

**REPORT INTO THE
DEATH OF
MR. TONY MURPHY
IN KENMARE RIVER,
CO. KERRY
ON 31ST JULY, 2002**

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

The copyright in the enclosed report remains with the Marine Casualty Investigation Board by virtue of section 35(5) of the Merchant Shipping (Investigation of Marine Casualties) Act, 2000. No person may produce, reproduce or transmit in any form or by any means this report or any part thereof without the express permission of the Marine Casualty Investigation Board. This report may be freely used for educational purposes.

| | | |
|----|---------------------------------|----|
| 1. | SYNOPSIS | 4 |
| 2. | RECOMMENDATIONS | 5 |
| 3. | APPENDICES | 6 |
| 4. | LIST OF CORRESPONDENCE RECEIVED | 14 |

1. SYNOPSIS.

- 1.1 Mr. Tony Murphy went fishing 31st July, 2002 in Kenmare Bay. When he failed to return, his wife, Mrs. Murphy raised the alarm. On the 1st August, 2002 the Rescue Services were mobilised and a competent search was carried out by the Search and Rescue Agencies.
- 1.2 His boat was discovered on the rocks at the Northern shore of Kenmare Bay. The engine was fully engaged in forward gear. In as much as they could the MCIB investigated the incident and the conclusion reached is that Mr. Murphy, who had not been wearing a lifejacket, appears to have fallen overboard and drowned.
- 1.3 Mr. Murphy's body was recovered on the 10th August 2002.
- 1.4 A post mortem was carried out on Mr. Murphy and drowning was determined as cause of death.

2. RECOMMENDATIONS

- 2.1 Attention is drawn to Statutory Instrument No. 586 of 2001 - Fishing Vessels (Personal Flotation Devices) Regulations, 2001. These Regulations require all crew members of a fishing vessel to wear a personal flotation device at all times when on deck of any fishing vessel or boat irrespective of its size, whether at sea, in harbour or coming to and from moorings.
- 2.2 Attention is also drawn to Marine Notice No. 7 of 2002 which gives guidance on the selection of Personal Flotation Devices (PFDs) for use on-board fishing vessels.
- 2.3 The MCIB notes that the Minister for the Department of Communications, Marine and Natural Resources has undertaken a campaign emphasizing the wearing of lifejackets or PFD's by single occupants of boats. The MCIB notes that the Minister for Communications, Marine and Natural Resources has initiated draft legislation covering the compulsory wearing of lifejackets.

3. APPENDICES

- 3.1 Statutory Instrument No. 586 of 200
Fishing Vessel (Personal Flotation Devices) Regulations, 2001.
- 3.2 Marine Notice 7 of 2002
Guidance on the selection of Personal Flotation Devices (PFDs) for use on-board
fishing vessels.

3.1 Statutory Instrument No. 586 of 2001
Fishing Vessel (Personal Flotation Devices) Regulations, 2001.

S.I. No. 586 of 2001

Fishing Vessel (Personal Flotation Devices) Regulations, 2001

I, FRANK FAHEY, Minister for the Marine and Natural Resources, in exercise of the powers conferred on me by section 19 of the Merchant Shipping Act, 1992, as amended by section 44 of the Merchant Shipping (Investigation of Marine Casualties) Act, and the Marine (Alteration of Name of Department and Name of Minister) Order 1997 (S.I. No. 301 of 1997), hereby make the following Regulations:

Citation and Commencement

1. (1) These Regulations may be cited as the Fishing Vessel (Personal Flotation Devices) Regulations, 2001.
- (2) These Regulations come into operation on 1 March 2002.

Interpretation

2. In these Regulations, unless the context otherwise requires:

"crew member" means the skipper or any other person gainfully employed or engaged by the owner or skipper in any capacity on board a fishing vessel;

"fishing vessel" means any vessel designed, equipped or used commercially for catching or taking fish or other living resources of the sea (including the sea bed) but does not include a boat that is registered under the law of any State, other than the State;

"suitable personal flotation device" means a flotation device-

- (a) 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 is reasonably likely to be,
- (b) which is appropriate to the body weight of the person who is to wear it and also to the type of work being done, and
- (c) which has on it the CE conformity marking consisting of the initials "CE" taking the form of the specimen given in Annex IV of Council Directive 89/686/EEC of 21 December 1989¹ (as amended by Council Directive 93/68/EEC of 22 July 1993²)

¹ O.J. No. L.399, 30.12.89, p.18

² O.J. No. L.220, 30.8.93, p.1

3.1 Statutory Instrument No. 586 of 2001
Fishing Vessel (Personal Flotation Devices) Regulations, 2001.

and Council Directive 96/58/EC of the European Parliament and the Council of 3 September 1996³).

