



South African Maritime Safety Authority

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Marine Notice No. 33 of 2013

Ships Requiring Immobilization, Laying-Up, Stopping or Anchoring for Repairs Etc. Within South Africa's Territorial Waters or Internal Waters, Outside Harbours or Fishing Harbours

TO: ALL SHIPS AGENTS, OWNERS AND MASTERS OF SHIPS, STOPPING FOR ANY PURPOSE OUTSIDE A HARBOUR OR A FISHING HARBOUR.

Marine Notice No 2 of 1998 is cancelled.

Summary

Owners and Masters of ships navigating around the coast of South Africa, who may require the ship to stop and/or anchor for immobilization, repairs or lay-up within the Territorial Waters or Internal Waters must apply through an agent, to the nearest Principal Officer, or where there is no agent, through Cape Town Radio to SAMSA's SeaWatch, for the Authority's permission to do so. Permission may be granted with certain conditions to be adhered to.

1. Your attention is drawn to Section 5 of the Marine Traffic Act 1981 and to Regulation 13, 14 & 15 of the Marine Traffic Regulations 1985, the relevant parts of which read as follows:

Marine Traffic Act 1981, (The Act)

Section 5 - Immobilizing, laying-up, stopping or anchoring outside harbours or fishing harbours.

(1) Except with the permission of the Authority and in accordance with any condition prescribed by regulation or imposed by the Authority in a particular case, no person shall within the territorial waters or internal waters immobilize or lay-up a ship outside a harbour or fishing harbour.

(2) The Authority may require the master or owner of a ship immobilized or laid-up or to be immobilized or laid-up to find security to the satisfaction of the Authority in an amount determined by it for the recovery of any costs incurred by the Authority in enforcing any condition applicable to the immobilizing or laying-up of the ship, or in the exercise of its powers under this Act.

[Subs (2) substituted by s 2 (Sch item 50) Act 5/1998]

(3) No person shall stop or anchor a ship for repairs within the territorial waters or internal waters outside a harbour or fishing harbour except with the main engine thereof kept in readiness for immediate use and in accordance with any condition prescribed by regulation or imposed by the Authority in a particular case.

(4) Any person who contravenes the provisions of subsection (1) or (3) shall be guilty of an offence.

[S 5 substituted by s 5 Act 5/1983]

Marine Traffic Act 1981, Penalties

Section 11. (1) Any person shall be liable on conviction of—

(b) any offence in terms of section 5(4), to a fine or to imprisonment for a period not exceeding two years; **[One year imprisonment equates to R50 000-00]**

(d) any offence in terms of section 8B(1), to a fine not exceeding R200 000, or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

Marine Traffic Regulations 1985,

Regulation 13 - Application to stop or anchor a ship for repairs

(1) A person desiring a ship to be stopped or anchored for repairs in the territorial or internal waters outside a harbour or fishing harbour shall without delay apply for the Minister's permission for such stopping or anchoring and shall direct such an application to the principal officer at the harbour nearest to the proposed location of stopping or anchoring.

(2) When applying in terms of subregulation (1) the applicant shall furnish the following information in regard to the ship in question:

- (a) The name, official number, port of registry, type and gross tonnage of the ship.
- (b) The name and address of the owner of the ship and of the owner's agent in the Republic.
- (c) The nature of the cargo aboard the ship, including fuel and lubricating oil.
- (d) The reason for the proposed stopping or anchoring of the ship.
- (e) The proposed location of such stopping or anchoring.
- (f) The anticipated duration of such stopping or anchoring.
- (g) Prevailing weather conditions."

2. An application to stop or anchor a ship for repairs will not be considered unless the applicant furnishes all the information required by regulation 13(2) above, in writing. Applicants are also reminded that an application does not in itself confer a right to stop or anchor, as has been assumed in some cases - permission may be extended conditionally and may even be refused if considered to be contrary to the interests of the Republic: for example, where there is a risk of stranding or pollution, or a risk to the safety of the vessel or its crew or to the maintenance of peace, good order and security.

3. For information and guidance, the current policy of the Authority on the matter can be summarized as follows:

3.1 Vessels in distress

Vessels have a right to enter sheltered bays in times of distress, or in order to take shelter from severe storms, **but they must notify the principal officer (PO)** at the nearest harbour immediately after stopping, and must furnish the particulars required by regulation 13(2) above. Communications will be via the S. A. Coastal Radio network and / or INMARSAT. When outside a National Harbour, VHF communications to Port Control, for onward transmission to the PO, will be adequate. In addition, such vessels must comply with the conditions (if any)[*Regulations 14 & 15*] imposed by the principal officer.

3.2 Maintenance, repairs and commercial activities

As a rule, routine maintenance, repairs and commercial activities are not permitted outside designated anchorages. Accordingly, application to carry out work or to conduct commercial activities outside a harbour or fishing harbour will be considered in exceptional cases only, after all other local users or interested parties have been consulted. Should there be any risk of pollution of any sort, after an environmental impact assessment has been furnished, permission will be denied.

3.3 Emergency repairs

Application to stop or anchor outside a harbour or fishing harbour for emergency repairs will be considered, and may be permitted subject to the conditions imposed by the PO, which may include the engagement of approved standby tugs for the duration of the repair.

3.4 Lay-ups

As a rule, the laying up of vessels along the South African coast is discouraged as the coast is unsheltered and ecologically sensitive. Regulations 7 to 12 of the Marine Traffic Regulations 1985 govern applications, etc., for lay-ups, but are too lengthy to be repeated here. Copies are available on the SAMSA web site, www.samsa.org.za

Alternatively, Government Gazette No. 9575 of 1 February 1985 can be GOOGLED from the internet.

4. Further attention is also drawn to Section 8B of the Act. This reads as follows:

Section 8B.

Offences in respect of offshore installations

(1)(a) The master; or

(b) any person on board a ship in charge of the navigation of such ship, shall be guilty of an offence if—

(i) through his act or omission in connection with the navigation of the ship in question an offshore installation or any part thereof is damaged;

(ii) the ship, except while rendering an emergency service or previously agreed service to the offshore installation in question, enters a safety zone, or drops or drags anchor nearer than 500 metres to a pipeline or a telecommunications line; or

(iii) while engaged in fishing, the ship bottom trawls nearer than 500 metres to such a pipeline or telecommunications line.

(2) No liability arises in terms of subsection (1) where the master or person on board the ship in charge of the navigation thereof acted for the purpose of securing the safety of the ship, any other ship or an offshore installation or of preventing damage to the ship, any other ship or the cargo thereof or an offshore installation, or of saving life, and such action was necessary for that purpose or was reasonable in the circumstances.

[S 8B inserted by s 2 Act 38/1993 and substituted by s 20 Act 23/1997]

Regulation 14 - Conditions for stopping or anchoring of a ship

(1) The person who has been granted permission in terms of regulation 13, shall comply with such measures specified by the principal officer concerned as he may reasonably deem necessary for minimising the risk of stranding, for the safety of the ship, its crew, passengers or cargo, for preventing pollution of the sea or for maintaining the peace good order or security of the Republic.

(2) The said measures shall be carried out at the expense of the owner of the ship.

Regulation 15 - Notification of departure of ship

The person who has been granted permission in terms of regulation 13, shall cause the ship to proceed on its normal course immediately after the reason for the stopping or anchoring has ceased to exist and he shall forthwith notify the principal officer concerned of the departure of the ship.

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