



OFFICIAL JOURNAL

Minister of Infrastructure

Warsaw, October 14, 2021.

Item 48

ORDER NO 22

OF THE MINISTER OF INFRASTRUCTURE ¹⁾

dated October 13, 2021

on establishing the rules of procedure of the State Marine Accident Investigation Commission and its headquarters

The text of the Order is a working translation of the official text for information purposes only

Pursuant to Article 13 in conjunction with Article 29 (2) of the Act of August 31, 2012 on the State Marine Accident Investigation Commission (Journal of Laws of 2019, item 1374), it is ordered as follows:

§ 1 The rules of procedure of the State Marine Accident Investigation Commission, hereinafter referred to as the "Commission", which is attached to the Order, are established.

§ 2. The seat of the Commission is Szczecin.

§ 3. Order No. 23 of the Minister of Maritime Economy and Inland Navigation dated June 26, 2018 on the Regulations of the State Marine Accident Investigation Commission of and its Headquarters (Official Gazette of the Ministry of Maritime Economy and Inland Navigation, item 23) shall be repealed.

§ 4 The Ordinance shall enter into force on the day following the date of promulgation.

Minister of Infrastructure: *A. Adamczyk*

1) The Minister of Infrastructure heads the department of government administration Maritime Economy, based on § 1 (2) (4) of the Regulation of the Prime Minister of November 18, 2019 on the detailed scope of activities of the Minister of Infrastructure (Journal of Laws of 2021, item 937).

Annex to Order No. 22 of the
Minister of Infrastructure dated
October 13, 2021.

RULES OF PROCEDURE OF THE STATE MARINE ACCIDENT INVESTIGATION COMMISSION

Chapter 1

Duties and powers of Commission members

§ 1. The responsibilities of the Commission members include:

- 1) participation in the investigation of marine casualty and incidents;
- 2) remain on standby to undertake research activities while on telephone duty as specified in the monthly on-call schedule;
- 3) participation in Commission meetings;
- 4) drafting of justifications for withdrawal from the investigation of a marine casualty or incident;
- 5) application, during the conducted investigation, of the methods of proceeding regarding fair treatment of seafarers in the event of a marine casualty or incident, as recommended in the Resolution of the Legal Committee of the International Maritime Organization (IMO) LEG.3(91) of April 27, 2006 on the adoption of guidelines on fair treatment of seafarers in the event of a maritime accident (Official Gazette of the MI of 2011, item 44);
- 6) keeping abreast of domestic and foreign materials on marine casualty and incident investigations;
- 7) improving professional skills, including, in particular, participation in training courses and conferences;
- 8) participation in the work of national and international organizations dealing with the subject of marine casualty investigation;
- 9) compliance with data protection regulations in accordance with the Commission's Data Protection Policy;
- 10) Ensure the confidentiality of the ongoing investigation of a marine casualty or incident in accordance with Article 32 of the Law.

§ 2. 1. A member of the Commission is entitled to:

- 1) to request a meeting of the Commission;
- 2) requesting the adoption of a resolution by circulation;
- 3) requesting the issuance of an early alert, as referred to in Article 42(1) of the Law;

4) to apply for financing or co-financing from the funds allocated for the Commission's operation, costs related to maintaining or improving professional qualifications.

2. Members of the Commission, for the duration of the investigation of a marine casualty or incident, shall be provided with specialized equipment and protective clothing, in accordance with the regulations on occupational safety and health on sea vessels and the standards for the allocation of protective footwear, protective clothing and personal protective equipment. Purchases of equipment, clothing, footwear and personal protective equipment shall be made in accordance with the rules of public procurement, as defined in the office serving the minister in charge of maritime affairs, hereinafter referred to as the "Ministry".

3. The members of the Commission shall exercise the powers referred to in Article 29 (1) of the Law, taking into account the provisions of the Law, the norms, standards and recommended methods of conduct agreed upon within the framework of the International Maritime Organization (IMO), binding on the Republic of Poland, and the provisions of these Regulations.

