



REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

Vol. 385

CAPE TOWN, 18 JULY 1997

No. 18130

KAAPSTAD, 18 JULIE 1997

PRESIDENT'S OFFICE

KANTOOR VAN DIE PRESIDENT

No. 942.

18 July 1997

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

No. 23 of 1997: Shipping General Amendment Act, 1997.

No. 942.

18 Julie 1997

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

No. 23 van 1997: Algemene Wysigingswet op Skeepvaart, 1997.

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 insert certain definitions, to amend others and to delete others; to further regulate occupational safety in relation to vessels; to further regulate the powers of certain officers and courts; to delete or replace certain obsolete expressions and references; to further regulate the reporting of and investigation into casualties and accidents on vessels; to further regulate the making of regulations by the Minister of Transport: to amend the text: and to repeal the Third, Fourth and Sixth Schedules to the said Act; to amend the Marine Traffic Act, 1981, so as to insert two definitions, amend one and replace ten: to provide anew for offences in respect of offshore installations; to empower the said Minister to determine safety zones for certain offshore installations; to delete certain obsolete expressions; to make other provision in respect of certain penalties: to further regulate the making of regulations by the said Minister: to make other provision in relation to court jurisdiction; and to extend the application of the said Act to the Prince Edward Islands; to amend the Prevention and Combating of Pollution of the Sea by Oil Act, 1981, so as to insert certain definitions, to amend others, and to delete others; to make other provision for the control of operational discharges of oil and oily mixtures from ships and offshore installations: to extend certain powers and functions in relation to the prevention and combating of pollution of the sea by oil to other harmful substances: to make other provision in relation to court jurisdiction; to further regulate the making of regulations by the said Minister; to increase the maximum amount of fines that may be imposed for a contravention of the said Act; to extend the application of the said Act to the Prince Edward Islands; and to replace certain obsolete expressions and references; to amend the Carriage of Goods by Sea Act, 1986, so as to give effect to the Protocol of 1979 to amend the International Convention for the Unification of Certain Rules of Law Relating to Bills of Lading 1924, as amended by the Protocol of 1968; and to extend the application of the said Act to the Prince Edward Islands; to amend the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties Act, 1987, so as to insert a certain definition, to amend another and to delete another; to give effect to the Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other than Oil 1973, as amended by MEPC.49(31); to regulate anew the application and interpretation of the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties 1969 and the said Protocol; to regulate anew the making of regulations by the said Minister; to increase the maximum penalties for which may be provided by regulation; to make other provision in relation to court jurisdiction; and to extend the application of the said Act to the Prince Edward Islands; and to amend the

Maritime Zones Act, 1994, so as to amend a certain definition; and to provide for matters connected therewith.

(English text signed by the President.)
(Assented to 2 July 1997.)

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

CONTENTS OF ACT

Sections 1—18:	Amendment of Merchant Shipping Act, 1951	5
Sections 19—26:	Amendment of Marine Traffic Act, 1981	
Sections 27—47:	Amendment of Prevention and Combating of Pollution of the Sea by Oil Act, 1981	
Sections 48—50 and Schedule 1:	Amendment of Carriage of Goods by Sea Act, 1986	10
Sections 51—58 and Schedule 2:	Amendment of International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties Act, 1987	
Section 59:	Amendment of Maritime Zones Act, 1994	
Section 60:	Short title and commencement	15

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 and section 1 of Act 16 of 1995 20

1. Section 2 of the Merchant Shipping Act, 1951, is hereby amended—

(a) by the substitution in subsection (1) for the definitions of “cargo ship safety construction certificate” and “cargo ship safety equipment certificate” of the following definitions, respectively:

“ ‘cargo ship safety construction certificate’ means such a certificate, issued in conformity with the Safety Convention under subparagraph (a) of paragraph (1) or (2) of section 193, or deemed in accordance with the provisions of section 202(1)(b) to have been so issued;” 25

‘cargo ship safety equipment certificate’ means such a certificate, issued in conformity with the Safety Convention under subparagraph (b) of paragraph (1) or (2) of section 193, or deemed in accordance with the provisions of section 202(1)(b) to have been so issued;” 30

