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CAPE TOWN, 28 SEPTEMBER 1998

KAAPSTAD, 28 SEPTEMBER 1998

No. **19287**

OFFICE OF THE PRESIDENT

No. 1210. 28 September 1998

It is hereby notified that the Acting President has assented to the following Act which is hereby published for general information:—

No. 57 of 1998: Shipping Laws Amendment Act, 1998.

KANTOOR VAN DIE PRESIDENT

No. 1210. 28 September 1998

Hierby word bekend gemaak dat die Waarnemende President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 57 van 1998: Wysigingswet op Skeepvaartwette, 1998.

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GENERAL EXPLANATORY NOTE:

[ ] Words in bold type in square brackets indicate omissions from existing enactments.

Words underlined with a solid line indicate insertions in existing enactments.

ACT

To amend the Merchant Shipping Act, 1951, so as to give effect to the 1995 amendments to the International Convention on Training, Certification and Watchkeeping for Seafarers, 1978; to amend the Marine Pollution (Prevention of Pollution from Ships) Act, 1986, so as to give effect to amendments to the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973; and to provide for incidental matters.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 2 of Act 57 of 1951, as amended by section 3 of Act 30 of 1959, section 31 of Act 69 of 1962, section 1 of Act 40 of 1963, section 1 of Act 13 of 1965, section 1 of Act 42 of 1969, section 1 of Act 24 of 1974, section 1 of Act 5 of 1976, section 1 of Act 3 of 1981, section 1 of Act 3 of 1982, section 1 of Act 25 of 1985, section 1 of Act 18 of 1992, section 1 of Act 16 of 1995, section 1 of Act 49 of 1996, section 1 of Act 23 of 1997 and section 2 of Act 5 of 1998

1. Section 2 of the Merchant Shipping Act, 1951, is amended by the substitution for the definition of "STCW Convention" of the following definition:

" 'STCW Convention' means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers done at London on 7 July 1978, **[the English text of which is set forth in the Fifth Schedule]** as modified by any amendment made under Article XII of that Convention that has entered into force for the Republic;".

Amendment of section 3 of Act 57 of 1951, as amended by section 4 of Act 30 of 1959, section 32 of Act 69 of 1962, section 2 of Act 40 of 1963, section 2 of Act 13 of 1965, section 2 of Act 25 of 1985, section 2 of Act 18 of 1992, section 1 of Act 49 of 1996 and section 2 of Act 23 of 1997

2. Section 3 of the Merchant Shipping Act, 1951, is amended by the substitution for paragraph *(a)* of subsection (12) of the following paragraph:

"*(a)* every owner and master of any vessel, and every user, employer and employee;".

Amendment of section 9 of Act 57 of 1951, as amended by section 7 of Act 30 of 1959 and section 3 of Act 18 of 1992

3. Section 9 of the Merchant Shipping Act, 1951, is amended by the substitution for paragraph (i) of subsection (1) of the following paragraph:

"(i) board any South African ship wherever she may be, or any ship other than a South African ship while she is within the Republic or the territorial waters of the Republic, and inspect the same or any part thereof, or any equipment thereof, or any articles on board, or any log-books, certificates or other documents relating to the ship or the crew thereof, and muster the crew of the ship and interrogate them, and require the master and crew to demonstrate the related competency at their place or places of duty;".

Substitution of heading of Chapter III of Act 57 of 1951

4. The following heading is substituted for the heading of Chapter III of the Merchant Shipping Act, 1951:

"CHAPTER III

CERTIFICATES OF COMPETENCY, SERVICE AND QUALIFICATION".

