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MCIB

Marine Casualty Investigation Board
Bord Imscrúdú Taisní Muirí



**REPORT OF AN INVESTIGATION
INTO A MARINE CASUALTY
INVOLVING THE SAILING VESSEL
INISH CEINN
BALTIMORE, CO. CORK
6 JUNE 2023**

**REPORT NO. MCIB/327
(No.3 OF 2024)**

The Marine Casualty Investigation Board (MCIB) examines and investigates all types of marine casualties to, or onboard, Irish registered vessels worldwide and other vessels in Irish territorial waters and inland waterways.

The MCIB objective in investigating a marine casualty is to determine its circumstances and its causes with a view to making recommendations to the Minister of Transport - for the avoidance of similar marine casualties in the future, thereby improving the safety of life at sea and inland waterways.

The MCIB is a non-prosecutorial body. We do not enforce laws or carry out prosecutions. It is not the purpose of an investigation carried out by the MCIB to apportion blame or fault.

The legislative framework for the operation of the MCIB, the reporting and investigating of marine casualties and the powers of MCIB investigators is set out in the Merchant Shipping (Investigation of Marine Casualties) Act, 2000.

In carrying out its functions the MCIB complies with the provisions of the International Maritime Organisation's Casualty Investigation Code and EU Directive 2009/18/EC governing the investigation of accidents in the maritime transport sector transposed into Irish law by the European Communities (Merchant Shipping) (Investigation of Accidents) Regulations 2011.



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Glossary of Abbreviations and Acronyms

ALDFG	Abandoned, Lost or Otherwise Discarded Fishing Gear
BIM	Bord Iascaigh Mhara
CoP	Code of Practice
EPIRB	Emergency Position Indicating Radio Beacon
EPR	Extended Producer Responsibility
EU	European Union
GPS	Global Positioning System
HW	High Water
IMO	International Maritime Organisation
IRCG	Irish Coast Guard
LOA	Length Overall
LW	Low Water
MARPOL	International Convention for the Prevention of Pollution from Ships
MCIB	Marine Casualty Investigation Board
MRSC	Marine Rescue Sub Centre
MSO	Marine Survey Office
PFD	Personal Flotation Device
PRF	Port Reception Facilities
SFPA	Sea Fisheries Protection Authority
S.I.	Statutory Instrument
SITREP	Situation Report
SUP	Single Use Plastics
UN	United Nations
UTC	Co-ordinated Universal Time
VHF	Very High Frequency
Gross tonnage	GT
Hour	hr
Litre	lt
Metre	m
Nautical mile	NM

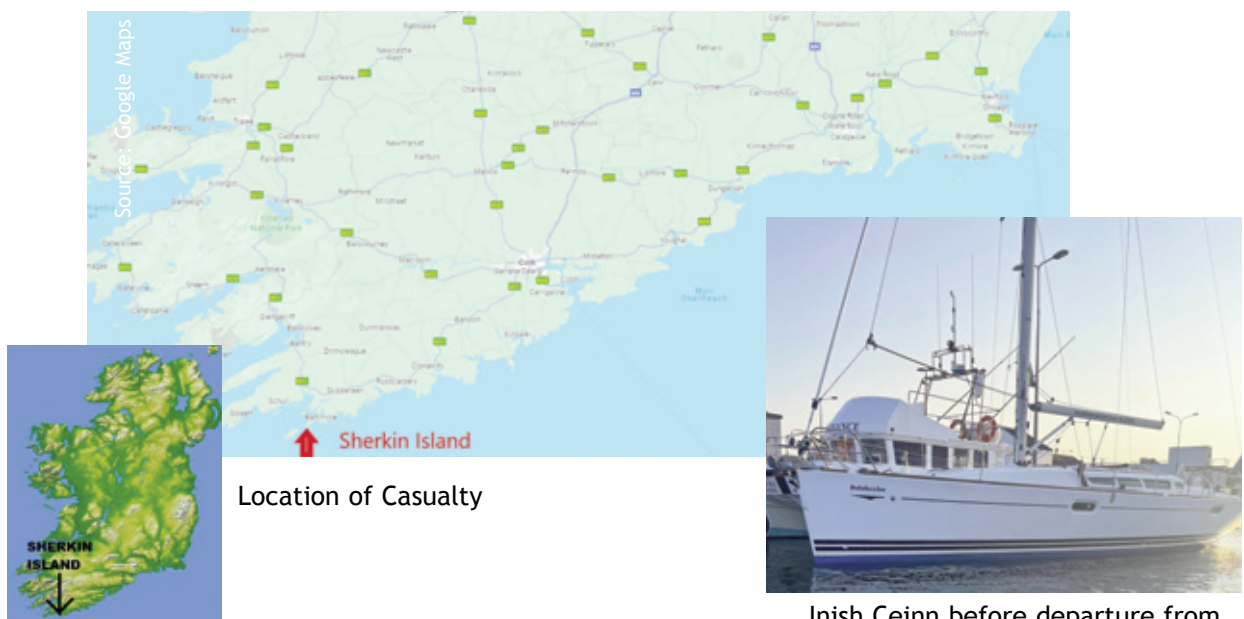
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1. SUMMARY

