

SAINT CHRISTOPHER AND NEVIS

STATUTORY RULES AND ORDERS

No. 18 of 2012

**MERCHANT SHIPPING (FORMAL INVESTIGATION AND INQUIRY)
REGULATIONS, 2012**

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STATUTORY RULES AND ORDERS

No. 18 of 2012

Merchant Shipping (Formal Investigation and Inquiry) Regulations, 2012

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

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**PART I
PRELIMINARY**

1. CITATION.

These Regulations may be cited as the Merchant Shipping (Formal Investigation and Inquiry) Regulations, 2012.

2. INTERPRETATION.

In these Regulations

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

“allegation” means an allegation by the Director that:

- (a) an officer’s fitness or conduct falls within section 122 (1)(a) to (c) of the Act; or
- (b) a certificate holder is unfit to be the holder of such a certificate, whether by reason of incompetence or misconduct or for any reason within the meaning of section 123 (1) of the Act;

“certificate holder” means the holder of a certificate of competency issued under section 108, other than one certifying that a person is qualified as an officer, or under section 115 of the Act;

“Court” means the Supreme Court;

“Board” means a Board appointed pursuant to section 422(2) of the Act to hold a Formal Investigation into a shipping casualty;

“formal investigation” means a formal investigation into a shipping casualty under section 423 of the Act;

“notice of inquiry” refers to a notice served by the Director in accordance with regulations 19 and 26;

“officer” means an officer qualified for the purposes of section 108 of the Act and includes a master, skipper, mate, second hand, deck officer, marine engineer officer and radio officer;

“person appointed” means the person or persons appointed by the Director to hold an inquiry under section 122 or 124 of the Act;

“re-hearing” means a re-hearing of a formal investigation;

“shipping casualty” has the same meaning as under section 422 of the Act;

“substantial criticism” means criticism which in the opinion of the Board is substantial criticism.

(2) Any period of time specified in these Regulations by reference to days shall be exclusive of the first day and inclusive of the last day unless the last day falls on a Saturday, Sunday, Good Friday or any day appointed by law to be a public holiday in Saint Christopher and Nevis, in which case the time shall be reckoned exclusively of that day also.

PART II FORMAL INVESTIGATION

3. APPLICATION.

This Part is made pursuant to section 425 of the Act and apply to any formal investigation under section 422 of the Act and to any re-hearing of such formal investigation under section 424 of the Act, which is not held by the High Court.

4. ASSESSORS.

(1) The Minister shall maintain a list of assessors for the purposes of section 423(1) of the Act who have the qualifications set out in the Schedule 1 hereto and may, at any time, add or withdraw the name of any person to or from the list.

(2) Where any question as to the cancellation or suspension of an officer’s certificate is likely to arise, the Board shall be assisted by not less than two assessors

- (a) two of whom shall be, in the case of a master or deck officer, mercantile marine masters;
- (b) one of whom shall be, in the case of a marine engineer officer, a mercantile marine engineer, and one a mercantile marine master;
- (c) one of whom shall be, in the case of a fishing vessel officer, a mercantile marine master and one a fishing vessel skipper.

(3) In any case in which regulation 4(2) of these Regulations applies, wherever possible at least one of the assessors appointed shall have had experience in the same capacity and in the same type of ship as the officer concerned.

5. MINISTER TO REMIT CASE TO ATTORNEY GENERAL.

(1) Where the Minister has directed a formal investigation to be held he shall remit the case to the Attorney General, and thereafter the preparation and presentation of the case shall be conducted under the direction of the Attorney General.

(2) The Director shall render such assistance to the Board and to the Attorney General as is in his power.

6. NOTICE OF INVESTIGATION AND PARTIES TO THE INVESTIGATION.

(1) Where the Minister causes a formal investigation to be held, the Attorney General shall cause a notice, in these Regulations called a “notice of investigation” to be served on any persons, including the Director, who in the opinion of the Attorney General ought to be made a party.

(2) Any such person upon whom a notice of investigation has been served shall be a party to the formal investigation.

(3) The Attorney General shall be a party to the formal investigation.

(4) The notice of investigation shall contain

(a) a statement of the facts giving rise to the formal investigation; and

(b) a statement of the questions which the Attorney General intends to raise at the formal investigation.

(5) At any time before or during the hearing of the formal investigation the Attorney General may amend, add to or omit any of the questions contained in the notice of investigation.

(6) The Attorney General shall as far as practicable cause every party to the formal investigation to be given not less than 30 days notice of the time of and the date when and the place where the hearing of the formal investigation will commence.

