

NOTICE 1276 OF 2003**SOUTH AFRICAN MARITIME SAFETY AUTHORITY****DRAFT MERCHANT SHIPPING (MISCELLANEOUS AMENDMENTS)
REGULATIONS: PUBLICATION FOR COMMENT**

The South African Maritime Safety Authority (SAMSA), acting on the authority of the Minister of Transport, publishes for public comment the proposed regulations set out in the accompanying Schedule. Interested persons are invited to submit written comment to SAMSA **on or before 30 May 2003** (Note: late submissions may be disregarded). Submissions should be addressed to the Chief Executive Officer, for the attention of Mr C Briesch, and may be either:

- hand-delivered to SAMSA at Block E Hatfield Gardens, 333 Grosvenor Street, Hatfield 0083; or
- mailed to SAMSA at PO Box 13186 Hatfield 0028; or
- faxed to SAMSA at (012) 342 3160; or
- e-mailed to cbriesch@samsa.org.za.

Telephonic enquiries should be directed to Mr C Briesch at (012) 342 3049. Attention is invited to the explanatory note following the regulations.

SCHEDULE**DRAFT MERCHANT SHIPPING (MISCELLANEOUS AMENDMENTS)
REGULATIONS, 2003****Title and commencement**

1. These regulations are called the Merchant Shipping (Miscellaneous Amendments) Regulations, 2003, and come into operation on <<date>>.

PART 1**MARITIME OCCUPATIONAL SAFETY****Interpretation**

2. In this Part "the Regulations" means the Maritime Occupational Safety Regulations, 1994, published by Government Notice No. R. 1904 of 11 November 1994, as amended by Government Notice No. R. 1712 of 19 December 1997.

Amendment of regulation 1 of Regulations

3. Regulation 1 of the Regulations is amended—
 - (a) by the insertion after the definition of "access equipment" of the following definitions:

" 'contravene', in relation to a provision of these regulations, includes failing or refusing to comply with that provision;

'length', in relation to a vessel, has the same meaning as in regulation 2 of the Tonnage Regulations, 1986;"; and

- (b) by the insertion after the definition of "offshore installation" of the following definition:

" 'owner', in relation to a vessel, includes any person such as the manager, or the bareboat charterer, who has assumed responsibility for the operation of the vessel from the owner;".

Amendment of regulation 7 of Regulations

4. Regulation 7 of the Regulations is amended by the substitution for the definition of "Code" of the following definition:

" 'Code' means the Code of Safe Working Practices for Merchant Seamen published by Her Majesty's Stationery Office (UK), as may be amended from time to time;".

Amendment of regulation 10 of Regulations

5. Regulation 10 of the Regulations is amended by the substitution for paragraph (h) of subregulation (3) of the following paragraph:

"(h) on written request as soon as practicable make the record book referred to in paragraph (g) available to the Authority or the safety committee concerned, as the case may be;".

Amendment of regulation 14 of Regulations

6. Regulation 14 of the Regulations is amended by the substitution for subregulation (1) of the following subregulation:

"(1) The employer shall provide—

- (a) on board a vessel of less than 30 metres in length, a gangway, or, if this is not practicable, a portable ladder which is appropriate to the deck layout, size, shape and maximum freeboard of the vessel;
- (b) on board a vessel of 30 metres or more in length, a gangway; and
- (c) on board a vessel of 120 metres or more in length, in addition to the gangway, an accommodation ladder (including a rope or portable ladder) which is appropriate to the deck layout, size, shape and maximum free board of the vessel and which complies with the applicable requirements prescribed in the Code."

Amendment of regulation 28 of Regulations

7. Regulation 28 of the Regulations is amended by the substitution for the definition of "Code" of the following definition:

" 'Code' means the South African Ports Cargo Handling Code of Practice published by the National Ports Authority of South Africa, a division of Transnet Limited, as may be amended from time to time;"

Amendment of regulation 33 of Regulations

8. Regulation 33 is amended by the substitution for the definition of "Code" of the following definition:

" 'Code' means the Code of Safe Working Practices for Fishing Vessels published by the Authority, as may be amended from time to time;"

Amendment of regulation 35 of Regulations

9. Regulation 35 of the Regulations is amended—

(a) by the substitution for paragraph (b) of subregulation (1) of the following paragraph:

"(b) the owner and the master thereof shall comply or ensure compliance with the said provisions while such vessel is in service."; and

(b) by the addition to subregulation (2) of the following paragraph:

"(d) ensure compliance with regulations 21 and 27(1)."