Amendment of section 73 of Act 57 of 1951, as amended by section 15 of Act 30 of 1959, section 37 of Act 69 of 1962, section 11 of Act 40 of 1963, section 4 of Act 5 of 1976, section 1 of Act 3 of 1989 and section 2 of Act 5 of 1998

5. Section 73 of the Merchant Shipping Act, 1951, is amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) Subject to the provisions of this section, the owner and the master of every South African ship operating at a port in the Republic or going to sea from any port whatsoever shall ensure that there is employed on board that ship, in their appropriate capacities, the number of officers and other persons, duly certificated as prescribed by regulation, or deemed to be so certificated.";

(b) by the substitution for subsections (4), (5) and (6) of the following subsections, respectively:

"(4) *(a)* Subject to paragraph *(b)*, the owner and the master of every ship other than a South African ship operating at a port in the Republic or going to sea from any such port shall ensure that there is employed on board that ship, in their appropriate capacities, a master and so many ships' officers and other persons holding certificates of such descriptions as prescribed by the law of the flag of the ship.

(b) Notwithstanding paragraph *(a)*, subsection (1) shall apply in relation to a ship referred to in that paragraph as if it were a South African ship, if—

(i) the matters contemplated in that paragraph are not prescribed by the law of the flag of the ship; or

(ii) having regard to—

(aa) the complement normally carried by similar ships on similar voyages;

(bb) the complement which the ship in question has recently carried on previous voyages; and

(cc) the nature and place of the service for which the ship is intended,

the proper officer has reason to believe that the ship is not sufficiently and efficiently manned.

(5) No person who has been engaged for the purpose of subsection (1) or (2) as master, **[or]** ship's officer or rating shall **[go to sea]** act as such unless he is duly certificated, or deemed to be so certificated, in terms of this Act.

(6) No person shall for the purpose of subsection (1) or (2) employ a master, **[or]** ship's officer or rating as such without first ascertaining that he is duly certificated, or deemed to be so certificated, in terms of this Act.''; and

(c) by the deletion of subsection (8).

Amendment of section 74 of Act 57 of 1951, as amended by section 38 of Act 69 of 1962

6. Section 74 of the Merchant Shipping Act, 1951, is amended by the substitution for subsection (1) of the following subsection:

''(1) Subject to the provisions of sections 83 and 84, a master, ships' officer or rating shall not be deemed to be duly certificated as such for the purposes of this Act, unless he is the holder for the time being in the case of a—

(a) master or ships' officer, of a valid certificate of competency or certificate of service, issued in terms of this Act, of a grade appropriate to the ship in which he is employed and to his station in the ship, or of a higher grade; or

(b) rating, of a valid certificate of qualification, issued or recognised in terms of this Act.''.

Repeal of section 75 of Act 57 of 1951, as amended by section 12 of Act 40 of 1963

7. Section 75 of the Merchant Shipping Act, 1951, is repealed.

Substitution of section 77 of Act 57 of 1951, as amended by section 39 of Act 69 of 1962, section 4 of Act 13 of 1965 and section 2 of Act 5 of 1998

8. The following section is substituted for section 77 of the Merchant Shipping Act, 1951:

''Examination for certificates of competency and qualification

77. (1) Examinations of applicants for certificates of competency and qualification under this Act shall be held **[in]** at such places in the Republic and at such times as the Authority may determine and under such conditions as may be prescribed by regulation.

(2) No person shall be admitted to examination for a certificate of competency or qualification unless he **[produces proof that he is a South African citizen or a citizen of a treaty country (other than the Republic) and]** possesses the qualifications, and satisfies such other conditions, if any, prescribed by regulation **[Provided that the Authority may, in its discretion and subject to any conditions which it may impose, admit to such examination a person who is a citizen of any other country if he possesses either the qualifications prescribed by regulation or qualifications which are in the opinion of the Authority of a standard not lower than those so prescribed]**.

(4) The Authority may appoint examiners for the conduct of such examinations, and remove any examiner so appointed.''.

Substitution of section 78 of Act 57 of 1951

9. The following section is substituted for section 78 of the Merchant Shipping Act, 1951:

''Granting of certificates of competency and qualification after examination

78. (1) Subject to the provisions of subsection (2), the Authority may grant a certificate of competency or certificate of qualification, as the case

may be, to every applicant who passes the examination prescribed for the certificate satisfactorily, and produces satisfactory evidence that he possesses the qualifications and satisfies such other conditions, if any, prescribed for the holder of the certificate and of his sobriety, experience, ability, physical fitness and general good conduct.