(7) Such notice shall not be required to be given to any person who is made a party pursuant to regulation 7 of these Regulations after the date of the hearing has been fixed.

(8) Where at any time during the preparation for the formal investigation it appears likely to the Attorney General that the conduct of any person will be in issue, the Attorney General shall cause that person to be notified to that effect.

(9) Service of any notice or other document issued under this regulation may be effected either personally or by registered post or by recorded delivery service to the person’s last known address.

7. PARTIES TO THE INVESTIGATION.

(1) Any person who is not already a party to a formal investigation may, with the leave of the Board, become a party to the formal investigation.

(2) An application for such leave may be made to the Board at any time before or during the formal investigation.

8. EVIDENCE AND PROCEDURE.

(1) Without prejudice to the admission of documents as secondary evidence allowed by statute or otherwise, affidavits, statutory evidence, and other written evidence shall, unless the Board considers it unjust, be admitted as evidence at the formal investigation.

(2) A party may give to any other party notice in writing to admit any documents, saving all just exceptions, and in case of neglect or refusal to admit after such notice, the party so neglecting or refusing shall be liable for all the costs of proving the documents, whatever may be the results, unless the Board is of opinion that the refusal to admit was reasonable.

(3) No costs of proving any document shall be allowed unless such notice has been given, except where the omission to give the notice has, in the opinion of an officer by whom the costs are taxed, caused a saving of expense.

(4) At any time before the date appointed for the commencement of the formal investigation the Board may hold a preliminary meeting at which any direction may be given or any preliminary or interlocutory order as to the procedure may be made.

(5) At the time and place appointed for the commencement of the formal investigation the Board may proceed with the formal investigation whether the parties upon whom a notice of investigation has been served, or a person who has applied to become a party, or any of them, are present or not, provided that where the party concerned has been served with the notice of investigation by post the Board shall not proceed with the formal investigation in his absence unless satisfied that the party has been served in accordance with the requirements of regulation 6(9) of these Regulations.

(6) The Board shall hold the formal investigation in public save to the extent to which it is of the opinion that, in the interest of justice or for other good and sufficient reason in the public interest, any part of the evidence, or any argument relating thereto, should be heard in private.

9. COMMENCEMENT PROCEDURE.

(1) The formal investigation shall commence with an opening statement by the Attorney General, followed at the discretion of the Board with brief speeches on behalf of the other parties.

(2) The proceedings shall continue with the production and examination of witnesses on behalf of the Attorney General and the Attorney General may adduce documentary evidence.

(3) Witnesses may be cross-examined by the parties in such order as the Board may direct and then be re-examined on behalf of the Attorney General.

(4) The Attorney General shall then cause to be stated the questions relating to the shipping casualty and to the conduct of persons connected with the shipping casualty upon which the opinion of the Board is desired.

(5) In framing the questions for the opinion of the Board the Attorney General may make such modifications in, additions to, or omissions from, the questions as set out in the notice of investigation or subsequent notices referred to in Regulation 6(4) of these Regulations as, having regard to the evidence which has been given, the Attorney General may think fit.

10. FURTHER PROCEDURES.

(1) Any other party to the formal investigation shall be entitled to make a further opening statement, to give evidence to adduce documentary evidence, to call witnesses, to cross-examine any witnesses called by any other party and to address the Board in such order as the Board may direct.

(2) The Attorney General may also produce and examine further witnesses who may be cross-examined by the parties and re-examined by the Attorney General.

(3) A party who does not appear in person at a formal investigation and is not represented may make representations in writing to the Board and such written representations may be read out at the formal investigation on behalf of the party subject to the approval of the Board.

11. OPPORTUNITY TO MAKE DEFENCE.

Every formal investigation shall be conducted in such manner that where substantial criticism is made against any person that person shall have an opportunity of making his defence either in person or otherwise.

12. CLOSING ADDRESSES.

(1) Any of the parties who desires so to do may, after completion of the taking of evidence, address the Board upon the evidence and the Attorney General may address the Board in reply upon the whole case.

(2) After an address in reply upon the whole case, at the discretion of the Board, an officer of whose conduct substantial criticism has been made during the formal investigation may be permitted or invited to make a final statement as to why, in the event of a finding that his conduct caused or contributed to the shipping casualty, his certificate of competency should not be cancelled or suspended, or as to why he should not be censured.

