STATUTORY INSTRUMENTS

2025 No.

MERCHANT SHIPPING

The Merchant Shipping (Accident Reporting and Investigation) Regulations 2025

Made - - - -	***
Laid before Parliament	***
Coming into force	***

CONTENTS

PART 1
Introductory provisions

1. Citation, commencement and extent
2. Interpretation
3. Meaning of "accident"
4. Application
5. Objective of a safety investigation

PART 2
Duty to report

6. Duty to report accidents
7. Exemption from reporting duties

PART 3
Ordering a safety investigation and preservation of evidence

8. Ordering and discontinuing a safety investigation
9. Subsequent or reopened investigations
10. Preservation of evidence

PART 4
Safety investigations

11. Content of a safety investigation
12. Conduct of a safety investigation
13. Release of evidence to owner
14. Co-operation with other States

DRAFT

15. Disclosure of information etc.
16. Chief Inspector's power to disclose evidence to another investigating authority
17. Reports of safety investigations
18. Further provisions on disclosure in connection with reports under regulation 17
19. Admissibility of reports and publications in judicial proceedings etc.
20. Publications other than reports of safety investigations
21. Recommendations
22. Extension of time
23. Service of documents

PART 5
Offences and penalties

24. Offences and penalties

PART 6
Revocation and transitional provision

25. Revocation and transitional provision

SCHEDULE 1 — Marine casualty or incident notification data
SCHEDULE 2 — Information to be included, where relevant, in reports in relation to an accident

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 267 and 306A of the Merchant Shipping Act 1995(**a**).

PART 1
Introductory provisions

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Merchant Shipping (Accident Reporting and Investigation) Regulations 2025.

(2) These Regulations come into force on [**** 2025].

(3) These Regulations extend to England and Wales, Scotland and Northern Ireland.

Interpretation

2.—(1) In these Regulations—

"accident" has the meaning given in regulation 3;

"the Act" means the Merchant Shipping Act 1995;

"causal factors" has the meaning given in Chapter 2.2 of the IMO Code;

(**a**) 1995 c.21 ("the Act"); section 306A was inserted by the Deregulation Act 2015 (c. 20), section 106. Sections 267 and 306A are applied by S.I. 2023/35 [, amended by S.I. 2025/***.] in relation to watercraft (as defined in S.I. 2023/35).

DRAFT

"Chief Inspector" means the Chief Inspector of Marine Accidents appointed by the Secretary of State under section 267(1) of the Act, and any Deputy Chief Inspector of Marine Accidents;

"Court", in the case of judicial proceedings or an application for disclosure made in England, Wales or Northern Ireland means the High Court, or in the case of judicial proceedings or an application for disclosure in Scotland means the Court of Session;

"IMO" means the International Maritime Organization;

"IMO Code" means the Code of the International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident (Casualty Investigation Code) adopted by the IMO by Resolution MSC.255(84) on 16th May 2008(**a**), as modified from time to time;

"inspector" means an inspector of marine accidents appointed by the Secretary of State under section 267(1) of the Act and in the context of the safety investigation of a particular accident includes any person appointed to investigate that accident under regulation 12(2);

"judicial proceedings" includes any civil or criminal proceedings before any Court, tribunal, or person having by law the power to hear, receive and examine evidence on oath;

"judicial proceedings concerning liability" means judicial proceedings where the purpose or one of the purposes of those proceedings is to attribute or apportion liability or blame;

"marine casualty" means an event, or a sequence of events, that has occurred directly in connection with the operation of a ship(**b**) and has resulted in any of the following—

(a) the death of, or serious injury to, a person, other than death resulting from suicide or natural causes or serious injury resulting from attempted suicide;

(b) the loss of a person from a ship;

(c) the loss, presumed loss or abandonment of a ship;

(d) material damage to a ship;

(e) the stranding or disabling of a ship, or the involvement of a ship in a collision;

(f) material damage to marine infrastructure external to a ship, that could seriously endanger the safety of the ship, another ship or any individual;

(g) severe damage to the environment, or the potential for severe damage to the environment caused by damage to a ship or ships;

"marine incident" means an event, or a sequence of events, other than a marine casualty, that has occurred directly in connection with the operation of a ship and has endangered or, if not corrected, would endanger the safety of a ship, its occupants or any other person or the environment;

"material damage" means—

(a) damage that—

(i) significantly affects the structural integrity, performance or operational characteristics of marine infrastructure or a ship, and

(ii) requires major repair or replacement of a major component or components, or

(b) destruction of marine infrastructure or a ship.

"MCA" means the Maritime and Coastguard Agency(**c**);

"publish", for the purposes of these Regulations, means making available to the public in such manner as the Chief Inspector thinks fit, but does not include consenting to use of the information in judicial proceedings;

(**a**) A digital copy of the IMO Code may be found at https://wwwcdn.imo.org/localresources/en/OurWork/MSAS/Documents/Res.MSC.255(84)CasualtyIinvestigationCode.pdf. A hard copy may be inspected, by prior appointment, at the Maritime Knowledge Centre, International Maritime Organisation, 4 Albert Embankment, London SE1 7SR ("the IMO").

(**b**) See section 313 of the Act for the meaning of "ship".

(**c**) The Maritime and Coastguard Agency is an executive agency of the Department for Transport.