(2) The Authority may, at any time before the delivery of a certificate, require a re-examination of the applicant by the examiners who made the examination or by any other examiners, and order a further enquiry into his testimonials or character or both, and if not satisfied with the result may order that a certificate be not granted to him.''.

Repeal of section 79 of Act 57 of 1951, as amended by section 40 of Act 69 of 1962, section 13 of Act 40 of 1963, section 5 of Act 13 of 1965 and section 2 of Act 5 of 1998

10. Section 79 of the Merchant Shipping Act, 1951, is repealed.

Substitution of section 81 of Act 57 of 1951, as amended by section 15 of Act 40 of 1963

11. The following section is substituted for section 81 of the Merchant Shipping Act, 1951:

''Form and record of certificates of competency, service and qualification

81. (1) All certificates of competency, **[or]** service and qualification shall be made in the prescribed form.

(2) A record of certificates of competency, **[or]** service and qualification granted **[and of the suspension, cancellation or alteration thereof]** and of any **[other]** matter affecting them shall be kept in such manner as the Authority directs.

(3) Any such certificate and any record kept in terms of subsection (2) shall be admissible in evidence.''.

Substitution of section 82 of Act 57 of 1951

12. The following section is substituted for section 82 of the Merchant Shipping Act, 1951:

''Loss of certificates of competency, service or qualification

82. If any person proves to the satisfaction of the Authority that he has lost or been deprived of a valid certificate of competency, **[or]** service or qualification granted him under this Act or the Merchant Shipping (Certificates of Competency) Act, 1925 (Act No. 45 of 1925), the Authority may, upon payment of such fee as may be prescribed, issue to that person a certified copy of the said certificate, and such copy shall be regarded as having the same force and effect as the original.''.

Substitution of section 83 of Act 57 of 1951, as amended by section 41 of Act 69 of 1962, section 16 of Act 40 of 1963, section 8 of Act 42 of 1969 and section 2 of Act 5 of 1998

13. The following section is substituted for section 83 of the Merchant Shipping Act, 1951:

''Certificates granted by competent foreign authorities

83. (1) A master or a ships' officer who holds a valid certificate of competency or service granted to him by a competent authority in another country shall not be engaged as such on a South African ship, except as

authorised under subsection (2) or by regulation; and while any such authorization remains in force, and if the conditions under which it was granted are complied with, the person so engaged shall be deemed to be duly certificated under this Act in respect of such ship, provided his certificate is of a grade appropriate to his station in such ship, or of a higher grade.

(2) If the Authority is satisfied that a certificate referred to in subsection (1) is of corresponding value to any certificate of competency or service granted under this Act, it may, with or without conditions, permit the engagement on a South African ship of a person who is the holder of such a certificate, and who possesses a knowledge of an official language of the Republic sufficient to enable him to communicate effectively in the performance of his duties.".

Amendment of section 84 of Act 57 of 1951, as amended by section 42 of Act 69 of 1962

14. Section 84 of the Merchant Shipping Act, 1951, is amended—

(a) by the deletion in subsection (1) of the proviso; and

(b) by the deletion of subsection (3).

Substitution of section 85 of Act 57 of 1951, as amended by section 17 of Act 40 of 1963 and section 2 of Act 5 of 1998

15. The following section is substituted for section 85 of the Merchant Shipping Act, 1951:

"Authority may vary requirements as to certificates

85. Notwithstanding the provisions of section 73 the Authority may, in its discretion and for such periods and under such conditions as it may specify if it is satisfied that no suitable holder of a certificate of the required grade and granted under this Act or referred to in section 83 or 84 **[or recognized under section 354]** is available, permit a South African ship to go to sea from any port whatsoever or a ship other than a South African ship to go to sea from a port in the Republic without the prescribed number of certificated officers or other persons, and while any such permission remains in force any person who acts in terms thereof shall not, if the conditions under which it was granted are complied with, be deemed to have contravened the provisions of section 73.".

