

*Shipping (Accident Reporting and Investigation) Regulations***SAINT LUCIA**

STATUTORY INSTRUMENT, 2021, No. 160

ARRANGEMENT OF REGULATIONS*Regulation*

1. Citation
2. Interpretation
3. Application
4. Material damage
5. Contents of report
6. Report by senior surviving officer
7. Submission of report or notice to the Minister
8. Report on examination of circumstances
9. Factors causing a safety investigation
10. Preservation of evidence
11. Conduct of inspections by inspector
12. Preliminary inquiry
13. Safety investigation
14. Cooperation with substantially interested country
15. Disclosure of records
16. Publication of preliminary inquiry report
17. Publication of safety investigation report
18. Other duties of the Chief Inspector
19. Safety recommendation
20. Fair treatment

SCHEDULE 1**SCHEDULE 2**

*Shipping (Accident Reporting and Investigation) Regulations***SAINT LUCIA**

STATUTORY INSTRUMENT, 2021, No. 160

[11th October, 2021]

In exercise of the power conferred under section 491 of the Shipping Act, Cap. 13.27, the Minister responsible for shipping makes these Regulations:

Citation

1. These Regulations may be cited as the Shipping (Accident Reporting and Investigation) Regulations, 2021.

Interpretation

2.—(1) In these Regulations —

“access” means the process of embarking on or disembarking from a ship, by whatever means employed;

“Act” means the Shipping Act, Cap. 13.27;

“accident” means a marine incident or occupational accident;

“cause” means an action, omission, event, existing or pre-existing condition or a combination which leads to a marine casualty or marine incident;

“Chief Inspector” means the senior marine casualty investigator;

“grounding” means making involuntary contact with the ground, except for touching the ground briefly so that no damage is caused;

“incapacitation” means an inability to undertake the full range of activities normally undertaken;

“inspector” means a person who is appointed under section 483 of the Act;

Shipping (Accident Reporting and Investigation) Regulations

“International Maritime Organization Guidelines” means the guidelines adopted by the 91st Session of the Legal Committee of the International Maritime Organization and any changes to the guidelines adopted by the governing body of the International Labour Organization in June 2006;

“lead investigating State” means a country responsible for conducting an investigation as agreed between substantially interested countries;

“marine casualty” means an event that is directly connected to the operation of a ship that results in —

- (a) the death of or serious injury to a person;
- (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;
- (f) the involvement of a ship in a collision;
- (g) material damage to marine infrastructure external to a ship that may seriously endanger the safety of the ship, another ship, or a person; or
- (h) pollution or potential pollution to the environment;

“marine incident” means an event that is caused by or is connected with the operations of a ship by which the ship or any person is imperiled, or as a result of which damage to the ship, the structure of the ship or the environment is caused;

“occupational accident” means an unexpected and unplanned occurrence, including acts of violence, that arise out of or in connection with work that results in the personal injury or death of one or more workers;

Shipping (Accident Reporting and Investigation) Regulations

“preliminary inquiry” means a preliminary inquiry under section 437(1) of the Act;

“safety investigation” —

- (a) means a process held in public or on camera for preventing a casualty;
- (b) includes —
 - (i) gathering and analyzing information,
 - (ii) drawing conclusions,
 - (iii) identifying the circumstances,
 - (iv) determining causes and contributing factors, and
 - (v) when appropriate, making safety recommendations;

“senior surviving officer” means the senior surviving officer in the deck department, and if there is no senior surviving officer in the deck department, the senior surviving engineer officer;

“serious casualty” means a loss that involves a fire explosion, grounding, contact, heavy weather damage, ice damage, hull cracking or suspected hull defect, resulting in —

- (a) a ship that is not seaworthy, such as penetration of the hull underwater, immobilization of main engines, extensive accommodation damage or other structural damage;
- (b) pollution of the sea regardless of quantity; or
- (c) a breakdown that requires towage or shore assistance;

