Marine Accidents and the Deputy Chief Executive of HSE (or their senior representatives) to review the Memorandum. Other representatives may be invited to attend as appropriate.

11.3 Each organisation makes arrangements to report to or brief the review meeting on the working of the individual Appendices. This does not preclude considering urgent matters as they arise, through the network of contact points (see below).

12. Contact points

12.1 Each organisation may nominate a single contact in respect of each Appendix, who would be responsible for monitoring the practical implementation and effective working of each Appendix and act as a 'safety net' if other liaison networks fail (see below). The contact should be made aware of major issues arising out of the functioning of the agreement and should participate in the preparation of the brief for the periodic review (see paragraph 11.2 above). So far as possible, contact points for specific Appendices should liaise to provide a joint report for this purpose. Where there is no specific contact, liaison should be with Seafarer Safety and Health Branch within MCA and the relevant transportation section within HSE.

12.2 In addition, each organisation ensures that effective arrangements, including contact points, are in place to provide the following:

- liaison on policy and legislative matters, including parliamentary questions, receipt of consultative documents etc;
- liaison on technical issues and operational strategy;

- local liaison between surveyors/inspectors on day-to-day operational matters;
- liaison on prosecution matters relating to the areas covered by this MoU.

12.3 Contact roles may be combined where appropriate (e.g. one person could be the contact for both policy and technical issues). Each organisation should ensure that information detailing the various contact points is exchanged and kept up to date.

12.4 Parliamentary and public enquiries relating to specific incidents are handled by the organisation which takes the lead in the investigation or enforcement action. If the enquiry is of a general nature, the recipient organisation must decide on the main thrust of the enquiry and pass the correspondence to the organisation which will be responsible for taking any enforcement action. If there is any doubt as to the lead organisation (e.g. an enquiry about an incident involving a gangway of unknown ownership), the correspondence should be copied to the named contacts and a reply agreed.

13. International representation

UK interests at international bodies, for example the International Maritime Organization, the International Labour Organisation and the safety (DG Employment) and transport (DG Tren) directorates of the European Commission, will be represented by the organisation having the greatest interest in the topic - the 'Lead Organisation'. Lead organisations will ensure as far as possible that each organisation, as appropriate, has an input into the agreement of a common UK line. The lead organisation should make arrangements to bring developments to the attention of other organisations who may have an interest, to circulate information papers and reports of meetings etc, and to arrange pre-meetings and if necessary debriefing meetings.

14. Legislation

14.1 When drafting legislation, each side should consult others with the aim to minimise overlap and ensure consistency. As far as practicable, where legislative proposals may overlap, the following principles should be followed:

- where the scope of application is comparable, (e.g. in the implementation of EC Directives), overlap should be avoided by exclusion;
- where the scope of application is not comparable, text should be drafted to avoid conflict

14.2 The named contact in each organisation should be kept informed of consultation exercises and prospective legislation and, if appropriate, should inform their counterpart. This arrangement does not remove the obligation from either party to make use of the usual consultation procedure.

This Memorandum is signed by

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Health and Safety
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APPENDIX 1

1. LEGAL BACKGROUND - I - MERCHANT SHIPPING ACT 1995

1.1 Scope and promulgation of legislation

1.1.1 The health and safety aspects of the Merchant Shipping Act 1995 under which both the Maritime and Coastguard Agency (MCA) and the Marine Accident Investigation Branch (MAIB) operate, apply to United Kingdom ships wherever they may be and certain requirements apply to non-UK ships whilst they are in the UK territorial sea.

1.1.2 The Merchant Shipping Act, Section 85 enables the Secretary of State to make regulations governing the safety of ships and persons on them. Section 313 of the Act defines a ship as including "every description of vessel used in navigation". For the purposes of this MoU a ship which is permanently moored e.g. in a dock or river (See Appendix 3, paragraph 3.12) or attached to the bank e.g. a chain ferry² does not come under this definition.

1.1.3 Under Section 308 of the Merchant Shipping Act 1995 ships belonging to Her Majesty are not subject to Merchant Shipping legislation except where the Secretary of State for Defence provides for such application by Order. The current Orders are The Merchant Shipping (Ministry of Defence Ships) Order 1989 (SI 1989/1991), The MOD Yachts Order (SI 1992/ 1294) and The Merchant Shipping (Ministry of Defence Commercially Managed Ships) Order 1992 (SI 1992/1293) whose schedules prescribe those sections of the Merchant Shipping Acts that should be applied. Both are currently being revised. An exception to this general principle is Merchant Shipping health and safety legislation, made under the powers of the Merchant Shipping Act 1995 and the European Communities Act 1972, which does apply directly to Government ships, defined as ships belonging to the Crown other than Ships of HM Navy, which includes both Royal Navy (RN), Warships and Submarines and vessels operated by the Army and Royal Marines.

1.1.4 The bulk of merchant shipping regulations stem from powers given to a Secretary of State by the Merchant Shipping Act (MSA) 1995. Normal practice is for the MCA to manage and enforce these regulations on behalf of the Secretary of State for Transport. However, in some circumstances the Ministry of Defence requires the ships of their civilian contractors to perform tasks which are outside the norm for merchant ships. For the duration of these tasks, known as 'affected services' the MCA and MOD have reached agreement that the MOD will exercise the exemption powers in s294 of the MSA 1995, on behalf of the Secretary of State for Defence, and specify alternative arrangements to ensure safety while performing essential military operations.

1.1.5 The Merchant Shipping Act and regulations made under it cover amongst other things the safety of a ship, its passengers and crew and the prevention of pollution. For UK flagged ships the relevant merchant shipping legislation applies anywhere in the world. For non-UK ships generally regulations enforcing international conventions will apply. Every seagoing ship (including those which are offshore installations) must comply with the relevant requirements of international shipping conventions on

- Load Line, Safety of Life at Sea (SOLAS),
- Prevention of Pollution from Ships (MARPOL),
- Standards of Training Certification and Watch-keeping (STCW),
- Preventing Collisions at Sea (COLREG) and Tonnage Measurement (ITC69) and

² Note: in relation to certain chain ferries, the MCA acts and enforces on behalf of the Health and Safety Commission under an Agency Agreement (see Annex A after Appendix 9).

- Minimum Standards for Seafarers (ILO 147) while non-convention vessels should comply with such Merchant Shipping legislation as may be appropriate

1.1.6 The Merchant Shipping (Reporting Requirements for Ships Carrying Dangerous or Polluting Goods) Regulations 1995, as amended by the Merchant Shipping (Vessel Traffic Monitoring and Reporting Requirements) Regulations 2004, require any ship carrying dangerous or polluting goods to the UK, where there is a threat of pollution, to report to the Dover Coastguard.

1.1.7 Since 1997, legislation to implement the EC Framework Directive and those 'daughter' directives which apply to shipping has come into force. This includes:

- Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997, as amended by the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Amendment) Regulations 2001,
- Merchant Shipping and Fishing Vessels (Manual Handling Operations) Regulations 1998,
- Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Employment of Young Persons) Regulations 1998
- Merchant Shipping and Fishing Vessels (Personal Protective Equipment) Regulations 1999,
- Merchant Shipping and Fishing Vessels (Safety Signs and Signals) Regulations 2001
- The Merchant Shipping and Fishing Vessels (Control of Noise at Work) Regulations 2007
- Merchant Shipping and Fishing Vessels (Control of Vibration at Work) Regulations 2007
- Merchant Shipping and Fishing Vessels (Provision and Use of Work Equipment) Regulations 2006
- Merchant Shipping and Fishing Vessels (Lifting Operations and Lifting Equipment) Regulations 2006
- The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Carcinogens and Mutagens) Regulations 2007 (S.I. 2007/3100)

In addition, Merchant Shipping (Safe Loading and Unloading of Bulk Carriers) Regulations 2003 entered into force on 1 March 2004 and implemented the European Directive for the Safe Loading and Unloading of Bulk Carriers. Although the legislation is aimed at the safety of ships and their crews, it puts duties on the operators of bulk carrier terminals, in which health and safety matters are normally enforced by HSE.

1.1.8 Merchant shipping health and safety regulations, which date from 1988 and implement provisions of ILO 152 and which are applied to UK merchant ships, but not to fishing vessels, cover safe movement on board ship; guarding of machinery and safety of electrical equipment; means of access; and entry into dangerous spaces. These regulations apply to the master and crew of a UK merchant ship at any time, and generally to other workers on a UK ship, except where HSE regulations apply - e.g. to major repairs in port. On non-UK ships, the regulations apply while a ship is in a port in the UK.

1.2 Fishing Vessels

1.2.1 In addition to the health and safety provisions applicable to fishing vessels, there are comprehensive Fishing Vessels (Safety Provisions) Rules 1975 which cover various aspects including their survey and certification. There are also more specific fishing vessel safety regulations, covering for example, lifesaving appliances; crew accommodation; radio provision, as well as safety training and officer certification for fishing vessels. UK regulations implementing the Fishing Vessels daughter directive (93/103/EC) cover some of the same areas as provisions implementing ILO 152 for merchant ships, for example in relation to safe access. These include:

- The Fishing Vessels (Safety Provision Amendment) Regulations 1998, The Merchant Shipping (Crew Accommodation (Fishing Vessels) (Amendment) Regulations 1998, The Fishing Vessels (Life-Saving Appliance) (Amendment) Regulations 1998 which all bring in amendments to existing Regulations, to implement Directive 93/103
- The Code of Practice for the Safety of Small Fishing Vessels covers the construction, operation and maintenance of fishing vessels under 15 metres registered length, based on risk assessment of the individual vessel.
- The Fishing Vessels (EC Directive on Harmonised Survey Regime) Regulations 1999 apply to vessels over 24 metres, (these partly replace the 1975 Rules) and were amended by the Fishing Vessels (EC Directive on Harmonised Safety Regime) (Amendment) Regulations 2003. These Regulations which implement the Council Directive 97/70/EC in the UK, apply to fishing vessels of 24 metres registered length and over setting up a Harmonised Safety Regime for them. It applies EU harmonised standards, based on the Torremolinos Convention and IMO Protocol to all UK vessels and to non EU vessels operating in Community waters or landing their catch in Member States' ports.
- A Code of Practice for the Construction and Use of 15m length overall to less than 24m registered length Fishing Vessels which came into force on 23rd November 2002.

1.3 Coastal and Inland Waters

1.3.1 In addition to paragraph 1.1.5 above, the following provisions apply to vessels on domestic voyages (coastal and inland waters).

1.3.2 The Merchant Shipping Act contains general enforcement provisions against serious safety breaches (e.g. Section 58 - conduct endangering ships, structures or individuals, Section 98 - dangerously unsafe ship and Section 100 - Unsafe operation), which apply equally at sea and inland.

1.3.3 Passenger ships (those carrying more than 12 passengers) are subject to MCA survey, certification and inspection. As well as structural, equipment and operational requirements, all passenger ships are required to operate a safety management system, to demonstrate how they comply with the relevant legislation, including maintenance of the vessel, crew training and emergency procedures.

1.3.4 Health and safety legislation made under the Merchant Shipping Act applies broadly parallel duties to employers and workers on ships to the HSWA and secondary legislation.

1.3.5 For vessels not covered by cargo ship or passenger ship certification requirements (i.e. vessels up to 24m in length and which are in commercial use or not a pleasure vessel for the carriage of cargo and/or not more than 12 passengers or neither cargo nor passengers and Pilot Boats), statutory Codes of Practice for small commercially operated craft which go to sea set

minimum standards for construction, machinery, stability, equipment, and manning. These Codes are in the process of being harmonised and replaced by a single Small Commercial Vessel Code. At present there is an 'alternative construction standard' in place published as MGN 280. MGN 280 includes text to reflect the minimum standards for health and safety required by relevant legislation (i.e. HSWA or MS legislation). A further Code covers large yachts (over 24 metres) operating commercially. The existing Codes of Practice are statutory; and compliance with them satisfies the requirements of the appropriate merchant shipping legislation.

