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Freedom of Information Act

Sections 15 & 16 Reference Book

***A guide to the functions, records,
rules and practices of the
Marine Casualty Investigation Board***

Freedom of  information

June 2007

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Preface

Background

This Marine Casualty Investigation Board FOI sections 15 and 16 Reference Book – A Guide to the functions, records, rules and practices of the Marine Casualty Investigation Board, June 2007, is compiled in accordance with the Freedom of Information Act 2003. All references in this manual to the Freedom of Information Act or Acts refer to the 1997 Act as amended by the 2003 Act.

The Freedom of Information (FOI) Acts, effective from 21st April 1998, establish three new statutory rights:

- A legal right for each person to access information held by public bodies;
- A legal right for each person to have official information relating to him/herself amended where it is incomplete, incorrect or misleading; and
- A legal right to obtain reasons for decisions affecting oneself.

The Acts assert the right of members of the public to obtain access to official information to the greatest extent possible consistent with the public interest and the right to privacy of individuals.

Purpose of Reference Book

This reference book has been prepared and published in accordance with the requirements of sections 15 and 16 of the FOI Acts.

In accordance with section 15 of the Act, the purpose of this reference book is to facilitate access to official information held by the Marine Casualty Investigation Board, by outlining the structure and functions of the Board, details of the services we provide and how they may be availed of, information on the classes of records we held, and information on how to make a request to the Marine Casualty Investigation Board under the Freedom of Information Acts, 1997 and 2003.

Section 16 of the FOI Act requires us to publish a book containing the rules, procedures, practices, guidelines and interpretations used by the body, and an index of any precedents kept, for the purposes of decisions under any enactment or scheme administered by us 'with respect to rights, privileges, benefits, obligations, penalties or other sanctions to which members of the public are or may be entitled or subject under the enactment or scheme' together with 'appropriate information in relation to the manner or intended manner of administration of any such enactment or scheme.'

This reference book combines information pertinent to section 15 of the Freedom of Information Act.

The Marine Casualty Investigation Board does not deliver any schemes within the meaning of section 16 of the Freedom of Information Act.

How to use this Reference Book

This book is divided into two parts.

Part 1 of the Book – **Access to Information** – explains how to access information from us under the Freedom of Information Acts and any fees that may arise.

Part 2 of the book – “**Our role and Structure**” – outlines the role of the Marine Casualty Investigation Board and its organisational structure. This part gives a breakdown of our internal structure and organisation. Information is provided under the following headings:

- **Role** – outlines the main work we do.
- **Structure** – gives details of our personnel structure.
- **Work we do** – provides a synopsis of our main activities.
- **Classes of records held** – details the classes under which we hold records.
- **Contact points** – how to contact us for assistance.
- **Rules and Practices** – this information is provided in accordance with **section 16** of the FOI Acts as amended. Where we provide any scheme impacting on the public within the meaning of **section 16** of the Act, as outlined under the heading Purpose of Reference Book earlier, then the rules and practices that we use in delivery of this scheme are outlined or referenced under the Rules and Practices heading.

The Marine Casualty Investigation Board does not deliver any schemes within the meaning of **section 16** of the Freedom of Information Act.

Availability of this Book

Copies of this publication are available free of charge from www.mcib.ie and by request from the Marine Casualty Investigation Board, Leeson Lane, Dublin 2.

Part 1 – Access to Information

How to get information

Routinely Available Information

General information on the Marine Casualty Investigation Board is available on the Board's website, which is located at <http://www.mcib.ie>.

General information is also contained in the Marine Casualty Investigation Board's Annual Report.

Copies of all legislation related to the areas of responsibility of the Marine Casualty Investigation Board may be obtained from: -

The Government Publications Sales Office, Molesworth Street, Dublin 2
(Telephone: (01) 6710309, Fax (01) 4752760)

Applications under the FOI Act

Under the FOI Act, anyone is entitled to apply for access to information not otherwise publicly available. Each person has a right to:

- Access to records held by us not covered by one of the exemptions in the Act.
- Correction of personal information relating to oneself held by us where it is inaccurate, incomplete or misleading.
- Access to reasons for decisions made by us directly affecting oneself.

The following records come within the scope of the Act:

- All records relating to personal information held by us irrespective of when created.
- All other records created from commencement date of the Act i.e. 21st April 1998.
- Any other records necessary to the understanding of a current record.
- Personnel records of serving staff created from 21st April 1995 and those created prior to that date where they are being used or proposed to be used in a way which adversely affects or may affect the person involved.

