

NIGERIAN MARITIME LAW ASSOCIATION

ANSWERS TO QUESTIONS

- 1). The Maritime Safety Administration of Nigeria which is the National Maritime Authority (NMA).
- 2) (i) Preliminary Investigation (PI) is carried out by the Maritime Safety Department. The P.I Report is forwarded to the Federal Ministry of Transport for a Marine Board of Enquiry to be set up to further investigate the accident.

(ii) The Federal Ministry of Transport guided by the provisions of Sections 252 (1-8) Cap 224 of Merchant Shipping Act (MSA). Law of the Federation 1990 sets up a Marine Board of Enquiry. A public notice is issued by the Marine Board of Enquiry requesting for memorandum and relevant witnesses to be present at its sitting
- 3) The Marine Board of enquiry at the end of the exercise brings out a report recommending what action/charges for the State to execute against any ship personnel involved in the maritime accident and or it is the duty of the state to initiate criminal charges against erring ships personnel.
- 4) (i) In cases of Marine Accident the family of the deceased person(s) on the identification of the ships personnel responsible may bring a criminal action on their own. Where the marine personnel is a foreigner the owner of the vessel will be sued.

(ii) In cases of Marine Pollution: -The state has the right to sue the owners of the ships or their agents.
- 5) There are some circumstances where the police can detain Seafarers under "Holding Charge" e.g. illegal lifting of oil, illegal carrying of arms etc. They have to be charged or arraigned before a court within 48 hours. In which case, they will have access to their legal representatives.
- 6) In most circumstances the state will not permit Seafarers to leave until after the Preliminary Inquiry (PI) and the marine Board of Investigation is concluded
- 7) The state is very reluctant to accept a financial surety and will rather keep the Seafarer within its territory.

- 8) The Maritime Safety Administration -NMA and the Joint Maritime labour Industrial Council (JOMALIC) both have the legal responsibility for the protection, rights and welfare of all Seafarers.
- i) The NMA is empowered under Chapters 9 Sections 45-51, Chapter 10 Sections 52-61, Chapter 11 Sections 62-67, Chapter 12 Sections 68-77, Chapters 15 Sections 83-92, Chapter 16 Sections 93-104, Chapter 18 Sections 106-110, Chapter 21 Sections 123-126 of the Merchant Shipping Act, cap 224 Laws of the Federation of Nigeria 1990.
 - ii) The JOMALIC is empowered under the Nigerian Maritime Labour Act 2003 in the following sections: -
 - 1) Part V -Registration of Seafarers and Seafarers employers
 - 2) Part IX -Establish of a pool of dock workers and Seafarers
 - 3) Part X -Establishment of a Maritime Labour welfare disengagement Fund
 - 4) Part VII -Conditions of Service of dock workers and Seafarers
 - 5) Part VIII Section 26- Wages and Remuneration.
- 9) The role of the vessel crew members held
- i) The crew members held responsible will give evidence during the Preliminary Inquiry which is carried out by the Administration.
 - ii) They are also enquired to give evidence as key witnesses before the marine Board of Inquiry.
- 10) The state will proceed only the pollution damage Claims under the International Civil Liability and Compensation system.
- 11) Not applicable
- 12) The state will Claim for Compensation under the International Civil Liability and Compensation system.

- 13) a) To enable the Administration carry out the Preliminary Inquiry and forward Report of its investigation to the Federal Ministry of Transport. Consequently a marine Board of Enquiry is set to further interview the crew members as witnesses to the marine incident.
- b) The arrested crew members may be allowed to stay on board their vessel if the ship is still habitable, and the Ship Agent may also be allowed to sort out their accommodations. The state usually withholds the passport of the crew and allow them to freely move around within the state. They are also allowed access to their lawyers.
- c) Under Section 387 of the Merchant Shipping Act- Notice of detention of a foreign ship is given to the consular officer for the country to which the ship belongs at or nearest to the port where the ship is for the time being and such notice shall specify the grounds on which the ship has been detained or the proceedings have been taken.
- d) The detention period depends on the time the PI and the marine Board of Investigation is concluded.
- e) The Seafarers are not necessarily under detention by the state except that they are not allowed to leave the country. They have access to their agents, lawyers etc.
- f) They have access to their agents, lawyers, family members etc
- g) They have full access to all persons mentioned here.
- h) The relevant Seafarers are "Cautioned" and put under oath like any other witness.