

## DEPARTMENT OF TRANSPORT

No. R. 505

GG 18820 (RG 6152)

3 April 1998

SOUTH AFRICAN MARITIME SAFETY AUTHORITY ACT, 1998 (ACT No. 5 OF 1998)

### SAMSA REGULATIONS, 1998

The Minister of Transport has, under section 53 of the South African Maritime Safety Authority Act, 1998, (Act No. 5 of 1998), made the regulations in the Schedule.

#### SCHEDULE

##### Definitions

1. In these regulations any word or expression given a meaning in the Act has that meaning and, unless the context indicates otherwise—

“**detention officer**” means any person acting on the authority of a principal officer for the purposes of Part 3;

“**principal officer**” has the meaning given in section 2(1) of the Merchant Shipping Act, 1951 (Act No. 57 of 1951);

“**the Act**” means the South African Maritime Safety Authority Act, 1998 (Act No. 5 of 1998);

“**the Levies Act**” means the South African Maritime Safety Authority Levies Act, 1998 (Act No. 6 of 1998).

[Definition of “the Levies Act” substituted by para 2, GNR242/19775/40,26Feb1999]

#### PART 1

#### MARITIME FUND

##### Administration of Fund

2. (1) The Authority is responsible for the administration of the Fund, including—

- (a) the control over expenditure from the Fund; and
- (b) the collection, for the benefit of the Fund, of all money due or accruing to it, and the taking of steps to obtain payment of claims in its favour.

(2) Accordingly, the Authority must keep a proper record of all money received and expenditure incurred by the Fund.

(3) Money in the Fund may be used only—

- (a) to undertake or promote research on matters connected with the objectives of the Authority;
- (b) with the Minister’s concurrence, for defraying expenditure incurred by the Authority in the pursuance of its objectives;
- (c) for the payment of the remuneration and allowances of persons, not being officers of the Authority or officers or employees of the State, engaged by the Authority in the pursuance of its objectives; and
- (d) with the Minister’s concurrence, for any other purpose connected with the objectives of the Authority.

(4) The Authority must, as soon as possible but not later than three months after the close of a financial year, prepare and submit to the Auditor-General for auditing the Fund’s annual financial statements, signed by the Chief Executive Officer, in respect of that year.

(5) The Chairperson must submit the audit report and audited financial statements to the Board at its first meeting after their receipt by the Authority.

(6) The Authority must forward the said report and financial statements to the Minister within seven days after the Board meeting contemplated in subregulation (5), who must table them in Parliament within 10 sitting days after their receipt.

**PART 2**  
**COLLECTION OF CHARGES AND LEVIES, etc**

**Collection of charges and levies**

3. (1) Charges are collected by the Authority or its authorised agent.
- (2) Levies may be collected—
- (a) by the Authority;
  - (b) by PORTNET on behalf of the Authority in accordance with an arrangement to be entered into between PORTNET and the Authority; or
  - (c) by any organ of State or other natural or legal person on behalf of the Authority in accordance with an arrangement to be entered into between that organ of State or other person and the Authority.

**Penalties**

4. The percentage prescribed for the purposes of section 44(9) of the Act and section 2(8) of the Levies Act is 30%.

**PART 3**  
**DETENTION OF SHIPS**

**Detention notice**

5. A ship is detained under section 45 of the Act by the service of a detention notice issued under the signature of a principal officer in a form similar to that set out in Annex 1.

**Service of detention notice**

6. (1) Subject to subregulation (2), a detention notice must be served on the master of the ship concerned by a detention officer, who must exhibit the original detention notice to the master and deliver a copy thereof to him or her.

(2) If the master of the ship concerned refuses or fails to accept service of the detention notice, or if for any other reason service of the notice cannot be effected, the detention officer must leave a copy of the notice in a conspicuous place on the ship, which action is then regarded to be proper service.

**Return of service**

7. (1) The detention officer who has served a detention notice in terms of regulation 6 must forthwith complete and sign a return of service in a form similar to that set out in Annex 2.

(2) The detention officer must thereupon deliver the original detention notice served by him or her, together with the return of service, to the principal officer who issued the detention notice and a copy thereof to each of the following persons:

- (a) The consular representative in the Republic, if any, of the ship's flag state;
- (b) the ship's agent in the Republic, if any;
- (c) the customs officer contemplated in section 45(2) of the Act at the harbour where the ship is situated; and
- (d) the harbour authority or other authority, if any, who has jurisdiction or control over the sea where the ship is situated.

