

**REPORT OF THE  
INVESTIGATION INTO AN  
INCIDENT INVOLVING THE  
DROWNING OF ONE PERSON  
IN LOUGH SHEELIN,  
CO. CAVAN,  
ON 1ST AUGUST 2004**

The Marine Casualty Investigation Board was established on the 25<sup>th</sup> March, 2003 under The Merchant Shipping (Investigation of Marine Casualties) Act 2000

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	PAGE
1. SYNOPSIS	4
2. FACTUAL INFORMATION	5
3. CIRCUMSTANCES PRIOR TO THE INCIDENT	6
4. THE INCIDENT	8
5. EVENTS AFTER THE INCIDENT	9
6. CONCLUSIONS	10
7. RECOMMENDATIONS	11
8. LIST OF APPENDICES	12
9. LIST OF CORRESPONDENCE RECEIVED	30

## 1. SYNOPSIS

- 1.1 On 31st July 2004, four people departed in a boat from Finnea, Co. Westmeath to camp out overnight on the shores of Lough Sheelin, Co. Cavan. On the following morning, while returning on the boat to Finnea, one of the party fell overboard. Another party member entered the water in an attempt to rescue the first person but he too got into difficulty. The second person, who entered the water, was subsequently rescued by the two remaining members on the boat but there was no sign of the first person that fell overboard.
- 1.2 Divers recovered his body on the following day. Neither personal flotation devices nor lifejackets were being worn by any members of the party on the trip.

All times given are local.

## 2. FACTUAL INFORMATION

### 2.1 Particulars of the boat:

Maker: Sheelin Boats.  
Length: 19 feet.  
Owner: Mr. Stephen Reilly, Mullingar, Co. Westmeath.  
Purchased: New in 2000.  
Engine: Mercury outboard - petrol.  
Description of boat: Fibreglass construction with timber seats.  
The boat would hold up to four people.  
(See photographs of the boat at Appendix 8.1.).

### 2.2 The crew of the boat at the time of the incident were:

1. Mr. Darren Nugent from Co. Cavan.
2. Mr. Stuart Higgins from Co. Louth.
3. Mr. Stephen Campbell from Co. Louth and
4. Mr. Kenneth Carney from Co. Louth.

### 3. CIRCUMSTANCES PRIOR TO THE INCIDENT

- 3.1 On 31st July 2004, Mr. Stuart Higgins, Mr. Stephen Campbell and Mr. Kenneth Carney travelled to Mr. Darren Nugent's house in Co. Cavan and from there the four travelled the short distance to Finnea. They arrived in Finnea at approximately 15:45 hours and Mr. Darren Nugent spoke to Mr. Stephen Reilly and enquired about hiring a boat. Mr. Stephen Reilly directed Mr. Darren Nugent to his son Mr. Noel Reilly, who was down at the water. Mr. Noel Reilly arranged a boat for the party of four and provided an outboard engine.
- 3.2 Mr. Stephen Reilly stated that he has been operating a hire boat business for 34 years and that on the 31st July 2004 he had eight boats available for hire. He had a total of eighteen personal flotation devices available for use on the above date, which comprised a mix of buoyancy aids and lifejackets and included approximately five for children. His son, Mr. Noel Reilly was assisting him in the boat hire business and they would ask customers if they had personal flotation devices especially if there were children in the party. If the customers did not have personal flotation devices then they would offer the use of the Reilly's personal flotation devices. If there were no personal flotation devices available the Reilly's stated that they would not hire out the boat. They would ask the party to wait for the return of another boat, which would release personal flotation devices for use. Mr. Noel Reilly stated that they would always have personal flotation devices in the boats when they were hired out.
- 3.3 Mr. Darren Nugent states that he asked Mr. Noel Reilly about lifejackets and that he was told that there were only twelve lifejackets and they were all out on other boats. Mr. Darren Nugent states that Mr. Noel Reilly told him that it was a flat calm day and that they would be all right. Mr. Darren Nugent told the others in the party about there being no lifejackets available. None of the party were concerned and so they loaded up the boat and departed for a fishing trip.
- 3.4 Mr. Noel Reilly states that he was not asked about lifejackets and further states that he checked and that there were four lifejackets in the stowage compartment in the forward end of the boat. (See photograph in Appendix 8.1.)
- 3.5 The party stayed out fishing until about 19:00 hours when they returned to Finnea. They left the boat and went back to Mr. Darren Nugent's house. They collected supplies, petrol, food and drink and returned to Finnea. Mr. Darren Nugent recalls speaking to Mr. Noel Reilly and explaining that the party wanted to go out camping and wanted to keep the boat overnight. Mr. Darren Nugent recalls that Mr. Noel Reilly arranged a boat with a better engine for the party. The party never thought about lifejackets on this occasion.
- 3.6 The three surviving members of the fishing party state that they went out on a different boat on the second occasion. Mr. Noel Reilly states that they were in the same boat with the same engine as they had had previously.

