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STATUTORY INSTRUMENTS

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**2018 No. 1400**

**The Merchant Shipping (Accident Reporting and Investigation) and the Railways (Accident Investigation and Reporting) (Amendment) (EU Exit) Regulations 2018**

**PART 2**

**Amendment of the Merchant Shipping (Accident Reporting and Investigation) Regulations 2012**

**Introductory**

2. The Merchant Shipping (Accident Reporting and Investigation) Regulations 2012<sup>(1)</sup> are amended in accordance with this Part.

**Amendment of regulation 2 (interpretation)**

3.—(1) Regulation 2(1) is amended as follows.

(2) Omit the definition of “Council [Directive 1999/35/EC](#)”.

(3) Omit the definition of “Directive vessel”.

(4) Omit the definition of “the Directive”.

(5) Omit the definition of “EMCIP”.

(6) For the definition of “IMO Code”, substitute—

““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<sup>(2)</sup>.”.

(7) Omit the definition of “ro-ro ferry” and “high speed passenger craft”.

(8) Before the definition of “safety investigation”, insert—

““relevant vessel” means any vessel other than a vessel—

- (a) falling within regulation 4(1)(a)(i) to (iii);
- (b) that is a warship;
- (c) that is not propelled by mechanical means;
- (d) that is a wooden vessel of traditional build which is not primarily propelled by mechanical means, including a dhow or junk which is made of wood and provided with sails; or
- (e) that is a fishing vessel of less than 15 metres length overall.”.

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(1) [S.I. 2012/1743](#), to which there are amendments not relevant to these Regulations.

(2) A copy of the IMO Code may be inspected, by prior appointment, at the Maritime Knowledge Centre, International Maritime Organisation, 4 Albert Embankment, London SE1 7SR; a digital copy may be viewed at: [http://www.imo.org/en/KnowledgeCentre/IndexofIMOResolutions/Maritime-Safety-Committee-\(MSC\)/Documents/MSC.255\(84\).pdf#search=casualty%20investigation%20code](http://www.imo.org/en/KnowledgeCentre/IndexofIMOResolutions/Maritime-Safety-Committee-(MSC)/Documents/MSC.255(84).pdf#search=casualty%20investigation%20code).

- (9) For the definition of “substantial interest”, substitute—  
““Substantially Interested State” has the meaning given in the IMO Code;”.

**Amendment of regulation 4 (application)**

4. For regulation 4(1)(c), substitute—  
“(c) any other ship, where the Chief Inspector considers the United Kingdom to be a Substantially Interested State.”.

**Amendment of regulation 6 (duty to report accidents and serious injuries)**

5. In regulation 6(3), for “the Schedule” substitute “Schedule 1”.

**Amendment of regulation 7 (preliminary assessments)**

- 6.—(1) Regulation 7 is amended as follows.  
(2) In paragraph (1), for “vessel covered by the Directive” substitute “relevant vessel”.  
(3) For paragraph (3), substitute—  
“(3) Where the Chief Inspector does not undertake a safety investigation into a serious marine casualty, the reasons for that decision must be recorded and published.”.

**Amendment of regulation 8 (ordering of a safety investigation)**

7. In regulation 8(1), for “vessel covered by the Directive” substitute “relevant vessel”.

**Amendment of regulation 11 (conduct of a safety investigation)**

- 8.—(1) Regulation 11 is amended as follows.  
(2) In paragraph (9), omit “(whether or not it involves a vessel covered by the Directive)”.  
(3) In paragraph (10), for “vessel covered by the Directive” substitute “relevant vessel”.  
(4) Omit paragraph (13).

**Amendment of regulation 12 (co-operation with other states)**

- 9.—(1) Regulation 12 is amended as follows.  
(2) In paragraph (1), omit sub-paragraph (a).  
(3) For paragraph (5), substitute—  
“(5) For the purposes of this regulation, paragraph (4)(a) applies only if the Chief Inspector is satisfied that the competent authority of the Substantially Interested State concerned ensures, or will ensure, that any document falling within paragraph (5A) is not made available for purposes other than the safety investigation, unless that competent authority determines, or has determined, that there is an overriding public interest in the disclosure of the document.  
(5A) A document falls within this paragraph if it is—  
(a) witness evidence or any other statement, account or note taken, or received by, the competent authority in the course of the safety investigation;  
(b) a record which may reveal the identity of a person who has given evidence in the context of the safety investigation;

- (c) information relating to a person involved in a marine casualty or incident which is of a particularly sensitive and private nature, including information concerning the person's health.”.
- (4) In paragraph (6)—
  - (a) omit “member States or”;
  - (b) omit “, or both”;
  - (c) in sub-paragraph (a), insert the “and” at the end;
  - (d) in sub-paragraph (b), omit the “and” at the end;
  - (e) omit sub-paragraph (c).
- (5) In paragraph (7), omit “member” in both places where the word occurs.
- (6) Omit paragraphs (8) to (10).

