

MARINE SAFETY INVESTIGATION REGULATIONS 2025

CHAPTER 1

ESTABLISHMENT

Enabling Powers

1.1. — The Director-General, in exercise of the powers conferred by Sections 5 (b), 39 (1) and 60 of the Nigerian Safety Investigation Bureau (Establishment) Act, 2022 hereby makes the following Regulations prescribing for —

- a) the manner of exercising and carrying out the Director-General powers, duties and functions under the Nigerian Safety Investigation Bureau (Establishment) Act, 2022;
- b) the standards that the marine system needs, to achieve compliance with the provisions of the Nigerian Safety Investigation Bureau (Establishment) Act 2022 and the relevant Articles of the Convention on International Maritime Organization.

Citation and Commencement

1.2. — These Regulations shall be cited as the **Marine Safety Investigations Regulations, 2025** and shall come into force on theday of..... ... 2025.

Purpose

1.3. – The purpose of the Marine Safety Investigations Regulations, 2025 is to ensure that marine casualty and incident investigations in Nigeria’s waters are carried out in line with extant laws in Nigeria, international conventions, and industry best practices. The adoption of the provisions of the Marine Casualty or Marine Incident (Casualty Investigation) Code of SOLAS Chapter XI, Part I into these Regulations ensures that a common approach is provided for Nigeria and any substantially interested State in the conduct of marine safety investigations.

Objective

1.4. — The objective of investigations under these Regulations is to prevent marine casualties and marine incidents in the future. Any safety investigation conducted under these Regulations shall not seek to apportion blame or determine liability. It is envisaged that the aim of preventing marine casualties and marine incidents will be achieved through:

- a) applying consistent methodology and approach, to enable and encourage a broad ranging investigation, where necessary, in the interest of uncovering the causal factors, contributory factors and other safety risks; and
- b) providing reports to appropriate authorities in Nigeria, the International Maritime Organization and International Community to enable a wide dissemination of information to assist the local and international marine industry to address safety issues.

Separation of Safety Investigation from any other Form of Investigation

1.5. — A safety investigation conducted under these Regulations shall be separate from, and independent of, any other form of investigation. However, it is not the purpose of these Regulations to preclude any other form of investigation, including investigations for action in civil, criminal and administrative proceedings. Further, it is not the intent of these Regulations for the Bureau when conducting a marine safety investigation to refrain from fully reporting on the causal and or contributory factors of a marine casualty or marine incident because blame or liability, may be inferred from the Bureau's findings.

1.6. — (1) These Regulations recognize that under the instruments of the International Maritime Organization, each flag State has a duty to conduct an investigation into any casualty occurring to any of its ships, when it judges that such an investigation may assist in determining what changes in the present regulations may be desirable, or if such a casualty has produced a major deleterious effect upon the environment.

(2) These Regulations recognize that under the extant Nigerian laws and International Conventions, the Bureau has a duty to conduct an investigation into any cause of a marine casualty and incident involving a Nigerian vessel, when it judges that such an investigation may assist in determining what changes may be desirable in the present regulations, or if such a casualty or incident has produced a major deleterious effect upon the environment.

(3) These Regulations also take into account that a flag State shall¹ cause an inquiry to be held, by or before a suitably qualified person or persons into certain marine casualties or marine incidents of navigation on the high seas. However, these Regulations also recognize that where a marine casualty or marine incident occurs within the territory, including the territorial sea, of Nigeria, Nigeria has a right² to investigate the cause of any such marine casualty or marine incident which might pose a risk to life or to the environment, involve the coastal State's search and rescue authorities, or otherwise affect the coastal State.

Service of Notice

1.7. — (1) Any notice, document, consent, approval or other communications required or authorized by any provision of these Regulations to be served on or given to any person shall be in writing and shall be served or given —

(a) by delivering it to that person;

(b) by leaving it at his usual or last-known residence or place of business, whether in Nigeria or elsewhere;

¹ Reference is made to the United Nation's Convention on the Law of the Sea (UNLOS), article 94 or requirements of international and customary laws.

² Reference is made to the United Nation's Convention on the Law of the Sea (UNLOS), article 2 or requirements of international and customary laws.

- (c) by sending it to that person by registered or recorded delivery mail, at that address; any Notice sent by mail shall be deemed to have been duly served after five (5) working days from the date of posting; or
- (d) by sending it to that person at that address by telex, email, airmail, facsimile transmission or other electronic means in a form generating a record copy to the party being served at the relevant address; in which event, the document shall be regarded as served when it is received.

(2) In any case, any delivery made in accordance with the provisions of paragraphs 1.7 (b)-(d) shall be deemed served after seven (7) days of the date of dispatch.

CHAPTER 2

INTERPRETATIONS

When the following terms are used in these Regulations, including in the International Maritime Organization's mandatory standards and recommended practices for marine safety investigations they have the following meaning:

2.1. — *Accident* means —

- a) a marine casualty; or
- b) a very serious marine casualty leading to death, very serious injuries etc. as defined further in 2.81; or
- c) a serious marine casualty which is an event or sequence of events that has occurred directly by or in connection with the operation of a ship but which does not qualify as a very serious marine casualty, that involves—
 - i) fire;
 - ii) explosion;
 - iii) collision;
 - iv) grounding;
 - v) contact;
 - vi) heavy weather damage;
 - vii) ice damage, or a suspected hull defect;

resulting in any of the following—

- (1) the immobilization of the main engines;
- (2) extensive accommodation damage;
- (3) severe structural damage including penetration of the hull under water rendering the ship unfit to proceed;
- (4) pollution;
- (5) a breakdown that necessitates towage or shore assistance; or

d) a marine incident.

However, a marine incident does not include a deliberate act or omission, with the intention to cause harm to the safety of a vessel, an individual or the environment.

2.2. — *Act* means the Nigerian Safety Investigation Bureau (Establishment) Act 2022 or any subsequent amendment thereto.

2.3. — An *agent* means any person, natural or legal, engaged on behalf of the owner, charterer or operator of a vessel, or the owner of the cargo, in providing shipping services, including managing arrangements for the vessel being the subject of a safety investigation.

2.4 — *Baseline* means the low water mark along the coast of Nigeria.

2.5. — *Bureau* means the Nigerian Safety Investigation Bureau established under section 3 of the Act.

2.6. — A *causal factor* means actions, omissions, events or conditions, without which —

- a) the marine casualty and/or marine-incident would not have occurred; or
- b) adverse consequences associated with the marine casualty or marine incident would probably not have occurred or have been as serious; and
- c) another action, omission, event or condition, associated with an outcome in .1 or .2, would probably not have occurred.

2.7. — *Cause* means actions, omissions, events, conditions, or a combination thereof, which led to the transportation occurrence and the identification of causes does not imply the assignment of fault or the determination of administrative, civil or criminal liability.

2.8. — *Civil proceedings* means any proceeding(s) before a court of competent jurisdiction in Nigeria other than criminal proceedings.

2.9. — A *coastal State* means a State in whose territory, including its territorial sea, a marine casualty or marine incident occurs.

2.10. *competent authority* - means the government entity(ies) empowered constitutionally to administer admiralty cases. In the case of Nigeria, it is the Federal High Court or any other authority or commission established or constituted in accordance with the Laws of the Federation

2.11 *Contributory factors* mean actions, omissions, events, conditions, or a combination thereof, which contributed to the transportation occurrence

2.12 — *Coordinating agency* means the organization required to ensure that the necessary resources and agencies are brought into a proper relationship in order to provide and or share

accurate information and the optimum assistance to the Marine accident victims and their families.

2.13. — *Coordinator* means the person appointed by the Director- General of the Bureau in matters relating to Family Assistance to ensure that the necessary resources and agencies are brought into a proper relationship in order to provide accurate information and optimum assistance to the marine accident victims and their families.

2.14. — *Coroner* means any person empowered to hold inquests under the Coroners Law or any other related law.

2.15. — *Coronial inquiry* means a coronial inquiry, coronial investigation or coronial inquest under any State law in Nigeria.

2.16. — *Crew member* means a person, either a sailor or seafarer, working in a group onboard a vessel.

2.17. — *Director-General* means the Director-General, chief executive and accounting officer of the Bureau appointed under section 11 of the Act.

2.18. — *Exclusive economic zone (EEZ)* means the exclusive economic zone defined by article 55 of the United Nations Convention on the Law of the Sea. as an area beyond and adjacent to the territorial sea, subject to the specific legal regime established herein, under which the rights and jurisdiction of the Coastal State and the rights and freedoms of other States are governed by the relevant provisions of this Convention.

2.19. — *Family* means persons who are the: spouse, children, parents, siblings, grandparents and any extended family member of any victim or survivor involved in a marine casualty or marine incident.

Note: — To avoid repetition, the words “family”, “family members”, “families” and “relatives” will be used hereafter when referring to the family members of a marine casualty victims.

2.20. — *Family assistance* means the provision of services and information to address the concerns and the needs of the marine casualty victims and their families. The family assistance envisaged in this document applies to all marine casualty victims and their families regardless of the size and circumstances of the accident.

2.21. — *Fishing Vessel* means a ship used for catching fish, whales, seals, walrus or other living resources of the sea or Nigerian waters.

2.22. — *Flag State* means a State whose flag a ship is entitled to fly.

2.23. — *High seas* means the high seas as defined in article 86 of the United Nations Convention on the Law of the Sea.

2.24. — *Incapacitation* means a person’s inability to undertake their full range of normal activities.

2.25. — *Information* includes a record regardless of form and a copy of a record.

2.26. — *Inland waters* (in Nigeria) means —

- a) Category A — Narrow rivers and canals where the depth of water is generally less than 1.5 meters;
- b) Category B — Wider rivers and canals where the depth of water is generally more than 1.5 meters and where the significant wave height may not be expected to exceed 0.6 meters at any time; and
- c) Category C — Tidal rivers and estuaries and large, deep lakes and lochs where the significant wave height may not be expected to exceed 1.2 meters at any time.

2.27. — *Inland waterways* includes all waterways, river, creeks, lakes, tidelands, lagoons below the low water baseline.

2.28. — *Interested party* means an organization, or individual, who, as determined by the marine safety investigating State(s), has significant interests, rights or legitimate expectations with respect to the outcome of a marine safety investigation.