DRAFT

"safety investigation" means an investigation or inquiry into an accident carried out with the objective of preventing future accidents;

"senior surviving officer" means the senior surviving officer in the deck department and if there is no surviving officer in the deck department, then whoever is the senior surviving officer between—

(a) the senior surviving engineer officer, or

(b) the senior surviving electro-technical officer;

"serious injury" means an injury which is sustained by a person, resulting in incapacitation where the person is unable to undertake their full range of activities for a period of more than 72 hours, commencing within seven days from the date when the injury was suffered;

"severe damage to the environment" has the meaning given in Chapter 2 of the IMO Code;

"ship covered by the IMO Code" is a reference to a ship which falls within regulations 1 and 3 of Chapter 1 of the 1974 International Convention for the Safety of Life at Sea (as modified from time to time)(**a**);

"ship's boat" includes a life-raft, painting punt and any boat normally carried by a ship;

"Substantially Interested State" has the meaning given in Chapter 2 of the IMO Code, and for the purposes of that definition, a reference to a ship includes a ship's boat;

"United Kingdom ship" means a ship registered in the United Kingdom or a ship that is not registered under the law of any state but is eligible for registration in the United Kingdom under the Act;

"very serious marine casualty" means a marine casualty involving—

(a) the total loss of the ship,

(b) a death, or

(c) severe damage to the environment;

"voyage data recorder" means the electronic or mechanical equipment which may be installed on a ship to record key navigational and control information.

(2) For the purposes of these Regulations (other than the definition of "very serious marine casualty"), any reference to a ship includes a ship's boat.

(3) Where a ship is managed by a person other than by the owner (whether on behalf of the owner or some other person, or on their own behalf), a reference in these Regulations to the owner is to be construed as including a reference to that person.

Meaning of "accident"

3.—(1) Subject to paragraph (2), for the purposes of these Regulations and of section 267 of the Act, "accident" means a marine casualty or a marine incident.

(2) An accident does not include a deliberate act or omission with the intention to cause harm to the safety of a ship, an individual or the environment.

(**a**) Cmnd 7874; a digital copy of the Convention ("SOLAS") may be found on the Foreign, Commonwealth and Development Office ("FCDO") treaties database at https://treaties.fcdo.gov.uk/awweb/pdfopener?md=1&did=79786), and a hard copy may be obtained from the IMO. SOLAS was modified by its Protocol of 1978 (Cmnd 8277), which was replaced and abrogated by the Protocol of 1988 (Cm 5044) with respect to the parties to the 1988 Protocol. Digital copies may be found on the FCDO treaties database at https://treaties.fcdo.gov.uk/awweb/pdfopener?md=1&did=68013 (Cmnd 8277), and https://treaties.fcdo.gov.uk/awweb/pdfopener?md=1&did=69573 (Cm 5044).Copies of the Command Papers may be inspected, by prior appointment, at the Parliamentary Archives, Houses of Parliament, London SW1A 0PW. The Parliamentary Archives catalogue numbers for the Command Papers are HL/PO/JO/10/11/2031/2878 (Cmnd 7874), HL/PO/JO/10/11/1959/2032 (Cmnd 8277) and HL/PO/JO/10/11/3156/2280 (Cm 5044). The amendments to SOLAS may also be obtained in hard copy from the IMO.

DRAFT

Application

4.—(1) These Regulations apply, except where specified otherwise, to all accidents involving or occurring on board—

(a) any United Kingdom ship,

(b) any other ship within the United Kingdom or United Kingdom waters(**a**), or

(c) any other ship, where the Chief Inspector considers the United Kingdom to be a Substantially Interested State.

(2) A safety investigation may also be carried out under regulation 8 into an accident involving or occurring on board a ship which is not a United Kingdom ship and which at the time of the accident was not within the United Kingdom or United Kingdom waters, if the Secretary of State so determines.

(3) These Regulations apply in relation to watercraft as they apply in relation to ships, and as if, in the following provisions, any reference to a master includes a reference to any person for the time being using a watercraft—

(a) regulation 6(2);

(b) regulation 10.

(4) For the purposes of paragraph (3), "watercraft" has the meaning given in regulation 3 of the Merchant Shipping (Watercraft) Order 2023(**b**)).

Objective of a safety investigation

5.—(1) The sole objective of a safety investigation into an accident under these Regulations is the prevention of future accidents through the ascertainment of its causes and circumstances.

(2) It is not the purpose of such an investigation to determine liability nor, except so far as is necessary to achieve its objective, to apportion blame.

PART 2

Duty to report

Duty to report accidents

6.—(1) This regulation applies subject to the exemptions in regulation 7.

(2) When an accident occurs the following persons must notify the Chief Inspector as soon as possible following the accident and by the quickest means available—

(a) the master of the ship or, if the master has not survived, the ship's senior surviving officer, and

(b) the ship's owner unless they have ascertained to their satisfaction that the master or senior surviving officer has reported the accident in accordance with sub-paragraph (a).

(3) In addition to any notification made under paragraph (2) the following persons must notify the Chief Inspector, as soon as possible and by the quickest means available, of any accident of which they are aware —

(a) in the case of an accident within or adjacent to the limits of any harbour, the harbour authority(**c**) for that harbour,

(b) in the case of an accident on any inland waterway in the United Kingdom, the person, authority or body having responsibility for that waterway, or

---

(**a**) See section 313(2)(a) of the Act for the meaning of "United Kingdom waters".
(**b**) S.I. 2023/35, amended by S.I. 2025/***.
(**c**) See section 313(1) of the Act for the definitions of "harbour" and "harbour authority".

DRAFT

(c) an official of the MCA in respect of an accident within United Kingdom waters.

(4) A person making a notification in accordance with paragraph (2) or (3) must, so far as is practicable, include the information set out in Schedule 1.

(5) The persons specified in paragraphs (2) and (3)(a) and (b) must also ensure that—

(a) so far as is reasonably practicable, the circumstances of every accident are examined, and

(b) a report giving the findings of such examination, stating any measures taken or proposed to be taken to prevent a recurrence, is provided to the Chief Inspector as soon as possible.