Applications under the FOI Act should be addressed to:

Freedom of Information Officer
Marine Casualty Investigation Board
Leeson Lane
Dublin 2
Telephone: (01) 678 2460
Fax: (01) 678 3129
E-mail: info@mcib.ie

Compiling your application

- (i) Your application should be in writing and, if applicable, accompanied by the appropriate fee (see “fees” below). The relevant fee should be paid by way of bank draft, money postal order or personal cheque made payable to “The Marine Casualty Investigation Board”.

You may use the form entitled ‘Request for Information under the Freedom of Information Acts’ which is available on www.mcib.ie

If you are not using the form outlined above, then your application should indicate that the information is sought under the Freedom of Information Act.

- (ii) If you require a reply in a particular format, i.e. photocopy, computer disk, etc. please mention this in your application.
- (iii) Please be as detailed and as specific as possible when compiling your application, as this will assist us in dealing with it. It can also result in lesser charges being incurred on search and retrieval in cases where these fall to be paid. Where possible please try to indicate the time period for which you wish to access records, e.g. records created between May 2003 and December 2003. If you have any difficulty in preparing your application we will be happy to assist you in this regard.
- (iv) You may be required to prove your identity, especially when seeking personal information, so you may, therefore, be asked to produce your Birth Certificate, Driving Licence, Passport or other form of identity.
- (v) Please include a daytime telephone number, if possible, so that you may be contacted quickly if it is necessary to clarify details of your request.

We are happy to provide assistance to members of the public who seek advice on making a request.

Assistance to persons with a disability

We are available to provide assistance to persons with a disability to exercise their rights under the FOI Acts (e.g. accepting oral requests from requesters, who are unable to read, print and/or write due to their disability, enabling the requester to inspect or have records explained to him or her).

FOI Decision Making in the Marine Casualty Investigation Board

In the Marine Casualty Investigation Board, the MCIB Secretariat deals with applications under the FOI Acts. Therefore requests should be submitted in writing (along with an application fee, if applicable) to

Freedom of Information Officer
Marine Casualty Investigation Board
Leeson Lane
Dublin 2
Telephone: (01) 678 2460
Fax: (01) 678 3129
E-mail: info@mcib.ie

The Secretariat acknowledge receipt of FOI applications not later than 2 weeks following their receipt and forward them to the FOI Decision Maker for decision. The Decision Maker proceeds to deal with the request, liaise with the requester as appropriate and make a decision in the matter.

Rights of Review and Appeal

The Act sets out a series of exemptions to protect sensitive information where its disclosure may damage key interests of the State or of third parties. Where a Public Body invokes these provisions to withhold information, the decision may be appealed. Decisions in relation to deferral of access, charges, forms of access, etc. may also be the subject of appeal. Details of the appeals mechanisms are as follows:

Internal Review

You may seek an internal review of the initial decision which will be carried out by an official at a higher level if:

- (a) you are dissatisfied with the initial response received, i.e. refusal of information, form of access, charges, etc., or
- (b) you have not received a reply within 4 weeks of your initial application. This is deemed to be a refusal of your request and allows you to proceed to internal review.

Requests for internal review should be submitted in writing and, if applicable, accompanied by the appropriate fee (see under fees) to:

The Reviewer
Department of Transport
Kildare Street
Dublin 2
Telephone: (01) 604 1289

Review by the Information Commissioner

Following completion of internal review, you may seek independent review of the decision from the Information Commissioner. Also if you have not received a reply to your application for internal review within 3 weeks, this is deemed to be a refusal and you may appeal the matter to the Information Commissioner.

Appeals in writing, and, if applicable, accompanied by the appropriate fee, (see under fees below) may be made directly to the Information Commissioner at the following address:

Office of the Information Commissioner

18 Lower Leeson Street

Dublin 2

Telephone: (01) 639 5689

Fax: (01) 639 5676

E-mail: infor@oic.ie

Website: <http://www.oic.ie>

Fees

Application fees

A standard application fee of $\text{€}15$ must accompany an FOI request made under section 7 of the Act for a record or records **containing non-personal information**.

A reduced fee of $\text{€}10$ applies if the person making such a request is covered by a medical card.