- 3.7 Mr. Stephen Campbell, Mr. Stuart Higgins, Mr. Kenneth Carney and Mr. Darren Nugent left Finnea on the boat at approximately 20:00 hours. They headed for the lake, stopping off to pick up some turf, which they saw and then headed for the shore in the vicinity of the "Sporting Rock". They landed and set up camp and lit a fire. They stayed the night and consumed six or seven 0.5 litre cans of cider each and some of them ate food. The four of them were in a two-man tent and some of them got some sleep. (See Appendix 8.2. for a map of the Lough Sheelin area).

## 4. THE INCIDENT

- 4.1. Mr. Stuart Higgins and Mr. Stephen Campbell woke the other two and said that they wanted to go back to Finnea. They packed up and all four got in the boat. Mr. Darren Nugent was driving/steering the outboard engine. They headed back towards Finnea at about 06:00 hours. The boat was going at full speed. Mr. Kenneth Carney was wrapped in a blanket and was sitting at the after end of the boat with Mr. Darren Nugent. The other two were at the forward end of the boat. The Met. Eireann weather report for Lough Sheelin at the time gives generally light southeast to east winds Force 2 to 3, but with strong gusts in showers. The weather was mostly dry although some showers passed over the general area during the period. The visibility was generally good, poor in showers. (See copy of the Met. Eireann weather report at Appendix 8.3.)
- 4.2 Some or all of the occupants of the boat appear to have been rolling the boat from side to side. The boat rolled too far and Mr. Kenneth Carney fell out. His arms were wrapped in the blanket and so he was unable to grab a hold of anything. Almost straight away Mr. Stuart Higgins jumped in and swam back to Mr. Kenneth Carney but was unable to hold onto him. The two in the boat tried to get the boat back to Mr. Stuart Higgins and Mr. Kenneth Carney and as they approached Mr. Darren Nugent stopped the engine, as he was afraid of the propeller hitting the two in the water. Mr. Stuart Higgins grabbed hold of the boats mooring rope but there was no sign of Mr. Kenneth Carney. The two in the boat managed to get Mr. Stuart Higgins back onto the boat. Mr. Kenneth Carney had disappeared so they headed back to Finnea for help.
- 4.2. When Mr. Stuart Higgins jumped into the water to attempt the rescue of Mr. Kenneth Carney, both Mr. Stephen Campbell and Mr. Darren Nugent searched the boat for suitable items to aid flotation. It appears that no flotation device was on board.



## 5. EVENTS AFTER THE INCIDENT

- 5.1 They restarted the engine and headed back to Finnea, which took about five minutes arriving at 07:30 hours. Mr. Stephen Reilly's wife took the three survivors back to their house.
- 5.2 Mr. Noel Reilly states that he was woken by his mother at about 09:00 hours and informed of the incident. He went down to the river briefly and saw the boat but did not interfere with anything. He then returned to the house. Shortly afterwards the Gardai arrived.
- 5.3 Mr. Stephen Reilly went down to the river with the Gardai and he saw three lifejackets in the boat. Mr. Stephen Reilly recalls that he had hired this boat out to a Latvian party at about 06:30 hours on 31st July 2004 and he had supplied four lifejackets to them. He does not know what happened to the fourth lifejacket.
- 5.4 Mr. Darren Nugent went back to the river and saw three lifejackets on the riverbank and he told the two Gardai who were there that those three lifejackets were not on the boat.
- 5.5 Four members of Westmeath Civil Defence together with a RIB arrived in Finnea at about 14:20 hours and were the first to arrive there. A Garda from the Cavan District Office had earlier informed them that a person had fallen overboard from a boat on Lough Sheelin and was missing, presumed drowned.
- 5.6 The survivors identified the position where Mr. Kenneth Carney had fallen overboard. The Westmeath Civil Defence unit marked the area with buoys and proceeded to search this area from 15:00 hours until about 20:00 hours without success. The visibility in the water was poor.
- 5.7 At about 12:20 hours on Monday 2nd August 2004, Westmeath Civil Defence unit recovered a body from about 3 or 3.5 metres depth of water. There was no lifejacket or personal flotation device on the body. They subsequently handed the body over to the Gardai and the body was identified as being that of Mr. Kenneth Carney.
- 5.8 A number of diving units also took part in the search of the Lough on both Sunday 1st and Monday 2nd August 2004.
- 5.9 The inquest into the death of Mr. Kenneth Carney was held in the Courthouse, Cavan on the 7th September 2005. The cause of death was found to be in accordance with the medical evidence of drowning. An accidental verdict was recorded.

