

Shipping & Transport - Cyprus

New marine accidents investigation regime

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Introduction

The Marine Accidents Investigation Committee (MAIC) was established on December 19 2013 under the Marine Casualties and Incidents Investigation Law (2012)⁽¹⁾ which implemented EU Directive 2009/18/EC.

The MAIC is an independent committee responsible for investigating all types of marine accident (casualties and incidents) and is supported by the Marine Accidents and Incidents Investigation Service.

The MAIC's objective is to establish the causes and circumstances of marine accidents in order to prevent future accidents. It is not an enforcement or prosecuting body. While its purpose is not to apportion blame or liability, it will nevertheless not refrain from fully reporting on the causal factors of an accident because blame or liability may be inferred from them.

The Marine Casualties and Incidents Investigation Law defines the ships and the accidents to which it applies, lays down requirements for reporting accidents, and provides for the conduct of investigations and the publication of reports and recommendations. It does not cover the requirements of formal investigations or other public inquiries.

Scope of Marine Casualties and Incidents Law

The law applies to marine casualties and incidents that:

- involve ships flying the Cyprus flag, wherever they occur;
- occur within Cyprus's territorial and internal waters as defined in the United Nations Convention on the Law of the Sea; or
- involve other substantial interests of Cyprus.

The following vessels are excluded:

- Ships not propelled by mechanical means, wooden ships of primitive build, pleasure yachts and pleasure craft not engaged in trade, unless they are or will be crewed and carry more than 12 passengers for commercial purposes;
- Fishing vessels with a length of less than 15 metres;
- Warships, troop ships and other ships owned or operated by a state and used only on government non-commercial service;
- Inland waterway vessels operating in inland waterways; and
- Fixed offshore drilling units.

The Department of Merchant Shipping will continue to be responsible for investigating marine accidents concerning the first two categories above.

It also continues to be the reporting authority for any occupational diseases of seafarers serving on board Cypriot vessels under Sections 134 and 136 of the Maritime Labour Convention 2006 (Ratification) and for Matters Connected Therewith Law (2012).⁽²⁾

Obligation to notify

The master, owner, manager or agent of the ship must notify the MAIC of any incident falling within the scope of the Marine Casualties and Incidents Investigation Law as soon as practicable by submitting the prescribed accident notification form electronically or by fax.

'Very serious marine casualties' and 'serious marine casualties', as defined by the International Maritime Organisation⁽³⁾ must be notified by telephone immediately.

Investigation by MAIC

The MAIC will investigate all very serious marine casualties falling within the scope of the Marine Casualties and Incidents Law. It will undertake a preliminary assessment of any serious marine casualty and then decide whether

it is appropriate to conduct a full investigation, taking into account the severity of the marine casualty, the type of vessel and cargo involved and the potential for the investigation to prevent future casualties and incidents. It may also investigate any other marine casualty or incident at its discretion, based on the same criteria.

Investigation process

The Marine Casualties and Incidents Law and EU Directive 2009/18/EC give the MAIC extensive powers to discharge their duties, including access to any relevant area or casualty site and to any evidence or witnesses. The owner or manager, master and the crew of any vessel concerned are required to cooperate fully and provide any information and evidence requested, including statements. The owner or manager, master and crew are also required to preserve all relevant evidence and information, including information from charts, log books, electronic and magnetic recording and videotapes, relating to the period preceding, during and after an accident. The Marine Casualties and Incidents Law sets out penalties for non-compliance, including:

- failing to notify a marine accident;
- not preserving evidence as required;
- not cooperating with or obstructing the investigator;
- hiding, destroying, falsifying or refusing or omitting to provide relevant information, data or documents; and
- providing inadequate, inaccurate or misleading information.

Reports

The MAIC will publish its report, in conformity with Annex I of EU Directive 2009/18/EC, within 12 months of the date of the accident. If it is not possible to produce the final report within that time, an interim report will be published within 12 months.

A full report will be published on every very serious marine casualty and any less serious casualty where the findings have the potential to prevent future casualties and incidents. A simplified report may be published in other cases. Any party likely to be affected by a report may see the draft and comment on it before it is finalised and published.

All reports of full investigations will be published on the MAIC website.

Recommendations

Recommendations may be made as a result of an investigation. If only a preliminary assessment has been conducted, they will be in the form of a letter. If a full investigation has been conducted, the recommendations will be included in the final report.

Under no circumstances will a safety recommendation determine liability or apportion blame for a casualty.

Recommendations will be addressed to those considered best suited to implement them. The recipient must consider the recommendations and inform the MAIC of the measures taken to implement them or the reasons for non-implementation.

For further information on this topic please contact Vassilis Psyrras at Andreas Neocleous & Co LLC by telephone (+357 25 110 000), fax (+357 25 110 001) or email (vassilis.psyrras@neocleous.com). The Andreas Neocleous & Co LLC website can be accessed at www.neocleous.com.

Endnotes

⁽¹⁾ Law 94(I) of 2012.

⁽²⁾ Law 6(III) of 2012.

⁽³⁾ MSC-MEPC3/Circuit 3 dated December 18 2008.

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