§ 3. 1. The duties of the Chairman of the Commission shall include:

- 1) designating the composition of the team referred to in Article 17, paragraph 3 of the Law, including the team leader;
- 2) setting dates and agenda for Commission meetings and conducting them;
- 3) supervision of the management of the administrative and budgetary affairs of the Commission;
- 4) supervision of the use of transportation means at the disposal of the Commission;
- 5) ensuring the continuous improvement of its own and other Commission members' skills;
- 6) applying to the minister in charge of maritime affairs for the imposition of a monetary penalty referred to in Article 51 of the Act.

2. The Chairman of the Commission is authorized to:

- 1) changes in the composition of the team conducting research activities at each stage of the ongoing study;
- 2) deciding on business trips of Commission members, including the type of mode of transportation, in accordance with the rules on domestic and foreign business travel at the Ministry and as specified in the Regulations;
- 3) deciding on the need for expertise, its scope and the selection of contractors, taking into account the Ministry's regulations;
- 4) to organize cooperation, including the conclusion of agreements with national and foreign bodies and institutions to the extent necessary to carry out the tasks of the Commission.

3. In the absence of the chairman, the deputy chairman directs the Commission's activities. If the chairman and deputy chairman are absent, the actions of the Commission shall be directed by another Commission member designated by the chairman.

§ 4. 1. The duties of the Deputy Chairman of the Commission shall include:

- 1) preparing a monthly schedule of telephone duty of Commission members and accounting for them;
- 2) supervision of the Commission's equipment, including specialized equipment, means of transportation, protective clothing and personal protective equipment, and the use of this equipment;
- 3) monitoring the timeliness of publications, publications and navigational charts held by the Commission, used in the investigation of accidents, and their replacement with up-to-date ones and purchase from the Commission's funds;
- 4) monitoring the operation and updating of electronic systems and applications to support the conduct of accident investigation or archiving of records;
- 5) planning and submitting proposals for training for Commission members.

2. In the absence of the deputy chairman, his duties are performed by the secretary of the Commission. If the deputy chairman and the secretary are absent, the duties of the deputy chairman shall be performed by another Commission member designated by the chairman.

§ 5. 1. The duties of the Secretary of the Commission shall include:

- 1) maintenance of a register of marine accidents and incidents;
- 2) keeping records and monitoring the security recommendations made by the Commission and the timing and manner of their implementation;
- 2a) preparing applications for the imposition of fines referred to in Article 51 of the Law and forwarding them to the Commission chairman for signature;
- 3) keeping records of seagoing vessel detentions;
- 4) at the direction of the Commission Chairman to notify, those who are to participate in the Commission meeting of its date and agenda;
- 5) preparation of the Commission's resolutions and minutes of its meetings, taking into account § 6 paragraph 5 item 7;
- 6) supervision of the maintenance of records of marine casualty and incident investigation and their archiving;
- 7) supervise the proper entry and completion of information in the WIM Commission Database (Marine Accidents and Incidents).

2. In the absence of the Secretary, his duties are performed by the Deputy Chairman. If the deputy chairman and the secretary are absent, the secretary's duties shall be performed by another member of the Commission designated by the chairman.

Chapter 2

Responsibilities and powers of the team conducting research activities

§ 6. 1. Prior to commencing investigation activities, the team leader shall notify, if possible, the master, owner or agent of the vessel involved in the marine casualty or incident:

- 1) the intention to undertake an investigation of a marine casualty or incident;
- 2) the place and time of undertaking research activities;
- 3) laws under which the study will be conducted;
- 4) the purpose of the study being conducted;
- 5) rights and obligations of persons and entities that will be subjected to research activities;
- 6) the powers vested in the members of the Commission;
- 7) Commission contact information.

2. The notification referred to in paragraph 1 may be sent electronically.

3. In order to facilitate access to the site of a marine casualty that occurred in the port, the leader of the team conducting investigative activities, if possible, should notify, in terms of the information specified in paragraph 1, items 1-7, in advance, also the entity managing the port or the user of the port infrastructure affected by the marine accident.

4. The head of the team, on behalf of the Commission, shall perform the obligation set forth in Article 34a of the Law at the first action directed to the data subject, unless the data subject has the information and its scope or content has not changed.