## 6. CONCLUSIONS

- 6.1 It would appear that the rolling of the boat by the occupants had a major impact on Mr. Kenneth Carney falling overboard.
- 6.2 The occupants of the boat were not wearing any personal flotation devices during the trip S.I. No. 259 of 2004 Merchant Shipping (pleasure craft) (lifejackets and operation) (safety) Regulations 2004, requires the occupants of a pleasure craft of less than 7.0 metres length overall to wear suitable personal flotation devices or lifejackets while on board an open craft when not made fast to the shore or at anchor. There are conflicting statements from the owners of the boat and from the occupants of the boat regarding the presence of personal flotation devices in the boat at the time of the incident.
- 6.3 The occupants of the boat had consumed a quantity of alcohol through the night and had had little sleep. The inquest into the death of Mr. Kenneth Carney recorded that the cause of death was found to be in accordance with the medical evidence of drowning. An accidental verdict was recorded.
- 6.4 If Mr. Kenneth Carney had been wearing a suitable personal flotation device or lifejacket, it would have greatly increased his chances of being rescued from the water alive.

## **7. RECOMMENDATIONS**

- 7.1 It is noted that revised regulations S.I. No. 921 of 2005 have been issued updating the requirement of S.I. No. 259 of 2004. It is recommended that a Marine Notice is published advising of the requirements of S.I. No. 921 of 2005 (Merchant Shipping) Pleasure Craft (Personal Flotation Devices and Operation) (Safety) Regulations 2005; and detailing the various personal flotation devices available and considerations to be taken into account by the person in charge of a pleasure craft when selecting what is a suitable personal flotation device for the occupants of a boat taking into account area of operation, weather conditions etc.

# LIST OF APPENDICES

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## 8. LIST OF APPENDICES

- 8.1. Photographs of the boat.
- 8.2. Map extract showing Lough Sheelin.
- 8.3. Met Eireann weather report.
- 8.4 S.I. No. 921 of 2005 (Merchant Shipping) Pleasure Craft (Personal Flotation Devices and Operation) (Safety) Regulations 2005

Appendix 8.1 Photographs of the boat.



Appendix 8.1



Appendix 8.2 Map extract showing Lough Sheelin.



## Appendix 8.3



### **MET ÉIREANN**

*The Irish Meteorological Service*

Glasnevin Hill,  
Dublin 9, Ireland.

Cnoc Ghlas Naíon  
Baile Átha Cliath 9, Éire.  
[www.met.ie](http://www.met.ie)

Tel: +353-1-806 4200  
Fax: +353-1-806 4247  
E-mail: [met.eireann@met.ie](mailto:met.eireann@met.ie)

**Weather Report for Lough Sheelin, Co. Cavan  
On the 1<sup>st</sup> August 2004.  
Between 5 and 8 hours Local Time.**

**Winds:** Generally light south-east to east winds Force 2 to 3. but with strong gusts in showers

**Weather:** Mostly dry, although some showers passed over the general area during the period.

**Visibility:** Generally good, poor in showers.

**Air temperatures:** rose during the period from 10.2 degrees at 5 a.m. to 13.3 degrees C at 8 a.m. at our closest synoptic station in Mullingar. Temperatures at Lough Sheelin would have been similar.

Mullingar also recorded the following wind speeds and directions for the period

5 a.m. 3 knots 90 degrees (east)

6 a.m. 3 knots 90 degrees (east)

7 a.m. 7 knots 110 degrees ( east-south-east)

8 a.m. 7 knots 120 degrees (east-south-east)



