

(3) An *approved ISSC equivalent* is a kind of certification approved in writing by the Authority as an alternative to an ISSC.

#### **Foreign regulated ships must provide pre-arrival information**

86. (1) The master of a foreign regulated ship, or a ship intending to enter South African waters that would, once it had done so, be a foreign regulated ship, must provide pre-arrival information in accordance with the requirements determined in writing by the Director-General.

(2) Without limiting subregulation (1), the Director-General may determine —

- (a) the person or persons to whom pre-arrival information must be given;
- (b) the circumstances in which pre-arrival information must be given; and
- (c) the form and manner in which pre-arrival information must be given.

(3) *Pre-arrival information* is information that —

- (a) must be provided by a ship before the ship enters one or more of the following:
  - (i) South African waters;
  - (ii) a security regulated port;
  - (iii) a port that is not a security regulated port; and
- (b) is of a kind that can be requested, under regulation XI-2/9 of the Safety Convention, by a port state from a foreign flagged ship.

(4) If the master of a ship contravenes subregulation (1), the master or the ship operator for the ship may be given a control direction under Division 2 of this Part.

#### **Foreign regulated ships must allow inspections**

87. (1) The master of a foreign regulated ship must allow an authorised officer to board and inspect the ship in accordance with Part 6.

(2) The master of a foreign regulated ship must provide an authorised officer with any ship security records kept on the ship when requested by the authorised officer to do so.

(3) If the master of a ship contravenes subregulation (1) or (2), the master or the ship operator for the ship may be given a control direction under Division 2 of this Part.

#### **Foreign regulated ships must comply with security levels**

88. (1) This regulation sets out security measures that must be implemented by a foreign regulated ship.

(2) Unless subregulations (3) to (7) provide otherwise, the ship must, at all times, implement ISPS level 1 measures.

(3) If maritime security level 2 is in force for the ship because the ship is in a security regulated port where maritime security level 2 is in force, the ship must implement ISPS level 2 measures.

(4) If maritime security level 3 is in force for the ship because the ship is in a security regulated port where maritime security level 3 is in force, the ship must implement ISPS level 3 measures.

(5) If the Director-General declares under regulation 17(2) that maritime security level 2 is in force for the ship, the ship must implement ISPS level 2 measures.

(6) If the Director-General declares under regulation 17(2) that maritime security level 3 is in force for the ship, the ship must implement ISPS level 3 measures.

(7) If —

- (a) the ship is registered in another country (the *flag state*); and
- (b) the ship is directed by the flag state to implement a higher level of security than would otherwise apply in terms of this regulation,

the ship must comply with the direction.

(8) If a foreign regulated ship does not implement security measures in accordance with subregulations (2) to (7), the ship operator for, or the master of, the ship may be given a control direction under Division 2 of this Part.

#### **Meaning of ISPS level 1, 2 and 3 measures**

89. (1) *ISPS level 1 measures* are the measures that should, under the ISPS Code, be implemented when maritime security level 1 is in force.

(2) *ISPS level 2 measures* are the measures that should, under the ISPS Code, be implemented when maritime security level 2 is in force.

(3) *ISPS level 3 measures* are the measures that should, under the ISPS Code, be implemented when maritime security level 3 is in force.

#### **Foreign regulated ships must comply with security directions**

90. (1) If the Director-General gives a security direction to a foreign regulated ship under regulation 33, the ship must comply with the direction.

(2) If a foreign regulated ship does not comply with a security direction, the ship operator for, or the master of, the ship may be given a control direction under Division 2 of this Part.

#### **Complying with maritime and ship security plans**

91. (1) The operations of a foreign regulated ship may not hinder or obstruct compliance with the maritime security plan of a maritime industry participant in a way that compromises the security of the operations of the participant.

(2) The operations of a foreign regulated ship may not hinder or obstruct compliance with the ship security plan of a South African regulated ship in a way that compromises the security of the South African regulated ship.

(3) If the operations of a foreign regulated ship compromise the security of—

- (a) the operations of a maritime industry participant; or

(b) a ship,

as mentioned in subregulation (1) or (2), the ship operator for, or the master of, the foreign regulated ship may be given a control direction under Division 2 of this Part.

#### **Acknowledging level notifications and directions**

92. (1) The master of a foreign regulated ship commits an offence if—

- (a) the master is notified by the Director-General or a port operator that maritime security level 2 or 3 is in force for the ship; and
- (b) the master, without reasonable excuse, fails to acknowledge the notification to the Director-General.

(2) The master of a foreign regulated ship commits an offence if—

- (a) the master is given —
  - (i) a security direction by the Director-General that relates to the operation of the ship; or
  - (ii) a control direction by the Authority that relates to the ship; and
- (b) the master, without reasonable excuse, fails to acknowledge the direction —
  - (i) in the case of a security direction, to the Director-General; or
  - (ii) in the case of a control direction, to the Authority.

(3) The ship operator for a foreign regulated ship commits an offence if—

- (a) the ship operator is notified by the Director-General that maritime security level 2 or 3 is in force for the ship; and
- (b) the ship operator, without reasonable excuse, fails to acknowledge the notification to the Director-General.

(4) The ship operator for a foreign regulated ship commits an offence if—

- (a) the ship operator is given —
  - (i) a security direction by the Director-General that relates to the operations of the ship; or
  - (ii) a control direction by the Authority that relates to the ship; and
- (b) the ship operator, without reasonable excuse, fails to acknowledge the direction —
  - (i) in the case of a security direction, to the Director-General; or
  - (ii) in the case of a control direction, to the Authority.

(5) An offence in terms of subregulation (1), (2), (3) or (4) is punishable upon conviction by a fine or by imprisonment for a period not exceeding 12 months.

*Division 2—Control directions***Authority may give control directions**

93. (1) The Authority may give a direction to —

- (a) the ship operator for a foreign regulated ship; or
- (b) the master of the ship,

requiring the ship operator or master to take specified action, or refrain from taking specified action, in relation to the ship.

(2) A direction under subregulation (1) is a *control direction*.

(3) However, the Authority may not give a control direction unless the direction is —

- (a) necessary for ensuring compliance with Division 1 of this Part; or
- (b) a measure of a kind that can be imposed, under regulation XI-2/9 of the Safety Convention, by a port state on a foreign flagged ship.

(4) The action that a ship operator or master may be directed to take under subregulation (1) includes —

- (a) removing the ship from South African waters;
- (b) removing the ship from a security regulated port;
- (c) moving the ship within a security regulated port;
- (d) holding the ship in a particular position for a specified period or until a specified event occurs;
- (e) taking particular actions, or ensuring that particular actions are taken, on board the ship; or
- (f) allowing an authorised officer on board the ship to inspect the ship or ship security records carried by the ship.

(5) If a ship operator or master is directed to take the action mentioned in subregulation (4)(d), the ship concerned is taken to be detained in terms of the Act.

(6) A control direction has no effect until the Authority commits the direction to writing.

**Requirement for consultation**

94. If it is reasonable and practicable to do so, the Authority must consult with the following about giving a control direction that relates to the movement of ships within, or in or out of, a security regulated port:

- (a) maritime industry participants who will be affected by the direction;
- (b) organs of state whose operations in the port will be affected by the direction;
- (c) persons, other than those mentioned in paragraph (a) or (b), who must implement, or comply with, the direction.

**Manner of giving control directions**

95. The Authority must give a control direction to the ship operator for, or the master of, a foreign regulated ship —

- (a) orally (for example, by telephone or radio communication);
- (b) in writing; or
- (c) by electronic transmission (for example, by facsimile or e-mail).

**Offence (failing to comply with control direction)**

96. (1) A ship operator for a foreign regulated ship commits an offence if —

- (a) a control direction that relates to the ship is in force; and
- (b) the ship operator, without reasonable excuse, fails to comply with the direction.

(2) The master of a foreign regulated ship commits an offence if —

- (a) a control direction that relates to the ship is in force; and
- (b) the master, without reasonable excuse, fails to comply with the direction.

(3) An offence in terms of subregulation (1) or (2) is punishable upon conviction by a fine or by imprisonment for a period not exceeding 12 months.

**PART 6****POWERS OF OFFICIALS****Authorised officers**

97. (1) Each of the following is an *authorised officer*:

- (a) a surveyor;
- (b) a proper officer;
- (c) a member, designated in writing by the Director-General, of any of the following organs of state:
  - (i) the Department of Transport;
  - (ii) the National Intelligence Agency;
  - (iii) the South African National Defence force;
  - (iv) the South African Police Service.