Amendment of section 86 of Act 57 of 1951, as amended by section 18 of Act 40 of 1963 and section 2 of Act 3 of 1982

16. Section 86 of the Merchant Shipping Act, 1951, is amended by the substitution for paragraph *(b)* of subsection (2) of the following paragraph:

"(b) of a ship other than a South African ship to which the provisions of subsection **[(1) or]** (4) of the said section apply, upon going to sea from a port in the Republic,".

Amendment of section 87 of Act 57 of 1951, as amended by section 2 of Act 5 of 1998

17. Section 87 of the Merchant Shipping Act, 1951, is amended by the substitution for subsections (1) and (2) of the following subsections, respectively:

"(1) If, at any time, it appears to the proper officer that owing to ill-health or mental or physical defect the holder of a certificate of competency, **[or]** service or qualification is unfit to perform the duties required of him, the proper officer may require him to submit himself to examination by a medical practitioner approved by the Authority.

(2) If after consideration of the report on the medical examination the Authority is satisfied that the person concerned is owing to continued ill-health or mental or

physical defect incapable of performing satisfactorily the duties appertaining to his certificate of competency, **[or]** service or qualification it may direct that until it is satisfied that the holder of the certificate has again become capable of performing satisfactorily the duties appertaining to the said certificate, the holder shall not be engaged or go to sea in the capacity referred to in the certificate or in any other capacity specified by the Authority.''.

Amendment of section 88 of Act 57 of 1951

18. Section 88 of the Merchant Shipping Act, 1951, is amended by the substitution for the words preceding paragraph *(a)* of the following words:

''Notwithstanding anything contained in this Act, the Authority may cancel or suspend a certificate of competency, **[or]** service or qualification—''.

Amendment of section 89 of Act 57 of 1951

19. Section 89 of the Merchant Shipping Act, 1951, is amended by the substitution for subsection (1) of the following subsection:

''(1) Any person in respect of whom any direction has been given under section 87 or whose certificate of competency, **[or]** service or qualification has been cancelled or suspended under section 88 may appeal against the direction, cancellation or suspension to the high court within the area of jurisdiction of which that person resides, and that court may confirm, set aside or vary the direction, cancellation or suspension.''.

Amendment of section 101 of Act 57 of 1951, as amended by section 17 of Act 30 of 1959 and section 4 of Act 18 of 1992

20. Section 101 of the Merchant Shipping Act, 1951, is amended—

(a) by the substitution for subsection (1) of the following subsection:

''(1) Subject to the provisions of this section, the master of a South African ship shall not engage a seaman to serve in that ship unless there has been delivered to the master a certificate, valid in terms of subsection (3), signed by a medical practitioner approved by the Authority from which it appears that the seaman has been examined **[that he is physically fit to serve in the capacity in which it is proposed to employ him, and that he is not suffering from any disease likely to be aggravated by, or to render him unfit for, service at sea or likely to endanger the health of other persons on board]** in accordance with the regulations and found to comply with the prescribed medical standards.'';

(b) by the deletion of subsection (2);

(c) by the substitution for subsection (3) of the following subsection:

''(3) The certificate shall remain in force for the prescribed period.''; and

(d) by the deletion of subsection (8).

Repeal of section 112 of Act 57 of 1951, as amended by section 23 of Act 40 of 1963, section 4 of Act 3 of 1981, section 9 of Act 3 of 1982 and section 2 of Act 5 of 1998

21. Section 112 of the Merchant Shipping Act, 1951, is repealed.

Repeal of section 159 of Act 57 of 1951

22. Section 159 of the Merchant Shipping Act, 1951, is repealed.

Amendment of section 221 of Act 57 of 1951, as amended by section 49 of Act 69 of 1962, section 40 of Act 40 of 1963 and section 13 of Act 18 of 1992

23. Section 221 of the Merchant Shipping Act, 1951, is amended—

(a) by the substitution for subsections (1) and (2) of the following subsections, respectively:

"(1) The owner and the master of every South African ship operating at a port in the Republic or going to sea from any port whatsoever shall ensure that, in addition to the ships' officers and other persons which in terms of section 73 must be employed on board that ship, there are employed as crew the number and description of persons prescribed.