Appendix 8.3

BEAUFORT SCALE OF WIND

BEAUFORT NUMBER	DESCRIPTIVE TERM	VELOCITY EQUIVALENT AT A STANDARD HEIGHT OF 10 METRES ABOVE OPEN FLAT GROUND				SPECIFICATIONS			Probable wave height* in metres	Probable wave height* in feet
		Mean velocity in knots	m s <sup>-1</sup>	km h <sup>-1</sup>	m.p.h.	Land	Sea	Coast		
0	Calm	< 1	0-0.2	< 1	< 1	Calm; smoke rises vertically	Sea like a mirror	Calm	—	—
1	Light air	1-3	0.3-1.5	1-5	1-3	Direction of wind shown by smoke drift but not by wind vanes	Ripples with the appearance of scales are formed, but without foam crests	Fishing smack; just has steering way	0.1 (0.1)	½ (%)
2	Light breeze	4-6	1.5-3.3	6-11	4-7	Wind felt on face; leaves rustle; ordinary vanes moved by wind	Small wavelets, still short but more pronounced; crests have a glassy appearance and do not break	Wind lifts the sails of smacks which then travel at about 1-2 knots	0.2 (0.2)	½ (1)
3	Gentle breeze	7-10	3.4-5.4	12-19	8-12	Leaves and small twigs in constant motion; wind extends light flag	Large wavelets; crests begin to break; foam of glassy appearance; perhaps scattered white horses	Smacks begin to career and travel about 3-4 knots	0.6 (1)	2 (2)
4	Moderate breeze	11-16	5.5-7.9	20-28	13-16	Raises dust and loose paper; small branches are moved	Small waves, becoming longer; fairly frequent white horses	Good working breeze; smacks carry all canvas with good list	1 (1.5)	3½ (5)
5	Fresh breeze	17-21	8.0-10.7	29-38	19-24	Small trees in leaf begin to sway; crested wavelets form on inland waters	Moderate waves, taking a more pronounced long form; many white horses are formed (chance of some spray)	Smacks shorten sail	2 (2.5)	6 (8½)
6	Strong breeze	22-27	10.8-13.8	39-49	25-31	Large branches in motion; whistling heard in telegraph wires; umbrellas used with difficulty	Large waves begin to form; the white foam crests are more extensive everywhere (probably some spray)	Smacks have double reef in main-sail; care required when fishing	3 (4)	9½ (13)
7	Near gale	28-33	13.9-17.1	50-61	32-38	Whole trees in motion; inconvenience felt when walking against wind	Sea heaps up and white foam from breaking waves begins to be blown in streaks along the direction of the wind	Smacks remain in harbour and those at sea lie to	4 (5.5)	13½ (19)
8	Gale	34-40	17.2-20.7	62-74	39-46	Breaks twigs off trees; generally impedes progress	Moderately high waves of greater length; edges of crests begin to break into the spindrift; the foam is blown in well-marked streaks along the direction of the wind	All smacks make for harbour, if near	5.5 (7.5)	18 (25)
9	Strong gale	41-47	20.8-24.4	75-88	47-54	Slight structural damage occurs (chimney pots and slates removed)	High waves; dense streaks of foam along the direction of the wind; crests of waves begin to topple, tumble and roll over; spray may affect visibility	—	7 (10)	23 (32)
10	Storm	48-55	24.5-28.4	89-102	55-63	Seldom experienced inland; trees uprooted; considerable structural damage occurs	Very high waves with long overhanging crests; the resulting foam, in great patches, is blown in dense white streaks along the direction of the wind; on the whole, the surface of the sea takes on a white appearance; the tumbling of the sea becomes heavy and shock-like; visibility affected	—	9 (12.5)	29 (41)
11	Violent storm	56-63	28.5-32.6	103-117	64-72	Very rarely experienced; accompanied by wide-spread damage	Exceptionally high waves (small and medium-sized ships might be for a time lost to view behind the waves); the sea is completely covered with long white patches of foam lying along the direction of the wind; everywhere the edges of the wave crests are blown into froth; visibility affected	—	11.5 (16)	37 (52)
12	Hurricane	64 and over	32.7 and over	118 and over	73 and over	—	The air is filled with foam and spray; sea completely white with driving spray; visibility very seriously affected	—	14 (—)	45 (—)

\* This table is only intended as a guide to show roughly what may be expected in the open sea, remote from land. It should never be used in the reverse way, i.e., for logging or reporting the state of the sea. In enclosed waters, or when near land, with an off-shore wind, wave heights will be smaller and the waves steeper. Figures in brackets indicate the probable maximum height of waves.

## Appendix 8.4 Statutory Instruments

### STATUTORY INSTRUMENTS

S.I. No. 921 of 2005

**Pleasure Craft (Personal Flotation Devices and Operation) (Safety) Regulations 2005**

**DUBLIN: PUBLISHED BY THE STATIONERY OFFICE**

To be purchased directly from the GOVERNMENT PUBLICATIONS OFFICE, SUN ALLIANCE HOUSE, MOLESWORTH STREET, DUBLIN 2 or by mail order from GOVERNMENT PUBLICATIONS, POSTAL TRADE SECTION, 51 ST. STEPHEN'S GREEN, DUBLIN 2. (Telephone 01-6476834/35/36/37; Fax 01-6476843) or through any bookseller.

(PRN. A5/2359)

Price: €2.54

## Appendix 8.4

## S.I. No. 921 of 2005

**Pleasure Craft (Personal Flotation Devices and Operation) (Safety) Regulations 2005**

I, Pat the Cope Gallagher, Minister of State at the Department of Communications, Marine and Natural Resources, in exercise of the powers conferred on me by sections 20 (as amended by section 47(1) of the Maritime Safety Act 2005 (No. 11 of 2005)) and 27 (as amended by section 47(2) of that Act) of the Merchant Shipping Act 1992 (No. 2 of 1992), the Marine (Delegation of Ministerial Functions) (No. 2) Order 2004 (S.I. No. 703 of 2004) and the Marine (Delegation of Ministerial Functions) (No. 2) Order 2005 (S.I. 346 of 2005), hereby make the following regulations:

***Citation***

1. These Regulations may be cited as the Pleasure Craft (Personal Flotation Devices and Operation) (Safety) Regulations 2005.