“serious injury” means —

- (a) loss of a limb or part of a limb;
- (b) dislocation of the shoulder, hip, knee or spine;
- (c) temporary or permanent loss of sight;
- (d) penetrating injury to the eye;

Shipping (Accident Reporting and Investigation) Regulations

- (e) injury to a person employed or carried in a ship, if the injury occurs on board or during access and results in incapacitation for more than three consecutive days, excluding the day of the accident;
- (f) other injury that —
 - (i) leads to hypothermia or unconsciousness,
 - (ii) requires resuscitation, or
 - (iii) requires admittance to a hospital or other medical facility as an inpatient for more than twenty-four hours;
- (g) harm that is sustained by a person that incapacitates that person and causes him or her to be unable to function normally for more than seventy-two hours, commencing within seven days of the date when the injury was sustained;

“ship’s boat” includes a life raft, painting punt and any boat normally carried by a ship;

“strands” means goes aground and cannot immediately re-float;

“substantially interested country” means a State —

- (a) which is the flag State of a ship involved in a marine casualty or marine incident;
- (b) which is the coastal State involved in a marine casualty or marine incident;
- (c) whose environment was severely or significantly damaged by a marine casualty, including the environment of its waters and territories recognized under international law;
- (d) where the consequences of a marine casualty or marine incident caused, or threatened, serious harm to that State or to artificial islands, installations, or structures over which it is entitled to exercise jurisdiction;

Shipping (Accident Reporting and Investigation) Regulations

- (e) where, as a result of a marine casualty, nationals of that State lost their lives or received serious injuries;
- (f) that has important information at its disposal that the marine safety investigating State consider useful to the investigation; or
- (g) that, for a reason not specified under paragraphs (a) to (f), establishes an interest that is considered significant by the marine safety investigating State;

“very serious marine casualty” means a marine casualty involving the total loss of a ship or a death or severe damage to the environment;

“Wreck Commissioner” means a person appointed under section 439 of the Act.

(2) A reference in these Regulations to a master is a reference to a senior surviving officer.

(3) For the purposes of section 252(1)(a) of the Act, “occasioning loss of life” or “serious injury” includes —

- (a) a very serious marine casualty;
- (b) a marine casualty;
- (c) a serious injury that a seaman suffers as a result of an occupational accident or any other case.

Application

3. These Regulations apply to an accident sustained or caused on board —

- (a) a Saint Lucian ship; and
- (b) a foreign ship in Saint Lucian waters.

Material damage

4. For the purposes of section 252(1)(b) of the Act, a ship sustains material damage affecting the seaworthiness or efficiency of the ship where there is —

- (a) a collapse or bursting of any pressure vessel, pipeline or valve;

Shipping (Accident Reporting and Investigation) Regulations

- (b) a collapse or failure of any lifting equipment, access equipment, hatch-cover, staging or boatswain's chair or any associated load-bearing parts;
- (c) a collapse of cargo, unintended movement of cargo or ballast sufficient to cause a list, or loss of cargo overboard;
- (d) a snagging of fishing gear which results in the vessel heeling to a dangerous angle;
- (e) contact by a person with loose asbestos fibre except when full protective clothing is worn;
- (f) an escape of any harmful substance or agent; or
- (g) a dangerous occurrence of a kind specified under Schedule 1.

Contents of report

5. Notwithstanding section 252(2) of the Act, a report of a marine incident must include —

- (a) in the case of a marine casualty —
 - (i) details of seamen who are killed or injured in an incident,
 - (ii) details of an action taken to mitigate the effects of an incident,
 - (iii) details of a third party involved,
 - (iv) other information that may assist the Director in becoming aware of the situation;
- (b) in the case of an occupational accident or serious injury —
 - (i) the name, rank, date of birth, nationality and gender of the seaman,
 - (ii) the nature of the injury sustained,
 - (iii) the outcome, where this is known, including death, recovery, expected long term effects of the accident or injury,
 - (iv) the time of the incident and the conditions of the environment at that time, including lighting, the weather, if applicable, the temperature or other conditions,

Shipping (Accident Reporting and Investigation) Regulations

- (v) the location on board the ship where the injury occurred,
- (vi) a record of the hours of work and the hours of rest for the seaman, forty-eight hours prior to the accident,
- (vii) details of any other seaman affected by the incident.