(2) A member mentioned in subregulation (1)(c) may be designated by name or by reference to a position or rank.

(3) An authorised officer may be accompanied by any person reasonably required to assist in exercising the authorised officer's powers.

**Authorised officers' powers (ISSC verifications)**

98. An authorised officer may inspect —

- (a) a South African regulated ship;
- (b) the ship security records for the ship; and
- (c) any other document relating to the security of the ship,

for the purpose of determining whether the ship meets the requirements necessary for ISSC verification.

**Authorised officers' powers (ships)**

99. (1) An authorised officer may exercise the powers set out in subregulation (2) for the purpose of determining whether a person or a ship is complying with these regulations.

(2) For the purpose set out in subregulation (1), an authorised officer may do one or more of the following:

- (a) board and inspect a security regulated ship (including any restricted access area on the ship);
- (b) inspect and photograph equipment on the ship;
- (c) observe and record operating procedures for the ship (whether carried out by the crew or some other person);
- (d) discuss those procedures with a person carrying them out or with another maritime industry participant;
- (e) inspect, photograph or copy one or more of the following:
  - (i) the ship's ISSC or approved ISSC equivalent;
  - (ii) a ship security record for the ship;
  - (iii) a document or record held on the ship that relates to a crew member, a passenger, or anyone else on board the ship, or an item of cargo;
  - (iv) in the case of a South African regulated ship, any other document that relates to the security of the ship;
- (f) operate equipment on a security regulated ship for the purpose of gaining access to a document or record relating to the ship.

(3) However, an authorised officer may not exercise a power under subregulation (2) in relation to a foreign regulated ship whose flag state is a Convention State, unless the power is of a kind that can be exercised, under regulation XI-2/9 of the Safety Convention, by a port state in relation to a foreign flagged ship.

**When powers may be exercised (ships)**

100. An authorised officer may exercise a power mentioned in regulation 98 or 99 in relation to a ship —

- (a) if the power is exercised within a security regulated port, at any time and without notice; or
- (b) otherwise, after giving the ship operator for, or the master of, the ship concerned reasonable notice.

**Authorised officers' powers (participants)**

**101.** (1) An authorised officer may exercise the powers set out in subregulation (2) for the purpose determining whether a person or ship is complying with these regulations.

(2) For the purpose set out in subregulation (1), an authorised officer may do one or more of the following:

- (a) enter and inspect —
  - (i) any area, building (other than a residence), vehicle or vessel under the control of a maritime industry participant; or
  - (ii) if a maritime industry participant operates from a residence or a part of a residence, the residence or the part of the residence from which the participant operates;
- (b) inspect equipment in a place, vehicle or vessel mentioned in paragraph (a);
- (c) observe the operating procedures of a maritime industry participant;
- (d) discuss those procedures with an employee of the maritime industry participant or with another maritime industry participant;
- (e) inspect, photograph or copy a document or record made or kept by a maritime industry participant;
- (f) operate equipment at a place mentioned in paragraph (a) for the purpose of gaining access to a document or record made or kept by a maritime industry participant.

**When powers may be exercised (participants)**

**102.** An authorised officer may exercise a power mentioned in regulation 101 —

- (a) if the power is exercised within a security regulated port, at any time and without notice; or
- (b) otherwise, after giving the maritime industry participant concerned reasonable notice.

## PART 7

## REPORTING MARITIME TRANSPORT SECURITY INCIDENTS

*Division 1—Meaning of maritime transport security incident***Meaning of maritime transport security incident**

103. Each of the following is a *maritime transport security incident*:

- (a) a threat of unlawful interference with maritime transport;
- (b) an unlawful interference with maritime transport.

*Division 2—Certain people must report incidents***Port operators**

104. (1) A port operator commits an offence if—

- (a) the port operator becomes aware of a maritime transport security incident; and
- (b) the port operator fails to report the incident as required by regulation 110 as soon as possible.

(2) Subregulation (1) does not apply in relation to a report that must be made to a particular person if—

- (a) the port operator reasonably believes that the person is already aware of the incident; or
- (b) the port operator has a reasonable excuse.

(3) An offence in terms of subregulation (1) is punishable upon conviction by a fine or by imprisonment for a period not exceeding 12 months.

**Ship masters**

105. (1) The master of a security regulated ship commits an offence if—

- (a) the master becomes aware of a maritime transport security incident; and
- (b) the master fails to report the incident as required by regulation 111 as soon as possible.

(2) Subregulation (1) does not apply in relation to a report that must be made to a particular person if—

- (a) the master reasonably believes that the person is already aware of the incident; or
- (b) the master has a reasonable excuse.

(3) An offence in terms of subregulation (1) is punishable upon conviction by a fine or by imprisonment for a period not exceeding 12 months.



**Ship operators**

106. (1) A ship operator for a security regulated ship commits an offence if—

- (a) the ship operator becomes aware of a maritime transport security incident; and
- (b) the ship operator fails to report the incident as required by regulation 112 as soon as possible.

(2) Subregulation (1) does not apply in relation to a report that must be made to a particular person if—

- (a) the ship operator reasonably believes that the person is already aware of the incident; or
- (b) the ship operator has a reasonable excuse.

(3) An offence in terms of subregulation (1) is punishable upon conviction by a fine or by imprisonment for a period not exceeding 12 months.

**Port facility operators**

107. (1) A port facility operator commits an offence if—

- (a) the port facility operator becomes aware of a maritime transport security incident; and
- (b) the port facility operator fails to report the incident as required by regulation 113 as soon as possible.

(2) Subregulation (1) does not apply in relation to a report that must be made to a particular person if—

- (a) the port facility operator reasonably believes that the person is already aware of the incident; or
- (b) the port facility operator has a reasonable excuse.

(3) An offence in terms of subregulation (1) is punishable upon conviction by a fine or by imprisonment for a period not exceeding 12 months.

**Persons with incident reporting responsibilities**

108. (1) A person with incident reporting responsibilities commits an offence if—

- (a) the person becomes aware of a maritime transport security incident; and
- (b) the person fails to report the incident as required by regulation 114 as soon as possible.

(2) Subregulation (1) does not apply in relation to a report that must be made to a particular person (the *person to be notified*) if—

- (a) the person with incident reporting responsibilities reasonably believes that the person to be notified is already aware of the incident; or
- (b) the person with incident reporting responsibilities has a reasonable excuse.

(3) An offence in terms of subregulation (1) is punishable upon conviction by a fine or by imprisonment for a period not exceeding 12 months.

(4) Each of the following is a *person with incident reporting responsibilities*:

- (a) an authorised officer;
- (b) a maritime industry participant other than a participant who is —
  - (i) a port operator;
  - (ii) a port facility operator;
  - (iii) a ship operator; or
  - (iv) an employee (within the definition of *employee* in regulation 3) of a maritime industry participant.

### **Employees**

109. (1) An employee of a maritime industry participant commits an offence if —

- (a) the employee becomes aware of a maritime transport security incident; and
- (b) the employee, without reasonable excuse, fails to report the incident to the maritime industry participant as soon as possible.

(2) An offence in terms of subregulation (1) is punishable upon conviction by a fine or by imprisonment for a period not exceeding six months.

### ***Division 3—Reporting requirements***

#### **Reporting by port operators**

110. (1) A port operator must report maritime transport security incidents in accordance with this regulation.

(2) An incident that relates to the port of the port operator must be reported to —

- (a) the MRCC; and
- (b) the South African Police Service; and
- (c) if it relates to a part of the port that is controlled by another person, that other person; and
- (d) if it relates to operations conducted within the port (other than those conducted by the port operator), the person who conducts those operations; and
- (e) if it relates to a security regulated ship within the port, the ship operator for, or the master of, the ship.

(3) However, the port operator is not required to report under subregulation (2) (c), (d) or (e) if the incident —

- (a) relates to the port in general; and
- (b) is not specifically directed at —

- (i) in the case of an incident covered by subregulation (2)(c), the part of the port controlled by that other person; or
  - (ii) in the case of an incident covered by subregulation (2)(d), those operations; or
  - (iii) in the case of an incident covered by subregulations (2)(e), that ship.
- (4) An incident that relates to the port of another port operator must be reported to that other port operator.
- (5) An incident that relates to a security regulated ship must be reported to—
- (a) the ship operator for the ship; or
  - (b) the master of the ship.

### **Reporting by ship masters**

111. (1) The master of a security regulated ship must report maritime transport security incidents in accordance with this regulation.