- 1.1 The sailing yacht Inish Ceinn departed from Baltimore, Co. Cork on 6 June 2023 at 14.00 hours (hrs), for a short voyage to Cape Clear Island. The Skipper was a well qualified and experienced yacht master and diver. He had made this voyage on numerous occasions.
- 1.2 There were three other experienced persons onboard and one guest. The weather was moderate from the east and the yacht was taken out of Baltimore Harbour and then headed west on the planned course towards Cape Clear Island. The planned course was around 0.5 miles from the southern shore of Sherkin Island.
- 1.3 At around 14.30 hrs the Skipper felt the yacht slow down rapidly and turn into the wind. Nothing could be seen in the water, so the engine was started and propeller engaged. Vibration was felt and a burning smell was noticed. The engine was shut down and the yacht was immobilised. The wind and swell quickly pushed the yacht towards the rocks and the yacht went aground. Four of the persons onboard were able to get onto the rocks and the Skipper sent a MAYDAY message on the Very High Frequency (VHF) radio. He also got onto the rocks. At this stage the Skipper noticed the hull was fouled with a large trawl net.
- 1.4 Baltimore Lifeboat came to the rescue and the rescue helicopter R115 also attended the scene. All five persons were evacuated from the rocks by the lifeboat and taken back to Baltimore.
- 1.5 The yacht broke up and was lost. There were no serious injuries and no pollution.

Note: Times are local time = UTC + 1 (Co-ordinated Universal Time + 1 hour).



Location of Casualty

Inish Ceinn before departure from boatyard on 5 June 2023

2. FACTUAL INFORMATION

2.1 Vessel Details

Vessel Name:	Inish Ceinn.
Vessel Type:	Sailing Yacht, Sun Odyssey 42i.
Call Sign:	EIGG9.
Flag:	Ireland.
Length Overall (LOA):	12.85 metres (m).
Beam:	4.11 m.
Year Built:	2008.
Builder:	Jeanneau, France.
Engine:	Yanmar 54HP diesel engine.
Fuel:	225 litre (lts) diesel capacity (120 lts onboard).

The vessel had just completed a full refit at a nearby boatyard on 5 June 2023, and this was the first voyage the day after the refit.

2.2 Skipper and Crew Details (including Training and Certification)

Onboard at the time of the incident were the Skipper, an adult relative and a minor relative (13 years), one other experienced crewmember and one guest. The persons onboard had the following qualifications and training:

Skipper:	Qualified Royal Yachting Association/Maritime and Coast-guard Agency Certificate of Competence Yacht Master Offshore for yachts up to 200 gross tonnage (GT) and qualified as a sailing instructor. He was also qualified as a power boat instructor. He had 30 years' yachting experience and was a qualified diver.
Crewmember 1:	Extensive yachting experience and a qualified diver.
Crewmember 2:	Adult relative, regular sailor and crewed with the Skipper.
Crewmember 3:	Minor relative, regular sailor and crewed with the Skipper.

There are no regulations applicable to qualification for skipper or crewmembers on this type of pleasure vessel.

2.3 Relevant Code or Regulations for the Vessel

The Code of Practice (CoP) for the Safe Operation of Recreational Craft¹ was published by the Department of Transport, Tourism and Sport in 2017, with updates in 2019. Yachts such as Inish Ceinn are recreational craft and the CoP applies to their use. Chapter 2 of the CoP sets out recommendations for Sail and Motor Boats in Coastal Operations which include sections addressing the following topics:

1. Training.
2. Voyage Planning.
3. Pre-departure Safety Checks and Briefing.
4. Recommended Safety Equipment.
5. Safety Equipment Checklist.

None of these makes any reference to the dangers of abandoned nets.

Yachts like Inish Ceinn are not required to have surveys by the Marine Survey Office (MSO) under existing Irish maritime regulations.

2.4 Safety Equipment

- 2.4.1 The vessel was fully outfitted with the required safety equipment for offshore sailing including life raft, life buoys, pyrotechnics.
- 2.4.2 The vessel was fully outfitted with modern navigation and communication equipment including, VHF, Global Positioning System (GPS), chart plotter, anemometer, and echo sounder. The Skipper was familiar with operating all this equipment.
- 2.4.3 All persons onboard were wearing automatic 150N Personal Flotation Devices's (PFD).
- 2.4.4 The safety equipment was not considered a factor in this casualty.

2.5 Voyage Particulars

- 2.5.1 The voyage was from Baltimore in West Cork to Cape Clear Island and the course is shown in the chart section below. The point where the net was picked up is shown as is the direction the vessel was pushed westward onto the rocks off Sherkin Island.

1. www.gov.ie/en/publication/66ff7e-safe-operation-of-recreational-craft



Course planned and estimated position of contact with the net and aground position shown

2.6 Marine Incident Information

Type:	Marine Casualty, as defined in Section 2 of the Merchant Shipping (Investigation of Marine Casualties) Act, 2000 ² .
Date:	6 June 2023.
Time:	Circa 14.30 hrs.
Position:	51° 27.31'N 009° 25.44' W (position of grounding).
Wind:	East wind force 3-4, slight swell, low waves on departure from Baltimore.