Amendment of regulation 36 of Regulations

10. Regulation 36 of the Regulations is amended—

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

"(1) (a) For the purpose of a fishing vessel in service, the employer of the crew of the vessel shall in writing appoint a suitably qualified crew member as the safety officer for the vessel.

(b) A person is not suitably qualified for the purposes of paragraph (a) unless he or she holds documentary evidence of having successfully completed safety officer training approved by the Authority: Provided that this provision does not require a person to hold such documentary evidence during the period expiring 12 months after the commencement of Part 1 of the Merchant Shipping (Miscellaneous Amendments) Regulations, 2003."; and

(b) by the insertion in subregulation (3) after paragraph (d) of the following paragraph:

"(dA) ensure that the members of the vessel's safety committee are made aware of—

- (i) the relevant requirements of these regulations and of the Act;
- (ii) any relevant Marine Notice; and
- (iii) the provisions of the Code."

Amendment of regulation 38 of Regulations

11. Regulation 38 of the Regulations is amended—

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

"(1) The owner of every fishing vessel shall in writing establish a safety committee for the vessel, which committee is to consist of such number of members as the owner may determine from time to time taking into account the other provisions of this regulation.

(2) The chairman, in the person of the owner or the owner's representative, shall co-opt the vessel's safety officer and not less than one crew member from each of the deck, engine, factory (if applicable) and catering departments on board, and may co-opt such other crew members or employees as are necessary to conduct the business of the committee.";

- (b) by the substitution for subregulation (5) of the following subregulation:

"(5) A safety committee is to meet as often as may be necessary, but it shall meet at least once each month and whenever directed to meet by a principal officer by notice in writing."; and

- (c) by the substitution for subregulation (9) of the following subregulation:

"(9) The owner shall keep the minutes of every meeting of a safety committee for a period of at least three years and shall make the minutes available to a principal officer upon demand."

Insertion of regulations 39A and 39B in Regulations

12. The following regulations are inserted in Chapter IV of the Regulations after regulation 39:

"Compliance review

39A. (1) The owner shall, at intervals not exceeding three months, review the arrangements for ensuring compliance with these regulations in respect of its vessels to ensure that they are implemented effectively.

(2) Without limiting subregulation (1), the review shall include a review of the minutes and records required to be kept pursuant to regulations 38(9) and 39, respectively, and, in particular, shall ensure that—

- (a) a safety officer or safety appointee, as the case may be, has been duly appointed in respect of each of the owner's vessels and is functioning effectively;
- (b) a safety committee has been duly appointed in respect of each of the owner's vessels and is functioning effectively;
- (c) all accidents involving any of the owner's vessels have been reported and investigated by the owner and that rectifying steps have been taken where appropriate;
- (d) each of the owner's vessels is, so far as reasonably practicable, a safe workplace; and
- (e) the structure, equipment and arrangements of each of the owner's vessels are maintained to comply with statutory requirements.

(3) The owner shall maintain a written record of each review for a period of at least three years and shall make the record available to a principal officer upon demand.

Access equipment

39B. The employer shall provide—

- (a) on board a vessel of less than 30 metres in length, a gangway, or, if this is not practicable, a portable ladder which is appropriate to the deck layout, size, shape and maximum freeboard of the vessel and which complies with the applicable requirements prescribed in the Code; and
- (b) on board a vessel of 30 or more metres in length, a gangway."

Substitution of regulation 40 of Regulations

13. The following regulation is substituted for regulation 40 of the Regulations:

"Offences, penalties and defences

40. (1) Every employer commits an offence who contravenes regulation 3(1) or (2), 4, 5, 9, 10(1), 11(1), 13, 14, 15, 16(1), 17, 18, 19, 20, 21, 22, 23, 24, 25(1), 26, 27, 30(1), (2) or (4), 31(1), 32, 35(2), 36(1), 39 or 39B.

(2) Every employee who contravenes regulation 3(3)(f) commits an offence.

(3) Every person who contravenes regulation 16(2) commits an offence.

(4) Every owner commits an offence who contravenes regulation 35(1), 37(1), 38(1), 38(9) or 39A(1) or (3).

(5) Every master who contravenes regulation 35(1)(b) commits an offence.

(6) Every person who commits an offence in terms of this regulation is liable on conviction to a fine or to imprisonment for a period not exceeding 12 months.

