

SAINT CHRISTOPHER AND NEVIS

STATUTORY RULES AND ORDERS
No. 15 of 2012

MERCHANT SHIPPING (ACCIDENT REPORTING AND PUBLICATION)
REGULATIONS, 2012

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Merchant Shipping (Accident Reporting and Publication) Regulations, 2012

In exercise of the power conferred under section 456 of the Merchant Shipping Act,
Cap. 7.05, the Minister responsible for Maritime Affairs makes these Regulation:

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1. CITATION.

These Regulations may be cited as the Merchant Shipping (Accident Reporting and Publication) Regulations, 2012.

2. INTERPRETATION.

(1) In these Regulations

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

“Act” means the Merchant Shipping Act, Cap 7.05;

“accident” means any contingency caused by an event on board a ship or involving a ship whereby

- (a) there is loss of life or major injury to any person on board, or any person is lost from a ship or a ship’s boat;
- (b) a ship is lost or presumed to be lost or is abandoned or materially damaged;
- (c) a ship strands or is in collision;
- (d) a ship is disabled;
- (e) any material damage is caused by a ship; or
- (f) any of the following occur
 - (i) a collapse or bursting of any pressure vessel, pipeline or valve;
 - (ii) a collapse or failure of any lifting equipment, access equipment, hatch-cover, staging or boatswain’s chair or any associated load-bearing parts;
 - (iii) a collapse of cargo, unintended movement of cargo or ballast sufficient to cause a list, or loss of cargo overboard;
 - (iv) a snagging of fishing gear which results in the vessel heeling to a dangerous angle;
 - (v) a contact by a person with loose asbestos fibre except when full protective clothing is worn; or

- (vi) an escape of any harmful substance or agent;
where the occurrence, taking into account its circumstances, might have been liable to cause serious injury or to cause damage to the health of any person;

“dangerous occurrence” means any occurrence of a kind specified in the Schedule hereto;

“disabled” means:

- (i) not under command for a period of more than 12 hours; or
- (ii) not under command for any lesser period where, as a result, the vessel needs assistance to reach port;

“grounding” means making involuntary contact with the ground, except for touching briefly so that no damage is caused, and “goes aground” shall be construed accordingly;

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

“inquiry” means a preliminary inquiry pursuant to section 422(1) of the Act;

“major injury” means

- (a) any fracture, other than to the fingers or toes;
- (b) any loss of a limb or part of a limb;
- (c) dislocation of the shoulder, hip, knee or spine;
- (d) loss of sight (whether temporary or permanent);
- (e) penetrating injury to the eye; or
- (f) any other injury
 - (i) leading to hypothermia or to unconsciousness;
 - (ii) requiring resuscitation; or
 - (iii) requiring admittance to hospital or to an offshore sick-bay for more than 24 hours or where at sea requiring confinement to bed for more than 24 hours;

“serious injury” means an injury, other than a major injury, to a person employed or carried in a Saint Christopher and Nevis ship which occurs on board or during access which results in incapacity for more than three consecutive days excluding the day of the accident, or as a result of which the person concerned is put ashore and the ship sails without him, unless the incapacity is known or advised to be of three consecutive days or less excluding the day of the accident;

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

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

(2) Where a ship is managed by a person other than her owner or some other person, or on his own behalf, a reference in these Regulations to the owner shall be construed as including a reference to that person.

3. APPLICATION.

- (1) These Regulations apply to accidents involving or occurring on board
 - (a) any Saint Christopher and Nevis ship; and
 - (b) any other ship within the waters of Saint Christopher and Nevis.
- (2) These Regulations shall apply in respect of serious injuries as they apply in respect of accidents.

4. DUTY TO REPORT ACCIDENTS, DANGEROUS OCCURENCES AND SERIOUS INJURIES.

(1) Subject to sub-regulations (2), (3) and (7), when an accident occurs the master shall send a report to the Director as soon as is practicable by the quickest means available, and in any case not later than 24 hours after the ship next arrives at a port.

(2) Where a ship is lost or presumed lost or is abandoned, then such a report shall be sent by the owner, the master, or a senior surviving officer as soon as is practicable by the quickest means available.

(3) Subject to sub-regulation (8), the master shall report every serious injury to the Director within 14 days of its happening or, where the ship is at sea, within 14 days of its arrival at the next port of call.

(4) The Registrar shall make report forms available on a website for use by those making reports under this regulation.

- (5) The following reports shall be regarded as complying with this regulation -
- (a) a report made to the Department of Maritime Affairs
 - (b) a report made to the Registrar
 - (c) a report made to a surveyor of ships appointed pursuant to section 411 or surveyor pursuant to section 181 of the Act .

(6) The master shall, so far as is reasonably practicable, ensure that the circumstances of every accident involving death, major injury or serious injury are examined.

(7) The owner or master shall on request provide the Director with a report in addition to any report made under the preceding sub-regulations, giving the findings the examination referred to in sub-regulation (6) and stating any measures taken or proposed to prevent a recurrence.

(8) No report made under this regulation shall be admissible in evidence against the maker in any proceedings except proceedings in pursuance of regulation 9(1).