The following requests/applications are exempt from application fees:

- a) A request under section 7 for a record or records containing only personal information related to the requester.
- b) An application under section 17 (right of amendment of records relating to personal information).
- c) An application under section 18 (right of person to information regarding acts of public bodies affecting the person).

Internal Review Fees

A standard application fee of $\square 75$ must accompany an application for internal review under section 14 of the Act.

A reduced fee of $\square 25$ applies if the person bringing the application is a medical cardholder or a dependant of a medical cardholder.

The following internal review applications are exempt:

- a) An application in relation to a decision concerning records containing only personal information related to the applicant.
- b) An application in relation to a decision under section 17 (right of amendment of records relating to personal information).
- c) An application in relation to a decision under section 18 (right of person to information regarding acts of public bodies affecting the person).
- d) An application in relation to a decision to charge a fee or deposit, or a fee or deposit of a particular amount.
- e) An appeal of a decision which is deemed to be refused because the original request was not replied to within the required time limits.

Review by Information Commissioner

A standard application fee of $\square 150$ must accompany applications to the Information Commissioner for review of decisions made by public bodies under section 34 of the Act.

A reduced fee of $\square 50$ applies if

- a) the person bringing the application is a medical card holder or a dependant of a medical card holder or
- b) the person is specified in section 29(2) i.e. a third party with the right to apply directly to the Information Commissioner where a public body decides to release their information on public interest grounds.

The following applications to the Information Commissioner do not require an application fee:

- a) An application concerning records containing only personal information related to the applicant.
- b) An application in relation to a decision under section 17 (right of amendment of records relating to personal information).
- c) An application in relation to a decision under section 18 (right of person to information regarding acts of public bodies affecting the person).
- d) An application in relation to a decision to charge a fee or deposit exceeding $\square 25$ under section 47 in respect of search and retrieval and photocopying of records (decisions in relation to the charging of fees or deposits for search and retrieval and/or photocopying of less than $\square 25$ are not subject to review by the Information Commissioner).
- e) An application in relation to a decision to charge a fee under section 47(6A), or a fee of a particular amount under section 47(6A), on the grounds that the records concerned do not contain only personal

- information related to the requester or the requester is not a medical card holder or a dependant of a medical card holder.
- f) An appeal of an internal review decision which is deemed to be refused because that decision was not made within the required time limits.

Search and Retrieval and photocopying fees

Fees may also be charged for search and retrieval of records as follows: -

- In respect of personal records, fees in respect of the cost of copying the records requested will apply.
- In respect of other (non-personal) information, fees may be charged in respect of the time spent in efficiently locating and copying records, based on a standard hourly rate of £20.95. No charges shall apply in respect of the time spent by public bodies in considering requests.

A deposit may be payable where the total fee is likely to exceed £50.79. In these circumstances, we will, if requested, assist the member of the public to amend the request so as to reduce or eliminate the amount of the deposit.

Charges may be waived in the following circumstances:

- Where the cost of collecting and accounting for the fee would exceed the amount of the fee; or
- Where the information would be of particular assistance to the understanding of an issue of national importance; or
- In the case of personal information, where such charges would not be reasonable having regard to the means of the requester.

Section 47 of the FOI Act sets out the rules for applying search and retrieval fees. Fees are currently set as follows in accordance with Statutory Instruments Nos. 264 of 2003, 139 of 1998 and 13 of 1997:

- £20.95 per hour – search and retrieval
- £0.04 per sheet for a photocopy
- £0.51 for a 3½ inch computer diskette
- £10.16 for a CD-ROM
- £6.35 for a Radiograph (X-Ray)

Part 2 – Our Role and Structure

Part 2 of the Book – the “Our Role and Structure” – outlines the role of the Marine Casualty Investigation Board and its organisational structure. This part gives a breakdown of our internal structure and organisation. Information is provided under the following headings:

- **Role** – outlines the main work we do.
- **Structure** – gives details of our personnel structure.
- **Work we do** – provides a synopsis of our main activities.
- **Classes of records held** – details the classes under which we hold records.
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The Marine Casualty Investigation Board does not deliver any schemes within the meaning of section 16 of the Freedom of Information Act.

Role

The Marine Casualty Investigation Board is a statutory body. It was established on 5th June 2002 under section 7(1) of the Merchant Shipping (Investigation of Marine Casualties) Act 2000. All Board members are engaged on a part-time basis. The MCIB is a non-commercial organisation. It is an independent body with its own funding provided for by the Oireachtas under section 19 of the Act. The MCIB is independent of the Minister for Transport in the performance of its functions and, in general, shall be independent of any other person or body whose interest could conflict with the functions of the Board.