- (2) An incident that relates to the master's ship must be reported to—
- (a) the MRCC; and
  - (b) the South African Police Service; and
  - (c) if the ship is within a security regulated port, the port operator for the port; and
  - (d) if the ship is using a port facility within a security regulated port, the port facility operator for the port facility.
- (3) An incident that relates to a security regulated port (including a port facility within the port) must be reported to the port operator for the port.
- (4) An incident that relates to another security regulated ship must be reported to —
- (a) the ship operator for the ship; or
  - (b) the master of the ship.

### **Reporting by ship operators**

112. (1) The ship operator for a security regulated ship must report maritime transport security incidents in accordance with this regulation.

- (2) An incident that relates to a security regulated ship of the ship operator must be reported to —
- (a) the MRCC; and
  - (b) the South African Police Service; and
  - (c) if the ship is within a security regulated port, the port operator for the port; and
  - (d) if the ship is using a port facility within a security regulated port, the port facility operator for the port facility.
- (3) An incident that relates to a port must be reported to the port operator for the port.

- (4) An incident that relates to another security regulated ship must be reported to —
- (a) the ship operator for the ship; or
  - (b) the master of the ship.

#### **Reporting by port facility operators**

113. (1) A port facility operator for a port facility within a security regulated port must report maritime transport security incidents in accordance with this regulation.

(2) An incident that relates to the port facility operator's port facility must be reported to —

- (a) the MRCC; and
- (b) the South African Police Service; and
- (c) the port operator.

(3) An incident that relates to the port (apart from the port facility of the port facility operator) must be reported to the port operator.

(4) An incident that relates to another port must be reported to the port operator for that other port.

(5) An incident that relates to a security regulated ship must be reported to —

- (a) the ship operator for the ship; or
- (b) the master of the ship.

#### **Reporting by persons with incident reporting responsibilities**

114. (1) A person with incident reporting responsibilities must report maritime transport security incidents in accordance with this regulation.

(2) Each incident must be reported to the MRCC.

(3) An incident that relates to a security regulated port must be reported to the port operator for the port.

(4) An incident that relates to a security regulated ship must be reported to —

- (a) the ship operator for the ship; or
- (b) the master of the ship.

### ***Division 4—Form and content of reports***

#### **How reports to be made**

115. (1) The Director-General may publish a notice in the *Gazette* setting out either or both of the following:

- (a) information that must be included in a report required by this Part;

(b) the way in which the report must be made.

(2) If —

(a) a person reports a maritime transport security incident; and

(b) the report does not comply with any requirements that are in force under subregulation (1) when the report is made,

the report is taken, for the purposes of this Part, not to have been made.

## PART 8

### INFORMATION-GATHERING

#### Director-General may require security compliance information

116. (1) Information that relates to compliance, or failure to comply, with these regulations is *security compliance information*.

(2) If the Director-General believes on reasonable grounds that a maritime industry participant has security compliance information, the Director-General may, by written notice given to the participant, require the participant to give the information to the Director-General or another specified person.

(3) The information must be given within the period and in the form and manner specified in the notice. The period may not be less than 14 days.

(4) Without limiting subregulation (3), the Director-General may specify in the notice any one or more of the following ways for the participant to give the information:

(a) orally (for example, by telephone or radio communication);

(b) in writing;

(c) by electronic transmission (for example, by facsimile or e-mail).

(5) A person who, without reasonable excuse, fails to comply with a notice under subregulation (2) commits an offence punishable upon conviction by a fine or by imprisonment for a period not exceeding 12 months.

#### Self-incrimination

117. (1) A person is not excused from giving security compliance information in terms of regulation 116 on the ground that the information might tend to incriminate the person or expose the person to a penalty.

(2) However —

(a) the information; and

(b) the giving of the information; and

(c) any information, document or thing obtained as a direct or indirect consequence of giving the information,

are not admissible in evidence against the person in criminal proceedings, or any other proceedings for the recovery of a penalty, other than proceedings in terms of regulation 118.

**Offence (false or misleading information)**

118. (1) A person commits an offence if —

- (a) the person —
    - (i) gives security compliance information that, to the person's knowledge —
      - (aa) is false or misleading in a material particular; or
      - (bb) omits any matter or thing without which the information is misleading in a material particular; or
    - (ii) recklessly gives security compliance information that —
      - (aa) is false or misleading in a material particular; or
      - (bb) omits any matter or thing without which the information is misleading in a material particular; and
  - (b) the information is given —
    - (i) to an organ of state;
    - (ii) to a person who is exercising powers or performing functions under, or in connection with, a law of the Republic; or
    - (iii) in compliance or purported compliance with a law of the Republic.
- (2) In the application of subregulation (1) to a body corporate, but without affecting the liability of any person other than the body corporate —
- (a) security compliance information given by a person acting on behalf of the body corporate is taken to have been given by the body corporate; and
  - (b) the knowledge or state of mind, as the case requires, of any person employed by or concerned in the management of the body corporate is taken to be knowledge or the state of mind of the body corporate.
- (3) An offence in terms of subregulation (1) is punishable upon conviction by a fine or by imprisonment for a period not exceeding 12 months.

**PART 9**

**ENFORCEMENT ORDERS**

*Division 1—Enforcement orders for maritime industry participants*

**Director-General may make enforcement orders**

119. (1) The Director-General may make a written order (an *enforcement order*) under this regulation —

- (a) prohibiting or restricting specified activities by the maritime industry participant named in the enforcement order; or
- (b) requiring the maritime industry participant named in the enforcement order to take specified action.

(2) The Director-General may only make an enforcement order under this regulation if he or she reasonably believes that —

- (a) the maritime industry participant named in the enforcement order has contravened these regulations; and
- (b) it is necessary to make the order to safeguard against unlawful interference with maritime transport.

(3) The enforcement order must —

- (a) bear a clear and direct relationship to the contravention; and
- (b) be proportionate to the contravention.

#### **Commencement and duration of enforcement orders**

120. (1) An enforcement order comes into force —

- (a) if a commencement time that is after the day on which the order is given to the maritime industry participant concerned is specified in the order, at that time; or
- (b) otherwise, at the beginning of the seventh day after it is given to the maritime industry participant concerned.

(2) The order remains in force —

- (a) for the period, if any, specified in the order; or
- (b) until it is revoked in writing by the Director-General.

#### **Reviewing enforcement orders**

121. (1) The Director-General must —

- (a) at intervals of not more than three months, review the enforcement order; and
- (b) after each review, confirm, vary or revoke the order by instrument in writing.

(2) The Director-General must revoke the order unless he or she is satisfied that the order is still needed to safeguard against unlawful interference with maritime transport.

(3) The Director-General may not vary the order unless he or she is satisfied that the order as varied —

- (a) adequately safeguards against unlawful interference with maritime transport; and
- (b) meets the requirements set out in regulation 119(2) and (3).

(4) If an order is varied, the order continues in force as varied.

### Notifying enforcement orders

122. (1) As soon as practicable after making or reviewing an enforcement order, the Director-General must notify the maritime industry participant named in the order of the making of the order, or the decision on the review, as the case may be.

(2) The notice must be given —

- (a) orally (for example, by telephone or radio communication);
- (b) in writing; or
- (c) by electronic transmission (for example, by facsimile or e-mail).

(3) Failure to comply with this regulation does not affect the validity of the order.

### Offence (failing to comply with enforcement order)

123. (1) A maritime industry participant commits an offence if —

- (a) the participant is subject to an enforcement order; and
- (b) the participant, without reasonable excuse, fails to comply with the order.

(2) An offence in terms of subregulation (1) is punishable upon conviction by a fine or by imprisonment for a period not exceeding 12 months.

### *Division 2—Ship enforcement orders for South African regulated ships*

#### Authority may give ship enforcement orders

124. (1) The Authority may give a direction to —

- (a) the ship operator for a South African regulated ship; or
- (b) the master of the ship,

requiring the ship operator or master to take specified action, or refrain from taking specified action, in relation to the ship.

(2) A direction under subregulation (1) is a *ship enforcement order*.

(3) The Authority may only give a ship enforcement order if it reasonably believes that —

- (a) the South African regulated ship named in the ship enforcement order has operated in contravention of these regulations; and
- (b) the ship enforcement order is necessary to safeguard against unlawful interference with maritime transport.

(4) The ship enforcement order must —

- (a) bear a clear and direct relationship to the contravention; and
- (b) be proportionate to the contravention.



(5) The action that a ship operator or master may be directed to take under subregulation (1) includes —

- (a) removing the ship from specified waters;
- (b) removing the ship from a security regulated port;
- (c) moving the ship within a security regulated port;
- (d) holding the ship in a particular position for a specified period or until a specified event occurs;
- (e) taking particular action, or ensuring that particular actions are taken, on board the ship; or
- (f) allowing an authorised officer on board the ship to inspect the ship or ship security records carried by the ship.

