



Section 1 – Introduction

The Association of Inland Navigation Authorities (AINA) and British Marine jointly launch this consultation seeking your views on proposed changes to the existing published Code for the Design, Construction and Operation of Hire Boats, from this point forward referred to as the Hire Boat Code (HBC), or Code.

AINA is hosting this consultation on behalf of its member organisations.

It is proposed to refine the existing Code to include relevant changes to responsibilities, amendments to the technical standards and in the common principles for safe hire boating, as well as to introduce new definitions and alter some existing definitions.

The proposed changes are incorporated into the consultation version of the Hire Boat Code available as a PDF to download or print.

In order to appreciate the proposed changes it will likely be necessary to refer to the existing version of the HBC as well as the proposed version.

As previously, the Code is intended to be applied to all powered hire boats and can be applied to sailing boats over 6m LOA (length overall) and powered boats of all length. The Code excludes vessels designed to be propelled solely by human power.

Section 2 – About this consultation

The change proposals are promoted to operators of powered hire craft, licensing authorities and hirers as well as any other interested parties to ensure adequate levels of hirer safety.

2.1 When is the consultation?

The proposals are presented as necessary in the interests of hirer safety and your comments upon them are welcomed. The consultation is open for a period of 12 weeks from 00:01am on Monday 16 December 2019 and ending at midnight on Monday 9 March 2020.

2.2 Why should the consultation matter to me?

The proposed changes include items of significant responsibility and for some hire boat operators there may be significant one-off cost implications.

It is important to note that the existing Code is a voluntary code, whilst the new HBC is intended to be adopted as a mandatory licensing condition. Any implementation of the Code's provision as a licensing condition will be through the legislative framework of the individual licensing authority and only in the circumstance where the licensing authority has the necessary legal powers and resources. Any implementation will likely be subject to additional consultation.

The hire boat licensing authorities aim within 12 weeks following this consultation is to review and refine the proposals in readiness for bringing the Code's provisions into effect. The largest boat licensing authorities plan to implement the Code as a licensing condition in 2021 subject to the outcome of this consultation and any authority-specific consultation.

There is currently scope to comment upon or support, or otherwise influence the individual proposals and provide detailed cost information. Your contributions will help to identify the impact on businesses and any unforeseen consequences associated with any implementation.

We aim produce a summary of the views expressed and our response also within 12 weeks following this consultation. This will be published on our website www.aina.org.uk.

Section 3 – The purpose of this consultation

The intent of the consultation is to more fully explore the proposed amendments – both from a cost perspective, a technical perspective and a feasibility point of view. It is aimed to identify whether any consideration has been overlooked and provide justification for any areas where the proposals could be scaled back.

We are seeking views of hire operators, licensing authorities and experienced hirers concerning the reasonableness and viability of each of the proposed changes. We are keen to identify whether there are any unintended consequences if the proposed changes were to be introduced and to help inform the planned implementation.

Section 4 – Background of the Code

The existing non-statutory code of 2009, 'Code for the Design, Construction and Operation of Hire Boats' was produced by the Maritime and Coastguard Agency (MCA), AINA, and the British Marine Federation (BMF).

The proposed Code update has been jointly produced once again through the activity of an AINA-led working group. Note that the MCA has been active in helping develop the revised proposals. The MCA has welcomed the proposed Code with this statement,

“As the Hire Boat Code is not a statutory requirement under the Merchant Shipping Act it falls outside the formal remit of the MCA and therefore the new edition will not be an MCA publication. Nevertheless, the MCA welcomes the updating of the Hire Boat Code and is supportive of the efforts to enhance the safety of vessels operating on inland waterways.”

The proposed HBC has once again been drafted on the basis that the licensing authority's legal powers are sufficient to allow for compliance with the stated requirements to be made a mandatory condition for the award of a boat licence.

Section 5 – Objectives and benefits of the Code

The intended objective of the review leading to this consultation, was to ensure the Code continues to set down the relevant and appropriate basic principles of safe operation of all types of powered craft hired to members of the public and make clear the responsibilities of each of the parties involved – hire operators, hirers and the licensing authorities.

The benefits of updating the Code are that the lessons from the past ten years can be taken account of, and the opportunity taken to simplify aspects that are no longer considered relevant.

Section 6 - Potential arguments against the proposed changes

This consultation is seeking views on the change proposals that have been developed by the AINA-led working group.

The most significant change proposal concerns the new stability and freeboard standards. Whereas for hire boats that fit into the Level 1 category there is a simplified approach compared to the original HBC.

The risk profile is higher for hire boats that fit into the Level 2 category. For hire boat operators hiring boats that fit within this category there may be significant one-off cost implications. Other routes to achieve appropriate stability risk control were considered and indeed a software-based approach has been trialed, but only the proposed route offered the feasibility as well as the safety assurances required.