(b) by the insertion in subsection (1) after the definition of “cargo ship safety equipment certificate” of the following definition:

“ ‘cargo ship safety radio certificate’ means such a certificate, issued in conformity with the Safety Convention under subparagraph (b) of paragraph (3) or (4) of section 193, or deemed in accordance with the provisions of section 202(1)(b) to have been so issued;” 35

(c) by the deletion in subsection (1) of the definitions of “cargo ship safety radiotelegraphy certificate” and “cargo ship safety radiotelephony certificate”; 40

- (d) by the substitution in subsection (1) for the definitions of “country to which the Load Line Convention applies” and “country to which the Safety Convention applies” of the following definitions, respectively:
- “ ‘country to which the Load Line Convention applies’ means a country in respect of which the Load Line Convention is for the time being in force, and includes any territory to which the said Convention applies in accordance with the relative Article thereof;
- ‘country to which the Safety Convention applies’ means a country in respect of which the Safety Convention is for the time being in force;”;
- (e) by the substitution in subsection (1) for the definition of “dangerous goods” of the following definition:
- “ ‘dangerous goods’ means goods which by reason of their nature, quantity or mode of stowage, are either singly or collectively liable to endanger the lives or health of persons on or near the ship or to imperil the ship, and includes all substances within the meaning of the expression ‘explosives’ as used in the Explosives Act, 1956 (Act No. 26 of 1956), and any other goods [which the Minister by notice in the Gazette may specify] specified in the regulations as dangerous goods;”;
- (f) by the substitution in subsection (1) for the definition of “dynamically supported craft” of the following definition:
- “ ‘dynamically supported craft’ means any air-cushion vehicle, sidewall craft, hydrofoil boat, or [any] other [prescribed] similar craft, used [for transportation or for any other purpose on or above the surface of] wholly or principally in navigation by water;”;
- (g) by the substitution in subsection (1) for the definition of “exemption certificate” of the following definition:
- “ ‘exemption certificate’ means such a certificate, issued in conformity with the Safety Convention under paragraph (c) of section 192, subparagraph (a) or (b) of paragraph (2) or subparagraph (a) of paragraph (4) of section 193, or deemed in accordance with the provisions of section 202(1)(a) or (b) to have been so issued;”;
- (h) by the insertion in subsection (1) after the definition of “goods” of the following definition:
- “ ‘hazard’ means a source of or exposure to danger;”;
- (i) by the substitution in subsection (1) for the definition of “International Collision Regulations Convention” of the following definition:
- “ ‘International Collision Regulations Convention’ means the [convention set out in the Third Schedule to this Act] Convention on the International Regulations for Preventing Collisions at Sea done at London on 20 October 1972, as modified by any amendment made under Article VI of that Convention that has entered into force for the Republic;”;
- (j) by the substitution in subsection (1) for the definitions of “international load line certificate” and “international load line exemption certificate” of the following definitions, respectively:
- “ ‘international load line certificate’ means such a certificate, issued in conformity with the Load Line Convention under paragraph (i) of section 207, or deemed in accordance with the provisions of section 215(1) to have been so issued, and includes an international load line exemption certificate;
- ‘international load line exemption certificate’ means such a certificate issued in conformity with the Load Line Convention under section 204(1)(a);”;
- (k) by the substitution in subsection (1) for the definition of “Load Line Convention” of the following definition:
- “ ‘Load Line Convention’ means the International Convention on Load Lines done at London on 5 April 1966, as modified by any amendment made under Article 29 of that Convention that has entered into force for the Republic;”;
- (l) by the substitution in subsection (1) for the definition of “nautical mile” of the following definition:
- “ ‘nautical mile’ means a distance of 1 852 metres; and ‘mile’ has a corresponding meaning;”;