Application

3. These Regulations apply to all crew members of fishing vessels.

Selection, Carriage and Wearing of Personal Flotation Devices

4. Every fishing vessel shall carry a suitable personal flotation device for every person on board. The personal flotation device shall be worn at all times by the crew of the fishing vessel, when on the exposed deck of the vessel, or, in the case of open undecked vessels, on board the vessel, whether at sea, in harbour or coming to and from moorings.
5. The skipper of a fishing vessel shall take all reasonable steps to ensure that all crew members wear a personal flotation device when on deck of the vessel, or, in the case of open undecked vessels, on board the vessel, whether at sea, in harbour or coming to and from moorings.

GIVEN under my Official Seal

this 14th day of December 2001

Frank Fahey

Minister for the Marine and Natural Resources

³ O.J. No. L.236, 18.9.96, p.44

Pn No. 10941
Price £0.60
€0.76

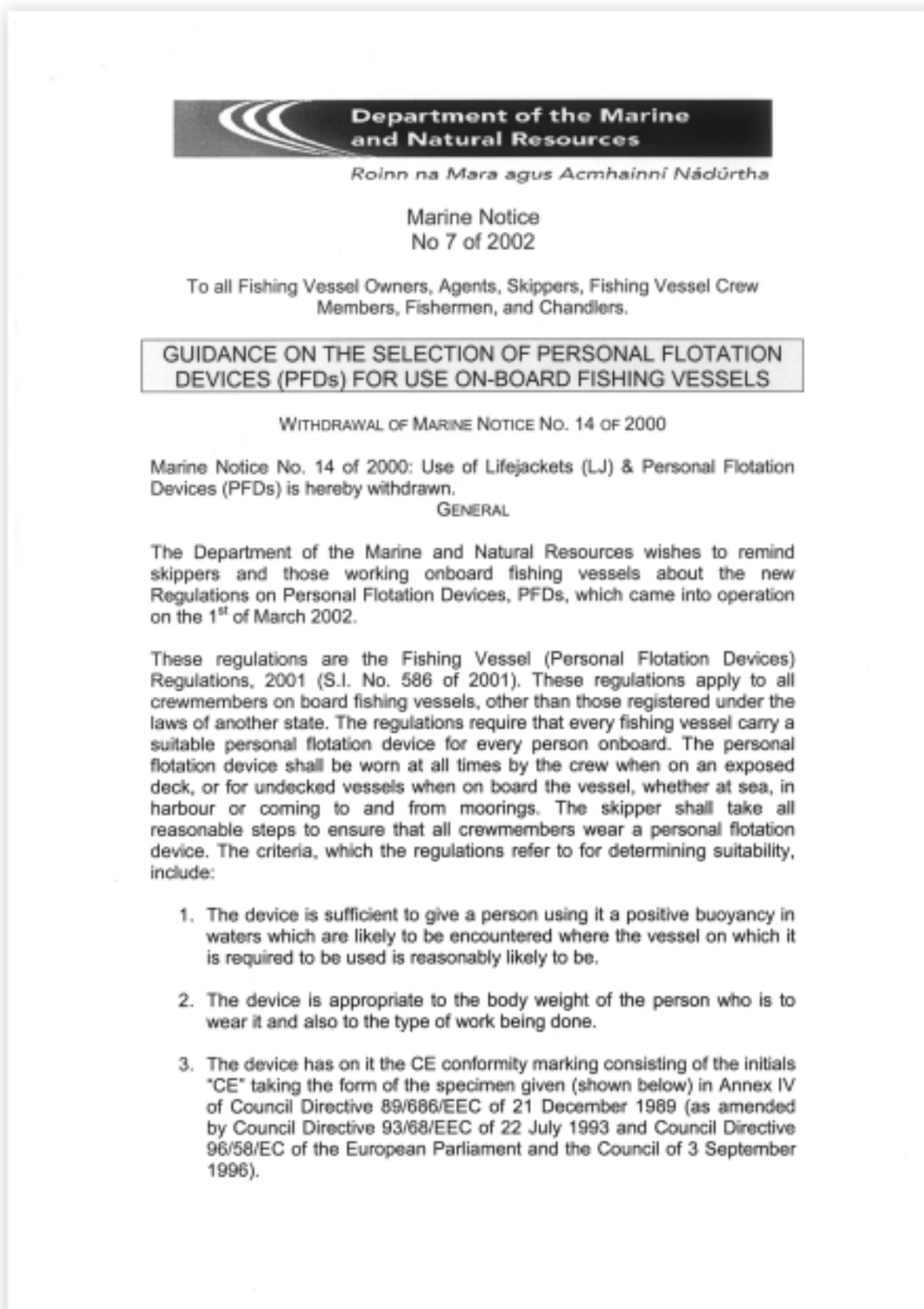
- 3.2 Marine Notice 7 of 2002
Guidance on the selection of Personal Flotation Devices (PFDs) for use on-board fishing vessels.