#### **Amendment of regulation 13 (disclosure of records)**

**10.** In regulation 13(2)(d), for “regulation 14(4)(a), (5) or (12)” substitute “regulation 14(4)(a) or (5)”.

#### **Amendment of regulation 14 (reports of safety investigations)**

- 11.**—(1) Regulation 14 is amended as follows.
- (2) In paragraph (2)(b), omit “in the case of a report to which the Directive applies.”.
  - (3) For paragraph (3), substitute—
    - “(3) A report in relation to an accident must contain, but need not be limited to, the information set out in Schedule 2 which is relevant to the safety investigation.”.
  - (4) Omit paragraph (11)(f).
  - (5) Omit paragraph (12).

#### **Amendment of regulation 16 (recommendations)**

- 12.** In regulation 16(8)—
- (a) for “the European Commission” substitute “such other persons or parties as the Chief Inspector considers relevant”; and
  - (b) omit “member States or”.

#### **Amendment of the Schedule (marine casualty or incident notification data)**

- 13.**—(1) The Schedule is amended as follows.
- (2) In the heading, for “The Schedule” substitute “Schedule 1”.
  - (3) For “(This Schedule substantially reproduces the provisions of Annex II to the Directive)”, substitute “The information is—”.

#### **Insertion of Schedule 2 (safety investigation report content)**

- 14.** After Schedule 1 (as so renumbered), insert—

## “SCHEDULE 2

Regulation 14

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. Summary information about any deaths or injuries, or any damage to the ship, cargo, third parties or environment that occurred.

**Factual information**

3. Particulars about the vessel concerned, including details of its—
  - (a) flag and register;
  - (b) identification;
  - (c) main characteristics;
  - (d) ownership and management;
  - (e) construction;
  - (f) minimum safe manning;
  - (g) authorised cargo.
4. Particulars about the voyage, including—
  - (a) ports of call;
  - (b) the type of voyage;
  - (c) cargo information;
  - (d) manning.
5. Marine casualty or incident information, including—
  - (a) the type of marine casualty or incident;
  - (b) the date and time of casualty or incident;
  - (c) the position and location of the marine casualty or incident;
  - (d) information about the external and internal environment;
  - (e) information about the vessel’s operation and voyage segment;
  - (f) the place on board the ship where the casualty or incident occurred;
  - (g) human factors data;
  - (h) information about its consequences (for people, any ship, cargo, the environment or other).
6. Information about shore authority involvement and emergency response, including—
  - (a) who was involved in the response;
  - (b) the means used to respond to the casualty or incident;
  - (c) the speed of response;
  - (d) actions taken;
  - (e) results achieved.

### **Narrative details**

7. A description or reconstruction of the marine casualty or incident setting out, in chronological order, the sequence of events leading up to, during and following the marine casualty or incident and the involvement of relevant actors or factors (persons, material, environment, equipment or external agents).

8. Relevant details of the safety investigation conducted, including the results of any examinations or tests.

### **Analysis**

9. Analysis and comment, as necessary, to enable the report to reach logical conclusions, establishing all of the contributing factors, including those with risks for which existing defences aimed at preventing an accidental event, and those aimed at eliminating or reducing its consequences, are assessed to be either inadequate or missing, including—

- (a) an analysis of each accidental event, with comments relating to the results of any relevant examinations or test conducted during the course of the safety investigation and to any safety action that might have been taken to prevent marine casualties in relation to the incident;
- (b) the context of, and the environment in relation to, the accident or incident;
- (c) human errors and omissions;
- (d) events involving hazardous material;
- (e) environmental effects of the accident or incident;
- (f) equipment failures;
- (g) external influences or factors;
- (h) contributing factors involving person-related functions, shipboard operations, shore management or regulatory influence.

### **Conclusions**

10. The main conclusions, including conclusions as to the established contributing factors and missing or inadequate defences (material, functional, symbolic or procedural) for which safety actions should be developed to prevent marine casualties.

### **Safety Recommendations**

11. Any safety recommendations derived from the analysis and conclusions and related to particular subject areas, such as legislation, design, procedures, inspection, management, health and safety at work, training, repair work, maintenance, shore assistance and emergency response.

12. Safety recommendations must be addressed to those that are best placed to implement them, such as ship owners, managers, recognised organisations, maritime authorities, vessel traffic services, emergency bodies and international maritime organisations with the aim of preventing marine casualties and incidents.

13. Any interim safety recommendations that may have been made, or any safety actions taken, during the course of the safety investigation.

### **Appendices**

14. If appropriate, the following non-exhaustive list of information may be attached to the report (in paper or electronic form)—

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- (a) photographs, moving images, audio recordings, charts, drawings;
- (b) applicable standards;
- (c) technical terms and abbreviations used;
- (d) special safety studies;
- (e) miscellaneous information.”.