Report by senior surviving officer

6.—(1) Notwithstanding section 252 of the Act, where the master of a ship does not survive, the report under that section must be transmitted to the Director by the senior surviving officer.

(2) Where there is no senior surviving officer, the report under section 252 of the Act must be submitted by the most senior surviving seaman on board the ship at the time of the accident.

Submission of report or notice to the Minister

7. On receipt of a report under section 252 of the Act or a notice under section 299 of the Act, the Director shall send a copy of the report to the Minister for an investigation.

Report on examination of circumstances

8.—(1) The owner or master of a ship shall, so far as is reasonably practicable, ensure that the circumstances of an accident —

- (a) are examined and to provide to the Director a report of the findings of the examination includes the measures taken or proposed to be taken to prevent a recurrence;
- (b) that results in the serious injury of a person, are examined and, within fourteen days, provide to the Director a report of the findings of that examination that includes the measures taken or proposed to be taken to prevent a recurrence.

(2) A owner or master of a ship who contravenes subregulation (1) commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years.

*Shipping (Accident Reporting and Investigation) Regulations***Factors causing a safety investigation**

9.—(1) In considering whether to cause a safety investigation into an accident under section 437(2) of the Act, the Director may consider the advice of the Chief Inspector.

(2) Where a report of an accident under section 252 of the Act or a notice of an accident under section 299 of the Act is received by the Minister, he or she shall —

- (a) decide whether a safety investigation, including a preliminary inquiry must be carried out; and
- (b) give written notice of his or her decision, within twenty-eight days of receipt of the report, to the Director and any party to the accident.

(3) Before causing a preliminary inquiry or safety investigation of an accident to be undertaken, the Director may request information that he or she considers necessary concerning the accident and the remedial action that was taken as a result.

(4) An owner or a master of a ship or any other person, who is in possession of information that the Director requests under subregulation (3), shall provide the information to the Director to the best of his or her ability and knowledge.

(5) An owner or a master of a ship or any other person who contravenes subregulation (4), commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years.

(6) In the case of an accident resulting in the loss of life or serious injury of a person on board a ship, or a person is lost or falls overboard from the ship or the boat of the ship, the Director may decide not to cause or discontinue a safety investigation of the accident if he or she is satisfied or it is otherwise established to his or her satisfaction that —

- (a) loss of life resulted from suicide or a natural cause; or
- (b) serious injury resulted from an attempt to commit suicide.

Shipping (Accident Reporting and Investigation) Regulations

(7) Where any other maritime incident occurs and a very serious marine casualty occurs, the Director shall ensure that a safety investigation is carried out if a very serious marine casualty —

- (a) involves a Saint Lucian ship, irrespective of the location of the casualty;
- (b) occurs within Saint Lucian waters, irrespective of the flag of the ship involved in the casualty; or
- (c) involves a substantial interest of Saint Lucia, irrespective of the location of the casualty and of the flag of the ship involved.

(8) The Director shall, in the case of a serious casualty, carry out a preliminary inquiry in order to determine whether a safety investigation must be undertaken and where the Director decides not to undertake a safety investigation, the Director shall record the reasons for his or her decision.

(9) In the case of any other marine casualty or marine incident the Director shall determine whether a safety investigation must be undertaken.

(10) In considering whether to investigate a matter under subregulations (8) and (9), the Director shall take into account —

- (a) the seriousness of the marine casualty or marine incident;
- (b) the type of vessel or cargo involved; and
- (c) the potential for the findings of the safety investigation to lead to the prevention of any future marine casualty and marine incident.

