



An Bille Loingis Cheannaíochta (Tionóiscí Muirí a Imscrúdú), 2024
Merchant Shipping (Investigation of Marine Accidents) Bill 2024

Mar a ritheadh ag Dáil Éireann

As passed by Dáil Éireann



AN BILLE LOINGIS CHEANNAÍOCHTA (TIONÓISCÍ MUIRÍ A IMSCRÚDÚ), 2024
MERCHANT SHIPPING (INVESTIGATION OF MARINE ACCIDENTS) BILL 2024

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Mercantile Marine Act 1955 (No. 29)

Merchant Shipping (Investigation of Marine Casualties) Act 2000 (No. 14)

Merchant Shipping (Safety Convention) Act 1952 (No. 29)

Merchant Shipping Act 1894 (57 & 58 Vict., c.60)

Merchant Shipping Act 1966 (No. 20)

Merchant Shipping Act 1992 (No. 2)

Merchant Shipping Act 2010 (No. 14)

Merchant Shipping Acts 1894 to 2022



AN BILLE LOINGIS CHEANNAÍOCHTA (TIONÓISCÍ MUIRÍ A IMSCRÚDÚ), 2024
MERCHANT SHIPPING (INVESTIGATION OF MARINE ACCIDENTS) BILL 2024

Bill

entitled

An Act to provide for the dissolution of the Marine Casualty Investigation Board and for 5
its replacement with a unit within the Department of Transport to be known as the
Marine Accident Investigation Unit; to provide for the investigation and reporting of
marine accidents; to repeal the Merchant Shipping (Investigation of Marine Casualties)
Act 2000; to provide for the regulation of offshore service vessels; for those and other
purposes to amend the Merchant Shipping (Safety Convention) Act 1952, the Merchant 10
Shipping Act 1992 and the Merchant Shipping Act 2010; and to provide for related
matters.

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

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Short title, collective citation, construction and commencement

1. (1) This Act may be cited as the Merchant Shipping (Investigation of Marine Accidents)
Act 2025.
- (2) The Merchant Shipping Acts 1894 to 2022 and this Act may be cited together as the
Merchant Shipping Acts 1894 to 2025 and shall be construed together as one. 20
- (3) This Act shall come into operation on such day or days as the Minister may by order
or orders appoint either generally or with reference to any particular purpose or
provision and different days may be so appointed for different purposes and different
provisions.

Interpretation and application

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2. (1) In this Act—
“Act of 2000” means the Merchant Shipping (Investigation of Marine Casualties) Act
2000;
“appointed day” means the day appointed under *section 6*;

“Chief Investigator” means the person appointed under *section 9(3)(a)*;

“conflicts of interest policy” has the meaning given to it in *section 11(1)*;

“designated person” means a person designated pursuant to *section 11(4)*;

“Directive” means Directive 2009/18/EC of the European Parliament and of the Council of 23 April 2009¹ establishing the fundamental principles governing the investigation of accidents in the maritime transport sector and amending Council Directive 1999/35/EC and Directive 2002/59/EC of the European Parliament and of the Council;

“EMCIP” means European Marine Casualty Information Platform;

“EMSA” means European Maritime Safety Agency;

“IMO” means International Maritime Organization;

“investigator” means a person appointed under *section 9(3)(b)* and, unless the context otherwise requires, includes the Chief Investigator;

“investigator-in-charge” means an investigator who is responsible for the organisation, conduct and control of a marine safety investigation;

“Irish Coast Guard” means that part of the Department of Transport that is commonly known by that name;

“Irish ship” means a ship, other than a ship of war, known as such under section 9 of the Mercantile Marine Act 1955;

“Irish waters” includes the territorial sea, the waters on the landward side of the territorial sea, and the estuaries, rivers, lakes and other inland waters (whether or not artificially created or modified), of the State;

“MAIU” means the Marine Accident Investigation Unit;

“marine accident” means a marine casualty or a marine incident;

“Marine Accident Investigation Unit” has the meaning it is given in *section 7*;

“marine casualty” means an event, or a sequence of events, that has resulted in any of the following, which has occurred directly in connection with the operations of a ship:

- (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, 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 an individual;
- (g) severe damage to the environment, or the potential for severe damage to the environment, brought about by the damage of a ship or ships,

¹ OJ No. L131, 28.5.2009, p. 114

but does not include a deliberate act or omission done with the intention to cause harm to the safety of a ship, an individual or the environment;

“marine incident” means an event, or a sequence of events, other than a marine casualty, which has occurred directly in connection with the operations of a ship that endangered, or, if not corrected, would endanger the safety of the ship, its occupants or any other person or the environment, but does not include a deliberate act or omission done with the intention to cause harm to the safety of a ship, an individual or the environment; 5

“marine safety investigation” means an investigation into a marine accident, conducted with the objective of preventing marine casualties and marine incidents in the future and includes the collection of and analysis of evidence, the identification of causal factors and the making of safety recommendations as necessary; 10

“Marine Survey Office” means that part of the Department of Transport that is commonly known by that name;

“MCIB” means the Marine Casualty Investigation Board established by section 7 of the Act of 2000; 15

“Member State” means a state, other than the State, that is a Member State of the European Union;

“Minister” means Minister for Transport;

“personal watercraft” means a ship (other than a recreational craft) of less than 7 metres in length overall which uses an internal combustion engine having a water jet pump as its primary source of propulsion, and which is designed to be operated by a person or persons sitting, standing or kneeling on, rather than within the confines of, a hull; 20

“preliminary assessment”, in relation to a marine accident, means the carrying out of an initial assessment of the marine accident in order to determine whether a marine safety investigation is warranted; 25

“prescribed” means prescribed by regulations made by the Minister under this Act;

“recreational craft” means a ship not engaged for the purposes of trade and intended for sports and leisure purposes, but does not include a personal watercraft or a small fast powered craft; 30

“Regulations of 2011” means the European Communities (Merchant Shipping) (Investigation of Accidents) Regulations 2011 (S.I. No. 276 of 2011);

“safety recommendation” means any proposal made, including for the purposes of registration and control, by the MAIU after having carried out a marine safety investigation on the basis of information derived from that investigation; 35

“ship” means a vessel or craft, other than a seaplane, which is capable of being used, or intended to be used, for navigation or transportation on water;

“small fast powered craft” means a ship (other than a recreational craft) of less than 7 metres in length overall with a total propulsion engine power of equal to or greater than 150 kW; 40

“vehicle” means any conveyance in or by which any person or thing, or both, is or are, as the case may be, transported, which is designed for use on land, in water or in the air, or in more than one of those ways, and includes—

- (a) a part of a vehicle,
- (b) an article designed as a vehicle but not capable of functioning as a vehicle, and 5
- (c) any container, trailer, tank or any other thing which is or may be used for the storage of goods in the course of carriage and is designed or constructed to be placed on, in, or attached to, any vehicle;

“very serious marine casualty” means a marine casualty involving the total loss of a ship, the death of a person, or severe damage to the environment. 10

(2) *Parts 1 to 3* apply to marine accidents involving—

- (a) a ship in Irish waters,
- (b) an Irish ship, in waters anywhere, or
- (c) a substantial interest of the State, irrespective of the location of the marine accident and of the flag of the ship or ships involved. 15

(3) *Parts 1 to 3* shall not apply to marine accidents involving only ships of the Naval Service of the Defence Forces.

(4) A word or expression used in *Parts 1 to 3* that is also used in the Directive has, unless the context otherwise requires, the same meaning in this Act as it has in the Directive.

Regulations 20

3. (1) The Minister may by regulations provide for any matter referred to in this Act as prescribed or to be prescribed.

(2) Regulations made under this Act may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations. 25

(3) Every order, other than an order under *section 1(3)* or *6*, regulation or rule made by the Minister under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order, regulation or rule is passed by either such House within the next 21 days on which that House has sat after the order, regulation or rule is laid before it, the order, regulation or rule shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder. 30

Expenses of Minister

4. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure, National Development Plan Delivery and Reform, be paid out of monies provided by the Oireachtas. 35

Repeals and revocations

5. Subject to *Part 4*—

- (a) the Act of 2000 is repealed on the appointed day, and
- (b) the Regulations of 2011 are revoked on the appointed day.

PART 2

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MARINE ACCIDENT INVESTIGATION UNIT

Appointed day

6. The Minister shall, by order, appoint a day to be the appointed day for the purposes of this Act.

Marine Accident Investigation Unit

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7. (1) There shall be a unit within the Department of Transport which shall be known as the Marine Accident Investigation Unit (in this Act referred to as the “MAIU”) to perform the functions assigned to it under this Act or any other enactment.
- (2) The MAIU shall come into being on the appointed day.
- (3) The MAIU shall be independent, in its organisation and in the performance of its functions under *section 8*, of any person or body whose interests could conflict with its functions. 15
- (4) The MAIU is designated as the marine safety investigation authority for the purposes of Article 8 of the Directive.
- (5) The MAIU shall be given the means necessary for it to perform its functions under this Act. 20

Functions of MAIU

8. The functions of the MAIU shall be—

- (a) subject to *section 16*, to conduct marine safety investigations in respect of very serious marine casualties and, where it considers it warranted after the carrying out of a preliminary assessment, other marine accidents, 25
- (b) to carry out preliminary assessments of marine accidents,
- (c) to establish the cause of a marine accident that it investigates,
- (d) to make safety recommendations,
- (e) to prepare and publish annual and other reports on each marine safety investigation it carries out, in accordance with *sections 15* and *32*, 30
- (f) to engage with stakeholders for the purposes of assisting the MAIU with a marine safety investigation,

(g) to gather and analyse data relating to maritime safety, in particular for the purposes of the prevention of marine accidents, in so far as these activities do not affect its independence or entail responsibility in regulatory, administration or standardisation matters, and

(h) to promote maritime safety.

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Appointment of investigators

9. (1) The MAIU shall be staffed with investigators who possess the requisite independence, qualifications and experience, who shall perform the functions of the MAIU.

(2) The MAIU shall be led by an investigator known as the Chief Investigator.

(3) The Public Appointments Service shall recommend to the Minister after competitions held by the Public Appointments Service for that purpose— 10

(a) a person for appointment by the Minister to the role of Chief Investigator, and

(b) persons for appointment by the Minister to the role of investigators.

(4) An investigator shall be furnished with a warrant of the investigator's appointment and, when performing a function of the MAIU under this Act the investigator shall, if so required by any person affected, produce the warrant or copy of it to that person. 15

Functions of Chief Investigator

10. (1) The Chief Investigator shall—

(a) carry on and manage, and control generally, the administration and business of the MAIU, 20

(b) be the investigator-in-charge in respect of marine safety investigations or, where he or she considers it appropriate to do so, appoint another investigator as investigator-in-charge in relation to a particular marine safety investigation,

(c) provide the Minister with information (including financial information) relating to the performance by the Chief Investigator and the MAIU of their respective functions, 25

(d) manage the application of the policy published by the Minister pursuant to *section 11(1)*, and

(e) manage the compliance of the MAIU with the independence requirements of Article 8 of the Directive and this Act. 30

(2) The Chief Investigator shall, having regard to *section 7(5)*, make recommendations to the Minister, with respect to the level of staffing of the MAIU as the Chief Investigator considers necessary for the performance of the functions of the MAIU.