2. “marine casualty” means an event or process which causes or poses the threat of—

- (a) death or serious injury to a person;
- (b) the loss of a person overboard;
- (c) significant loss or stranding of, or damage to, or collision with, a vessel or property; or
- (d) significant damage to the environment,

in connection with the operation of—

- (i) a vessel in Irish waters;
- (ii) an Irish registered vessel, in waters anywhere; or
- (iii) a vessel normally located or moored in Irish waters and

under the control of a resident of the State, in international waters contiguous to Irish waters, and includes an accident or damage referred to in section 26(1)(b);

“vessel”, in relation to a marine casualty, means a vessel or craft (or part of a vessel or craft) which at the time of the casualty

- (a) is registered in the State, or
- (b) is located in the State (including in Irish waters), or
- (c) being a vessel normally located or moored in Irish waters, is under the control of a resident of the State in international waters contiguous to Irish waters,

and capable of being used, or intended to be used, for navigation or transportation on water, but does not include a seaplane.

Tides: Low water (LW) 13.30 Tide Rising.

Sea State: Moderate with waves 1 m-1.5 m.

Visibility: Good.

Weather forecast and or weather warnings. No warnings in force at the time of the incident.

Human Factors: No human factors were considered relevant.

Equipment Factors: No equipment factors contributing to the incident.

Consequences: Total loss of the vessel.

2.7 Emergency Response and/or Shore Authority Involvement

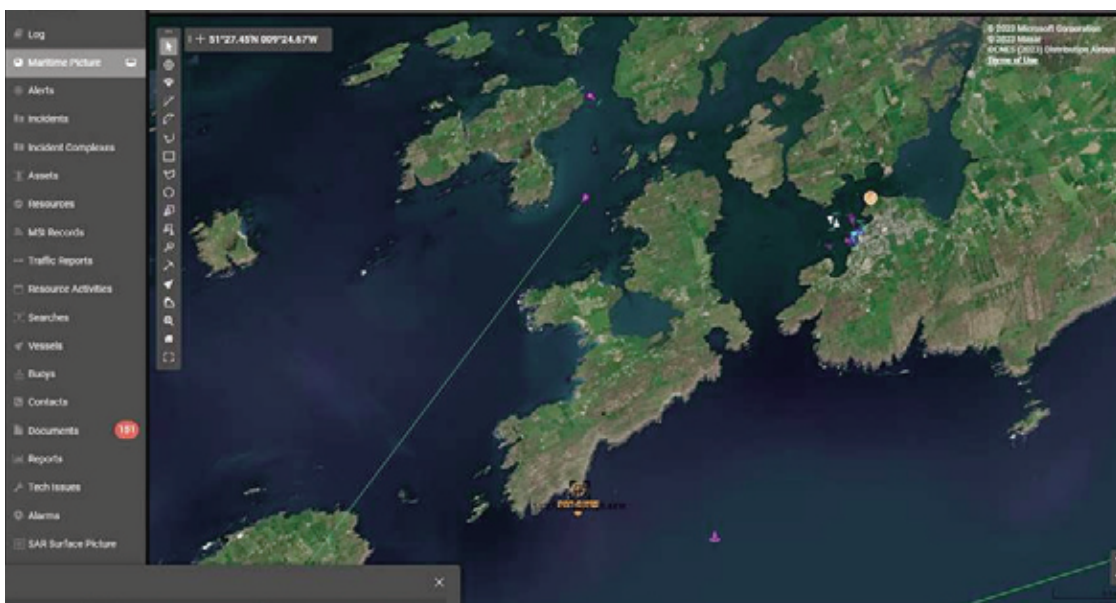
2.7.1 MAYDAY was sent by the Skipper from the VHF radio onboard.

2.7.2 Valentia Marine Rescue Sub Centre (MRSC) tasked Baltimore lifeboat and rescue helicopter R115 to assist.

2.7.3 Situation Report (SITREP) from MRSC Valentia give details of all activities from receiving the MAYDAY to the sinking of the vessel and full transcript is shown in Appendix 7.1.

See Appendix 7.1 - Irish Coast Guard (IRCG) SITREP.

2.7.4 The Irish Lights vessel Granuaile inspected the site and confirmed there was no visible wreckage or pollution and no further threat to navigation.



Screen shot showing location of casualty in orange

3. NARRATIVE

3.1 The Vessel

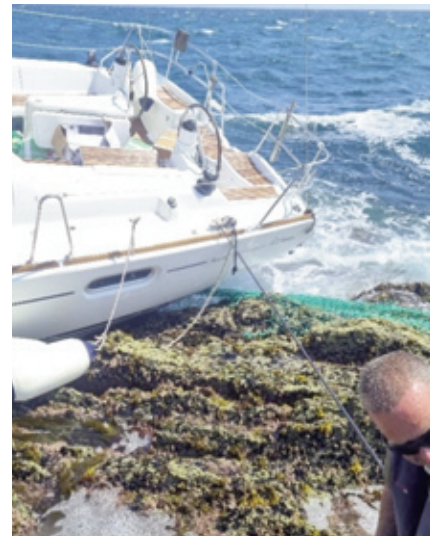
- 3.1.1 The sailing yacht Inish Ceinn completed a refit at a local boatyard and was launched on 5 June 2023 and taken on sea trials, which proved the vessel to be fully operational.
- 3.1.2 The vessel took on some supplies and departed from Baltimore on 6 June 2023 at 14.00 hrs with a total of five persons onboard, for the short trip to Cape Clear Island. The Skipper lived on Cape Clear Island and this was a regular voyage for him. All onboard were wearing auto-inflate PFDs.
- 3.1.3 The weather was Force 3-4 with an easterly wind on departure from Baltimore.
- 3.1.4 The engine was used to steam out from Baltimore and then the mainsail was unfurled. The mainsail had auto furling from the mast. The vessel headed southeast initially to get clear of the land and also to get in a good position to turn west on the planned course which was to be between a half and one mile off the coast of Sherkin Island.
- 3.1.5 One experienced crewmember (Crewmember 1) was on the bow as Bowman on the lookout for pot buoys as it was well known there were many lobster pots along this coast. The vessel was sailing well at around five knots in a south westerly direction on the mainsail only.