(7) In proceedings for an offence in terms of this regulation it is a defence to prove that the accused took reasonable precautions and exercised due diligence to avoid the commission of the offence.

(8) In proceedings for an offence in terms of this regulation consisting of a failure to comply with a duty or requirement to do something so far as is reasonably practicable, it shall be for the accused to show that it was not reasonably practicable to do more than what was in fact done to satisfy the duty or requirement."

Amendment of contents list in Regulations

14. The contents list (arrangement of regulations) in the Regulations is amended by the addition under Chapter IV of the following entries:

- "39A. Compliance review
- 39B. Access equipment".

PART 2

SAFE MANNING

Interpretation

15. In this Part "the Regulations" means the Merchant Shipping (Safe Manning) Regulations, 1999, published by Government Notice No. R. 1548 of 30 December 1999, as amended by Government Notice No. R. 501 of 26 April 2002, as corrected by Government Notice No. R. 893 of 28 June 2002.

Amendment of regulation 1 of Regulations

16. Regulation 1 of the Regulations is amended—

- (a) by the insertion in subregulation (1) after the definition of "contravene" of the following definition:

" 'deck officer' means a person who is qualified for service as a ship's officer in the deck department on a ship, and includes the master;"
- (b) by the insertion in subregulation (1) after the definition of "defined fishing zone" of the following definition:

" 'engineer officer' means a person who is qualified for service as a ship's officer in the engine-room department on a ship;"
- (c) by the insertion in subregulation (1) after the definition of "fishing vessel" of the following definition:

" 'foreign ship' means any ship that is not a South African ship;"
- (d) by the substitution in subregulation (1) for the definition of "GT" of the following definition:

" 'GT', in relation to a ship, means its gross tonnage calculated in accordance with the Tonnage Regulations, 1986;"

- (e) by the deletion in subregulation (1) of the definition of "length of ship";
- (f) by the insertion in subregulation (1) after the definition of "GT" of the following definition:

" 'length', in relation to a ship, has the same meaning as in regulation 2 of the Tonnage Regulations, 1986;"
- (g) by the insertion in subregulation (1) after the definition of "near-coastal voyage" of the following definition:

" 'officer' means a ship's officer;"
- (h) by the insertion in subregulation (1) after the definition of "offshore" of the following definition:

" 'owner', in relation to a ship, includes any person such as the manager, or the bareboat charterer, who has assumed responsibility for the operation of the ship from the owner;"
- (i) by the substitution in subregulation (1) for paragraph (a) of the definition of "safe manning document" of the following paragraph:

"(a) in the case of a South African ship, by the Authority; and"
- (j) by the substitution in subregulation (1) for the words preceding paragraph (a) of the definition of "ship to which the Safety Convention applies" of the following words:

" 'ship to which the Safety Convention applies' means any seagoing ship, except—";
- (k) by the substitution in subregulation (1) for the words preceding paragraph (a) of the definition of "ship to which the STCW Convention applies" of the following words:

" 'ship to which the STCW Convention applies' means any seagoing ship, except—";
- (l) by the insertion in subregulation (1) after the definition of "ship to which the STCW Convention applies" of the following definition:

" 'South African ship' includes an unregistered ship having South African nationality;"
- (m) by the substitution for subregulation (2) of the following subregulation:

"(2) A reference in these regulations to the holder of any certification or document or to holding any certification or document shall be read as a reference to the lawful holder of the certification or document or to lawfully holding the certification or document, as the case may be."; and
- (n) by the addition of the following subregulation:

"(3) For the purposes of these regulations, a ship shall be taken to be at sea at any time when it is not securely ashore or moored in a safe berth: Provided that a ship shall not be taken to be at sea by reason only that the ship

has been got under way for the purpose of moving the ship from one berth in a port to another berth in the port."

Amendment of regulation 2 of Regulations

17. Regulation 2 of the Regulations is amended—

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

"(1) Subject to this regulation, these regulations apply to every South African ship wherever it may be.

(2) Regulation 24 applies, in addition, to every foreign ship to which the Safety Convention applies, when in the Republic or its territorial waters.";

- (b) by the insertion after subregulation (2) of the following subregulations:

"(2A) Regulations 6, 6A, 24A and 24B apply, in addition, to every foreign ship to which the STCW Convention applies, when in the Republic or its territorial waters.