2.29. — *International Maritime Organization* (IMO) means the United Nations specialized agency charged with developing and adopting global regulations on the safety, security and efficiency of ships and on the protection of the environment – both marine and atmospheric – from shipping operations.

2.30. — *International Safety Management (ISM) Code* means the International Management Code for the Safe Operation of Ships and for Pollution Prevention as adopted by the International Maritime Organization by resolution A.741(18), as amended.

2.31. — *Investigator* means any person appointed by the Director-General under Section 26 of the Act for the purpose of carrying out marine safety investigation and in the context of the safety investigation of a particular marine occurrence includes any person appointed to investigate that occurrence under these Regulations.

2.32. — *Investigator-in-charge (IIC)* means a person charged, on the basis of his or her qualifications, with the responsibility for the organization, conduct and control of a marine safety investigation under these Regulations.

2.33. — *Jetty* means a jetty, pier, wharf of whatever description, including a jetty used as a floating dock, stationary or mobile dock, wharf or pier erected or extending beyond high water mark or ordinary spring tide, and pontoon moored within the inland water system used as a jetty, wharf or pier as well as those extended into water of any navigable channel.

2.34. — *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; or
- 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.

However, a marine casualty does not include a deliberate act or omission, with the intention to cause harm to the safety of a ship, an individual or the environment.

2.35. — A *marine incident* means an event, or 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.

However, a marine incident does not include a deliberate act or omission, with the intention to cause harm to the safety of a ship, an individual or the environment.

2.36. — A *marine safety investigation* means an investigation or inquiry (however referred to by a State), into a marine casualty or marine incident, conducted with the objective of preventing marine casualties and marine incidents in the future. The investigation includes the collection of, and analysis of, evidence, the identification of causal factors and the making of safety recommendations as necessary.

2.37. — *Marine safety investigating State(s)* means the flag State or, where relevant, the State or States that take the responsibility for the conduct of the marine safety investigation as mutually agreed in accordance with the Casualty Investigation Code.

2.38. — *Marine safety investigation Authority* means an Authority in a State, responsible for conducting investigations in accordance with the Casualty Investigation Code. In the case of Nigeria, the Nigerian Safety Investigation Bureau is the *Marine safety investigation Authority*.

2.39. — A *marine safety investigation report* means a report that contains —

- a) a summary outlining the basic facts of the marine casualty or marine incident and stating whether any deaths, injuries or pollution occurred as a result;
- b) the identity of the flag State, owners, operators, the company as identified in the safety management certificate, and the classification society (subject to any national laws concerning privacy);

- c) where relevant the details of the dimensions and engines of any ship involved, together with a description of the crew, work routine and other matters, such as time served on the ship;
- d) a narrative detailing the circumstances of the marine casualty or marine incident;
- e) analysis and comment on the causal or contributory factors including any mechanical, human and organizational factors;
- f) a discussion of the marine safety investigation's findings, including the identification of safety issues, and the marine safety investigation's conclusions; and
- g) where appropriate, recommendations with a view to preventing future marine casualties and marine incidents.

2.40. — A *marine safety record* means the following types of records collected for a marine safety investigation:

- a) all statements taken for the purpose of a marine safety investigation;
- b) all communication between persons pertaining to the operation of the vessel;
- c) all medical or private information regarding persons involved in the marine casualty or marine incident;
- d) all records of the analysis of information or evidential material acquired in the course of a marine safety investigation;
- e) information from the voyage data recorder.

2.41. — A *material damage* in relation to a marine casualty means —

- a) damage that —
 - i) significantly affects the structural integrity, performance or operational characteristics of marine infrastructure or a ship; and
 - ii) requires major repair or replacement of a major component or components; or
- b) destruction of the marine infrastructure or vessel.

2.42. — *National Inland Waterways Authority (NIWA)* means the agency of the Federal Government established with the primary responsibility to improve and develop inland waterways for navigation and provide regulations for inland navigation.

2.43. — *Navigational aids* mean a floating light, mark or sign used as an aid to navigation and includes a lighthouse.

2.44. — *Nigerian Maritime Administration and Safety Agency (NIMASA)* means an agency of the Federal Government established with the primary responsibility to provide effective Maritime Safety Administration, Maritime Labour Regulation, Marine Pollution Prevention and Control, Search and Rescue, Cabotage enforcement, Shipping Development and Ship Registration, Training and Certification of Seafarers, and Maritime Capacity Development.

2.45. — *Nigerian Port Authority (NPA)* means a Federal Government Agency established with the primary responsibility to govern and operate the Ports in Nigeria.

2.46. — *Nigerian Safety Investigation Bureau* means the body established under section 3 of the Act responsible for performing the investigation of transportation occurrences, including Marine Casualties or Marine incidents.

2.47. — *Nigerian ship* means a ship registered in Nigeria or a ship that is not registered under the law of any State but is eligible for registration in Nigeria.

2.48. — *Nigerian Waters* and *Nigerian Maritime Zone* include inland waters, territorial waters or waters of the Exclusive Economic Zone (respectively, together or any combination thereof).

2.49. — *Open waters* are all other inland waters or area of a body of water as itemized under paragraphs 1,2,3,4,5,6,7,8,9 and 11 of the Second Schedule to the National Inland Waterways Authority Act (Cap. N47 LFN, 2004) or as may be amended.

2.50. — *Operator* means any person, body, or an undertaking operating or proposing to operate a vessel.

2.51. — *Passenger* means all persons, including an employee of an Operator aboard a vessel.

2.52. — *Pleasure vessel* means—

a) any vessel which is—

i) wholly owned by an individual or individuals and used only for the sport or pleasure of the owner or the immediate family or friends of the owner, or

ii) owned by a body corporate and used only for the sport or pleasure of employees or officers of the body corporate, or their immediate family or friends, and is on a voyage or excursion which is one for which the owner is not paid for or in connection with operating the vessel or carrying any person, other than as a contribution to the direct expenses of the operation of the vessel incurred during the voyage or excursion, or

b) any vessel which is wholly owned by or on behalf of a members' club formed for the purpose of sport or pleasure which, at the time it is being used, is used only for the sport or pleasure of members of that club or their immediate family, and for the use of which any charges levied are paid into club funds and applied for the general use of the club;

and no payments other than those mentioned above are made by or on behalf of the users of the vessel, other than by the owner, and in this definition, “immediate family” means in relation to an individual, the husband, wife or civil partner of the individual, and a brother, sister, ancestor or lineal descendant of that individual or of that individual’s husband, wife or civil partner.

2.53. — *Port* means any place in Nigeria, navigable river or channel leading into such place having facilities for ships to moor and load or discharge including offshore cargo handling facilities, inland dry ports, harbour, berths, jetties, pontoons or buoys and wharves within the limits of the ports and includes any place declared to be a port under the Nigerian Maritime Administration and Safety Agency Act 2007.

2.54. — *Providers of family assistance* means entities or persons having a role in providing such assistance to marine accident victims and their families, including government departments and agencies, the operator(s), the port/jetty operators, third parties (e.g. non-governmental aid agencies and commercial companies), and family associations.

2.55. — *Report* means any report, safety action statement, safety recommendation and safety bulletin issued by the Bureau.

2.56. — *River craft* includes any vessel, barge or lighter, canoe, boat or tug of any kind whatsoever towed or self-propelled by any type of motor or otherwise.

2.57. — *River guide* means a person providing pilotage to navigation to river craft who has conduct thereof.

2.58. — *Safety* means the state in which risks associated with marine activities, related to, or in support of the operation of vessel is reduced and controlled to an acceptable level.

2.59. — *Safety action statement* means a statement —

- a) setting out any safety issues identified during the course of an investigation that should be addressed; or
- b) setting out any step(s) taken by persons to remedy safety issues identified during the course of an investigation.

2.60. — *Safety advisory notices or safety bulletins* means safety guidelines recommended by the Bureau.

2.61. — *Safety data* means a defined set of facts or set of safety values collected from various marine-related sources, which is used to maintain or improve safety.

2.62. — *Safety data Collection and Processing System (SDCPS)* means the processing and reporting systems, safety databases, schemes for exchange of information, and recorded information including but not limited to:

- a) data and information pertaining to marine casualty or marine incident investigations;

- b) data and information related to safety investigations by State authorities or marine service providers;
- c) mandatory safety reporting systems as indicated in the Act;
- d) self-disclosure reporting systems, including voyage data recorders, On-board CCTV cameras, etc.

Note 1. — The term “safety database” may refer to a single or multiple database(s).

Note 2. — SDCPS may include inputs from State, industry and public sources, and may be based on reactive and proactive methods of safety data and safety information collection.

2.63. — *Safety information* means safety data processed, organized or analysed in a given context so as to make it useful for safety management purposes.

2.64. — *Safety investigator* means an Investigator.

2.65. — *Safety recommendation* means any proposal by the Bureau conducting the technical investigation, based on information derived from that investigation, made with the intention of preventing transportation occurrences.

2.66. — A *seafarer* means any person who is employed or engaged or works in any capacity on board a ship.

2.67. — *Senior surviving officer* means the senior surviving officer in the deck department and if there is no surviving officer in the deck department; then whoever is the senior surviving officer between—

- a) the senior surviving engineer officer; or
- b) the senior surviving electro-technical officer;

2.68. — *Serious injury* means an injury which is sustained by a person, resulting in incapacitation where the person is unable to function normally for more than 72 hours, commencing within seven days from the date when the injury was suffered.

2.69. — *Severe damage to the environment* means damage to the environment which, as evaluated by the State(s) affected, or the flag State, as appropriate, produces a major deleterious effect upon the environment.

2.70. — *Sheltered water* means restricted waterways comprising of waters or areas of a body of water as itemized under paragraphs 10 and 12 of the Second Schedule to the National Inland Waterways Authority Act (Cap. N47 LFN, 2004) as amended.

2.71. — *Ship* includes every description of vessel used in navigation.

2.72. — *Ship's boat* includes a life raft, painting punt and any boat normally carried by a ship.

2.73. — *Small craft* means a small craft navigating alone or convoys consisting only of small craft.

2.74. — *State* means a nation or territory considered as an organized community under one government.