3.2 Incident Details

- 3.2.1 At around 14.30 hrs the Skipper felt the yacht slow down rapidly and turn into the wind. Nothing could be seen in the water, so the engine was started, and the propeller engaged. Vibration was felt and a burning smell was noticed. The engine was immediately stopped. The mainsail was furled. At this stage the Skipper was also unable to turn the wheel and use the rudder and the vessel was immobilised.
- 3.2.2 The vessel was being pushed quickly towards the shore by the wind and tide. The Skipper tried the engine again but there was a stronger smell of burning and the propeller was fouled.
- 3.2.3 The anchor was being prepared when the vessel hit a submerged rock and the Skipper decided not to use the anchor as the vessel would then go stern onto the rocks. The vessel sat beam onto the rocks and the persons onboard (except the Skipper) jumped off onto the rocks and held a rope to try and keep the vessel from banging off the rocks as far as possible.
- 3.2.4 The Skipper remained onboard with the vessel banging violently off the rocks and he used the VHF to send a MAYDAY call. A local boat acknowledged the MAYDAY and also relayed the MAYDAY to Valentia Coast Guard.

- 3.2.5 As the vessel was starting to lift onto the rocks the Skipper had to also abandon the vessel and he climbed onto the rocks. It was at this stage he noticed the large bright green trawl net that was wrapped around the keel, rudder and propeller. Up to then he was unaware of what had fouled the hull.
- 3.2.6 The net can be clearly seen in the photographs below taken by crewmembers who were on the rocks.

As the tide was rising and wind and waves were blowing onshore, the boat was being lifted onto the rocks as seen in the photographs. The net can also be seen.



3.3 Rescue Services

- 3.3.1 Baltimore Lifeboat arrived on scene at 15.07 hrs and launched the “Y” boat to sail around the lee side of the rocky outcrop where the crewmembers and guest were. All persons were taken off one at a time and brought onboard the lifeboat that was standing off the rocks.
- 3.3.2 The Skipper remained for some time discussing the possibility of the lifeboat towing the yacht off the rocks but the risk of the lifeboat getting caught in the same net was too great. At this stage the hull of the yacht got holed and it was evident that the yacht was breaking up. The Skipper was taken onboard the “Y” boat and he was then transferred onto the lifeboat.
- 3.3.3 Rescue helicopter R115 arrived on scene at 15.35 hrs and monitored the rescue operations from the air but was not required to participate.



Screen shot from rescue helicopter R115 shows the yacht on the rocks and Y boat collecting crewmembers

- 3.3.4 By 15.45 hrs all five persons were onboard the lifeboat which then headed back to Baltimore where they were landed safely.
- 3.3.5 The Emergency Position Indicating Radio Beacon (EPIRB) activated at 15.47 hrs as the vessel was breaking up and sinking.
- 3.3.6 Rescue helicopter R115 departed at 16.07 hrs as the vessel had submerged.

4. ANALYSIS

4.1 The Vessel

The yacht had just completed a refit and was launched for trials on 5 June 2023. Trials were completed successfully and the yacht and all equipment onboard was reported to be fully operational. The yacht was in good condition and well outfitted with all modern safety and navigation equipment and no defects in the yacht were identified that may have led to or contributed to the casualty.

4.2 Crew Training and Qualification

The Skipper was experienced and qualified to operate this yacht. He was also qualified as a yachting instructor. The Bowman was also experienced, and the two relatives were regular sailors on yachts and small boats. The crewmembers lack of experience was not considered a factor in this casualty.

4.3 Weather

The weather as set out previously was: East wind force 3-4, slight swell, low waves on departure from Baltimore.

Tides: LW 13.30 Tide Rising.

Sea State: Moderate with waves 1 m-1.5 m.

Visibility: Good.

Weather forecast and or weather warnings: No warnings in force at the time of the incident.

The weather was within the capabilities of the yacht and was not considered a contributing factor in this casualty.

4.4 The Incident

4.4.1 The Skipper was aware of the possibility of lobster pots and ropes in the water in this location and had assigned a bowman on look-out. The net that the yacht became entangled in was green and would be very hard to see in a choppy sea and there were no buoys or markers attached to make it visible. This was a large trawl net and when it fouled the bulb keel it would have trailed aft to the rudder and the propeller. When the engine was started, and the propeller was clutched in, the net would have been wrapped tightly around the propeller causing the clutch to burn, producing the smell that the Skipper became aware of. This large net immobilised the yacht and there was very little anyone onboard could do in this situation.

4.4.2 The net was a large trawl net that had either been discarded from a fishing trawler or had broken loose and had not been recovered. This lost or discarded trawl net was the direct cause of this casualty, however it could not be determined whether the net had or had not been tagged.