13. ADJOURNMENT.

The Board may adjourn the formal investigation from time to time and from place to place, and where an adjournment is asked for by any party to the formal investigation the Board may impose such terms as to payment of costs or otherwise as it thinks just as a condition of granting the adjournment.

14. RESULTS OF FORMAL INVESTIGATION.

At the end of the formal investigation the Board shall

- (a) in any case where an officer's certificate is in issue, give its decision concerning the certificate in public; and
- (b) whether or not a certificate is in issue, make a report on the case to the Minister including its and the assessor's or assessors' findings as to the reasons for the shipping casualty or incident or as to any particular matter relating thereto, or as to the conduct of any person implicated therein, and the reasons for suspending or cancelling an officer's certificate.

15. REPORT.

(1) Each assessor shall either sign the report with or without reservations, or state in writing his dissent there from and his reasons for such dissent, and such dissent and reasons (if any) shall be forwarded to the Minister with the report.

(2) The Minister shall, unless in the interests of justice or otherwise in the public interest there are good reasons to the contrary, cause each party to the formal investigation to be given a copy of the whole or, where appropriate, a relevant part of the report.

(3) Further copies of the report shall not be released until the Minister is satisfied that the parties have had reasonable time to receive their copies.

16. COST OF THE FORMAL INVESTIGATION.

Where the Board makes any award as to the costs of the investigation and of any of the parties at the investigation or with regard to the parties by whom these costs are to be paid, it shall state in a report the reasons for making such an award.

17. RE-HEARING.

Any re-hearing of a formal investigation pursuant to section 424 of the Act which is not held by the High Court shall be conducted in accordance with the provisions of these Regulations.

**PART III
SECTION 122 INQUIRY**

18. APPLICATION OF PART III.

Part III of these Regulations is made pursuant to section 425 of the Act and apply to any inquiry under section 122 of the Act, and to any re-hearing of such an inquiry under section 125 of the Act which is not held by the Court.

19. NOTICE OF SECTION 122 INQUIRY.

(1) When the Director causes a section 122 inquiry to be held, he shall cause a notice of inquiry to be served on the officer concerned who shall be made a party to the inquiry.

(2) Service of a notice of inquiry shall be effected at least 30 days before the date fixed for the inquiry either by serving the officer concerned personally or by sending the notice of inquiry to his last known address by registered post or by a recorded delivery service.

(3) The notice of inquiry shall state

- (a) the facts giving rise to the inquiry;
- (b) the allegation made against the officer to whom the notice is addressed and the grounds therefore;
- (c) the time and date when and the place where the inquiry is to be held;
- (d) the officer's rights as set out in regulation 22(2) and (3).

20. APPOINTMENT OF THE COURT OF SECTION 122 INQUIRY.

(1) The person appointed to hold the inquiry shall conduct it with the assistance of one or more assessors who shall be appointed by the Minister.

(2) The person appointed shall be either:

- (a) an attorney at law of not less than ten years standing before the date of his appointment; or
- (b) a person who holds or has held high judicial office not less than three years before the date of his appointment.

(3) Wherever possible at least one of the assessors appointed shall have had experience in the same capacity and in the same type of ship as the officer concerned.

21. HOLDING OF SECTION 122 INQUIRY.

(1) subject to sub-regulation (2), at the time and the place appointed for holding the inquiry the person appointed may proceed with the inquiry in the absence of the officer upon whom the notice of the inquiry was served, any other party, or any person who has applied to become a party, or any of them.

(2) Where the officer concerned has been served with the notice of inquiry by post the person appointed shall not proceed with the inquiry in his absence unless satisfied that the officer has been served in accordance with the requirements of regulations 19(1) and (2).

(3) Any other person, not being the officer concerned, may, with the leave of the person appointed, become a party to the inquiry.

(4) The inquiry shall be held in public save to the extent to which the person appointed is properly satisfied that in the interests of justice, or for other good and sufficient reason in the public interest, any part of the evidence or any argument relating thereto should be heard in private.

22. PROCEDURE AT SECTION 122 INQUIRY.

(1) The proceedings at the inquiry shall commence with the presentation on behalf of the Director of the case against the officer concerned.

(2) (a) The officer concerned shall have the right:

(i) to defend himself against the allegation, in person or otherwise;

(ii) to admit before or at any time after the commencement of the inquiry the allegation or any part of it made against him.

(b) Where more than one allegation is made against an officer his admission of an allegation or any part of it pursuant to paragraph (a) shall be without prejudice to his right to defend himself against any other allegation which he does not admit.

