

**REPORTING MARINE ACCIDENTS
AND THE MARINE SAFETY ACT 1998
AND THE MARINE SAFETY (GENERAL) REGULATIONS 2009.**

The provisions of the Marine Safety Act 1998 (the Act) came into operation on the 30th March 2009.

The Marine Safety (General) Regulations 2009, (The Regulations) also came into force on the 30th March 2009.

They may be accessed at www.legislation.nsw.gov.au

The Act and Regulations replace the obligation under section 30G of the Maritime Services Act 1935 to report marine accidents involving death or injury or damage exceeding \$100.

The Act and Regulations also replace the provisions of a Memorandum of Understanding between NSW Maritime and Yachting NSW which related to collisions between racing vessels. The MUO was not widely circulated or understood by Clubs.

Under section 99 (1) of the Act a master and owner have an obligation to report a marine accident.

Regulation 96 sets out the conditions where a report is not required, and is therefore required in all other circumstances, and substantially changes the reporting requirements. It has particular relevance to racing yachts competing subject to an Aquatic Licence granted to a Club.

It is important that each competitor involved in a marine accident should ensure the Club's racing is conducted under an Aquatic Licence granted to the Club.

Three separate situations are referred to in Regulation 96 and these are set out in the following Table and state the conditions where a report IS required.

Types of vessels involved	Conditions for reporting
Vessels two or more ALL of which are NOT racing.	Fatality or personal injury or Damage exceeds \$5000
Vessels two or more of which ALL are racing	Fatality or personal injury or Damage exceeds \$5000
Vessels one of which is racing and one of which is not racing	Fatality or personal injury or Damage exceeds \$5000

Protest Committees are reminded that they have the power under RRS 60.3(a) 1, to hear an invalid protest if the incident involves injury or serious damage. "Serious damage" for the purposes of the racing rules of sailing may be substantially less than the amount stated in Government Regulation 96.

Competitors are reminded that the RRS are not designed for the purpose of resolving or obtaining decisions for the purposes of insurance claims. RRS 68 clearly states that the question of damages is for the appropriate courts of law.