1.3.6 A non-mandatory industry Code, published in February 2004, covers vessels that carry no more than 12 passengers, and do not go to sea. This is intended as a benchmark of best practice for those operating currently unregulated vessels, but it is also hoped that local authorities may adopt the standards of the Code under local licensing or registration requirements.

1.3.7 Proposals are being developed for European Community technical requirements for all passenger ships and all other inland waterway vessels over 20m, and for harmonisation of the European Boatmaster's Licence. It is expected that MCA will be the competent authority in the UK, for implementing and enforcing these standards. The Directives allow Member States to have equivalent national regimes for vessels operating only on non-linked waters, and the UK is likely to use this provision in respect of vessels in the UK. Vessels holding a community certificate, and boatmasters holding a Community Licence, may operate on all community waterways. Operational management matters will remain subject to national/local legislation. Vessels that operate only on inland waterways within the UK will not be subject to the EC requirements.

1.3.8 Compliance with the requirements of the Adventure Activities Licensing Regulations (see 2.3.4) for activities covered by those regulations, including the need for licensing, does not absolve employers from compliance with the merchant shipping legislation, nor HSWA and the relevant statutory provisions.

1.4 Offshore

1.4.1 In addition to paragraphs 1.1.1-5 above, the following provisions apply offshore. The Merchant Shipping (Port State Control) Regulations 1995, (SI 1995/3128), as amended, extend MCA's powers of inspection to:

- any vessel (including non-UK vessels) visiting an offshore installation;
- any vessel (including non-UK vessels) anchored off such an installation in UK or designated waters;
- a mobile offshore installation (as defined in this agreement) whilst on station or stacked (but see paragraph 1.4.4 below).

1.4.2 Pollution control is carried out under the Merchant Shipping (Prevention of Oil Pollution) Regulations 1996 (SI 1996/2154). Regulation 32 deals with offshore installations, and covers both "fixed" and "mobile" installations. These regulations implement MARPOL 73/78 Annex 1 Regulation 21 (applying to offshore installations on the UKCS). The Offshore Installations (Emergency Pollution Control) Regulations 2002 (SI 2002/1861), place responsibility for handling offshore pollution emergencies with the Secretary of State for the Department for Transport and his Secretary of State Representative (SOSREP), though health and safety of personnel will always take precedence.

1.4.3 Except for pollution prevention, MCA has powers of enforcement over non-UK vessels while they are in UK territorial waters except those which are exercising their right of "innocent passage" (i.e. transit) through UK waters. That right would be nullified if the vessel concerned breached an international convention. MCA could, for example, prosecute a non-UK vessel which passed the wrong way through a Traffic Separation Zone.

1.4.4 A stacked installation is regarded in Merchant Shipping law as a ship, and so the arrangements set out above apply. Therefore, under the Merchant Shipping (Port State Control) Regulations 1995, powers of inspection and detention will extend to any non-UK stacked installation anchored off a port. This would not apply to any non-UK stacked installation.

1.5 MAIB's Jurisdiction

1.5.1 MAIB has responsibility for investigating accidents to determine their circumstances and causes in order to prevent future accidents. Its legislative powers are contained in Part XI of the Merchant Shipping Act 1995 and associated secondary legislation. The Branch has powers to investigate accidents to or on any UK vessel and to or on any vessel in the UK territorial sea. MAIB may investigate any accident to or on any vessel in UK waters.

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APPENDIX 2

2. LEGAL BACKGROUND - II - HEALTH AND SAFETY LEGISLATION

2.1 The Health and Safety at Work etc Act 1974

2.1.1 The Health and Safety at Work etc Act 1974 (HSWA) and its relevant statutory provisions apply to all work activities in Great Britain and to specified activities in the territorial sea of Great Britain and on the UK Continental Shelf. There is separate legislation for Northern Ireland.

2.1.2 HSWA and its relevant statutory provisions including the Docks Regulations 1988 and the Loading and Unloading of Fishing Vessels Regulations 1988, cover the safety of shore based personnel. These provisions also cover the safety of people who are not shore-based on board ships while they are in Great Britain and certain other activities whilst in the territorial sea.

2.2 Relevant Statutory Provisions

Those relevant statutory provisions which commonly apply in areas covered by this Memorandum include the following:

2.2.1 The Docks Regulations 1988 apply to 'dock premises' which means any dock, wharf, quay, jetty or other place at which ships load or unload goods or embark or disembark passengers, together with neighbouring land or water which is used or occupied, or intended to be used for those or incidental activities, and any part of a ship when used for these or incidental activities.

2.2.2 The Dangerous Substances in Harbour Areas Regulations 1987 (DSHAR) apply to the carriage, loading and unloading of dangerous substances in harbours and harbour areas. DSHAR do not however apply to the movement of substances through a harbour area by road or in a pipeline, unless it is being loaded or unloaded on to or off a ship. They apply both onshore and on the water within the harbour, which could include an estuary. Parts of DSHAR apply to ships and their crews. Enforcement of DSHAR is divided between HSE and the statutory harbour authorities; in general the latter enforces those parts, dealing with:

- the notification and entry of dangerous goods
- marking and navigation of ships,
- fitness of ships to carry bulk dangerous substances,
- permission for bulk transfers between vessels,
- parking and departure of vehicles carrying dangerous goods and the
- departure of ships carrying dangerous goods.

The HSE enforces the rest as well as enforcing against the statutory harbour authority if necessary.

2.2.3 The Management of Health and Safety at Work Regulations 1999 require employers to assess the risks to the health and safety (a) of his employees while they are at work, and (b) to persons not in his employment arising from his work undertaking. Similar duties are placed on self-employed persons. Employers are required to make appropriate arrangements to cover health and safety linked with the organisations management system. They are also required to provide employees with appropriate health surveillance. Duties are placed on employers to co-operate where they share a workplace, and to give health and safety information when hiring workers from an employment agency. The Regulations apply offshore but do not apply to ships.

2.2.4 The Manual Handling Operations Regulations 1992 require employers, so far as is reasonably practicable, to avoid the need for his employees to undertake any manual handling operation which could injure them; if the operation is unavoidable, to assess the risk and reduce it - change of work procedures, provide lifting equipment, personal protective equipment. The Regulations apply offshore. They do not apply to seagoing ships.

2.2.5 The Personal Protective Equipment at Work Regulations 1992 require employers to provide suitable PPE to his employees who may be exposed to a risk, except where it is adequately controlled by more effective means. The Regulations apply offshore. They do not apply to seagoing ships.

2.2.6 The Provision and Use of Work Equipment Regulations 1998 and the Lifting Operations and Lifting Equipment Regulations 1998 require employers to ensure that work or lifting equipment is suitable for purpose. Guidance is given on standards, but existing prescriptive legislation for testing etc in Docks Regulations is revoked. They do not normally apply to work/lifting equipment belonging to a ship and operated by the crew, but they do apply when the equipment is operated by shore side workers, or shore side personnel could be at risk from a lifting operation. Even when the regulations do not apply, a shore side employer must take all reasonable steps to satisfy himself that the Merchant Shipping requirements are being complied with in respect of that equipment. The Regulations apply offshore.

2.3 **Small Boats - Coastal and Inland Waters**

2.3.1 HSWA and its relevant statutory provisions cover the safety of anyone at work whilst they are in Great Britain, and engaged in certain other activities in the territorial sea, and are applied where there is no sector specific legislation. While regulations under the HSWA do not generally apply to the master and crew of a ship carrying out shipboard activities, (the definition of which includes boats used on Inland Waters) there are some overlapping responsibilities between MCA, MAIB and HSE, and also Local Authorities (both as agents under HSWA and under their own Byelaws) and the Adventure Activities Licensing Authority under the Adventure Activities Licensing Regulations 2004, the Adventure Activities Enforcing Authority Regulations 2007 and the Adventure Activities Licensing (Amendment) Regulations 2007. The Gas Safety (Installation and Use) Regulations 1998 also apply to some boats, for which HSE and Local Authorities have enforcement responsibilities.

2.3.2 The Health and Safety (Enforcing Authority) Regulations 1998 set out the main activities which determine whether local authorities will be enforcing authorities for HSWA legislation. The full list is contained in Regulation 3(1) and Schedule I. Those activities enforced by local authorities, which are relevant to marine safety, include:

- catering services;
- the practice or presentation of the arts, sports, games, entertainment or other cultural or recreational activities (except where the main activity is the exhibition of a -cave to the public);
- the hiring out of pleasure craft for use on inland waters;
- marinas (unless the major work activity is boat building/repair).

2.3.3 The Gas Safety (Installation and Use) Regulations 1998 apply to vessels requiring a load line certificate which are (a) hired out in the course of a business; or (b) made available to the public in the course of a business carried out from the vessel; or (c) used primarily for domestic or residential purposes. The Regulations (which apply both to natural gas and LPG) include detailed requirements for safe installation and use of gas systems and appliances. Anyone employed to work on gas systems must be registered with Gas Safe Register and competent in that area of gas

work. Hire craft are subject to landlords' duties which require gas systems to be safely maintained at all times and appliances and flues subjected to an annual safety check by a Gas Safe Register engineer. The Regulations do not apply to sea going ships.

2.3.4 The Adventure Activities Licensing Regulations 2004, the Adventure Activities Enforcing Authority Regulations 2007, the Adventure Activities Licensing (Amendment) Regulations 2007 and the Adventure Activities (Licensing) (Designation) Order 2007 establish the licensing scheme for commercial and other providers of certain adventure activities, including sailing and paddlesports on the sea or larger non-placid inland waters (likely to be categorised as Category C or D waters by MCA), to schools or members of the public under 18 years of age (unless accompanied by their parent or individually appointed legal guardian). The Adventure Activities Licensing Authority (AALA) is a part of the HSE. The scheme is administered and implemented day to day by the Adventure Activities Licensing Service (AALS) on AALA's behalf. AALS has its own inspectorate; they are not part of the HSE or a local authority. AALS inspect providers and their premises, including examination of safety arrangements, leader/instructor competence and equipment such as boats etc, and issue licences on behalf of AALA to providers. For a provider to be granted a licence, equipment, including boats, will need to be fit for purpose and maintained so they are safe for the environment and conditions they are used in. The licensing authority has the power to refuse, revoke or amend licences, or to impose non-standard conditions on licences, but has no power to issue improvement or prohibition notices or to prosecute. They do have the power to investigate complaints about matters related to licensable activities. It has the power to inspect any place where activities are going on, i.e. not only at the base premises. Inspectors of the AALS can be asked by HSWA enforcing authorities to assist in the investigation of accidents and incidents. See the table attached to Appendix 4 for examples of the application of the regulations.

2.3.5 If sailing or other pleasure vessels are used as part of a work activity, e.g. by a school which is not subject to the adventure activities licensing legislation, or by a retailer demonstrating a vessel, depending on the commercial use to which they are put, the vessels would need to comply with the Merchant Shipping regulations, and HSWA and the relevant statutory provisions may also apply. Compliance with the requirements of the Adventure Activities Licensing Regulations 2004, as amended, for activities covered by those regulations, including the need for licensing, does not absolve providers from compliance with the Merchant Shipping legislation, nor HSWA and the relevant statutory provisions.

2.3.6 Pleasure craft operating non-commercially and where there is no paid work activity, are generally not subject to regulation. .

2.4 **Construction Work**

2.4.1 The Construction (Design and Management) Regulations 2007 (CDMR) apply to all construction work. CDMR defines construction work as the carrying out of any building, civil engineering or engineering construction work including the construction, reconstruction, alteration, repair, demolition and dismantling of a structure and any preparation for such work.

2.4.2 CDMR defines the term "structure" widely, including work on any building, timber, masonry, metal or reinforced concrete structure, dock, harbour, inland navigation, tunnel, shaft, bridge, viaduct, aqueduct, pipe or pipeline, cable, aqueduct, sea defence works, caisson, mast, tower or pylon, earth retaining structure, structure designed to preserve or alter any natural feature and any structure similar to these.