(6) If a ship operator or master is directed to take the action mentioned in subregulation (5)(d), the ship concerned is taken to be detained in terms of the Act.

(7) A ship enforcement order has no effect unless the Authority commits the direction to writing.

#### **Requirement for consultation**

125. If it is reasonable and practicable to do so, the Authority must consult with the following about giving a ship enforcement order that relates to the movement of ships within, or in or out of, a security regulated port:

- (a) maritime industry participants who will be affected by the direction;
- (b) organs of state whose operations in the port will be affected by the direction;
- (c) persons, other than those mentioned in paragraph (a) or (b), who must implement, or comply with, the direction.

#### **Manner of giving ship enforcement orders**

126. The Authority must give a ship enforcement order to the ship operator for, or the master of, a South African regulated ship —

- (a) orally (for example, by telephone or radio communication);
- (b) in writing; or
- (c) by electronic transmission (for example, by facsimile or e-mail).

#### **Offence (failing to comply with ship enforcement order)**

127. (1) The ship operator for a South African regulated ship commits an offence if —

- (a) a ship enforcement order is in force in relation to the ship; and
- (b) the ship operator, without reasonable excuse, fails to comply with the order.

(2) The master of a South African regulated ship commits an offence if —

- (a) a ship enforcement order is in force in relation to the ship; and
  - (b) the master, without reasonable excuse, fails to comply with the order.
- (3) An offence in terms of subregulation (1) or (2) is punishable upon conviction by a fine or by imprisonment for a period not exceeding 12 months.

## PART 10

### MISCELLANEOUS

#### Ship security alert system

**128.** (1) A South African regulated ship must be provided with a ship security alert system as follows:

- (a) for a ship constructed on or after 1 July 2004, before the ship is registered or licensed in the Republic;
- (b) for a passenger ship (including a high-speed passenger craft) constructed before 1 July 2004, not later than the first survey of the ship's radio installation after 1 July 2004;
- (c) for an oil tanker, chemical tanker, gas carrier, bulk carrier or a cargo high speed craft, of 500 gross tonnage or more, constructed before 1 July 2004, not later than the first survey of the ship's radio installation after 1 July 2004;
- (d) for any other cargo ship of 500 gross tonnage or more or mobile offshore drilling unit constructed before 1 July 2004, not later than the first survey of the ship's radio installation after 1 July 2006.

(2) The ship security alert system —

- (a) must be capable of transmitting a ship-to-shore security alert identifying the ship, giving its location and indicating that the security of the ship is, or was, under threat;
- (b) must be of a type approved by the Authority; and
- (c) must otherwise comply with regulation XI-2/6 of the Safety Convention.

#### Alternative security agreements

**129.** (1) If the Republic has entered into an alternative security agreement in accordance with regulation XI-2/11 of the Safety Convention, the Director-General must supervise the implementation and operation of the alternative security arrangement.

(2) To avoid doubt, an alternative security agreement may, according to its terms, vary or replace these regulations in relation to the matters covered by the agreement.

(3) The Director-General must review each alternative security agreement —

- (a) periodically —
  - (i) at an interval specified in writing by the Minister; or

- (ii) if the Minister does not specify an interval, at an interval specified by the alternative security agreement under review; or
- (b) if the Minister or the agreement does not specify an interval, every five years.
- (4) The review must take into account —
  - (a) the experience gained from the operation of the agreement;
  - (b) any changes in the circumstances that relate to maritime transport security; and
  - (c) any changes in circumstances that could impact on maritime transport security.

#### **Equivalent security arrangements**

130. (1) The Authority may allow a South African regulated ship, or South African regulated ships of a specified class, to implement other security measures equivalent to those prescribed by these regulations if the other measures are at least as effective as the prescribed measures.

(2) The Director-General may allow —

- (a) a security regulated port or group of security regulated ports; or
- (b) a port facility or group of port facilities,

to implement other security measures equivalent to those prescribed by these regulations if the other measures are at least as effective as the prescribed measures.

(3) In deciding whether to allow equivalent security measures under this regulation, the Authority or the Director-General, as the case may be, must take account of the obligations set out in Chapter XI-2 of the Safety Convention and the ISPS Code.

### **PART 11**

#### **ADMINISTRATIVE ARRANGEMENTS AND FEES**

##### **Powers and functions of Director-General**

131. (1) The Director-General may, in writing, authorise an SMS employee, or acting SMS employee, in the Department of Transport to exercise any of the Director-General's powers and functions in terms of these regulations.

(2) The Director-General may at any time, in writing, vary or revoke an authorisation.

(3) An authorisation under subregulation (1) does not prevent the exercise of a power or function by the Director-General personally.

##### **Director-General may establish co-ordinating structures**

132. (1) For the purpose of promoting the efficient administration of these regulations, the Director-General may, in writing —

- (a) establish any co-ordinating structures the Director-General thinks fit; and
  - (b) determine the membership and functions of any established structure.
- (2) Before establishing a structure, the Director-General must consult —
- (a) the Minister;
  - (b) Nicoc;
  - (c) the Authority; and
  - (d) any other organ of state or person required in writing by the Minister to be consulted.

**Fees (Director-General's functions)**

133. (1) Annex 3 prescribes —

- (a) the fees payable to the Director-General for services in terms of these regulations; and
  - (b) the circumstances and manner in which the fees are to be paid.
- (2) If Annex 3 prescribes a fee for a service, the Director-General may refuse the service unless —
- (a) the fee is paid; or
  - (b) an arrangement for its payment has been made to the satisfaction of the Director-General.

## ANNEX 1

(Regulations 7 and 8)

## SECURITY REGULATED PORTS AND PORT OPERATORS

The items in this Annex describe the areas of the ports in the Republic that make up security regulated ports and designate the port operator for each of the security regulated ports.

Item	Security regulated port	Area	Port operator
1	Cape Town	The whole area in which Transnet Limited has jurisdiction at Table Bay harbour.	The National Ports Authority of South Africa, a division of Transnet Limited
2	Mossel Bay	The whole area in which Transnet Limited has jurisdiction at Mossel Bay harbour.	
3	Port Elizabeth	The whole area in which Transnet Limited has jurisdiction at Port Elizabeth harbour.	
4	East London	The whole area in which Transnet Limited has jurisdiction at East London harbour.	
5	Durban	The whole area in which Transnet Limited has jurisdiction at Durban harbour, including the adjacent SAPREF single buoy mooring facility controlled by Shell and BP SA Petroleum Refineries (Pty) Ltd.	
6	Saldanha Bay	The whole area in which Transnet Limited has jurisdiction at Saldanha Bay harbour.	
7	Richards Bay	The whole area in which Transnet Limited has jurisdiction at Richards Bay harbour.	

## ANNEX 2

(Regulations 44, 45, 46, 62, 63 and 64)

## SECURITY PLANS

## PART 1—PRELIMINARY

## Definitions

1. In this Annex, unless the context indicates otherwise—

"CSO" or "**company security officer**" means the person designated in terms of item 5;

"PFSO" or "**port facility security officer**" means the person designated in terms of item 3;

"PSO" or "**port security officer**" means the person designated in terms of item 2;

"PSPSO" or "**port service provider security officer**" means the person designated in terms of item 4;

"**shore-based personnel**", in relation to a South African regulated ship, means persons (other than the master and crew) employed by the ship operator for the ship;

"SSO" or "**ship security officer**" means the person designated in terms of item 6.

## Port security officers

2. (1) Before requesting the Director-General to approve a maritime security plan, a port operator for a security regulated port must, in writing, designate a person as security officer (*port security officer* or *PSO*) for the security regulated port.

(2) A PSO may be designated by name or by reference to a position.

(3) The duties and responsibilities of a PSO include —

- (a) conducting an initial security survey of the port and facilitating the completion of the security assessment for the port operator's maritime security plan;
- (b) ensuring the development, submission and maintenance of the maritime security plan for the port operator;
- (c) implementing the maritime security plan;
- (d) undertaking regular security inspections of the port to ensure the effectiveness and adequacy of security measures;
- (e) facilitating security plan reviews;
- (f) recommending and incorporating modifications to the maritime security plan in order to —
  - (i) correct deficiencies in the plan; or
  - (ii) update the plan to take into account changes to the port;

- (g) enhancing security awareness and vigilance of port personnel, including conducting drills and exercises;
- (h) ensuring that standards for personnel with security duties and responsibilities are met and that adequate training is provided to such personnel;
- (i) reporting to the relevant authorities, and maintaining records of, occurrences that threaten the security of the port;
- (j) liaising with ship, port service provider and port facility security officers;
- (k) coordinating with security, police, fire, ambulance, medical, search and rescue services, as appropriate;
- (l) ensuring that security equipment is properly operated, inspected, tested, calibrated and maintained;
- (m) when requested by an SSO, assisting in confirming the identity of persons intending to board a ship;
- (n) providing advice to the Authority and the Director-General on the operational and safety aspects of the implementation of security and control directions; and
- (o) communicating and coordinating the implementation of security and control directions.