- (m) by the substitution in subsection (1) for the definition of “occupational safety” of the following definition:
 “ ‘occupational safety’ means the safety of any employee working on [board] or in a ship and whilst boarding or leaving the ship;”;
- (n) by the substitution in subsection (1) for the definition of “passenger ship safety certificate” of the following definition:
 “ ‘passenger ship safety certificate’ means such a certificate, issued in conformity with the Safety Convention under paragraph (a) or (c) of section 192, or deemed in accordance with the provisions of section 202(1)(a) to have been so issued;”;
- (o) by the insertion in subsection (1) after the definition of “proper return port” of the following definition:
 “ ‘Protocol of 1978 relating to the Safety Convention’ means the Protocol of 1978 relating to the International Convention for the Safety of Life at Sea, 1974, done at London on 17 February 1978, the English text of which is set forth in the Second Schedule, as modified by any amendment made under Article VIII of the International Convention for the Safety of Life at Sea, 1974, as incorporated in that Protocol by Article II of that Protocol that has entered into force for the Republic;”;
- (p) by the substitution in subsection (1) for the definition of “safe” of the following definition:
 “ ‘safe’ means free from any threat which may cause bodily injury, illness or death, and free from any hazard as far as practicable;”;
- (q) by the substitution in subsection (1) for the definition of “Safety Convention” of the following definition:
 “ ‘Safety Convention’ means the International Convention for the Safety of Life at Sea done at London on 1 November 1974, the English text of which is set forth in the Second Schedule, as modified by any amendment made under Article VIII of that Convention that has entered into force for the Republic and after the date on which the Protocol of 1978 relating to the Safety Convention enters into force for the Republic, as also modified by that Protocol;”;
- (r) by the substitution in subsection (1) for the definition of “safety convention certificate” of the following definition:
 “ ‘safety convention certificate’ means a passenger ship safety certificate, a cargo ship safety construction certificate, a cargo ship safety equipment certificate, a cargo ship safety [radiotelegraphy certificate, a cargo ship safety radiotelephony certificate] radio certificate or an exemption certificate;”;
- (s) by the substitution in subsection (1) for the definition of “savings bank” of the following definition:
 “ ‘savings bank’ means the Post Office Savings Bank, or a [deposit-taking institution] bank registered under the [Deposit-taking Institutions Act] Banks Act, 1990 (Act No. 94 of 1990), or, in respect of the allotment of premiums, a person registered or deemed to be registered as an insurer under the Insurance Act, 1943 (Act No. 27 of 1943), or any other body designated by the Minister;”;
- (t) by the substitution in subsection (1) for the definition of “ship” of the following definition:
 “ ‘ship’ means any kind of vessel used in navigation by water, however propelled or moved, and includes—
 (a) a barge, lighter or other floating vessel;
 (b) a structure that is able to float or be floated and is able to move or be moved as an entity from one place to another; and
 (c) a dynamically supported craft;
 and ‘vessel’ has a corresponding meaning;”;
- (u) by the insertion in subsection (1) after the definition of “standard” 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;”;

(v) by the substitution in subsection (1) for paragraph (a) of the definition of “standard” of the following paragraph:

“(a) any provision occurring in a specification, **[standard specification, compulsory specification,** code of practice or standard method within the meaning of the Standards Act, [1982 (Act No. 30 of 1982)] 1993 (Act 5 No. 29 of 1993); or”;

(w) by the substitution in subsection (1) for the definition of “timber cargo regulations” of the following definition:

“ ‘timber cargo regulations’ means the regulations made under [paragraph (c) of subsection (2) of section **three hundred and fifty-six**] 10 section **356(2)(a)** to give effect to the relative provisions of the [Load Line Convention] Safety Convention, or such regulations as applied under subsection (3) of **[the said] section 356:**”;

(x) by **the substitution in subsection (1) for the definition of “Tonnage** 15
C“onvention” of the following definition:

“ ‘Tonnage Convention’ means the International Convention on Tonnage Measurement of Ships done at London on 23 June 1969, as modified by any amendment made under Article 18 of that Convention that has entered into force for the Republic;”;

(y) by the deletion in subsection (1) of the definition of “vessel”; and 20

(z) by the substitution for subsection (4) of the following subsection:

“(4) (a) In this Act references to a ship built or constructed before or after any date shall be construed as references to a ship the keel of which has been laid or which is at a similar stage of construction before or after that date, as the case may be. 25

(b) In paragraph (a) ‘similar stage of construction’ means the stage at which—

(i) construction identifiable with the ship has begun; and

(ii) assembly of the ship has commenced and comprises at least 50 tons or one per cent of the estimated mass of all structural material. 30
whichever is less.”