2.4.3 CDMR requires that HSE is notified of all construction projects where the construction phase is expected to last longer than 30 days or 500 person-days of construction work. The Regulations also set out specific requirements, e.g. in relation to falls, work over water, welfare, emergencies etc and place duties on contractors and others, who control the way in which construction work is carried out.

2.4.4 CDMR applies to construction work offshore through article 8(1)(a) of the Health and Safety at Work etc Act 1974 (Application outside Great Britain) Order 2001 (see also first bullet point 2.13.1). This applies CDMR to construction work carried out in relation to any building, energy structure or other structure or any preparation for such work in British territorial waters. This includes any such work carried out in British territorial waters from ships or vessels. However, the application of CDMR does not extend to any activity in connection with offshore installations, wells, pipelines or mines,

2.5 Offshore

2.5.1 HSE's legal jurisdiction offshore derives principally from the Health and Safety at Work etc Act (Application Outside Great Britain) Order 2001, SI 2001/2127, (see paragraphs 2.6 - 2.7.2 below) which applies the Health and Safety at Work etc Act 1974 (HSWA) to offshore installations, wells, pipelines and pipeline works, and to connected activities within the territorial sea of Great Britain or in designated areas of the United Kingdom Continental Shelf. The Act applies irrespective of the nationality of the structures or vessels involved. The Act also applies to these structures and activities within the GB baseline and to a number of additional activities within the territorial sea only, including diving operations.

2.5.2 Health and safety regulations, made under HSWA, apply offshore to the extent specified by the regulations. This could include all offshore activities covered by HSWA, or only some of them (e.g. some regulations apply only in the territorial sea). In addition, HSE enforces some regulations not made under the HSWA, but associated with it.

2.5.3 HSWA places general duties on all people at or concerned with work, including employers, employees and the self employed, and people in control of premises. The general purposes of the HSWA include:

- securing the safety, health and welfare of persons on offshore installations or engaged on pipeline works;
- securing the safety of such installations and preventing accidents on or near them;
- securing the proper construction and safe operation of pipelines and preventing damage to them; and
- securing the safe dismantling, removal and disposal of offshore installations and pipelines.

2.5.4 The Offshore Safety Act made the safety provisions in the Mineral Workings (Offshore Installations) Act 1971, the Petroleum and Submarine Pipelines Act 1975 and the Petroleum Act 1987 into existing statutory provisions within the meaning of the HSWA, that is the provisions became part of the body of old health and safety law which the Health and Safety Executive are charged by Section 1 of the HSWA to review and modernise. Much of the old offshore safety law has been replaced by regulations made under the HSWA, but some provisions remain (e.g. on safety zones, see paragraph 2.12 below).

2.6 Health and Safety at Work etc Act 1974 (Application outside Great Britain) Order 2001 S12001/2127 (The Order)

2.6.1 The Order applies the HSWA to:

- any offshore installation (as defined in the order) and any activity on it;
- any activity, including diving operations, in connection with an offshore installation, or any activity which is immediately preparatory thereto, whether carried on from the

installation itself, on or from a vessel or in any other manner, other than transporting, towing or navigating the installation and activities on or from standby vessels;

- diving operations involving survey and seabed preparation for an offshore installation;
- wells and any connected activity, including diving operations and keeping a vessel on station for well service or workover, but not navigational activities;
- any pipeline and any pipeline works (as defined in the Order), including diving operations;
- the following activities in connection with pipeline works:
 - the loading, unloading, fuelling or provisioning of a vessel engaged in pipeline works;
 - the loading, unloading, fuelling, repair and maintenance of an aircraft on a vessel engaged in pipeline works;
- Certain other activities within the territorial sea, including the construction, maintenance etc. of energy structures - fixed or floating structures, other than a vessel, for producing energy from wind or water.

2.6.2 The Health and Safety at Work etc Act 1974 (Application Outside Great Britain) (Variation) Order 2009.

Amendments to the 2001 Order (AOGBO) made by the 2009 Variation Order, came into force on 5 August 2009. The main change is that energy structures (such as wind farms) and related structures within a renewable energy zone (REZ) are now covered by the AOGBO. A REZ is an area, outside the territorial sea (the territorial sea extends 12 nautical miles measured from baselines along the UK coast), designated by order under section 84(4) of the Energy Act 2004 which may be exploited for the production of energy from water or wind. More information can be obtained from: <http://www.hse.gov.uk/offshore/aogbo.htm>

2.7 Offshore installations

2.7.1 The Order defines an "offshore installation" as:

- the six British aerospace towers east of Humberside and adjacent to the Netherlands Median line;
- a structure which is, will be or has been stationed in UK waters for:
 - exploration for or production of oil or gas through a well;
 - storage and recovery of gas;
 - conveyance by pipe (but not a pipeline); or
 - mainly for accommodation of offshore oil and gas workers;
- and not one which:
 - is permanently connected to dry land;
 - is a well or pipeline;

- has ceased to be used for any of the specified purposes under 2(b) of Article 4 of the Order and has since been used for a different purpose;
- is a mobile structure which is out of use and is not yet being moved with a view to be used for any of the specified purposes (e.g. "stacked").

2.7.2 When a non-mobile installation is being built the installation legally consists of the first part to be put into place projecting into the water, at the working station where it is intended to be used (e.g. a pre-drilling template, a jacket or a gravity structure). The parts which are to be added, when they are in transit to the installation, are only "cargo", and are not legally part of the installation until they are put into place. Whilst these parts are floating they are "ships". The reverse is true for decommissioning. Any parts which are removed offshore cease to be part of the installation, and any part which remains in place projecting into the water, remains an installation.

2.8 Vessels attending Offshore Installations and Wells

2.8.1 Particular examples include:

- loading or unloading of a supply vessel or of a tanker at an offshore installation;
- well servicing, intervention or stimulation activity by a specialist vessel;
- construction, maintenance, repair, demolition activity at an offshore installation by a vessel, including a heavy lift vessel;
- a vessel which provides accommodation for offshore workers, but which is used mainly for some other purpose (for example a heavy lift vessel or diving support vessel);
- diving activities from diving support vessels or survey vessels.

2.9 Vessels carrying out Pipeline Works

2.9.1 These vessels may be laying, repairing or removing a pipeline or carrying out incidental activities (e.g. trenching, diving).

2.10 Other Vessels

2.10.1 Standby vessels (SBV) are part of the emergency arrangements for offshore installations. HSE's responsibility in respect of standby vessels is only that of enforcing requirements on installation operators and owners for ensuring adequate provision of standby vessels where appropriate. HSE is not concerned with the safety of the vessels and their crews, which is the responsibility of MCA. MCA provides surveys in support of HSE, to certify SBVs in accordance with UKOOA's "Guidelines for Survey of Vessels Standing by Offshore Installations".

2.10.2 HSE has no responsibility in respect of survey vessels (except diving), towing vessels, anchor handling vessels, dredging vessels nor of cable-laying vessels (unless cable-laying between installations).

2.11 Wells and Pipelines

2.11.1 HSE is responsible for the safety of wells and pipelines. Pipelines which cross UK waters but do not start or terminate in the UK or UK waters are excluded.

2.12 Safety Zones

2.12.1 Sections 21 to 24 of the Petroleum Act 1987 prohibit vessels from entering or remaining within safety zones established around offshore installations. The definition of "offshore installation" for this purpose is wider than that in The Order and includes, for example, non-oil and gas installations.

2.12.2 Section 95 and Schedule 16 of the Energy Act 2004 set out the basic requirements for applying to the Secretary of State (for Business, Innovation and Skills) for a safety zone to be placed around or adjacent to an offshore renewable energy installation (OREI). Following public consultation, new regulations -'The Electricity (Offshore Generating Stations) (Safety Zones) (Applications Procedures and Control of Access) Regulations 2007' (SI No 2007/1948) - were introduced in August 2007

2.13 Other activities within the territorial sea

2.13.1 In addition to the activities mentioned above, the HSWA applies to the following activities in the territorial sea, excluding non-UK vessels on passage through the territorial sea:

- the construction, reconstruction, alteration, repair, maintenance, cleaning, demolition and dismantling (or any preparatory activities) of any building or other structure (other than a vessel), including energy structures (see also paragraph 2.4 above);
- loading, unloading, fuelling or provisioning of a vessel (which includes a 'stacked' installation, i.e. one which is not in use at that time);
- the construction, reconstruction, finishing, refitting, repair, maintenance, cleaning or breaking up of a vessel (including a 'stacked' installation) except when carried out by the master or any officer or member of the crew of that vessel;
- diving operations;
- maintaining a 'stacked' installation on station.

Version	Date	Reason for Issue
3.0	July 2009	General review of MoU content and updates made where appropriate

APPENDIX 3

3. DOCKS, HARBOURS AND JETTIES

3.1 Introduction

3.1.1 This Appendix sets out the arrangements for enforcement in docks and harbours between the Health and Safety Executive (HSE), The Maritime and Coastguard Agency (MCA) and the Marine Accident Investigation Branch (MAIB).

3.2 Responsibilities of HSE

3.2.1 HSE is primarily responsible for enforcing legislation covering

- the safety of shore-based personnel and work equipment supplied by the shore, even when employed on a ship;
- the safety of passengers when on shore. The dividing line between MCA and HSE responsibilities for passengers is at the gangway, see paragraph 3.7.1 below.

3.3 Responsibilities of MCA

3.3.1 MCA is primarily responsible for enforcing legislation covering

- the safety of ships (including hovercraft),
- their crew, (which includes adequate manning, crew qualifications, and the occupational health and safety of the crew);
- work equipment supplied by the ship;
- prevention of pollution from ships;
- the safety of passengers on board ships.

3.4 Overlaps and lead authorities

3.4.1 Since MCA and HSE each have legislation setting similar standards, where operations are carried out jointly by shipboard and shore-based personnel (examples are mooring and cargo operations) there is a joint responsibility for enforcement. In these cases, depending on individual circumstances, either HSE or MCA can be nominated as a lead authority.

3.4.2 In the case of dangerous cargoes, HSE is the enforcing authority for DSHAR, except where the statutory harbour authorities enforce. This includes specific requirements applying to a ship's master and crew which relate to the loading or unloading of liquid dangerous substances in bulk (see Appendix 2, paragraph 2.2.2).

3.5 Enforcement

MCA and HSE have similar powers of enforcement including, in particular, powers to issue improvement and prohibition notices:

- a) where HSE Inspectors or MCA surveyors observe matters of evident concern, in areas for which they are not the lead authority, these should be reported without delay to the appropriate office of the other authority by telephone or e-mail;
- b) where HSE inspectors or MCA surveyors observe matters of evident concern, in areas for which they are not the lead authority, and which pose a risk of serious

injury, they may, provided they are legally able to, issue a prohibition notice. If they do so, they should notify the appropriate MCA or HSE office by telephone or e-mail and send a copy of the Notice by fax at the earliest opportunity;

- c) where both organisations have an interest, notices should normally be served by the lead authority after consultation with the other authority

3.6 Accident Investigation

3.6.1 HSE Inspectors have powers to investigate accidents to shore based workers. Accidents to seamen or to ships would be investigated by the MAIB. The lead responsibility would be allocated on a case by case basis on the same criteria as for the division of responsibilities between HSE and MCA. For example, HSE would investigate such accidents as shore based workers falling from a quayside during a mooring operation or being injured by mooring ropes etc in co-operation with MAIB.

3.7 Access to ships

3.7.1 If the ship provides access, MCA takes the lead in enforcement (and MAIB leads in accident investigation) and consults with HSE if shore based personnel and/or passengers on the gangway are involved. If access is provided by the shore, HSE leads for both enforcement and accident investigation, and consults with MCA (or MAIB) if ship's personnel and/or passengers are involved.