Exemption from reporting duties

7.—(1) Regulation 6 does not apply in relation to an accident involving or occurring on board—

(a) a United Kingdom ship which is—

(i) a pleasure vessel that is not operating as an intended pleasure vessel, or

(ii) a recreational craft that is hired on a bareboat basis, unless the accident involves explosion, fire, death, serious injury, the capsize of a power-driven craft or boat, or severe damage to the environment,

(b) a ship which is not a United Kingdom ship, unless that ship—

(i) is within the jurisdiction of a harbour authority, or

(ii) is employed in carrying passengers to or from a port in the United Kingdom or a place falling within sub-paragraph (i) and is within the United Kingdom or United Kingdom waters, or

(c) a ship falling within regulation 4(1)(c).

(2) In this regulation—

"pleasure vessel" means—

(a) any vessel that, at the time it is being used, is—

(i) wholly owned by an individual or individuals and used only for the sport or pleasure of the owner or the immediate family or friends of the owner, or

(ii) owned by a body corporate and used only for the sport or pleasure of employees or officers of the body corporate, or their immediate family or friends,

and is on a voyage or excursion for which the owner is not paid for or in connection with operating the vessel or carrying any person, other than as a contribution to the direct expenses of the operation of the vessel incurred during the voyage or excursion, or

(b) any vessel wholly owned by or on behalf of a members' club formed for the purpose of sport or pleasure that, at the time it is being used, is used only for the sport or pleasure of members of that club or their immediate family, and for the use of which any charges levied are paid into club funds and applied for the general use of the club,

and no payments other than those mentioned above are made by or on behalf of the users of the vessel, other than by the owner, and in this definition, "immediate family" means in relation to an individual, the husband, wife or civil partner of the individual, and a relative of that individual or of the individual's husband, wife or civil partner, and "relative" means brother, sister, ancestor or lineal descendant;

"intended pleasure vessel" has the meaning given in paragraph 2.11 of the Code Of Practice for Intended Pleasure Vessels in temporary commercial use at sea ("the IPV Code"(**a**)), as that paragraph applies for the purposes of Part 1 of the IPV Code;

(**a**) Published by the MCA on 1st January 2019; a digital copy may be found on the website of the MCA on gov.uk at https://www.gov.uk/government/publications/intended-pleasure-vessels-ipv-code. A hard copy of the IPV Code may be inspected at the Maritime and Coastguard Agency ("MCA") at.Spring Place, 105 Commercial Road, Southampton, SO15 1EG at Spring Place.

DRAFT

"recreational craft" means a craft or boat intended for sports and leisure purposes of hull length not exceeding 24 metres, regardless of the means of propulsion;

"hired on a bareboat basis" means hired without a professional master, skipper or crew.

PART 3

Ordering a safety investigation and preservation of evidence

Ordering and discontinuing a safety investigation

8.—(1) Where the Chief Inspector has received a notification under regulation 6(2) or (3) or, a report under regulation 6(5)(b), or has otherwise been notified of an accident, the Chief Inspector must decide whether or not a safety investigation should be carried out.

(2) For the purposes of making a decision under paragraph (1), the Chief Inspector may obtain such information and evidence as the Chief Inspector considers relevant concerning the accident and any remedial action taken as a result, and for those purposes, the Chief Inspector has the powers conferred by sections 259(**a**) and 267(8) of the Act.

(3) The Chief Inspector must ensure a safety investigation is carried out in relation to an accident that is a very serious marine casualty involving a United Kingdom ship covered by the IMO Code.

(4) The Chief Inspector may ensure a safety investigation is carried out in relation to an accident that does not fall within paragraph (3).

(5) Where the Chief Inspector decides that a safety investigation is to be carried out—

(a) the safety investigation must be commenced as soon as is reasonably practicable by the Chief Inspector after the accident occurs;

(b) the Chief Inspector—

(i) must publish notice of the safety investigation, and

(ii) may invite any person who so desires to present relevant evidence to an inspector in such manner and within such time as is specified in the notice.

(6) Where the Chief Inspector decides that a safety investigation is not to be carried out, the Chief Inspector must record that decision as soon as is reasonably practicable.

(7) Subject to paragraph (8), the Chief Inspector may decide to discontinue a safety investigation at any time and must publish the reasons for doing so.

(8) The Chief Inspector must not discontinue a safety investigation into an accident that is a very serious marine casualty involving a United Kingdom ship covered by the IMO Code, unless a Substantially Interested State is carrying out an investigation into that accident in accordance with the IMO Code.

Subsequent or reopened investigations

9.—(1) Notwithstanding a decision not to investigate, the Chief Inspector may at any subsequent time carry out a safety investigation if satisfied that there is a good reason in the interests of the objective in regulation 5 to do so.

(2) The Chief Inspector may reopen a safety investigation if, following its completion, new and important evidence becomes available that in the Chief Inspector's opinion could have a material effect on any safety recommendations made.

(3) Any safety investigation may be reopened either in whole or in part and a reopened investigation is subject to and must be carried out in accordance with these Regulations.

(**a**) Section 259 is applied in relation to watercraft by S.I. 2025/***.

DRAFT

Preservation of evidence

10.—(1) Following an accident which is reportable under regulation 6, the persons mentioned in paragraph (2) must so far as is practicable ensure that—

(a) all—

(i) charts,

(ii) log books,

(iii) recorded information relating to the period preceding, during and after an accident, however recorded or retained, including information from an electronic chart display and information system or a voyage data recorder and video recorders, and

(iv) documents or other records which might reasonably be considered relevant to the accident,

are kept and that no alteration is made to any recordings or entries in them,

(b) all information from a voyage data recorder or recording system relating to the circumstances of an accident is saved and preserved, in particular by taking steps where necessary to prevent such information from being overwritten, and

(c) any other equipment, item, object or other evidence which might reasonably be considered relevant to the investigation of the accident is so far as practicable left undisturbed.