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 and section 2 of Act 18 of 1992

2. Section 3 of the Merchant Shipping Act, 1951, is hereby amended by the 35
substitution for paragraphs (c) and (d) of subsection (12) of the following paragraphs:

“(c) every other person on board a vessel in the execution of his duties, or working on the exterior shell or appurtenances of a vessel, including the equipment used by such person, whether or not the vessel is afloat;

(d) every working gear, lifting gear, anchor or cable, any machinery, every 40
gangway or accommodation ladder, any equipment or every appurtenance in or on a vessel which forms a part of the construction or equipment of such vessel. **[excluding]** including any machinery or equipment brought on board a vessel and which does not form part of the equipment of such vessel.”.

Amendment of section 5 of Act 57 of 1951, as substituted by section 5 of Act 30 of 1959 and amended by section 3 of Act 25 of 1985 45

3. Section 5 of the Merchant Shipping Act, 1951, is hereby amended by the
substitution for subsection (3) of the following subsection:

“(3) All powers conferred and all duties imposed upon the Director-General may be exercised or performed by the Director-General personally, or by an officer or organization or, with respect to conditions prescribed under section 68(3)(b), by a person or organization under a delegation or under the control or direction of the Director-General.”.

5

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

4. Section 9 of the Merchant Shipping Act, 1951, is hereby amended by the deletion of “and” at the end of paragraph (vi), and of paragraph (vii), of subsection (1).

Amendment of section 193 of Act 57 of 1951, as amended by section 11 of Act 13 of 10 1965

5. Section 193 of the Merchant Shipping Act, 1951, is hereby amended—

(a) by the substitution in paragraph (3) for subparagraphs (a) and (b) of the following expression:

“a cargo ship safety radio certificate.”; and

15

(b) by the substitution in paragraph (4) for subparagraphs (i) and (ii) of subparagraph (b) of the following expression:

“, a cargo ship safety radio certificate.”.

Amendment of section 197 of Act 57 of 1951, as amended by section 14 of Act 13 of 1965 and section 6 of Act 3 of 1981

20

6. Section 197 of the Merchant Shipping Act, 1951, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) An exemption certificate shall not remain in force for a period longer than the period of the passenger ship safety certificate, the cargo ship safety construction certificate, the cargo ship safety equipment certificate [the cargo ship safety radiotelegraphy certificate] or the cargo ship safety [radiotelephony certificate] radio certificate, and a local safety exemption certificate shall not remain in force for a period longer than the period of the local general safety certificate, issued in respect of the same vessel.”.

Amendment of section 200 of Act 57 of 1951, as amended by section 31 of Act 40 of 30 1963 and section 16 of Act 13 of 1965

7. Section 200 of the Merchant Shipping Act, 1951, is hereby amended—

(a) by the substitution in subsection (1) for subparagraph (iii) of paragraph (c) of the following subparagraph:

“(iii) a cargo ship safety [radiotelegraphy certificate] radio certificate and if an exemption certificate has been issued, such exemption certificate: or”:

and

(b) by the deletion in subsection (1) of subparagraph (iv) of paragraph (c).

Amendment of section 215 of Act 57 of 1951, as substituted by section 23 of Act 13 of 1965

40

8. Section 215 of the Merchant Shipping Act, 1951, is hereby amended by the substitution in subsection (1) for the expression “paragraph 1” of the expression “paragraph (i)”.

Amendment of section 238 of Act 57 of 1951

9. Section 238 of the Merchant Shipping Act, 1951, is hereby amended by the substitution for the words “two thousand pounds” of the words “one thousand kilograms”.