(2) *(a)* Subject to paragraph *(b)*, the owner and the master of every ship other than a South African ship operating at a port in the Republic or going to sea from any such port shall ensure that, in addition to the ships' officers and other persons which in terms of section 73(4) must be employed on board that ship, there are employed as crew the number and descriptions of persons prescribed by the law of the flag of the ship.

(b) Notwithstanding paragraph *(a)*, subsection (1) shall apply to a ship referred to in that paragraph, as if it were a South African ship, if—

(i) the matters contemplated in that paragraph are not prescribed by the law of the flag of the ship; or

(ii) having regard to—

(aa) the complement normally carried by similar ships on similar voyages;

(bb) the complement which the ship in question has recently carried on previous voyages; and

(cc) the nature and place of the service for which the ship is intended,

the proper officer has reason to believe that the ship is not sufficiently and efficiently manned."; and

(b) by the deletion of subsection (3).

Amendment of section 222 of Act 57 of 1951, as amended by section 50 of Act 69 of 1962

24. Section 222 of the Merchant Shipping Act, 1951, is amended by the substitution for subsection (1) of the following subsection:

"(1) No person shall be employed as a radio officer or operator of a radio installation on any South African ship **[unless he is a South African citizen or a citizen of a treaty country (other than the Republic) or his employment has, in any special case, been authorized by the Postmaster-General, and]** unless he holds an appropriate certificate of proficiency issued or approved in accordance with the **[radio]** regulations.".

Amendment of section 223 of Act 57 of 1951, as amended by section 27 of Act 13 of 1965 and section 14 of Act 18 of 1992

25. Section 223 of the Merchant Shipping Act, 1951, is amended by the substitution for subsection (1) of the following subsection:

"(1) If upon the inspection of a vessel a surveyor finds that the provisions of section 73 or 221 or of the maritime occupational safety regulations are not being complied with, or that the vessel is not equipped as required by the construction regulations, the life-saving equipment regulations, the radio regulations, the collision regulations or any other applicable regulations which may have been made or not marked as required by the load line regulations, or that the equipment is not in good condition, or that the deck lines or load lines are not being properly maintained, or that the **[qualified staff required by the radio regulations for the operation of the radio installation is not provided]** master and crew cannot demonstrate the related competency at their place or places of duty, he shall give notice in writing to that effect to the owner or master, pointing out the deficiencies or defects and requiring that they be made good.".

Repeal of section 354 of Act 57 of 1951, as amended by section 60 of Act 69 of 1962

26. Section 354 of the Merchant Shipping Act, 1951, is repealed.

Amendment of section 356 of Act 57 of 1951, as amended by section 42 of Act 30 of 1959, section 59 of Act 40 of 1963, section 6 of Act 24 of 1974, section 11 of Act 5 of 1976, section 19 of Act 3 of 1982, section 9 of Act 25 of 1985, section 32 of Act 18 of 1992, section 7 of Act 16 of 1995 and section 15 of Act 23 of 1997

27. Section 356 of the Merchant Shipping Act, 1951, is amended—

(a) by the substitution for subparagraph *(a)* of paragraph (xiii) of subsection (1) of the following subparagraph:

"*(a)* the scope and conduct of examinations to be passed by a person desiring the grant under this Act of a certificate of competency or qualification **[as a ship's officer, an able seaman, a lifeboatman, a ship's cook or a ship's steward, or any other certificate of competency or qualification]** of any description testifying to his ability to perform work or duties of a particular kind on board a ship, and the standards required for passing;";

(b) by the insertion in subsection (1) after paragraph (xiii) of the following paragraphs, respectively:

"(xiiiA) regulating the recognition of certificates of competency or service granted by other competent authorities;

(xiiiB) as to the approval by specified persons of seafarer training institutions and training courses;"; and

(c) by the insertion after subsection (3) of the following subsection:

"(4) *(a)* Any regulation made under subsection (1) or (2) may make provision in terms of any document which the Minister or any person considers relevant from time to time, without stating the text thereof, by mere reference to the number, title and year of issue of that document or to any other particulars by which that document is sufficiently identified.