3.7.2 Inspectors and surveyors deal with access problems routinely but notify each others' departments accordingly; e.g. if access is provided by the ship, HSE inspectors should take appropriate action if they see deficiencies but should also notify MCA of any action they are taking, and vice-versa.

3.8 Dock and Cargo Operations

3.8.1 Dock operations encompass not only the loading and unloading of ships, but all the incidental activities also. Cargo operations are only those dock operations involving the loading and unloading of cargo (and passengers) on or from a ship, where either the ship's crew, shore-based personnel, or both could be involved. The allocation of enforcement responsibilities for general dock operations is outlined in the following paragraphs.

3.8.2 HSE is the lead authority for dock operations whether or not the crew are also involved. HSE has enforcement responsibility for the provision and use of any work equipment supplied by the port, irrespective of who is using it and the safety of dock personnel. There are special arrangements for the loading and unloading of bulk carriers - see paragraph 3.8.9 below. HSE's interests include:

- the movement of cargo on and off the ship;
- Ro-Ro operations;
- use of the ship's work or lifting equipment;
- safety of the stowage of cargo in relation to any danger to workers involved in stowing or unstowing it;
 - unless the operation is being carried out solely by the ship's crew working under the direction of the master and there is neither any involvement of shore based workers nor any potential hazard to shore based personnel;

- HSE also enforces the loading or unloading of dangerous substances in harbour areas, whether by shore-based workers or ships' crews.

3.8.3 MCA has enforcement responsibility in respect of:

- the safety of ships (including floating cranes);
- the safety of a ship's work and lifting equipment;
- the safety of the crew;
- safe stowage of cargo in relation to ensuring the safety of the ship and crew while at sea (i.e. including for where and when cargo is stowed aboard ship; and the rate of loading or discharge of cargoes).

3.8.4 Container packing and unpacking, including enforcing the safety of shore - based personnel engaged in the loading or unloading of cargo:

- HSE is the lead authority for these, whether or not crew are also involved in the operation.
- MCA has enforcement responsibility for the safety of the crew and of the ship, and takes the lead for the stowage of the container aboard ship, i.e. for the security of its stowage and of the cargo within it.

3.8.5 Cargo transfers between ships in a port with one ship moored alongside another:

- MCA is responsible when the transfer is carried out solely by the ships' crews under the control of the master(s), including the use of floating cranes.
- HSE has lead responsibility, when the cargo transfer involves the use of port supplied equipment and/or staff.
- There is a joint interest where the use of shipboard equipment (including floating cranes) affects the safety of shore based personnel.

3.8.6 Cargo transfers between ships at anchor in the territorial sea with one ship moored alongside another:

- MCA has lead enforcement responsibility (even if shore based personnel are involved) since the prime concerns are the safety of the ships and the risk of pollution; also the operations will be carried out under the control of the ships' masters.

3.8.7 Cargo operations carried out solely by the ship's crew under the control of the master

- MCA has enforcement responsibility; UK standards apply to UK ships wherever they are operating, and to foreign registered ships loading/unloading in UK ports.

3.8.8 Dangerous Substances

- There is an exception to paragraphs 3.8.3, 3.8.4 & 3.8.5 in respect of the ship to ship transfers of liquid dangerous substances when the ships are in a harbour, in that HSE or statutory harbour authorities have powers (under the Dangerous Substances in Harbour Areas Regulations 1987) to enforce the duties imposed on ships' masters.

3.8.9 Loading and Unloading of Bulk Carriers

- a) The Merchant Shipping (Safe Loading and Unloading of Bulk Carriers) Regulations 2003 which came into force in 2004 implementing the EC legislation on this subject are aimed at protecting the safety of ships and their crews, and put duties on the operators of bulk carrier terminals, in which health and safety matters are normally enforced by HSE.
- b) Since the aim of the legislation is to protect the safety of ships and their crews, MCA is the lead "Competent Authority" and will carry out the inspections in the UK with the agreement of HSE through this MoU.
- c) MCA surveyors will have the power to stop the loading or unloading operation if the safety of the ship is endangered. They would notify the appropriate HSE inspector as soon as possible by telephone or e-mail. If an HSE inspector thought that the loading operation was being carried out in such a manner that it could damage the ship, they would seek advice from their MCA counterpart.

3.9 Jetties at Establishments subject to Major Hazards Legislation

3.9.1 Where jetties form part of an establishment subject to the Control of Major Accident Hazards Regulations 1999 (COMAH) as amended they, (their associated plant, equipment and pipework together with the work activities being carried on upon them) will be subject to the requirements of COMAH. The COMAH Regulations are enforced by a competent authority (CA) comprising the Health and Safety Executive (HSE) and the Environment Agency (EA) in England and Wales, and HSE and the Scottish Environment Protection Agency (SEPA) in Scotland. The requirements of the COMAH Regulations extend to the point at which the jetty located loading/unloading arms couple to the shipboard manifolds. Jetty operations may well involve both shore-based and shipboard personnel consequently the MCA will also have an enforcement responsibility, but enforcement of COMAH rests with the CA. Where a jetty is associated with an establishment subject to COMAH, but does not itself form part of the establishment and is therefore not subject to COMAH, HSE will be the lead enforcing authority for jetty based activities, (which are subject to the requirements of the HSWA and relevant statutory provisions).

3.10 Trinity House, Northern Lighthouse Board, Commissioners for Irish Lights

3.10.1 Merchant Shipping legislation applies to the launches used for servicing lighthouses and lightships, including loading and unloading stores etc at the light. (The Docks Regulations do not apply as the lights are generally not within or adjacent to a dock.) HSWA applies to maintenance work carried out on the lighthouses or lightships.

3.11 Undertakings on Temporarily Moored Ships

3.11.1 These include factory and theatre ships which travel from port to port as ships, then effectively change their purpose while in port. The work undertaken in port may be done by personnel, not normally part of the crew, but who travel on board and work only while the ship is in port, or by personnel taken on at ports. The allocation of enforcement lead responsibilities is as follows.

3.11.2 MCA is responsible for enforcing the legislation covering the safety of the ship, its crew and other persons travelling on the ship.

3.11.3 The safety of shore-based workers and members of the public visiting a ship when moored is covered by HSWA. Whether HSE or the local authority is responsible for enforcement depends on the allocation of responsibilities in the Health and Safety (Enforcing Authority) Regulations 1998.

3.12 Ships Permanently Moored Which Have No Master or Crew

3.12.1 These include ships not used in navigation, but used for such purposes as factories, restaurants, public houses, theatres, museums, exhibitions, or training. HSE has primary responsibility for enforcement in relation to the safety of shore-based workers and members of the public visiting a ship.

3.12.2 Whether HSE or the local authority is responsible for enforcement of the legislation depends on the allocation of responsibilities in the Health and Safety (Enforcing Authority) Regulations 1998. If ships are moored at an anchorage away from the quayside, MCA has an interest in access and evacuation procedures.

3.12.3 Where HSE or LA have concerns about the structural integrity of the ship itself these concerns should be raised with MCA for advice.

3.13 Mooring

3.13.1 MCA is responsible for enforcing legislation covering all mooring activities carried out by the ship's crew and any assisting launches under control or direction of the ship's master. MCA is also the lead authority for mooring standards because this primarily affects the safety of the ship.

3.13.2 HSE has an interest in mooring activities insofar as they affect the safety of cargo transfer operations and are a dock operation as defined in the Docks Regulations.

3.14 Fishing Vessels

3.14.1 The Docks Regulations do not apply to fishing vessels, nor do the various merchant shipping regulations made in 1988 which impose similar duties to them. The Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 apply (enforced by MCA). The Loading and Unloading of Fishing Vessels Regulations 1988 (LUFVR), enforced by HSE, apply to all fish loading processes in Great Britain (but not on beach landing sites). Regulation 6(2) of LUFVR provides that "so far as is reasonably practicable safe plant and equipment shall be provided and properly maintained".

3.14.2 Fish loading processes are defined as including:

- loading, unloading, moving or handling of wet fish
 - on, at, or near by any quay or
 - on any fishing vessel when moored at the quay,
- any activity incidental to the above, including the
 - mooring, fuelling and provisioning of fishing vessel at the quay, or
 - the transfer of wet fish from one fishing vessel to another when at least one of fishing vessels is moored at the quay.

3.14.3 The HSE's Lifting Operations and Lifting Equipment Regulations (LOLER) are dis-applied to ships (including fishing vessels) except:

- when persons other than the master and crew of the ship operate the equipment, or
- when persons other than the master and crew of the ship are liable to be exposed to a risk to their health or safety from the operation of the equipment.

In practice, LOLER could be deemed to apply in many instances, as there are usually shore based workers, and/or the crews of other ships in the vicinity when fishing vessels are unloaded. In the case of fishing vessels operated from beach landing sites (e.g. Hastings), the Provision and Use of Work Equipment Regulations would apply to the winches used to haul the boats up the beach.

3.14.4 The reason for these differences is that fishing vessels are generally much smaller than merchant ships, and tend to operate from specialised ports or harbours. There is not the same need to provide for gangway access, and in many cases the wide tidal range in unlocked harbours coupled with the small vessels, makes such provision impracticable other than when loading/unloading is actually taking place (LUFVR Reg. 5(1)). Loading (supplies) and unloading (fish) is normally a crew activity, using either the fishing vessel's own derricks, or shore based plant supplied, either by the port or the fishing fleet operator, for the purpose and shared by fishermen from that port.

3.14.5 MCA is responsible for enforcing the legislation covering the safety of the fishing vessel, its crew and equipment. HSE is responsible for enforcing legislation covering loading, unloading and related activities while in port.

3.15 **Marinas**

3.15.1 Marinas are generally used for the storage of leisure craft, but may include other activities such as boat building, boat maintenance and repair facilities. Some large marinas may also include retail facilities, restaurants, public houses, exhibitions etc. HSE has primary responsibility for enforcement in relation to the safety of shore-based workers and members of the public visiting a marina.

3.15.2 Whether HSE or the local authority is responsible for enforcement of the legislation depends on the allocation of responsibilities in the Health and Safety (Enforcing Authority) Regulations 1998. If the major activity is boat storage and retail, then the local authority would enforce the legislation. HSE would enforce on premises where the major activity is boat building.

3.15.3 Boats used commercially by or at marinas, should comply with the appropriate Merchant Shipping legislation, and MAIB has the powers to investigate accidents involving them.

3.16 **Regasification Ships**

3.16.1 Regasification ships are vessels built to comply with the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (IGC Code), but are fitted with a re-gasification plant onboard. Rather than pump Liquefied Natural Gas (LNG) to shore, the liquid is pumped through the re-gasification plant and then pumped to shore as a gas.

HSE is currently developing a policy on regasification operations offshore using permanently moored regasification vessels.

Version	Date	Reason for Issue
3.0	July 2009	General review of MoU content and updates made where appropriate.
3.1	Nov 2009	Information about regasification ships amended pending clarification (see section 3.16).

APPENDIX 4

4. COMMERCIALY OPERATED VESSELS ON COASTAL AND INLAND WATERS

4.1 Introduction

4.1.1 This Appendix sets out the arrangements for enforcement and accident investigation of vessels operating on coastal and inland waters between the Health and Safety Executive (HSE), the Maritime and Coastguard Agency (MCA) and the Marine Accident Investigation Branch (MAIB). This Appendix covers a difficult area and one where statutory responsibilities and interests clearly overlap. Liaison is therefore particularly important between interested parties to ensure that all relevant aspects are considered.

4.1.2 In this area there are additional interests to be taken into account. Local authorities enforce the HSWA on behalf of HSE in respect of leisure activities, catering services and the hiring out of pleasure craft³. They also have powers to register or license vessels carrying no more than 12 passengers. Navigation authorities (the most significant being British Waterways (BW), the Environment Agency (EA) and the Port of London Authority) have a safety role on their own waters, in part to fulfil their duty of care under section 3 of HSWA - in particular the Boat Safety Scheme sponsored by The Environment Agency and British Waterways. Port and harbour authorities may also have byelaws which cover various aspects of operational or vessel safety.