(4) A port operator must ensure that a PSO —

- (a) has the knowledge and ability to perform the duties of a PSO;
- (b) is given the training set out in the maritime security plan for the port operator;
- (c) is a suitable person to access and handle security information; and
- (d) has the authority to act on instructions received from the Director-General.

#### **Port facility security officers**

3. (1) Before requesting the Director-General to approve a maritime security plan, a port facility operator must, in writing, designate a person as security officer (*port facility security officer* or *PFSO*) for the port facility.

(2) A PFSO may be designated by name or by reference to a position.

(3) The duties and responsibilities of a PFSO include —

- (a) ensuring the development, submission, implementation, revision and maintenance of the maritime security plan for the port facility operator;
- (b) liaising with ship, company, port, port service provider and other port facility security officers;
- (c) performing —
  - (i) the duties and responsibilities in section A/17.2 of the ISPS Code; and
  - (ii) any additional duties and responsibilities set out in the maritime security plan.

(4) A port facility operator must ensure that a PFSO —

- (a) has the knowledge and ability to perform the duties of a PFSO;

- (b) is given the training set out in the maritime security plan for the port facility operator;
- (c) is a suitable person to access and handle security information; and
- (d) has the authority to act on instructions received from the Director-General.

#### Port service provider security officers

4. (1) Before requesting the Director-General to approve a maritime security plan, a port service provider must, in writing, designate a person as security officer (*port service provider security officer* or *PSPSO*) for the port service provider.

(2) A PSPSO may be designated by name or by reference to a position.

(3) The duties and responsibilities of a PSPSO include —

- (a) conducting an initial security survey of the activities of the port service provider and facilitating the completion of the security assessment for the provider's maritime security plan;
- (b) ensuring the development and maintenance of the maritime security plan for the port service provider;
- (c) implementing the maritime security plan;
- (d) undertaking regular security inspections of the area under the control of the port service provider to ensure the effectiveness and adequacy of security measures;
- (e) recommending and incorporating modifications to the maritime security plan in order to —
  - (i) correct deficiencies in the plan; or
  - (ii) update the plan to take into account changes to the port service provider;
- (f) enhancing security awareness and vigilance of the port service provider's personnel;
- (g) ensuring that standards for personnel with security duties and responsibilities are met and that adequate training is provided to such personnel;
- (h) reporting to the relevant authorities, and maintaining records of, occurrences that threaten the security of the port service provider;
- (i) liaising with ship, port, port facility and other port service provider security officers;
- (j) coordinating with security, police, fire, ambulance, medical, search and rescue services, as appropriate;
- (k) ensuring that security equipment is properly operated, inspected, tested, calibrated and maintained; and
- (l) when requested by an SSO, assisting in confirming the identity of persons intending to board a ship.

(4) A port service provider must ensure that a PSPSO —

- (a) has the knowledge and ability to perform the duties of a PSPSO;
- (b) is given the training set out in the maritime security plan for the port service provider;



- (c) is a suitable person to access and handle security information; and
- (d) has the authority to act on instructions received from the Director-General.

### **Company security officers**

5. (1) Before requesting the Authority to approve a ship security plan, the ship operator for a South African regulated ship must, in writing, designate a person within the ship operator's organisation as security officer (*company security officer* or *CSO*) for the ship.

(2) A CSO may be designated by name or by reference to a position.

(3) The duties and responsibilities of a CSO include —

- (a) answering any questions about the ship security plan, and acting as contact officer, during the approval process;
- (b) implementing and maintaining the ship security plan for the ship;
- (c) liaising with the SSO for the ship and with port, port facility and port service provider security officers; and
- (d) performing —
  - (i) the duties and responsibilities in section A/11.2 of the ISPS Code; and
  - (ii) any additional duties and responsibilities set out in the ship security plan.

(4) The ship operator must ensure that a CSO —

- (a) has the knowledge and ability to perform the duties of a CSO;
- (b) is given the training set out in the ship security plan;
- (c) is a suitable person to access and handle security information; and
- (d) has the authority to act on instructions received from the Authority or Director-General.

### **Ship security officers**

6. (1) The ship operator for a South African regulated ship must, in writing, designate the master, or a crew member, of the ship as security officer (*ship security officer* or *SSO*) for the ship.

(2) An SSO may be designated by name or by reference to a position.

(3) The duties and responsibilities of an SSO include —

- (a) maintaining the ship security plan for the ship;
- (b) liaising with the CSO for the ship and with ship, port, port facility and port service provider security officers; and
- (c) performing —
  - (i) the duties and responsibilities in section A/12.2 of the ISPS Code; and
  - (ii) any additional duties and responsibilities set out in the ship security plan.

- (4) The ship operator must ensure that an SSO —
- (a) has the knowledge and ability to perform the duties of an SSO;
  - (b) is given the training set out in the ship security plan;
  - (c) is a suitable person to access and handle security information; and
  - (d) has the authority to act on instructions received from the Authority, Director-General or ship operator.
- (5) An SSO who is not the master of the ship is accountable to the master of the ship.

#### **Delegation by security officers**

7. (1) A PSO, PFSO, PSPSO, CSO or SSO may, in writing, delegate some or all of his or her powers (except this power of delegation), functions and duties.
- (2) A delegation under this item —
- (a) may only be made to a person who has the knowledge and ability to exercise or perform the powers, functions or duties to be delegated; and
  - (b) must specify the delegate by name.

#### **Shore-based personnel and crew**

8. The ship operator for a South African regulated ship must ensure that shore-based personnel and crew (including the master) identified in the ship security plan as having security duties and responsibilities —
- (a) have the knowledge and ability to perform their security-related duties and responsibilities; and
  - (b) are given the training set out in the plan.

#### **Declarations of security**

9. (1) A declaration of security must be signed and dated by the master of, or SSO for, the ship and —
- (a) if the other party to the agreement is also a ship, the master of, or SSO for, that other ship; or
  - (b) if the other party to the agreement is a port operator, the PSO; or
  - (c) if the other party to the agreement is a port facility operator, the PFSO; or
  - (d) if the other party to the agreement is a port service provider, the PSPSO.
- (2) A declaration of security must set out —
- (a) contact details for the parties and signatories to the agreement;
  - (b) the period for which the declaration is valid; and
  - (c) the maritime security level in force for each party.

(3) A copy of the declaration of security must be kept by a party to the agreement for a period of seven years beginning on the day after the declaration ceases to be valid.

#### **Security plan audits and reviews**

10. (1) A security plan audit or review must be conducted in accordance with the schedule, requirements and procedures set out in the maritime or ship security plan.

(2) A security plan review must be conducted as soon as practicable after a maritime transport security incident.

(3) The records of each security plan audit or review must be kept for a period of seven years beginning on the day after the audit or review is concluded.

### **PART 2—MARITIME SECURITY PLANS**

#### ***Division 1—Preliminary***

#### **Common requirements for security assessments**

11. A security assessment for a maritime security plan must include the following matters:

- (a) the date when the assessment was completed or reviewed;
- (b) the scope of the assessment, including assets, infrastructure and operations assessed;
- (c) a summary of how the assessment was conducted, including details of the risk management process adopted;
- (d) details of the skills and expertise of the key persons who completed or participated in the assessment.

#### **Common requirements for security plan audits and reviews**

12. A maritime security plan for a port operator, port facility operator or port service provider must set out —

- (a) a schedule of security plan audits by internal and external auditors;
- (b) the circumstances, in addition to the occurrence of a maritime transport security incident, following which a security plan review must be conducted;
- (c) the procedures for conducting a security plan audit, including a process for selecting auditors who are independent of the matters being audited; and
- (d) the procedures for conducting a security plan review, including a process for consultation during the review.

**Port operator to give information**

13. A port operator required to have a maritime security plan must give to each port facility operator and port service provider conducting operations within the security regulated port —

- (a) the information set out in item 17 (including contact details for the PSO);
- (b) the measures to be used by the port operator to inform persons of the location of security zones established within the boundaries of the security regulated port; and
- (c) the measures to confirm the identity of persons who are authorised to have access to security zones established within the boundaries of the security regulated port.