(3) The Chief Investigator shall not receive instruction from any officer of the Minister whose decision-making relates to any of the following: 35

(a) seaworthiness of ships;

(b) certification of compliance of ships or seafarers with maritime safety regulations;

- (c) inspection of ships or ship operations to determine compliance with maritime safety regulations;
 - (d) manning of ships;
 - (e) safe navigation on water;
 - (f) construction, maintenance and repair of ships; 5
 - (g) vessel traffic and routing;
 - (h) port State control;
 - (i) flag state implementation;
 - (j) operation of seaports and harbours.
- (4) The Chief Investigator may delegate the performance of any of his or her functions under *subsection (1)* to another investigator. 10

Conflicts of interest

11. (1) The Minister shall, within 6 months of the commencement of this section and thereafter where a decision to revise has been made under *subsection (10)(b)* or *section 13(5)*, in consultation with the Chief Investigator, the designated person referred to in *subsection (4)* and any other person that the Minister considers appropriate, prepare and publish a policy (in this Act referred to as the ‘conflicts of interest policy’). 15
- (2) The purpose of the conflicts of interest policy shall be to ensure the independence of the MAIU and the independence and impartiality of investigators. 20
- (3) The conflicts of interest policy shall include processes and procedures in relation to—
- (a) the identification of conflicts of interest and potential conflicts of interest,
 - (b) the stages at which conflicts of interest or potential conflicts of interest may arise,
 - (c) the identification of persons in relation to whom conflicts of interest or potential conflicts of interest may arise, 25
 - (d) the identification of persons who should be consulted in relation to the conflicts of interest policy, and
 - (e) processes for the disclosure of conflicts of interest.
- (4) The Minister shall, before the appointed day and, subject to *subsection (6)*, as the need arises thereafter, designate one of his or her officers (in this Act referred to as the “designated person”), being an officer who does not perform any functions that could conflict with the functions of the MAIU, to be a designated person for the purposes of this Part. 30
- (5) The functions of the designated person shall be the following:
- (a) to manage conflicts of interest that may arise in the MAIU; 35
 - (b) to advise the Minister in relation to the operation of the conflicts of interest policy and, where from time to time it becomes advisable to review the policy, of this fact and of the reasons for it;

- (c) to manage matters relating to confidentiality that may arise in the MAIU.
- (6) The designated person shall remain in his or her role until he or she dies, retires, resigns or comes to a mutual agreement with the Minister to no longer continue in that capacity and, in that event, the Minister shall designate another person under *subsection (4)*. 5
- (7) An investigator shall not be an employee or board member of any company or body that carries on activities that could conflict with the functions of the MAIU.
- (8) Where an investigator, not being the Chief Investigator, believes that performing any of his or her functions in respect of a particular marine safety investigation would—
 - (a) potentially create a conflict of interest, the investigator shall recuse himself or herself from involvement in the investigation in question and shall notify the designated person and the Chief Investigator of the recusal, or 10
 - (b) reasonably give rise to the perception of a conflict of interest, the investigator shall notify the Chief Investigator and shall, where the Chief Investigator is of the view that it is the appropriate course of action, recuse himself or herself from the investigation in question. 15
- (9) Where the Chief Investigator believes that—
 - (a) performing any of his or her functions in respect of a marine safety investigation would potentially create a conflict of interest or give rise to the perception of any conflict of interest, or 20
 - (b) an issue has arisen that may compromise the independence of the MAIU,

he or she shall disclose this view to the designated person and where the circumstances referred to in *paragraph (a)* arise, shall recuse himself or herself from the investigation in question and the designated person may, where the Chief Investigator is the investigator-in-charge of the investigation, appoint another investigator to be the investigator-in-charge. 25
- (10) Where the designated person receives a notification under *subsection (8)(a)* or a disclosure under *subsection (9)*, he or she shall—
 - (a) in the case of a disclosure under *subsection (9)*, notify the unit within the Department of Transport that is responsible for human resources, which may carry out an enquiry as to whether there has been a breach of the conflicts of interest policy, and 30
 - (b) in either case form a view as to whether or not there should be a review of the conflicts of interest policy and, if he or she is of the view that a review is required, inform the Minister and the Chief Investigator of that view and of the reasons for it and the Minister shall decide whether to revise the conflicts of interest policy and *subsection (1)* shall apply to any such revision. 35

Removal from marine safety investigation

- 12. Where, following an enquiry under *section 11(10)(a)*, the unit within the Department of Transport that is responsible for human resources determines that an investigator has breached the conflicts of interest policy— 40

- (a) the investigator concerned shall cease to be involved in the marine safety investigation in relation to which it has been determined that there has been such a breach and, where the designated person and, unless the investigator concerned is the Chief Investigator, the Chief Investigator is of the view, given the nature of the breach, that it would not be appropriate for the investigator to continue in his or her role in other investigations, he or she may be removed from those investigations also, and 5
- (b) the investigator may, depending on the nature of the breach, be subject to disciplinary procedures.

Consultants and advisers

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- 13.** (1) For the purposes of the performance of the functions of the MAIU and on the recommendation of the Chief Investigator, the Minister may engage such consultants and advisers as the Chief Investigator considers necessary for the purpose of conducting a marine safety investigation.
- (2) Prior to the engagement of any consultant or adviser, the Chief Investigator shall satisfy himself or herself that the engagement is in accordance with the conflicts of interest policy. 15
- (3) A consultant or adviser shall, when requested to do so by the Chief Investigator for the purposes of this section, disclose any matters that may give rise to a potential conflict of interest. 20
- (4) Where, in the course of a marine safety investigation, the Chief Investigator is informed of or has reasonable grounds to suspect a conflict of interest on the part of a consultant or adviser who has been engaged under *subsection (1)*, he or she may arrange for the termination of the agreement under which the consultant or adviser was engaged and, where the agreement is terminated, shall notify the designated person of the termination of the agreement and the reasons for it. 25
- (5) The designated person, on receiving a notification under *subsection (4)*, shall form a view as to whether or not there should be a review of the conflicts of interest policy and, if he or she is of the view that a review is required, inform the Minister and the Chief Investigator of that view and the Minister shall decide whether to revise the conflicts of interest policy and *section 10(1)* shall apply to any such revision. 30

MAIU to keep itself informed on certain matters

- 14.** (1) Where a public authority has a function that has or may have a bearing on matters with which the MAIU is concerned, the MAIU shall keep itself informed of the policies, objectives, resolutions and guidelines relating to that function. 35
- (2) In this section, “public authority” means the Minister, the European Commission, the EMSA, the IMO, the International Labour Organization and any other authority inside or outside the State which, in the opinion of the Chief Investigator, has functions that have, or may have, a bearing on matters with which the MAIU is concerned.

Annual report

15. (1) As soon as practicable, but not later than 6 months after the end of each financial year, the MAIU shall—
- (a) report to the Minister in writing on its activities in that year, including how the independence requirements referred to in *section 10(1)(e)* have been met, and the Minister shall cause copies of the report (in this section referred to as the “annual report”) to be laid before each House of the Oireachtas, and 5
 - (b) publish a copy of the annual report on its website.
- (2) The financial year of the MAIU shall be the period of 12 months ending on the 31st day of December in any year, except in the period immediately following the MAIU’s coming into being, in which case the financial year shall be the period from the appointed day to the 31st day of December in the following year. 10
- (3) The annual report shall—
- (a) identify the marine accidents occurring during the period to which it relates,
 - (b) contain a summary of the position in respect of marine safety investigations ongoing or completed during that year, and 15
 - (c) provide information on safety recommendations that were issued by the MAIU that year and actions taken in that year in accordance with recommendations issued in previous years.

PART 3

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MARINE ACCIDENTS AND REPORTING

Marine safety investigations

16. (1) Other than in the circumstances referred to in *subsection (2)*, where it becomes aware of a marine accident having occurred or commenced, the MAIU shall carry out a preliminary assessment of the marine accident in order to determine whether a marine safety investigation is warranted, taking into account the seriousness of the marine accident, the type of ship or cargo involved and the potential for the findings of the marine safety investigation to lead to the prevention of future marine accidents. 25
- (2) Subject to *subsection (3)*, the MAIU shall conduct a marine safety investigation in the case of a very serious marine casualty. 30
- (3) The MAIU is not obliged to conduct a marine safety investigation in the case of a very serious marine casualty involving only—
- (a) ships operated by the State and used only on government non-commercial service,
 - (b) unless they are crewed and carrying more than 12 passengers for commercial purposes, ships not propelled by mechanical means, wooden ships of primitive build, pleasure yachts and pleasure craft not engaged in trade, 35
 - (c) inland waterway vessels operating in inland waterways,

(d) fishing vessels with a length of less than 15 metres, or

(e) fixed offshore drilling units,

and in these circumstances *subsection (1)* shall apply accordingly.

(4) A marine safety investigation shall be commenced by the MAIU as promptly as is practical after the marine accident occurs or commences and in any event no later than 2 months after its occurrence. 5

(5) Where, in the case of a marine casualty, the MAIU decides not to conduct a marine safety investigation, it shall record its decision and, in the case of a ship to which the Directive applies by virtue of not being excluded under Article 2(2) of the Directive, notify the EU Commission in accordance with Article 17(3) of the Directive. 10

Initial notification of marine accidents

17. (1) Subject to *subsection (5)*, the following persons shall, immediately on becoming aware of a marine accident having occurred or commenced, or as soon as practicable thereafter, notify the MAIU of the occurrence or commencement of the marine accident: 15

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

(b) the owner of the ship, unless he or she is satisfied that the accident has already been reported by a person referred to in *paragraph (a)*.

(2) In addition to any notification made under *subsection (1)*, the following persons or entities shall, unless the circumstances are such that in his or her or its reasonable opinion it is unnecessary to do so, immediately on becoming aware of the marine accident having occurred or commenced, or as soon as practicable thereafter, notify the MAIU of the occurrence or commencement of the marine accident: 20

(a) in the case of a marine accident within or adjacent to the limits of any harbour, the harbour authority for that harbour; 25

(b) in the case of a marine accident on any inland waterway in the State, the person, authority or body having responsibility for that waterway;

(c) in the case of a marine accident within Irish waters, the Irish Coast Guard;

(d) in the case of a marine accident involving an Irish ship or a substantial interest of the State, irrespective of the location of the marine accident and of the flag of the ship or ships involved, the Marine Survey Office. 30

(3) There shall be included in a notification under *subsection (1)* such relevant information as is known to the person making the notification, including the name and description of the ship, its position, the number of persons on board, if any, and as accurate a summary as possible of the marine accident. 35

(4) A person required by *subsection (1)* to make a notification who, without reasonable excuse, fails to do so commits an offence and is liable—

(a) on summary conviction to a class C fine, and

- (b) on conviction on indictment to a fine not exceeding €500,000 or imprisonment for a term not exceeding 5 years, or to both.
- (5) *Subsection (1)* shall not apply where the marine accident involves only a personal watercraft, recreational craft or small fast powered craft.

Comprehensive report of marine accidents

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18. (1) Every owner, charterer, master, skipper, person in charge, ship's agent, ship's manager and ship's husband of a ship involved in a marine accident, along with any other person whom the MAIU considers may have knowledge of the marine accident, shall, where requested to do so by the MAIU, make a comprehensive written and signed report to the MAIU, which shall include all relevant details of the marine accident that are known to the person making the report, and shall provide such additional relevant information known to the person as may be requested by the MAIU. 10
- (2) In this section, "relevant details" includes—
- (a) the name and description of the ship or ships involved in the marine accident and its or their IMO number, where applicable, 15
 - (b) if the ship is registered, the name of the flag state,
 - (c) subject to suitable and specific measures to protect the data, the names of the owner, charterer, master, skipper, person in charge, ship's agent and ship's husband and, in the case of a very serious marine casualty, the names of all persons killed, lost or seriously injured as a result of or arising out of the very serious marine casualty, 20
 - (d) the date and local time of the marine accident,
 - (e) the last point of departure and next point of intended landing of the ship,
 - (f) the position of the ship when the marine accident commenced or occurred,
 - (g) the number of passengers and crew, if any, on board the ship when the marine accident commenced or occurred and, where practicable, the names and addresses of the passengers and crew, and 25
 - (h) any known details relevant to the marine accident.