4.1.3 Gas safety - The Boat Safety Scheme (BSS) is intended to protect British Waterways' and the Environment Agency's Section 3 HSWA liability. As such, it addresses only those matters that may affect the safety of people in the vicinity of the boat, not those on it. These matters include the gas and fuel supply of boats covered by the scheme. The scheme does not cover other aspects such as hull strength, stability, compartments etc. The Scheme applies to all boats using BW, EA and other participating navigation authority waters. There is therefore, some overlap with the HSE's Gas Safety (Installation and Use) Regulations (GSUIR) (see Appendix 2, paragraph 2.3.3). The division of enforcement responsibilities is:

- MCA - all UK ships (sea-going and inland) - sets standards in Codes, enforces by periodic surveys, may prosecute;
- MAIB - can investigate gas accidents on all UK ships, and those operating in UK waters
- HSE - enforces GSUIR on non sea-going boats that are hired out, made available to public in the course of a business, or are used for domestic and residential purposes. NB: GSUIR applies to vessels that are not "ships" within the meaning of the Merchant Shipping Act (MS

³ Note: Local authorities act and enforce on behalf of the Health and Safety Executive for some marine and leisure activities on coastal and inland waters, as allocated by the Health and Safety (Enforcing Authority) Regulations 1998.

Act s.313 states a 'ship' includes every description of vessel used in navigation). No routine inspections, but could investigate gas accidents on boats to which GSUIR applies and prosecute for a breach of HSWA or GSUIR.

- BSS applies to all boats used or kept on BW, EA and some other navigation authority waters. The Scheme is administered by periodic inspection by approved examiners.

For most purposes, the BSS and GSUIR are compatible. If however there is any discrepancy, the GSIUR take precedence.

4.2 Responsibilities

4.2.1 Under this agreement, MCA is primarily responsible for enforcement of:

- the safety (construction, equipment, navigation) of all vessels which are used in navigation ;
- training/qualifications of the master;
- the safety of anyone on a vessel while it is at sea, in the case of a vessel which sometimes goes to sea (for example, operating from an estuary);
- the following matters - in the case of a vessel which does not go to sea but is used in navigation⁴, or for a seagoing vessel, while it is in coastal or inland waters, for:
 - all aspects of safety for the vessel;
 - the occupational health and safety of members of the crew;
 - all aspects of safety for others on the vessel in respect of vessel - based activities;

4.2.2 Where a vessel is of a class or type such that Merchant Shipping legislation may not fully apply (i.e. HMRC Launches, Police Launches, Coastguard Cutters etc) the procedures in paragraph 4.3.2 below should be followed. (See also table in 4.6, items 8 and 9).

4.2.3 HSE is primarily responsible for:

- enforcing the safety of shore-based personnel while they are in Great Britain, and of passengers on shore - the dividing line between MCA

⁴ For the purposes of this section, a vessel is considered to be used in navigation if it operates on the sea or on waters listed in the Annex to Merchant Shipping Notice MSN 1776 (M) Categorisation of Waters, and subsequent revisions.

and HSE responsibilities for passengers is at the point of access to the ship (see Appendix 3, paragraph 3.7 on access);

- enforcing the occupational health and safety of any land-based workers on vessels which do not go to sea but are used in navigation (e.g. on a canal), or for a seagoing vessel while it is in coastal or inland waters, where the primary purpose of the vessel is related to land-based works or undertakings. A company hiring out vessels for leisure use is deemed to be a land-based undertaking. HSWA does not apply to private leisure activities;
- enforcing all aspects of health and safety on vessels which are not capable of navigation, (although the duties may be carried out by local authorities).

4.3 Lead Authority

4.3.1 The MCA is the lead authority for inspection and enforcement and MAIB for the investigation of accidents, for any ship (which includes small craft such as jet skis listed by order of S.O.S). HSE is the lead authority for enforcement and investigation of occupational accidents (including accidents to workers on the vessel) resulting from land-based works or undertakings, including drilling into the seabed and related activities.

4.3.2 Where responsibilities are not clear-cut, joint enforcement may be appropriate. There will be agreement on a case by case basis on a lead authority that will set standards and/or investigate any accident in consultation with the other authority. Either organisation may, where appropriate, call on the expertise of the other when investigating an accident.

4.3.3 It is accepted that there are occasions when it may be appropriate for inspections or accident investigations to be undertaken jointly.

4.3.4 There are situations where an employer or a master of a ship has a duty to report the same accident to both HSE (under RIDDOR) and MAIB (under merchant shipping accident reporting regulations). In these situations, the person filing the report with one organisation will be advised and the report passed on to the other.

4.4 Enforcement

4.4.1 For vessels on inland waterways enforcement could be undertaken either under Merchant Shipping legislation or the Health and Safety at Work Act, (See Appendices 1 and 2). The Adventure Activities Licensing Authority has the power to refuse, withdraw and amend licences, or to impose conditions on licences; but not power to issue improvement or prohibition notices or to prosecute. It would, where appropriate, have powers to inspect where the activities are being held, i.e. to go beyond the base premises. Local authorities, or HSE if the base premises are occupied by an education or local authority, have power to issue enforcement notices or to prosecute a person for providing an adventure activity without a licence,

for breaches of the conditions of his licence or for dishonestly trying to obtain a licence⁵.

4.4.2 Where vessels are certified under Merchant Shipping regulations the certification can be cancelled when a vessel fails to comply with the relevant provisions. If deficiencies are found during a renewal survey the certificate would not be renewed until deficiencies had been rectified. In these circumstances, or following a general inspection, improvement and prohibition notices can be issued or prosecutions can be brought, as appropriate.

4.4.3 MCA and HSE have similar powers of enforcement including, in particular, powers to issue improvement and prohibition notices:

- where HSE inspectors or MCA surveyors observe matters which pose a risk of serious injury and where they are not the lead authority but have enforcement powers, they may (provided they are legally able to do so) issue a prohibition notice. If they do so, they should notify the appropriate office of the lead authority by telephone and send a copy of the Notice by fax at the earliest opportunity;
- where HSE Inspectors or MCA surveyors observe matters of concern in areas for which they are not the lead authority, these should be reported without delay to the appropriate office of the lead authority by telephone;
- where HSE/LA and MCA jurisdiction overlap, notices should normally be served by the lead authority in consultation with the other.
- The contact details are set out in Appendix 9 - Addresses.

4.5 Accident Investigation

4.5.1 MAIB is primarily responsible for the investigation of accidents to or on any vessel used in navigation and has powers to investigate any accident involving a "ship" - i.e. on any waters. On inland waters, local navigation and harbour authorities or the Royal Yachting Association may also carry out an investigation, and MAIB may decide not to duplicate any such investigation.

4.5.2 HSE has powers to investigate any accident involving workers in Great Britain, so the investigation of any accident on inland waters where the primary activity is other than operation of a vessel will fall to HSE.

4.6 Allocation of responsibilities

The table attached to this Appendix summarises the types of craft covered by this agreement, and the inspection and enforcement responsibilities which apply.

⁵ Navigation and local authorities may have registration or licensing schemes for some vessels, and may enforce standards through the conditions for registration or issue of a licence.

Boat type	Function	Location	Enforcement or Accident Investigation	Comment
1 Work boats	Various	At sea	MCA/MAIB	Subject to statutory Workboat Code (1998)
		Waters listed in Annex to MSN 1776 (M)	MCA/MAIB	MCA to advise on relevant standard or equivalent navigation authority standard. For any vessel used in navigation, "Master" and "crew" are subject to MS safety legislation
2 Aquaculture work boats	Distribute supplies and equipment to marine fish farms, transportation of work personnel to floating cages, pens, trestles, and suspended ropes and nets, harvest fish.	At sea	MCA/MAIB/ HSE	As above when used in navigation, but HSE deal with loading/unloading activities onshore and at the marine fish farms.
		Waters listed in Annex to MSN 1776 (M)	MCA/MAIB/ HSE	As above when used in navigation, but HSE deal with loading/unloading activities onshore and at the marine fish farms.
		Inland waters not listed in Annex to MSN 1776 (M)	HSE	HSE would expect the boat and equipment to comply with any relevant MCA standards (as above for workboats).
3 Fishing Vessels	Catch Fish, unload in port	Any waters	MCA/MAIB/HSE	Boat and equipment to comply with the Fishing Vessel (Safety Provision) Rules 1975, as amended, and Codes of Practice. LUFVR applies while in port. Fishing Vessels (EC Directive on Harmonised Safety Regime) Regs 1999
4 Safety boats	Attending construction sites / bridge repairs	Any inland waters	HSE	MCA to advise on relevant standard or equivalent navigation authority standard. Workers on the boat are employed in a land-based work activity, so their occupational health and safety is for HSE.
5 Passenger operations	Water Taxis, Ferries; Hotel/ Restaurant boats (no more than 12 passengers)	At Sea	MCA/MAIB	Subject to Small Commercial Vessels Code. Any vessel carrying more than 12 passengers must be certificated by MCA as a passenger vessel.
		Waters listed in Annex to MSN 1776 (M)	MCA/MAIB	Local authority licensing or registration for those vessels carrying fewer than 12 passengers. Passenger vessels of Class IV or V 12 or more passengers.

Boat type	Function	Location	Enforcement or Accident Investigation	Comment
6 Harbour Masters' Launches		Waters listed in Annex to MSN 1776 (M)	MCA/MAIB	MCA to advise on relevant standard or equivalent navigation authority standard.
7 Pilot boats		Any waters	MCA/ MAIB	Workboat and Pilot Boat Code 1998
8 Crown - MOD, HMRC, Coastguard	Security and Life-saving	Any waters	HSE	As MS Act does not generally apply to Crown vessels, inspections and accident investigation falls to HSE, who would seek MCA/MAIB expertise as necessary. The MS Act would apply in part to the Marine Services; MWAB and DERA, but does not apply to RN warships.
9 Police	Security	Waters listed in Annex to MSN 1776 (M)	HSE	DfT has issued certificates dis-applying parts of the MS Act to Police, provided their vessels are operated in accordance with Codes of Practice for Police Boats. HSWA does now apply to police officers in Home Office forces as they are "employees". Accident investigation falls to HSE, who would seek MCA/MAIB expertise as necessary.
10 Hire craft	(i) Hired to public for leisure use	Any waters	HSE/MAIB	MCA provides advice both directly and via District Marine Safety Committees on standards of safety for amateur boaters. Boats may be certified by the Navigation Authority, e.g. under the Boat Safety Scheme (BSS). HSE/LAs responsible for hiring activity and for HSWA s3 effect of faulty boat on hirer. MCA has policy responsibility for NRPVs Work-boats operating in/from hire centre subject to (1) above. Inland Waterways Hire Boat Code sets Best Practice standards, e.g. for the vessel, its equipment and for hand-over procedures
Hire craft (cont)	(ii) Hired to an organisation which will conduct a work activity - e.g. a school party with teacher in charge of boat	Any waters	HSE/MAIB	Boats may be certified by the Navigation Authority. HSE/LAs responsible for hiring activity and for HSWA s3 effect of faulty boat on hirer. MCA to advise as necessary on adequacy of training for operation of boat. Inland Waterways Hire Boat Code sets Best Practice standards, e.g. for the vessel, its equipment and for hand-over procedures
Hire craft (cont)	(iii) Hired with crew e.g. chartered for reception, or by professional master for commercial operation	Any waters	MCA/MAIB	