(2) The persons referred to in paragraph (1) are—

(a) the master of the ship or, if the master has not survived, the ship's senior surviving officer;

(b) the ship's owner, unless the ship's owner has ascertained to their satisfaction that the master or senior surviving officer has taken the action in question;

(c) any other person served with a notice by the Chief Inspector that they are subject to the duty in paragraph (1).

(3) The duty under paragraph (1) continues until—

(a) 30 days have passed since the Chief Inspector received notification of an accident under regulation 6(2) and the Chief Inspector has not published notice of a safety investigation under regulation 8(5),

(b) 30 days have passed since a notice was served under paragraph (2)(c) and the Chief Inspector has not published notice of a safety investigation under regulation 8(5), or

(c) the Chief Inspector or an inspector carrying out the investigation gives notice that the evidence concerned is no longer required.

(4) Following an accident involving or occurring on board a ship which is exempt from the reporting duties under regulation 7, the persons mentioned in paragraph (2) must comply with the requirements of paragraph (1) if required to do so by or on behalf of the Chief Inspector.

(5) An inspector may, pending investigation, prohibit persons from gaining access to, or interfering with, any ship, ship's boat or other equipment involved in an accident.

(6) Paragraph (7) applies if, following an accident involving or occurring on board a ship, the Chief Inspector has reasonable grounds for concern that, if the ship continues its voyage, access to it, to any member of the crew, or to any evidence on board in connection with a safety investigation may subsequently be denied to the Chief Inspector or any inspector carrying out those activities or conducting the investigation.

(7) Where this paragraph applies, the Chief Inspector may require the master of the ship or, if the master has not survived, the ship's senior surviving officer and the ship's owner, to ensure that a ship is accessible to any inspector engaged in investigation of the accident for such period as the Chief Inspector reasonably considers necessary for the purpose of collection or preservation of evidence in connection with a safety investigation (including any activities under regulation 8(2)) relating to the accident.

DRAFT

(8) Any evidence described in this regulation which is required by an inspector to be produced under this regulation for the purposes of a safety investigation (whether on board the ship involved or otherwise) may be retained by the inspector until the safety investigation is completed.

(9) For the purposes of this regulation, "access" means the process of embarking on or disembarking from a ship, by whatever means employed, and "accessible" is to be construed accordingly.

PART 4

Safety investigations

Content of a safety investigation

11.—(1) A safety investigation must include, but is not limited to—

(a) the collection and analysis of evidence,

(b) the identification of causal factors, and

(c) where appropriate, the making of safety recommendations.

(2) A safety investigation may extend to cover, but need not be limited to—

(a) events and circumstances preceding the accident and subsequent events and circumstances;

(b) issues involving salvage and damage to the environment connected with the accident;

(c) the conduct of search and rescue operations,

if the Chief Inspector considers they are relevant to the objective in regulation 5.

Conduct of a safety investigation

12.—(1) Where a safety investigation is carried out under these Regulations, it must be carried out by one or more inspectors at such times and places and in such manner as appear to them most conducive to achieving the objective in regulation 5.

(2) The Chief Inspector may appoint one or more persons who are not inspectors appointed under the Act for the purpose of carrying out an investigation where—

(a) inspectors appointed under the Act are not conveniently available, or

(b) the persons appointed have special qualifications or experience.

(3) A person appointed under paragraph (2) has the powers conferred on an inspector by sections 259 and 267(8) of the Act.

(4) A person required to attend before an inspector(**a**) is entitled to the reasonable expenses of attending, payable by the Secretary of State.

(5) A person ("A") required to attend at a witness interview before an inspector may be accompanied by—

(a) a solicitor or other professional legal adviser acting solely on A's behalf, or

(b) subject to paragraph (6), a person nominated or selected by A to accompany A.

(6) The person accompanying A referred to in paragraph (5)(b) may at any time be excluded from being present by the inspector with the agreement of the Chief Inspector if the conditions in paragraph (7) are met.

(7) The conditions in this paragraph are—

(**a**) See sections 267(8) and 259(2)(i) of the Merchant Shipping Act 2005 for the power of an inspector to require a person to attend before an inspector.

DRAFT

(a) both the inspector and Chief Inspector have substantial reason to believe that the presence of that person would hamper the investigation with the result that the objective in regulation 5 is likely to be hindered, and

(b) the Chief Inspector is satisfied, having regard to all the circumstances, that it is proper to exclude that person.

(8) Where a person accompanying A under paragraph (5)(b) is excluded under paragraph (6), A may nominate another person to be present at the witness interview in place of the person excluded, in which case paragraph (6) applies to that other person.

(9) An inspector may record a witness interview of any person who is assisting a safety investigation carried out under these Regulations in any manner that the Chief Inspector considers reasonable.

(10) An inspector carrying out a safety investigation must take into account the provisions of the IMO's Resolution and guidelines on fair treatment of seafarers in the event of a maritime accident(**a**), as modified from time to time.

Release of evidence to owner

13.—(1) This regulation applies where a ship or any evidence described in regulation 10 ("property") is held by or on behalf of the Chief Inspector for the purposes of a safety investigation.

(2) Subject to paragraph (5), where the property is no longer required for the purposes of the safety investigation the Chief Inspector must inform the owner of the property, by serving a notice in writing, that it will be released to the owner at the place and date specified in the notice and in accordance with any other arrangements that are specified in the notice.