(11) The Director shall ensure that a safety investigation under this regulation commences as promptly as practicable after the marine casualty or marine incident occurs and in any event no later than two months after the occurrence of a marine casualty or marine incident.

*Shipping (Accident Reporting and Investigation) Regulations***Preservation of evidence**

10.—(1) The owner or master of a ship shall, so far as reasonably practicable, ensure that all charts, log books and other records and documents that are important to an accident that is reportable under section 252 of the Act or a notice under section 299 of the Act are kept and that an alteration is not made to an entry, and any equipment which is important to an accident is, so far as is reasonably practicable, preserved, until —

- (a) a notice is received from the Director that a safety investigation must not take place or that the safety investigation is completed;
- (b) three months have passed after the Director received the report or notice and a notice has not been sent by the Director indicating that he or she has decided to investigate the matter; or
- (c) the person holding the preliminary inquiry, the Wreck Commissioner or an inspector gives written notice that he or she does not require the record and document.

(2) An owner or a master of a ship who contravenes subregulation (1) commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years.

Conduct of inspection by inspector

11.—(1) Where the Chief Inspector decides that an investigation must be carried out, an inspection must be undertaken by one or more inspectors at a time and place and in a manner that appears to be most conducive to improving maritime safety and the prevention of pollution by ships, and to reduce the risk of a future marine casualty, marine incident or marine accident by —

- (a) facilitating an expeditious safety investigation and proper analysis of a marine casualty and marine incident in order to determine the cause of a marine casualty and marine incident; and
- (b) ensuring the timely and accurate reporting of a safety investigation and proposal for remedial action.

Shipping (Accident Reporting and Investigation) Regulations

(2) An inspection may extend to cover events and circumstances preceding the accident together with subsequent events and circumstances which in the opinion of an inspector may be relevant to the cause or outcome of an accident.

(3) A document, record or information under regulation 10, that is properly required by an inspector to be produced for the purposes of an inspection, whether on board the ship involved or otherwise, may be retained by him or her until the investigation is completed.

Preliminary inquiry

12.—(1) A person, not being an attorney-at-law acting solely on behalf of the person required to attend a preliminary inquiry, who —

- (a) is allowed by a person holding the preliminary inquiry to be present; or
- (b) is nominated to be present at an oral examination before a person holding the preliminary inquiry, may at any time be excluded from being present —
 - (i) by the person holding the preliminary inquiry if he or she has reason to believe that his or her presence may hamper the preliminary inquiry, or
 - (ii) by the person holding the preliminary inquiry if he or she is satisfied, having regard to all the circumstances, that it is proper to exclude that person.

(2) Where a person nominated to be present is excluded under subregulation (1), the person required to attend a preliminary inquiry is entitled to nominate another person to be present at the oral examination in place of the person excluded and subregulation (1) applies to that other person.

Safety investigation

13.—(1) In the case of a safety investigation —

- (a) where a preliminary inquiry is conducted, the person holding the preliminary inquiry shall advise the Director whether it is appropriate in the circumstances to conduct a safety investigation;

Shipping (Accident Reporting and Investigation) Regulations

- (b) an inspector may provide advice to the Director for the discontinuance of an investigation at any time, and where an investigation is discontinued, the Director shall make his or her reasons for doing so publicly available.

(2) A safety investigation or preliminary inquiry into an accident must be conducted with the objective of preventing future accidents.

Cooperation with substantially interested country

14.—(1) The Director may cooperate with another substantially interested country in a safety investigation.

(2) A substantially interested country is allowed to participate at any stage of a safety investigation that is led by a Wreck Commissioner, by mutual agreement.

(3) The cooperation of the Director in a safety investigation conducted by a substantially interested country is without prejudice to the conduct and reporting requirements of a safety investigation under these Regulations.

(4) Where a substantially interested country is leading a safety investigation involving Saint Lucia, the Director may decide not to carry out a parallel safety investigation if the safety investigation led by the substantially interested country is conducted in accordance with the International Maritime Organization Code for the Investigation of Marine Casualties and Incidents.