Section 7 – Proposed changes

Paragraphs 7.1-7.28 detail the proposed revisions to the published HBC of 2009.

It is proposed to require changes to the following definitions:

- Hire Operator - simplified, streamlined definition adding clarity
- Powered Boats - has been modified from 'Power Driven Boat' to clarify the definition further
- Day Hire Boats - replaces 'Day Hire Craft', as is more user friendly

- Open Boats - has been simplified due to the inclusion of the new 'Decked Boat' definition
- Decked Boats - a new definition as the term is included in the Code to sit alongside 'Open Boats'

It is proposed to require the inclusion of the following definitions of terms in the proposed updated Code:

- Personal Watercraft – taken from the Recreational Craft Regulations 2017
- Notified Body – referring to bodies appointed at a national level to carry out conformity assessments
- Major Craft Conversion – covering a major engine modification or major alterations affecting the applicable safety requirements
- Crew Area and Crew Limit – the introduction of these two definitions aims to clarify the safe areas and number of persons for which the boat is hired out
- Narrowboat – this additional vessel definition refers to a boat designed for the narrow waterways and canals
- Length of Hull and Beam of Hull – two new definitions added for clarity

It is proposed to remove the following definition:

- Design Class – this definition is deemed superfluous within the proposed Code update

7.2 Introduction (section 1.2 in the proposed HBC)

It is proposed to require an overview of the updated Code and the changes in responsibilities of various parties.

7.3 Scope (section 1.3 in the proposed HBC)

It is proposed to remove reference to 'Part 2' concerning unpowered craft as the Code will not include unpowered craft and there is no proposal for unpowered to be developed in the future

7.4 Inclusion of code structure (section 1.4 in the proposed HBC)

The present HBC does not provide guidance as to its structure. It is proposed to include such information in the update.

7.5 Removal of consultation process reference (section 1.4 in the existing HBC)

Concerning consultations on the Code provisions; it is proposed that this information be available within the consultation web page text or available MS Word document, rather than in the Code.

Concerning any consultations by individual licensing authorities to implement the Code as a licensing condition; these must be carried out using the respective authority's consultative mechanisms and so cannot be included in the Code.

7.6 Inclusion of a review process (section 1.5 in the proposed HBC)

It is proposed to require the review process details within the introduction of the Code, to ensure transparency and ownership.

7.7 Emphasis on common principles (section 2 in the proposed HBC)

It is proposed to require the common principles for safe hire boating to be included at this section.

7.8 More detail concerning shared responsibilities for hirer safety (section 2.1 in the proposed HBC)

Noting changes to hirer responsibilities, hire operator responsibilities, and changes to licensing authority responsibilities, the emphasis is to ensure awareness that the Code is based upon the named groupings having specific responsibilities as part of their shared responsibility for hirer safety.

7.9 Inclusion of a clause for the suitability of hire boats (section 2.2 in the proposed HBC)

It is proposed to require that the hire boat operator ensures the boat is fit for purpose.

7.10 Inclusion of a clause covering adequate hirer ability (section 2.3 in the proposed HBC)

It is proposed to introduce the shared responsibility of both hire boat operator and hirer to require adequate hirer ability, taking into account of training or experience, to use the vessel safely.

7.11 More specific safety information for hirers (section 2.4 in the proposed HBC)

It is proposed to require relevant safety information such as weather and strong stream information and hazards to navigation, to be made available in a timely fashion to hirers. Licensing authorities will be required to convey important safety information to the hire operators and for the hire operator to pass it on effectively to hirers.

7.12 Emphasis on incident reporting (section 2.5 in the proposed HBC)

It is proposed to require a reporting process to record incidents or near misses in alignment with national legal requirements.

7.13 Emphasis on risk assessments and taking account of changed circumstances (section 2.6 in the proposed HBC)

It is proposed to require additional guidance on areas of particular concern when conducting risk assessments. The proposed Code requires a list of changed circumstances to consider when assessing risk, including; hirer profile, patterns of boat use and modifications to boats.

7.14 Inclusion of monitoring and compliance requirements (section 2.7 in the proposed HBC)

It is proposed to require reference to monitoring and compliance, stating the need for a suitable management system to be in place to demonstrate compliance with the Code.

7.15 Added responsibilities for hire operators (section 3.1 in the proposed HBC)

The proposed inclusion and expansion of the responsibilities of hirers, hire operators and licensing authorities is a key area of change within the proposals. For example, the present HBC 2009 does not require the hire operator to maintain evidence to show compliance with the Code.

7.16 Imposing limits for use of certain types of hire boat (section 3.2 in proposed HBC)

It is proposed to require limits of use for pontoon and open boats less than 4 metres long due to suitability concerns.