(2B) A provision of these regulations does not apply to a South African ship in the waters of another State where the provision is inconsistent with a law of that State that, by its terms, applies to the ship when in the waters of that State."; and

- (c) by the substitution for subregulation (3) of the following subregulation:

"(3) These regulations do not apply to—

- (a) vessels of less than 25 GT;
- (b) any vessel of less than 100 GT that is used solely for sport or recreation;
or
- (c) any vessel of 100 GT or more that is classified in terms of the life-saving equipment regulations as a class XII yacht if there is employed on the vessel an adequate number and description of persons to ensure that the vessel is sufficiently and efficiently manned."

Repeal of regulation 3 of Regulations

18. Regulation 3 of the Regulations is repealed.

Substitution of regulation 4 of Regulations

19. The following regulation is substituted for regulation 4 of the Regulations:

"Responsibilities of owners and masters

4. (1) The owner of every ship shall ensure that—

- (a) (i) no ship's officer takes charge of a navigational or engineering watch on the ship unless he or she holds appropriate valid certification entitling him or her to do so; and
- (ii) no rating forms part of a navigational or engineering watch on the ship unless he or she holds appropriate valid certification entitling him or her to do so;
- (b) the master and every ship's officer have appropriate experience of the type of ship on which he or she is employed;
- (c) the master and every seaman employed on the ship, before being allowed to assume his or her assigned duties, are familiarized with their specific duties and with all the ship's arrangements, installations, equipment, procedures and characteristics relevant to their routine and emergency duties;
- (d) (i) every seaman, other than a certificated ship's officer or a certificated rating qualified as an able seaman or as an oiler, who is employed on the ship and designated to have safety or pollution prevention duties holds documentary evidence of having successfully completed approved training relating to those duties; and
- (ii) every such seaman, including a certificated rating qualified as an able seaman or as an oiler, holds documentary evidence of having—
 - (aa) served in a capacity designated to have safety or pollution prevention duties for a period of at least 12 months during the preceding five years; or
 - (bb) successfully completed approved training relating to those duties during the preceding five years;
- (e) the ship's crew can effectively co-ordinate activities in an emergency situation and in performing functions vital to safety or to the prevention or mitigation of pollution;
- (f) documentation and data relevant to the master and seamen employed on the ship are maintained and readily available for inspection, including documentation and data relevant to their experience, training, medical fitness and competency in assigned duties; and
- (g) every seaman employed on the ship and going to sea for the first time holds documentary evidence of having successfully completed approved safety induction training and, in the case of a fishing vessel, that the master and every seaman (other than a seaman going to sea for the first time) employed on the ship hold such evidence not later than 24 months after the commencement of Part 2 of the Merchant Shipping (Miscellaneous Amendments) Regulations, 2003.

(2) Without limiting the owner's obligations under subregulation (1), it is the duty of the master to ensure that the requirements of that subregulation are complied with in relation to the seamen employed on the ship.

(3) Nothing in subregulation (1)(a) to (f) prohibits the allocation of tasks for training under supervision or in case of force majeure.

(4) (a) The owner and the master of every ship shall ensure that, in addition to the ship's officers and other persons prescribed by these regulations or elsewhere in terms of the Act, there are employed as crew of the ship an adequate number and description of persons to ensure that the ship is sufficiently and efficiently manned.

(b) For the purposes of paragraph (a) and regulation 2(3)(c), a ship shall be taken to be sufficiently and efficiently manned if, in the opinion of the proper officer, it has as crew suitably qualified persons to enable it to go to sea with due regard to the requirements of the life-saving equipment regulations, the collision regulations, the radio regulations, and any other safety provisions that may be applicable to the ship.

(c) The proper officer shall, when determining the adequacy of the crew in accordance with this subregulation, take the following into account:

- (i) the complement normally carried by similar ships employed on similar voyages or operations;
- (ii) the complement that the ship in question has recently carried on previous voyages or operations;
- (iii) the complement adequate to ensure compliance with the rest periods prescribed by regulation 7 (if applicable); and
- (iv) the nature of the service for which the ship is intended.

(5) The Authority shall, as and when necessary, issue a marine notice specifying the number of persons to constitute the crew of a ship and the capacities in which those persons are to serve other than persons prescribed in these regulations or elsewhere in terms of the Act."

