

LP BULLETIN

Friday 11 January 2008

Bulletin 561 - 1/08 - Accident Reporting - South Africa

The South African Maritime Safety Authority (SAMSA) has circulated a Marine Notice concerning the amended obligation on ship owners, masters and shore contractors to report casualties, accidents and serious injuries as required in terms of section 259 of the Merchant Shipping Act No. 57 of 1951.

The latest notice amends the previous 1992 notice on the reporting of accidents.

Section 259 lists certain events which must be reported to SAMSA. The section applies to South African flagged ships and to foreign flagged ships. Where a South African flagged ship was involved, the event must be reported to SAMSA irrespective of where it occurred. An event involving a foreign flagged ship need only be reported to SAMSA while the ship is within South Africa or its territorial waters and if the event occurred during a voyage to a South African port or within South Africa or its territorial waters.

Subsection (1) provides that the following events must be reported to SAMSA:

1. Loss, abandonment or stranding of a ship
2. Serious damage to a ship, or the causing of serious damage to another ship
3. Loss of life or serious injury to any person, or an accident
4. A ship having been in a position of great peril from the action of another ship or any other reason
5. A ship, having left any South African port, putting back to that port
6. Fouling or damaging any harbour, dock, wharf, lightship, buoy, beacon or sea mark.



The list of events which must be reported to SAMSA is supplemented by reference to the definition of "accident" elsewhere in the Act. "Accident" as defined in the Act includes *inter alia* the collapse or overturning of any crane or derrick; any electrical short-circuit or overload resulting in fire or explosion; the failure of any lashing wire, chain or appliance; the collapse or significant movement of cargo; and the malfunctioning of any hatch cover.



The occurrence of an event referred to in subsection (1) must be reported to SAMSA within twenty-four hours of a ship's arrival in a South African port. If the event occurred in a South African port, it must be reported within twenty-four hours after it occurred, but before the ship sails from that port. There is an obligation on any employee, employer or user who learns about an event referred to in subsection (1) to notify the owner or the master of the ship concerned.

Subsection (1A) extends the reporting obligation to the employer of a stevedore, shore contractor or incidental persons who are involved in a casualty resulting in loss of life or serious injury to any person, or in an accident. The employer is required to report such an event to SAMSA without delay. The master or owner of the ship concerned, who learns about an event referred to in subsection (1A), is obliged to notify the employer without delay. It should be noted that "employer" as defined in the Act includes the owner or master of a ship.

The scene of an accident may not be disturbed and nothing may be removed from the scene unless permitted by SAMSA.

The occurrence of an event referred to in subsection (1) or (1A) must be reported to SAMSA "in the form prescribed". The prescribed form is a Casualty / Accident Report, which will be supplied by SAMSA in the course of their investigation.

A fine of up to ZAR5,000 or imprisonment not exceeding three months may be imposed for a failure to comply with section 259 generally. Increased penalties apply to a failure to report loss of life or serious injury, or an accident, in which case the sanction may be a fine of up to ZAR60,000 or imprisonment not exceeding three years.

Source of information: Shepstone & Wylie
Quintus van der Merwe / Tony Edwards
Email: itt@wylie.co.za
Website: www.wylie.co.za