2.75. — *Substantially interested State* means a State:

- a) which is the flag State of a ship involved in a marine casualty or marine incident; or
- b) which is the coastal State involved in a marine casualty or marine incident; or
- c) whose environment was severely or significantly damaged by a marine casualty (including the environment of its waters and territories recognized under international law); or
- d) where the consequences of a marine casualty or marine incident caused, or threatened, serious harm to that State or to artificial islands, installations, or structures over which it is entitled to exercise jurisdiction; or
- e) where, as a result of a marine casualty or marine incident, nationals of that State lost their lives or sustained serious injuries; or
- f) that has important information at its disposal that the marine safety investigating State(s) consider useful to the investigation; or
- g) that for some other reason establishes an interest that is considered significant by the marine safety investigating State(s).

2.76. — *Territorial sea* means territorial sea as defined by Section 2 of Part II of the United Nations Convention on the Law of the Sea.

2.77. — *Transport or Transportation* means the movement of humans, animals, or goods from one location to another by use of a vessel.

2.78. — *Transportation Occurrence* means an aviation, rail and tracked vehicle, marine or road Occurrence.

2.79. — *Upstream* on a navigational channel means the direction towards the source of the river, including sections where the current changes with the tide.

2.80. — *Vehicle* means a form of transportation that transports people, something or cargo, which includes ships, vessels, crafts, small crafts, light craft, etc.

2.81. — A *very serious marine casualty* means a marine casualty involving the total loss of the vessel or a death or severe damage to the environment.

2.82. — *Vessel* means any kind of floating object that is used, or capable of being used, in navigation by water, however propelled or moved, and includes—

- a) a barge, lighter, floating platforms, floating restaurant or other floating asset; and an air-collusion vehicle; or
- b) other similar craft like boat or ship that is used in navigation by water.

2.83. — *Victim* means an occupant of the vessel, or any person outside the vessel, who is unintentionally and directly involved in the marine casualty and marine incident. Victims may include the crew, revenue passengers, non-revenue passengers and third parties.

2.84. — *Voyage data recorder* means the electronic or mechanical equipment which may be installed on a ship to record key navigational and control information.

2.85. — *Witness* means a person required to attest to matters of facts, for this purpose, all statements taken from persons in the cause of accident investigation processes before the Director-General or any of his authorized personnel thereof which an affirmation may be required.

CHAPTER 3

APPLICATION

3.1.— (1) These Regulations apply to all accidents involving or occurring on board—

- a) a Nigerian vessel, including in relation to:
 - i) a pleasure vessel;
 - ii) a recreational craft which is hired on a bareboat basis; or
 - iii) any other craft or boat, including one carrying passengers, which is in commercial use in a harbour or on an inland waterway and is less than 8 metres overall in length, as in the case of a craft or boat, the accident involves any of the following:
 - (A) explosion;
 - (B) fire;
 - (C) death;
 - (D) serious injury;
 - (E) capsize of a craft or boat; or
 - (F) severe pollution.
- b) the operation of a foreign vessel in the course of relevant marine navigation, if the foreign vessel is:
 - (i) in a Nigerian port; or
 - (ii) entering or leaving a Nigerian port; or
 - (iii) in the internal waters of Nigeria; or
 - (iv) in the territorial sea of Nigeria.
- c) any ship which in the opinion of the Director-General involves the substantial interests of Nigeria.

(2) These Regulations do not apply or relate to:

- a) a warship or other vessel that:
 - (i) is operated for naval or military purposes by Nigeria or a foreign country;
 - (ii) is under the command of a member of the Nigerian armed forces or of a member of the armed forces of the foreign country;
 - (iii) bears external marks of nationality; and
 - (iv) is manned by Seafarers under armed forces discipline (however described);or
- b) a Government vessel that is used only for government non-commercial service as a naval auxiliary; or

(3) For the purpose of these regulations, “hired on a bareboat basis” means hired without a professional master, skipper or crew.

CHAPTER 4

MARINE SAFETY INVESTIGATION AUTHORITY

4.1. — The Director-General of the Bureau, being the Marine Safety Investigation Authority of Nigeria, shall provide the IMO with its contact information and serve as the designated agency for exchanging information and addressing accident investigation issues.

CHAPTER 5

NOTIFICATION

5.1. — (1) When an accident occurs to a Nigerian vessel on the Nigerian waters and Nigerian Maritime Zone, or at a Nigerian port, or a jetty, the following persons associated with the vessel shall notify the Director-General as soon as reasonably practicable following the accident and by the quickest means available:

- a) the vessel master or, if the vessel master has not survived, the senior surviving officer or, any crew member of the vessel;
- b) the operator, owner, charterer, agent of the ship or vessel, unless they have ascertained that the vessel master or senior surviving officer has reported the accident in accordance with Section 5.1(1)(a);
- c) a pilot who has duties on board the vessel;
- d) pilotage service provider responsible for assigning or allocating a pilot to the vessel;
- e) a vessel traffic authority that provides a vessel traffic service to the vessel;
- f) In addition to any notification made under Section (a) to (e) herein, the following persons shall notify the Director-General as soon as practicable and by the quickest means available any accident of which they are aware:
 - i) in the case of an accident within or adjacent to the limits of any harbour, the harbour master of that harbour;

- ii) in the case of an accident on any inland waterway in Nigeria, the boatmaster, NIWA or body having responsibility for that waterway; or
- iii) an official of NIMASA in respect of an accident involving foreign ship within Nigerian waters; or
- iv) any person who becomes aware of the accident.

(2) When an accident occurs to a Nigerian vessel on the high seas or in an EEZ of a coastal State, the following persons shall notify the Director-General and the coastal State as soon as reasonably practicable following the accident and by the quickest means available:

- a) the master or, if the master has not survived, the senior surviving officer or, any crew member of the ship;
- b) the operator, owner, agent of the ship or vessel unless they have ascertained that the master or senior surviving officer has reported the accident in accordance with Section 5.1(1)(a) of these Regulations;
- c) a pilot who has duties on board the ship;
- d) a pilotage service provider, responsible for assigning or allocating a pilot to the ship;
- e) the harbour master responsible for vessel traffic service and allocation of berthing space.

(3) When an accident occurs to a Nigerian ship or ships on the high seas or in Nigeria's EEZ, the Director-General shall notify the coastal State and other substantially interested States as soon as is reasonably practicable and by the quickest means available.

5.2. — When an accident occurs to a ship or ships of a flag State within the Nigerian territory, its inland and coastal waterways including the territorial sea, the Director-General shall notify the flag State, and other substantially interested States as soon as is reasonably practicable and by the quickest means available.

5.3. — (1) for the purpose of Sections 5.1 and 5.2, the persons mentioned in Section 5.1(1) and (2) shall immediately report marine occurrences to the Director-General if:

- a) a person is killed or sustains a serious injury as a result of:
 - i) boarding, being on board or falling overboard from the vessel, or
 - ii) coming into direct contact with any part of the ship or its contents;
- b) a crew member whose duties are directly related to the safe operation of the ship is unable to perform their duties as a result of a physical incapacitation which poses a threat to the safety of persons, property or the environment;
- c) the ship:
 - i) sinks, founders or capsizes;
 - ii) is involved in a collision or a risk of a collision;
 - iii) sustains a fire or an explosion;
 - iv) goes aground;
 - v) makes unforeseen contact with the bottom without going aground;
 - vi) sustains damage that affects its seaworthiness or renders it unfit for its purpose;
 - vii) is anchored, grounded or beached to avoid an occurrence;
 - viii) is missing or abandoned;
 - ix) fouls a utility cable or pipe, or an underwater pipeline;

- x) sustains a total failure of:
 - (A) the navigation equipment if the failure poses a threat to the safety of any person, property or the environment;
 - (B) the main or auxiliary machinery; or
 - (C) the propulsion, steering, or deck machinery if the failure poses a threat to the safety of any person, property or the environment.
 - (d) all or part of the ship's cargo shifts or falls over board; or
 - (e) there is an accidental release on board or from the ship which results in any of the events relating to Transportation of Dangerous Goods.
- (2) Notification shall not be delayed due to the lack of complete information.

Format and content of notification

5.4. — (1) A person making the notification in accordance with Sections 5.1 or 5.2 shall, in so far as practicable, include the following information as is readily available:

- a) the name of the vessel/boat and its flag State or operator/owner;
- b) the IMO ship identification or NIWA Registration number;
- c) the ports of embarkation and disembarkation;
- d) the nature of the marine casualty or marine incident;
- e) the location of the marine casualty or marine incident;
- f) time and date of the marine casualty or marine incident;
- g) the number of any seriously injured or killed persons;
- h) consequences of the marine casualty to individuals, property and the environment; and
- i) the identification of any other ship involved.

(2) In addition to making a notification in accordance to Sections 5.1 or 5.2, the persons specified must, so far as is reasonably practicable, ensure that the circumstances of every accident is examined and that a report stating the findings of such examination, and any measure(s) taken or proposed to be taken to prevent a recurrence, shall be provided to the Director-General as soon as is practicable.

CHAPTER 6

INVESTIGATION OF VERY SERIOUS MARINE CASUALTIES

6.1. — (1) The Director-General shall ensure a safety investigation is conducted into any accident that is a very serious marine casualty as regards a vessel covered by Chapter 3 of these Regulations.

(2) The safety investigation shall include but not limited to—

- a) the collection and analysis of evidence;
- b) the identification of causal and contributory factors, and
- c) where appropriate, the making of safety recommendations.

(3) The Director-General shall exercise discretion to carry out a safety investigation in relation to an accident that is a marine casualty.

(4) Where the Director-General has received a notification under Chapter 5 of these Regulations, he shall decide whether or not a safety investigation should be carried out and shall publish details of that decision as soon as is reasonably practical, in such manner as is seen fit.

(5) Before deciding whether a safety investigation should be carried out and the form it should take, the Director-General shall obtain such information as it is considered necessary concerning the accident and any remedial action taken as a result.

(6) Any person mentioned in Section 5.1 of these Regulations, as well as any other person who is in possession of information requested by an Investigator-in-charge (IIC) for the purposes of Section 6.1(5), shall provide such information to the best of their ability and knowledge.

(7) — (a) In the case of a marine casualty or incident to which chapter 3 of these Regulations applies, the Director-General can exercise discretion in deciding whether to carry out a safety investigation, or it is otherwise established to his satisfaction that:

- i) the loss of life resulted from suicide or natural causes; and
- ii) the serious injury resulted from attempted suicide.

(b) In the circumstances in Section 6.1 (7) (a) above, the Director-General may discontinue any safety investigation which has already been commenced. Where circumstances outlined in Section 6.1(7)(a) apply, the Director-General may terminate an ongoing safety investigation.