Boat type	Function	Location	Enforcement or Accident Investigation	Comment
	(iv) Bareboat Charter for commercial operation	At sea	MCA/MAIB	Subject to Small Commercial Vessels Code
		Waters listed in Annex to MSN 1776 (M)	MCA/MAIB	Boat and equipment to comply with appropriate MCA statutory Code, equivalent navigation authority standard, or, for non-regulated pleasure vessels, Coastguard guidance.
12 Sail training vessels	Sail training vessels	At sea	MCA/MAIB	Subject to Small Commercial Vessels Code
13 Sailing instruction - (associated with adventure activities for young persons)	(i) Commercial operation catering for under 18 years (includes a voluntary organisation selling more than three days adventure activities to non-members) (ii) Provision for under 18 years by education authority or local authority	Sea, waters listed in Annex to MSN 1776 (M) and other waters above 100m wide	LAs/MAIB	Centre would be licensed under Adventure Activities Licensing Regulations 2004. Licensing authority has no enforcement powers, but AALS inspectors are empowered to investigate complaints and may assist HSE/LA investigations. Boat and equipment to comply with appropriate MCA statutory Code, equivalent navigation authority standard, or, for non-regulated pleasure vessels, Coastguard guidance.
	(iii) Provision by a school or college for its own pupils / students	Any waters	HSE/MAIB	Activity is not required to be licensed but HSWA applies to work activity of teachers. MCA advise on the safety of non-regulated pleasure craft.
	(iv) Provision by voluntary organisation with volunteer boatman and/or instructors	Any waters	MAIB	No work activity and vessels not commercially operated. Coastguard responsible for safety of non-regulated pleasure craft. MAIB or the navigation authority may still investigate accidents.
14 Sailing instruction (not covered by 9 or 10 above)	Provision of sailing instruction for over-18s only on a commercial basis.	Sea and waters listed in Annex to MSN 1776 (M)	MCA/MAIB	Activity is not required to be licensed but merchant shipping health and safety legislation will apply where instructors are employed. Boat and equipment to comply with appropriate MCA statutory Code, equivalent navigation authority standard, or, for non-regulated pleasure vessels, Coastguard guidance.

Boat type	Function	Location	Enforcement or Accident Investigation	Comment
15 Chain Ferries	<p>Operation of the ferry – including the chain and chain anchorage points</p> <p>Operations on the jetty – marshalling the passengers, provision of safety signs etc</p>		<p>MCA/MAIB</p> <p>HSE</p>	

The expression "passenger" means any person carried in a ship (whether or not for a fare), except (a) a person employed or engaged in any capacity on board the ship on the business of the ship, (b) a person on board the ship either in pursuance of the obligation laid upon the master to carry shipwrecked, distressed or other persons, or by reason of any circumstances that neither the master nor owner nor the charterer (if any) could have prevented or forestalled, and (c) children under one year of age.

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APPENDIX 5

5. SHIPBUILDING, SHIP-REPAIR AND DISMANTLING

5.1 Introduction

5.1.1 This Appendix sets out the arrangements for enforcement of health and safety in shipbuilding and ship - repair activities between the Health and Safety Executive (HSE), the Maritime and Coastguard Agency (MCA) and the Marine Accident Investigation Branch (MAIB). Under this agreement, wherever there is reference to MCA having a responsibility it shall also be read that MAIB has the responsibility to investigate accidents. Wherever HSE has responsibility, this also includes accident investigation.

5.2 Responsibilities of HSE

5.2.1 Under HSWA, HSE is primarily responsible for enforcing legislation covering the safety of shore-based personnel and work equipment supplied by the shore, even when employed on a ship, within the GB territorial sea. In general, shipbuilding and ship-repairing is covered by regulations implementing EC Directives on occupational health and safety which cover all industries; the Shipbuilding and Ship - Repairing Regulations 1960 are being progressively revoked as new legislation comes into force.

5.2.2 With regard to Riding Crews, it is the practice on UK registered vessels to include the riding crew on the crew list. Merchant Shipping legislation would therefore generally apply with enforcement by MCA. Although HSWA applies to ship-repair work carried out within the GB territorial sea, and therefore to repair work carried out by riding crews, in practical terms little effective enforcement work can be done on non-UK vessels.

5.3 Responsibilities of MCA

5.3.1 MCA is primarily responsible for enforcing legislation covering the safety of ships (including hovercraft), and their crews, (which includes adequate manning, crew qualifications, and the occupational health and safety of the crew) and work equipment supplied by the ship. In general Merchant Shipping safety legislation applies to UK ships wherever they are and (where they enforce international standards) to foreign ships while in UK ports. MCA also has a responsibility for prevention of pollution from ships.

5.3.2 The term "crew" generally extends to all persons (except masters and pilots) employed or engaged in any capacity on board any ship. This definition includes any shore based "Riding Crew" placed on board a ship to assist the permanent crew with a repair while the ship continues its voyage and included on the crew list. Enforcement responsibility for such riding crews would remain with MCA, although HSE may have an interest where the employer is land-based.

5.4 Shipbuilding

5.4.1 HSE is responsible for enforcing safety legislation for all shipbuilding and conversion work, whether carried out by shore-based personnel or the ships' crew in

any shipyard, harbour, dry dock or wet dock. MCA is the lead authority for work carried out on sea trials etc whether this is done by crews or shore based workers or both, but HSE would have an interest where the employer was land-based.

5.5 Ship Repair

5.5.1 Where ships' crews are carrying out voyage repairs under the control of the master, when the ship is in wet dock or in harbour, responsibility for enforcement will fall to MCA. Voyage repairs are typically routine maintenance and repairs carried out by ship's crew in port, the vessel not necessarily being out of service, without assistance from shore based maintenance or repair staff.

5.5.2 All other ship repair activities, including works carried out by the ships crew when the vessel is in dry dock and major work not considered as voyage repairs fall to HSE to inspect and investigate incidents. MCA would have an interest where the activities of shipyard workers might endanger any crew remaining on the ship or vice versa.

5.5.3 In situations where a ship is undergoing voyage repairs where the ships crew and shore based contractors are working concurrently then MCA and HSE will have a joint responsibility for enforcement. In these cases it is desirable for MCA and HSE to agree a nominated a lead authority.

5.6 Ship dismantling

5.6.1 Where a ship is decommissioned by shore, based contractors enforcement would fall to HSE. This includes the dismantling of vessels intentionally beached for the purposes of decommissioning. For example dismantling a vessel drawn up on a slip way.

5.6.2 Work to raise, dismantle or otherwise remove a ship that has been sunk or stranded will fall to MCA to enforce even when the work is undertaken by a land based contractor. For example where a ship is grounded above the low water mark on a beach and subsequently dismantled in-situ.

5.7 Table summarising the enforcement responsibilities.

Activity	Location	MCA Lead	HSE Lead
UK Ship			
Construction/ conversion/ fitting out	Slipway/ dry dock/ wet dock	-	All works
	Sea trial	All works	Have an interest where employer is UK based.
Repair	Dry Dock	-	All works
	Wet Dock	Voyage repairs by crew	All works by shipyard/ contractors. Underwater inspection/ repair by divers. Major repairs by crew.

Activity	Location	MCA Lead	HSE Lead
	Riding crew	All works	Have an interest where employer is UK based.
Non UK Ship			
Construction/ conversion/ fitting out	Slipway/ dry dock/ wet dock	-	All works
	Sea trial	All works within UK waters	Have an interest where employer is UK based.
Repair	Dry dock	-	All works
	Wet dock	Voyage repairs by crew	All works by shipyard/ contractors. Major repairs by crew. Underwater inspection/ repair by divers.
	Riding crew	All works within UK waters	Have an interest where employer is UK based.

5.8 Enforcement

5.8.1 MCA and HSE have similar powers of enforcement including, in particular, powers to issue improvement and prohibition notices:

- where HSE Inspectors or MCA surveyors observe matters of evident concern in areas for which they are not the lead authority, these should be reported without delay to the appropriate office of the other authority by telephone or e-mail;
- where HSE inspectors or MCA surveyors observe matters of evident concern, in areas for which they are not the lead authority, and which pose a risk of serious injury, they may issue a prohibition notice. If they do so, they should notify the appropriate MCA or HSE office by telephone or e-mail and send a copy of the Notice by fax at the earliest opportunity;
- where both organisations have an interest, notices should normally be served by the lead authority after consultation with the other authority.

5.9 Accident Investigation

5.9.1 HSE Inspectors have powers to investigate accidents to the shore based workers. Accidents to seamen or to ships would be investigated by MAIB. The lead responsibility would be allocated on a case by case basis on the same criteria as for the division of responsibilities between HSE and MCA.

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3.0	July 2009	General review of MoU content and updates made where appropriate

APPENDIX 6

6. OFFSHORE

6.1 Introduction

6.1.1 This Appendix sets out the arrangements for liaison offshore (see Appendix 2, paragraph 2.5.1) between the Health and Safety Executive (HSE), the Maritime and Coastguard Agency (MCA), the Marine Accident Investigation Branch (MAIB). The underlying principles that have been followed are set out in the Framework of Understanding.

6.2 Responsibilities

6.2.1 This agreement recognises that:

- MCA/MAIB is primarily responsible for the safety of navigation, the safety of ships and their crew, and the prevention of pollution including the enforcement of relevant international conventions;
- HSE has responsibility for enforcement of the legislation relating to the safety of offshore installations, wells and pipelines and for those engaged in related activities.

6.2.2 The statutory responsibilities of all the parties to this agreement are described fully in Appendix 2. Where offshore operations involve both ships' crews and offshore installation personnel, there is likely to be a joint or overlapping responsibility (e.g. for enforcement or accident investigation). In these cases there will need to be close liaison between all agencies concerned.

6.3 Overlaps

6.3.1 Areas of overlap in respect of health and safety enforcement and accident investigation, and appropriate liaison arrangements are set out in three schedules:

- Schedule 1: Offshore Installations;
- Schedule 2: Vessels carrying out activities in connection with Offshore Installations and Wells;
- Schedule 3: Vessels carrying out activities other than those in connection with offshore installations and wells.

6.3.2 Throughout the schedules "Lead" responsibility means a presumption that the lead organisation would normally have the main interest. It does not exclude the lesser interest, nor does it preclude the possibility that the other organisation may have the lead in certain circumstances. Cases will need to be considered on their merits.

6.4 Enforcement

6.4.1 Where MCA surveyors may be able to provide technical assistance to HSE they may, by agreement, accompany HSE inspectors as advisers, at the operators' or owners' expense for travel and accommodation.

6.4.2 MCA's powers of inspection under Port State Control at offshore installations are detailed in Appendix 1, paragraph 1.4. These powers will only be exercised after consulting the appropriate HSE (OSD) office.

6.5 Accident investigation

6.5.1 Where an accident occurs offshore in which there is an overlap of interest between HSE and MAIB, HSE will generally co-ordinate a joint accident investigation.

Schedule 1 - Health and safety enforcement and accident investigation on offshore installations

Phase in life cycle	Type of Installation			
	Non-mobile		Mobile	
	UK Flag	Non-UK Flag	UK Flag	Non-UK Flag
Design ²	HSE	HSE	HSE ³ / MCA/ MAIB	HSE ³
On working station - including construction and demolition	HSE	HSE	HSE/ MCA/ MAIB	HSE
Transit to or from working station (except mobile being taken out of use)	HSE/ MCA/ MAIB	HSE	HSE/ MCA/ MAIB	HSE/ MCA/ MAIB ⁴
Any other transit (including mobile being taken out of use)	MCA/ MAIB	MCA/ MAIB ⁴	MCA/ MAIB	MCA/ MAIB ⁴
Stacked within GB baselines or the territorial sea (until intention of use ⁵ changes)	HSE/ MCA/ MAIB	HSE/ MCA/ MAIB	HSE/ MCA/ MAIB	HSE/ MCA/ MAIB

1. For the purposes of this schedule, the following definitions apply:

"Non-mobile installation": one that is not considered in Merchant Shipping law as a "ship" (see glossary) on its working station, but which may be a "ship" when being floated out or otherwise when in transit. Non-mobiles include permanently anchored floating installations, such as tension leg platforms, ones with catenary mooring lines and pile anchors, or gravity platforms, but not jack-ups.

