

NOTICE 4720 OF 2000

SOUTH AFRICAN MARITIME SAFETY AUTHORITY

DRAFT MERCHANT SHIPPING (CARRIAGE OF CHARTS AND NAUTICAL PUBLICATIONS) REGULATIONS: PUBLICATION FOR COMMENT

The South African Maritime Safety Authority gives notice of its intention to recommend to the National Department of Transport the measures set out in the accompanying draft regulations. Interested persons are invited to submit written comment on the regulations not later than 31 January 2001. Submissions should be marked for the attention of Mr C Briesch and may either be mailed to the South African Maritime Safety Authority, PO Box 13186, Hatfield 0028, or faxed to (O 12) 3423160. Enquiries can be directed to Capt WR Dernier or Mr C Briesch on (021) 4028986 and (012) 3423049, respectively.

The draft regulations introduce revised and more comprehensive requirements respecting the carriage, maintenance and use of charts and other nautical publications. In its application to ships to which the International Convention for the Safety of Life at Sea (SOLAS), 1974, applies, the regulations give effect to the requirements of regulations V/16 [Life-saving signals], V/20 [Nautical publications] and V/2 I [International Code of Signals] of that Convention.

SCHEDULE**DRAFT MERCHANT SHIPPING (CARRIAGE OF CHARTS AND NAUTICAL PUBLICATIONS) REGULATIONS****Definitions**

1. In these regulations any word or expression given a meaning in the Act has the meaning so given and, unless the context indicates otherwise—

“**chart**” means a nautical chart;

“**contravene**”, in relation to a provision of these regulations, includes failing or refusing to comply with that provision;

“**fishing vessel**” means a vessel that is used for catching fish or other living resources of the sea for financial gain or reward;

“**Hydrographer of the Navy**” means the person for the time being appointed to that office by the Navy;

“**reference catalogue**”, in respect of an area to be navigated by a ship, means—

(a) for waters under South African jurisdiction, the South African Chart Catalogue, published by the Hydrographer of the Navy; and

(b) for waters outside South African jurisdiction, the *Catalogue of Admiralty Charts and Other Hydrographic Publications*, published by the Government of the United Kingdom, or the *Catalog of Charts and Publications*, published by the Government of the United States of America;

“**the Act**” means the Merchant Shipping Act, 1951 (Act No. 57 of 1951);

, “waters under South African jurisdiction” means—

- (a) the **internal and** territorial waters of the Republic; and
- (b) the exclusive economic zone of the Republic.

Application

2. (1) Subject to subregulations (2) and (3), these regulations apply to South African ships in all waters and to all ships in waters under South African jurisdiction.

(2) These regulations do not apply to-

- (a) ships of less than 25 tons gross tonnage; or
- (b) ships used solely for sport or recreation.

(3) A provision of these regulations does not apply to a South African ship in the waters of a country other than the Republic where the provision is inconsistent with a law of that country that, by its terms, applies to the ship when in the waters of that country.

Carriage of charts and publications

3. (1) Subject to subregulation (2), the master and owner of every ship must have on board, in respect of each area in which the ship is to be navigated, the latest obtainable editions of the charts and publications that are required to be used under regulations 4 and 5.

(2) (a) The **Authority** may, on such terms as it may **specify**, exempt the master and owner of any ship, other than a foreign-going ship, from the requirement to have on board any one or more of the charts and publications referred to in **subregulation (1)**, and may, **after** reasonable notice, alter or cancel any such exemption.

(b) An exemption may be granted under paragraph (a) only **if**—

- (i) the Authority considers that the area to be navigated by the ship is such as to render the application of the relevant requirement unreasonable or unnecessary; and
- (ii) the person in charge of the navigation of the ship has, in the opinion of the Authority, **sufficient** knowledge of the information referred to in paragraph (c), such that safe and efficient navigation in the area where the ship is to be navigated is not compromised.

(c) The **information** referred to in paragraph (b)(ii) is—

- (i) the location and character of **charted**—

(aa) shipping routes;

(bb) lights, buoys and marks; and

(cc) navigational hazards; and

- (ii) the prevailing navigational conditions, taking into account such factors as tides, currents and weather patterns.

Use of charts

4. The person in charge of the navigation of a ship must use the latest obtainable edition of a chart that—

- (a) is published under the authority of the government of a country;
- (b) applies to the immediate area in which the ship is being navigated;
- (c) is of such scale and detail as clearly to show—
 - (i) all navigational marks that may be used by a ship when navigating the waters comprised in the chart;
 - (ii) all known dangers affecting those waters; and
 - (iii) information respecting any ships' routing and ship reporting measures applicable to those waters.