(b) References in the regulations to any such document shall, unless expressly stated otherwise, be references to that document as revised or re-issued from time to time.

(c) A copy of the complete text of each such document, as revised or re-issued from time to time, shall be kept at such places in the Republic as the Authority directs and shall be available for public inspection.

(d) The provisions of section 31 of the Standards Act, 1993 (Act No. 29 of 1993), shall not affect the operation of this section.".

Amendment of section 356*bis* of Act 57 of 1951, as amended by section 60 of Act 40 of 1963, section 20 of Act 3 of 1982, section 33 of Act 18 of 1992 and section 16 of Act 23 of 1997

28. Section 356*bis* of the Merchant Shipping Act, 1951, is amended—

(a) by the substitution for subsections (1) and (2) of the following subsections, respectively:

"(1) The provisions of the Safety Convention **[and the STCW Convention]** shall, subject to the provisions of this Act, have the force of law in the Republic.

(2) The Minister shall, as soon as practicable after the entry into force for the Republic of any amendment to the Safety Convention, **[or the STCW Convention]** by notice in the *Gazette* amend the **[appropriate]** Second Schedule to reflect such amendment."; and

(b) by the deletion in subsection (3) of the following words:

"**[and the STCW Convention]**".

Repeal of section 356*ter* of Act 57 of 1951, as amended by section 34 of Act 18 of 1992 and section 17 of Act 23 of 1997

29. (1) Section 356*ter* of the Merchant Shipping Act, 1951, is repealed.

(2) After the commencement of this section, any standard incorporated in the regulations in terms of that section is regarded to be a document referred to in section 356(4) of the said Act.

Repeal of section 356*quat* of Act 57 of 1951, as amended by section 9 of Act 16 of 1995

30. (1) Section 356*quat* of the Merchant Shipping Act, 1951, is repealed.

(2) After the commencement of this section, any international shipping standard incorporated in the regulations in terms of that section is regarded to be a document referred to in section 356(4) of the said Act.

Repeal of Fifth Schedule to Act 57 of 1951

31. The Fifth Schedule to the Merchant Shipping Act, 1951, is repealed.

Amendment of Schedule to Act 2 of 1986

32. The Schedule to the Marine Pollution (Prevention of Pollution from Ships) Act, 1986, is amended to the extent indicated in the Schedule.

Short title and commencement

33. This Act is called the Shipping Laws Amendment Act, 1998, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

Schedule

(Section 32)

AMENDMENT OF THE SCHEDULE TO THE MARINE POLLUTION (PREVENTION OF POLLUTION FROM SHIPS) ACT, 1986: INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973, AS AMENDED BY THE PROTOCOL OF 1978, TO GIVE EFFECT TO AMENDMENTS AND ADDITIONS TO THE SAID PROTOCOL ADOPTED BY THE INTERNATIONAL MARITIME ORGANIZATION BY RESOLUTIONS MEPC.65(37) AND 68(38), WHICH ENTERED INTO FORCE ON 1 JULY 1997 AND 1 JANUARY 1998, RESPECTIVELY

Interpretation

1. In this Schedule ''the Convention'' means the Convention defined in section 1 of the Marine Pollution (Prevention of Pollution from Ships) Act, 1986 (Act No. 2 of 1986).

PART 1—MEPC.65(37)

Substitution of Regulation 2 of Annex V to Convention

2. The following Regulation is substituted for Regulation 2 of Annex V to the Convention:

"Regulation 2

Application

Unless expressly provided otherwise, the provisions of this Annex shall apply to all ships.''.

Addition of Regulation 9 to Annex V to Convention

3. The following Regulation is added to Annex V to the Convention:

"Regulation 9

Placards, garbage management and garbage record-keeping

(1) *(a)* Every ship of 12 metres or more in length overall shall display placards which notify the crew and passengers of the disposal requirements of regulations 3 and 5 of this Annex, as applicable.

(b) The placards shall be written in the official language of the State whose flag the ship is entitled to fly and, for ships engaged in voyages to ports or offshore terminals under the jurisdiction of the other Parties to the Convention, in English or French.