EXPLANATORY NOTE

(THIS NOTE IS NOT PART OF THE INSTRUMENT AND DOES NOT PURPORT
TO BE A LEGAL INTERPRETATION)

These Regulations require all crew members of a fishing vessel to wear a personal flotation device at all times when on the deck of any fishing vessel or boat irrespective of its size, whether at sea, in harbour or coming to and from moorings.

- 3.2 Marine Notice 7 of 2002
Guidance on the selection of Personal Flotation Devices (PFDs) for use on-board fishing vessels.







3.2 Marine Notice 7 of 2002
 Guidance on the selection of Personal Flotation Devices (PFDs) for use on-board fishing vessels.



TYPES OF PERSONAL FLOTATION DEVICES

The term personal flotation device is an all-encompassing term, which covers all forms of personal protective equipment, intended to help keep a person afloat. These range from 'CE' marked lifejackets through to 'CE' marked buoyancy aids. The following table lists the different types of PFDs acceptable under this legislation and a brief description is given together with suggestions for areas of use.

| Type and Markings | Suggested Uses |
|--|---|
|  EN 399 - 275N | For offshore use in extreme conditions when heavy protective clothing is being worn or when extra loads are being carried. Turns unconscious wearers face up in water under almost all circumstances. May be suitable for use in situations where there may be a delay in rescue. |
|  EN 396 - 150N | For swimmers and non-swimmers of any age. For offshore use. Turns most unconscious wearers face up in water (depending on the clothing worn). These may be suitable for use in tidal waters or when foul weather clothing is being worn and where the wearers may not be capable of helping themselves due to injury or exhaustion. |
|  EN 395 - 100N | For swimmers of any age. For use in relatively sheltered waters, will not turn unconscious wearers face up in water (depending on the clothing worn). May be suitable in instances where the wearers remain capable of helping themselves. |
|  EN 393 - 50N | Only for good swimmers and for use in sheltered waters where help is close at hand. Will not hold the face of an unconscious wearer clear of the water. For adults only (+40kg). May be suitable in circumstances where more bulky or buoyant devices could impair the user's activity or actually endanger them. Not a lifejacket. |

Note: EuroNorm (EN) refers to European wide standards, which are used for ensuring the uniformity and minimum standards for products and services.

The above table is for guidance only and skippers are to assess the risks appropriate to their area of operation and select personal flotation devices appropriately.

3.2 Marine Notice 7 of 2002

Guidance on the selection of Personal Flotation Devices (PFDs) for use on-board fishing vessels.

NOTES FOR SELECTION OF PFDs

The selection of PFDs is a complex issue and it is dependent on many factors such as area of operation for the vessel, seasonal variations, night and day time work, type of work being carried out, ease of use etc.... In this section we have attempted to deal with these issues and to highlight concerns and issues which should be considered in selecting a PFD.

Inherently buoyant flotation suits are popular especially in cold weather. A particular benefit of these suits is their thermal protection offered against cold-water shock and hypothermia. However, in warm weather they become very hot to work in. Fishermen should also be aware that because the suit floats in a horizontal position an unconscious person might float either face-up or face-down.

Inflatable PFDs such as those complying with EN 396 and EN 399 are lightweight and less restrictive and can be worn comfortably in both warm and cold weather. They can also be fitted with automatic inflation devices and may turn the wearer face upwards in the water, depending on clothing worn. These types of PFDs are also available in versions where they are incorporated into clothing such as oilskins and work suits.

If the wearer is unconscious when entering the water, only automatically activated devices will inflate and fishermen who have the manually activated type must be aware of this limitation.

Consideration should also be given to fitting personal flotation devices with lights. These lights should comply with the EuroNorm standard EN394.

GUIDANCE FOR CORRECT USE OF PFDs

1. Inflatable personal flotation devices must be worn over all clothing and not underneath. This is to ensure that there is sufficient space for the device to inflate and that the wearer's breathing is not restricted.
2. PFDs should be worn correctly to prevent them from riding up above the wearer's shoulders.
3. Wearers should be fully familiar with the operation of their inflatable PFDs both manually and automatically.
4. Inflatable PFDs should be checked regularly and maintained in accordance with the manufacturer's instructions. As a minimum, checks should include ensuring that the gas cartridges have not been


3.2 Marine Notice 7 of 2002
Guidance on the selection of Personal Flotation Devices (PFDs) for use on-board fishing vessels.

punctured, that the zips, buckles, fasteners and webbing straps are functioning correctly and that lights, if fitted, are functioning.