Disclosure of records

15.—(1) The name, address or other detail that reveals the identity of anyone who gives evidence must not be disclosed by an inspector, a person holding the preliminary inquiry or the Wreck Commissioner.

(2) An inspector, a person holding the preliminary inquiry or the Wreck Commissioner who contravenes subregulation (1) commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years.

Shipping (Accident Reporting and Investigation) Regulations

(3) The following documents or records must not be made available for purposes other than the safety investigation, unless a court orders otherwise —

- (a) subject to subregulation (4), declarations or statements taken from persons in the course of a safety investigation, and notes or voice recordings of interviews;
- (b) information relating to persons involved in a marine casualty or marine incident that is of a particularly sensitive and confidential nature, including information concerning the health of that person;
- (c) a report made under regulation 8;
- (d) a final report.

(4) A person who gives a declaration or statement in the course of an investigation may provide a copy of the declaration or statement to another person as he or she sees fit.

(5) Subject to subregulation (6), a court order must not be made under subregulation (3) unless the court is satisfied that the interests of justice in disclosure outweigh any prejudice, or likely prejudice, to —

- (a) the investigation into the accident to which the document or record relates;
- (b) future safety investigation to be undertaken in Saint Lucia;
or
- (c) relations between Saint Lucia and a State, territory or international organization.

(6) This regulation is without prejudice to any law that authorizes or requires the withholding of a document or record or part of a document or record on the ground that disclosure of it would be injurious to the public interest.

(7) The Director may provide copies of information obtained from a recording system, important to the accident, including a voice recording, other than a recording under subregulation (3)(a), a video recording and other electronic or magnetic recording and any transcripts made from the information or recording to the police or other official authorities.

Shipping (Accident Reporting and Investigation) Regulations

(8) Nothing in this regulation is construed as a derogation from the Data Protection Act, Cap.8.18.

Publication of preliminary inquiry report

16.—(1) Where a report is provided to the Director —

- (a) in the case of regulation 13(a), the Director may publish the report in a manner that he or she thinks fit;
- (b) in the case of an accident to which regulation 17 applies, the Director shall publish the report in accordance with regulation 17.

(2) The Director shall not publish a report under subregulation (1) until he or she —

- (a) serves a notice on a person who, or organization that, may be adversely affected by the report or if the person is deceased, on a person who appears to the Director, at the time the notice is to be served under this paragraph, is best to represent the interests and reputation of the deceased in the matter; and
- (b) considers the representations relating to the facts or analysis contained in the report that may be made to him or her under subregulation (3) by or on behalf of the persons served with a notice.

(3) A notice under subregulation (2)(a) must be accompanied by a copy of the preliminary inquiry report.

(4) The representations under subregulation (2)(b) must be written and served on the Director within twenty-eight days of service of the notice under subregulation (2)(a) or within the period extended under subregulation (5).

(5) The Director may extend the period of twenty-eight days specified under subregulation (4) for a further period of twenty-eight days, where he or she considers that there is good reason for an extension.

(6) Subject to a court order under regulation 15, a person shall not disclose information that is furnished to him or her —

- (a) under subregulation (3); or

Shipping (Accident Reporting and Investigation) Regulations

- (b) by or on behalf of the Director in advance of the publication of a report and whose confidentiality is protected by regulation 15, or permit such information to be disclosed,

except with the prior consent in writing of the Director, to advisers or any other person, as necessary in order to make representations to the Director under subregulation (2)(b), and the advisers shall not disclose the information or permit it to be disclosed.

(7) A person who contravenes subregulation (6) commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years.

(8) The Director shall, when a copy of the report is published, provide a copy of the report to —

- (a) a person who has been served with a notice under subregulation (2)(a);
- (b) a person to whom or a body to which recommendations were addressed in that report;
- (c) the International Maritime Organization; and
- (d) a person or an organization that the Director considers may find the report useful or interesting.