4.5 Discarded or Lost Fishing Gear

4.5.1 Discarded or lost fishing gear is not just a problem in Irish coastal waters but is a global problem and there have been many international initiatives to try to identify the extent and to find ways to deal with this issue.

4.5.2 Lost fishing gear is referred to as “ghost gear” or ALDFG (abandoned, lost, or otherwise discarded fishing gear) and this gear can continue ghost fishing for many years, entrapping all types of marine life. It can also pose serious navigational threats to vessels.

4.5.3 Most of the fishing gear is made of some form of plastic and can take years to degrade. The environmental damage is not only to vessels on the water but also to marine life due to ghost fishing.

4.5.4 Some fishing gear has been lost due to an accident such as fouling on the seabed, but other gear is discarded as it is worn or holed. There are reception facilities available for fishing nets in fishing harbours throughout the country.

4.5.5 The International Convention for the Prevention of Pollution from Ships (MARPOL) restricts what can be discharged into the sea by ships, the main legal provision relating to ALDFG is contained in MARPOL Annex V, which prohibits the deliberate dumping or discharge of fishing gear in the marine environment. Resolution MEPC. 295 (71) 2017 Guidelines for the Implementation of MARPOL Annex V: Lost fishing gear may harm the marine environment or create a navigation hazard. Fishing vessel operators are required to record the discharge or loss of fishing gear in the Garbage Record Book or the ship's official log-book as specified in regulations 7.1 and 10.3.6 of MARPOL Annex V. 2.2.2. Fishing vessel operators are further required to report the accidental loss or discharge of fishing gear which poses a significant threat to the marine environment and navigation. Reports should be made to the flag State, and where appropriate, the coastal State in whose jurisdiction the loss of the fishing gear occurred, as specified in regulation 10.6 of MARPOL Annex V.

4.5.6 MARPOL was transposed into Irish law by the Sea Pollution (Prevention of Pollution by Garbage from Ships) Regulations 2012, Statutory Instrument (S.I.) No. 372 of 2012³ which follows on from the Sea Pollution Act 1991. Regulation 4 of S.I. No. 372 of 2012 provides a general prohibition on the discharge of garbage into the sea as follows:

“(1) The discharge of all garbage into the sea is prohibited, except as provided otherwise than in section 11 of the Act⁴ and Regulations 5, 6, and 7.

(2) Except as provided in section 11 of the Act, discharge into the sea of all plastics, including but not limited to synthetic ropes, synthetic fishing nets, plastic garbage bags and incinerator ashes from plastic products is prohibited.

(3) Except as provided in section 11 of the Act, the discharge into the sea of cooking oil is prohibited.”

4.5.7 The Sea Pollution (Prevention of Pollution by Garbage from Ships) Regulations S.I. No. 372 of 2012 apply to all “ships” where “ship” “means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air cushion vehicles, submersibles, floating craft and fixed or floating platforms and includes fixtures, fittings and equipment”. Section 29 of the Sea Pollution Act 1991 provides for the offence and fine that can be imposed on conviction for a breach of the legislation as follows:

“29.—A person who commits an offence under this Act shall be liable—

(a) on summary conviction, to a fine not exceeding £1,000, or to imprisonment for any term not exceeding twelve months, or, at the discretion of the court, to both such fine and such imprisonment, or

(b) on conviction on indictment, to a fine not exceeding £10,000,000, or to imprisonment for any term not exceeding 5 years, or, at the discretion of the court, to both such fine and such imprisonment.”

3. These Regulations give effect to Annex V of the International Convention for the Prevention of Pollution from Ships (MARPOL Convention), adopted by the International Maritime Organisation on 2 November, 1973 and as amended by its Protocol adopted on 17 February, 1978, and as further amended by the Marine Environment Protection Committee SI(MEPC) of the International Maritime Organisation.

The regulations revoke

the Sea Pollution (Prevention of Pollution by Garbage from Ships) Regulations 1994 (S.I. No. 45 of 1994);

the Sea Pollution (Prevention of Pollution by Garbage from Ships) (Amendment) Regulations 1997 (S.I. No. 516 of 1997); and

the Sea Pollution (Prevention of Pollution by Garbage from Ships) (Amendment) Regulations 2006 (S.I. No. 239 of 2006).

4. “Act” means the Sea Pollution Act 1991 (No. 27 of 1991);

<https://www.irishstatutebook.ie/eli/1991/act/27/enacted/en/html>

- 4.5.8 The Sea Pollution (Prevention of Pollution by Garbage from Ships) Regulations 2012 S.I. No. 372 of 2012 also provide obligations with regard to garbage records and a garbage management plan. Marine Notice No. 35 of 2012 issued by the Department of Transport Tourism and Sport in July 2012⁵ (while the Sea Pollution Regulations were in draft form) usefully summarised some aspects with regard to records and a garbage plan as follows:

“Vessel operators are reminded that they must maintain adequate records of garbage handling and disposal for compliance with these regulations. It should therefore be noted that the following must carry a Garbage Record Book

every fixed and floating platform;

every ship of 400gt and above; and

every ship certified to carry 15 or more persons.

Additionally, there is a requirement for a new Garbage Management Plan for the following:

every fixed and floating platform;

every ship of 100gt and above;

and every ship certified to carry 15 or more persons.”