Purpose of marine safety investigations

19. (1) It shall not be the purpose of a marine safety investigation to attribute blame or fault. 30
- (2) Notwithstanding *subsection (1)*, the MAIU shall report fully on the causes of a marine accident regardless of whether fault or liability may be inferred from the findings.

Notification of European Commission

20. (1) The MAIU shall, at any stage of a marine safety investigation and where it is of the opinion that urgent action is needed by the European Union in order to prevent the risk of new casualties, inform the European Commission that an early alert is required. 35

- (2) The MAIU shall, with respect to marine casualties and marine incidents to which the Directive applies by virtue of not being excluded under Article 2(2) of the Directive—
 - (a) in accordance with the format in Annex II to the Directive, notify the European Commission, and
 - (b) in accordance with the EMCIP database scheme, provide the European Commission with data resulting from a marine safety investigation.

Mutual assistance

- 21.** (1) In the case of a marine safety investigation conducted by it to which the Directive applies by virtue of not being excluded under Article 2(2) of the Directive, the MAIU shall, where the marine accident the subject of the investigation impacts on one or more Member States—
- (a) cooperate with and provide assistance to the marine safety investigation authorities of other Member States with respect to their marine safety investigations,
 - (b) agree with another Member State as to which Member State has the task of leading a marine safety investigation in accordance with Article 7 of the Directive,
 - (c) delegate, on a case-by-case basis by mutual agreement, to another Member State the task of leading a marine safety investigation or specific tasks for the conduct of such an investigation,
 - (d) coordinate its activities with marine safety investigation authorities of other Member States to achieve the objectives of the Directive,
 - (e) cooperate, to the maximum extent possible, with substantially interested third countries in the marine safety investigation,
 - (f) cooperate in a marine safety investigation conducted by a substantially interested third country, in accordance with Articles 7 and 12 of the Directive, and
 - (g) cooperate with the EMSA.
- (2) The MAIU shall not conduct a parallel marine safety investigation into the same marine accident except in exceptional cases.
- (3) Where the MAIU conducts a parallel marine safety investigation, it shall notify the European Commission of the reasons for doing so and it shall exchange pertinent information with the marine safety investigation authority of the other Member State in order to reach, as far as possible, shared conclusions.
- (4) Where the MAIU is involved in a marine safety investigation involving two or more Member States, the respective activities of the MAIU shall be free of charge to the other Member States.
- (5) Where the MAIU requires assistance from a marine safety investigation authority of another Member State that is not involved in the marine safety investigation, the MAIU shall reimburse such costs incurred by the other authority in providing such assistance as may be agreed with that authority.

(6) Where a ro-ro ferry or a high-speed passenger craft is involved in a marine accident occurring—

(a) in territorial waters of the State, or

(b) other than in territorial waters of the State, where the State is the last Member State visited by that ferry or craft,

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the MAIU shall launch the marine safety investigation procedure.

(7) Where *subsection (6)* applies, the State shall remain responsible for the marine safety investigation and coordination with other substantially interested Member States until it is mutually agreed which of them is to be the lead investigating State.

Power to conduct marine safety investigations

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22. (1) Subject to *subsection (2)*, an investigator may, by the use of reasonable force if necessary, enter any place or premises or vehicle for the purpose of conducting a marine safety investigation or carrying out a preliminary assessment.

(2) An investigator may search any place or premises or vehicle he or she may enter for the purpose of his or her functions under this Act and take possession of and remove any object, document, books or records (including electronic records), which he or she believes on reasonable grounds to be relevant to the conduct of the marine safety investigation or preliminary assessment that is found in the course of the search.

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Search warrant

23. (1) An investigator shall not, except with the consent of the occupier, enter a private dwelling (other than a part of a private dwelling used as a place of work) unless the investigator has obtained a warrant from a judge of the District Court.

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(2) Where an investigator, in the exercise of the investigator's powers under *section 22*, is prevented from entering any place or premises, whether or not a private dwelling, or vehicle, where he or she believes that there are objects, documents, books or records relevant to the marine safety investigation or preliminary assessment, the investigator may apply to a judge of the District Court for a warrant under this section authorising the entry by the investigator into the place, premises or vehicle.

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(3) Without prejudice to the powers conferred on an investigator by or under any provision of this Act, an investigator may, for the purposes of conducting a marine safety investigation or carrying out a preliminary assessment, apply to a judge of the District Court for a warrant authorising entry in relation to any place.

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(4) Where, on the hearing of an application under *subsection (2)* or *(3)*, a judge of the District Court is satisfied on sworn information of the investigator that he or she—

(a) has been prevented from entering any place that is not a private dwelling,

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(b) has reasonable grounds for believing that relevant records are kept at a place that comprise, or form part of, a private dwelling, or

(c) has reasonable grounds for suspecting that evidence of, or relating to, the commission of an offence under this Act is to be found in any place,

that judge may issue a warrant authorising one or more investigators, accompanied, if the judge considers it appropriate to so provide, by such number of members of An Garda Síochána as may be specified in the warrant, at any time within 4 weeks from the date of issue of the warrant, to enter, if need be by force, the place or private dwelling and exercise any of the powers referred to in *section 22*.

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Powers of investigators – objects

24. (1) Where possession of an object, including electronic records, is taken by an investigator under *section 22(2)*, the investigator—

(a) may, subject to *paragraph (b)*, cause such tests, including tests to destruction, to be conducted on the object as are necessary for the purposes of the marine safety investigation or preliminary assessment,

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(b) shall to the extent that it is practical and safe to do so and does not unreasonably impede the progress of the marine safety investigation or preliminary assessment—

(i) take all reasonable measures to invite the owner of the object, and any person who appears on reasonable grounds to be entitled to possession of the object, to be present at the conduct of any tests referred to in *paragraph (a)*, and

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(ii) allow persons referred to in *subparagraph (i)* to be present at the conduct of those tests,

and

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(c) subject to the requirements of these tests, shall cause the object to be preserved pending its return to that owner or person, or to the person from whom possession was taken, as soon as possible after it has served the purpose for which possession of the object was taken.

(2) An investigator may take any measurements, copies, photographs or recordings that the investigator considers necessary for the purposes of a marine safety investigation or preliminary assessment.

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(3) An investigator, where necessary to ensure that a detailed examination can be made without delay, shall have access to any ship wreckage and the place where it is located, and control over the wreckage and place.

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Powers of investigators – directions

25. (1) An investigator may give to any person in, or in the vicinity of, a ship or the wreckage of a ship, involved in a marine accident, or any site or object the investigator considers, on reasonable grounds, might be relevant to a marine safety investigation or preliminary assessment, such directions to prevent or regulate the access by the person to the ship, wreckage, site or object, for such period as the investigator considers necessary to enable the marine safety investigation to be conducted or preliminary assessment to be carried out.

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(2) A direction under *subsection (1)* may be given orally or in writing, or generally to all persons by a written notice affixed on or in such a way in the vicinity of the ship, wreckage of a ship, site or object so as to be clearly visible to the public or persons to

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whom it is addressed, or by any other means the investigator considers necessary to inform the public generally.

- (3) A person who fails to comply with a direction under *subsection (1)* commits an offence and is liable on summary conviction to a class A fine.

Powers of investigators – records and other information

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26. (1) For the purposes of conducting a marine safety investigation or carrying out a preliminary assessment, an investigator may, subject to suitable and specific measures to protect the data—

- (a) require any person specified in *section 27(1)* or any person found in a place that is being searched to produce to the investigator information, documentation, books or records and where such information, documentation, books or records are kept in non-legible form to reproduce, in a legible form and to give him or her any information as the officer may reasonably require in relation to such information, documentation, books or records, 10
- (b) inspect and take copies of, or extracts from, any such information, documentation, books or records, 15
- (c) retain such information, documentation, books or records for such periods as he or she considers to be necessary for the purposes of conducting a marine safety investigation,
- (d) require any such person to provide such assistance as the investigator may reasonably require for the purpose of his or her functions under this Act, and 20
- (e) require any such person to answer such questions as the investigator may ask relative to the investigator's functions under this Act.

- (2) A person who obstructs or interferes with an investigator of exercising a power under this Act commits an offence and is liable on summary conviction to a class A fine. 25

- (3) A person who fails or refuses to comply with a requirement of an investigator pursuant to *paragraph (d)* or *(e)* of *subsection (1)*, or in purported compliance with such a requirement gives information or makes a declaration to the investigator that he or she knows to be false or misleading in any material respect commits an offence and is liable on summary conviction to a class A fine. 30

- (4) A statement or admission made by a person pursuant to a requirement under *paragraph (d)* or *(e)* of *subsection (1)* shall not be admissible as evidence in proceedings brought against the person for an offence (other than an offence under *subsection (3)*).

Preservation of evidence

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27. (1) An owner, charterer, master, skipper, person in charge, ship's agent, ship's manager or ship's husband of a ship and any responsible authority shall, in relation to a marine accident, take all reasonable measures to—

- (a) save all information from charts, log books, electronic and magnetic recordings and video tapes, including information from voyage data recorders and other 40

- electronic and digital devices relating to the period preceding, during and after the marine accident,
- (b) prevent the overwriting or other alteration of such information,
 - (c) prevent interference with any other equipment which might reasonably be considered pertinent to a marine safety investigation or preliminary assessment, 5
and
 - (d) collect and preserve all evidence expeditiously for the purposes of the marine safety investigation or preliminary assessment.
- (2) A person who fails to comply with *subsection (1)* commits an offence and is liable on summary conviction to a class C fine. 10
- (3) Any person who interferes with or alters information or equipment pertinent to a marine safety investigation or preliminary assessment or who withholds such information or equipment commits an offence and is liable—
- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 6 months, or to both, or 15
 - (b) on conviction on indictment, to a fine not exceeding €100,000 or imprisonment for a term not exceeding 2 years, or to both.

Confidentiality

- 28.** (1) In the course of performing his or her functions under this Act, an investigator, unless otherwise authorised by the designated person or required by law, shall ensure that he or she maintains confidentiality in respect of all matters arising in respect of those functions. 20
- (2) Officers of the Minister assigned to the MAIU but not in the role of investigator shall ensure that they maintain confidentiality with respect to the work of the MAIU.
- (3) Officers of the Minister not assigned to the MAIU to whom access to information and documents is granted for the purposes of administrative and information technology functions shall ensure that the confidentiality of documents and other information relating to marine safety investigations is maintained. 25
- (4) A person, being a civil servant, who contravenes this section shall be subject to disciplinary procedures. 30
- (5) A consultant or adviser who has been engaged by the Minister pursuant to *section 13*, or any person acting on behalf of or employed by such consultant or adviser, shall ensure that the confidentiality of documents, objects and other information shared with him or her is maintained.
- (6) Where, in the course of a marine safety investigation, the Chief Investigator is informed of or has reasonable grounds to suspect that a consultant or adviser has not maintained confidentiality in accordance with *subsection (5)*, he or she may arrange for the termination of the agreement under which the consultant or adviser was engaged and, where the agreement is terminated, shall notify the designated person of the termination of the agreement and the reasons for it. 35
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- (7) Nothing in this section shall operate to prevent the disclosure of information to an investigator.
- (8) In this section, and without prejudice to Data Protection Acts 1988 to 2018—
- (a) the maintenance of confidentiality means that a person who has that obligation under this section shall not, without the specific authorisation of the Chief Investigator or the designated person, as appropriate, disclose to another person (other than to members of staff in the Department of Transport working in units in that Department which are responsible for human resources or information technology) information that relates to a marine safety investigation or a preliminary assessment, and
 - (b) “confidential information” means the following:
 - (i) all witness evidence and other statements, accounts and notes taken or received by the MAIU in the course of a marine safety investigation;
 - (ii) records revealing the identity of persons who have given evidence in the course of a marine safety investigation;
 - (iii) information relating to persons involved in a marine accident that is of a particularly sensitive and private nature, including information concerning the health of such persons;
 - (iv) subject to the Freedom of Information Act 2014, information that is expressed by the MAIU to be confidential either as regards particular information or as regards information of a particular class or description.