(8) A safety investigation shall commence as promptly as is practicable by the Director-General after an accident occurs.

6.2. — Subject to any agreement in accordance with Chapter 7 of these Regulations, the flag State of a ship involved in a very serious marine casualty is responsible for ensuring that a marine safety investigation is conducted and completed in accordance with the Casualty Investigation Code.

Chapter 7

AGREEMENT FOR THE CONDUCT OF MARINE SAFETY INVESTIGATION

7.1. — Without limiting the rights of States to conduct their own separate marine safety investigation, where a marine casualty occurs within the territory, including territorial sea, of a State, the flag State(s) involved in the marine casualty and the coastal State shall consult to seek agreement on which State or States will be the marine safety investigating State(s) in accordance with a requirement, or a recommendation acted upon, to investigate under the Casualty Investigation Code.

7.2. — Without limiting the rights of States to conduct their own separate marine safety investigation, if a marine casualty occurs on the high seas or in the EEZ of Nigeria, and involves more than one flag State, then the Bureau and the substantially interested States shall consult to seek agreement on which State or States will be the marine safety investigating State(s) in accordance with a requirement, or a recommendation acted upon, to investigate under the Casualty Investigation Code.

7.3. — For a marine casualty or marine incident referred to in Sections 7.1 or 7.2, agreement may be reached by the Bureau and relevant States with another substantially interested State for that State (s) to be the marine safety investigating State(s).

7.4. — Prior to reaching an agreement with the Bureau, or if an agreement is not reached, in accordance with Sections 7.1, 7.2 or 7.3, then the existing obligations and rights of States under the Casualty Investigation Code, and other international laws, to conduct a marine safety investigation remain with the respective parties to conduct their own investigation.

7.5. — When the Bureau fully participates in a safety investigation involving a Nigerian ship (s) conducted by another substantially interested State, Nigeria shall be deemed to have fulfilled its obligations under the Casualty Investigation Code, SOLAS regulation I/21 and article 94, section 7 of the United Nations Convention on the Law of the Sea.

7.6. — (1) A safety investigation commenced by the Bureau under these Regulations shall, where appropriate, be conducted in co-operation with:

- (a) another State, or
- (b) another Substantially Interested State.

(2) Where a safety investigation has commenced, under Section 7.6(1) the Director-General and any other State(s) involved shall agree in the shortest possible time:

- (a) which of them shall lead the safety investigation; and
- (b) the procedures to be adopted for the purposes of such an investigation.

CHAPTER 8

POWERS OF AN INVESTIGATION

8.1. — (1) If a safety investigation must be carried out, the Director-General shall in pursuance of Section 26 of the Act appoint an IIC or such other person or persons as investigators to undertake the conduct of the safety investigation at such times and places and in such manner as it appears to them most conducive to achieving the objective set out in Section 1.4 of these Regulations.

(2) The Director-General shall exercise powers to also appoint one or more persons who are not Investigators appointed under the Act for the purpose of carrying out an investigation in circumstances where the persons appointed have special qualifications or experience, and such persons will have the powers conferred on an investigator by Section 27 of the Act.

(3) A safety investigation shall extend to cover, but not limited to—

- a) all events and circumstances preceding the accident together with subsequent events and circumstances;
- b) issues involving salvage and pollution connected with the accident;
- c) the conduct of search and rescue operations,

if in the opinion of the Director-General they are relevant to future safety investigation.

(4) Every person required to appear before an IIC shall be allowed the reasonable expenses of appearing, payable by the Bureau.

(5) Any person, not being a solicitor or other professional legal adviser acting solely on behalf of the person required to attend, who:

- a) has been allowed by an investigator to be present; or
- b) has been nominated to be present by a person required to appear,

at a witness interview before an investigator, shall at any time be excluded from being present by the investigator with the agreement of the Director-General, if:

- i) both the IIC and Director-General have substantial reason to believe that the person's presence would hamper the investigation with the result that the objective in Section 1.4 is likely to be hindered and future safety thereby endangered; and
- ii) the Director-General is satisfied, having regard to all the circumstances, that it is proper to exclude that person.

(6) Where a person nominated to be present has been excluded in accordance with Section 8.1(5), the person required to attend may be entitled to nominate another person to be present at the witness interview in place of the excluded person and Section 8.1(5) applies to that other person.

(7) Any document, record or information properly required by an IIC to be produced for the purposes of a safety investigation (whether onboard the ship involved or otherwise) may be retained by the IIC until the safety investigation is completed.

(8) The Director-General shall issue appropriate credentials to the Bureau's IIC, safety investigators and any person(s) so authorized to participate in a safety investigation. The credential shall include :

- a) reference to empowering legislation;
- b) method to control currency of the credentials;
- c) photo of the holder.

(2) According to section 27 of the Act, on display of the credential, the Bureau's IIC safety investigators and any person(s) so authorized to participate in a safety investigation shall have the authority to:

- a) board vessel(s) involved in an accident;
- b) interview the master and crew and any other person involved; and
- c) acquire evidential material for the purposes of a safety investigation.

CHAPTER 9

PARALLEL INVESTIGATIONS

9.1. — Where the Bureau is conducting a safety investigation under these Regulations, nothing prejudices the right of other substantially interested State(s) to conduct their own separate safety investigations.

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.2. — In fulfilling the obligations under extant laws and the Casualty Investigation Code, the Bureau and any other substantially interested State conducting a marine safety investigation shall seek to co-ordinate the timing of its investigation, to avoid conflicting demands upon witnesses and access to evidence, where possible.

Chapter 10

CO-OPERATION

10.1. — (1) A Safety investigation commenced by the Bureau under these Regulations shall, where appropriate, be conducted in co-operation with another member State or another substantially interested State.

(2) When Nigeria is a substantially interested State in a safety investigation, the Director-General shall co-operate with the safety investigating State(s) to the extent practicable³.

³ The reference to "extent practicable" may be taken to mean, as an example, that co-operation or participation is limited because national laws make it impracticable to fully co-operate or participate

10.2. — (1) When Nigeria is the safety investigating State of an accident in which the Bureau takes responsibility for the conduct of a safety investigation, as mutually agreed in accordance with the Casualty Investigation Code, the Director-General shall allow the participation of substantially interested State(s) at any stage of that investigation to the extent allowed by the applicable laws of Nigeria.

(2) For the purposes of section 10.2 sub-section (1), a Substantially Interested State—

- a) has equal rights and access to witnesses and evidence involved in a safety investigation, and
- b) any representations that it may make to the Bureau must be taken into consideration for the purposes of the safety investigation.

(3) Where a Substantially Interested State has been allowed to participate in a safety investigation and no mutual agreement in accordance with Sub-section 10.2(1) has occurred, then the Director-General and such other State(s) or Substantially Interested State(s), or both shall—

- a) conduct parallel safety investigations, and
- b) exchange evidence and information with each other for the purposes, as far as possible, of reaching shared conclusions.

(4)— When the Bureau is requested to assist another State in a safety investigation in which Nigeria is not involved then the costs of any such assistance provided must be agreed with that State.

Chapter 11

INVESTIGATION NOT TO BE SUBJECT TO EXTERNAL DIRECTION

11.1. —The Director-General shall ensure that investigator(s) carrying out a safety investigation under these Regulations are impartial and objective. According to section 6 of the Act, the Director-General shall be able to report on the results of a safety investigation without direction or interference from any person(s) or organizations who may be affected by its outcome.

Chapter 12

OBTAINING EVIDENCE FROM SEAFARERS

12.1. —When the Director-General is conducting a safety investigation into an accident and requires a seafarer to provide evidence to the investigation, the evidence shall be taken at the earliest practical opportunity. The seafarer shall be allowed to return to his/her ship, or be repatriated at the earliest possible opportunity. The seafarer's human rights shall, at all times, be upheld.

12.2. — All seafarers from whom evidence is sought shall be informed of the nature and basis of the safety investigation. Further, a seafarer from whom evidence is sought shall be informed, and allowed access to legal advice, regarding—

- a) any potential risk that they may incriminate themselves in any proceedings subsequent to the marine safety investigation;
- b) any right not to self-incriminate or to remain silent;
- c) any protection afforded to the seafarer to prevent the evidence being used against them if they provide the evidence to the marine safety investigation State.

12.3. — An IIC or an investigator shall have the discretion to record a witness interview of any person who is assisting a safety investigation carried out under these Regulations in any manner that the Director-General considers reasonable.

Chapter 13

DRAFT MARINE SAFETY INVESTIGATION REPORTS

13.1— (1) Subject to Sections 13.2 and 13.3, where it is requested, the Director-General shall send a copy of a draft report of a safety investigation to a substantially interested State and relevant stakeholders in Nigeria to invite their comments on the draft report.

(2) Where Nigeria is a substantially interested State in a safety investigation conducted by another State(s), the Bureau shall request to the State(s) conducting the safety investigation to provide the Bureau with draft final report of the safety investigation for comment.

13.2— (1) The Director-General is only bound to comply with Section 13.1 where the substantially interested State and relevant stakeholders in Nigeria receiving the draft final report guarantee not to circulate, nor cause to circulate, publish or give access to the draft final report, or any part thereof, without the express consent of the Bureau or unless such reports or documents have already been published by Bureau.

(2) Where Nigeria is a substantially interested State in a safety investigation conducted by another State(s) and the Bureau receives draft report for comments, the Director-General shall guarantee in writing, not to circulate, nor cause to circulate, publish or give access to the draft report, or any part thereof, without the express consent of the marine safety investigating State(s) or unless such reports or documents have already been published by the marine safety investigating State(s).

13.3— The Bureau is not bound to comply with Section 13.1 if—

- a) the Bureau's request that the substantially interested State receiving the draft report to affirm that evidence included in the draft report will not be admitted in civil or criminal proceedings against a person who gave the evidence; and
- b) the substantially interested State refuses to provide such an affirmation.

13.4— (1) The Director-General shall invite the substantially interested States and relevant stakeholders in Nigeria to submit their comments on the draft report of a safety investigation conducted by the Bureau, within 30 days or some other mutually agreed period from the date the transmittal is received. The Director-General shall consider the comments before preparing the final report and where the acceptance or rejection of the comments will have direct impact on the interests of the State that submitted them, the Bureau shall notify the substantially interested State of the manner in which the comments were addressed. If the Bureau receives no comments after the 30 days or the mutually agreed period has expired, then the Director-General shall proceed to finalize the report.