- 4.5.9 Nets are required to have identification tags so the vessel can be identified if these tags are in place. In cases where the net has been discarded and the tags removed, it is virtually impossible to identify the source of the net. It also may have been lost many miles from where it is finally located. Articles 11-17 of the Commission Implementing Regulation (EU) No. 404/2011 of 8 April 2011⁶ lay down detailed rules including for labels and buoys for the implementation of Council Regulation (EC) No. 1224/2009⁷ establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy. Article 11 of the Commission Implementing Regulation (EU) No. 404/2011 of 8 April states with regard to markings/identification of “passive gear”:

“Rules for passive gear

- 1. The master of an EU fishing vessel or his representative shall ensure that each passive gear carried onboard or used for fishing is clearly marked and identifiable in accordance with the provisions of this Article.*
- 2. Each passive gear used for fishing shall permanently display the external*

5. <https://www.gov.ie/pdf/?file=https://assets.gov.ie/22037/6a5da32c4136473cbda7567ab1b137c5.pdf#page=1>

6. <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32011R0404>

7. EUR-Lex - 32009R1224 - EN - EUR-Lex (europa.eu)

registration letters and numbers displayed on the hull of the fishing vessel to which it belongs:

- (a) for nets, on a label attached to the upper first row;*
- (b) for lines and long lines, on a label at the point of contact with the mooring buoy;*
- (c) for pots and traps, on a label attached to the ground rope;*
- (d) for passive gear extending more than 1 nautical mile, on labels attached in accordance with (a), (b) and (c) at regular intervals not exceeding 1 nautical mile so that no part of the passive gear extending more than 1 nautical mile shall be left unmarked.”*

- 4.5.10 The Sea Fisheries Protection Authority (SFPA)⁸ issued Fisheries Information Notice No. 6 of 2021 entitled: “Marking and Identification of Fishing Gear”⁹. The notice covers the marking of certain fishing gear (passive and beam trawls) in order to identify the vessel using the gear. For nets a label should be attached to the upper first row. These requirements apply to all European Union (EU) fishing vessels in EU waters.
- 4.5.11 Council Regulation (EC) No. 1224/2009 of 20 November 2009 Article 48 states that vessels that lose nets accidentally are required to try to retrieve the lost nets. If this fails, they are to inform the competent authorities of the loss with location details. A navigation warning can then be issued accordingly. The details of the lost nets are also to be recorded in the official logbook onboard. Nets are very expensive, and every effort is normally made to recover lost nets.
- 4.5.12 Nets are generally made of plastic substances. The regime in respect of abandoned nets can also fall within the ambit of the EU (Single Use Plastics (SUP)) Regulations S.I. No. 326 of 2021¹⁰ introduced in July 2021. A SUP is a product that is made of wholly or partly from plastic and which is used only once before being disposed of. These Regulations were introduced for the purpose of giving effect to Directive (EU) 2019/904/EC of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastics on the environment¹¹. The SUP Directive aims to deal with items which represent marine litter. The Directive requires the monitoring and recording of net

8. The Sea-Fisheries Protection Authority (SFPA) is Ireland's competent authority for seafood safety and sea-fisheries protection.

9. <https://www.sfpa.ie>: Document: FFSU-FC-FIN-OC-06-21 Marking and Identification of Fishing Gear version published in June 2023, which also sets out the legislative basis as follows: Council Regulation (EC) 1224/2009; Commission Implementing Regulation (EU) 404/2011; Regulation (EU) 2019/1241; S.I. 54/2016

10. <https://www.irishstatutebook.ie/eli/2021/si/326/made/en/print>

11. The Regulations 326 of 2021 also implement Commission Implementing Regulation (EU) 2020/2151 of 17 December 2020 laying down rules on harmonised marking specifications on single-use plastic products listed in Part D of the Annex to Directive (EU) 2019/904 of the European Parliament and of the Council on the reduction of the impact of certain plastic products on the environment.

components by suppliers to encourage opportunities for end-of-life fishing nets, encouraging these materials to be reused in a circular economy rather than going to landfill.

4.5.13 The EU (Extended Producer Responsibility (EPR)) (Fishing Gear Containing Plastic) Regulations S.I. No. 612 of 2022¹² was implemented in December 2022 for the purpose of giving further effect to Directive (EU) 2019/904/EC of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastics on the environment. The scheme for fishing gear containing plastic will impose obligations on producers that is to be legally binding by the end of 2024. The “polluter pays” principle will be applied and producers through an EPR scheme will have to cover the costs of waste management clean up, data gathering and awareness. Bord Iascaigh Mhara (BIM) are working with the sector to test recycling systems for nets to ensure they can be responsibly disposed of and hope to introduce this as part of the EPR scheme. This is to ensure rules on extended producer responsibility for fishing gear containing plastic are in place; and to monitor and assess such fishing gear with a view to establishing EU-wide collection targets for single use fishing gear. The scheme will operate in all EU coastal countries, and provided that there is policing and monitoring, may reduce the amount of waste plastics disposed of into the sea.

4.5.14 The Port Reception Facilities (PRF) Directive (2019/883)¹³ aims to protect the marine environment against the negative effects from discharge of waste from ships using ports located in the State and provides for costs to be borne by each Member State. Article 8 of the Directive provides:

“Cost Recovery Systems states that in order to avoid that the costs of collection and treatment of passively fished waste are borne exclusively by port users, Member States shall cover, where appropriate, those costs from the revenues generated by alternative financing systems, including by waste management schemes and by Union, national or regional funding available”.