(3) An owner on whom such a notice is served must collect the property in accordance with the arrangements specified in the notice (or in accordance with any alternative arrangements that the owner agrees in writing with the Chief Inspector), failing which—

(a) the Chief Inspector may make arrangements for the destruction or disposal of the property, and

(b) the reasonable costs of such destruction or disposal are recoverable from the owner as a debt due to the Secretary of State.

(4) A notice served under paragraph (2)—

(a) must not specify a date for collection of the property earlier than 30 days after the date on which the notice was served, and

(b) must include a warning that a failure by the owner to collect the property on the date specified in the notice (or such other date that the owner agrees in writing with the Chief Inspector) will entitle the Chief Inspector to make arrangements for the destruction or disposal of the property and that the reasonable costs of such destruction or disposal are recoverable from the owner as a debt due to the Secretary of State.

(5) Where any equipment, item, object or substance is no longer required for the purposes of the safety investigation and is released by the Chief Inspector in accordance with regulation 16 to an investigating authority (as defined in regulation 16(4))—

(a) paragraph (2) does not apply to that equipment, item, object or substance, and

(b) the Chief Inspector must inform the owner of the equipment, item, object or substance, by serving a notice in writing, that it has been so released.

(**a**) Resolution LEG.3(91) adopted on 27 April 2006 which refers to the Resolution and guidelines on fair treatment of seafarers in the event of a maritime accident as prepared by the Joint IMO/ILO Ad Hoc Expert Working Group on Fair Treatment of Seafarers. A digital copy of the Resolution and guidelines may be found at https://wwwcdn.imo.org/localresources/en/KnowledgeCentre/IndexofIMOResolutions/LEGDocuments/LEG.3%2891%29.pdf. A hard copy may be obtained from the Department for Transport, Great Minster House, 33 Horseferry Road, London, SW1P 4DR.

DRAFT

Co-operation with other States

14.—(1) A safety investigation commenced by the Chief Inspector under regulation 8 must, where appropriate, be carried out in co-operation with another Substantially Interested State.

(2) A Substantially Interested State must be allowed to participate in a safety investigation carried out by the Chief Inspector at any stage of that investigation so far as is practicable.

(3) Where a safety investigation has been commenced in accordance with paragraph (1), the Chief Inspector must consult any other Substantially Interested States and seek to agree as soon as possible—

(a) which of them shall lead the safety investigation, or conduct the whole or any part of it, and

(b) the procedures to be adopted for the purposes of such an investigation.

(4) For the purposes of paragraph (3)—

(a) subject to paragraph (5), a Substantially Interested State has equal rights and access to witnesses and evidence involved in a safety investigation so far as is practicable, and

(b) where the United Kingdom is the lead investigating State, any representations a Substantially Interested State may make to the Chief Inspector must be taken into consideration in the safety investigation.

(5) Paragraph (4)(a) applies only if the Chief Inspector is satisfied that the investigating authority of the Substantially Interested State concerned will comply with Chapter 23 of the IMO Code.

(6) Prior to reaching an agreement under paragraph (3), or where no agreement under paragraph (3) has been reached, the Chief Inspector—

(a) may conduct a safety investigation in parallel with any such Substantially Interested State, and

(b) must exchange evidence and information with any such Substantially Interested State conducting a parallel safety investigation for the purposes, as far as possible, of reaching shared conclusions.

Disclosure of information etc.

15.—(1) Subject to the following paragraphs, the names, addresses or other details of anyone who has given evidence to an inspector must not be disclosed.

(2) Subject to paragraphs (5), (6) and (7) and regulation 16, the following documents or records or the information they contain, whether held electronically, mechanically or otherwise, must not be made available for purposes other than a safety investigation, unless a Court orders otherwise—

(a) declarations or statements taken from persons by an inspector or supplied to an inspector in the course of an investigation, together with any notes or recordings of witness interviews, except under regulation 17(4),

(b) medical or confidential information regarding persons involved in an accident,

(c) a notification made or report provided under regulation 6,

(d) a draft of the Chief Inspector's report of a safety investigation, except under regulation 17(3)(a), (7) or (8),

(e) correspondence between an inspector and parties involved in a safety investigation,

(f) evidence from voyage data recorders,

(g) evidence from other recording systems not falling within sub-paragraph (f), including voice recordings (other than any recordings mentioned in sub-paragraph(a)), or any transcripts made from such information or recordings, except under regulation 20(3) or 21,

(h) the notes or other records made by an inspector, in whatever form they are held, including any recordings, photographs or images, and any material produced by an inspector in the

DRAFT

course of a safety investigation, such as drafts or opinions expressed in the analysis of information, except under regulation 20(3) or 21,

(i) any independent technical analysis commissioned by the Chief Inspector and any opinions expressed in that analysis, and

(j) communications between persons having been involved in the operation of the ship or ships.

(3) An order must not be made under paragraph (2) unless the Court is satisfied—

(a) that, in the case of any information, document or record that is a marine safety record, the State that supplied it has consented to its disclosure, and

(b) having regard to the views of the Chief Inspector, that the public interest in the administration of justice outweighs any prejudice, or likely prejudice, to—

(i) the safety investigation into the accident to which the document or record relates,

(ii) any future accident safety investigation carried out in the United Kingdom, or

(iii) relations between the United Kingdom and any other state, or international organisation.

(4) In paragraph (3), "marine safety record" has the meaning given by Chapter 2 of the IMO Code.

(5) The Chief Inspector may publish any independent technical analysis commissioned by the Chief Inspector and any opinions expressed in that analysis, if the Chief Inspector considers it appropriate.

(6) The Chief Inspector may disclose or publish information otherwise protected under this regulation where the information is in anonymised or statistical form.