(2) Where the Bureau receives a draft final report and is invited by the safety investigating State(s) to submit its comments, the Bureau shall do so within 30 days from the date the transmittal is received, unless there is a mutually agreed period.

13.5— The Director-General shall seek to fully verify the accuracy and completeness of the draft report by the most practical means.

Chapter 14

MARINE SAFETY INVESTIGATION REPORTS

14.1— (1) Subject to Section 14.1 Sub-section (4), the Director-General shall submit to the President through the Minister, the final report of any safety investigation conducted in accordance with these Regulations.

(2) The Director-General shall ensure safety investigation report is made available to the public—

- a) in the shortest possible time or within 12 months of the date of an accident being notified to the Bureau, and
- b) if it is not possible to produce such a report within that time, an interim report must be published within 12 months of the date of the accident being notified to the Bureau.

(3) A report in relation to an accident to which these Regulations apply shall contain but not limited to—

- a) the information set out in **Schedule 1** of these Regulations;
- b) conclusions relating to the facts of the evidence;
- c) where the facts cannot be clearly established, analysis and professional judgement to determine the probable facts;
- d) recommendations for future safety where appropriate.

(4) A final report shall not be made publicly available until the Director-General has—

- a) served a notice under this regulation upon any person who, or organization which, could be adversely affected by the report or, if that person is deceased, upon such person or persons as appeared to the Director-General, at the time it is proposed to

- serve notice in accordance with this paragraph, as best to represent the interests and reputation of the deceased in the matter;
- b) considered the representations relating to the facts or analysis contained in the report which may be made to the Director-General in accordance with—
 - i.) Section 14.1(6) by or on behalf of the persons served with such notice, or
 - ii) Section 14.1(7),

and the report must be amended in such manner as the Director-General thinks fit.

(5) The notice referred to in Section 14.1(4)(a) shall be accompanied by a copy of the draft final report.

(6) The representations under Section 14.1(4)(b) shall be written and submitted to the Director-General within 30 days of receiving the relevant notice, except an alternative timeframe is mutually agreed upon.

(7) The Director-General shall submit the final report of every safety investigation into a very serious marine casualty to the International Maritime Organization.

14.2— Where the Bureau conducted a safety investigation into a marine casualty or marine incident, other than a very serious marine casualty, and a final report is produced which contains information which may prevent or lessen the seriousness of marine casualties or marine incidents in the future, the final report version shall be submitted to the relevant authorities and stakeholders as well as the International Maritime Organization.

14.3— The safety investigation report referred in Sections 14.1 and 14.2 shall utilize all the information obtained during a safety investigation, taking into account its scope, required to ensure that all the relevant safety issues are included and understood so that safety action can be taken as necessary.

14.4— The Director-General shall make the final report available to the public and shipping industry, either by publishing it directly or providing guidance on accessing it if published by another state or the International Maritime Organization (IMO).

14.5— For the purposes of Section 14.1(2), the Director-General shall exercise powers to publish the final report in a manner deemed appropriate. Posting the final report on the Bureau's website shall be considered sufficient to make it available to the public, operators, and the shipping industry.

CHAPTER 15

ADMINISTRATIVE RESPONSIBILITIES

15.1—The Director-General shall implement the financial provisions in Sections 17 and 18 of the Act to ensure availability of sufficient materials, financial resources and suitably qualified personnel for safety investigators to undertake investigations into marine casualties and marine incidents under these Regulations in compliance with extant waterways transportation law and the Casualty Investigation Code.

15.2— Any investigator forming part of a safety investigation shall be appointed on the basis of the skills outlined in the Bureau's Investigation Policy and Procedure Manual.

15.3— However, Section 15.2 does not preclude the appropriate appointment of investigators with necessary specialist skills to form part of a safety investigation on a temporary basis, neither does it preclude the use of consultants to provide expert advice on any aspect of a safety investigation.

15.4— Any person who is an investigator, in a safety investigation, or assisting a safety investigation, shall be bound to operate in accordance with these Regulations.

Chapter 16

PRINCIPLES OF INVESTIGATION

16.1. — (1) **Independence:** A safety investigation shall be unbiased to ensure the free flow of information to it.

(2) In order to achieve the outcome in section 16.1(1), the investigator(s) carrying out a safety investigation shall have functional independence from:

- a) the parties involved in the marine casualty and marine incident;
- b) anyone who may make a decision to take administrative or disciplinary action against an individual or organization involved in a marine casualty and marine incident; and
- c) judicial proceedings;

(3)— The investigator(s) carrying out a safety investigation shall be free of interference from the parties in (a), (b) and (c) of Section 16.1 sub-section (2) with respect to:

- a) the gathering of all available information relevant to the marine casualty and marine incident, including voyage data recordings and vessel traffic services recordings;
- b) analysis of evidence and the determination of causal factors;
- c) drawing conclusions relevant to the causal factors;
- d) distributing a draft report for comment and preparation of the final report; and
- e) if appropriate, the making of safety recommendations.

16.2— **Safety focused:** It is not the objective of a safety investigation to determine liability, or apportion blame. However, the investigator(s) carrying out a safety investigation shall not refrain from fully reporting on the causal factors because fault or liability may be inferred from the findings.

16.3—**Co-operation:** Where it is practicable and consistent with the provisions of these Regulations, in particular chapter 10 on Co-operation, the Director-General shall seek to facilitate maximum co-operation between substantially interested States and other persons or organizations conducting an investigation into a marine casualty or marine incident in which Nigeria is the safety investigating State.

16.4. — (1) **Priority:** A safety investigation commenced under these Regulations shall, as far as possible, be afforded priority over any other investigation, including investigations for criminal purposes being conducted into the marine casualty or marine incident.

(2) In accordance with Section 16.4 Sub-section (1), investigator(s) carrying out safety investigation shall not be prevented from having access to evidence in circumstances where another person or organization is carrying out a separate investigation into a marine casualty or marine incident.

(3) The evidence for which ready access be provided shall include:

- a) survey and other records held by the flag State, the owners, classification societies, boat operator and administration;
- b) all recorded data, including voyage data recorders; and
- c) evidence that may be provided by government surveyors, coastguard officers, vessel traffic service operators, harbour master, pilots or other marine personnel.

16.5. — **Scope of a marine safety investigation:** Proper identification of causal factors requires timely and methodical investigation, going far beyond the immediate evidence and looking for underlying conditions, which may be remote from the site of the marine casualty or marine incident, and which may cause other future marine casualties and marine incidents. Safety investigations shall therefore be seen as a means of identifying not only immediate causal factors but also failures that may be present in the whole chain of responsibility.

Chapter 17

INVESTIGATION OF MARINE CASUALTIES OTHER THAN VERY SERIOUS CASUALTIES AND MARINE INCIDENTS

17.1. — A safety investigation involving a Nigerian vessel shall be conducted into marine casualties other than very serious marine casualties (which are addressed in chapter 6 of these Regulations) and marine incidents, by the Director-General, if it is considered by the Director-

General that it is likely that a marine safety investigation will provide information that can be used to prevent marine casualties and marine incidents in the future.

Chapter 18

FACTORS TO BE TAKEN INTO ACCOUNT FOR MARINE SAFETY INVESTIGATION AGREEMENTS

18.1. — When the flag State(s), a coastal State (if involved) or other substantially interested States are seeking to reach agreement on which State or State(s) will be the marine safety investigating State(s) under the Casualty Investigation Code, the following factors shall be considered—

- a) whether the marine casualty or marine incident occurred in the territory, including territorial sea, of a State;
- b) whether the ship or ships involved in a marine casualty or marine incident occurring on the high seas, or in the exclusive economic zone, subsequently sail into the territorial sea of a State;
- c) the resources and commitment required of the flag State and other substantially interested States;
- d) the potential scope of the marine safety investigation and the ability of the flag State or another substantially interested State to accommodate that scope;
- e) the need of the investigator(s) carrying out a marine safety investigation to access evidence and consideration of the State or States best placed to facilitate access to evidence;
- f) any perceived or actual adverse effects of the marine casualty or marine incident on other States;
- g) the nationality of the crew, passengers and other persons affected by the marine casualty or incident.

Chapter 19

ACTS OF UNLAWFUL INTERFERENCE

19.1. — If in the course of a safety investigation it becomes known or is suspected that an offence is committed under articles 3, *3bis*, *3ter* or *3quarter* of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, 1988, the Director-General shall

immediately seek to ensure that the Nigerian Maritime Administration and Safety Agency (NIMASA) and maritime security Authorities of other State(s) concerned are informed.

19.2 — If in the course of a safety investigation it becomes known or is suspected that an offence is committed on coastal and inland waterways, the Bureau shall immediately seek to ensure that the National Inland Waterways Authority and the Marine Police are informed.

Chapter 20

NOTIFICATION TO PARTIES INVOLVED AND COMMENCEMENT OF AN INVESTIGATION

20.1. — When a safety investigation is commenced under these Regulations, the master, the owner, boat operator and the agent of a ship involved in the marine casualty or marine incident being investigated, shall be informed as soon as practicable of:

- a) the marine casualty or marine incident under investigation;
- b) the time and place at which the safety investigation will commence;
- c) the name and contact details of the safety investigation Authority(ies);
- d) the relevant details of the legislation under which the marine safety investigation is being conducted;
- e) the rights and obligations of the parties subject to the safety investigation; and
- f) the rights and obligations of the State or States conducting the safety investigation.

20.2. — The Director-General shall develop a standard document detailing the information in Section 20.1 that can be transmitted electronically to the master, the agent, boat operator and the owner of the ship.

20.3. — Recognizing that any ship involved in a marine casualty or marine incident may continue in service, and that a ship shall not be delayed more than is absolutely necessary, the Bureau shall start the safety investigation as soon as is reasonably practicable, without delaying the ship unnecessarily.

Chapter 21

CO-ORDINATING AN INVESTIGATION

21.1. — The provisions in this chapter shall be applied in accordance with the principles in Chapters 10 and 11 of these Regulations.