(9) Where an inquest or fatal accident inquiry is to be held following an accident that is subject to a safety investigation, a draft report may be made available in confidence to a coroner by the Director.

(10) Where any part of the report or analysis is based on information obtained under the powers of an inspector under section 484 of the Act, the report is inadmissible in judicial proceedings where the purpose is to attribute or apportion liability or blame unless a court or tribunal, having regard to the factors under regulation 15(5)(b) or (c), determines otherwise.

(11) In this regulation, “judicial proceedings” includes civil or criminal proceedings before a court, tribunal or person having by law the power to hear, receive and examine evidence on oath.

*Shipping (Accident Reporting and Investigation) Regulations***Publication of safety investigation report**

17.—(1) Where a safety investigation is carried out under these Regulations, the Director shall publish the report in the form set out in Schedule 2.

(2) Where a safety investigation does not concern a serious marine casualty or a very serious marine casualty and the findings of a safety investigation do not have the potential to lead to the prevention of a future casualty and incident, the Director shall publish a simplified report in place of the report under subregulation (1).

(3) The Director shall make every effort to ensure that a report under subregulations (1) and (2), including the conclusion and any possible recommendation, is published, especially the maritime sector, within twelve months of the date of the marine casualty and if it is impossible to produce the final report within that time, an interim report must be published within twelve months of the date of the marine casualty.

Other duties of the Chief Inspector

18.—(1) The Chief Inspector may, to promulgate a lesson learned, publish collective short reports of an accident.

(2) The Chief Inspector may submit a report on any matter arising from his or her analysis of an investigation of a marine accident to the Director.

Safety recommendations

19.—(1) The Director may, as a result of one or more investigations, whether completed or not, make recommendations to prevent accidents in the future.

(2) The recommendations under subregulation (1) must be addressed to a person who or a body which, in the opinion of the Director, is most fit to implement the recommendations.

(3) The Director shall make the recommendations publicly available if he or she considers that to do so is in the interest of public safety or preventing pollution.

Shipping (Accident Reporting and Investigation) Regulations

(4) A person to whom or a body to which a recommendation is addressed to under subregulation (2) shall, without delay —

(a) consider the recommendation;

(b) send to the Director —

(i) details of the measures, if any, he or she has taken or proposes to be taken to implement the recommendation and, in a case where he or she proposes to implement measures, the timetable for securing that implementation, or

(ii) an explanation that provides the reasons for not having the recommendation as the subject of measures to be taken to implement it, and —

(A) details or timetable under subparagraph (i); or

(B) an explanation under this subparagraph must be provided to the Director within twenty-eight days of receiving the recommendation; and

(c) give notice to the inspector if at any time any information provided to the inspector under paragraph (b)(i) concerning the measures he or she proposes to take or the timetable for securing their implementation is rendered inaccurate by a change of the circumstances.

(5) Subject to subregulations (6) and (7), the Director shall, annually or at another time that he or she thinks fit, publish information in respect of the matters, including an explanation under subregulation (4)(b) or (c) that is communicated to him or her.

(6) The Director shall not publish information under subregulation (5) unless he or she first notifies any person referred to in the information and he or she considers any representations relating to the information that may be made to him or her in accordance with subregulation (7) by or on behalf of a person so notified, and amend the information in a manner that he or she thinks fit.

Shipping (Accident Reporting and Investigation) Regulations

(7) A representation made under subregulation (6) must be in writing and must be served on the Director within twenty-eight days of receiving of the notice under subregulation (6) or within a further period extended under subregulation (8).

(8) The Director may further extend the period specified under subregulation (7) where he or she considers it appropriate to do so.

(9) The Director shall ensure that safety recommendations are taken into account by the addressee and, where appropriate, follow up.

(10) The Director shall make safety recommendations, where appropriate, on the basis of an abstract data analysis and of the overall results of safety investigations carried out.

(11) A safety recommendation does not determine liability or apportion blame for a marine casualty.