***Definitions***

2. In these Regulations -

“fast power craft” means a pleasure craft, other than a personal watercraft, the principal means of propulsion of which is derived from a mechanical power source and which attains or can attain a speed through or over water equal to or exceeding 17 knots;

“decked craft” means a pleasure craft which is not an open craft;

“length overall” means the overall length of a craft, extending from the most extreme point aft to a similar point at the forward end, incorporating any overhang of stern, or rake of stem;

**Appendix 8.4**

"open craft" means a pleasure craft which does not have a cabin or below deck facilities for the use of persons and where seating, or any place on the craft used for seating, is exposed or partially exposed to the elements;

"pleasure craft" includes personal watercraft and fast power craft;

"suitable personal flotation device" means a personal flotation device—

(a) which has on it the CE conformity marking consisting of the initials "CE" taking the form of the specimen set out in Annex IV to Council Directive 89/686/EEC of 21 December 1989<sup>1</sup> (as amended by Council Directive 93/68/EEC of 22 July 1993<sup>2</sup> and Council Directive 96/58/EC of the European Parliament and the Council of 3 September 1996<sup>3</sup>).

(i) which is sufficient to give a person using it a positive buoyancy in waters which are likely to be encountered where the vessel on which it is required to be used or to be available for use is reasonably likely to be,

(ii) which is appropriate to the body weight of the person who is to wear it,

and/or

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<sup>1</sup> OJ. No. L399, 30.12.89, p. 18

<sup>2</sup> OJ. No. L220, 30.8.93, p. 1

<sup>3</sup> OJ. No. L236, 18.9.96, p. 44

## Appendix 8.4

(b) which has on it the mark of conformity which must take the form of the specimen set out in Annex D to Council Directive 96/98/EC of 20 December 1996<sup>4</sup> (as amended by Commission Directive 98/85/EC of 11 November 1998<sup>5</sup>, Commission Directive 2001/53/EC of 10 July 2001<sup>6</sup>, Commission Directive 2002/75/EC of 2 September 2002<sup>7</sup>, Directive 2002/84/EC of the European Parliament and of the Council of 5 November 2002<sup>8</sup> corrected by Corrigendum of 10 September 1997<sup>9</sup> and Corrigendum of 29 August 1998<sup>10</sup>).

### *Application*

3. (1) These Regulations apply to pleasure craft being operated in Irish waters and to –
- (a) any person on board such craft, and
  - (b) any person being towed by such craft or on board a vessel or object of any kind, being towed by such craft.
- (2) These Regulations (other than Regulations 8 and 9) do not apply to a pleasure craft being used for rescue or other emergency purposes or for law enforcement purposes.
- (3) These Regulations (other than Regulations 8 and 9) do not apply to rowers in boats which are –
- (a) designed and specifically used for rowing in boat races and which are capable of being entered into regattas or other events recognised by the Irish Amateur Rowing Union,

<sup>4</sup> OJ. No. L 46, 17.2.1997, p. 25

<sup>5</sup> OJ. No. L 315, 25.11.98, p. 14

<sup>6</sup> OJ. No. L 204, 28.7.2001, p. 1

<sup>7</sup> OJ. No. L 254, 23.9.2002, p. 1

<sup>8</sup> OJ. No. L 324, 29.11.2002, p. 53

<sup>9</sup> OJ. No. L 246, 10.9.1997, p. 7

<sup>10</sup> OJ. No. L 241, 29.8.1998, p. 27

## Appendix 8.4

and

(b) of a design and type in respect of which events are held in the Olympic Games or other international rowing regattas.

*Age restrictions on operation or control of pleasure craft*

4. (1) The master or owner of a personal watercraft or a fast power craft shall take all reasonable steps to ensure that a person who has not attained the age of 16 years does not operate or control the craft.

(2) The master or owner of a pleasure craft powered by an engine with a rating of more than 5 horse power or 3.7 kilowatts shall take all reasonable steps to ensure that a person who has not attained the age of 12 years does not operate or control the craft.

*Carriage of personal flotation devices on pleasure craft (other than personal watercraft)*

5. The master or owner of a pleasure craft (other than a personal watercraft) shall ensure, that there are, at all times, on board the craft, sufficient suitable personal flotation devices for each person on board.

*Wearing of personal flotation devices on pleasure craft (other than personal watercraft)*

6. (1) A person on a pleasure craft (other than a personal watercraft) of less than 7 metres length overall shall wear a suitable personal flotation device while on board an open craft or while on the deck of decked craft, other than when the craft is made fast to the shore or at anchor.

## Appendix 8.4

(2) The master or owner of a pleasure craft (other than a personal watercraft) shall take all reasonable steps to ensure that a person who has not attained the age of 16 years complies with paragraph (1) of this Regulation.