Repeal of regulation 5 of Regulations

20. Regulation 5 of the Regulations is repealed.

Insertion of regulations 6A, 6B and 6C in Regulations

21. The following regulations are inserted in the Regulations after regulation 6:

"Hours of work: general duty of owners, masters and others

6A. (1) The owner of every ship shall ensure, so far as is reasonably practicable, that the master and seamen employed on the ship do not work more hours than is safe in relation to the safety of the ship and the master's and the seamen's performance of their duties.

(2) The master of every ship shall ensure, so far as is reasonably practicable, that the seamen employed on the ship do not work more hours than is safe in relation to the safety of the ship and the seamen's performance of their duties.

(3) Every master and seaman shall, so far as is reasonably practicable, ensure that he or she is properly rested when commencing duty on a ship and that he or she obtains adequate rest during periods when he or she is off duty.

Hours of work: schedules of duties

6B. (1) The owner of every ship of 100 GT or more shall produce a schedule of duties complying with this regulation.

(2) Where the owner is not also the employer of the master and all the seamen, the owner shall consult any other person who is an employer of the master or any of the seamen before producing the schedule.

(3) The owner may arrange with any such employer that the employer is to produce a schedule of duties complying with this regulation. In such a case, that employer shall also be subject to the duties of the owner under this regulation.

(4) Before producing a schedule, the owner shall seek the views of the master, and the master shall seek, and convey to the owner, the views of—

- (a) the ship's safety committee; or
- (b) the seamen or their representatives; or
- (c) a trade union with one or more members aboard ship.

(5) A schedule complies with this regulation if—

- (a) it sets out the hours of work for—
 - (i) masters and seamen whose work includes regular watchkeeping duties or ship handling; and
 - (ii) the ship's chief engineer, chief mate and second engineer,so as to provide that they do not work more hours than is safe in relation to the safety of the ship and the master's and seamen's performance of their duties;
- (b) it specifies the maximum period of continuous watchkeeping, the minimum rest period between watches, and the total daily, weekly and monthly hours of work; and
- (c) it provides a minimum of ten hours of rest in any 24-hour period, which period may be divided into no more than two periods, one of which shall be at least six hours duration: Provided that the minimum period of ten hours may be reduced to not less than six consecutive hours on condition that any such reduction shall not extend beyond two days and not less than seventy hours of rest are provided in each seven day period.

(6) The owner shall give consideration to the category of shipping operation undertaken in arranging the hours of work.

(7) The schedule may be changed by the owner, or by an employer who by virtue of subregulation (3) is subject to the duties of the owner, on condition that—

- (a) other employers and the owner, as the case may be, have been consulted;

(b) the owner or the employer has sought the views of the master on the proposed changes and the master has sought and conveyed to the owner the views of persons mentioned in subregulation (4)(a), (b) or (c); and

(c) the schedule as changed complies with subregulation (5).

(8) The owner shall ensure that the schedule is displayed prominently in the crew accommodation for the information of all seamen.

(9) It is the duty of the master to ensure, as far as reasonably practicable, that the hours of work specified in the schedule are not exceeded.

(10) (a) The owner and the master shall keep on board the ship a copy of the schedule and a record of all deviations from its requirements.

(b) The owner for the time being shall ensure that a copy of the schedule and of the record of all deviations from its requirements are preserved for a period of five years from the date the schedule was introduced, and that they are available for inspection by a proper officer or a surveyor. If during the five year period there ceases to be an owner in relation to the ship, the duty to preserve the copies of the schedule and of the record shall remain with the last such owner.

Hours of work: exception for emergencies

6C. (1) The requirements for rest periods provided for in regulation 6B(5)(c) need not be maintained in case of emergency or drill or in other overriding operational conditions.

(2) When in pursuance of subregulation (1) the master or a seaman has worked within a rest period provided for by the schedule, the master shall cause to be entered in the ship's official logbook the master's or seaman's name, as the case may be, together with the reason why he or she so worked."

Repeal of regulations 7 and 8 of Regulations

22. Regulations 7 and 8 of the Regulations are repealed.

Amendment of regulation 10 of Regulations

23. Regulation 10 of the Regulations is amended by the substitution for subregulation (1) of the following subregulation:

"(1) The holder of a certificate as master or ship's officer, being a certificate issued in terms of the STCW Convention by or on behalf of another party to that Convention, may apply to the Authority, in accordance with subregulation (2), for the certificate to be recognized as equivalent to a certificate of competency issued under the Act."