(7) The Chief Inspector may provide information obtained from a voyage data recorder to the ship's owner.

(8) The provisions of this regulation are without prejudice to any rule of law which authorises or requires the withholding of any information, document or record or part thereof on the ground that disclosure of it would be injurious to the public interest.

Chief Inspector's power to disclose evidence to another investigating authority

16.—(1) The Chief Inspector may provide access to relevant evidence to an investigating authority where the Chief Inspector is satisfied that the investigating authority would be entitled by an enactment, or, in the case of an investigating authority exercising powers under paragraph (4)(g) under common law, to collect that evidence for the purposes of that authority's own investigation into the accident.

(2) Except as provided by paragraph (3), the disclosure of relevant evidence under paragraph (1) does not breach—

(a) any obligation of confidence owed by the Chief Inspector, or

(b) any other restriction on the disclosure of information (however imposed).

(3) Paragraph (1) does not authorise a disclosure of evidence if the disclosure would contravene the data protection legislation, where "the data protection legislation" has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act(**a**)).

(4) In this regulation—

"investigating authority" means—

(a) a person who is a member of—

(i) a police force in England and Wales,

(ii) the Police Service of Northern Ireland,

(**a**) 2018 c. 12. The definition of "the data protection legislation" was amended by S.I. 2019/419.

DRAFT

(iii) the Police Service of Northern Ireland Reserve, or

(iv) the Police Service of Scotland,

(b) the MCA,

(c) the Health and Safety Executive,

(d) the Health and Safety Executive of Northern Ireland,

(e) a coroner,

(f) any other person exercising statutory powers to investigate an accident, or

(g) in Scotland, a procurator fiscal or the Lord Advocate exercising a power conferred on that person at common law to investigate an accident.

"relevant evidence" means—

(a) any equipment, item, object or substance relevant to the accident;

(b) photographs or images from the scene of the accident;

(c) evidence of a type falling within regulation 15(2)(g).

Reports of safety investigations

17.—(1) The Chief Inspector—

(a) must publish a report of a safety investigation as soon as is practicable;

(b) must, if it is not possible to produce a report under sub-paragraph (a) within 12 months of the date of notification of the accident to the Chief Inspector, publish an interim report within that time;

(c) may publish, at any time before the report under sub-paragraph (a) is published, an interim report where the Chief Inspector considers it appropriate to do so to address an urgent safety concern arising as a result of the investigation.

(2) A report under paragraph (1) must contain—

(a) the information set out in Schedule 2 which the Chief Inspector considers is relevant to the safety investigation, and

(b) any additional information which the Chief Inspector considers is relevant to the safety investigation.

(3) The Chief Inspector, before publishing a report under paragraph (1)(a), must—

(a) serve a notice, accompanied by a draft copy of the report, or the relevant part of a report, on—

(i) any person who the Chief Inspector considers could be adversely affected by the report or, if that person is deceased, upon the person who the Chief Inspector considers, at the time it is proposed to serve the notice, to best represent the interests and reputation of the deceased in the matter, and

(ii) any other person the Chief Inspector considers appropriate,

(b) invite any person on whom a notice is served under paragraph (a) to make representations to the Chief Inspector, and

(c) consider any representations made under paragraph (b) relating to the facts or analysis contained in the report and amend the report as the Chief Inspector thinks fit.

(4) A person served with a notice under paragraph (3)(a) who has given a declaration or statement to an inspector in the course of a safety investigation is entitled to a transcript of that declaration or statement.

(5) The Chief Inspector is not required to consider representations made under paragraph (3)(b) unless those representations are—

(a) made in writing, and

DRAFT

(b) received by the Chief Inspector within the period of 30 days beginning with the date on which the notice was served under paragraph (3)(a), or such further period as may be allowed under regulation 22.

(6) The Chief Inspector, before publishing an interim report under paragraph (1)(b) or (c), may consult such persons in such manner and for such time as the Chief Inspector thinks fit.

(7) When a Substantially Interested State requests the Chief Inspector to supply it with a draft safety investigation report the Chief Inspector must not do so unless that State has agreed in writing to comply with the provisions of Chapter 13 of the IMO Code.

(8) Where an inquest or fatal accident inquiry is to be held following an accident which has been subject to a safety investigation, the Chief Inspector may make a draft report available in confidence to the coroner or procurator fiscal.

(9) A copy of the report when published under paragraph (1)(a) must be given by the Chief Inspector to—

(a) any person who has been served with a notice under paragraph (3),

(b) persons to whom recommendations have been addressed in that report,

(c) the Secretary of State,

(d) the IMO, and

(e) any person whom the Chief Inspector considers may find the report useful or of interest.

Further provisions on disclosure in connection with reports under regulation 17

18.—(1) A person must not disclose, or permit to be disclosed, prescribed information to any other person except—

(a) in accordance with a Court order under regulation 15(2),

(b) with the consent of the Chief Inspector, or

(c) to such advisers as are necessary in order to make representations to the Chief Inspector under regulation 17(3).

(2) An adviser to whom information is disclosed under paragraph (1)(c) is similarly subject to the duty in paragraph (1) not to disclose, or permit to be disclosed, the prescribed information except in accordance with paragraph (1)(a) or (b).

(3) In paragraph (1), "prescribed information" means—

(a) drafts of a report, declarations or statements disclosed to a person under regulation 17(3)(a), (4) or (6), and

(b) any information provided by the Chief Inspector in advance of the publication of a report the confidentiality of which is protected by regulation 15.

Admissibility of reports and publications in judicial proceedings etc.

