

REPUBLIC OF SOUTH AFRICA

**SOUTH AFRICAN MARITIME
SAFETY AUTHORITY LEVIES BILL**

(As introduced in the National Assembly)

(MINISTER OF FINANCE)

[B 18—98]

REPUBLIEK VAN SUID-AFRIKA

**WETSONTWERP OP HEFFINGS
VAN DIE SUID-AFRIKAANSE
MARITIEME
VEILIGHEIDSOWERHEID**

(Soos ingedien in die Nasionale Vergadering)

(MINISTER VAN FINANSIES)

[W 18—98]

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BILL

To provide for the imposition of levies by the South African Maritime Safety Authority; and for matters connected therewith.

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

Definitions

1. In this Act, unless the context indicates otherwise—
 - (i) “**Authority**” means the South African Maritime Safety Authority established by section 2(1) of the South African Maritime Safety Authority Act, 1998; (ii) 5
 - (ii) “**levy**” means an amount payable at intervals or at specified times by specified persons and based on—
 - (a) one or more of the following criteria, namely—
 - (i) gross tonnage of ship; 10
 - (ii) category of ship;
 - (iii) category of cargo;
 - (iv) age of ship;
 - (v) nationality of ship;
 - (vi) frequency of port calls by ship; and 15
 - (b) the presence of ships in the internal or territorial waters of the Republic otherwise than in innocent passage; (i)
 - (iii) “**Minister**” means the Minister of Transport; (ii)
 - (iv) “**ship**” means a ship as defined in section 2 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951). (iv) 20

Levies

2. (1) Subject to this section, the Authority may make determinations—
 - (a) imposing levies and specifying the persons by whom, and the times when, such levies are payable; and
 - (b) imposing the penalties for the purposes of subsection (7). 25
- (2) Before making a determination under subsection (1), the Authority must give the Minister notice in writing of the proposed determination—
 - (a) specifying the day from which the determination is intended to operate;
 - (b) if it imposes a levy or penalty, specifying the basis of such levy or penalty; and
 - (c) if it varies a levy or penalty, specifying the reason for the variation. 30
- (3) The Minister may, within 60 days after receiving a notice of the proposed determination, give the Authority notice in writing approving or disapproving the proposed determination, but when the Minister does so, the Minister must have regard to the objectives and functions of the Authority.
- (4) A notice under subsection (3) disapproving a proposed determination may 35 recommend an alternative determination.
- (5) The Authority may make a determination under subsection (1) only if—
 - (a) the Minister approves it; or

(b) the period within which the Minister may give notice to the Authority under subsection (3) has expired without the Minister having given such notice.

(6) A determination made under subsection (1) must be published in the *Gazette*.

(7) Subject to subsection (8), where a levy imposed under subsection (1) is not paid within the period determined by the Authority, being a period beginning on the day on which the levy becomes due, the person liable for the payment of the levy is liable to pay to the Authority, in addition to the levy, a penalty calculated upon the unpaid amount of the levy from the date on which the levy became due, and compounded. 5

(8) The penalties determined under subsection (1) may not exceed an amount equivalent to the percentage prescribed by regulation under the South African Maritime Safety Authority Act, 1998, of the unpaid amount of the levy for each day during which it remains unpaid, calculated from the date on which the levy became due, and compounded. 10

(9) Unpaid levies and penalties may be recovered as debts due to the Authority.

Minister to act or decide with concurrence of Minister of Finance 15

3. For the purposes of this Act, the Minister must act or decide with the concurrence of the Minister of Finance.

Short title and commencement

4. This Act is called the South African Maritime Safety Authority Levies Act, 1998, and comes into operation on a date fixed by the President by proclamation in the *Gazette*. 20

MEMORANDUM ON THE OBJECTS OF THE SOUTH AFRICAN MARITIME SAFETY AUTHORITY LEVIES BILL

1. This money Bill should be read together with the South African Maritime Safety Authority Bill [B116-97] (the SAMSA Bill), which proposes to establish a statutory body as a juristic person under the control of the Minister of Transport, called the South African Maritime Safety Authority (SAMSA), with the principal objectives to ensure the safety of life and property at sea and to prevent and combat pollution of the marine environment by ships. The functions of the Chief Directorate Shipping of the Department of Transport are proposed to be transferred to SAMSA.

2. The objects of this Bill are to empower SAMSA with the approval of the Minister of Transport and with the concurrence of the Minister of Finance to impose levies, and to impose penalties if the levies are not paid, to obtain revenue for its operations. In line with international practice, levies are to be based principally on the gross tonnage of ships, but provision is made for different levies to be imposed in respect of different categories of ships.

3. The reason why the content of this Bill is not included in the SAMSA Bill is that section 77(1) of the Constitution requires that a money Bill (a Bill that appropriates money or imposes taxes, levies or duties) may not deal with any other matter except a subordinate matter incidental to the appropriation of money or the imposition of taxes, levies or duties. A money Bill must be introduced by the Minister of Finance.

4. The draft SAMSA Bill (which contained the provisions of this Bill) is a product of consensus reached within the SAMSA development process, which involved stakeholders in all relevant sectors. The general public were given an opportunity to comment on the draft SAMSA Bill when it was published in the *Gazette* in May 1997. All contributions and comments received were considered and, where appropriate, incorporated.

5. Section 77(2) of the Constitution requires that all money Bills must be considered in accordance with the procedure established by section 75 of the Constitution. An Act of Parliament must provide for a procedure to amend money Bills before Parliament.