Fair treatment

20. In the event of an accident in Saint Lucia, the Government and a person exercising a duty or responsibility under these Regulations shall, in the light of any applicable laws, take into account the provisions of the International Maritime Organization Guidelines on the fair treatment of seamen in the event of a maritime accident.

*Shipping (Accident Reporting and Investigation) Regulations***SCHEDULE 1**

(Regulation 4(g))

DANGEROUS OCCURRENCES

1. Failure of a load bearing part of a lifting machinery, including lifts, hoists, cradles, access platforms.
2. In the case of pressure systems, the failure of a closed vessel, including a boiler or boiler tube or an associated pipework.
3. Electrical short circuits or overloads attended by fire or explosion which causes stoppage of plant involved for more than twenty-four hours, or has the potential to cause the death of a person.
4. Explosions or fires caused by an explosion.
5. Escape of dangerous substances, including poisons, flammable and biological substances in a quantity sufficient to cause the death, major injury or other damage to the health of a person.
6. Malfunctioning of breathing apparatus —
 - (a) while in use; or
 - (b) during testing immediately prior to use in such a way that had the malfunction occurred while the apparatus was in use it would have posed a danger to the health or safety of the user.

Note: This paragraph does not apply to breathing apparatus that is being maintained or tested as part of a routine maintenance procedure.

7. Any of the following incidents in relation to a diving operation —
 - (a) the failure or the endangering of —
 - (i) lifting equipment associated with a diving project, or
 - (ii) life support equipment, including control panels, hoses and breathing apparatus, that exposes a diver to a risk;
 - (b) damage to, or endangering of the dive platform, or a failure of the dive platform to remain on station, which puts a diver at risk;
 - (c) the trapping of a diver;
 - (d) an explosion in the vicinity of a diver; or
 - (e) an uncontrollable ascent or an omitted decompression which puts a diver at risk;

Shipping (Accident Reporting and Investigation) Regulations

(f) the complete or partial collapse of —

(i) a scaffold that is —

(A) more than five metres in height which results in a substantial part of the scaffold falling or overturning;
or

(B) erected over or adjacent to water in circumstances that there would be a risk of drowning to a person falling from the scaffold into the water, or

(ii) the suspension arrangements, including any outrigger, of any slung or suspended scaffold which causes a working platform or cradle to fall.

8. The following incidents in respect of a pipeline or pipeline works —

- (a) the uncontrollable or accidental escape of anything from, or in-rush of anything into, a pipeline which has the potential to cause death, major injury or damage to the health of a person;
- (b) the unintentional ignition of anything in a pipeline or of anything which, immediately before it was ignited, was in a pipeline;
- (c) damage to a part of a pipeline which has the potential to cause the death, major injury or damage to the health of a person;
- (d) failure of a pipeline isolation device, equipment or system that has the potential to cause the death of a person, major injury of a person or damage to the health of a person; or
- (e) failure of equipment involved with pipeline works which has the potential to cause the death, major injury or damage to the health of a person.

9. A collision between two vessels or between a vessel and a shore facility or an offshore installation and a standing or grounding, which results in damage to the vessel or the shore facility or offshore installation.

10. Identifying the potential for a collision to occur between a vessel and an offshore installation that may jeopardize the overall structural integrity of the offshore installation.

11. The occurrence, with respect to a vessel or offshore installation having the potential to cause death or major injury, of one of the following —

- (a) failure of equipment required to maintain a floating offshore installation on station;

Shipping (Accident Reporting and Investigation) Regulations

- (b) dropping an object on an offshore installation or on an attendant vessel or into the water adjacent to an offshore installation or vessel; or
 - (c) damage to a vessel or on an offshore installation caused by adverse weather conditions.
- 12. Loss of stability or buoyancy of a vessel or floating offshore installation.
- 13. An evacuation of a vessel or an offshore installation, in whole or part, in the interest of public safety.
- 14. Where a person falls more than two meters into the sea.