(3) Any party to the inquiry shall have the right in person or by a representative to make an opening statement, call witnesses, cross-examine witnesses called by other parties, tender evidence other than oral evidence and address the person appointed in such order as the person appointed may direct.

(4) Where a party does not appear in person at the inquiry and is not represented by another person he may make representation in writing to the person appointed and such written representations shall be read out at the inquiry by or on behalf of the person appointed.

(5) Without prejudice to the admission of documents as secondary evidence allowed by statute or otherwise, affidavits, depositions, statutory declarations and other written evidence shall, unless the person appointed considers it unjust, be accepted as evidence at the inquiry.

(6) The person appointed may postpone or adjourn the hearing of the inquiry for such period as he thinks fit either of his own motion or upon the application of any party.

23. DECISION OF PERSON APPOINTED FOR SECTION 122 INQUIRY.

(1) The person appointed shall, at the conclusion of the inquiry or as soon as possible thereafter, announce his decision in public and make a report on the case to the Director pursuant to section 122 (4)(c) of the Act.

(2) Each assessor shall either sign the report with or without reservations, or state in writing his dissent therefrom and his reasons for such dissent, and such reservations or dissent and reasons (if any) shall be forwarded to the Director with the report.

(3) The Director shall inform the officer concerned, in writing, of the decision of the person appointed if the officer was not in court when that decision was announced and make a copy of the report available to him.

(4) A copy of the report shall be made available to any party to the inquiry upon a request to the Director.

24. RE-HEARING OF SECTION 122 INQUIRY.

A re-hearing of a section 122 inquiry pursuant to section 125 (1) of the Act, which is not held by the Court, shall be conducted in accordance with the provisions of regulations 19 to 23.

**PART IV
SECTION 124 INQUIRY**

25. APPLICATION OF PART IV.

Part IV of these Regulations are made pursuant to section 126 of the Act and apply to any inquiry under section 124 of the Act, and to any re-hearing of such an inquiry under section 125 of the Act which is not held by the Court.

26. NOTICE OF SECTION 124 INQUIRY.

(1) When the Director causes an inquiry to be held, he shall cause a notice of inquiry to be served in writing on the certificate holder concerned who shall be made a party to the inquiry.

(2) Service of a notice of inquiry shall be effected at least 30 days before the date fixed for the inquiry either by serving the certificate holder concerned personally or by sending the notice of inquiry to his last known address by registered post or by a recorded delivery service.

(3) The notice of inquiry shall state

- (a) the facts giving rise to the inquiry;
- (b) the allegation made against the certificate holder to whom the notice is addressed and the grounds therefore;
- (c) the time and date when, and the place where, the inquiry is to be held;
- (d) the certificate holder's rights as set out in regulations 29 (2) and (3) of these Regulations.

27. APPOINTMENT OF THE COURT OF SECTION 124 INQUIRY.

(1) The person appointed to hold the inquiry shall conduct it with the assistance of one or more assessors who shall be appointed by the Minister.

(2) An assessor shall be suitably qualified to assess the competence of a seafarer to discharge the duties and responsibilities commensurate with his certificate.

28. HOLDING OF SECTION 124 INQUIRY.

(1) Subject to sub-regulation (2), at the time and the place appointed for holding the inquiry the person appointed may proceed with the inquiry in the absence of the certificate holder upon whom the notice of the inquiry was served, any other party, or any person who has applied to become a party, or any of them.

(2) Where the certificate holder concerned has been served with the notice of inquiry by post the person appointed shall not proceed with the inquiry in his absence unless satisfied that the certificate holder has been served in accordance with the requirements of Regulations 26(1) and (2).

(3) Any other person, not being the certificate holder concerned, may, with the leave of the person appointed, become a party to the inquiry.

(4) The inquiry shall be held in public except to the extent to which the person appointed is satisfied that in the interests of justice, or for other good and sufficient reason in the public interest, any part of the evidence or any argument relating thereto should be heard in private.

29. PROCEDURE AT SECTION 124 INQUIRY.

(1) The proceedings at the inquiry shall commence with the presentation on behalf of the Director of the case against the certificate holder concerned.

(2) The certificate holder concerned shall have the right

- (i) to defend himself against the allegation, in person or otherwise;
- (ii) to admit before or at any time after the commencement of the inquiry the allegation or any part of it.

(3) Where more than one allegation is made against a certificate holder his admission of an allegation or any part of it pursuant to sub-regulation (2) shall be without prejudice to his right to defend himself against any other allegation which he does not admit.