Medical or physical examination

29. (1) Where an investigator believes on reasonable grounds that a physical or medical examination of a person who is directly or indirectly involved in the operation of any ship is necessary for the purpose of a marine safety investigation or a preliminary assessment, the investigator may, by notice in writing signed by the investigator, require either or both of the following:
- (a) the person, within such time (not exceeding 12 hours of the issue of the notice in the case of an examination or test for the presence or level, if any, of intoxicants in the person’s blood or urine), and at such place, as is specified in the notice, to submit to a physical or medical examination or to give samples of blood or urine, or both, for analysis or testing, or
 - (b) a medical practitioner or other person examining or who has examined a person involved in the operation of a ship or who has analysed or tested samples referred to in *paragraph (a)*, whether at the request of the investigator or otherwise, to provide to the investigator a report on the results of any such examination, analysis or test.
- (2) A medical practitioner may refuse to carry out an examination under *subsection (1)(a)* on medical grounds.
- (3) Subject to *subsection (2)*, a person who, without reasonable excuse, fails to comply with a notice under *subsection (1)* commits an offence and is liable on summary conviction to a class D fine.

- (4) In this section, “intoxicants” includes alcohol and drugs and any combination of drugs or of drugs and alcohol.

Detention of and interference with ships, etc.

30. (1) An investigator may detain a ship involved in a marine accident for such period as he or she thinks necessary for the purpose of conducting a marine safety investigation or carrying out a preliminary assessment and may give to any person on or apparently in charge of the ship such directions as the investigator thinks necessary to effect that detention. 5
- (2) An investigator may, by notice in writing to a member of the crew of a ship involved in a marine accident, require that person to stay in the vicinity, and for a period not exceeding 24 hours, specified in the notice, where in the investigator’s opinion the presence of the person is necessary for the purpose of conducting a marine safety investigation or carrying out a preliminary assessment. 10
- (3) A requirement under *subsection (2)* may be subject to such conditions as the investigator thinks fit and specifies in the notice. 15
- (4) A person who, without reasonable excuse, refuses or fails to comply with—
- (a) a direction under *subsection (1)*, or
 - (b) a requirement under *subsection (2)*,
- commits an offence and is liable, on summary conviction, to a class C fine or to imprisonment for a term not exceeding 6 months, or to both. 20
- (5) The Chief Investigator may apply to the District Court for an order prohibiting the interference by any person with a ship, including a wrecked or sunken ship, for such period as is necessary for the purpose of conducting a marine safety investigation or carrying out a preliminary assessment, and the Court may order accordingly.

Reopening of safety investigation

31. (1) The MAIU may re-open a completed marine safety investigation, including an investigation completed by the MCIB under the Act of 2000 or the Regulations of 2011, if satisfied there is new evidence available which could materially alter the findings of that investigation and the objective of preventing marine casualties and marine incidents in the future would be served by re-opening it. 25 30
- (2) The provisions of this Act shall apply to a re-opened investigation referred to in *subsection (1)* in the same way as they apply to a marine safety investigation.

Publication of report

32. (1) Subject to *subsection (2)* and *section 33*, the MAIU shall prepare and publish a report of a marine safety investigation in respect of a marine accident in accordance with Annex I to the Directive. 35
- (2) In respect of marine accidents to which the Directive does not apply by virtue of being excluded under Article 2(2) of the Directive, a report of a marine safety investigation shall be published in such form as the MAIU considers appropriate.

- (3) The MAIU shall endeavour to publish a report under this section not later than 12 months after the date of the marine accident to which the report relates.
- (4) Where it appears to the MAIU that it would not be possible or appropriate to publish a report within the period referred to in *subsection (3)* it shall, within that period, give to the Minister its reasons as to why the report cannot be so published and indicate the period within which it shall be published. 5
- (5) Where *subsection (4)* applies, the MAIU shall publish, within the period referred to in *subsection (3)*, an interim report.
- (6) A report of a marine safety investigation shall record all relevant findings, including the cause of the marine accident, where this has been established, and any recommendations of the MAIU. 10
- (7) A report of a marine safety investigation shall not be admissible as evidence in civil or criminal proceedings.

Draft report and observations

- 33. (1) Before publishing a report of a marine safety investigation, the MAIU shall send a draft of it or parts of it to any person who, in its opinion, is likely to be adversely affected by the publication or, if that person be deceased, such person as appears to the MAIU to best represent that person's interest. 15
- (2) Subject to *subsection (3)*, a person in receipt of a draft report under *subsection (1)* may, within a period of 28 days commencing on the date on which the draft is sent to the person, or such further period, not exceeding 28 days, as the MAIU in its absolute discretion sees fit, submit to the MAIU his or her observations in writing on the draft. 20
- (3) A person in receipt of a draft report under *subsection (1)* may apply to the MAIU for an extension of the period referred to in *subsection (2)*, not exceeding 3 days, in which to send his or her observations. 25
- (4) Observations submitted in accordance with this section shall be included in an appendix to the report, unless the person concerned, when submitting them, requests in writing that the observations not be published.
- (5) The MAIU shall take any observations submitted in accordance with this section into account before publishing its report and may incorporate the observations into its findings or recommendations in the report or make such comments on them in the report as it sees fit. 30
- (6) A person in receipt of a draft report under *subsection (1)* shall not publish or publicise, or cause to have published or publicised, the draft report or its contents, except with the prior consent in writing of the MAIU. 35
- (7) A person who contravenes *subsection (6)* commits an offence and is liable on summary conviction to a class C fine or to imprisonment for a term not exceeding 6 months, or to both.

Immunities from claims

34. (1) The Minister, as well as any consultant and adviser engaged under *section 13*, shall be immune from all claims for damages arising from the conduct of a marine safety investigation and the publication of the report, or interim report, of such investigation, where they act in good faith. 5
- (2) In *subsection (1)*, “report” includes a draft report referred to in *section 33* and any observations made under *section 33*.

PART 4

DISSOLUTION OF MCIB

Dissolution of MCIB

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35. The MCIB shall stand dissolved on and from the appointed day.

Transfer of rights and liabilities

36. (1) All rights and liabilities of the MCIB subsisting immediately before the appointed day and arising by virtue of any contract or commitment (expressed or implied) shall, on that day, stand transferred to the Minister. 15
- (2) Every right and liability transferred by *subsection (1)* to the Minister may, on and after the appointed day, be sued on, recovered or enforced by or against him or her in his or her own name, and it shall not be necessary for the Minister or the MCIB to give notice to any person of the transfer of any such right or liability.

Records of MCIB

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37. Each record held immediately before the appointed day by the MCIB shall, on that day, stand transferred to the Minister and shall, on and after that day, be the property of the Minister and be regarded as being held by the Minister.

Liability for loss occurring before appointed day

38. (1) A claim in respect of any loss or injury alleged to have been suffered by any person arising out of the performance, before the appointed day, of a function of the MCIB shall, on and after that day, lie against the Minister and not against the MCIB. 25
- (2) Any legal proceedings pending immediately before the appointed day, to which the MCIB is a party, shall be continued on and after that day, with the substitution in the proceedings of the Minister for the MCIB. 30
- (3) Where, before the appointed day, agreement has been reached between the parties concerned in settlement of a claim to which *subsection (1)* relates, the terms of which have not been implemented, or judgment in such a claim has been given in favour of a person but has not been enforced, the terms of the agreement or judgment, as the case may be, shall, on and after the appointed day, in so far as they are enforceable against the MCIB, be enforceable against the Minister and not the MCIB. 35

- (4) Any claim made or proper to be made by the MCIB in respect of any loss or injury arising from the act or default of any person before the appointed day shall, on and after that day, be regarded as having been made by or proper to be made by the Minister and may be pursued and sued for by the Minister as if the loss or injury had been suffered by the Minister.

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Final accounts and final annual report of MCIB

39. (1) The MAIU shall, in respect of the period specified under *subsection (4)*, prepare the final accounts of the MCIB.

- (2) The MAIU shall, not later than 6 months following the appointed day, submit the final accounts of the MCIB to the Comptroller and Auditor General for audit and the audited accounts, together with the report of the Comptroller and Auditor General, shall, as soon as practicable thereafter, be presented to the Minister who shall cause copies of the audited accounts, and the report, to be laid before each House of the Oireachtas.

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- (3) The MAIU shall, not later than 6 months following the appointed day, prepare and submit to the Minister the final annual report of the MCIB and the Minister shall, as soon as practicable thereafter, cause a copy of the final report to be laid before each House of the Oireachtas.

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- (4) For the purposes of *subsection (1)*, the Minister may specify a period that is longer or shorter than a financial year of the MCIB.

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Provisions consequent upon conferral of functions

40. (1) Anything commenced and not completed before the appointed day by or under the authority of the MCIB may, in so far as it relates to a function conferred on the MAIU by this Act, be carried on or completed on or after that day by the MAIU.

- (2) A reference to the MCIB in any enactment (other than this Act) or in the constitution of any company and relating to a function conferred on the MAIU by this Act shall, on and after the appointed day, be construed as a reference to the MAIU.

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MCIB immunity from claim

41. Notwithstanding the repeal of the Act of 2000 by *section 5*, section 37 of the Act of 2000 shall continue in force and effect in respect of the persons mentioned in that section involved in an investigation or report under the Act of 2000 or under the Regulations of 2011.

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Transitional investigation provisions

42. (1) Each report prepared and published by the MCIB before the appointed day under section 34 of the Act of 2000 shall have effect on and after that day as if it were prepared and published by the MAIU.

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- (2) Each report prepared and published by the MCIB before the appointed day under Regulation 11 of the Regulations of 2011 shall have effect on and after that day as if it were prepared and published by the MAIU.