7.17 Removal of BSS best practice standards (Appendix 1 in the existing HBC)

It is proposed to replace the Boat Safety Scheme Best Practice Table with Appendix I to ensure this Code can be used in all waters.

The proposed HBC includes recommendations and Best Practice for Inspection and Maintenance of Craft by Hire Operators; providing clearer guidance, in a body text format, to aid understanding of the associated responsibilities this responsibility.

7.18 Stability (section 3.2.3 in the proposed HBC)

It is proposed to require boats which are let for hire to have a Stability Compliance Declaration to meet new requirements, including additional 'Crew Limit' information. Under this proposal, a sign stating the maximum number of crew and the designated crew area must be fitted and be clearly visible from the helm.

Please note: It is also proposed to require that freeboard measurement moves from a mandatory BSS requirement at BSS Check 10.7.3, to a self-assessed hire operator responsibility under the proposed updated HBC.

7.19 Major craft conversion (section 3.2.4 in the proposed HBC)

It is proposed to require reference to the latest Recreational Craft Directive, as statutory responsibility when undertaking Major Craft conversions to ensure continued safety.

7.20 New Requirements for Vessel modification or alteration (section 3.2.4 in the proposed HBC)

The current HBC does not require assessment of modifications or alterations to vessels. Under this proposal, changes being considered must be assessed by the hire operator to ensure they will not increase risk or take the boat out of compliance with this Code.

7.21 Removal of miscellaneous equipment requirements (section 4.4 in the existing HBC)

It is proposed to make Section 4.4 (Miscellaneous Equipment) of the existing HBC redundant and replaced by specific hire operator risk assessment rather than defined within the Code.

7.22 Handover procedural changes and recommendations for handover topics (section 3.3.3 in the proposed HBC)

It is proposed to require additional clarity and guidance on the handover procedures and the recommended handover topics, including but not limited to: Engine starting, use and checks; Raising and lowering the sails (where applicable); Dealing with suspected carbon monoxide poisoning.

7.23 During and after hire period (section 3.3.5 in the proposed HBC)

It is proposed to require additional incident reporting for hirers, to include the reporting of personal injury, damage to property, and deficiencies with the boat or equipment during and after the hire period.

7.24 Removal of record keeping (section 7 in the existing HBC)

It is proposed that Section 7 of the existing HBC is surplus to requirements and should therefore be removed and covered at a more appropriate location within the updated Code.

7.25 Appendix I - Changes to recommendations for inspection and maintenance – see point 7.17 above

7.26 Appendix III - New stability and freeboard standards - see point 7.18 above

7.27 Appendix V – New Guidance for transiting vessels making reference to factors for consideration when carrying out a risk assessment.

7.28 Appendix VI – New Crew Limit, Crew Area, and the Crew Limit and Crew Area Sign – see point 7.18 above

Section 8 – Next steps after the consultation closes

Once the consultation closes on 9 March 2020 we will review all responses. Taking into consideration the consultation responses we will refine the proposals and amend where necessary.

We aim to produce a summary of responses within three months of the end of the consultation period and this will be available at www.aina.org.uk.

Section 9 - How to respond to the consultation

The preferred method for responding is to use the website facility:

www.aina.org.uk/hireboatcodeconsultation

Alternatively, you can email comments to: info@aina.org.uk

If you prefer to put your comments on paper, you can send them to:

AINA Hire Boat Code Consultation
AINA
Middle Level Offices
85 Whittlesey Road
March
Cambridgeshire
PE15 0AH

If you would like to view these web pages as a PDF for download or print, please [click here](#).

If you have alternative access requirements for any element of the consultation process, please contact us by email or letter.

Section 10 - Freedom of information/disclosure statement

AINA is carrying out this consultation to gather evidence. The consultation is being carried out in the public interest to inform the development of policy.

AINA may wish to contact you to send you information about the consultation, for example if we need to ask follow-up questions. Your information will be kept secure and will not be used for any other purpose without your permission.

Please indicate if you are happy for AINA to contact you when answering question 17.

Your personal data will not be disclosed to third parties.

Note that individual responses will not be acknowledged unless specifically requested.

Section 11 - About this consultation

We hope this consultation is of interest and well-presented so that you can understand and give due consideration to the various issues, the risks and the benefits.

11.1 How is the consultation to be run?

The consultation is open until midnight on Monday 9 March 2020. With the launch of the consultation on Monday 16 December 2019, this provides a 12-week period for completion.

11.2 Your opportunity to comment on this consultation

We recognise that responding to consultations can be time consuming, but we would really value your feedback to help determine the feasibility of the proposals and to help refine them.

Anyone may respond to this consultation and consideration will be given to all responses.

When responding, representatives of groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions.