"Mobile installation": an offshore installation which can be moved from place to place without major dismantling or modification, whether or not it has its own motive power. NB. This is not the definition used in the Offshore Installations (Safety Case) Regulations. Mobile installations are at all times considered in Merchant Shipping law as "ships" (see glossary). This includes jack-up drilling rigs, Flotels and FPSOs.

2. Design here refers to interest in the design process (e.g. Design Safety Cases (DSC) for HSE, statutory certification for MCA), not to responsibilities for regulating the construction stage carried out away from the working station.

3. HSE's responsibility concerns mainly such mobile installations as require DSC (i.e. FPSOs), though HSE is also interested in the design of other mobiles.

4. This only applies to accident investigation in the event of an incident in the UK territorial sea.

5. A stacked installation (i.e. one which is temporarily out of use) is not legally an "offshore installation", but remains subject to the HSW Act (see Appendix 2).

However it becomes an "offshore installation", as soon as it moves with the intention to be used as an offshore installation (e.g. after a contract is agreed).

Where overlaps occur in the table above (except design), lead responsibility for enforcement and investigation will normally be as follows:

- safety of navigation, seaworthiness of installation and health and safety of the crew - MCA/MAIB;
- safety of the installation and health and safety of those working on it - HSE;
- stacked installations - HSE.

Schedule 2 - Health and safety enforcement and accident investigation for vessels attending offshore installations and wells

Work Activity Carried Out By Vessels In Connection With An Offshore Installation Or Well	UK Vessel	Non-UK vessel
Navigation	MCA/MAIB	
Ship Maintenance	MCA/MAIB	
Search and Rescue (standby) ¹	MCA/MAIB	
Towing (of an installation)	MCA/MAIB	
Anchor-handling	MCA/MAIB	
Loading/unloading ²	HSE/MCA/MAIB	HSE
Construction/demolition	HSE/MCA/MAIB	HSE
Servicing and maintenance of a well	HSE	HSE
Cable-laying	HSE/MCA/MAIB	HSE

Work Activity Carried Out By Vessels In Connection With An Offshore Installation Or Well	UK Vessel	Non-UK vessel
Surveying	MCA/MAIB	
Diving	HSE	HSE
Accommodation ³	MCA/MAIB/HSE	HSE

1. This concerns the safety of SBVs and their crews. It does not concern HSE requirements for provision of effective emergency arrangements for an installation - including the standby vessel.

2. HSE's interest excludes the voyage prior to or following loading/unloading.

3. For the purposes of this schedule, "accommodation" refers to vessels which provide accommodation for workers working on an offshore installation, as a secondary activity (if it is the main one, the vessel is defined as an offshore installation).

Where overlaps occur in the table above, lead responsibility for enforcement and investigation will normally be as follows:

- all aspects of ship safety and operation, including construction and maintenance, manning and emergency arrangements - MCA;
- safety of the activity, the installation and of workers engaged in the activity (e.g. loading/unloading) - HSE.

There is a need for close operational contact to deal with issues case by case.

Schedule 3 - Health and safety enforcement and accident investigation for other activities in the territorial sea and on the UKCS

Work Activity¹	Territorial sea		UKCS	
	UK Vessel	Non-UK Vessel	UK Vessel	Non-UK Vessel
Pipe-laying, pipeline repair and maintenance, pipeline removal etc	HSE/ MCA/ MAIB	HSE	HSE/ MCA/ MAIB	HSE
Loading, unloading, fuelling or provisioning of a vessel	HSE/ MCA/ MAIB	HSE	HSE ² / MCA/ MAIB	HSE ²
Diving in connection with installations, wells and pipelines	HSE	HSE	HSE	HSE
Diving not in connection with installations etc	HSE	HSE	MCA/ MAIB	-
Navigation	MCA/ MAIB	MCA/ MAIB	MCA/ MAIB	-

Work Activity ¹	Territorial sea		UKCS	
	UK Vessel	Non-UK Vessel	UK Vessel	Non-UK Vessel
Ship maintenance	MCA/ MAIB/ HSE ³	MCA/ MAIB/ HSE ^{3,4}	MCA/ MAIB	-
Cable-laying	MCA/ MAIB	MCA/ MAIB	MCA/ MAIB	-
Dredging	MCA/ MAIB	MCA/ MAIB	MCA/ MAIB	-
Pollution control	MCA/ MAIB	MCA/ MAIB	MCA/ MAIB	-

1. Work activities not covered in previous schedules.
2. HSE's responsibility extends only to loading etc of vessels engaged in pipe laying etc.
3. HSE's powers are limited to activities such as construction, repair, maintenance, cleaning, when not carried out by the crew of the vessel. For further information, refer to Appendix 2, paragraph 2.11.
4. Excluding vessels exercising their right of transit through the territorial sea.

Where overlaps occur in the table above, lead responsibility for enforcement and investigations will normally be as follows:

- all aspects of ship safety and operation, including construction and maintenance, manning and emergency arrangements - MCA;
- activities associated with pipe laying, pipeline repair, removal etc - HSE.

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APPENDIX 7

7. CONSTRUCTION WORK

7.1 Responsibilities of HSE, MCA and MAIB

7.1.1 This Appendix sets out the arrangements for enforcement of health and safety in construction activities between the Health and Safety Executive (HSE), the Maritime and Coastguard Agency (MCA) and the Marine Accident Investigation Branch (MAIB). Under this agreement, wherever there is reference to MCA having a responsibility it shall also be read that MAIB has the responsibility to investigate accidents. Wherever HSE has responsibility, this also includes accident investigation.

7.1.2 The principles underlying who should take the lead responsibility are:

- HSE has responsibility for enforcing HSWA, CDMR and other Regulations made under HSWA in relation to any construction work carried out at the water margin, offshore or on inland waterways. It also has responsibility for investigating any accidents which occur during such work (see also Appendix 2.4);
- MCA has enforcement responsibility under the Merchant Shipping Act for the safety of the ship, the crew and others on board while the ship is used in navigation;
- MAIB is responsible for investigating any "navigation" accidents to, or on, ships engaged in coastal works, including safety vessels and floating cranes (i.e. accidents other than those investigated by HSE)

7.1.3 However, it is important that there is effective co-ordination between the HSE, MCA and MAIB to establish the arrangements for enforcement or accident investigation of construction work - if necessary, on a case-by-case basis. The nature of construction work carried out at the water margin, offshore or on inland waterways is very varied. Such work includes construction, repair or demolition of marine structures - eg structures for producing energy from wind or water, bridges, piers, jetties, link spans and coastal protection works, including ancillary work such as piling, dredging, lifting, and also the construction of "non-marine" buildings which are adjacent to navigable waters, when the work involves support from vessels, either as work boats - dredgers, floating cranes etc, or as rescue craft.

7.1.4 The way in which such work is organised is similarly varied. There may not necessarily be a clear distinction between those carrying out the construction work and those involved in crewing the vessel (eg the crew may be involved in carrying out the construction work). The nature of the construction work may also have significant implications for the safety of the vessel, and vice-versa. Similarly, any accident arising during construction work may be the result of poor health and safety practices or some failure in navigation or seaworthiness of the vessel - or a mixture of the two.

7.1.5 Bearing this in mind, examples of where HSE would normally take the lead enforcement responsibility are:

- where workers and equipment (including cranes etc which are temporarily mounted on barges) are employed on construction work on vessels on inland waters, coastal waters within the GB territorial sea, where the primary purpose of the vessel is related to land-based works or undertakings. (Although Regulations made under HSWA, apply to all workers on non-seagoing ships, in practice, navigation and seaworthiness issues would be enforced by MCA).
- where workers and equipment carry out cargo transfers between ships with one ship moored alongside another, when the cargo transfer involves the use of shore based equipment and/or staff (including the use of loaders provided by shore based contractors and cranes which are temporarily mounted on barges);
- for all aspects of health and safety on vessels which are not capable of navigation.

7.1.6 Similarly, examples where MCA would have the main enforcement responsibility might be in the following situations:

- the safety (construction, equipment, navigation) of all vessels (including floating cranes) which are used in navigation;
- the occupational health and safety of anyone on a vessel while it is being used in navigation; while the vessel is being used as an adjunct to construction works, MCA remain responsible for the occupational health and safety of the crew, but HSE would be responsible for the occupational health and safety of the construction workers;
- for cargo transfers between ships with one ship moored alongside another
 - in a port or in inland waters when the transfer is carried out solely by the ships' crews under the control of the master(s);
 - at anchor in the territorial sea (even if shore based personnel are involved) since the prime concerns are the safety of the ships and the risk of pollution; also the operations will be carried out under the control of the ships' master(s).

7.2 Enforcement

7.2.1 MCA and HSE have similar powers of enforcement including, in particular, powers to issue improvement and prohibition notices:

- where HSE Inspectors or MCA surveyors observe matters of evident concern in areas for which they are not the lead authority, these should

be reported without delay to the appropriate office of the other authority by telephone or e-mail;

- where HSE inspectors or MCA surveyors observe matters of evident concern, in areas for which they are not the lead authority, and which pose a risk of serious injury, they may issue a prohibition notice. If they do so, they should notify the appropriate MCA or HSE office by telephone or e-mail and send a copy of the Notice by fax at the earliest opportunity;
- where both organisations have an interest, improvement notices should normally be served by the lead authority after consultation with the other authority.

7.3 Accident Investigation

7.3.1 HSE Inspectors have powers to investigate accidents to the shore based workers. Accidents to seamen or to ships would be investigated by MAIB. The lead responsibility would be allocated on a case by case basis on the same criteria as for the division of responsibilities between HSE and MCA. Where misuse of land based equipment temporarily mounted on a vessel affected its safety, a joint investigation might be necessary.

Version	Date	Reason for Issue
3.0	July 2009	General review of MoU content and updates made where appropriate

APPENDIX 8

8. Glossary

The table below contains both expressions with particular meanings and common acronyms.

Term or Acronym	Definition	Further information
Cargo operations	Loading and unloading of cargo on or from a ship, where either the ship's crew, shore-based personnel or both could be involved	-
CDMR	The Construction (Design and Management) Regulations 2007	
HID	Hazardous Installations Directorate (HSE)	-
Dock operations		Defined in Regulation 2(1) of the Docks Regulations 1988, encompasses not only the loading and unloading of ships, but all the incidental activities also.
Fishing vessel	Defined in merchant shipping legislation as: "a vessel for the time being used for, or in connection with fishing for sea fish other than a vessels used for fishing otherwise than for profit; and for the purposes of this definition "seafish" includes shellfish and migratory trout (as defined by the Section 44 of the Fisheries Act 1981).	Defined in LUFVR as: "any description of craft used for the transport or storage of wet fish, whether used in navigation or not, but does not include a craft when used - (a) for the principal purpose of carrying passengers or goods other than wet fish; or (b) solely for sport or recreation." NB LUFVR includes vessels not used in navigation.
Flotel	Floating Accommodation Unit	-
FOD	Field Operations Directorate (HSE)	-
FPSO	Floating Production Storage and Off-loading Unit	-
HMCG	Her Majesty's Coastguard	Part of MCA
HSE	Health and Safety Executive	-

Term or Acronym	Definition	Further information
HSWA	Health and safety at Work etc Act 1974	As amended by the Offshore Safety Act 1992, as applied offshore by HSWA (Application Outside Great Britain) Order 2001 (SI 2001/2127)
LA	Local Authority	LAs enforce HSWA on behalf of HSE where the main activity is one of those listed at Schedule 1 to the Health and Safety (Enforcing Authority) Regulations 1998
LUFVR	Loading and Unloading of Fishing Vessels Regulations 1988	
MAIB	Marine Accident Investigation Branch	Reports directly to Secretary of State for Transport
MCA	Maritime and Coastguard Agency	-
Offshore		Encompasses the following waters: - tidal waters landward of the GB baseline (oil and gas and diving related activities only); - UK territorial sea adjacent to GB (oil and gas and diving related activities only); - waters above the UKCS (all activities).
PSC	Port State Control	Section 3 of the Merchant Shipping (Port State Control) Regulations 1995, SI 1995/3128 confers powers of inspection and detention.
Ship	Defined in Merchant Shipping Act 1995 as including every description of vessel used in navigation	For purposes of MoU, "used in navigation" means operating on the sea or on waters listed in the Annex to Merchant Shipping Notice MSN 1776 (M) Categorisation of Waters, and subsequent revisions.
Non-UK ship	Ship not registered in the UK	International maritime conventions apply

Term or Acronym	Definition	Further information
UK Ship	UK registered ship	As defined in section 85(2) of the Merchant Shipping Act 1995.
Structure	Includes any building, timber, masonry, metal or reinforced concrete structure, dock, harbour, inland navigation, tunnel, shaft, bridge, viaduct, aqueduct, pipe or pipeline, cable, aqueduct, sea defence works, caisson, mast, tower or pylon, earth retaining structure, structure designed to preserve or alter any natural feature and any structure similar to these.	Full definition in Regulation 2(1) of Construction (Design and Management) Regulations 2007.
Territorial sea	Waters seaward of GB Baseline	To 12 nautical miles from low water line (and defined baselines at estuaries and bays and around the Hebrides)
UKCS	UK Continental shelf_	The UKCS stretches halfway to Norway the Netherlands, Ireland, the Faeroe Islands and other coastal states, and stretches 600 miles west of the Hebrides, and 200 miles north of the Shetlands.