- (3) Each safety recommendation made by the MCIB before the appointed day under Regulation 12 of the Regulations of 2011 shall have effect on and after that day as if it were made by the MAIU.
- (4) Where, prior to the appointed day, there is an ongoing investigation, that investigation shall, notwithstanding the repeal of the Act of 2000 by *section 5*, continue to be dealt with and determined by the MCIB investigator concerned or a MAIU investigator pursuant to *subsection (7)*, under and in accordance with Part 3 of the Act of 2000, subject to the following modifications—
- (a) each reference to the Board in that Part shall be read as a reference to the MAIU,
 - (b) each reference to an investigator in that Part shall be read as including a MAIU investigator, and
 - (c) any other necessary modifications.
- (5) Where, prior to the appointed day, there is an ongoing safety investigation, that investigation shall, notwithstanding the revocation of the Regulations of 2011 and the repeal of the Act of 2000 by *section 5*, continue to be dealt with and determined by the MCIB investigator concerned or a MAIU investigator pursuant to *subsection (7)*, under and in accordance with the Regulations of 2011, subject to the following modifications—
- (a) each reference to the Board in the Regulations of 2011 shall be read as a reference to the MAIU,
 - (b) each reference to the Board in Part 3 of the Act of 2000 shall be read as a reference to the MAIU,
 - (c) each reference to an investigator in Part 3 of the Act of 2000 shall be read as including a MAIU investigator, and
 - (d) any other necessary modifications.
- (6) Notwithstanding the repeal of the Act of 2000 and the revocation of the Regulations of 2011 by *section 5*, for the purpose of *subsections (4) and (5)*—
- (a) any notice or direction given, warrant issued or action taken in relation to an ongoing investigation or an ongoing safety investigation, shall continue to have effect on and after the appointed day, subject to any necessary modifications,
 - (b) section 18 of the Act of 2000 shall continue to apply to a MCIB investigator, subject to the modification that each reference to the Board in that section shall be read as a reference to the MAIU,
 - (c) sections 41 and 42 of the Act of 2000 shall continue to apply, subject to the modification that the reference to the Board in section 41 of that Act shall be read as a reference to the MAIU, and
 - (d) Regulation 15 of the Regulations of 2011 shall continue to apply, subject to the modification that the reference to the Board in that Regulation shall be read as a reference to the MAIU.
- (7) A MAIU investigator may, upon the request of the Chief Investigator, continue and complete an ongoing investigation or an ongoing safety investigation and, where a

MAIU investigator is so requested, he or she shall be furnished with a warrant of appointment for that purpose.

- (8) Where, prior to the appointed day, the Minister directs that an inquiry under section 38 of the Act of 2000 should be held, the tribunal shall, notwithstanding the repeal of the Act of 2000 by *section 5*, continue and complete that inquiry under and in accordance with section 38 of the Act of 2000, subject to any necessary modifications. 5

- (9) In this section—

“MAIU investigator” means an investigator appointed under *section 9*;

“MCIB investigator” means a person engaged under section 16(1) of the Act of 2000 to be an investigator; 10

“ongoing investigation” means an investigation of a marine casualty under the Act of 2000 in respect of which—

(a) a MCIB investigator has been appointed under section 26(2) of the Act of 2000, and

(b) a report has not, on the appointed day, issued under section 34 of the Act of 2000; 15

“ongoing safety investigation” means a safety investigation under the Regulations of 2011 in respect of which—

(a) a MCIB investigator has been appointed under section 26(2) of the Act of 2000, and 20

(b) a final report has not, on the appointed day, issued under Regulation 11 of the Regulations of 2011.

Admissibility in evidence of documents

43. (1) All records directed or authorised by or under any enactment to be kept by the MCIB and which, immediately before the appointed day, would be receivable in evidence shall, notwithstanding the dissolution of the MCIB, be admitted in evidence on or after the appointed day as fully as if this Act had not been enacted. 25

- (2) Whenever an extract from or certificate of the contents of any record directed or authorised by or under any enactment to be kept by the MCIB would, if verified in a particular manner by a particular officer of the MCIB, have been admissible immediately before the appointed day as evidence of such contents, an extract from or certificate of the contents of such record shall, if verified in such particular manner by an investigator (whose official position it shall not be necessary to prove) authorised by the Chief Investigator in that behalf, be admitted, on or after the appointed day, as evidence of such contents to the same extent as such first-mentioned extract or certificate would have been so admitted if this Act had not been enacted. 30 35

PART 5

OFFSHORE SERVICE VESSELS

Definitions

44. In this Part—

“authorised person” means—

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- (a) a surveyor of ships, or
- (b) a recognised organisation;

“cargo ship” means any ship in relation to which a cargo ship safety construction certificate is in force;

“cargo ship safety construction certificate” means the certificate issued in accordance with section 4 of the Merchant Shipping Act 1966; 10

“dangerous goods” means those goods referred to in the International Maritime Dangerous Goods (IMDG) Code adopted by the Maritime Safety Committee of the IMO by Resolution MSC.122(75) on 24 May 2002, and any amendments made to it up to and including those adopted by the 105th session of the Maritime Safety Committee by Resolution MSC.501(105) of 28 April 2022; 15

“declaration of survey” has the meaning it is given in *section 48(1)*;

“domestic voyage” means a voyage in sea areas from a place in the State to the same or another place within the State;

“fishing vessel” means any ship or boat, of any nature whatsoever, used or intended to be used for the purpose of commercial fishing; 20

“high-speed craft” has the meaning it is given in section 42 of the Merchant Shipping Act 2010;

“high-speed craft safety certificate” means a certificate issued in accordance with section 45 of the Merchant Shipping Act 2010; 25

“industrial personnel” means all persons who are transported or accommodated on board a vessel for the purpose of offshore industrial activities performed on board other ships or offshore facilities;

“industrial personnel safety certificate” means—

- (a) an international industrial personnel safety certificate issued under *paragraph (a) of section 48(3) or section 48(4)*, or 30
- (b) an Irish industrial personnel safety certificate issued under *paragraph (b) of section 48(3)*;

“international voyage” means—

- (a) a voyage by sea from the State to another state, or conversely, or 35
- (b) a voyage by sea from one state to another state that does not originate or terminate in the State;

“IP Code” means the International Code of Safety for Ships carrying Industrial Personnel adopted by the 106th session of the Maritime Safety Committee of the IMO by Resolution MSC.527(106) on 10 November 2022;

“Irish offshore service vessel” means a ship within the meaning of section 9 of the Mercantile Marine Act 1955;

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“offshore industrial activities” means the construction, maintenance, decommissioning, operation or servicing of offshore facilities including those related to exploration and exploitation of resources by the renewable or hydrocarbon energy sector, aquaculture, ocean mining or similar activities;

“offshore service vessel” means a vessel carrying or accommodating more than 12 industrial personnel;

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“passenger” means any person carried on a vessel other than—

(a) the owner of the vessel or a person to whom the vessel is on hire, or a person employed or engaged in any capacity on board the vessel on the business of the vessel,

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(b) industrial personnel, or

(c) a person on board the vessel either in pursuance of the obligation laid upon the master of the vessel to carry shipwrecked, distressed or other persons or by reason of any circumstances that could not have been prevented or forestalled by the master or the owner of the vessel;

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“recognised organisation” means an organisation recognised in accordance with Regulation (EC) No. 391/2009 of the European Parliament and of the Council of 23 April 2009² on common rules and standards for ship inspections and survey organisations (Recast);

“renewal certificate” has the meaning it is given in *section 49(3)*;

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“renewal survey” means a survey of an offshore service vessel for the purpose of issuing a renewal certificate;

“Safety Convention” has the meaning it is given in the Merchant Shipping (Safety Convention) Act 1952;

“surveyor of ships” means a person appointed under section 724 of the Merchant Shipping Act 1894 to be a surveyor of ships for the purposes of that Act.

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Application of Part

45. (1) This Part applies to—

(a) Irish offshore service vessels,

(b) offshore service vessels not registered in the State, operating on domestic voyages, and

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(c) offshore service vessels not registered in the State while in a port in the State, except where such a vessel would not be within any such port but for the stress of

2 OJ No. L131, 28.5.2009, p. 11

weather or any other circumstance that neither the master nor the owner of the ship could have prevented or forestalled.

(2) This Part does not apply to—

- (a) passenger ships certified under Part II of the Merchant Shipping Act 1992,
- (b) passenger boats licenced under Part III of the Merchant Shipping Act 1992, 5
- (c) ships of the Naval Service of the Defence Forces or ships of war and troopships of another state,
- (d) ships not propelled by mechanical means,
- (e) wooden ships of primitive build,
- (f) pleasure yachts, or 10
- (g) fishing vessels.

Offshore service vessel and industrial personnel rules

46. (1) The Minister may make rules (in this Part referred to as “offshore service vessel and industrial personnel rules”) providing requirements for—

- (a) the design, construction, subdivision, stability, equipment, machinery and machinery installations, electrical installations, radio installations, accommodation, fire safety and protection, life-saving appliances, dangerous goods, energy sources and propulsion systems and equipment, ship navigation and navigation systems and equipment, transfer arrangements, and classes of offshore service vessels, 15 20
 - (b) the carriage of passengers and industrial personnel on offshore service vessels, including training, medical fitness, health and safety, risk assessments, accident prevention, reporting requirements and on-board familiarisation regarding safety, equipment, communications and transfer arrangements, and
 - (c) the number of passengers, industrial personnel, crew and other persons to be carried or accommodated on board offshore service vessels and any aggregate number that may be included on board. 25
- (2) Offshore service vessels shall comply with such requirements of recognised organisations relating to design, construction and maintenance (including main and auxiliary machinery and electrical and automatic parts) as the Minister may specify in offshore service vessel and industrial personnel rules. 30
- (3) Offshore service vessel and industrial personnel rules may include such requirements as the Minister considers necessary in order to implement the provisions of Chapter XV of the Safety Convention and the IP Code.
- (4) In making offshore service vessel and industrial personnel rules the Minister may provide for and make different rules in respect of different classes of offshore service vessels, having regard to— 35
- (a) the size, shape, speed or configuration of the vessel,
 - (b) the service for which the vessel is to be employed,

- (c) the nature and duration of voyages to be undertaken,
 - (d) the number of industrial personnel, passengers, crew or other persons to be carried on board the vessel,
 - (e) the type of cargo carried, including dangerous goods,
 - (f) the age and date of construction of the vessel, and 5
 - (g) in the case of a vessel that is not registered in the State and is on a domestic voyage, the equivalent standards applied by the flag state.
- (5) Where offshore service vessel and industrial personnel rules require that the hull or machinery of a ship be constructed in a particular manner, or that particular equipment be provided, or particular provision be made, the Minister may approve the hull or machinery of the ship to be constructed in any other manner or any other equipment to be provided or other provision made, if the Minister is satisfied that such other construction or equipment or other provision is at least as effective as that required by the offshore service vessel and industrial personnel rules. 10
- (6) Offshore service vessel and industrial personnel rules may include requirements in relation to— 15
- (a) the survey and inspection of offshore service vessels, including the inspection and testing of any equipment, systems, fittings and arrangements on such vessels,
 - (b) the extent, manner and intervals of such surveys and inspections, which may include requirements for— 20
 - (i) an initial survey before a vessel is put into service,
 - (ii) an annual survey to ensure the vessel continues to comply with rules under this section,
 - (iii) an intermediate survey within 3 months before or after the second or third anniversary of the issue of the industrial personnel safety certificate, which shall take the place of an annual survey which would otherwise be due that year, 25
 - (iv) a renewal survey at least every five years, and
 - (v) a periodic survey, either general or partial depending on the circumstances, to ensure continued compliance with the offshore service vessel and industrial personnel rules where— 30
 - (I) a change, replacement or significant repair of the structure, equipment, systems, fittings, arrangements and materials takes place, or
 - (II) a complaint is made concerning possible non-compliance with the rules.
- (7) Offshore service vessel and industrial personnel rules may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the rules. 35
- (8) A person that fails to comply with a provision in the offshore service vessel and industrial personnel rules that is stated in those rules to be a penal provision commits an offence. 40

- (9) Offshore service vessel and industrial personnel rules may exempt a class or classes of offshore service vessel, whether in whole or in part, from a requirement to comply with any provision of the rules.