(4) Any party to the inquiry shall have the right in person or by a representative to make an opening statement, call witnesses, cross-examine witnesses called by other parties or on behalf of the Director, tender evidence other than oral evidence and address the person appointed in such order as the person appointed may direct.

(5) Where a party does not appear in person at the inquiry and is not represented by another person he may make representations in writing to the person appointed and such written representations shall be read out at the inquiry by or on behalf of the person appointed.

(6) Without prejudice to the admission of documents as secondary evidence allowed by statute or otherwise, affidavits, depositions, statutory declarations and other written evidence shall, unless the person appointed considers it unjust, be accepted as evidence at the inquiry.

(7) The person appointed may postpone or adjourn the hearing of the inquiry for such period as he thinks fit either of his own motion or upon the application of any party.

30. DECISION OF THE PERSON APPOINTED FOR SECTION 124 INQUIRY.

(1) The person appointed shall, at the conclusion of the inquiry or as soon as possible thereafter, announce his decision in public.

(2) Each assessor shall either sign the report with or without reservations, or state in writing his dissent therefrom and his reasons for such dissent, and any such reservations or dissent and reasons shall be forwarded to the Director with the report.

(3) The Director shall inform the certificate holder concerned, in writing, of the decision of the person appointed if the certificate holder was not present when that decision was announced and make a copy of the report available to him.

(4) A copy of the report shall be made available to any party to the inquiry upon request to the Director.

31. RE-HEARING OF SECTION 124 INQUIRY.

Any re-hearing of a section 124 inquiry pursuant to section 125 (1) of the Act which is not held by the Court shall be conducted in accordance with the provisions of regulations 26 to 30.

**PART V
MISCELLANEOUS**

32. GUIDELINES.

The guidelines for inquiries made pursuant to section 122, 124 and 422 of the Act are as set out in Schedule 2.

SCHEDULE 1

(Regulation 4)

Qualifications of Assessors

1. Mercantile Marine Masters

- .1 Must be in possession of a Certificate of Competency (Deck Officer) (Class 1) (Master Mariner) (or its equivalent) and have had command of a vessel for at least 2 years.
- .2 Must have a wide knowledge of all modern aids to navigation.
- .3 Must not be more than 70 years of age.

2. Mercantile Marine Engineers

- .1 Must be in possession of a Certificate of Competency (Marine Engineer Officer) (Class 1) (or its equivalent) and have been the Chief Engineer Officer of a ship for at least 2 years.
- .2 Must have a wide knowledge of matters relating to marine engineering.
- .3 Must not be more than 70 years of age.

3. Coast Guard

- .1 Must have had rank of Lieutenant Commander and 2 years service in that rank in one of Saint Christopher and Nevis Guard Ships at sea; and

.2 Must not be more than 70 years of age.

4. Persons of Special Skill or Knowledge

- .1 Naval architects.
- .2 Persons with special skills or knowledge, including managerial experience.

SCHEDULE 2

(Regulation 32)

**GUIDELINES FOR INQUIRIES MADE PURSUANT TO
SECTIONS 122, 124 and 422 OF
THE MERCHANT SHIPPING ACT Cap 7.05**

These guidelines are intended to inform the conduct of an inquiry into a shipping accident or incident under sections 122, 124 and 422 of the Merchant Shipping Act Cap 7.05.

1. *Purpose of Inquiry*

- 1.1 The fundamental purpose of an inquiry is to determine the circumstances and the causes of the accident or incident with the aim of improving the safety of life at sea, and the avoidance of accidents in the future.
- 1.2 It is not the purpose of an inquiry to apportion liability, nor, except so far as is necessary to achieve the fundamental purpose, to apportion blame.

2. *Conduct of Inquiry*

- 2.1 Subject to his powers under section 414 of the Act an Inspector should conduct an inquiry at such times and places and in such manner as appear to him most conducive to achieving the fundamental purpose set out in paragraph 1.
- 2.2 An inquiry may extend to cover all events and circumstances preceding the accident which in the opinion of the Inspector may have been relevant to its cause or outcome, and also to cover the consequences of the accident and the Inspector's power should apply accordingly.
- 2.3 Any document or record properly required by an inspector to be produced for the purposes of an inquiry, whether on board the ship involved in the subject accident or otherwise may be retained by him until the inquiry is completed.
- 2.4 Upon completion of an inquiry the Inspector should submit to the Director his findings as to the facts of the accident and, where the facts cannot be certainly established, his opinion as to the most probable facts.
- 2.5 The Inspector should clearly distinguish between established facts and conjecture and should submit his analysis and his conclusions together with such observations and recommendations as he thinks fit to make.
- 2.6 At any time during the course of an investigation the Director may determine that the inquiry should be discontinued, and in that event, no submission by the inspector need be made.