(3) The master or owner of a pleasure craft (other than a personal watercraft), which is not a craft referred to in paragraph (1) of this Regulation, shall take all reasonable steps to ensure that a person who has not attained the age of 16 years wears a suitable personal flotation device while on board an open craft or while on the deck of a decked craft, other than when it is made fast to the shore or at anchor.

(4) The master or owner of a pleasure craft (other than a personal watercraft) shall take all reasonable steps to ensure that a person wears a suitable personal flotation device, at all times while –

- (a) being towed by the craft, or
- (b) on board a vessel or object of any kind which is being towed by the craft.

(5) This Regulation does not apply to a person on board a pleasure craft (other than a personal watercraft), which is not under way, when the person-

- (a) is wearing, putting on, or taking off, scuba diving equipment,
- or
- (b) is about to engage in, or has just completed swimming (including snorkelling) from the craft.

*Wearing of personal flotation devices on personal watercraft*

7. (1) Every person on a personal watercraft shall wear a personal flotation device at all times while on board, or being towed in any manner by a personal watercraft.

**Appendix 8.4**

(2) The master or owner of a personal watercraft shall take all reasonable steps to ensure that a person who has not attained the age of 16 years complies with paragraph (1) of this Regulation.

*Prohibition on operating pleasure craft while under influence of alcohol or drugs*

8. The master or owner of a pleasure craft, shall not, or shall not allow another to, operate or control or attempt to operate or control the craft while he or she or the other is under the influence of alcohol or drugs or any combination of drugs or of drugs and alcohol to such an extent as to be incapable of having proper control of the craft.

*Control of consumption of alcohol or drugs on board pleasure craft*

9. (1) A person on a pleasure craft shall not consume alcohol or drugs or any combination of drugs or of drugs and alcohol while on board the craft in circumstances which could affect the safety of persons or create a disturbance on board the craft or affect the safety of other persons using Irish waters or constitute a nuisance to such persons.

(2) A person being towed or on board a vessel or object of any kind which is being towed by a pleasure craft shall not consume alcohol or drugs or any combination of drugs or drugs and alcohol.

(3) The master or owner of a pleasure craft shall take all reasonable steps to ensure that all persons comply with paragraphs (1) and (2) of this Regulation.

*Application of section 27 of Merchant Shipping Act 1992*

10. (1) Section 27 (as amended by section 47(2) of the Maritime Safety Act 2005 (No. 11 of 2005)) of the Merchant Shipping Act 1992 (No. 2 of 1992) applies to these Regulations.



## Appendix 8.4

(2) The form set out in the Schedule to these Regulations is prescribed as the form of the notice to be served on a person in relation to an alleged offence under section 20 of the Merchant Shipping Act 1992 for contravening these Regulations.

*Revocation*

11. The Merchant Shipping (Pleasure Craft) (Lifejackets and Operation) (Safety) Regulations 2004 (S.I. No. 259 of 2004) are revoked.

Appendix 8.4

Schedule

Regulation 10(2)

**FIXED PAYMENT NOTICE IN RELATION TO AN ALLEGED OFFENCE UNDER  
SECTION 20 OF THE MERCHANT SHIPPING ACT 1992.**

To: .....

Address:

.....  
.....  
.....

It is alleged that you have committed an offence under section 20 of the Merchant Shipping Act 1992 Act at

.....  
on.....

A description of the alleged offence is given at reference number ..... overleaf

A prosecution in respect of the alleged offence will not be instituted during the period of 21 days beginning on the date of this notice, and if during that period you pay to:

.....  
.....  
.....<sup>1</sup>

the sum of €150<sup>2</sup> accompanied by this notice, a prosecution in respect of the alleged offence will not be instituted.

**SIGNED:**

.....  
*Authorised Officer*

**DATE:** .....

<sup>1</sup> Insert name of statutory authority to be paid and address where payment is to be made.

<sup>2</sup> Insert other amount if different amount is prescribed

Appendix 8.4

**Pleasure Craft (Personal Flotation Devices and Operation) (Safety) Regulations**

(S.I. No. 921 of 2005)