19.—(1) Anything published by the Chief Inspector in the course of or as a result of a safety investigation (including a report under regulation 17, or a publication under regulation 20 or regulation 21), or any part of such a publication or the analysis it contains, is inadmissible in judicial proceedings concerning liability unless—

(a) in the case of a technical analysis published by the Chief Inspector, the Chief Inspector consents, or

(b) a Court orders otherwise.

(2) Where an inspector is required to attend judicial proceedings concerning liability, the inspector is not required to provide opinion evidence or analysis of information provided to the inspector or to provide information obtained by the inspector in the course of a safety investigation, unless a Court orders otherwise.

(3) A Court making an order under this regulation must have regard to the factors mentioned in regulation 15(3)(b) (ii) or (iii).

DRAFT

Publications other than reports of safety investigations

20.—(1) The Chief Inspector may from time to time publish collective short reports of accidents which have not been the subject of a report published under regulation 17(1).

(2) The Chief Inspector may submit a report to the Secretary of State on any matter arising from the Chief Inspector's analysis of safety investigations.

(3) The Chief Inspector may from time to time publish bulletins, flyers or other information relating to safety.

Recommendations

21.—(1) The Chief Inspector may as a result of one or more safety investigations, whether or not completed, at any time make recommendations as to how future accidents may be prevented.

(2) The recommendations may be—

(a) addressed to a general class of persons, or

(b) served by notice on a person,

whom the Chief Inspector considers is most fitted to implement them.

(3) Recommendations may be published if the Chief Inspector considers that to do so is in the interests of safety or preventing damage to the environment.

(4) The Chief Inspector may, having regard to the nature of the recommendation made, require any person on whom a recommendation is served by notice in accordance with paragraph (2)(b) to—

(a) as soon as is reasonably practicable, take that recommendation into consideration,

(b) send to the Chief Inspector within the period of 30 days beginning with the date on which the notice was served—

(i) details of the measures, if any, that they have taken or propose to take to implement the recommendation, and the timetable for securing that implementation, or

(ii) an explanation as to why the recommendation is not to be the subject of measures to be taken to implement it, and

(c) as soon as is reasonably practicable, give notice to the Chief Inspector if information provided under paragraph (4)(b)(i) is rendered inaccurate by any change of circumstances.

(5) Subject to paragraphs (6) and (7), the Chief Inspector must, in relation to each calendar year, publish information in respect of recommendations made in that calendar year, including the matters mentioned in paragraph (4)(b) and (c) which have been communicated to the Chief Inspector, and must inform the Secretary of State of those matters.

(6) The Chief Inspector must not publish information under paragraph (5) unless the Chief Inspector has—

(a) served a notice on all persons named in the information,

(b) invited any person on whom a notice is served under paragraph (a) to make representations to the Chief Inspector, and

(c) considered any representations made under paragraph (b) and amended the information as the Chief Inspector considers appropriate.

(7) The Chief Inspector is not required to consider representations made under paragraph (6)(b) unless those representations are—

(a) made in writing, and

(b) received by the Chief Inspector within the period of 30 days beginning with the date on which the notice was served under paragraph (6)(a), or such further period as may be allowed under regulation 22.

DRAFT

(8) Without prejudice to paragraph (1), if at any stage of a safety investigation the Chief Inspector considers that urgent action must be taken to prevent the risk of further accidents occurring, the Chief Inspector may inform any person, party or state the Chief Inspector considers relevant as soon as possible of the urgent action that should be taken by that other person, party or states (as the case may be).

Extension of time

22.—(1) The Chief Inspector may extend the period of 30 days prescribed in regulation 17(5)(b), where the Chief Inspector considers it appropriate to do so having regard to the requirement in regulation 17(1) for a report of a safety investigation to be made available as soon as is practicable.

(2) The Chief Inspector may extend the period of 30 days prescribed in regulation 21(7)(b) where the Chief Inspector considers it appropriate to do so.

(3) The powers under this regulation may be exercised notwithstanding that the prescribed period has expired.

Service of documents

23.—(1) A notice or other document required or authorised by a provision of these Regulations to be served on or given to a person may be served or given by—

(a) delivering it to that person in person,

(b) leaving it at that person's proper address,

(c) sending it by post or by electronic means to that person's proper address.

(2) In the case of a body corporate, any such notice or document may be served on a director of that body or on any other officer or employee of that body ("authorised person") who is authorised to accept service of such notices or documents on its behalf.

(3) For the purposes of this regulation, "proper address" means—

(a) in the case of a body corporate or its director or authorised person—

(i) the registered or principal office of that body, or

(ii) the email address of the secretary or clerk of that body, the director or the authorised person;

(b) in any other case, a person's last known address, which includes an email address.

(4) In this regulation references to an email address are to an email address which has not been withdrawn for the purposes of service.

PART 5

Offences and penalties

Offences and penalties

24. (1) A person commits an offence if—

(a) being a person mentioned in regulation 6(2), (3)(a) or (b), they fail without reasonable excuse to report an accident as required by regulation 6;

(b) being a person referred to in paragraph (a), they fail without reasonable excuse to provide information as required by regulation 6(4);

(c) they falsely claim to have any additional information or new evidence pertaining to any accident;

(d) being a person mentioned in regulation 6(5), they fail without reasonable excuse—

(i) to examine the circumstances of an accident, so far as is reasonably practicable, or

DRAFT

(ii) to provide the report required.

(2) A person who fails without reasonable excuse to comply with any requirement, duty or prohibition in regulation 10(1), (4), (5) or (7) commits an offence.

(3) A person who without reasonable excuse discloses or permits to be disclosed—

(a) any information, documents or records in contravention of regulations 15(1) or (2), or

(b) any prescribed information in contravention of regulation 18(1) or (2),

commits an offence.