4.5.15 The PRF Directive 2019/883 was transposed into Irish law by EU (PRF for the Delivery of Waste from Ships) Regulations 2022 S.I. No. 351 of 2022¹⁴. Regulation 9 of S.I. No. 351 of 2022 sets out the applicable cost recovery regime for Ireland as follows:

“9. (1) A port authority of a port shall ensure that the costs of operating port reception facilities at the port for the reception and treatment of waste from ships, other than cargo residues, are covered by means of a due collection of a fee from ships (“cost recovery systems”). Those costs include the elements listed in Annex 4 to the Directive.

12. <https://www.irishstatutebook.ie/eli/2022/si/612/>

13. EUR-Lex - 32019L0883 - EN - EUR-Lex (europa.eu)

14. <https://www.irishstatutebook.ie/eli/2022/si/351>

(2) The cost recovery systems shall provide no incentive for ships to discharge their waste at sea. To this end a port authority shall apply in the design and operation of its cost recovery system the principles set out in Article 8(2)(a) to (c) and (f) of the Directive.

(3) The part of the costs of a cost recovery system which is not covered by the indirect fee, if any, shall be covered on the basis of the types and quantities of waste actually delivered by the ship...”

- 4.5.16 There is a European wide Fishing For Litter initiative coordinated by an organisation known by the acronym “KIMO”¹⁵. This scheme is administered in Ireland by BIM where vessels are encouraged to bring ashore all litter they encounter at sea, this scheme presently covers 12 fishing ports (all of which have Fishing For Litter collection facilities which includes nets) and 294 vessels are involved.
- 4.5.17 Member States like Ireland have important obligations to protect the marine environment. With the enhancement of port waste reception facilities under the PRF and its various schemes including Fishing For Litter, additional reporting requirements under the EPR scheme, the SUP Directive and its implications for the circular economy of fishing gear along with the known effect that “ghost gear” has on our fishing grounds, there is no reason why disused nets are not being brought ashore. This marine casualty could have been avoided had the net been properly disposed of.

15. <https://www.kimointernational.org/action-areas/plastic-pollution-and-marine-litter/>

5. CONCLUSIONS

- 5.1 This casualty was caused by a floating trawl net that became entangled on the bottom of the yacht. This was a large net, and it completely immobilised the vessel. The wind and waves pushed her quickly towards the rocks and there was very little that could be done to gain control of the vessel under those circumstances.
- 5.2 The experience and calm response of the Skipper ensured all five persons onboard were safely landed on the rocks in a very difficult situation and prevented a far more serious situation developing with potential loss of life.
- 5.3 The vessel broke up due to the continuous hammering against the rocks and was a total loss.
- 5.4 The discarded trawl net was the root cause of this casualty.
- 5.5 Had this fishing gear been properly discharged ashore or had it been reported and recovered if accidentally lost, this incident could have been prevented.
- 5.6 The source of the net cannot be established as it had no tags and there is no record of it having been reported to any Irish authority. The net should have been marked with tags as required by EU No. 404/2011 Article 11. If the net was lost from a fishing vessel in Irish waters, it should have been reported under Marpol Annex V to Flag State as defined by article 48 of EU Regulation No. 1224/2009 to enable a navigation warning to be issued. There was no such warning issued for the area in this casualty.
- 5.7 The net may or may not have been from an EU registered vessel, which vessel is subject to the legal regime set out above. If not an EU registered vessel, it is, nevertheless, subject to the International Convention for the Prevention of Pollution from Ships (MARPOL) which prohibits the deliberate dumping or discharge of fishing gear in the marine environment.
- 5.8 Port waste reception facilities are required under the PRF Directive and should be used where available in addition to upcoming reporting requirements under the EPR scheme and the SUP Directive. Whoever discarded the net should have availed of these facilities.

6. SAFETY RECOMMENDATIONS

- 6.1 It is recommended that the Minister for Transport issue a Marine Notice:
- advising Skippers of yachts navigating in areas which are known to have poorly marked fishing gear, lobster pots etc. that they should ensure the vessels anchor is ready for immediate use.
 - advising fishers of the dangers of discarding nets from fishing vessels and setting out the obligatory regime on waste, plastics and recycling.
 - reminding fishers that if a net is lost, every effort must be made to recover it to enable it to be disposed of responsibly to shore reception facilities in accordance with the European Union (Port Reception Facilities for the Delivery of Waste from Ships) Regulations 2022 S.I. No. 351 of 2022.
 - reminding fishers that if a net cannot be recovered, the responsible authorities must be advised in accordance with Marpol Annex V so that a suitable navigational warning should be issued in the area that the net was lost.
 - reminding fishing vessel operators that they are required to record the discharge or loss of fishing gear in the Garbage Record Book or the ship's official logbook as specified in Regulations 7.1 and 10.3.6 of MARPOL Annex V. 2.2.2.
- 6.2 It is recommended that the Minister for Transport issue a Marine Notice reminding Ports and Harbours of their obligations to comply with the European Union (Port Reception Facilities for the Delivery of Waste from Ships) Regulations 2022 S.I. No. 351 of 2022.
- 6.3 It is recommended that the Minister for Transport review and re-issue Marine Notice No. 35 of 2012 MARPOL Annex V (Garbage).
- 6.4 It is recommended that the Minister for Environment, Climate and Communications consider the contents of this report in actively working with producers to effectively comply with the European Union (Extended Producer Responsibility) (Fishing Gear Containing Plastic) Regulations 2022 S.I. No. 612 of 2022.
- 6.5 It is recommended that Bord Iascaigh Mhara maintain its support of the fishing industry and help increase awareness of:
- the Sea Pollution (Prevention of Pollution by Garbage from Ships) Regulations 2012 S.I. No. 372 of 2012,