Powers of authorised persons

47. (1) An authorised person shall have the power to— 5
- (a) board any offshore service vessel while the vessel is in the State or board any Irish offshore service vessel anywhere and survey and inspect the vessel, its machinery, equipment and fittings and perform any tests necessary to ensure the vessel is compliant with requirements under this Part and the offshore service vessel and industrial personnel rules, 10
 - (b) inspect any document or record on board the vessel and require any person on board to produce any document or record and respond to queries and, in the case of records or documents stored in a non-legible form, produce to him or her a copy in legible form,
 - (c) require any person on board the vessel to provide his or her name and address, 15
 - (d) take a copy of an entry in, or extract from, any document or logbook of the vessel or any other record and require the master to certify the copy as a true copy,
 - (e) take photographs or make any record or visual or electronic recording of the ship or any activity on the ship or the premises or place in relation to the exercise of a power under this section, 20
 - (f) inspect any container or place of storage and any apparatus used for the transfer of persons to or from the vessel,
 - (g) require any person to provide such assistance as the authorised person may reasonably require, and
 - (h) require any such person to answer such questions as the authorised person may ask. 25
- (2) A master of a ship shall remain on board during the exercise by an authorised person of his or her powers under *subsection (1)(a)* and shall cooperate with the authorised person in the exercise of those powers.
- (3) The Minister may, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, prescribe fees for any surveys, inspections or tests referred to in *subsection (1)* and different amounts may be prescribed in respect of different classes of surveys, inspections or tests. 30
- (4) A person who obstructs or interferes with an authorised person in the course of exercising a power under this Part commits an offence and is liable on summary conviction to a class A fine. 35
- (5) A person who fails or refuses to comply with a requirement of an authorised person pursuant to *paragraph (b), (c), (g) or (h) of subsection (1)*, or in purported compliance with such a requirement gives information or makes a declaration to the authorised person that he or she knows to be false or misleading in any material respect commits an offence and is liable on summary conviction to a class A fine. 40

- (6) A statement or admission made by a person pursuant to a requirement under *paragraph (b), (c), (g) or (h) of subsection (1)* shall not be admissible as evidence in proceedings brought against the person for an offence (other than an offence under *subsection (5)*).

Industrial personnel safety certificate

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48. (1) Where, following a survey, a surveyor of ships is satisfied that an offshore service vessel meets the requirements of offshore service vessel and industrial personnel rules, he or she shall provide the owner with a declaration of survey (in this Part referred to as a “declaration of survey”) which shall include statements concerning the vessel and any other matters that arose in the course of the survey and may include conditions or restrictions placed on the vessel. 10
- (2) A declaration of survey shall be signed by the master or owner of the ship who shall confirm that all the information that was provided to the surveyor of ships is accurate and acknowledge any conditions or restrictions placed on the vessel.
- (3) On receipt by the Minister of a signed declaration of survey, he or she shall issue to the owner of the vessel— 15
- (a) in the case of an offshore service vessel of 500 gross tonnage and upwards on an international voyage, an international industrial personnel safety certificate, and
- (b) in the case of any other offshore service vessel, an Irish industrial personnel safety certificate, 20
- certifying compliance with offshore service vessel and industrial personnel rules.
- (4) A recognised organisation may, on behalf of the Minister, and after satisfying itself following the completion of a survey that an offshore service vessel complies with offshore service vessel and industrial personnel rules, issue to the owner of the vessel of 500 gross tonnage and upwards on an international voyage an international industrial personnel safety certificate. 25
- (5) An owner or master of an offshore service vessel not registered in the State shall not operate on domestic voyages unless an Irish industrial personnel safety certificate has been issued in respect of it, which certificate remains valid under this Part.
- (6) For the purpose of issuing an Irish industrial personnel safety certificate in the circumstances specified in *subsection (5)*, the Minister may accept a declaration of compliance from a surveyor of ships based on compliance with the requirements of a flag state where the Minister is satisfied that the flag state concerned has equivalent standards to the requirements of offshore service vessel and industrial personnel rules. 30
- (7) An industrial personnel safety certificate shall state the period for which it is to remain valid, which period— 35
- (a) shall not exceed 5 years, and
- (b) may be varied by reference to—
- (i) in the case of a cargo ship, the period of validity for the vessel’s cargo ship safety construction certification, 40

- (ii) in the case of a high-speed craft, the period of validity for the vessel's high-speed craft safety certificate, and
 - (iii) in the case of an offshore service vessel not registered in the State which is operating on domestic voyages, the period of validity for the vessel's underlying safety certificate issued by the flag state. 5
- (8) An industrial personnel safety certificate shall be in such form as the Minister may prescribe and shall detail any limitations, conditions or restrictions the Minister or the recognised organisation decide to impose based on the outcome of a survey.
- (9) An industrial personnel safety certificate shall identify the maximum number of persons permitted to be accommodated or carried on board. 10
- (10) The owner or master of a vessel shall ensure that the number of persons carried on board does not exceed the maximum number of persons specified in the industrial personnel safety certificate.
- (11) An industrial personnel safety certificate is no longer valid where—
 - (a) the cargo ship safety construction certificate or the high-speed craft safety certificate, or 15
 - (b) in the case of an offshore service vessel not registered in the State operating on a domestic voyage, the safety certificate issued by the flag state, expires, is suspended or is revoked.
- (12) An owner of a vessel to whom *subsection (11)(b)* applies shall notify the Minister immediately on the occurrence of the event referred to in that provision. 20
- (13) Where an industrial personnel safety certificate has been issued to an Irish offshore service vessel, the owner or master shall not make changes to the structure, equipment or fittings of the vessel to which the certificate applies, without the prior approval of the Minister, other than to replace or repair any defective equipment or fittings and any replacement equipment or fittings shall be of the same or a higher standard in order to ensure that the safety of the vessel is maintained. 25
- (14) An owner or master of an offshore service vessel shall not operate the vessel unless an industrial personnel safety certificate has been issued in respect of it, which certificate remains valid under this Part. 30
- (15) The master of an offshore service vessel carrying or accommodating industrial personnel shall not proceed to sea without a valid industrial personnel safety certificate pertaining to the vessel being carried on board.
- (16) A person who fails to comply with *subsection (5), (10), (12), (13), (14) or (15)* commits an offence and is liable on summary conviction to a class A fine. 35

Endorsement, extension, suspension and revocation of certificates

- 49. (1) Where an authorised person carries out an annual, intermediate or periodic inspection of an offshore service vessel, he or she may endorse the industrial personnel safety certificate concerned to record that the vessel continues to comply with offshore service vessel and industrial personnel rules. 40

- (2) An authorised person may extend the validity of an industrial personnel safety certificate issued under *section 48(3) or (4)* by a period not exceeding 3 months from its expiry date for the purposes of allowing the offshore service vessel to complete its voyage to a port in which a survey may be carried out.
- (3) Where, on the expiration of the period of validity of an industrial personnel safety certificate, a further industrial personnel safety certificate in respect of the offshore service vessel (in this Part referred to as a “renewal certificate”) is issued pursuant to *section 48(3) or (4)*, then regardless of whether the industrial personnel safety certificate has been extended under *subsection (2)*, the period of validity of the renewal certificate shall commence on the date immediately after the original date of expiry of the industrial personnel safety certificate. 5 10
- (4) Where a renewal certificate is issued in circumstances where an industrial personnel safety certificate has been extended under *subsection (2)*, the latter certificate shall be withdrawn.
- (5) Where the Minister is satisfied that— 15
- (a) a declaration of survey was issued on the basis of false or misleading information,
 - (b) significant changes have been made to the structure, equipment or fittings of an offshore service vessel without prior approval by the Minister under *section 48(13)*, 20
 - (c) the vessel has suffered significant damage and it has become unsuitable to operate in the manner for which it is certified, or
 - (d) the owner or master of a vessel has failed to comply with a condition, limitation or restriction specified in the certificate,
- the Minister may suspend or revoke the industrial personnel safety certificate of the vessel. 25
- (6) Where an industrial personnel safety certificate has been suspended, the Minister may, having been satisfied that an additional survey has been carried out and corrective measures addressing the cause of the suspension implemented, lift the suspension and endorse the certificate to record that the vessel complies with offshore service vessel and industrial personnel rules. 30
- (7) Where an industrial personnel safety certificate has been revoked, a certificate may be issued under *section 48(3) or (4)* only where the vessel has undergone a renewal survey.
- (8) Where an industrial personnel safety certificate has been suspended or revoked, the master of the offshore service vessel shall not operate the vessel as an offshore service vessel or carry industrial personnel for the purpose of offshore industrial activities, unless, where a certificate has been suspended, the suspension is lifted under *subsection (6)* or, where a certificate has been revoked, a certificate is issued under *section 48(3) or (4)* following a renewal survey pursuant to *subsection (7)*. 35 40
- (9) The master or owner of a vessel or his or her representative in the State may appeal the suspension or revocation of an industrial personnel safety certificate under *subsection (5)*.

- (10) An appeal under *subsection (9)* may be taken within 7 working days of the suspension or revocation of an industrial personnel safety certificate and shall be made to the judge of the Circuit Court in whose Circuit the port in which the vessel concerned is, or was, at the time of the revocation or suspension, berthed or docked.
- (11) Where the judge of the Circuit Court concerned considers that there is good and sufficient reason for extending the period referred to in *subsection (10)*, he or she may do so. 5
- (12) On the hearing of an appeal under *subsection (10)*, the judge may—
 - (a) confirm the suspension or revocation,
 - (b) set aside the suspension or revocation, or 10
 - (c) set aside the suspension or revocation and replace it with such other decision as the judge considers just and appropriate.

Detention of offshore service vessels

50. (1) Where a surveyor of ships has reason to believe that an offshore service vessel is not in compliance with this Part or offshore service vessel and industrial personnel rules and, in his or her opinion, the detention of the vessel is necessary to protect the vessel or the environment or the health and safety of the crew, industrial personnel or passengers, he or she may stop and detain the vessel or direct it to a place in the State deemed appropriate for its detention. 15
- (2) Where an offshore service vessel is being detained under *subsection (1)*, the surveyor of ships shall serve a notice (in this section referred to as a “notice of detention”) on the master of the vessel. 20
- (3) A notice of detention shall—
 - (a) state the grounds upon which the vessel is detained,
 - (b) identify the provision of this Part or rules referred to in *subsection (1)* that has or has not been or is not being complied with, 25
 - (c) specify the action to be taken before the notice will be withdrawn and, where appropriate, the period within which that action shall be taken,
 - (d) inform the master of the vessel of the requirement to confirm compliance under *subsection (4)*, 30
 - (e) inform the master of the right to appeal the notice under *subsection (8)*,
 - (f) state that a failure to comply with a notice is an offence, and
 - (g) be signed and dated by the surveyor of ships.
- (4) The master of a vessel on whom a notice of detention has been served who is of the opinion that the notice has been complied with shall confirm such compliance in writing to the Minister. 35
- (5) The owner or master of a vessel shall comply with an action specified in a notice of detention and shall not move a vessel other than in a manner that may be determined by the surveyor of ships under *subsection (1)*.