The function of the MCIB is to carry out investigations into marine casualties that take place in Irish waters or involve Irish registered vessels. The main purpose of the Board’s investigations is to establish the cause or causes of a marine casualty with a view to making recommendations to the Minister for Transport for the avoidance of similar marine casualties. It is not the purpose of an investigation to attribute blame or fault. Section 25(1) and (2) of the Act refers.

Structure

The Board consists of three persons appointed by the Minister, the Chief Surveyor of the Marine Survey Office, and the Secretary General of the Department of Transport or her nominee. The tenure of office of Chairperson and members of the Board appointed by the Minister is five years and may be appointed for a second or subsequent term of office in either or both capacities. The Secretary of the Board is an established civil servant seconded to the Board from the Department of Communications, Marine and Natural Resources on a full time basis. The Secretary is assisted by a Clerical Officer who is also a full time civil servant and is also seconded to the Board from the Department of Communications, Marine and Natural Resources.

Mr. John G. O'Donnell, B.L., <i>(Chairman)</i>		
Mr. Tom Power <i>(Deputy Chairperson)</i>		
Ms. Bridie Cullinane <i>(HEO/Secretary)</i>		
Ms. Sinead Brett, B.C.L., <i>(Board Member)</i>	Mr. Brian Hogan <i>(Chief Surveyor)</i> <i>(Board Member)</i>	Mr. Jurgen Whyte <i>(Board Member)</i>

Our Policy on Confidentiality

We undertake to treat as confidential any information provided to it in confidence by individuals or others, subject to our obligations under law, including the Freedom of Information Act. If, for any reason, you wish that information provided to us should not be disclosed because of its sensitive nature, then you must, when supplying the information, make clear this wish and specify the reasons for the information's sensitivity. We will consult with you before making a decision on any Freedom of Information request received involving sensitive information which you may have supplied.

Work of the Board

The function of the MCIB is to carry out investigations into Marine Casualties, as defined in Section 2 of the Act. The purpose of each investigation is to:

1. Establish the cause or causes of a marine casualty
2. Report on the marine casualty with a view to making recommendations for the avoidance of similar marine casualties.

It is important to note that it is not the purpose of an investigation to attribute blame or fault.

Marine Casualty means an event or process which causes or poses the threat of:

- the death or serious injury to a person;
- the loss of a person overboard;
- the significant loss or stranding of, or damage to, or collision with, a vessel or property or significant damage to the environment in connection with the operation of:
 - a) a vessel in Irish waters
 - b) an Irish registered vessel, in waters anywhere or
 - c) a vessel normally located or moored in Irish waters and under the control of a resident of the State, in international waters adjacent to Irish waters.

Classes of records held

The Board maintains files containing working papers on general administration of the Board, financial data, briefing material, minutes of meetings, correspondence and reports on all matters relating to the performance of its functions. The Board also creates and maintains computer files in word and excel spreadsheet format, on matters relating to the performance of its functions.

Contact Points

Name: Marine Casualty Investigation Board
Address: Leeson Lane, Dublin 2
Telephone: (01) 678 2460/2461
Fax: (01) 678 3129
E-mail: info@mcib.ie
Website www.mcib.ie

Rules and Practices

The Board does not deliver any schemes within the meaning of section 16 of the Freedom of Information Act.

Appendices

Appendix 1 – FOI application form to request access to records under the Act from Marine Casualty Investigation Board.

Request for information under the Freedom of Information Acts

FOI Application Form

Please use BLOCK letters

Details of Applicant

Surname _____

First Name _____

Postal Address: _____

Telephone Number(s)

Home: _____

Business: _____

Office Use Only

Date FOI Request Received _____

Identify Verified _____

Consent Confirmed _____

Personal Information

Before you are given access to personal information relating to yourself, you may be asked to provide proof of your identity.

Form of Access

My preferred form of access is: (please tick as appropriate)

receive copies of the records by post

other - please specify

Details of Request

In accordance with section 7 of the FOI Act, I request access to records which are: *(Please tick as appropriate)* Personal _____ Non-personal _____

(In the space provided overleaf please describe the records as fully as you can. If you are requesting personal information, please state precisely in whose name those records are held. You will not normally be given access to personal information of another person unless you have obtained the written consent of that person).