5. Leading the team conducting research activities:

- 1) is responsible for organizing and supervising the proper conduct of the investigation of a marine casualty or incident;
- 2) shall be responsible for the proper conduct of activities to gather the information necessary to determine the circumstances and causes of the marine casualty or incident;
- 3) is authorized to request a decision to detain a vessel in port in cases referred to in Article 19, paragraph 4 of the Law;
- 4) is authorized to request an expansion or change in the composition of the team;
- 5) is entitled to request an expert report;
- 6) informs the chairman of the Commission on the progress of the ongoing study;
- 7) is responsible for the preparation of the draft report on the ongoing study and the draft resolution on the study, as well as for the collection and preparation of all documentation of the team conducting the study activities;
- 8) informs the entities affected by the content of the final report about the content of the draft report, analyses the comments submitted by these entities and presents them at the Commission meeting along with a suggestion for their consideration;

- 9) enters and completes information in the WIM (Marine Accidents and Incidents) Commission database;
- 10) completes the documentation of the investigation of the marine casualty or incident and places it at the Commission's headquarters in a place designated by the Commission chairman.
 6. The model of the decision to detain a ship in port, referred to in paragraph 5(3), is specified in Annex No. 1 to the Regulations.
 7. Members of the Commission who are part of the team conducting research activities are obliged to hold, during the course of the investigation, a card confirming their authority to perform official duties.
 8. Persons appointed to the team conducting research activities may apply directly to the chairman of the Commission to resolve a dispute that arose during the course of the investigation between team members.

Chapter 3

Commission meetings and adoption of resolutions

§ 7. 1. Meetings of the Commission shall be held at least once a month stationary or remotely using electronic communication means provided to the Commission by the Ministry.

2. The Commission meeting is attended by members of the Commission and may be attended by other persons with the approval of the Commission Chairman.

3. Minutes of the meeting of the Commission shall be drawn up.

4. The protocol includes:

- 1) list of participants in the meeting;
- 2) list of pending cases;
- 3) information on the course of the discussion;
- 4) signatures of the minutes taker and the chairman of the meeting; 5) meeting date.

§ 8. 1. The Commission shall adopt resolutions during its meetings on matters concerning, in particular:

- 1) undertake or abandon the investigation of a marine casualty or incident;
- 2) to withdraw from the ongoing marine accident investigation;
- 3) adoption of the final or interim or simplified report before its publication on the Commission's website;
- 4) exclusion of the Chairman of the Commission from the work of the Commission or the work of the team conducting research activities pursuant to Article 18 (3) of the Law;
- 5) motion to revoke the appointment of a member of the Commission under Article 3, paragraph 8 of the Law.

2. Adoption of the resolution shall be by vote, by simple majority, taking into account paragraph 8 item 1. Voting shall be open, except in the cases referred to in paragraph 1 items 4 and 5.

3. The vote is valid if at least three members of the Commission participate.

4. In the event of an equal number of votes, the chairman of the Commission, or in his absence or in the case referred to in paragraph 1 item 4, the deputy chairman, shall decide on the resolution.

5. Only members of the Commission participate in the vote.

6. The resolution shall be in writing and contain the signatures of the members of the Commission participating in its adoption.

7. A member of the Commission may submit a dissenting opinion. A written justification for the dissenting opinion, submitted within two working days from the date of the Commission meeting, shall be included in an appendix to the resolution.

8. A resolution to revoke the appointment of a member of the Commission:

- 1) is adopted by an absolute majority of votes;
- 2) shall be forwarded immediately to the minister responsible for maritime affairs.

9. During the period between consecutive meetings, the Commission, at the request of a member of the Commission, may adopt resolutions by circulation on the issues listed in paragraph 1 items 1-3.

10. In circulation mode:

- 1) the draft resolution is prepared by the Secretary of the Commission or the head of the research team,
- 2) the secretary of the Commission distributes the draft resolution by e-mail to the Commission members,
- 3) a member of the Commission sends a return reply to the Secretary of the Commission containing acceptance of the resolution, disapproval or abstention,
- 4) a member of the Commission may submit a dissenting opinion by sending it to the Secretary of the Commission within two days of receiving the draft resolution

- paragraph 2, first sentence, and paragraphs 3-5 and 7 shall apply accordingly.