We would like to know your opinion of the consultation but note that we cannot commit to responding individually to consultees.

See question 13: Have we been clear? Have we given you the proper opportunity and adequate means to contribute your views?

Section 12 – We ask you to consider any unintended consequences

Your views are invited on any unintended consequences concerning introducing a specific proposal or on generality of these proposals.

See question 6: Can you see any unintended consequences concerning introducing the proposals beyond those already mentioned in this consultation?

Section 13 – About you and your responses

When we publish a summary of the consultation responses we would like to be able to refer to those organisations responding and possibly quote from the comments made. Providing answers to Questions 14 and 15 will provide detail that will help us analyse your responses.

See question 14: Please tell us your name and indicate your sector of interest (for example hire boat operator, navigation authority, harbour authority, local authority, hirer, if other please state). Please let us know if you are responding as an individual or on behalf of a company, representative group or trade organisation.

This will help people appreciate your response in context.

Section 14 – About where you come from

See question 15: In regard to your responses, do your responses/comments relate to any particular geographic area of the UK? To help us interpret the consultation responses by region.

Section 15 – Privacy matters

See question 16: Are you happy that the fact your organisation has responded to this consultation can be made public? This will help us appreciate your response in context.

Section 16 - Consultation questions

The existing code, for comparison, can be found at the following location:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/282579/hbc_issue_1_v1.pdf

When responding to the consultation we would be grateful if your response could include answers to these specific questions:

Q1 – Are you affected by these proposals?

- Yes
- No

If you have answered no, please indicate why.

Q2 – Do you consider the proposed changes will improve safety for hirers?

- Yes
- No

If you have answered no, please indicate why.

Q3 - Do you agree that the proposal by the main boat licensing authorities to implement the Code as a licensing condition in 2021 constitutes a reasonable implementation period?

- Yes
- No

If you have answered no, please indicate why.

Q4 – If you are a hire operator or licensing authority; are there any challenges that would prevent you meeting the target implementation date of 2021?

- Yes
- No
- N/A

If you have answered yes, please indicate the challenges you would face.

Q5 - If you represent a licensing authority, please can you provide any information you hold concerning how many vessels are operating within your area of jurisdiction that may be subject to the Code?

- Yes
- No
- N/A

If you have answered yes, please add the information in the text box below.

Q6 – Can you see any unintended consequences concerning introducing the proposals?

- Yes
- No

If you have answered 'Yes' please indicate what the unintended consequences are.

Q7 - The section relating to the stability of hire boats in the code has been rationalised. Do you agree that the new stability requirements are clear and achievable?

- Yes
- No

If you have answered no, please indicate why.

Q8 – Do you agree that a minimum freeboard check carried out annually by hire operators should replace the current mandatory BSS requirement at BSS Check 10.7.3?

- Yes
- No

If you have answered no, please indicate why.

Q9 – Do you have any alternative suggestions to improve the areas of proposed changes mentioned in Section 7?

- Yes
- No

If you have answered yes, please indicate what they are.

Q10 – Do you agree with the altered definitions highlighted in section 7.1 of this consultation?

- Yes
- No

If you have answered no, please indicate why.

Q11 – Do you agree that the shared responsibilities relating to hirer safety are correctly described?

- Yes
- No

If you have answered no, please indicate why.

Q12 – Do you have any additional comments concerning these proposals?

- Yes
- No

If you have answered yes, please indicate what they are.

Q13– Have we been clear? Have we given you the proper opportunity and adequate means to contribute your views?

- Yes
- No

If you have answered no, please indicate how we could have done better.

Q14 – Please tell us your name and indicate your sector of interest. Please let us know if you are responding as an individual or on behalf of a company, representative group or trade organisation.

- | | | |
|--------------------|----------------------|--------------------------|
| Sector of interest | hire boat operator | <input type="checkbox"/> |
| | navigation authority | <input type="checkbox"/> |
| | harbour authority | <input type="checkbox"/> |
| | local authority | <input type="checkbox"/> |
| | hirer | <input type="checkbox"/> |
| | other | <input type="checkbox"/> |
| | N/A | <input type="checkbox"/> |

Responding as / on behalf of:

Q15 – In regard to your responses, do your responses/comments relate to any particular geographic area of the UK?

- Yes
- No

If you have answered 'Yes' please indicate your geographic area here

- East Midlands
- East Of England
- London
- North East
- North West
- Northern Ireland
- Scotland
- South East
- South West
- W. Midlands
- Wales
- Yorks & Humber

Q16 – Are you happy that the fact your organisation has responded to this consultation can be made public?

- Yes
- No

If you have answered no, please indicate why.

Q17 – Are you happy for AINA to contact you further about the consultation?

- Yes
- No

If you have answered 'Yes' please provide your contact details here.

END