

Consultation Response

Amendments to the (Marine
Accident Investigation
Branch) MAIB regulations

September 2025



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Introduction

The Law Society of Scotland is the professional body for over 13,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Marine law sub-committee welcomes the opportunity to consider and respond to the UK Government consultation: *Amendments to Marine Accident Investigation Branch (MAIB) regulations*.¹ The sub-committee has the following comments to put forward for consideration.

Questions

1. Since the UK has left the EU, do you agree that the UK should align its definitions and the categorisation of marine casualties and marine incidents with the IMO Code?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know

We understand the reasoning for exclusion of instances of suicide from the regulations. We would however highlight the risk of a gap where there is no regulatory oversight of the cultural aspect of safety onboard a vessel, as there are known instances of bullying and harassment of seafarers having taken place on board ships which must increase the risk of suicide.² We would suggest consideration should be given to clarifying that suicide can be included within the

¹ [Amendments to the MAIB regulations - GOV.UK](#)

² [Abuse and harassment among key challenges to seafarers' mental health - International Seafarers' Welfare & Assistance Network](#)

definition of a “marine incident” to enable it to be part of the non-compulsory MAIB reporting regime in the event of concern. If this suggestion is included, we would further suggest that it be limited to instances of crew (as opposed to passengers) as we do not think it appropriate that the MAIB be required to investigate all instances of suicides or attempted suicides on cruise ships or ferries for example.

2. Do you agree that the UK should simplify its reporting requirements for injuries by adopting a revised version of the IMO Code’s definition of Serious Injury?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don’t know

We have no comments.

3. Do you agree that the accident involving commercial craft less than 8m in length operating in harbour areas or inland waterways should be reported?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don’t know

We have no specific comments on the utility of extending these requirements to commercial craft. We would highlight that large vessel owners will have sophisticated processes for investigation accidents whereas smaller vessel owners, such as fishing boats, may lack the capability to undertake these reports. As such, we would highlight that may be a risk of prejudicing small vessel owners. We would suggest that consideration should be given to reducing the offence in

scope so that it only applies after the owner/master receives notice of a need to provide a report where they have not done so and is given a period to rectify this.

4. To what extent do you agree that the MAIB should have increased discretion to focus its resources on those cases with the greatest potential for safety learning?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know

We have no comments.

5. To what extent do you agree that the costs of disposing of uncollected evidence should be recoverable from the owner?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know

We have no comments.

6. To what extent do you agree that the modifications proposed in this regulation on disclosure of information etc., provided to the MAIB should be made?

- Strongly agree
- Agree
- Neither agree nor disagree

- Disagree

- Strongly disagree
- Don't know

We would highlight that the proposed provisions in regulation 15 are perhaps wider in scope than is necessary. Requiring owners to restrict sharing the information contained in, for example, a VDR or other recording systems, would prevent owners and their insurers from carrying out their own investigations properly and risks not accounting for the fact that there may be several civil litigations already underway whilst the MAIB investigates. We note that the MAIB will require the preservation of evidence, but consider this proposal to go well beyond that.

7. What impacts, if any, would you anticipate the revised regulations governing disclosure might have?

We consider it appropriate that the revised regulations seek to avoid duplication during parallel investigations. However we would highlight that one of the key elements of MAIB investigations is that the evidence of witnesses is not used against them in criminal proceedings. We would highlight that without this safeguard, there is a risk witnesses may be less candid and the MAIB's investigation therefore less effective.

8. To what extent do you agree that the protection afforded to witness testimony should be strengthened to prevent its misuse by third parties?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know

We would highlight that it is important that the witness knows that their assistance may be required in parallel investigations. We would suggest consideration should be given to raising awareness so that potential witnesses are aware of the requirements in these investigations.

9. To what extent do you agree that certain, generally unique, items of evidence can be shared between parallel investigations in order to avoid prejudicing either the interests of future safety or the interests of justice?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know

We consider it vital that information is shared with parallel investigations, as this would assist in reducing unnecessary public spending and avoid duplication of work.

10. Do you agree that it is appropriate to create the new offence to improve compliance?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know

We are unclear as to how creating a new offence would increase compliance. We are also unclear as to how creating an offence for an individual to share the transcript of their witness interview which they have received under regulation 17(4) would increase compliance as this is their own evidence.

Furthermore, we would highlight that the proposed regulation 20(3) gives the MAIB the power to publish bulletins, flyers etc. We would highlight that there is no regulation of such actions. We would also highlight that the MAIB may propose to use actual incidents in these documents and as part of this process may release videos of the incident. As above, this all may be ongoing whilst other regulatory processes are proceeding. We would highlight that there is no requirement in the proposed regulations for parties to be consulted upon where one of the documents in regulation 20(3) relates to a particular incident. As such, there is no opportunity to correct any potential errors. Given this we consider it appropriate

that the proposed powers in 20(3) should be linked to the duty to consult where a particular incident is the subject of one of these documents.

11.To what extent do you agree that, in the case of these regulations, the requirement for a formal 5-yearly review is not appropriate?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know

We have no comments.

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

Respondent Type Size of Organisation

- ☐ Classification Society
- ☐ Large business (over 250 staff)
- ☐ Government Agency/Department
- ☐ Medium business (50 to 250 staff)
- ☐ Individual
- ☐ Micro business (up to 9 staff)
- ☐ Legal Representative
- ☐ Small business (10 to 49 staff)
- ☐ Protection & Indemnity
- ☐ Seafarer
- ☐ Ship Operator
- ☐ Ship Owner
- ☐ Trade Union

☐ Other

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13.To what extent are small and micro businesses likely to be disproportionately impacted by this legislation?

- Very likely
- Likely
- Neither likely nor unlikely
- Unlikely
- Very unlikely
- Don't know

14.Do you think that the updated regulations will have a positive, negative, or neutral impact on industry?

- Positive
- Neutral
- Negative
- Don't know

We have no comments.

15.Please explain your answer.

We have no comments.

16.What impacts, if any, would you anticipate the revised regulations having?

We have no comments.

17.Please detail any additional comments on the costs, benefits or impacts of this policy.

We have no comments.



For further information, please contact:

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