(2) Every ship of 400 tons gross tonnage and above, and every ship which is certified to carry 15 persons or more, shall carry a garbage management plan which the crew shall follow. This plan shall provide written procedures for collecting, storing, processing and disposing of garbage, including the use of the equipment on board. It shall also designate the person in charge of carrying out the plan. Such a plan shall be in accordance with the guidelines developed by the Organization and written in the working language of the crew.

(3) Every ship of 400 tons gross tonnage and above and every ship which is certified to carry 15 persons or more engaged in voyages to ports or offshore terminals under the jurisdiction of other Parties to the Convention and every fixed and floating platform engaged in exploration and exploitation of the sea-bed, shall be provided with a Garbage Record Book. The Garbage Record Book, whether as a part of the ship's official logbook or otherwise, shall be in the form specified in the Appendix to this Annex;

(a) each discharge operation, or completed incineration, shall be recorded in the Garbage Record Book and signed for on the date of the incineration or discharge by the officer in charge. Each completed page of the Garbage Record Book shall be signed by the master of the ship. The entries in the Garbage Record Book shall be both in an official language of the State whose flag the ship is entitled to fly, and in English or French. The entries in an official national language of the State whose flag the ship is entitled to fly shall prevail in case of a dispute or discrepancy;

(b) the entry for each incineration or discharge shall include date and time, position of the ship, description of the garbage and the estimated amount incinerated or discharged;

(c) the Garbage Record Book shall be kept on board the ship and in such a place as to be available for inspection in a reasonable time. This document shall be preserved for a period of two years after the last entry is made on the record;

(d) in the event of discharge, escape or accidental loss referred to in regulation 6 of this Annex an entry shall be made in the Garbage Record Book of the circumstances of, and the reasons for, the loss.

(4) The Administration may waive the requirements for Garbage Record Books for—

(i) any ship engaged on voyages of 1 hour or less in duration which is certified to carry 15 persons or more; or

(ii) fixed or floating platforms while engaged in exploration and exploitation of the sea-bed.

(5) The competent authority of the Government of a Party to the Convention may inspect the Garbage Record Book on board any ship to which this regulation applies while the ship is in its ports or offshore terminals and may make a copy of any entry in that book, and may require the master of the ship to certify that the copy is a true copy of such an entry. Any copy so made which has been certified by the master of the ship as a true copy of an entry in the ship's Garbage Record Book, shall be admissible in any judicial proceedings as evidence of the facts stated in the entry. The inspection of a Garbage Record Book and the taking of a certified copy by the competent authority under this paragraph shall be performed as expeditiously as possible without causing the ship to be unduly delayed.

(6) In the case of ships built before 1 July 1997, this regulation shall apply as from 1 July 1998.''.

Addition of Appendix to Annex V to Convention

4. The following Appendix is added to Annex V to the Convention:

"Appendix

FORM OF GARBAGE RECORD BOOK

Name of ship: .....

Distinctive number or letters: .....

IMO No.: .....

Period: From: ..... To: .....

1. Introduction

In accordance with Regulation 9 of Annex V of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78) a record is to be kept of each discharge operation or completed incineration. This includes discharges at sea, to reception facilities, or to other ships.

2. Garbage and garbage management

Garbage includes all kind of food, domestic and operational waste excluding

fresh fish and parts thereof, generated during the normal operation of the vessel and liable to be disposed of continuously or periodically except those substances which are defined or listed in other annexes to MARPOL 73/78 (such as oil, sewage or noxious liquid substances).

The Guidelines for the Implementation of Annex V of MARPOL 73/78 should also be referred to for relevant information.

3. Description of the garbage

The garbage is to be grouped into categories for the purposes of this record book as follows:

1. Plastics
2. Floating dunnage, lining, or packing material
3. Ground-down paper products, rags, glass, metal, bottles, crockery, etc.
4. Paper Products, rags, glass, metal, bottles, crockery, etc.
5. Food waste
6. Incinerator ash.