**Port facility operator to give information**

14. (1) A port facility operator required to have a maritime security plan must give the port operator of, and each port service provider conducting operations within, the security regulated port —

- (a) the information set out in item 29 (including contact details for the PFSO);
- (b) the measures to be used by the port facility operator to inform persons of the location of any security zones established within the boundaries of the port facility; and
- (c) the measures to confirm the identity of persons who are authorised to have access to the port facility, to ships moored at the facility and to any security zones established within the boundaries of the port facility.

(2) A port facility operator required to have a maritime security plan must also give to the port operator details of the boundaries of the facility.

**Port service provider to give information**

15. A port service provider required to have a maritime security plan must give to the port operator of the security regulated port in which the provider conducts operations and to each port facility operator conducting operations within the security regulated port —

- (a) the information set out in item 42 (including contact details for the PPSO);
- (b) the boundaries of the area under the control of the port service provider;
- (c) details of the vessels and helicopters operated or used by the provider;
- (d) the measures to be used by the port service provider to inform persons of the location of any security zones established within the boundaries of the area under the control of the port service provider; and
- (e) the measures to confirm the identity of persons who are authorised to have access to the area under the control of the port service provider, to any security zones established within the boundaries of that area and to vessels or helicopters operated or used by the provider.

*Division 2—Port operators**Subdivision 1—Matters to be dealt with in plan***General**

16. A maritime security plan for a port operator must cover all matters of ship/port interface —

- (a) that are to be conducted within the security regulated port; and
- (b) that are not covered by a maritime security plan for any other maritime industry participant that conducts operations within, or in connection with, the security regulated port.

**Port operator details**

17. (1) A maritime security plan for a port operator must be accompanied by a document setting out —

- (a) the name of the port operator;
- (b) the contact details for the port operator;
- (c) the name of the Chief Executive Officer of the port operator;
- (d) the name of the port for which the port operator has been designated;
- (e) the name of the port's harbour master;
- (f) the contact details for the harbour master;
- (g) the name or position of the person who is to be the PSO for the port; and
- (h) a single 24-hour fixed-line or mobile telephone number for the PSO.

(2) A port operator must, within two working days after the port operator becomes aware of a change in any of the information given under this item, notify the Director-General, in writing, of the change.

(3) A port operator who, without reasonable excuse, fails to comply with subitem (2) commits an offence punishable upon conviction by a fine or by imprisonment for a period not exceeding six months.

**Security assessments**

18. In addition to the matters required by item 11, the security assessment that must be included in a maritime security plan for a port operator must include the following matters:

- (a) a statement outlining the risk context or threat situation for the port;
- (b) identification and evaluation of strategically important assets, infrastructure and operations that need to be protected;

- (c) identification of possible risks or threats to assets, infrastructure and operations, and the likelihood and consequences of their occurrence;
- (d) identification of existing security measures, procedures and operations;
- (e) identification of gaps in port-wide security arrangements, including gaps arising from port infrastructure, human factors, policies and procedures;
- (f) identification, selection and prioritisation of possible risk treatments (for example, counter-measures and procedural changes that need to be implemented) and their effectiveness in reducing risk levels and vulnerabilities.

#### **PSO responsibilities and qualifications**

19. A maritime security plan for a port operator must set out the duties and responsibilities of the PSO, together with —

- (a) the knowledge, skills and other requirements for the PSO;
- (b) the training or qualifications that satisfy the requirements mentioned in paragraph (a); and
- (c) the training that must be given to the PSO.

#### **Other personnel with security role**

20. (1) A maritime security plan for a port operator must identify, by reference to their positions, port personnel with security duties and responsibilities in addition to those of the PSO.

(2) The security duties and responsibilities of personnel so identified must be set out in the plan, together with —

- (a) the knowledge, skills and other requirements for the security-related aspects of their positions;
- (b) the training or qualifications that satisfy the requirements mentioned in paragraph (a); and
- (c) the training that must be given to such personnel.

#### **Matters that must be in plan**

21. A maritime security plan for a port operator must address, in addition to the matters required by item 12, the following matters:

- (a) measures to prevent unauthorised access to any security zones established in the security regulated port;
- (b) procedures for responding to security threats or breaches of security, including procedures for maintaining critical operations in the port;
- (c) procedures for responding to any security directions given by the Director-General;
- (d) procedures for evacuation of the port in case of security threats or breaches of security;

- (e) procedures for drills and exercises associated with the plan;
- (f) procedures for interfacing with ship security activities;
- (g) procedures for modifying the plan to correct deficiencies or to update the plan to take into account changes to the port;
- (h) procedures for reporting —
  - (i) maritime transport security incidents; and
  - (ii) other occurrences that threaten the security of the port facility;
- (i) measures to ensure the security of the information contained in the plan;
- (j) procedures in case the ship security alert system of a ship is activated while in the security regulated port.

#### **Security of port in exceptional circumstances**

22. A maritime security plan for a port operator must give sufficient guidance on how the security of the port will be maintained in exceptional circumstances such as humanitarian crises, the presence in the port of a ship in distress or otherwise allowed refuge, extreme weather conditions and other emergencies.

#### **Consultation and communication**

23. (1) A maritime security plan for a port operator must set out a mechanism for consultation —

- (a) between the port operator and each of the maritime industry participants conducting operations within the security regulated port, for the purpose of coordinating their security-related activities; and
- (b) between the port operator and its employees, or their representatives, regarding security measures and procedures to be implemented.

(2) A maritime security plan for a port operator must set out how the port operator will give notice in terms of regulations 23(2) and 27(2).

#### **Maritime security level 1**

24. A maritime security plan for a port operator must set out, in relation to maritime security level 1 —

- (a) the security measures, identified in the security assessment for the operation, for implementation at that level;
- (b) the measures that have been implemented;
- (c) a schedule for implementing the measures that have not been implemented; and
- (d) any interim measures that will be implemented until the measures mentioned in paragraph (c) are fully implemented.

**Maritime security levels 2 and 3**

25. A maritime security plan for a port operator must set out, in relation to maritime security levels 2 and 3 —

- (a) the security measures identified in the security assessment for the operation, for implementation at those levels; and
- (b) the additional security measures that the operator will implement if the Director-General declares that maritime security level 2 or 3 is in force for the port.

**Declarations of security**

26. A maritime security plan for a port operator must provide for—

- (a) the circumstances in which the operator will request a declaration of security with a ship;
- (b) the procedures for negotiating the security measures and responsibilities of the operator and of the ship in those circumstances; and
- (c) how security measures identified in a declaration will be implemented to ensure compliance by the operator and the ship with their security plans and with the declaration.

*Subdivision 2—Form of plan***Map of port**

27. The map that must accompany a maritime security plan for a port operator in terms of regulation 46(2) must—

- (a) cover the whole security regulated port; and
- (b) be of a size and scale that clearly shows —
  - (i) the boundaries of the port;
  - (ii) the location and boundaries of any port facilities in the port; and
  - (iii) the location of any security zones established, or that the operator wishes to establish or change, within the area covered by the plan.

**Protection of plan**

28. A port operator must ensure that the maritime security plan for the operator is protected against unauthorised access, amendment and disclosure.



***Division 3—Port facility operators******Subdivision 1—Matters to be dealt with in plan*****Port facility operator details**

29. A maritime security plan for a port facility operator must be accompanied by a document setting out —

- (a) the name of the port facility operator;
- (b) the contact details for the port facility operator;
- (c) the name of the Chief Executive Officer of the port facility operator;
- (d) the name and location of the port facility;
- (e) the name of the port in which the facility is located;
- (f) the name or position of the person who is to be the PFSO for the facility; and
- (g) a single 24-hour fixed-line or mobile telephone number for the PFSO.

**Details of other maritime industry participants**

30. A maritime security plan for a port facility operator must be accompanied by a document setting out the name of, and contact details for —

- (a) the PSO of the security regulated port in which the facility is located; and
- (b) each port service provider conducting operations within the facility.

**Obligation to keep information current**

31. (1) A port facility operator must, within two working days after the port facility operator becomes aware of a change in any of the information given under item 29 or 30, notify the Director-General, in writing, of the change.

(2) A port facility operator who, without reasonable excuse, fails to comply with subitem (1) commits an offence punishable upon conviction by a fine or by imprisonment for a period not exceeding six months.