(4) A person who fails without reasonable excuse to comply with a requirement imposed on that person under regulation 21(4) commits an offence.

(5) A person who commits an offence under any of paragraphs (1) to (4) is liable—

(a) on summary conviction in England and Wales, to a fine;

(b) on summary conviction in Scotland, to a fine not exceeding the statutory maximum;

(c) on summary conviction in Northern Ireland, to a fine not exceeding the statutory maximum;

(d) on conviction on indictment, to a fine.

PART 6

Revocation and transitional provision

Revocation and transitional provision

25.—(1) The following instruments are revoked—

(a) the Merchant Shipping (Accident Reporting and Investigation) Regulations 2012 ("the 2012 Regulations")(**a**);

(b) the Merchant Shipping (Accident Reporting and Investigation) (Amendment) Regulations 2013(**b**);

(c) Commission Regulation (EU) No 1286/2011 of 9 December 2011 adopting a common methodology for investigating marine casualties and incidents developed pursuant to Article 5(4) of Directive 2009/18/EC of the European Parliament and of the Council(**c**).

(2) Any investigation commenced under the 2012 Regulations which has not been completed is to continue as if it had been started under these Regulations.

Signatory text

Name
Address — Parliamentary Under Secretary of State
Date — Department for Transport

SCHEDULE 1

Regulation 6(4)

Marine casualty or incident notification data

The information is—

(**a**) S.I. 2012/1743.
(**b**) S.I. 2013/2882.
(**c**) EUR 1286/2011.

DRAFT

(a) name of the ship and IMO, official or fishing vessel number including flag of the country of registration;

(b) type of ship;

(c) date and time of the accident;

(d) latitude and longitude or geographical position in which the accident occurred;

(e) name and port of registry of any other ship involved;

(f) number of people killed or seriously injured and associated type or types of casualty;

(g) brief details of the accident including ship, cargo or any other damage;

(h) if the ship is fitted with a voyage data recorder, the make and model of the recorder;

(i) ports of departure and destination;

(j) traffic separation scheme if appropriate;

(k) place on board;

(l) the nature of any damage to the environment that occurred as a result of the accident.

SCHEDULE 2

Regulation 17(2)

Information to be included, where relevant, in reports in relation to an accident

Summary

1. An outline of the basic facts of the marine casualty or incident, including what happened, when, where and how it happened.

2. Information about any deaths, injuries, or damage to the environment that occurred as a result of the accident.

Factual information

3. Subject to any United Kingdom law on data protection or confidentiality, the following particulars about any ship concerned—

(a) flag state;

(b) owners;

(c) operators;

(d) the company identified in the safety management certificate;

(e) classification society.

4. The following particulars about any ship concerned—

(a) dimensions of the ship;

(b) details of the engines;

(c) a description of the crew, work routine and other matters such as time served on the ship.

Narrative details

5. A narrative detailing the circumstances of the marine casualty or incident.

Analysis

6. Analysis of and comment on the causal factors, including any mechanical, human or organisational factors.

DRAFT

Conclusions

7. A discussion of the safety investigation's findings, including the identification of safety issues and the safety investigation's conclusions.

Safety recommendations

8. Where appropriate, recommendations with a view to preventing future marine casualties and marine incidents.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Merchant Shipping (Accident Reporting and Investigation) Regulations 2012 (S.I.2012/1743) ("the 2012 Regulations").

The Regulations set out the procedures in relation to the reporting and investigation of specified casualties and incidents which are collectively defined as an "accident", including the purpose and scope of an investigation, the content of an investigation, and how an investigation is to be carried out. The requirements for reporting accidents and incidents and the publication of reports and summaries are also provided for. The Regulations in particular—

- align the definitions to those in the Code of the International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident (Casualty Investigation Code) adopted by the IMO by Resolution MSC.255(84) on 16th May 2008 ("the IMO Code") where appropriate (regulation 2);
- provide a definition of what constitutes an accident (regulation 3);
- apply in relation to watercraft as defined in the Merchant Shipping (Watercraft) Order 2023 (S.I. 2023/35 (regulation 4);
- specify when a duty to report an accident arises (regulation 6) and the required information (Schedule 1);
- set out the circumstances in which the Chief Inspector must or may carry out a safety investigation, and for terminating investigations (regulation 8);
- make provision for co-operation with other States who have an interest in participating in a safety investigation (regulation 14);
- make provision about disclosure of information, documents and records received by the Chief Inspector or produced in connection with the exercise of the Chief Inspector's functions under the Regulations, and enable the Chief Inspector to disclose certain evidence to other investigating authorities who can demonstrate a legal entitlement to have that evidence (regulations 15 and 16);
- require the Chief Inspector to publish a safety report, or an interim report within 12 months of the date of the accident being notified to the Chief Inspector, and make provision as to what the report must include, reflecting the requirements of the IMO Code, and in certain circumstances, enable the Chief Inspector to publish a simplified report (regulation 17);
- make further provision as to disclosure of prescribed information relating to reports (regulation 18);
- make provision about other publications and recommendations of the Chief Inspector (regulations 20 – 21);
- specify penalties for offences under the Regulations (regulation 24);
- revoke the 2012 Regulations, an amending instrument, and an assimilated EU Commission Regulation (regulation 25).

A Regulatory Impact Assessment has been prepared and copies can be obtained from the Marine Accident Investigation Branch, First Floor, Spring Place, 105 Commercial Road, Southampton

DRAFT

SO15 1GH or from their website which is www.maib.gov.uk. A copy has been placed in the Library of each House of Parliament.

Copies of the IMO Code may be obtained from the International Maritime Organization at 4 Albert Embankment, London SE1 7SR.

DRAFT