



# **Falkland Islands Government**

## **PUBLIC CONSULTATION**

### **Adoption of the UK Merchant Shipping Regulations for Small Vessels in Commercial Use**

**Opening Date: 02/05/2022**

**Closing Date: 31/05/2022**

## **Directorate of Emergency Services and Island Security**

### **Falkland Islands Maritime Authority Consultation:**

### **Adoption of the UK Merchant Shipping (Vessels in Commercial use for Sport or Pleasure) Regulations (SI 1998/2771)**

This consultation paper sets out the intention of the Falkland Islands Maritime Authority to adopt the UK Merchant Shipping (Vessels in Commercial use for Sport or Pleasure) Regulations (SI 1998/2771).

We would be grateful for any comments on the proposal as detailed in this consultation paper (preferably by email) to:

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**This consultation will close at 1700 on 31 May 2022.**

When responding, please consider whether you are willing to have your response published and indicate your preference from the following options:

- Response can be published together with your name/organisation.
- Response can be published anonymously.
- Response cannot be published.

This consultation contains the following parts:

- Part 1 – Overview
- Part 2 – Summary of Key Points
- Part 3 – Appendices

## **PART 1 – OVERVIEW**

### **Introduction**

The Falkland Islands whilst being a port of call for large commercial fishing traffic also plays host to a thriving community of small vessels engaged in various commercial tasks ranging from personnel transfer within Stanley Harbour and Berkley Sound extending out to sightseeing trips, moving personnel and smaller amounts of stores around the outer islands as well as further trips South Georgia and the Antarctic for various reasons.

There has been a long history of recommendations with a view to increasing the standards of these small vessels within the Falkland Islands.

Due to our remote location and lack of SAR assets with the capability to respond easily it has often been identified that vessels which may operate away from Stanley need to be of a high standard and operate in a self-sufficient manner.

The Falklands have adopted the UK Merchant Shipping (Small Workboats and Pilot Boats) Regulations (SI 1998/1609), often referred to as the Brown Code.

A gap has long been identified that the Brown Code was implemented in the Falkland Islands however the associated codes of practice for small commercial sailing and motor vessels as well as the safety of small vessels in commercial use for sport or pleasure operating from a nominated departure point - A Code of practice were not.

This was highlighted in 2017 during a MCA Category 2 monitoring visit. A vessel under 24m had been utilised for commercial work with clients but did not comply with any recognised UK small commercial vessel standards. A recommendation from this visit was to introduce a staggered implementation scheme of survey and certification for vessels <24m operating within Falkland Islands waters including the adoption of MCA codes of practice where appropriate.

FIMA are now looking to adopt SI 1998/2771 the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998. This will bring all of these codes into force ensuring that any vessel registered in the Falkland Islands or used commercially within Falkland Islands waters would be subject to these codes of practice.

The introduction of these codes of practice would enable FIMA to enforce minimum standards for small commercial vessels in Falkland Islands waters and prevent substandard small vessels being used for commercial work, as well as close recommendations going back 30 years from various Category 2 monitoring visits by the MCA.

## Executive Summary

A large gap exists in Falkland Islands maritime legislation in that there is currently limited regulation of vessels in commercial use for sport and pleasure.

This is an anomaly, as the UK Merchant Shipping (Small Workboats and Pilot Boats) Regulations (SI 1998/1609) have been adopted, which is right and proper.

FIMA recommends the adoption of SI 1998/2771 the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998, hereinafter known as 'the Regulations'

The Regulations will apply to any vessel used for sport or pleasure which is not a pleasure vessel. They will apply to

- to Falkland Island vessels wherever they may be; and
- to other vessels operating from Falkland Island ports whilst in Falkland Island waters.

The Regulations will not apply to vessels carrying more than twelve passengers.

The Regulations will give statutory force to the following Code of Practice for large vessels:

- Code of Practice for Safety of Large Commercial Sailing and Motor Vessels.

The Regulations will give statutory force to the following Codes of Practice for small vessels:

- The Safety of Small Commercial Sailing Vessels - A Code of Practice;
- The Safety of Small Commercial Motor Vessels - A Code of Practice; and
- The Safety of Small Vessels in Commercial Use for Sport or Pleasure Operating from a Nominated Departure Point - A Code of Practice.

There is evidence to suggest that the Regulations did begin to apply at some point around 1999 through the Merchant Shipping (Adoption of Legislation) Ordinance 1992, but they were not adopted under the Law Revision and Publication Ordinance 2017.

The adoption of these regulations will close recommendations going back some 30 years and provide owners of these vessels enormous benefit in that they would be able to prove competence through qualifications and have a record proving that their vessels are operated to recognised standards. This would go a long way in mitigating any claims made against them in the event of an accident.

In March 2020, the Falkland Islands Maritime Authority signed their first agreement with MECAL Limited to act as a Certifying Authority for the examination and certification of small workboats and pilot boats. Moving forward both MECAL and SCMS will be appointed as a Certifying Authorities for vessels in commercial use for sport and pleasure.

## **PART 2 – SUMMARY OF KEY POINTS**

There is an identified gap in Falklands Legislation whereby substandard small commercial vessels could be utilised for commercial work within Falkland Island waters, thereby presenting a hazard to the safety of personnel on the vessel and the wider Falkland Islands. This could also result in reputational damage to the Islands. This has already occurred in several incidents where these vessels have been used commercially.

FIMA seek to mitigate this by adopting of the UK Merchant Shipping (Vessels in Commercial use for Sport of Pleasure) Regulations (SI 1998/2771). This will ensure minimum regulated standards for small vessels, regardless of flag being utilised, used for commercial gain within Falkland Island waters. It is envisaged that operators will be given a grace period of 12 months from the adoption of the Regulations to their enforcement. This will allow the vessels to be brought up to standard. FIMA will work closely with local operators during this period. A similar initiative with small workboats and pilot boats has been executed successfully over the last 12 months.

## **PART 3 – APPENDICES**

The UK Merchant Shipping (Vessels in Commercial use for Sport of Pleasure) Regulations (SI 1998/2771).