5. Automatically inflatable PFDs, which operate by means of a soluble bobbin, may activate in error if left in a damp condition. When inflatable PFDs are not being worn they should be hung to dry vertically to ensure that all moisture drains away from the bobbin. Covers are available which reduce the problem of accidental inflation.

ABANDON SHIP LIFEJACKETS

It is important not to confuse personal flotation devices which are required under the Fishing Vessel (Personal Flotation Devices) Regulations, 2001 (S.I. No. 586 of 2001) with the abandon ship lifejackets which all fishing vessels must carry. Personal flotation devices are in addition to these lifejackets and both types must be carried on board. The abandon ship lifejackets must fulfil the requirements of the IMO SOLAS/EU Marine Equipment Directive (MED) and they are required to be carried as part of the normal lifesaving equipment for all fishing vessels. IMO SOLAS/EU MED lifejackets are marked as follows.

| Type and Markings | Suggested Uses |
|--|---|
|  IMO SOLAS/EU Marine Equipment Directive | Use for abandoning ship. Required under Merchant Shipping Legislation. Not intended for everyday use as they are generally bulky and they need to be kept in good condition for use in abandon ship situations. |

SUMMARY

This Marine Notice has attempted to provide guidance to support the regulations requiring all crewmembers on fishing vessels to wear personal flotation devices. The skipper of a fishing vessel should identify the hazards faced by the crew and based on this assess the risks and select suitable personal flotation devices based on the guidance given in this marine notice.

Secretary-General
Department of the Marine and Natural Resources
Leeson Lane
Dublin 2

19th April 2002

| |
|--|
| Any enquiries concerning Marine Notices should be addressed to: Maritime Safety Division Tel: 01-6199358 Fax: 01-6620774 email: marine.notices@marine.gov.ie |
|--|

4. LIST OF CORRESPONDENCE RECEIVED

| Correspondent | Page No. |
|--------------------|----------|
| Ms. Natalie Murphy | 15 |
| MCIB Response | 15 |
| An Garda Siochana | 16 |
| MCIB Response | 16 |



3a Shelbourne Street,
Kenmare,
Co. Kerry

Thursday 28th April

Dear Mr. Heron,

Re your ref: MCIB 61. Many thanks for your kind letter and attached draft Report dated 16th March 04.

On the behalf of the family I would like to advise that we find the draft to be accurate and precise in its findings and we have no further observations to add.

Please accept our apologies for the delay in replying.

With kind regards

Natalie Murphy.
Natalie Murphy (eldest daughter of Mr. Tony Murphy)

MCIB RESPONSE

The MCIB notes the contents of this letter.

An Garda Síochána



An Leas-Chóimisinéara
(Oibríochtaí)
An Garda Síochána
Ceanncheathrú na nGardaí
Páirc an Fhionn-Uisce
Baile Átha Cliath 8



Deputy Commissioner
(Operations)
An Garda Síochána
Garda Headquarters
Phoenix Park
Dublin 8

Tel. / Teleafón (01) 666 2057/5/9

Fax. / Facs (01) 666 2060

Please quote the following Ref. No's.
OPS 7B 13/04

Web Site : www.garda.ie

E-mail. opsops@ic.ie

Your Ref: MCIB 61

Mr. John G. O'Donnell, B.L.,
Chairman
Marine Casualty Investigation Board
Leeson Lane
Dublin 2



RE: **DRAFT REPORT INTO THE DEATH OF MR. TONY MURPHY IN KENMARE RIVER, CO. KERRY ON 31 JULY 2002**

Dear Mr. O'Donnell,

I am directed by Deputy Commissioner, Operations to refer to your correspondence of 16 March 2004 to the Garda Commissioner relative to the above subject and to advise you that the findings of the MCIB draft report are consistent with those of the Garda investigation into the incident.

An Garda Síochána fully endorse and support the recommendations outlined at sections 2.1 to 2.3 of the draft report.

Yours sincerely,


B. Corcoran
Superintendent
for Deputy Commissioner

20 April 2004

Mission Statement:
To achieve the highest attainable level of Personal Protection, Community Commitment and State Security

IC/70/04/MCIB/Response/MrJohnGODonnell/02 - 20040412

MCIB RESPONSE

The MCIB notes the contents of this letter.