21.2. — The Director-General shall ensure that there is an appropriate framework for —

- a) the designation of investigators to the safety investigation including an investigator-in-charge to lead the safety investigation;
- b) the provision of a reasonable level of support to members of the safety investigation;
- c) the development of a strategy for the safety investigation in liaison with other substantially interested States;
- d) ensuring the methodology followed during the safety investigation is consistent with that recommended in resolution A.884(21), as amended;
- e) ensuring the marine safety investigation takes into account any recommendations or instruments published by the International Maritime Organization or International Labour Organization, relevant to conducting a marine safety investigation; and
- f) ensuring the marine safety investigation takes into account the safety management procedures and the safety policy of the operator of a ship in terms of the International Safety Management (ISM) Code.

21.3.—(1) The Bureau shall allow a substantially interested State to participate in aspects of the safety investigation relevant to it, to the extent practicable⁴.

(2) Participation should include allowing representatives of the substantially interested State to:

- a) interview witnesses;
- b) view and examine evidence and make copies of documents;
- c) make submissions in respect of the evidence, comment on and have their views properly reflected in the final report; and
- d) be provided with the draft and final reports relating to the ~~marine~~ safety investigation.

21.4. — When Nigeria is a substantially interested State, the Bureau shall assist the marine safety investigating State(s) with access to relevant information for the marine safety investigation, to the extent practicable. Also, to the extent practicable, the investigator(s) carrying out a safety

⁴ The reference to “extent practicable” means: That co-operation or participation is limited because national laws make it impractical to fully co-operate or participate.

investigation shall also be afforded access to Government surveyors, coastguard officers, ship traffic service operators, pilots and other marine personnel.

21.5. — When a Nigerian ship is involved in a marine casualty or marine incident, the Director-General shall facilitate the availability of the crew to the investigator(s) carrying out the safety investigation.

Chapter 22

COLLECTION AND PRESERVATION OF EVIDENCE

22.1. — (1) Following an accident involving a ship to which these Regulations applies, the persons mentioned in Section 5.1 sub-section (1) and (2) shall so far as is practicable ensure that all—

- a) charts;
- b) log books;
- c) recorded information relating to the period preceding, during and after an accident, howsoever recorded or retained, including information from a voyage data recorder and video recorders; and
- d) all documents or other records which might reasonably be considered pertinent to the accident, are kept and that no alteration is made to recording(s) or entries in them.

(2) In the case of an accident involving a ship to which these Regulations applies, the persons mentioned in Section 5.1 Sub-sections (1) and (2) shall also ensure that—

- a) all information from a voyage data recorder or recording system relating to the circumstances of an accident is saved and preserved, in particular by taking steps, where necessary to prevent such information from being overwritten; and
- b) any other equipment which might reasonably be considered pertinent to the investigation of the accident is so far as practicable left undisturbed.

(3) The duty under Section 22.1 Sub-section (1) to ensure that documents, information or records are kept and not altered and to ensure under Sub-section 22.1(2) that information is saved and preserved, or that equipment is left undisturbed continuously until—

- a) published notification is received from the Director-General that no safety investigation is to take place or that the investigation has been completed;
- b) 30 days have passed since the Director-General received the report referred to in Chapter 5 and no notice has been published by the Director-General that it has been decided to investigate the matter; or
- c) the Director-General or the Investigator-in-charge carrying out the investigation gives written notification that they are no longer required.

(4) Following an accident in Nigerian waters involving a ship which is not a Nigerian ship, the persons mentioned in Section 5.1 Sub-sections (1) and (2) must comply with the requirements of Section 22.1 Sub-sections (1) and (2) if required to do so by the Director-General.

(5) The Investigator-in-charge shall exercise discretion to, pending investigation, prohibit persons from gaining access to, or interfering with, any ship, ship's boat or other equipment involved in an accident.

(6) Following an accident, the Director-General shall exercise discretion, if it is considered reasonably necessary for the collection or preservation of evidence in connection with any safety investigation, including a preliminary assessment, relating to the accident, require any of the master or, if the master has not survived, the senior surviving officer and the ship's owner, operator or agent to ensure that a ship is accessible to any Investigator engaged in the investigation of such accident, until the process of collecting or preserving evidence has been completed to the Investigator's satisfaction.

(7) The Bureau shall not unnecessarily detain a ship involved in an accident longer than is necessary for the collection of evidence from it or have original documents or equipment removed for preservation, unless this is essential for the purposes of the marine safety investigation. Investigators shall make copies of documents where practicable. In any case, the Bureau shall take all reasonable steps to ensure that such evidence is collected or preserved expeditiously.

(9) No requirement under Section 22.1 Sub-section (7) shall be made unless the Director-General has reasonable grounds for concern that if a ship involved in an accident leaves Nigerian waters, access to it, to any member of the crew, or to any evidence on board relating to the investigation may subsequently be denied to the Director-General or the investigator-in-charge of such investigation.

22.2. — Investigator(s) carrying out a safety investigation shall secure records of interviews and other evidence collected during a safety investigation in a manner which prevents access by persons who do not require it for the purpose of the investigation.

22.3. — (1) Investigator(s) carrying out the marine safety investigation shall make effective use of all recorded data including voyage data recorders if fitted. Voyage data recorders shall be made available for downloading by the investigator(s) or an appointed representative carrying out a safety investigation.

(2) In the event that the Bureau does not have adequate facilities to read a voyage data recorder, the Director-General shall use the facilities made available by the States with such a capability having due regard to the—

- a) available resources;
- b) capabilities of the readout facility;
- c) timeliness of the readout; and
- d) location of the facility.

(3) In the event that the marine safety investigating State(s) do not have adequate facilities to read a voyage data recorder, the Director-General shall offer the services to read the voyage data recorder if the Bureau's facility has such a capability.

CHAPTER 23

CONFIDENTIALITY OF INFORMATION

23.1. — (1) The Director-General shall ensure that investigator(s) carrying out a safety investigation only disclose information from a marine safety record where —

- a) it is necessary or desirable to do so for transport safety purposes and any impact on the future availability of safety information to a safety investigation is taken into account; or
- b) as otherwise permitted in accordance with these Regulations and the Casualty Investigation Code⁵.

(2) Subject to the following paragraphs, the names, addresses or other details of anyone who has given evidence to an investigator must not be disclosed.

(3) Subject to Section 23.1 Sub-sections (5) and (8) the following documents or records whether held electronically, mechanically or otherwise must not be made available for purposes other than a safety investigation, unless a Court orders otherwise—

- a) subject to Sub-section (4), all declarations or statements taken from persons by an Investigator or supplied to an Investigator in the course of an investigation, together with any notes or recordings of witness interviews;
- b) medical or confidential information regarding persons involved in an accident;
- c) a draft report made under these Regulations or Casualty Investigation Code;
- d) accident safety data unless the data is de-identified;
- e) all correspondence received by the Director-General from parties involved in a safety investigation;
- f) evidence from voyage data recorders;
- g) the notes made by an Investigator or person appointed under Sub-section 8.1(2), whether written or held electronically along with any recordings or photographs;
- h) all communications between persons having been involved in the operation of the ship or ships; and
- i) Investigator's opinions expressed in the analysis of information.

(4) A person who has given a declaration or statement to an Investigator in the course of a safety investigation may make available a copy of their statement or declaration to another person as they see fit.

(5) Any independent technical analysis commissioned by the Director-General and opinions expressed in such analysis may be made publicly available if the Director-General considers it

⁵States recognize that there are merits in keeping from a marine safety record confidential where it needs to be shared with people outside the marine safety investigation for the purpose of conducting the marine safety investigation. An example is where information from a marine safety record needs to be provided to an external expert for their analysis or second opinion. Confidentiality would seek to ensure that sensitive information is not inappropriately disclosed for purposes other than the marine safety investigation, at a time when it has not been determined how the information will assist in determining the contributing factors in a marine casualty or marine incident. Inappropriate disclosure may infer blame or liability on the parties involved in the marine casualty or marine incident.

appropriate to do so.

(6) Subject to Sub-section (7), no order must be made under Sub-section (3) unless the Court is satisfied, having regard to the views of the Director-General, that the interests of justice in disclosure outweigh any prejudice, or likely prejudice, to—

- a) the safety investigation into the accident to which the document or record relates;
- b) any future accident safety investigation undertaken in Nigeria; or
- c) relations between Nigeria and any other State, or international organization.

(7) The provisions of these Regulations shall be without prejudice to any rule of law which authorizes or requires the withholding of any document or record or part thereof on the ground that disclosure of it would be injurious to the public interest.

(8) Copies of information obtained from a voyage recorder or from other recording systems, pertinent to the accident, including voice recordings (other than any recordings mentioned in Section 22.2 Sub-section (2)(a)), video recordings and other electric or magnetic recordings and any transcripts made from such information or recordings, may be provided at the discretion of the Director-General to the police, coroner or other official authorities.

23.2. — The Director-General, under these Regulations and the Casualty Investigation Code, shall ensure that any marine safety record in the Bureau's possession is not disclosed in criminal, civil, disciplinary or administrative proceedings unless:

- a) the appropriate authority for the administration of justice in Nigeria determines that any adverse domestic or international impact that the disclosure of the information might have on any current or future marine safety investigations is outweighed by the public interest in the administration of justice; and⁶
- b) where appropriate in the circumstances, the State which provided the marine safety record to the safety investigation authorizes its disclosure.

23.3. — Safety records shall be included in the final report, or its appendices, only when pertinent to the analysis of the marine casualty or marine incident. Parts of the record not pertinent, and not included in the final report, shall not be disclosed.

23.4. — (1) The Director-General need only supply information from a safety record to a substantially interested State where doing so will not undermine the integrity and credibility of safety investigation being conducted by the State or States providing the information.

(2) The Director-General when supplying the information from a marine safety record may require that the State receiving the information undertake to keep it confidential.

⁶ Examples of where it may be appropriate to disclose information from a marine safety record in criminal, civil, disciplinary or administrative proceedings may include:

- 1) where a person the subject of the proceedings has engaged in conduct with the intention to cause a destructive result; or
- 2) where a person the subject of the proceedings has been aware of a substantial risk that a destructive result will occur and having regard to the circumstances known to him or her it is unjustifiable to take the risk.

CHAPTER 24

PROTECTION FOR WITNESSES AND INVOLVED PARTIES

24.1. — If a person is required by law to provide evidence that may incriminate them, for the purposes of a safety investigation, the evidence shall, so far as national laws allow, be prevented from admission into evidence in civil or criminal proceedings against the individual.