5. PRESERVATION OF EVIDENCE.

The owner and master shall so far as is possible ensure that all charts, log books and other records and documents which might reasonably be considered pertinent to an accident reportable under regulation 4 shall be kept and no alteration shall be made to entries therein,

and any equipment which might reasonably be considered pertinent to such an accident shall so far as is practicable be left undisturbed, until either

- (a) where notification is received from the Director that an inquiry will take place, the Director or the person carrying out the inquiry indicates that he no longer requires them; or
- (b) where no such notification is received, three months after the accident.

6. RELEASE OF INFORMATION DURING INQUIRY.

The Director may at any time during the course of any inquiry release information as to material facts where in his opinion it is necessary or desirable to do so.

7. PROCEDURE WHERE INQUEST IS HELD.

(1) Where an inquest is to be held following an accident which is or has been the subject of an inquiry, a report of the inquiry may be made available for the inquest by the Director.

(2) The confidentiality of the report shall be at the discretion of the Director.

8. SUMMARIES OF INVESTIGATIONS.

(1) A summary report of any inquiry may be published.

(2) The Director may prepare and publish from time to time collective summaries of inquiries or of reports received of accidents and serious injuries.

(3) A summary of the circumstances of any accident which has been the subject of an inquiry shall be made available to any person requesting it who satisfies the Director of his legitimate interest.

(4) A summary shall not be published or otherwise made available where prosecution against any person in connection with the subject accident has begun, unless the Director is satisfied that nothing in its content would prejudice a fair trial.

9. PENALTIES.

(1) Where a master, owner or officer fails without reasonable cause to make a report as required by regulation 4, he shall be guilty of an offence and liable to a fine not exceeding Level 1 of the standard scale of fines as set out under section 452 (4) and the Fifth Schedule of the Act.

(2) Where any person fails without reasonable cause to comply with regulation 5 he shall be guilty of an offence and liable to a fine not exceeding Level 2 of the standard scale of fines as set out under section 452 (4) and the Fifth Schedule of the Act..

10. DANGEROUS OCCURRENCES.

A dangerous occurrence is an occurrence specified in the Schedule.

SCHEDULE

(Regulation 10)

DANGEROUS OCCURRENCES

Failure of any load bearing part of any lifting machinery (includes lifts, hoists, cradles, access platforms).

Pressure systems -The failure of any closed vessel (including a boiler or boiler tube) or associated pipework.

Electrical short circuits or overloads attended by fire or explosion which causes stoppage of plant involved for more than 24 hours, or has the potential to cause the death of a person.

Explosions or fires caused by explosion.

Escape of dangerous substances, including poisons, flammable and biological substances in a quantity sufficient to cause the death, major injury or any other damage to the health of any person.

Any incident in which breathing apparatus malfunctions –

- (a) while in use, or
- (b) during testing immediately prior to use in such a way that had the malfunction occurred while the apparatus was in use it would have posed a danger to the health or safety of the user.

(This paragraph shall not apply to breathing apparatus while it is being maintained or tested as part of a routine maintenance procedure.)

Any of the following incidents in relation to a diving operation –

- (a) the failure or the endangering of –
 - (i) any lifting equipment associated with the diving projects, or
 - (ii) life support equipment, including control panels, hoses and breathing apparatus, which puts a diver at risk;
- (b) any damage to, or endangering of the dive platform, or any failure of the dive platform to remain on station, which puts a diver at risk;
- (c) the trapping of a diver;
- (d) any explosion in the vicinity of a diver; or
- (e) any uncontrolled ascent or any omitted decompression which puts a diver at risk.

The complete or partial collapse of –

- (a) any scaffold which is –
 - (i) more than 5 metres in height which results in a substantial part of the scaffold falling or overturning; or
 - (ii) erected over or adjacent to water in circumstances such that there would be a risk of drowning to a person falling from the scaffold into the water; or
- (b) the suspension arrangements (including any outrigger) of any slung or suspended scaffold which causes a working platform or cradle to fall.

The following incidents in respect of a pipeline or pipeline works –

- (a) the uncontrolled or accidental escape of anything from, or inrush of anything into, a pipeline which has the potential to cause the death of, major injury or damage to the health of any person

- (b) the unintentional ignition of anything in a pipeline or of anything which, immediately before it was ignited, was in a pipeline;
- (c) any damage to any part of a pipeline which has the potential to cause the death of, major injury or damage to the health of any person
- (f) any failure of any pipeline isolation device, equipment or system which has the potential to cause the death of, major injury or damage to the health of any person or
- (g) any failure of equipment involved with pipeline works which has the potential to cause the death of, major injury or damage to the health of any person.

Any collision between a vessel and another vessel or between a vessel and a shore facility or an offshore installation and any standing or grounding, any of which results in damage to the vessel or the shore facility or offshore installation

Any occurrence with the potential for a collision between a vessel and an offshore installation where, had a collision occurred, it would have been liable to jeopardise the overall structural integrity of the offshore installation.

Any of the following occurrences having the potential to cause death or major injury –

- (a) the failure of equipment required to maintain a floating offshore installation on station;
- (b) the dropping of any object on an offshore installation or on an attendant vessel or into the water adjacent to an installation or vessel; or
- (c) damage to a vessel or on an offshore installation caused by adverse weather conditions

Any incident involving loss of stability or buoyancy of a vessel or floating offshore installation.

Any evacuation of a vessel or of an offshore installation, in whole or part, in the interests of safety.

Any case of a person falling more than 2 metres into water.

Made this 13th day of April 2012.

RICHARD SKERRITT
Minister responsible for Civil Aviation