



# South African Maritime Safety Authority

Ref. SM 6/5/2/1  
SM 14/2/7/1  
SM 9/2/2

Date: 9 October 2020

## Marine Notice No. 48 of 2020

### Onboard Complaints Procedure

TO SHIP OWNERS AND OPERATORS, SEAFARERS, MARITIME TRAINING INSTITUTIONS, EXAMINERS AND PRINCIPAL OFFICERS

*Marine Notice No. 20 of 2013 and Marine Notice No. 15 of 2019 is hereby cancelled*

#### *Summary*

To provide for the requirements to have a written procedure by which a seafarer onboard a South African Ship may present a complaint or labour grievance and have that complaint investigated, provided that it is specific in nature and is alleged to constitute a breach of seafarer's rights under the Maritime Labour Convention 2006 (MLC 2006), The Merchant Shipping Act, 1951, the South African Constitution or labour laws applicable

#### **Introduction**

1. This Marine Notice seeks to ensure consistent application and compliance with the requirements of
  - 1.1. Section 158A of the Merchant Shipping Act, 1951, as amended.
  - 1.2. Regulation 5.1.5 and Standard A5.1.5 of the Maritime Labour Convention (as schedule to the Merchant Shipping Act)

#### **Application**

2. The requirements of this Marine Notice apply to any person who is employed or engaged or works in any capacity onboard ships, other than Fishing Vessels, to which the Merchant Shipping Act applies.

#### **Requirements**

3. All seafarers shall be provided with a copy of the onboard complaint procedures applicable on the ship. This shall include the following information:
  - 3.1. the seafarer's right to representation;
  - 3.2. safeguards against victimization of the seafarer;
  - 3.3. contact information of the Competent Authority as provided in paragraph 18 below

- 3.4. name of a person or persons on board the ship who can, on a confidential basis, provide seafarers with impartial advice on their complaint and otherwise assist them in following the complaint procedures available to them on board the ship.
4. In all cases seafarers should have a right to file their complaints directly with the master, the shipowner or external competent authorities. There shall be a standard form which the seafarer may use to file their complaints.
5. If the seafarer is in any doubt about presenting a complaint and considers that he/she will be victimised due to presenting a complaint, he/she shall have the right to contact the Competent Authority for guidance or he/she may submit the complaint directly to the Competent Authority.
6. The seafarer may be represented in a labour grievance by a labour organisation which is party to a labour contract entered into pursuant to the laws of the Republic of South Africa which covers the seafarers. Seafarers should at all times have the right to be accompanied and to be represented by another seafarer of their choice on board the ship concerned.
7. The shipowner and the Master are responsible to ensure that victimisation of a seafarer for filing a labour grievance under the MLC 2006 does not occur. Any claims of victimisation should be investigated by the master or shipowner and where instances of victimisation are found to occur, these must be dealt with under the Company's disciplinary procedures in the shortest possible time, and the outcome reported to the Competent Authority.

### **Complaint Handling Procedure**

8. The complaint should be addressed to the head of the department of the seafarer lodging the complaint or to the seafarer's supervising officer.
9. The head of department or superior officer should then attempt to resolve the matter within the prescribed time limits appropriate to the seriousness of the issues involved. The Company should have time limits outlined in the shipboard management system and this should take into consideration the time frame noted in paragraph 12 below.
10. If the head of department or supervising officer cannot resolve the complaint to the satisfaction of the seafarer, the seafarer may refer it to the master, who should handle the matter personally.
11. If a complaint cannot be resolved on board, the matter should be referred ashore to the shipowner, who should be given an appropriate time limit for resolving the matter, where appropriate, in consultation with the seafarer concerned or any person who the seafarer may appoint as their representative.
12. All complaints onboard shall be resolved within 20 days, if the complaint is not resolved after 20 days - either party shall have a right to refer the complaint to the Competent Authority, to decide upon a satisfactory solution to the matter.
13. When lodging the complaint directly with the Competent Authority, the Seafarer(s) shall use the form as provided in the appendix of this Marine Notice.
14. If the seafarer lodges the complaint to an external authority outside The Republic of South Africa, that authority shall be provided with the contact information of the SAMSA (Competent Authority) and requested to communicate the complaint to the SAMSA. Any investigation or action by an external authority should take into account the extent to which the on-board complaint procedure has been utilised, and its effectiveness in dealing with the complaint.

15. The external authority may communicate the complaint to the shipowner or the Company who shall then be expected to resolve the matter in accordance with the terms and conditions of the seafarer employment agreement to the satisfaction of both parties. If the complaint is lodged with the Competent Authority, the Competent Authority may also, if deemed necessary, involve the appropriate competent authority within the seafarer's country of origin.

### **Record Keeping**

16. In all cases a written report is to be completed onboard at the appropriate level and sent to the shipowner. The report shall contain details of the complaint, the actions taken and decisions agreed. A copy shall be given to the seafarer involved. Appropriate entries into the ship's official log book shall also be made.
17. In cases where the complaint is dealt with by an external authority, a report containing the actions taken and decisions agreed should be made by the person dealing with the complaint. The report should be sent to the shipowner, with a copy given to the seafarer involved.

### **Competent Authority**

18. For the purposes of this Marine Notice, the South African Maritime Safety Authority is the Competent Authority and may be contacted as follows:

Full Names : Ms Nolundi Dubase  
Position : Welfare Officer  
E-mail : [welfare@samsa.org.za](mailto:welfare@samsa.org.za)  
Tel : 021 421 6170

**09 October 2020**

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Issued by and obtainable from:  
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# Republic of South Africa

## South African Maritime Safety Authority

### Maritime Labour Complaint Resolution Form

(This form to be used to lodge a complaint to the Competent Authority)

E-mail form to : [welfare@samsa.org.za](mailto:welfare@samsa.org.za)

Date : \_\_\_\_\_

#### Part 1 – Vessel Details

Name of Vessel	Call Sign	IMO Number
Port of Registry	Gross Tonnage	Propulsion Power

#### Part 2 - Company Designated Person

Full Names	
Position	
Telephone Number	
e-mail address	

#### Part 3 - Details of Seafarer

Full Names	
Position / Rank	
Telephone Number	
e-mail address	
Certificate No	
Nationality	
Embarkation date	

#### Part 4 - Details of Sender (if different from Seafarer)

Full Names	
Position / Rank	
Telephone Number	
e-mail address	

## Part 5 - Details of Contract

Type of Contract	Defined		Indefinite		Voyage	
Salary						

## Part 6 - Details of Complaint (brief description)


Attach more pages and/or evidence if required

Full names \_\_\_\_\_ Signature \_\_\_\_\_