Substitution of regulations 11 to 15 of Regulations

24. The following regulations are substituted for regulations 11 to 15 of the Regulations, respectively:

"Employment of certificated deck officers on ships other than fishing vessels

11. (1) The owner and the master of every ship, other than a fishing vessel or a ship referred to in subregulation (2), shall ensure that there is employed on the ship in their appropriate capacities the number and description of appropriately certificated deck officers specified in the applicable item of the following table:

Item	Voyage / Operation	Tonnage of ship (GT)	Capacity of employment	Appropriate minimum certification and number of persons to be employed	
				Certification	Number
1	Port operations	< 200	Master	Skipper (Port operations)	1
2		≥ 200 but < 500	Master	Master (Port operations)	1
3		≥ 500	Master	Master (Port operations)	1
			Mate	Skipper (Port operations)	1
4	Near-coastal	< 100	Master	Skipper (Coastal)	1
Mate			Skipper (Coastal)	1	
5		≥ 100 but < 500	Master	Master (Coastal)	1
			Mate	Mate (Coastal)	1
6	Unlimited	< 100	Master	Skipper (Unlimited)	1
Mate			Skipper (Unlimited)	1	
7		≥ 100 but < 500	Master	Deck Officer (A)	1
			Mate	Deck Officer	1
8		≥ 500 but < 3000	Master	Chief Mate (B)	1
			Mate	Deck Officer (C)	1
			Watchkeeping officer	Deck Officer	1
9		≥ 3000	Master	Master	1
			Mate	Chief Mate	1
			Watchkeeping officer	Deck Officer	2

Notes:

(A) Certification to include the endorsement: 'Master of a ship of less than 500 GT on unlimited voyages'.

(B) Certification to include the endorsement: 'Master of a ship of less than 3000 GT on unlimited voyages'.

(C) Certification to include the endorsement: 'Chief mate of a ship of less than 3000 GT on unlimited voyages'.

(2) The owner and the master of every ship of 100 GT or more that—

- (a) is engaged in mining operations within waters under South African jurisdiction; and
- (b) so operates at anchor for two-thirds or more of the time spent at sea between port calls,

shall ensure that there is employed on the ship in their appropriate capacities the number and description of appropriately certificated deck officers specified in the applicable item of the following table:

Item	Tonnage of ship (GT)	Capacity of employment	Appropriate minimum certification and number of persons to be employed	
			Certification	Number
1	≥ 100 but < 500	Master	Master (Coastal)	1
		Mate	Mate (Coastal)	1
2	≥ 500 but < 3 000	Master	Chief Mate (A)	1
		Mate	Deck Officer (B)	1
3	≥ 3 000	Master	Master	1
		Mate	Chief Mate	1
		Watchkeeping officer	Deck Officer	1

Notes:
 (A) Certification to include the endorsement: 'Master of a ship of less than 3000 GT on unlimited voyages'.
 (B) Certification to include the endorsement: 'Chief mate of a ship of less than 3000 GT on unlimited voyages'.
 The certification mentioned in the table includes the certification limited to mining operations.

Employment of certificated deck officers on fishing vessels operating wholly within defined fishing zone

12. The owner and the master of every fishing vessel that operates wholly within the defined fishing zone shall ensure that there is employed on the vessel in their appropriate capacities the number and description of appropriately certificated deck officers specified in the applicable item of the following table:

Item	Length of vessel (metres)	Capacity of employment	Appropriate minimum certification and number of persons to be employed	
			Certification	Number
1	≤ 14	Master	Fisherman Grade 4 (Skipper)	1
		Mate	Small Vessel Certificate of Competence (vessels > 9 metres in length)	1(A)
2	> 14 but < 24	Master	Fisherman Grade 4 (Skipper)	1
		Mate	Fisherman Grade 4 (Watchkeeper)	1(A)
3	≥ 24 but < 30	Master	Fisherman Grade 3	1
		Mate	Fisherman Grade 4 (Watchkeeper)	1
4	≥ 30	Master	Fisherman Grade 2	1
		Mate	Fisherman Grade 3	1
		Watchkeeping officer	Fisherman Grade 4 (Watchkeeper)	1

Note:
 (A) Not required on vessels < 50 GT going to sea for periods not exceeding 12 consecutive hours.

Employment of certificated deck officers on fishing vessels operating outside defined fishing zone

13. The owner and the master of every fishing vessel that operates, at any time, outside the defined fishing zone shall comply with regulation 12: Provided that, in all cases, the appropriate minimum certification applicable to the master shall include the high seas command endorsement.