### **Clearance outward prohibited**

8. (1) The officer referred to in regulation 7(2)(c) must refuse to give the master of a ship to which the detention notice and the return of service relate, clearance outward until he or she has received the release notice contemplated in regulation 9(1).

(2) If the detained ship is not in a harbour, the Authority may take such steps or make the arrangements that it considers necessary to prevent the ship from leaving the internal or territorial waters.

### **Release from detention**

9. (1) A detained ship is released from detention by the service of a release notice issued under the signature of a principal officer in a form similar to that set out in Annex 3.

(2) The original release notice must be retained by the principal officer who must forthwith cause a copy thereof to be delivered by a detention officer to the master of the ship concerned and to every person referred to in regulation 7(2)(a) to (d) to whom a copy of the relevant detention notice and its accompanying return of service have been delivered by the detention officer.

(3) The detention officer must in writing advise the principal officer of the date and time on which he or she has delivered the release notice to every person referred to in regulation 7(2)(a) to (d).

## **PART 4 GENERAL**

### **Interpretation of references in certain existing laws**

10. In the existing regulations made under the laws referred to in section 2(2) of the Act, references, however expressed, to the Minister of Transport, the Director-General: Transport and the Department of Transport must, in the absence of a contrary intention, be read as references to the Authority; and “the existing regulations” means the regulations so made, and as amended, before the commencement of these regulations.

[Reg 10 substituted by para 3, GNR242/19775/40,26Feb1999]

### **Short title**

10. These regulations are called the SAMSA Regulations, 1998.

**ANNEX 1**  
**DETENTION NOTICE**  
(Regulation 5)

**REPUBLIC OF SOUTH AFRICA**  
(Coat of Arms)  
**SOUTH AFRICAN MARITIME SAFETY AUTHORITY**  
[South African Maritime Safety Authority Act, 1998 (Act No. 5 of 1998)]

**NOTICE OF DETENTION OF SHIP**  
[Section 45 of Act 5/1998]

To: The Master

..... (Name of ship)  
..... (Port of registry)  
..... (Official No.)  
..... (Present location)  
.....  
..... (Name and address of owner)  
.....  
..... (Name and address of agent)

You are hereby notified that the ship described above is detained under section 45 of Act 5/1998 for the following reasons:\*

- (a) Charge unpaid;
- (b) levy unpaid;
- (c) related penalty unpaid.

Signed at ..... this ..... day of ..... 19.....

.....  
Issuing Officer  
Capacity: Principal Officer

\* Delete which is not applicable.

**ANNEX 2**  
**RETURN OF SERVICE**  
(Regulation 7)

**REPUBLIC OF SOUTH AFRICA**  
(Coat of Arms)  
**SOUTH AFRICAN MARITIME SAFETY AUTHORITY**  
[South African Maritime Safety Authority Act, 1998 (Act No. 5 of 1998)]

**RETURN OF SERVICE OF NOTICE OF DETENTION OF SHIP**  
[Section 45 of Act 5/1998]

I, ..... (full name)  
declare that on the ..... day of ..... 19..... at ..... hrs I served the notice of  
detention appearing on the reverse hereof by—\*

- (a) delivering a copy thereof to ..... personally,  
in his capacity as ..... on board the ship; or
- (b) leaving a copy thereof .....

Signed at ..... this ..... day of ..... 19.....

.....  
Detention Officer

.....  
Capacity

\* Delete which is not applicable.

**ANNEX 3**  
**RELEASE NOTICE**  
(Regulation 9)

**REPUBLIC OF SOUTH AFRICA**  
(Coat of Arms)  
**SOUTH AFRICAN MARITIME SAFETY AUTHORITY**  
[South African Maritime Safety Authority Act, 1998 (Act No. 5 of 1998)]

**NOTICE OF RELEASE FROM DETENTION**  
[Section 45 of Act 5/1998]

To: .....  
..... (Name of ship)  
..... (Port of registry)  
..... (Official No.)  
..... (Present location)  
.....  
..... (Name and address of owner)  
.....  
..... (Name and address of agent)

Please note that the abovementioned ship which was detained in terms of section 45 of Act 5/1998 is hereby released from such detention.

Signed at ..... this ..... day of ..... 19.....

.....  
Detention Officer

.....  
Capacity