24.2. — A person from whom evidence is sought shall be informed about the nature and basis of the investigation and allowed access to legal advice, regarding:

- a) any potential risk that they may incriminate themselves in any proceedings subsequent to the marine safety investigation;
- b) any right not to self-incriminate or to remain silent;
- c) any protections afforded to the person to prevent the evidence being used against them if they provide the evidence to the marine safety investigation.

CHAPTER 25

DRAFT AND FINAL REPORT

25.1. — (1) A final report from a safety investigation shall not be made publicly available unless the Director-General has —

- a) served a notice upon any person who, or organization which, could be adversely affected by the report or, if that person is deceased, upon such person or persons as appear to the Director-General, at the time it is proposed to serve notice in accordance with this paragraph, as best to represent the interests and reputation of the deceased in the matter;
- b) considered the representations relating to the facts or analysis contained in the report which may be made to the Director-General in accordance with—
 - i) section 25.3 by or on behalf of the persons served with such notice, or
 - ii) section 25.2,

and the report must be amended in such manner as the Director-General thinks fit.

(2) The notice referred to in Sub-section 25.1(1)(a) shall be accompanied by a copy of the draft report.

(3) The representations referred to in Sub-section 25.1(1)(b) shall be in writing and be served on the Director-General within 30 days of service of the notice referred to in Section 25.1(1)(b) or some other mutually agreed time.

(4) Subject to any Court order under Sub-section 22.2(2) of these Regulations, no person shall disclose any information—

- a) which has been furnished to them in accordance with Section 14.1 Sub-section (4) of these Regulations; or
- b) which has otherwise been furnished to them by or on behalf of the Director-General in advance of the publication of a report and whose confidentiality is protected by Sub-section 22.2(2),

or permit such information to be disclosed, except with the prior consent in writing of the Director-General, to any other person, except to such advisers as are necessary in order to make representations to the Director-General referred to in Section 14.1 Sub-section (4)(b), and those advisers shall similarly be subject to the duty not to disclose the information or permit it to be disclosed.

(5) A copy of the final report when made publicly available must be given by the Director-General to—

- a) any person who has been served with a notice in accordance with Section 14.1 Sub-section (4)(a);
- b) those persons or bodies to whom recommendations have been addressed in that final report;
- c) the President through the Minister;
- d) the International Maritime Organization (IMO); and
- e) any person or organization whom the Director-General considers may find the report useful or of interest.

25.2. — Where a substantially interested State makes request, and where practicable, the Director-General shall send a copy of a draft final report to the State making the request for comment. However, this provision does not apply unless the substantially interested State has agreed, in writing that it will not circulate, nor cause to circulate, publish or give access to the draft final report, or any part thereof, without the express consent of the Director-General.

25.3. — The Director-General shall allow the interested party 30 days or some other mutually agreed time to submit their comments on the safety investigation report. The Director-General shall consider the comments before preparing the final safety investigation report and where the acceptance or rejection of the comments will have direct impact on the interests of the interested party that submitted them, the Director-General shall notify the interested party of the manner in which the comments were addressed. If the Director-General receives no comments after the 30 days or the mutually agreed period has expired, then the Director-General shall proceed to finalize the safety investigation report.

25.4. — The draft and final report shall be prevented from being admissible in evidence in proceedings related to the marine casualty or marine incident that may lead to disciplinary measures, criminal conviction or the determination of civil liability.

25.5. — (1) At any stage during a safety investigation, the Director-General shall have the discretion to issue safety recommendations as to how future accidents may be prevented.

(2) The actions recommended shall be addressed to those persons who, in the opinion of the Director-General, are most fitted to implement them.

(3) A Safety Recommendations shall in no case create a presumption of blame or liability for a marine casualty or marine incident unless it is for the purpose to achieve the objective of the safety investigation.

(4) Recommendations shall be made publicly available if the Director-General considers that to do so is in the interests of safety or preventing pollution.

(5) Any person to whom a recommendation is addressed in accordance with Section 25.5 Sub-section 25.5(2) shall, as soon as is reasonably practical—

- a) take that recommendation into consideration;
- b) send to the Director-General—
 - i) details of the measures, if any, that they have taken or proposed to take to implement recommendations, and the timetable for securing that implementation, or
 - ii) an explanation as to why the recommendation is not to be the subject of measures
 - iii) to be taken to implement it, and any detail(s) or timetable under Sub-section 25.5 (5)(i) or (i) above or explanation under Sub-section 25.5(5)(ii) must be provided to the Director-General within 90 days following receipt of the recommendation; and
- c) give notice to the Director-General if at any time any information provided to the Director-General in accordance with paragraph 25.5(4)(b)(i) concerning the measures they propose to take or the timetable for securing their implementation is rendered inaccurate by any change of circumstances.

(6) Subject to Sub-section (6) and (7) the Director-General shall, annually or at such other intervals as the Director-General sees fit, make information publicly available in respect of the matters, including any explanation, mentioned in Sub-section (4)(b) and (c) which have been communicated to the Director-General.

(7) The Director-General shall not publish information under Sub-section (5) unless notification has been sent to all persons mentioned in the information and the Director-General has considered any representations relating to the information which may have been made in accordance with Sub-section (7) by or on behalf of any person so notified, and amended the information in such manner as the Director-General thinks fit.

(8) Any representations made in accordance with Sub-section (6) shall be in writing and shall be served on the Director-General within 90 days of receipt of the notification referred to in that Sub-section or within such further period as may be mutually agreed.

(9) when the Director-General makes a safety recommendation arising out of a safety investigation to an entity outside Nigeria, such safety recommendation shall be addressed, when appropriate, any in a dated transmittal correspondence to the marine safety investigation authority of the flag State(s), coastal State (if involved) or other substantially interested States, entities, undertaking.

(10) The Director-General shall implement procedures to monitor, follow-up and record the progress of the action taken in response to the safety recommendations issued by the Director-General or safety recommendations received from other State(s).

25.6. — Where Nigeria is a substantially interested State in an accident investigated by another State and the Director-General disagrees with the whole or a part of a final report of safety investigation, the Director-General shall submit own final report to the International Maritime Organization.

Judicial Inquest

25.7. — (1) Where an inquest or fatal accident inquiry is to be held following an accident which has been subject to a safety investigation under these Regulations, a draft final report, if requested, the Director-General shall make it available in confidence to the coroner or prosecutor.

(2) If any part of any document or analysis it contains to which this Section applies is based on information obtained in accordance with an Investigator's powers under sections 27, 28 and 38 of the Act, that part is inadmissible in any judicial proceedings whose purpose or one of whose purposes is to attribute or apportion liability or blame unless a Court, having regard to the factors mentioned in Sub-section 22.2(5)(b) or (c), determines otherwise.

(3) For the purposes of Sub-section (2), the documents are any publication produced by the Director-General as a result of a safety investigation.

(4) For the purposes of these Regulations where any investigator is required to attend judicial proceedings the investigator is not required to provide opinion evidence or analysis of information provided to them, or to provide information obtained in accordance with an investigator's powers under sections 27, 28 and 38 of the Act where the purpose or one of the purposes of those proceedings is to attribute or apportion liability or blame unless a Court, having regard to all the factors mentioned in Section 22.2 Sub-section (5)(b) or (c) determines otherwise.

(5) In these Regulations "judicial proceedings" includes any civil or criminal proceedings before any Court, or person having by law, the power to hear, receive and examine evidence on oath.

25.8 Marine operations—particulars for written reports

- 1 The particulars set out in section 22 of these Regulations
- 2 Weather at the time of the incident
- 3 Visibility at the time of the incident
- 4 The numbers of each of the following on board:

- (a) crew;
- (b) passengers;
- (c) other people;

Details of any of the following consequences of the incident (including details of the person affected):

- (a) injury;
- (b) illness;

- (c) death;
- (d) medical evacuation;
- (e) man overboard without a lifejacket;
- (f) man overboard wearing a lifejacket;
- (g) presumed loss of a person

Details as to why the person reporting the incident thinks that the incident occurred

Details of what has been done to prevent the incident from reoccurring

Details of the person completing the report, including contact details.

CHAPTER 26

RE-OPENING AN INVESTIGATION

26.1 The Director-General having completed a safety investigation, shall reconsider the findings and consider re-opening the investigation when new evidence is presented which may materially alter the analysis and conclusions reached.

26.2 When significant new evidence relating to any marine casualty or marine incident is presented to the Director-General after completing a safety investigation, the evidence shall be fully assessed and referred to other substantially interested States for appropriate input.

CHAPTER 27

ACCIDENT PREVENTION MEASURES

Safety data collection and processing systems (SDCPS)

27.1. — (1) The Director-General shall establish and maintain a safety data collection and processing systems (SDCPS) to capture, store, aggregate and enable the analysis of safety data and safety information, to facilitate the effective analysis of information on actual or potential safety deficiencies and to determine any preventive actions required in order to achieve an acceptable level of safety performance.

(2) The SDCPS database shall use standard taxonomy compatible to International Maritime Organization system for collection, sharing and exchange of safety data, if available.

Access to safety data collection and processing systems

27.2. — (1) Unless the principle of exception applies, safety data, safety information and related sources contained in the SDCPS referenced in section 27.1 above shall not be —

- a) used for disciplinary, civil, administrative and criminal proceedings against employees, operational personnel or organizations;

- b) disclosed to the public; or
 - c) used for any purposes other than maintaining or improving safety.
- (2) The safety data and safety information contained in the database shall be de-identified, summarized or aggregated prior to its use or disclosure in judicial or administrative proceedings.
- (3) The Principles of Exception to the protection of safety data, safety information and related sources shall be granted when the competent authority —
- a) determines that there are facts and circumstances reasonably indicating that the occurrence may have been caused by an act or omission considered, in accordance with national laws to conduct constituting gross negligence, willful misconduct or criminal activity;
 - b) after reviewing the safety data or safety information, determines that its release is necessary for the proper administration of justice, and that the benefits of its release outweigh the adverse domestic and international impact such release is likely to have on the future collection and availability of safety data and safety information; or
 - c) after reviewing the safety data or safety information, determines that its release is necessary for maintaining or improving safety, and that the benefits of its release outweigh the adverse domestic and international impact such release is likely to have on the future collection and availability of safety data and safety information.