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3.0	July 2009	General overview of MoU content and updates made where appropriate

APPENDIX 9

9. ADDRESSES

9.1 Department for Transport

Maritime and Dangerous Goods Directorate is based at the DfT office at Great Minster House, 76 Marsham Street, London SW1P 4DR. The web link below provides additional contact information.

<http://www.dft.gov.uk/contact>

9.2 Maritime and Coastguard Agency

Maritime and Coastguard Agency Headquarters is at Spring Place, 105 Commercial Road, Southampton SO15 1EG. The web link below provides additional contact information.

<http://www.mcga.gov.uk/c4mca/mcga07-home/aboutus/contact07.htm>

Maritime and Coastguard Agency (Head Office)	Spring Place 105 Commercial Road Southampton SO15 1EG	02380- 329100 GTN 1513- 100	02380- 329251
Enforcement Unit	Spring Place 105 Commercial Road Southampton SO15 1EG	02380 329218	02380 329232
Eastern Regional Office	Humber MRSC Limekiln Lane Bridlington Yorks YO15 2LX	01262 607355	01262 670613
Hull Marine Office	Crosskill House Mill Lane Beverley Yorks HU17 9JB	01482- 866606	01482- 869989
Dover Marine Office	Langdon Battery Swingate Dover CT15 5NA	01304- 218500	01304- 218505
Southampton	Spring Place 105 Commercial Road Southampton SO15 1EG	02380 329329	02380 329351

Orpington	Central Court 1b Knoll Rise Orpington Kent BR6 0JA	01689- 890400	01689- 890446
Harwich	East Terrace Walton-on-Naze Essex CO14 8PY	01255 682107	01255 682108
Tyne	Compass House Unit 1, Tyne Dock South Shields Tyne and Wear NE34 9PY	0191-496 9900	0191-496 9901
Stockton-on- Tees	3 rd Floor Victoria House Pearson Court Pearson Way Teesdale Park Stockton on Tees TS17 6PT	01642 611040	01642 614048
Great Yarmouth	4 th Floor Havenbridge House Great Yarmouth Norfolk NR30 2HZ	01493- 841300	01493- 841333
Western Regional Office	Tutt Head Mumbles Swansea West Glamorgan SA3 4HW	01792- 368472	01792- 365333
Falmouth	Pendennis Point Castle Drive Falmouth Cornwall TR11 4WZ	01326- 310811	01326- 314331
Plymouth	New Fish Market Baylys Wharf Fish Quay Plymouth PL4 OLH	01752- 266211	01752- 225826
Cardiff	Anchor Court Keen Road Cardiff CF24 5JW	029 2044 8822	029 2044 8810
Milford Haven	Gorsewood Drive Hakin Milford Haven Pembrokeshire SA73 3HB	01646 699604	01646 699606

Liverpool	Hall Road West Crosby Liverpool L23 8SY	0151 931 6600	0151 931 6615
Scotland and Northern Ireland Regional Office	Marine House Blaikies Quay Aberdeen AB11 5EZ	01224- 597900	01224- 573725
Aberdeen Marine Office	Marine House Blaikies Quay Aberdeen AB11 5EZ	01224- 597900	01224- 573725
Glasgow	Navy Buildings Eldon Street Inverclyde PA16 7QY	01475- 553370	01475 553357
Belfast	Bregenz House Quay Street Bangor, Belfast Northern Ireland BT20 5ED	02891 475310	02891 475321
Leith	1 Johns Place Leith Edinburgh EH6 7EL	0131-554 5488	0131-554 7689
Shetland	The Knab Knab Road Lerwick Shetland ZE1 0AX	01595- 743514	01595- 696816

9.3 Marine Accident Investigation Branch

Marine Accident Investigation Branch has its headquarters at Mountbatten House, Grosvenor Square, Southampton SO15 2JU. The web link below provides additional contact information.

http://www.maib.gov.uk/about_us/further_information.cfm

9.4 Health and Safety Executive

9.4.1 HSE has its Headquarters at Redgrave Court, Merton Road, Bootle, Merseyside L20 7HS.

<http://www.hse.gov.uk/contact/maps/index.htm>

9.4.2 HSE's Field organisation involved at the water margin comprises two Directorates: Field Operations Directorate (FOD), Hazardous Industries Directorate (HID). OSD (known as Offshore Division) is part of HID.

9.4.3 FOD responsibilities include:

- inspection of general docks, including those which have jetties handling flammable or toxic substances in bulk, except those servicing NIHHS or COMAH sites;
- the handling of dangerous chemicals in packages and containers in dock areas in major hazard quantities where major hazard legislation does not apply because the presence of the substances is incidental to transportation;
- the enforcement of the Dangerous Substances in Harbour Areas Regulations 1987 (DSHAR) in general and mixed docks;
- consult with HID where necessary about the assessments of hazards and risks;
- enforcement and incident investigation for work carried out by shore based contractors where offshore installations are brought within the baseline or the territorial sea for repair or to be stacked, (OSD is responsible at all other times).

9.4.4 HID responsibilities include:

- specialist docks and jetties which service NIHHS and COMAH sites;
- interest in the enforcement of DSHAR, Part V (Liquid Dangerous Substances in Bulk), Part VII (Emergency Arrangements) and Part IX (Explosives);
- enforcement and incident investigation for offshore pipelines.

9.4.5 OSD responsibilities include:

- inspection of offshore installations;
- Enforcement and investigation offshore, organised according to owner and operator company, with wells and diving being handled by its expert inspection teams, again according to company;
- both inshore and offshore diving;
- enforcement and incident investigation for work carried out on offshore installations within the baseline or the territorial sea for repair or to be stacked, other than work by shore based contractors enforced by FOD; vessels engaged in pipeline works.

9.4.6 Useful HSE contact details (current at time of writing):

- Christine Barringer, Head of Transportation Section, HSE, Phoenix House, 23-25 Cantelupe Road, East Grinstead, West Sussex RH19 3BE, Phone 01342 334261
- HSE Infoline 0845 3450055
- Incident Contact Centre (including Offshore) 0845 3009923
- HSE Out of Hours Duty Officer 0151 922 9235

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3.0	July 009	General review of MoU content and updates made where appropriate

ANNEX A

ANNEX A

The Health and Safety Commission was replaced from 1 April 2008 by the Health and Safety Executive. By virtue of the Legislative Reform (Health and Safety) Order 2008, this agreement now has effect though entered into by the Health and Safety Executive

THE HEALTH AND SAFETY COMMISSION

and

THE MARITIME AND COASTGUARD AGENCY OF THE DEPARTMENT OF ENVIRONMENT, TRANSPORT AND THE REGIONS

An Agency Agreement for the enforcement of the relevant statutory provisions in relation to chain ferry operations.

THIS AGREEMENT is made between the HEALTH AND SAFETY COMMISSION ("the Commission"), and the MARITIME AND COASTGUARD AGENCY of the DEPARTMENT OF THE ENVIRONMENT, TRANSPORT AND THE REGIONS ("the Agency") under Section 13(1)(a) of the Health and Safety at Work Act 1974 ("the 1974 Act"). It relates to functions which the Agency has agreed to perform on behalf of the Health and Safety Executive ("the Executive")

IT IS HEREBY AGREED that:

1 The Agency shall perform on behalf of the Executive its functions under Section 18(1) of the 1974 Act to make adequate arrangements for the enforcement of the relevant statutory provisions (as defined in Section 53 of the Act) in relation to the ferry operations specified in Annex 1 hereof, such function to be performed in accordance with such guidance as the Commission or Executive may from time to time give.

2 The Agency shall provide to the Commission or to the Executive copies of any reports or correspondence relating to health and safety of ferries or any other such information as the Commission or, as the case may be, the Executive may at any time reasonably request, being information obtained in the course of performing its functions under this Agreement.

3 This Agreement shall come into effect on 1 April 1999.

IN WITNESS hereof the Common Seal of the Commission was hereto affixed and this agreement was signed on behalf of the Maritime and Coastguard Agency this 11th day of March 1999.

THE COMMON SEAL of the HEALTH AND SAFETY COMMISSION is authenticated by:

Rosemary Banner Secretary to the Health and Safety Commission

Signed by

John Garner Date: 11/3/1999 Head of Operations Maritime and Coastguard Agency

ANNEX 1 VEHICULAR FERRIES (ALL POWERED)			
FERRY LOCATION		ADDRESS OF OPERATOR	MANAGER
1	Dartmouth – Nost Ferry River Dart, Dartmouth, Devon	Philip Ltd, Nost Works, Dartmouth TQ8 0EA Tel: 01803-866651	Mr P S Bonnett Mr T Tucker (consultant)
2	King Harry Ferry River Fal, Falmouth Cornwall	King Harry Steam Ferry Co. Feock Truro Cornwall TR3 6QJ Tel: 01872-862312	Mr J Hall
3-5	Torpoint – Devonport Ferry, River Tamar, Plymouth, Devon (3 ferries)	Torpoint Ferry 2 Ferry Street Torpoint PL11 2AX Tel: 01752-81233	Mr D List
6	East – West Cowes Ferry, River Medina, Cowes, Isle of Wight	Isle of Wight Council Ferry Office, Medina Road, Cowes PO31 7BX Tel: 01983-293041	Mr Berryman
7	Sandbanks-Swanage Ferry, Poole Harbour, Dorset	Bournemouth- Swanage Motor Road and Ferry Co Ferry Office, Shell Bay, Studland, Dorset BH19 3BA Tel: 01493-450203	Mr Nick Gosney
8	Reedham Ferry River Lodden Norfolk	Ferry Inn, Reedham, Norfolk Tel: 01493-700429	Mr D Archer & Mr J Cook
9	Bowness- Far Sawrey Ferry Lake Windermere, Cumbria	Cambria County Council Economy & Environment Dept, Citadel Chambers, Carlisle CA3 8SG Tel: 01228-812633	Mr B Waiting County Contracting Millness Depot Milnthorpe LA7 7NR

THE HEALTH AND SAFETY COMMISSION

and

THE MARITIME AND COASTGUARD AGENCY OF THE DEPARTMENT OF ENVIRONMENT, TRANSPORT AND THE REGIONS

An Agency Agreement for the enforcement of the relevant statutory provisions in relation to chain ferry operations.