**Security assessments**

32. (1) In addition to the matters required by item 11, a security assessment for a port facility operator's operation must include the following matters:

- (a) a statement outlining the risk context or threat situation for the port facility;
- (b) identification and evaluation of important assets, infrastructure and operations that need to be protected;
- (c) identification of possible risks or threats to assets, infrastructure and operations, and the likelihood and consequences of their occurrence;

- (d) identification of existing security measures, procedures and operations;
- (e) identification of weaknesses (including human factors) in the infrastructure, policies and procedures;
- (f) identification, selection and prioritisation of possible risk treatments (for example, counter-measures and procedural changes that need to be implemented) and their effectiveness in reducing risk levels and vulnerabilities.

(2) A security assessment for a port facility operator's operation must take into account —

- (a) the types of ships, and the types of cargoes transported by ships, served by the port facility; and
- (b) any special risks or threats associated with such ships and cargoes.

#### **PFSO responsibilities and qualifications**

33. A maritime security plan for a port facility operator must set out the duties and responsibilities of the PFSO, together with —

- (a) the knowledge, skills and other requirements for the PFSO;
- (b) the training or qualifications that satisfy the requirements mentioned in paragraph (a); and
- (c) the training that must be given to the PFSO.

#### **Other personnel with security role**

34. (1) A maritime security plan for a port facility operator must identify, by reference to their positions, port facility personnel with security duties and responsibilities in addition to those of the PFSO.

(2) The security duties and responsibilities of personnel so identified must be set out in the plan, together with —

- (a) the knowledge, skills and other requirements for the security-related aspects of their positions;
- (b) the training or qualifications that satisfy the requirements mentioned in paragraph (a); and
- (c) the training that must be given to such personnel.

#### **Matters that must be in plan**

35. A maritime security plan for a port facility operator must address, in addition to the matters required by item 12, the following matters:

- (a) measures to prevent unauthorised carriage or possession of weapons or prohibited items in the facility or on board ships being loaded or unloaded at the facility;
- (b) measures to prevent unauthorised access to the port facility, to ships moored at the facility and to any security zones established within the boundaries of the facility;

- (c) procedures for responding to security threats or breaches of security, including procedures for maintaining critical operations in the port facility or ship/port interface;
- (d) procedures for responding to any security directions given by the Director-General;
- (e) procedures for evacuation of the port facility in case of security threats or breaches of security;
- (f) procedures for drills and exercises associated with the plan;
- (g) procedures for interfacing with ship security activities;
- (h) procedures for modifying the plan to correct deficiencies or to update the plan to take into account changes to the port facility;
- (i) procedures for reporting —
  - (i) maritime transport security incidents; and
  - (ii) other occurrences that threaten the security of the port facility;
- (j) measures to ensure the security of the information contained in the plan;
- (k) measures to ensure security of cargo and of cargo handling equipment at the facility;
- (l) procedures in case the ship security alert system of a ship is activated while in the security regulated port;
- (m) procedures for facilitating —
  - (i) shore leave or relief of crew; and
  - (ii) access by visitors (including representatives of seafarer's welfare and of labour organisations).

### Consultation

36. A maritime security plan for a port facility operator must set out, for the purpose of coordinating security-related activities, a mechanism for consultation —

- (a) between the port facility operator and the port operator;
- (b) between the port facility operator and each port service provider conducting operations within the security regulated port, and any other stakeholder, who may be affected by the implementation of the plan; and
- (c) between the port facility operator and its employees, or their representatives, regarding security measures and procedures to be implemented.

### Maritime security level 1

37. A maritime security plan for a port facility operator must set out, in relation to maritime security level 1 —

- (a) the security measures, identified in the security assessment for the operation, for implementation at that level;
- (b) the measures that have been implemented;

- (c) a schedule for implementing the measures that have not been implemented; and
- (d) any interim measures that will be implemented until the measures mentioned in paragraph (c) are fully implemented.

#### **Maritime security levels 2 and 3**

38. A maritime security plan for a port facility operator must set out, in relation to maritime security levels 2 and 3 —

- (a) the security measures identified in the security assessment for the operation, for implementation at those levels; and
- (b) the additional security measures that the operator will implement if the Director-General declares that maritime security level 2 or 3 is in force for the port.

#### **Declarations of security**

39. A maritime security plan for a port facility operator must provide for —

- (a) the circumstances in which the operator will request a declaration of security with a ship;
- (b) the procedures for negotiating the security measures and responsibilities of the operator and of the ship in those circumstances; and
- (c) how security measures identified in a declaration will be implemented to ensure compliance by the operator and the ship with their security plans and with the declaration.

#### *Subdivision 2—Form of plan*

#### **Map of port facility**

40. The map that must accompany a maritime security plan for a port facility operator in terms of regulation 46(2) must be of a size and scale that clearly shows—

- (a) the boundaries of the port facility; and
- (b) the location of any security zones established, or that the operator wishes to establish or change, within the area covered by the plan.

#### **Protection of plan**

41. A port facility operator must ensure that the maritime security plan for the operator is protected against unauthorised access, amendment and disclosure.

***Division 4—Port service providers******Subdivision 1—Matters to be dealt with in plan*****Port service provider details**

42. A maritime security plan for a port service provider must be accompanied by a document setting out —

- (a) the name of the port service provider;
- (b) the contact details for the port service provider;
- (c) the name of the Chief Executive Officer of the port service provider;
- (d) the name of each security regulated port in which the port service provider is located or operates;
- (e) the name or position of the person who is to be the PSPSO for the port service provider; and
- (f) a single 24-hour fixed-line or mobile telephone number for the PSPSO.

**Details of other maritime industry participants**

43. A maritime security plan for a port service provider must be accompanied by a document setting out the name of, and contact details for —

- (a) each PSO of the security regulated port in which the port service provider is located or operates; and
- (b) each port operator for, and port facility operator and port service provider conducting operations within, the security regulated port in which the port service provider is located or operates.

**Obligation to keep information current**

44. (1) A port service provider must, within two working days after the port service provider becomes aware of a change in any of the information given under item 42 or 43, notify the Director-General, in writing, of the change.

(2) A port service provider who, without reasonable excuse, fails to comply with subitem (1) commits an offence punishable upon conviction by a fine or by imprisonment for a period not exceeding six months.

**Security assessments**

45. In addition to the matters required by item 11, a security assessment for the operation of a port service provider must include the following matters:

- (a) a statement outlining the risk context or threat situation for the port service provider;

- (b) identification and evaluation of important assets, infrastructure and operations that need to be protected;
- (c) identification of possible risks or threats to assets, infrastructure and operations, and the likelihood and consequences of their occurrence;
- (d) identification of existing security measures, procedures and operations;
- (e) identification of weaknesses (including human factors) in the infrastructure, policies and procedures;
- (f) identification, selection and prioritisation of possible risk treatments (for example, counter-measures and procedural changes that need to be implemented) and their effectiveness in reducing risk levels and vulnerabilities.

#### **PSPSO responsibilities and qualifications**

46. A maritime security plan for a port service provider must set out the duties and responsibilities of the PSPSO, together with —

- (a) the knowledge, skills and other requirements for the PSPSO;
- (b) the training or qualifications that satisfy the requirements mentioned in paragraph (a); and
- (c) the training that must be given to the PSPSO.

#### **Other personnel with security role**

47. (1) A maritime security plan for a port service provider must identify, by reference to their positions, port service personnel with security duties and responsibilities in addition to those of the PSPSO.

(2) The security duties and responsibilities of personnel so identified must be set out in the plan, together with —

- (a) the knowledge, skills and other requirements for the security-related aspects of their positions;
- (b) the training or qualifications that satisfy the requirements mentioned in paragraph (a); and
- (c) the training that must be given to such personnel.

#### **Matters that must be in plan**

48. A maritime security plan for a port service provider must address, in addition to the matters required by item 12, the following matters:

- (a) measures to prevent the introduction of unauthorised weapons or prohibited items into each security regulated port in which the port service provider is located or operates, or on board ships being served by the provider;
- (b) measures to prevent unauthorised access to the land under the control of the port service provider, to any security zones established within the boundaries of that land and to vessels or helicopters operated or used by the provider;

- (c) procedures for responding to security threats or breaches of security, including procedures for maintaining critical operations of the port service provider;
- (d) procedures for responding to any security directions given by the Director-General;
- (e) procedures for evacuation in case of security threats or breaches of security;
- (f) procedures for drills and exercises associated with the plan;
- (g) procedures for interfacing with ship security activities;
- (h) procedures for modifying the plan to correct deficiencies or to update the plan to take into account changes to the port service provider;
- (i) procedures for reporting —
  - (i) maritime transport security incidents; and
  - (ii) other occurrences that threaten the security of the port service provider;
- (j) measures to ensure the security of the information contained in the plan;
- (k) measures to ensure security of passengers, cargo and cargo handling equipment under the control of the port service provider;
- (l) procedures in case the ship security alert system of a ship is activated while in the security regulated port.