Voluntary Reporting System

- 27.3. — (1) Any person having knowledge of any safety-related event, other than an accident or incident, may make a voluntary report to the Bureau and provide any information that the person believes is relevant.
- (2) Where a voluntary report is made to the Bureau, no person shall release the identity of the person making the report or any information that could reasonably be expected to reveal that person's identity, unless the person making the report authorizes, in writing, its release.
- (3) A report made to the Bureau under a voluntary reporting system shall not be used against the person who made the report in any disciplinary, civil, administrative and criminal proceedings.
- (4) The protection provided in Section 27.3 Sub-sections (2) and (3) above regarding the identity of the person making the voluntary report shall not apply to situations involving unlawful acts, gross negligence or willful infractions by that person, or unless a competent authority determines in accordance with national legislation, the value of its disclosure or use in any particular instance, outweighs the adverse impact such action may have on transportation safety.
- (5) The Director-General shall work closely with the relevant Authorities in the maritime industry in the collection, management of safety data and sharing safety information emanating from the voluntary reporting system to ensure consistency.

CHAPTER 28 MISCELLANEOUS

28.1. — (1) There shall be established a Regulations Committee, which shall be a standing committee within the Bureau appointed by the Director-General.

(2) The Regulations Committee shall be responsible for —

- a) Monitoring amendments to the Standards and Recommended Practices contained in the Marine Casualty Investigation Code;
- b) Incorporating the amendments into these Regulations;
- c) Considering proposals for amendment to these Regulations made by stakeholders and other members of the public by way of meetings prior to adoption and incorporation;
- d) Proposing on its motion, amendments to the Regulations;

(3) The Committee shall send Notices of Proposed Amendments to operators and other stakeholders and request their comments thereto within a period of 30 days.

(4) Upon receipt of comments, the Committee may consider and incorporate same into the Regulations.

(5) The Committee shall keep a record of such comments and its deliberations thereon.

(6) Submission of Proposal —

- a) Any interested person may submit to the Regulations Committee, a proposal on the introduction, amendment or withdrawal of a Regulation or technical standard;
- b) The proposal shall be in writing and shall —
 - i) state the name and address of the proposer;
 - ii) state the contents of the Regulation, technical standard or amendment proposed or specify the Regulation or technical standard which the proposer wishes to be withdrawn;
 - iii) explain the interests of the proposer; and
 - iv) contain any information, views or arguments supporting the proposal.

(7) All amendments to these Regulations shall be signed and published by the Director-General.

Family Assistance Programme

28.2. — (1) The Bureau shall be the coordinating agency for the integration of Federal Government resources and the resources of other organizations to support efforts of local and State governments and liaising with the operator(s) involved to meet the needs of marine disaster victims and their families.

(2) As soon as practicable after being informed of an accident within Nigerian waters resulting in a major loss of life, the Director-General shall appoint and publicize the name, phone number and email address of the Family Assistance Coordinator, who shall be an employee of the Bureau and

shall be responsible for acting as a point of contact for the families of passengers involved in the accident and a liaison between the Operator(s) and the families.

(3) It shall be the responsibility of the Family Assistance Coordinator to request, as soon as practicable, from the operator involved in the accident a list, which is based on the best available information at the time of the request, of the names of the passengers that were aboard the ship/vessel involved in the accident.

(4) The Family Assistance Coordinator shall initiate notification of the following agencies and organizations to activate their plans for addressing the needs of families of passengers involved in the accident and shall coordinate with the operator an appropriate response based on the magnitude of the accident —

- a) Nigerian Maritime Administration and Safety Agency (NIMASA)
- b) Nigerian Inland Waterways Authority (NIWA);
- c) Nigerian Ports Authority (NPA) and/or affected port/jetty operator;
- d) National Emergency Management Agency (NEMA);
- e) Ministry of Marine and Blue Economy;
- f) Federal Ministry of Health;
- g) Ministry of Foreign Affairs;
- h) Ministry of Defence;
- i) Nigeria Police Forces;
- j) Nigerian Security and Civil Defence Corps (NSCDC);
- k) Nigerian Red Cross;
- l) Nigerian Red Crescent;
- m) Religious Disaster Relief Organizations; and
- n) Any other organization as the Director-General deems necessary.

(5) The Family Assistance Coordinator shall not release to any person information on a passenger manifest obtained under Section 28(3), except to the family of the passenger to the extent that the Family Assistance Coordinator considers appropriate.

(6) In the course of its investigation of an accident, the Director-General shall, to the maximum extent practicable and to the discretion of the Bureau's Investigator-in-charge, ensure that the families of passengers involved in the accident are —

- a) briefed, prior to any public briefing, about the accident, its causes, and any other findings from the investigation; and
- b) allowed to visit to the accident site, if such a visit will not impede the investigation and is believed safe for family members.

(7) The operator(s) involved shall have fundamental responsibility to victims and their families affected by the accident and shall be primarily responsible to —

- a) activate and publicize a toll-free telephone number for family members to call to inquire if a passenger's name is on the manifest. The telephone system shall be capable of handling a significant volume of calls;

- b) notify family members of victims using contact information provided by the passengers prior to public release of names of passengers;
- c) train the callers to interact effectively with emotionally distraught persons and should be able to provide basic information concerning the next steps in the assistance process for the family members, including transportation, lodging, meals, security, communications and incidental expenses.

(8) All personnel involved in providing services to assist victims and their family members must be trained in crisis response and must demonstrate compassion, technical expertise, and professionalism. Personal information provided by family members and victims through discussions, interviews, counseling, or any other form of information exchange shall remain confidential and shall not be used for future litigation purposes.

28.3.—(1) The Director-General/CEO of the Bureau, in cooperation with the Nigerian Maritime Administration and Safety Agency (NIMASA), Nigerian Inland Waterways Authority (NIWA), Nigerian Ports Authority (NPA), Relevant Agencies of State Government and/or affected Port /Jetty operator, National Emergency Management Agency (NEMA), Federal Ministry of Health, Ministry of Foreign Affairs, Ministry of Aviation, Ministry of Defence, Nigeria Police Forces, Federal Road safety Commission (FRSC), Nigerian Red Cross, Nigerian Red Crescent, Religious Disaster Relief Organizations, shall establish a task force consisting of representatives of such entities and families, representatives of maritime employees, and representatives of such other entities as the Director- General/CEO considers appropriate.

(2) The task force established pursuant to Section 28.5 Sub-section (1) of this Sub-section, shall develop —

- a) guidelines to assist operators in responding to accidents;
- b) recommendations on methods to ensure that attorneys and representatives of media organizations do not intrude on the privacy of families of passengers involved in the accident;
- c) recommendations on methods to ensure that the families of passengers involved in an accident who are not citizens of Nigeria receive appropriate assistance;
- d) recommendations on methods to ensure that State mental health licensing laws do not act to prevent out-of-state mental health workers from working at the site of an accident or other related sites;
- e) recommendations on the extent to which military experts and facilities can be used to aid in the identification of the remains of passengers involved in an accident; and
- f) recommendations on methods to improve the timeliness of the notification provided by operators to the families of passengers involved in an accident, including —
 - i) an analysis of the steps that operators would have to take to ensure that an accurate list of passengers on board would be available within one (1) hour of the accident and an analysis of
 - ii) such steps to ensure that such list would be available within three (3) hours of the accident;
 - iii) an analysis of the added costs to operators and travel agents that would result if operators were required to take the steps described in section 28.5(2)(a);

- iv) an analysis of any inconvenience to passengers, including flight delays, that would result if operators were required to take the steps described in subparagraph (a); and
- v) an analysis of the implications for personal privacy that would result if operators were required to take the steps described in Section (2)(a).

Note: — Nothing in this section may be construed as limiting the actions that an operator may take, or the obligations that a ship/vessel operator may have, in providing assistance to the families of passengers involved in an accident.

CHAPTER 29

CONTRAVENTIONS

29.1. — (1) A person is guilty of an offence if—

- a) being a person mentioned in sections 5.1 Sub- (1), (1)(f)(i); or they fail without reasonable cause to report an accident as required by chapter 5, or
- b) being a person referred to in sub-section (2), they fail without reasonable cause to provide information as required by Sub-section (1); or they falsely claim to have any additional information or new evidence pertaining to any accident, and is liable on summary conviction to a fine not exceeding the provisions of Section 49(4) of the Act (value as may be determined in admiralty cases etc)

(2) If any person fails without reasonable cause to comply with any requirement, duty or prohibition in Section 22.1 Sub-sections (1), (2),(3) (6) or (7), they shall be guilty of an offence and liable on summary conviction to a fine and penalised in line with Section 52 of the Act. 2022

(3) If any person without reasonable cause discloses or permits to be disclosed any information in contravention of Section 23.1 Sub-sections (2), (3) or 25.1(4), or makes available any documents or records in contravention of Sub-section 23.1(3), they shall be guilty of an offence and liable on summary conviction to a fine not exceeding exceeding N200,000:00 or to imprisonment for a term not exceeding 12 months or to both

SCHEDULE

SCHEDULE 1

Format and Content of the Final Report

Summary/Synopsis

1. An outline of the basic facts of the marine casualty or incident, including what happened, when, where and how it happened.

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

Factual information

3. Particulars about the vessel concerned, including details of its—

- (a) flag and register;
- (b) identification;
- (c) main characteristics;
- (d) ownership and management;
- (e) construction;
- (f) minimum safe manning;
- (g) authorised cargo.

4. Particulars about the voyage, including—

- (a) ports of call;
- (b) the type of voyage;
- (c) cargo information;
- (d) manning.

5. Marine casualty or incident information, including—

- (a) the type of marine casualty or incident;
- (b) the date and time of casualty or incident;
- (c) the position and location of the marine casualty or incident;
- (d) information about the external and internal environment;
- (e) information about the vessel's operation and voyage segment;
- (f) the place on board the ship where the casualty or incident occurred;
- (g) human factors data;
- (h) information about its consequences (for people, any ship, cargo, the environment or other).

6. Information about shore authority involvement and emergency response, including—

- (a) who was involved in the response;
- (b) the means used to respond to the casualty or incident;
- (c) the speed of response;
- (d) actions taken;
- (e) results achieved.

Narrative details

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

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

Analysis

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

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

Conclusions

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

Safety Recommendations

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

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

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

Appendices

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

- (a) photographs, moving images, audio recordings, charts, drawings;

- (b) applicable standards;
- (c) technical terms and abbreviations used;
- (d) special safety studies;
- (e) miscellaneous information.