(6) A vessel may be released from detention under this section if a surveyor of ships is satisfied that the action specified in the notice of detention has been carried out and in these circumstances the surveyor of ships shall issue a notice of release to the master of the vessel.	
(7) When exercising powers under this section, a surveyor of ships may be accompanied by members of An Garda Síochána, persons holding commissioned naval rank in the Permanent Defence Forces or officers of the Revenue Commissioners, and those persons may take with them any equipment or materials (including firearms or other weapons where the person is a member of the Defence Forces or An Garda Síochána) to assist the surveyor in the exercise of his or her powers.	5 10
(8) An appeal may be taken within 7 working days after the date of service of the notice of detention and such an appeal shall be to the judge of the Circuit Court in whose Circuit the port in which the vessel concerned is or was at the time of the detention berthed or docked.	
(9) On the hearing of an appeal under <i>subsection (8)</i> , the judge may—	15
(a) confirm the notice of detention,	
(b) set aside the notice of detention, or	
(c) make such modifications to the notice of detention as he or she considers just and appropriate.	
Penalties	20
51. (1) A person who breaches <i>section 46(8)</i> , <i>section 49(8)</i> or <i>section 50(4)</i> or (5) commits an offence and is liable—	
(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 6 months, or to both, or	
(b) on conviction on indictment, to a fine not exceeding €500,000 or imprisonment for a term not exceeding 5 years, or to both.	25
(2) A summary offence under this Part may be prosecuted by the Minister.	
Consequential and miscellaneous amendments	
52. (1) The Merchant Shipping Act 1894 is amended—	
(a) by the substitution of the following section for section 418:	30
“418. (1) The Minister for Transport may make regulations for the prevention of collisions at sea.	
(2) Regulations under this section may prescribe—	
(a) the conduct of vessels—	
(i) in any condition of visibility,	35
(ii) in restricted visibility,	
(iii) in sight of one another, and	

- (iv) restricted in their ability to manoeuvre,
 - (b) requirements for maintaining a safe look-out and safe speed,
 - (c) actions to be taken to avoid collisions,
 - (d) responsibilities between vessels,
 - (e) requirements for lights and shapes, visibility of lights, towing and pushing, sound and light signals, equipment for sound signals, manoeuvring and warning signals, 5
 - (f) requirements for the survey of vessels for compliance with regulations made under this section,
 - (g) such requirements as the Minister considers necessary to give effect to the provisions of the international collision regulations, and 10
 - (h) such requirements for the inspection of vessels as the Minister considers necessary to ensure continued compliance with regulations made under this section. 15
- (3) Regulations made under this section shall apply to Irish ships and to any other ship while it is within any port in the State unless it would not have been in any such port but for stress of weather or any other circumstances that neither the master nor the owner of the ship could have prevented or forestalled. 20
- (4) Regulations made under this section may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.
- (5) In this section—
- ‘international collision regulations’ means the International Maritime Organization’s Convention on the International Regulations for Preventing Collisions at Sea 1972 and any amendments made to it up to and including those adopted by the 28th Session of the Assembly of the International Maritime Organization on 4 December 2013 through Resolution A.1085(28); 25 30
- ‘Irish ship’ means a ship, other than a ship of war, known as such under section 9 of the Mercantile Marine Act 1955.”,
- and
- (b) by the substitution of the following section for section 420:
- “420. (1) A surveyor of ships may—** 35
- (a) survey any ship for compliance with regulations made under section 418,
 - (b) inspect any ship for the purpose of ensuring that the ship is properly provided with lights and means of making fog signals in conformity with regulations made under section 418 and, if the 40

- surveyor finds that the ship is not so provided, he or she shall give to the master or owner notice in writing indicating the deficiencies and what is required to rectify them,
- (c) board and inspect any ship for the purposes of ensuring that a deficiency is remedied in accordance with a notice under paragraph (b), and 5
 - (d) for the purposes of a survey under paragraph (a) or inspection under paragraph (b) or (c), carry out such tests (either on the ship, ashore or at dock), ask such questions, inspect such documents and records and have access to such systems or equipment as he or she considers appropriate for that purpose. 10
- (2) Where a ship, in respect of which a notice has been given to its owner or master under subsection (1)(b), proceeds or attempts to proceed to sea before the deficiencies specified in the notice, which deficiencies are required to be remedied before proceeding to sea, have been addressed, then the person to whom the notice is addressed commits an offence and is liable— 15
- (a) on summary conviction to a class A fine, or
 - (b) on conviction on indictment, to a fine not exceeding €100,000.
- (3) The Minister may, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, prescribe fees for any surveys, inspections or tests referred to in subsection (1) and different amounts may be prescribed in respect of different classes of surveys, inspections or tests.”. 20
- (2) The Merchant Shipping (Safety Convention) Act 1952 is amended— 25
- (a) in section 3(1)—
 - (i) by the insertion of the following definition:

“ ‘surveyor of ships’ means a person appointed under section 724 of the Principal Act to be a surveyor of ships for the purposes of that Act;”, 30

and
 - (ii) by the substitution of the following definition for the definition of “Safety Convention”:

“ ‘Safety Convention’ means the International Convention for the Safety of Life at Sea signed in London on behalf of the Government on 1 November 1974, together with the Protocol to the International Convention for the Safety of Life at Sea signed in London on behalf of the Government on 17 February 1978 and the Protocol to the International Convention for the Safety of Life at Sea signed in London on behalf of the Government on 11 November 1988 and any amendments made to it up to and including those adopted by the 106th session of the Maritime Safety Committee of the International 35 40

Maritime Organisation held between 2 and 11 November 2022 and which have entered into force in respect of the State pursuant to Article VIII of the Convention prior to the enactment of the *Merchant Shipping (Investigation of Marine Accidents) Act 2025*,”

- (b) in section 18— 5
 - (i) by the substitution of the following subsection for subsection (1):
 - “(1) The Minister may make rules (‘navigation and tracking rules’) prescribing requirements for—
 - (a) navigation and tracking systems and equipment including the position, method of fitting and maintenance of such systems and equipment, 10
 - (b) the survey of navigation and tracking systems and equipment for compliance with rules made under this section, including the extent, manner and intervals of such surveys, and
 - (c) the inspection of navigation and tracking systems and equipment to ensure continued compliance with rules made under this section.”, 15
 - (ii) in subsection (8), by the substitution of “board, survey and inspect” for “board and inspect”,
 - (iii) in subsection (9), by the substitution of “carrying out a survey or inspection” for “making an inspection”, 20
 - (iv) in subsection (10), by the substitution of “board, survey and inspect” for “board and inspect”, and
 - (v) in subsection (11), by the substitution of “a survey or inspection” for “an inspection”,
- (c) in section 22— 25
 - (i) in subsection (1)—
 - (I) by the deletion of “and to such international voyages as she is to be engaged on”, and
 - (II) by the substitution of “complies with such requirements” for “complies with such of the requirements of the Safety Convention relating to those matters as are applicable as aforesaid”, 30
 - and
 - (ii) in subsection (2)—
 - (I) by the deletion of “and to such international voyages as she is to be engaged on”, and 35
 - (II) by the deletion, in paragraph (a), of “of the Safety Convention, being requirements the subject”,
- (d) in section 23—
 - (i) in subsection (1)—

- (I) by the deletion of “and to such international voyages as she is to be engaged on”, and
 - (II) by the substitution of “complies with such requirements” for “complies with such of the requirements of the Safety Convention relating to radiocommunications and navigation and tracking systems and equipment as are applicable as aforesaid”, 5
- (ii) in subsection (2)—
 - (I) by the deletion of “and to such international voyages as she is to be engaged on”, and
 - (II) by the deletion, in paragraph (a), of “of the Safety Convention”, 10
 and
- (iii) in subsection (3), by the deletion of “of the Safety Convention”, and
- (e) in section 36, by the substitution of the following subsection for subsection (1):
 - “(1) The Minister may make rules prescribing requirements for— 15
 - (a) what signals shall be used by ships as signals of distress and the circumstances in which, and the purposes for which, any such signal is to be used and the circumstances in which it is to be revoked,
 - (b) the survey of vessels for compliance with rules made under this section, including the extent, manner and intervals of such surveys, 20
 - and
 - (c) the inspection of vessels for compliance with rules made under this section.”.
- (3) The Merchant Shipping Act 1992 is amended— 25
 - (a) in section 2(1)—
 - (i) by the insertion of the following definitions:
 - “ ‘dangerous goods’ means those goods referred to in the International Maritime Dangerous Goods (IMDG) Code adopted by the Maritime Safety Committee of the IMO by Resolution MSC.122(75) on 24 May 2002, and any amendments made to it up to and including those adopted by the 105th session of the Maritime Safety Committee by Resolution MSC.501(105) of 28 April 2022; 30
 - ‘offshore facility’ means a structure, floating or fixed, used to support offshore industrial activities; 35
 - ‘offshore industrial activities’ mean the construction, maintenance, decommissioning, operation or servicing of offshore facilities including those related to exploration and exploitation of resources by the renewable or hydrocarbon energy sector, aquaculture, ocean mining or similar activities; 40

‘offshore service vessel’ means a vessel carrying or accommodating more than 12 industrial personnel in relation to which an industrial personnel safety certificate has been issued under *section 48* of the *Merchant Shipping (Investigation of Marine Accidents) Act 2025* (No. X of 2025), which certificate remains valid under *Part 5* of the Act; 5

‘recognised organisation’ means an organisation recognised in accordance with Regulation (EC) No. 391/2009 of the European Parliament and of the Council of 23 April 2009³ on common rules and standards for ship inspections and survey organisations (Recast);”,

(ii) in the definition of “passenger boat”, by the substitution of “a vessel in respect of which a certificate is in force or an offshore service vessel” for “or a vessel in respect of which a certificate is in force”, 10

(iii) in the definition of “passenger ship”, by the insertion of “or an offshore service vessel” after “but does not include such a vessel carrying passengers to or from the State or having passengers on board for the purposes of such carriage”, 15

and

(b) by the substitution of the following section for section 18:

“18. (1) The Minister may make regulations prescribing requirements and standards— 20

(a) for the design, construction, subdivision, maintenance, seaworthiness and stability, equipment, machinery and machinery installations, electrical installations, radio installations, accommodation, fire safety and protection, life-saving appliances, dangerous goods, transfer arrangements, safety management, safe navigation, radio and navigation systems and equipment, energy sources and propulsion systems and equipment and compliance with rules of recognised organisations in relation to passenger boats, 25

(b) for the carriage of passengers by passenger boat to offshore facilities or other ships facilitating offshore industrial activities, including training, medical fitness, health and safety and on-board familiarisation regarding safety, equipment, communications, manning and transfer arrangements, 30

(c) to ensure the safety of— 35

(i) passenger boats,

(ii) the passengers and the crew of passenger boats, and

(iii) other persons, and of property, from injury or damage caused by, resulting from or arising out of the use of passenger boats,

and 40

3 OJ No. L131, 28.5.2009, p. 11

- (d) to ensure that the use of a passenger boat does not create a disturbance or constitute a nuisance.
- (2) Without prejudice to subsection (1), the regulations made under subsection (1) may—
 - (a) prohibit the having on board or the carriage of passengers or other persons by vessels, or specified classes of vessels, the subject of licences unless there are in force policies of insurance under which the owners of the vessels or, if the vessels are on hire, the persons to whom they are on hire are insured to a specified extent against specified risks, 5 10
 - (b) make provision for ascertaining, setting and testing the standards of competence of masters and of any other members of the crew of vessels the subject of licences, whether by examination, interview or otherwise, and the prohibition of those who do not reach such standards of competence as the Minister considers appropriate from working as masters or, as the case may be, other members of the crews of such vessels and the prohibition of owners of such vessels from employing as masters or other members of the crews of the vessels those who do not reach such standards as aforesaid, 15
 - (c) provide for the registration of passenger boats or specified classes of passenger boats and the licensing or certification of masters or persons in control of or operating passenger boats or passenger boats of a specified class, 20
 - (d) regulate the use of passenger boats or specified classes of passenger boats by reference to the age or other qualifications of masters or persons in control of or operating passenger boats or passenger boats of a specified class, 25
 - (e) regulate or prohibit the use of passenger boats or specified classes of passenger boats in particular circumstances, and the consumption of alcohol or drugs by masters or persons in control of or operating passenger boats or passenger boats of a specified class, 30
 - (f) require and regulate the use of personal flotation devices on specified classes of passenger boats,
 - (g) regulate the carriage of vehicles on board a passenger boat or prohibit vehicles of a specified class being carried on board a passenger boat designed to carry vehicles, 35
 - (h) regulate or prohibit the carriage of goods or materials of a specified class on passenger boats or on passenger boats of a specified class,
 - (i) regulate the number of persons that may be carried on passenger boats of a specified class, or 40
 - (j) regulate or prohibit the towing of anything by or from passenger boats or passenger boats of a specified class.