Use of publications

5. (1) **Subject to subregulation (3), the** person in charge of the navigation of a ship in waters under South African jurisdiction must use, in respect of each area to be navigated by the ship, the latest obtainable edition of—

- (a) the reference catalogue;
- (b) the Annual Summary of South African Notices to Mariners, published by the Hydrographer of the Navy;
- (c) the following publications, published by the Hydrographer of the Navy, namely—
 - (i) sailing directions;
 - (ii) tide tables;
 - (iii) lists of lights and fog signals; and
 - (iv) where the ship is required to be fitted with or to carry radio equipment pursuant to any Act of Parliament or of a foreign jurisdiction, the list of radio services; and
- (d) the publications listed in the Annex.

(2) **Subject to subregulation (3), the** person in charge of the navigation of a South African ship in waters outside South African jurisdiction must use, in respect of each area to be navigated by the ship, the latest obtainable edition of—

- (a) the reference catalogue;
- (b) the Annual Summary of South African Notices to Mariners, published by the Hydrographer of the Navy;
- (c) **the** following publications referred to in the reference catalogue, namely—
 - (i) sailing directions;
 - (ii) tide and current tables;
 - (iii) lists of lights; and

(iv) where the ship is required to be fitted with or to carry radio equipment pursuant to any Act of Parliament, the list of radio aids to navigation; and

(d) the publications listed in the Annex.

(3) The publications referred to in subregulations (I)(c) and (d) and **(Z)(C) and (d)** may be replaced by similar publications issued under the authority of the government of another country, if the information contained in them that is necessary for the safe navigation of a ship in the area in which the ship is to be navigated is as complete, accurate, intelligible and up-to-date as the information contained in the publications referred to in those provisions.

Maintenance of charts and publications

6. The master of a ship must ensure that the charts and publications required by these regulations are, before being used for navigation—

- (a) in the case of charts and publications published by the Hydrographer of the Navy, correct and up-to-date, based on information that is contained in the latest relevant notices to mariners and radio navigational warnings; and
- (b) in the case of other charts and publications, correct and up-to-date, based on information that is contained in the latest relevant corrections and supplements.

Offences and penalties

7. (1) Subject to subregulations (2) and (3), every person who contravenes regulation 3(I), 4(I) or (2), 5(I) or (2), or 6 **commits an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding 12 months.**

(2) **No master of a ship is liable for contravening these regulations where, having been informed of the prospective area in which the ship will be navigating—**

- (a) the master is unable to obtain the charts or publications, required by these regulations in respect of that area, at any place at which the ship calls; or
- (b) the charts or publications required by these regulations in respect of that area are unobtainable without endangering the ship, contravening applicable regulations or requiring the ship to make a substantial detour.

(3) No master of a ship is liable for contravening these regulations where the circumstances of the voyage are such that it is impracticable to receive a notice to mariners or a radio navigational warning containing information respecting the safe navigation of the ship.

Repeal of regulations

8. Regulation 15 of the Safety of Navigation Regulations, 1968, published by Government Notice No. R. 651 of 19 April 1968, is repealed.

Title and commencement

9. These regulations are called the Merchant Shipping (Carriage of Charts and Nautical Publications) Regulations, 2001, and come into operation on <<date>>.

ANNEX

(Regulation 5)

NAUTICAL PUBLICATIONS

1. Table of Life-Saving Signals, published by the International Maritime Organization.
2. The Merchant Ship Search and Rescue (MERSAR) Manual, published by the International Maritime Organization, where the ship is a foreign-going ship, a coasting ship, or a fishing vessel making a voyage outside waters under South African jurisdiction.
3. Where the ship is required to be fitted with radio equipment and is a foreign-going ship, a coasting ship, or a fishing vessel making a voyage outside waters under South African jurisdiction, the following publications, published by the International Maritime Organization:
 - (a) the International Code of Signals; and
 - (b) the Standard Marine Navigational Vocabulary.
4. Those parts of the following publications that are relevant to the area to be navigated by the ship and to its operation:
 - (a) marine notices, published by the South African Maritime Safety Authority;
 - (b) notices to mariners, published by the **Hydrographer** of the Navy;
 - (c) nautical almanac;
 - (d) navigation tables; and
 - (e) operating and maintenance instructions for navigational aids carried by the ship.

The publications, or relevant parts of publications, referred to in subparagraphs (c) and (d) need not be carried on fishing vessels that, on any voyage, do not proceed outside waters under South African jurisdiction.