Chapter 4

Preparation and publication of reports

§ 9. 1. The Commission shall send a draft of the final report, for comments, to the bodies established for the investigation of marine casualties and incidents of the substantially interested states at least 30 days prior to the expiration of the deadline set for the promulgation of the final report referred to in Article 36, paragraph 3 of the Law, together with an indication of the deadline for the submission of such comments.

2. The Commission shall send a draft of the final report, for comments, to entities other than those listed in paragraph 1 who are affected by the contents of the report, at least 3 weeks prior to the expiration of the deadline for the publication of the final report referred to in Article 36, paragraph 3 of the Law, with an indication of the deadline for submitting such comments.

3. The Commission shall publish the interim or simplified report on its website without prior notification to those affected by the contents of the report.

Chapter 5

Documentation of a marine casualty or incident

§ 10. 1. Documentation of a marine casualty or incident shall include:

- 1) accident or incident report, if received;
- 2) final or interim or simplified report;
- 3) Commission resolutions adopted in connection with the investigation of the accident;
- 4) other documentation collected in the course of the investigation of a marine casualty or incident.

(2) The Commission shall transfer the produced and accumulated documentation to the company archives, taking into account the office and archival regulations in force at the Ministry.

Chapter 6

Working time

§ 11. Members of the Commission shall perform work under the task-time system. The time required to perform assigned tasks shall be determined after consultation with the Commission member by the Commission Chairman.

Chapter 7

Business travel

§ 12. 1. In matters not covered by these regulations, the relevant regulations on domestic travel of members of the Commission shall apply to business travel of the Commission and foreign business travel in force at the Ministry.

2. In the case of a business trip related to the investigation of an accident, in urgent and justified situations, hotel reservations or the purchase of airline tickets may be made on an individual basis, of which the Director General of the Ministry, the organizational unit of the Ministry responsible for the settlement of business travel and, in the case of foreign travel, the organizational unit of the Ministry responsible for the organization of foreign travel should be informed immediately.

3. In the case of an overseas business trip related to the investigation of a marine casualty or incident, no instructions for participation in an international meeting or a report on an international meeting shall be prepared. The delegate shall make a business note of the business tasks performed, which shall be included in the documents of the accident investigation.

Chapter 8

Experts

§ 13. 1. The Commission shall maintain a list of experts.

2. The Chairman of the Commission verifies the candidate's fulfilment of the requirements referred to in Article 10, paragraph 2 of the Law, and, if the requirements are met - enrolls the candidate in the list of experts.

3. An expert who is part of the team conducting research activities shall be required to have an authorization confirming the authority to perform official activities, as referred to in Article 31, paragraph 1 of the Law, during the course of the research.

2. An expert participating in the work of the Commission is obliged to comply with the Law, data protection regulations and the Commission's regulations.

3. Civil law contracts with experts or other entities are concluded in accordance with the Ministry's procurement and public spending rules.



Annex No. 1 to the Rules of Operation
State Marine Accident Investigation Commission

**STATE MARINE ACCIDENT
INVESTIGATION COMMISSION**

Szczecin, on.....

SMAIC.....WIM /....

DECISION

Pursuant to Article 19 (4) of the Act of August 31, 2012 on the State Marine Accident Investigation Commission (Journal of Laws of 2019, item 1374) - hereinafter: the Act on SMAIC, and Articles 104, 107 and 108 of the Act of June 14, 1960. - Code of Administrative Procedure (Journal of Laws of 2021, item 735) - hereinafter: the Code of Administrative Procedure, in order to complete the ongoing investigation of the marine casualty/incident in which he participated

ship.....flag

State Marine Accident Investigation Commission

keeps the ship in port on time

The decision is given the order of immediate enforceability.

REASONING

/signature of chairman of PKBWM/.

Reminder:

An appeal against this decision may be filed with the minister responsible for maritime economy, within 14 days from the date of delivery of the decision. The appeal shall be filed through the State Marine Accident Investigation Commission. An appeal against the decision does not suspend its execution.

During the period for filing an appeal, a party may waive the right to appeal to the authority that issued the decision. As of the date of delivery to the authority of the statement on the waiver of the right to appeal by the last party to the proceedings, the decision becomes final and valid. It is not possible to effectively revoke the statement of waiver of the right to appeal.

Receive:

1. Ship's captain
2. Port Captain
3. Minister responsible for maritime economy
4. a/a.