Regulation	Description of Alleged Offence	Ref. No.
4(1)	Permitting a person who has not attained the age of 16 years to operate or be in control of a personal watercraft or a fast power craft.	1
4(2)	Permitting a person who has not attained the age of 12 years to operate or be in control of a pleasure craft powered by an engine with a rating of greater than 5 horse power or 3.7 kilowatts.	2
5	Operating a pleasure craft (other than a personal watercraft) without sufficient suitable personal flotation devices for each person on board.	3
6(1)	Failing to wear a suitable personal flotation device while on board an open craft or on the deck of a decked craft (other than personal watercraft) of less than 7 metres in length overall which is not made fast to the shore or at anchor.	4
6(2)	Permitting a person who has not attained the age of 16 years not to wear a suitable personal flotation device while on board an open craft or whilst on the deck of a decked craft (other than a personal watercraft) of less than 7 metres in length overall which is not made fast to the shore or at anchor.	5
6(3)	Permitting a person who has not attained the age of 16 years not to wear a suitable personal flotation device while on board an open craft or while on the deck of a decked craft (other than a personal watercraft) which is not made fast to the shore or at anchor.	6
6(4)(a)	Permitting a person not to wear a personal flotation device while being towed by a pleasure craft (other than a personal watercraft).	7
6(4)(b)	Permitting a person not to wear a suitable personal flotation device while on board a vessel or object of any kind which is being towed by a pleasure craft (other than a personal watercraft).	8
7(1)	Failing to wear a suitable personal flotation device while on board, or being towed in any manner by, a personal watercraft.	9
7(2)	Permitting a person who has not attained the age of 16 years not to wear a suitable personal flotation device while on board, or being towed in any manner by, a personal watercraft.	10
8	Operating or controlling or attempting to operate or control a pleasure craft or permitting a person to operate or control or attempt to operate or control a pleasure craft while under the influence of alcohol or drugs to such an extent as to be incapable of having proper control of the craft.	11
9(1)	Consuming alcohol or taking of drugs on a pleasure craft in circumstances which could affect the safety of persons, or create a disturbance, on board the craft, or could affect the safety of others using Irish waters or constitute a nuisance to such others.	12
9(2)	Consuming alcohol or taking drugs while being towed by, or on board a vessel specifically designed to be towed or on an object of any kind which is being towed by, a pleasure craft.	13
9(3)	Permitting a person to consume alcohol or take drugs on a pleasure craft in circumstances which could affect the safety of persons, or create a disturbance, on board the craft, or could affect the safety of others using Irish waters or constitute a nuisance to such others or permitting a person to consume alcohol or take drugs while being towed by, or on board a vessel specifically designed to be towed or on an object of any kind which is being towed by, a pleasure craft.	14

Appendix 8.4

GIVEN, under my hand,

22 December 2005

Pat the Cope Gallagher,

Minister of State at the Department of  
Communications, Marine and Natural Resources.

## Appendix 8.4

**Explanatory Note**

(This Note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations replace the Merchant Shipping (Pleasure Craft) (Lifejacket and Operation) (Safety) Regulations, 2004 (S.I. No. 259 of 2004), so as to provide for an increase (from €127 to €150) in the fixed payment in lieu of prosecution, if appropriate, in relation to an alleged contravention of the Regulations. IMO SOLAS/EU Marine Equipment Directive (MED) marked personal flotation devices are included under the definition of a "suitable personal flotation device" in these Regulations.

Otherwise, the new Regulations continue in force the existing national provisions governing the operation of pleasure craft including personal watercraft, including provisions relating to age restrictions, the carriage and use of personal flotation devices and restrictions on the use of alcohol and drugs.

Section 47(2) of the Maritime Safety Act 2005 (No. 11) provides for a fixed payment of €150, or such other amount as may be prescribed by Ministerial Regulations, in relation to an alleged contravention of Regulations under section 20 of the Merchant Shipping Act 1992 (No. 2) (as amended by section 47(1) of the 2005 Act), in lieu of prosecution, if appropriate.

## 9. LIST OF CORESPONDENCE RECEIVED

Correspondent	Page No.
Mr. Stephen Campbell MCIB Response	31 31
Mr. Stuart Higgins MCIB Respons	32 32
Westmeath County Council MCIB Response	33 33