4.1 Entries in the Garbage Record Book

Entries in the Garbage Record Book shall be made on each of the following occasions:

(a) When garbage is discharged into the sea:
- (i) Date and time of discharge
- (ii) Position of the ship (latitude and longitude)
- (iii) Category of garbage discharged
- (iv) Estimated amount discharged for each category in m^3
- (v) Signature of the officer in charge of the operation.

(b) When garbage is discharged to reception facilities ashore or to other ships:
- (i) Date and time of discharge
- (ii) Port or facility, or name of ship
- (iii) Category of garbage discharged
- (iv) Estimated amount discharged for each category in m^3
- (v) Signature of officer in charge of the operation.

(c) When garbage is incinerated:
- (i) Date and time of start and stop of incineration
- (ii) Position of the ship (latitude and longitude)
- (iii) Estimated amount incinerated in m^3
- (iv) Signature of the officer in charge of the operation.

(d) Accidental or other exceptional discharges of garbage:
- (i) Time of occurrence
- (ii) Port or position of the ship at the time of occurrence
- (iii) Estimated amount and category of garbage
- (iv) Circumstances of disposal, escape or loss, the reason therefor and general remarks.

4.2 Receipts

The master should obtain from the operator of port reception facilities, or from the master of the ship receiving the garbage, a receipt or certificate specifying the estimated amount of garbage transferred. The receipts or certificates must be kept on board the ship with the Garbage Record Book for two years.

4.3 Amount of garbage

The amount of garbage on board should be estimated in m^3, if possible separately according to category. The Garbage Record Book contains many references to estimated amount of garbage. It is recognized that the accuracy of estimating amounts of garbage is left to interpretation. Volume estimates will differ before and after processing. Some processing procedures may not allow for a usable estimate of volume, e.g. the continuous processing of food waste. Such factors should be taken into consideration when making and interpreting entries made in a record.

RECORD OF GARBAGE DISCHARGES

Ship's name: ..... Distinctive No. or letters ..... IMO No.: .....

Garbage categories:

1: Plastic.
2: Floating dunnage, lining, or packing materials.
3: Ground-down paper products, rags, glass, metal, bottles, crockery, etc.
4: Paper products, rags, glass, metal, bottles, crockery, etc.
5: Food waste.
6: Incinerator ash.

NOTE: THE DISCHARGE OF ANY GARBAGE OTHER THAN FOOD WASTE IS PROHIBITED IN SPECIAL AREAS. ONLY GARBAGE DISCHARGED INTO THE SEA MUST BE CATEGORIZED. GARBAGE OTHER THAN CATEGORY 1 DISCHARGED TO RECEPTION FACILITIES NEED ONLY BE LISTED AS A TOTAL ESTIMATED AMOUNT.

Date/time	Position of the ship	Estimated amount discharged into sea (m^3)					Estimated amount discharged to reception facilities or to other ship (m^3)		Estimated amount incinerated (m^3)	Certification/ Signature
		CAT 2	CAT 3	CAT 4	CAT 5	CAT 6	CAT 1	Other		

Master's signature: ..... Date: .....''.

PART 2—MEPC.68(38)

Amendment of Article II of Protocol I to Convention

5. Article II of Protocol I to the Convention is amended by the substitution for Subarticle (1) of the following Subarticle:

"(1) The report shall be made when an incident involves—

(a) a discharge above the permitted level or probable discharge of oil or of noxious liquid substances for whatever reason including those for the purpose of securing the safety of the ship or for saving life at sea; or

(b) a discharge or probable discharge of harmful substances in packaged form, including those in freight containers, portable tanks, road and rail vehicles and shipborne barges; or

(c) damage, failure or breakdown of a ship of 15 metres in length or above which—

(i) affects the safety of the ship; including but not limited to collision, grounding, fire, explosion, structural failure, flooding, and cargo shifting; or

(ii) results to impairment of the safety of navigation; including but not limited to, failure or breakdown of steering gear, propulsion plant, electrical generating system, and essential shipborne navigational aids; or

(d) a discharge during the operation of the ship of oil or noxious liquid substances in excess of the quantity or instantaneous rate permitted under the present Convention.".