*Shipping (Accident Reporting and Investigation) Regulations***SCHEDULE 2**

(Regulation 17(1))

SAFETY INVESTIGATION REPORT**FOREWORD**

This Part identifies the sole objective of the safety investigation and indicates that a safety recommendation does not create a presumption of liability or blame and that a report is not written, in terms of content and style, with the intention of being used in legal proceedings.

The report should make no reference to witness evidence or [link/connect] anyone who is referred to in the report to a person who has given evidence during the course of the safety investigation.

1. SUMMARY

This Part outlines the basic facts of the marine casualty or incident: what happened, when, where and how it happened; it also states whether a death or injury of a person, damage to the ship, cargo, third party or environment occurred as a result.

2. FACTUAL INFORMATION

This Part includes a number of discrete paragraphs, providing sufficient factual information that the investigating body uses to interpret the facts, substantiate an analysis and ease understanding.

These paragraphs include, in particular, the following information —

- (a) ship particulars —
 - (i) flag or register,
 - (ii) identification,
 - (iii) main characteristics,
 - (iv) ownership and management,
 - (v) construction details,
 - (vi) minimum safe manning,
 - (vii) authorized cargo;
- (b) voyage particulars —
 - (i) ports of call,

Shipping (Accident Reporting and Investigation) Regulations

- (ii) type of voyage,
- (iii) cargo information,
- (iv) manning;
- (c) marine casualty or marine incident information particulars —
 - (i) type of marine casualty or marine incident,
 - (ii) date and time,
 - (iii) position and location of the marine casualty or incident,
 - (iv) external and internal environment,
 - (v) ship operation and voyage segment,
 - (vi) place on board,
 - (vii) human factors data,
 - (viii) consequences for people, ship, cargo, environment, other;
- (d) shore authority involvement and emergency response particulars —
 - (i) persons involved,
 - (ii) means used,
 - (iii) speed of response,
 - (iv) actions taken,
 - (v) results achieved.

3. NARRATIVE

This Part reconstructs the marine casualty or marine incident through a sequence of events, in a chronological order leading up to, during and following the marine casualty or marine incident and the involvement of each actor, that is the person, material, environment, equipment or external agent. The period covered by the narrative depends on the timing of those particular accidental events that directly contributed to the marine casualty or marine incident. This Part also includes any relevant details of the safety investigation conducted, including the results of examinations or tests.

*Shipping (Accident Reporting and Investigation) Regulations***4. ANALYSIS**

This Part includes a number of discrete sections, providing an analysis of each accidental event, with comments relating to the results of a relevant examinations or tests conducted during the course of the safety investigation and to a safety action that may already be taken to prevent a marine casualty.

These paragraphs should cover issues such as —

- (a) accidental event context and environment;
- (b) human erroneous actions and omissions, events involving hazardous material, environmental effects, equipment failures, and external influences;
- (c) contributing factors involving person-related functions, shipboard operations, shore management or regulatory influence.

The analysis and comment 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, or those aimed at eliminating or reducing its consequences, are assessed to be either inadequate or missing.

5. CONCLUSION

This Part consolidates the established contributing factors and missing or inadequate defenses, such as material, functional, symbolic or procedural defenses for which safety actions should be developed to prevent marine casualties.

6. SAFETY RECOMMENDATION

When appropriate, this Part of the report contains 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.

The safety recommendations are addressed to persons that are best placed to implement the recommendations, such as ship owners, managers, recognized organizations, maritime authorities, vessel traffic services, emergency bodies, international maritime organizations and institutions, with the aim of preventing marine casualties.

This Part also includes interim safety recommendations that were made or any safety actions that were taken during the course of a safety investigation.

*Shipping (Accident Reporting and Investigation) Regulations***7. APPENDICES**

When appropriate, the following non-exhaustive list of information is attached to the report in paper or electronic form —

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

Made this 24th day of September, 2021.

STEPHENSON KING,
Minister responsible for shipping.