## 9. CORESPONDENCE RECEIVED

Dear Ms. Cullinane /

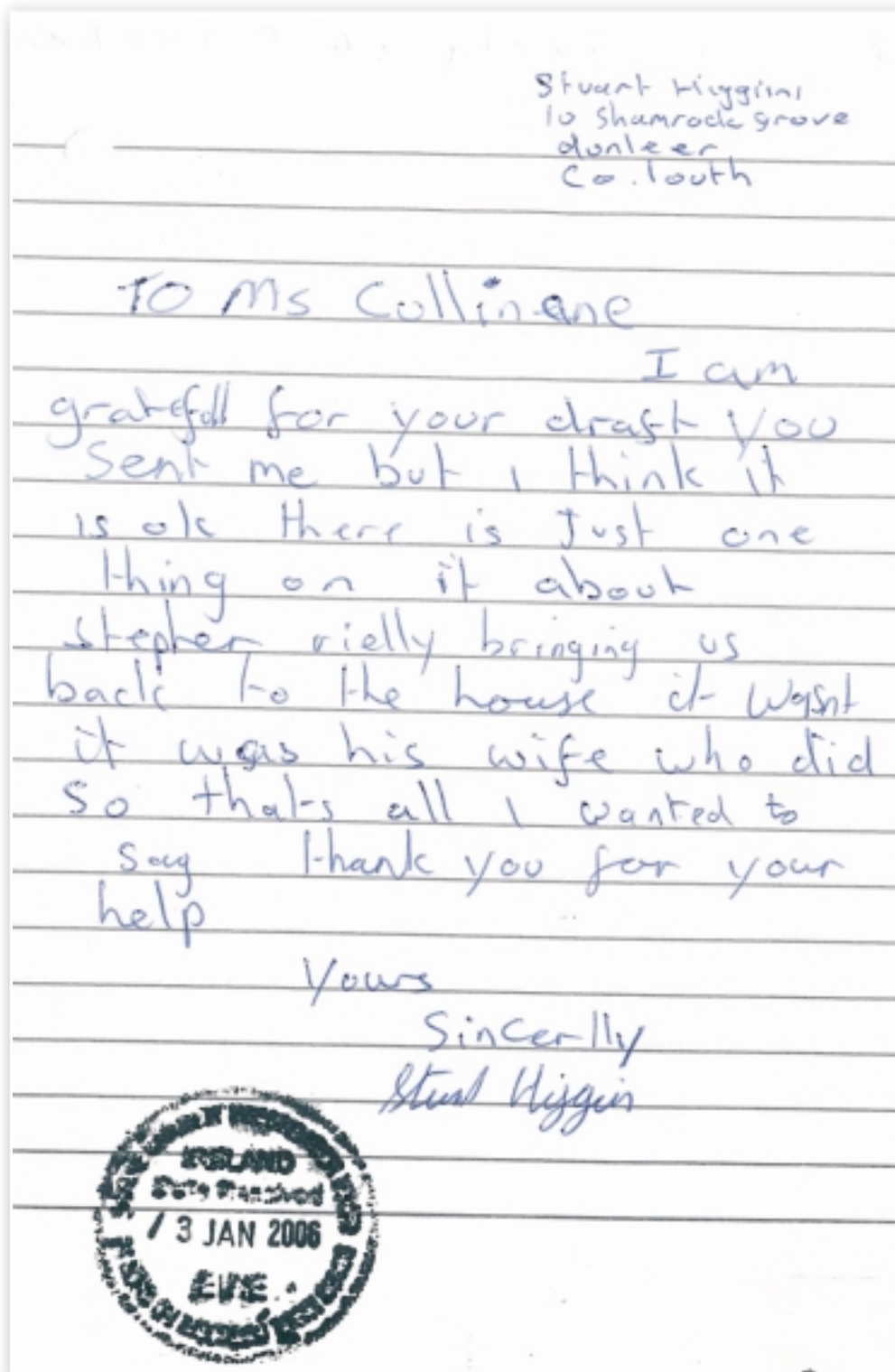
I Stephen Campbell have read  
this draft report to the best of  
my knowledge everything is correct  
except that it was Mr. Stephen Reilly  
wife that took us back to their house  
on the 2 of August 2004

Yours sincerely  
Stephen Campbell

**MCIB RESPONSE**

The MCIB notes the content of this letter and have amended the Report accordingly.

## 9. CORESPONDENCE RECEIVED



## MCIB RESPONSE

The MCIB notes the content of this letter and have amended the Report accordingly.



## 9. CORESPONDENCE RECEIVED

**WESTMEATH**  
COUNTY COUNCIL  
COMHAIRLE CHONTAE NA h-IARAINN



16<sup>th</sup> December 2005.



Ms. Bridie Cullinane,  
Secretary,  
Marine Casualty Investigation Board,  
93 Lower Leeson Street,  
Dublin 2.

**Re: Report of the investigation into an incident involving the  
drowning of Mr. Kenneth Carney at Lough Sheelin, Co. Cavan  
on 1<sup>st</sup> August 2004.**

Dear Ms. Cullinane,

I wish to inform the Board that I have the following observation  
to make in relation to Paragraph 5.6 of the Draft Report into this incident:

This suggested form of words would give greater clarity in relation to  
who had carried out the marking of the search area.

“The survivors identified the position where Mr. Kenneth Carney had  
fallen overboard. The Westmeath Civil Defence unit marked the area  
with buoys and proceeded to search this area from 1500 hours until about  
2000 hours without success. The visibility in the water was poor.”

Yours Sincerely,



**Brian Gillen,  
Civil Defence Officer.**

---

 **CIVIL DEFENCE**  
MÁS ÉIRTÉAD NÓIRÉ THÉ

Cosaint Síbhailta  
Áras an Chontae, An Mhúirnean gCearr, Contae na h-Iarainn.  
**CIVIL DEFENCE**  
County Buildings,  
Mullingar, Co. Westmeath.

Telephone: (044) 48715 / 32041  
Fax: (044) 43231  
email: civildefence@westmeathcoco.ie  
web: www.westmeathcoco.ie/services/civildefence

MCIB RESPONSE to letter from Westmeath County Council of 16th December 2005.  
The MCIB notes the content of this letter and have amended the Report accordingly.