- the European Union (Port Reception Facilities for the Delivery of Waste from Ships) Regulations 2022 S.I. No. 351 of 2022,
- the European Union (Extended Producer Responsibility) (Fishing Gear Containing Plastic) Regulations 2022 S.I. No. 612 of 2022,
- the European Union (Single Use Plastics) Regulations S.I. No. 326 of 2021 through additional training and continuous engagement with their stakeholders, including representatives and fishers to help encourage the landing of waste fishing gear and reduce the danger of discarded fishing gear in Irish waters.

7. APPENDICES

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7.1 Irish Coast Guard SITREP	23

Appendix 7.1 Irish Coast Guard SITREP

ROUTINE
06 1355Z JUN 23
FROM MRSC VALENTIA
TO MRSC VALENTIA SITREP GROUP

BT
SAILING VESSEL ON ROCKS, SHERKIN
UIIN0974/23
SAR SITREP ONE

A - IDENTITY OF CASUALTY:
40FT SAILING VESSEL

B - POSITION
51°27.31'N 009°25.44'W

C - SITUATION
MAR SAR,. VSL ON ROCKS

D - NUMBER OF PERSONS
5

E - ASSISTANCE REQUIRED
ASSIST TO SAFETY

F - COORDINATING RCC
MRSC VALENTIA

G - DESCRIPTION OF CASUALTY
SAILING VSL

H - WEATHER ON SCENE
WIND: 4, E / SEA: SLIGHT / SWELL: LOW WAVE / WATER TEMP: 15.4°C / SITREP
WEATHER-TIME: 06 1341Z JUN 23

J - INITIAL ACTIONS TAKEN
TASKED BALTIMORE L/B, ,R115

K - SEARCH AREA
SHERKIN ISLAND

L - COORDINATING INSTRUCTIONS
LOCATE AND ASSIST TO SAFETY

APPENDIX 7.1

Appendix 7.1 Irish Coast Guard SITREP

M - FUTURE PLANS

NIL

N - ADDITIONAL INFORMATION

1341 MAYDAY RELAY FROM WAVE CHIEFTAIN, STATING S/V (INISHCEIM / EIGG9)
ON ROCKS, BALTIMORE, PROCEEDING TO ASSIST

1341 TASKED BALTIMORE L/B

1343 R115 TASKED

1347 MZ B'CAST MAYDAY RELAY

1352 WAVE CHIEFTAIN CONFIRMS 5 PERSONS ON ROCKS

1358 L/B PROCEEDING

1403 R115 A/B

1407 L/B ON SCENE, LAUNCHING Y BOAT TO RECOVER CASUALTIES

1410 WAVE CHIEFTAIN RELEASED

1435 R115 ON SCENE

1445 L/B HAS RECOVERED ALL CASUALTIES

1447 S/V EPIRB ACTIVATED

1500 UKMCC SUPPRESS EPIRB

1507 R115 RELEASED / VESSEL SUBMERGED

1516 BALTIMORE ALB RTB

SECTION 36 PROCESS

Section 36 of the Merchant Shipping (Investigation of Marine Casualties) Act, 2000

It is a requirement under Section 36 that:

- (1) Before publishing a report, the Board shall send a draft of the report or sections of the draft report to any person who, in its opinion, is likely to be adversely affected by the publishing of the report or sections or, if that person be deceased, then such person as appears to the Board best to represent that person's interest.
- (2) A person to whom the Board sends a draft in accordance with subsection (1) may, within a period of 28 days commencing on the date on which the draft is sent to the person, or such further period not exceeding 28 days, as the Board in its absolute discretion thinks fit, submit to the Board in writing his or her observations on the draft.
- (3) A person to whom a draft has been sent in accordance with subsection (1) may apply to the Board for an extension, in accordance with subsection (2), of the period in which to submit his or her observations on the draft.
- (4) Observations submitted to the Board in accordance with subsection (2) shall be included in an appendix to the published report, unless the person submitting the observations requests in writing that the observations be not published.
- (5) Where observations are submitted to the Board in accordance with subsection (2), the Board may, at its discretion -
 - (a) alter the draft before publication or decide not to do so, or
 - (b) include in the published report such comments on the observations as it thinks fit.

The Board reviews and considers all observations received whether published or not published in the final report. When the Board considers an observation requires amendments to the report, those amendments are made. When the Board is satisfied that the report has adequately addressed the issue in the observation, then no amendment is made to the report. The Board may also make comments on observations in the report.

Response(s) received following circulation of the draft report (excluding those where the Board has agreed to a request not to publish) are included in the following section.

The Board has noted the contents of all observations, and amendments have been made to the report where required.

SECTION 36 CORRESPONDENCE

8. MSA 2000 - SECTION 36 OBSERVATIONS RECEIVED

No correspondence was received on the draft of this report.



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