### Consultation

49. A maritime security plan for a port service provider must set out, for the purpose of coordinating security-related activities, a mechanism for consultation —

- (a) between the provider and each port operator for the security regulated port in which the port service provider is located or operates;
- (b) between the provider and each port facility operator and port service provider conducting operations within the security regulated port in which the port service provider is located or operates;
- (c) between the provider and any other stakeholder who may be affected by the implementation of the plan; and
- (d) between the provider and its employees, or their representatives, regarding security measures and procedures to be implemented.

### Maritime security level 1

50. A maritime security plan for a port service provider must set out, in relation to maritime security level 1 —

- (a) the security measures, identified in the security assessment for the operation, for implementation at that level;
- (b) the measures that have been implemented;
- (c) a schedule for implementing the measures that have not been implemented; and
- (d) any interim measures that will be implemented until the measures mentioned in paragraph (c) are fully implemented.

**Maritime security levels 2 and 3**

51. A maritime security plan for a port service provider must set out, in relation to maritime security levels 2 and 3 —

- (a) the security measures identified in the security assessment for the operation, for implementation at those levels; and
- (b) the additional security measures that the provider will implement if the Director-General declares that maritime security level 2 or 3 is in force for the port.

**Declarations of security**

52. A maritime security plan for a port service provider must provide for—

- (a) the circumstances in which the provider will request a declaration of security with a ship;
- (b) the procedures for negotiating the security measures and responsibilities of the provider and of the ship in those circumstances; and
- (c) how security measures identified in a declaration will be implemented to ensure compliance by the provider and the ship with their security plans and with the declaration.

*Subdivision 2—Form of plan***Map of port service provider**

53. The map that must accompany a maritime security plan for a port service provider in terms of regulation 46(2) must be of a size and scale that clearly shows—

- (a) the boundaries of the area under the control of the port service provider; and
- (b) the location of any security zones established, or that the provider wishes to establish or change, within the area covered by the plan.

**Protection of plan**

54. A port service provider must ensure that the maritime security plan for the provider is protected against unauthorised access, amendment and disclosure.



**PART 3—SHIP SECURITY PLANS AND ISSCs*****Division 1—Matters to be dealt with in ship security plan*****Identification of ship**

55. A ship security plan must be accompanied by a document setting out the following information about the ship:

- (a) the ship's name;
- (b) the ship's official number;
- (c) the ship's IMO ship identification number (if any);
- (d) any other distinctive numbers or letters that identify the ship;
- (e) type of ship;
- (f) radio call sign;
- (g) date, and port, of registry;
- (h) year built;
- (i) deadweight tonnage;
- (j) gross tonnage;
- (k) length and breadth of ship;
- (l) summer draft;
- (m) number of crew;
- (n) number of passenger berths.

**Security assessments**

56. A ship security assessment for a South African regulated ship must include the following matters:

- (a) the date when the assessment was completed or reviewed;
- (b) the scope of the assessment, including assets, infrastructure and operations assessed;
- (c) a summary of how the assessment was conducted, including details of the risk management process adopted;
- (d) the skills and experience of the key persons who completed or participated in the assessment;
- (e) the results of the examination and evaluation of the existing shipboard protective measures, procedures and operations;
- (f) a statement outlining the risk context or threat situation for the ship, including consideration of trading routes;
- (g) identification and evaluation of key shipboard operations that need to be protected;

- (h) identification of possible risks or threats to the key shipboard operations and the likelihood and consequences of their occurrence;
- (i) identification of existing security measures, procedures and operations;
- (j) identification of weaknesses (including human factors) in the infrastructure, policies and procedures;
- (k) identification, selection and prioritisation of possible risk treatments (for example, counter-measures and procedural changes that need to be implemented) and their effectiveness in reducing risk levels and vulnerabilities.

#### **Ship operator, CSO and SSO**

57. (1) A ship security plan must be accompanied by a document setting out—

- (a) the name of the ship operator;
- (b) the name of the Chief Executive Officer of the ship operator;
- (c) the name or position of the person who is to be the CSO for the ship;
- (d) a single 24-hour fixed-line or mobile telephone number for the CSO; and
- (e) the name or position of the person who is to be the SSO for the ship.

(2) A ship security plan must set out the duties and responsibilities of the CSO and SSO and may set out duties and responsibilities that are in addition to the duties and responsibilities of a CSO and SSO in sections A/11.2 and A/12.2, respectively, of the ISPS Code.

(3) A ship security plan must set out how the CSO will communicate with the master of the ship if the Director-General or a maritime industry participant acting on behalf of the Director-General —

- (a) gives notice that a maritime security level is in force for the ship; or
- (b) gives a security direction to the ship.

#### **Obligation to keep information current**

58. (1) A ship operator must, within two working days after the ship operator becomes aware of a change in any of the information given under item 55 or 57, notify the Director-General, in writing, of the change.

(2) A ship operator who, without reasonable excuse, fails to comply with subitem (1) commits an offence punishable upon conviction by a fine or by imprisonment for a period not exceeding six months.

#### **Shore-based personnel and crew with security role**

59. (1) A ship security plan must identify, by reference to their positions, shore-based personnel and crew (including the master) with security duties and responsibilities in addition to those of the CSO and SSO.

(2) The security duties and responsibilities of personnel and crew so identified must be set out in the plan, together with —

- (a) the knowledge, skills and other requirements for the security-related aspects of their positions; and
- (b) the training or qualifications that satisfy the requirements mentioned in paragraph (a).

### **Training**

60. A ship security plan must set out the training that a CSO, SSO, and shore-based personnel and crew mentioned in item 59 must receive.

### **Matters that must be in plan**

61. A ship security plan must address the following matters:

- (a) measures to prevent unauthorised carriage or possession of weapons or prohibited items on board the ship;
- (b) identification of on-board security zones;
- (c) measures to prevent unauthorised access to the ship and any on-board security zones;
- (d) procedures for responding to security threats or breaches of security, including procedures for maintaining critical operations of the ship or ship/port interface;
- (e) procedures for—
  - (i) acknowledging, and responding to, directions given by the Director-General or a Convention State; and
  - (ii) acknowledging notifications of the security level in force from the Director-General or a Convention State;
- (f) procedures for evacuation of the ship in case of security threats or breaches of security;
- (g) procedures for drills and exercises associated with the plan;
- (h) procedures for interfacing with port, port service and port facility security activities;
- (i) procedures for modifying the plan to correct deficiencies or to update the plan to take into account changes to the ship;
- (j) procedures for reporting —
  - (i) maritime transport security incidents; and
  - (ii) other occurrences that threaten the security of the ship;
- (k) measures to ensure the security of the information contained in the plan.

### **Maritime security level 1**

62. A ship security plan must set out, in relation to maritime security level 1 —

- (a) the security measures identified in the ship security assessment for implementation at that level;
- (b) the measures that have been implemented;
- (c) a schedule for implementing the measures that have not been implemented; and
- (d) any interim measures that will be implemented until the measures mentioned in paragraph (c) are fully implemented.

#### **Maritime security levels 2 and 3**

63. A ship security plan must set out, in relation to maritime security levels 2 and 3 —

- (a) the security measures identified in the ship security assessment for implementation at those levels; and
- (b) the additional security measures that the ship will implement if the Director-General declares that maritime security level 2 or 3 is in force for the ship.

#### **Declarations of security**

64. A ship security plan must provide for —

- (a) the circumstances in which the ship will request a declaration of security with another ship or person;
- (b) the procedures for negotiating the security measures and responsibilities of the ship and of the other ship or person in those circumstances; and
- (c) how security measures identified in a declaration will be implemented to ensure compliance by the parties with their security plans and with the declaration.

#### **Security of ship in non-ISPS Code compliant ports**

65. (1) This item applies if it is envisaged by the ship operator that a South African regulated ship may call at ports or locations that are not port facilities or are port facilities the operators of which are not required to have, or do not have, security plans.

(2) A ship security plan must outline specific measures that will be implemented if the ship calls at ports or locations described in subitem (1) so that any risks associated with those ports or locations are not transferred to the ship.

#### **Security of ship in exceptional circumstances**

66. A ship security plan must give sufficient guidance on how the security of the ship will be maintained in exceptional circumstances such as search and rescue operations, humanitarian crises, extreme weather conditions and other emergencies.