3. *Report of the Inquiry*

- 3.1 Subject to paragraph 3.4, where an inquiry has taken place, the Director should make a report to the Minister, in this paragraph referred to as “the Report”, which should include the Inspector’s findings and his own observations thereon and any recommendations which he considers appropriate.
- 3.2 Subject to paragraphs 3.3 and 3.4, the Minister unless he orders a Formal Investigation under section 422 of the Act, may publish the Report if he thinks fit and should do so where -
- .1 it appears to him that to do so will improve the safety of life at sea and help to prevent accidents in the future; or
 - .2 it relates to a serious casualty to a Saint Christopher and Nevis ship;
- unless in his opinion there is good reason to the contrary.
- 3.3 Where the prosecution of any person in connection with the accident is under consideration, the Minister may at his discretion withhold publication until either the prosecution, including any appeal, has been concluded or it has been decided not to prosecute.
- 3.4 Where the Minister has under consideration whether to cause an inquiry to be held under section 122 of the Act into the fitness or conduct of a certificated officer, then he may at his discretion withhold publication until proceedings, under the said section has been completed or it has been decided not to pursue such proceedings.
- 3.5 Except when a Formal Investigation has been ordered, or where paragraphs 3.3 or 3.4 apply, where in the opinion of the Director the reputation of any person is likely to be adversely affected by the Report then it should not be submitted to the Minister until -
- .1 that person or if that person be deceased then such person as appears to the Director best to represent that person’s interest, is served with a copy of the Report or that part of it which affects him;
 - .2 that person or his representative has been given a period of 14 days to make representations to the Director either in person or in writing;
 - .3 the Director has considered any such representations and has notified the person concerned or his representative of his conclusions on them, and of what changes, if any, he intends to make to the Report; and
 - .4 the person or his representative has been given a further period of 14 days in which he may submit to the Director an alternative text for any passages in the Report which remain in issue.
- 3.6 No person should disclose any information furnished to him pursuant to paragraph 3.5 or permit such information to be disclosed to any other person, save with the prior consent in writing of the Director.
- 3.7 The Director should on submitting the Report to the Minister, in addition, should refer to any service of the Report under paragraph 3.5 and should set out the substance of any representations made in response, together with his conclusions and a record of any action he has taken.

3.8 The Director should also quote in full any alternative texts submitted under paragraph 3.5.4 and where the Minister decides to publish the Report he should publish any such texts with it as an Appendix, unless in his opinion there is good reason not to do so.

4. *Extension of Time*

The Director in respect of the periods of 14 days given in paragraphs 3.5.2 and 3.5.4 may extend the said periods, and should not unreasonably refuse to do so, and may do so notwithstanding that the period given has expired.

5. *Release of Information during Inquiry*

Notwithstanding the provisions of paragraph 6, the Director may at any time during the course of any inquiry release information as to material facts where in his opinion it is necessary or desirable to do so.

6. *Recommendations*

6.1 Recommendations may be made at any time during the course of an inquiry.

6.2 Recommendations should be addressed to those persons or bodies who in the opinion of the Director are most fitted to implement them, and may be made public where the Director considers that to do so is in the interests of safety.

7. *Procedure where Inquest or Fatal Accident Inquiry is Held*

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

7.2 Where the inquiry has taken the form of an Inquiry and the procedure in paragraph 7.1 is followed and the report has been put before the inquest or fatal accident inquiry then the Director need not comply with paragraph 3.5 but where he does not do so he should not submit his Report to the Minister until after the proceedings of the inquest or fatal accident inquiry and he should include in his Report the substance of evidence given at those proceedings as it relates to the Inspector's findings.

8 *Reopening of Investigations*

8.1 The Director may cause any inquiry to be reopened either generally or as to any part thereof, and should do so -

- .1 where after the completion of the inquiry in his opinion new and important evidence has been discovered, or
- .2 where for any other reason there are, in his opinion, grounds for suspecting that a miscarriage of justice has occurred.

8.2 Any inquiry reopened should be subject to and conducted in accordance with the provisions of these Regulations relating to such an inquiry.

Made this 13th day of April 2012.

RICHARD SKERRITT
Minister responsible for Civil Aviation