- (3) Regulations under this section may make provision for such consequential, incidental, ancillary and supplementary matters (including the enforcement of the regulations and, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, the charging of fees) as the Minister considers necessary or expedient. 5
- (4) In making such regulations under this section the Minister may categorise passenger boats into different classes having regard to one or more of the following:
- (a) the size, shape, speed, categorisation or configuration of a passenger boat; 10
 - (b) the service for which the passenger boat is to be employed;
 - (c) the plying limits, embarkation and disembarkation for a passenger boat;
 - (d) the nature and duration of voyages to be undertaken; 15
 - (e) the number of passengers, crew or other persons to be carried on board a passenger boat;
 - (f) the type of cargo carried, including dangerous goods;
 - (g) the age and date of construction of a passenger boat;
 - (h) such other matter or matters that the Minister considers appropriate to take into account in the circumstances. 20
- (5) Different regulations may be made in respect of different classes of passenger boat, and for different circumstances and different areas of operation.
- (6) In making such regulations under this section the Minister may determine the number of passengers, crew and other persons to be carried on board a passenger boat, depending on the class of passenger boat, subject to a maximum of 12 persons excluding crew members. 25
- (7) Where there is a breach of a provision of regulations made under this section, which provision is stated in those regulations to be a penal provision— 30
- (a) (other than in respect of a matter referred to in subsection (2)(a)), the owner and (if the passenger boat is in use) the master of the vessel each commits an offence and each is liable on summary conviction to a class A fine, or 35
 - (b) in respect of a matter referred to in subsection (2)(a), the owner of the passenger boat (or, if the passenger boat is on hire, the person to whom it is on hire) and the master of the vessel each commits an offence and each is liable—
 - (i) on summary conviction, to a class A fine or to imprisonment for a term not exceeding 6 months, or to both, or 40

- (ii) on conviction on indictment, to a fine not exceeding €100,000 or to imprisonment for a term not exceeding 2 years, or to both.
- (8) Regulations made under section 18 (inserted by section 47 of the Maritime Safety Act 2005) which are in force immediately before the commencement of *section 52(3)(b) of the Merchant Shipping (Investigation of Marine Accidents) Act 2025* shall continue in force as if they were made under this section and may be amended or revoked accordingly.”. 5
- (4) The Maritime Safety Act 2005 is amended—
 - (a) in section 34, by the substitution of the following subsection for subsection (1): 10
 - “(1) The Minister may make regulations—
 - (a) specifying such charts, nautical directions or information or other nautical publications as appear to him or her to be necessary or expedient for the safe operation of vessels and such regulations may require— 15
 - (i) Irish ships, or such class or description of such ships as is specified in the regulations, to carry either at all times or on such voyages as is so specified,
 - (ii) vessels which are not Irish ships, or such class or description of such vessels as is so specified, to carry at any time while they are in Irish waters or such of those waters as is so specified, 20
 - either a copy of all, or a copy of such as are so specified, of the charts, nautical directions or information or other nautical publications so specified,
 - (b) prescribing requirements for the survey of vessels for compliance with regulations made under this section, including the extent, manner and intervals of such surveys, and 25
 - (c) prescribing requirements for the inspection of vessels to ensure continued compliance with regulations made under this section.”,
 - and 30
 - (b) in section 40, by the substitution in subsection (1) of “board, survey and inspect” for “board and inspect”.
- (5) The Merchant Shipping Act 2010 is amended—
 - (a) in section 42—
 - (i) by the insertion of the following definition: 35
 - “ ‘domestic voyage’ means a voyage from a place in the State to the same or another place within the State;”,
 - (ii) by the substitution of the following definition for the definition of “High-Speed Craft Code 1994”:
 - “ ‘High-Speed Craft Code 1994’ means the International Code of Safety 40

for High-Speed Craft, 1994 adopted by the 63rd session of the Maritime Safety Committee of the IMO by Resolution MSC.36(63) and any amendments made to it up to and including the amendments adopted by the 105th session of the Maritime Safety Committee of the IMO on 28 April 2022 by Resolution MSC.498(105);”,

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and

- (iii) by the substitution of the following definition for “High-Speed Craft Code 2000”:

“ ‘High-Speed Craft Code 2000’ means the International Code for Safety for High-Speed Craft, 2000 adopted by the 73rd session of the Maritime Safety Committee of the IMO by Resolution MSC.97(73), and any amendments made to it up to and including the amendments adopted by the 105th session of the Maritime Safety Committee of the IMO on 28 April 2022 by Resolution MSC.499(105);”,

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- (b) in section 43, by the substitution of the following paragraph for paragraph (1)(a):

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“(1) (a) Subject to paragraph (b), this Chapter applies to—

(i) Irish ships which are high-speed craft constructed—

(I) on or after 1 January 1996 and before 1 July 2002 under the High-Speed Craft Code 1994, or

(II) after 1 July 2002 under the High-Speed Craft Code 2000,

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(ii) Irish ships which are high-speed craft on a domestic voyage,

(iii) Irish ships which are high-speed craft of 500 gross tonnage or less on an international voyage,

(iv) any other high-speed craft while it is within a port in the State, unless it would not have been in any such port but for the stress of weather or any other circumstance that neither the master nor the owner of the ship could have prevented or forestalled,

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and which does not proceed in the course of its voyage—

(I) where the ship is a passenger ship, more than 4 hours at 90 per cent of maximum speed from a place of refuge, and

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(II) in any other case, more than 8 hours at 90 per cent of maximum speed from a place of refuge when fully laden.”,

- (c) in section 57—

- (i) by the substitution of the following definition for the definition of “IMO principles of safe manning”:

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“ ‘IMO principles of safe manning’ means the principles of safe manning adopted by the 27th session of the Assembly of the IMO on 30 November 2011 by Resolution A.1047(27) of the Conference of Contracting Governments to the International Convention for the Safety of Life at Sea 1974;”

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and

(ii) by—

(I) the substitution of “section 59;” for “section 59.” in the definition of “safe manning regulations”, and

(II) the insertion after the definition of “safe manning regulations” of the following definition: 5

“ ‘sea-going’ means going beyond the limits of smooth and partially smooth waters (within the meaning of the Merchant Shipping (Fire Protection) Rules 2023 (S.I. No. 379 of 2023)).”,

(d) in section 58, by the substitution of the following subsection for subsection (1): 10

“(1) Subject to subsection (2), this Chapter applies to—

(a) Irish ships to which Chapter 1 of the Annex to the Safety Convention applies,

(b) other Irish sea-going ships as the Minister may by regulations determine, and 15

(c) any other ship while in any port in the State unless it would not have been in such port but for the stress of weather or any other circumstance that neither the master nor the owner of the ship could have prevented or forestalled.”,

(e) in section 82— 20

(i) in subsection (2)—

(I) by the substitution of “Rules for life-saving appliances may provide” for “Without prejudice to subsection (1) may provide”,

(II) in paragraph (o), by the substitution of “fire,” for “fire, and”,

(III) in paragraph (p), by the substitution of “fire,” for “fire.”, and 25

(IV) by the insertion of the following paragraphs after paragraph (p):

“(q) the survey of vessels for compliance with rules for life-saving appliances including the extent, manner and intervals of such surveys, and

(r) the inspection of vessels to ensure continued compliance with rules for life-saving appliances.”, 30

and

(ii) in subsection (9)—

(I) in paragraph (a), by the substitution of “board, survey and inspect” for “board and inspect”, and 35

(II) in paragraph (d), by the substitution of “a survey or inspection” for “an inspection”,

(f) in section 84—

- (i) by the substitution of the following subsection for subsection (1):
- “(1) The Minister may make rules (‘fire protection rules’) prescribing requirements for—
- (a) fire protection in respect of the hull, superstructure, deck, equipment and machinery, arrangement, escapes and detection and extinction equipment, 5
 - (b) the survey of vessels for compliance with fire protection rules, including the extent, manner and intervals of such surveys, and
 - (c) the inspection of vessels to ensure continued compliance with fire protection rules.”, 10
- (ii) in subsection (10), by the substitution of “board, survey and inspect” for “board and inspect”, and
- (iii) in subsection (12), by the substitution of “a survey or inspection” for “an inspection”,
- and 15
- (g) in section 87, by the substitution of the following subsection for subsection (1):
- “(1) In this section ‘Convention’ means the Maritime Labour Convention 2006 adopted at Geneva on 23 February 2006 and any amendments made to it up to and including those adopted by the 110th session of the International Labour Conference in Geneva on 6 June 2022 and which have entered into force in respect of the State pursuant to Article XV of the Convention prior to the enactment of the *Merchant Shipping (Investigation of Marine Accidents) Act 2025*.”. 20

An Bille Loingis Cheannaíochta (Tionóiscí
Muirí a Imscrúdú), 2024

BILLE

(mar a ritheadh ag Dáil Éireann)

dá ngairtear

Acht do dhéanamh socrú chun an Bord um Thaismí Muirí a Imscrúdú a dhíscaoileadh agus chun aonad laistigh den Roinn Iompair ar a dtabharfar an tAonad um Imscrúdú Tionóiscí Muirí a chur ina ionad; do dhéanamh socrú maidir le tionóiscí muirí a imscrúdú agus a thuairisciú; d'aisghairm an Achta Loingis Cheannaíochta (Taismí Muirí a Imscrúdú), 2000; do dhéanamh socrú maidir le rialáil a dhéanamh ar árthaí seirbhíse amach ón gcosta; chun na gríoch sin agus chun críoch eile, do leasú an Achta Loingis Cheannaíochta (Coinbhinsiún Sábháltachta), 1952, an Achta Loingis Cheannaíochta, 1992 agus an Achta Loingis Cheannaíochta, 2010; agus do dhéanamh socrú i dtaobh nithe gaolmhara.

Ritheadh ag Dáil Éireann,

19 Feabhra, 2025

Merchant Shipping (Investigation of Marine
Accidents) Bill 2024

BILL

(as passed by Dáil Éireann)

entitled

An Act to provide for the dissolution of the Marine Casualty Investigation Board and for its replacement with a unit within the Department of Transport to be known as the Marine Accident Investigation Unit; to provide for the investigation and reporting of marine accidents; to repeal the Merchant Shipping (Investigation of Marine Casualties) Act 2000; to provide for the regulation of offshore service vessels; for those and other purposes to amend the Merchant Shipping (Safety Convention) Act 1952, the Merchant Shipping Act 1992 and the Merchant Shipping Act 2010; and to provide for related matters.

Passed by Dáil Éireann,

19th February, 2025

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

Le ceannach díreach ó

FOILSEACHÁIN RIALTAIS,
BÓTHAR BHAILE UÍ BHEOLÁIN, CILL MHAIGHNEANN,
BAILE ÁTHA CLIATH 8, D08 XAO6.

Tel: 046 942 3100

r-phost: publications@opw.ie

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