

South African Maritime Safety Authority



Marine Notice No. 13 of 2005

Safety and certification requirements for foreign recreational vessels in South African waters

TO VESSEL OWNERS, AUTHORISED AGENCIES, YACHT CLUBS, MARINAS, LOCAL AUTHORITIES AND PRINCIPAL OFFICERS

Summary

This marine notice serves to advertise South African statutory requirements and SAMSA policy regarding foreign visiting recreational vessels (e.g. yachts) that wish to stay in South Africa for extended periods and undertake recreational cruises or participate in sporting activities in South African waters.

1 In general, foreign vessels of all descriptions (with a few exceptions such as foreign military vessels) passing through South African territorial waters have what is commonly termed "the right of innocent passage" (i.e. these vessels are entitled to pass without interference or hindrance). However, this right is conditional upon passage being continuous and expeditious, with entrance to South Africa's internal waters allowed only through designated entry points or ports. These vessels, therefore, do not have an automatic right to stay and operate in South African waters, for example for sporting or recreational purposes.

2 It often happens that visiting yachts extend their stay and undertake recreational voyages in South African waters, which can bring them into conflict with local authorities, authorised agencies and other authorities having particular responsibilities under the local safety regime in relation to recreational vessels (e.g. if they are manned or equipped to a lower safety standard).

3 The *Marine Traffic Regulations, 1985*, make provision in regulation 3(f) for such cases and the requirements can be stated as follows:

- Foreign vessels used for sporting or recreational purposes may carry out such activities if they are in possession of written permission to do so.
- A request for permission must be accompanied by evidence of the vessel's nationality.
- This permission is granted by SAMSA, a local authority or an authorised agency. For visiting yachts, South African Sailing is the appropriate authorised agency, but another authorised agency may be involved if the activities concerned relate to that agency's particular sport.
- The written permission must state clearly the area in which the vessel may be used and the type of sporting or recreational activities that may be carried out.

4 For uniformity and consistency, SAMSA would prefer that the written permission be in the form of a Certificate of Fitness (COF) issued in respect of the vessel by SAMSA or an authorised agency.

The COF will state the area for which it is valid, its period of validity and that it has been issued in terms of regulation 3(f) of the *Marine Traffic Regulations, 1985*. It is not a requirement in these circumstances that the vessel be issued with an "approved number". However, if the vessel does not have a name or any other identifying markings, an approved number will be issued.

5 The COF should be issued to a vessel only after it has been inspected to ensure a reasonable standard of safety. This standard covers also the competency of the vessel's skipper and crew. Although the *Merchant Shipping (Small Vessel Safety) Regulations, 2002*, are not applicable to foreign sport or recreational vessels, they should be used as a guideline when determining a reasonable standard of safety in a particular case.

6 Where a vessel fails to meet a reasonable standard of safety, no permission (COF) should be granted and the vessel should remain alongside until it is ready to continue its voyage. However, where this failure is because of minor deficiencies, consideration should be given to restricting the vessel to daylight operations in a stated area.

7 Where it is suspected that a vessel is unseaworthy, the case should be reported to the local Principal Officer, who will carry out an investigation in terms of section 240 of the *Merchant Shipping Act, 1951*, and take whatever action is appropriate in the circumstances.