Employment of certificated engineer officers on ships other than fishing vessels

14. (1) The owner and the master of every ship, other than a fishing vessel or a ship referred to in subregulation (2), shall ensure that there is employed on the ship in their appropriate capacities the number and description of appropriately certificated engineer officers specified in the applicable item of the following table:

Item	Voyage / Operation	Registered propulsion power of ship (kW)	Capacity of employment	Appropriate minimum certification and number of persons to be employed		
				Certification	Number	
1	Port operations	< 350	Chief engineer	Marine Motorman Grade 1	1	
2		≥ 350 but < 750	Chief engineer	Marine Motorman Higher Grade	1	
3		≥ 750 but < 1500	Chief engineer	Second Engineer Officer (Port Operations)	1	
4		≥ 1500	Chief engineer	Chief Engineer Officer (Port Operations)	1	
			Second engineer	Marine Motorman Grade 1	1	
5	Near-coastal	<350	Chief engineer	Marine Motorman Grade 1	1	
6		≥ 350 but < 750	Chief engineer	Marine Motorman Higher Grade	1	
			Second engineer	Marine Motorman Grade 1	1	
7		≥ 750 but < 3000	Chief engineer	Second Engineer Officer (≥ 3000 kW) (A)	1	
			Second engineer	Engineer Officer	1	
			Watchkeeping officer	Engineer Officer	1	
8		≥ 3000	Chief engineer	Chief Engineer Officer (≥ 3000 kW)	1	
			Second engineer	Second Engineer Officer (≥ 3000 kW)	1	
			Watchkeeping officer	Engineer Officer	1	
9		Unlimited	< 750	Chief engineer	Second Engineer Officer (< 3000 kW) (B)	1
				Second engineer	Engineer Officer	1
	Watchkeeping officer			Marine Motorman Grade 1	1	
10	≥ 750 but < 3000		Chief engineer	Second Engineer Officer (≥ 3000 kW) (C)	1	
			Second engineer	Second Engineer Officer (< 3000 kW)	1	
			Watchkeeping officer	Engineer Officer	1	
11	≥ 3000		Chief engineer	Chief Engineer Officer (≥ 3000 kW)	1	
			Second engineer	Second Engineer Officer (≥ 3000 kW)	1	
			Watchkeeping officer	Engineer Officer	2	

Notes:
(A) Certification to include the endorsement: 'Chief engineer officer of a ship of less than 3000 kW propulsion power'.
(B) Certification to include the endorsement: 'Chief engineer officer of a ship of less than 750 kW propulsion power'.
(C) Certification to include the endorsement: 'Chief engineer officer of a ship of less than 3000 kW propulsion power'.

(2) The owner and the master of every ship of 100 GT or more that—

- (a) is engaged in mining operations within waters under South African jurisdiction; and
- (b) so operates at anchor for two-thirds or more of the time spent at sea between port calls,

shall ensure that there is employed on the ship in their appropriate capacities the number and description of appropriately certificated engineer officers specified in the applicable item of the following table:

Item	Registered propulsion power of ship (kW)	Capacity of employment	Appropriate minimum certification and number of persons to be employed	
			Certification	Number
1	< 750	Chief engineer	Marine Motorman Higher Grade	1
		Second engineer	Marine Motorman Grade 1	1
2	≥ 750 but < 3000	Chief engineer	Second Engineer Officer (≥ 3000 kW) (A)	1
		Second engineer	Engineer Officer	1
		Watchkeeping officer	Engineer Officer	1
3	≥ 3000	Chief engineer	Chief Engineer Officer (≥ 3000 kW)	1
		Second engineer	Second Engineer Officer (≥ 3000 kW)	1
		Watchkeeping officer	Engineer Officer	1

Note:
(A) Certification to include the endorsement: 'Chief engineer officer of a ship of less than 3000 kW propulsion power'.

Employment of certificated engineer officers on fishing vessels

15. The owner and the master of every fishing vessel shall ensure that there is employed on the vessel in their appropriate capacities the number and description of appropriately certificated engineer officers specified in the applicable item of the following table:

Item	Registered propulsion power of vessel (kW)	Capacity of employment	Appropriate minimum certification and number of persons to be employed	
			Certification	Number
1	< 150	Chief engineer	Marine Motorman Grade 3	1(A)
2	≥ 150 but < 350	Chief engineer	Marine Motorman Grade 2	1(A)
3	≥ 350 but < 1000	Chief engineer	Marine Motorman Grade 1	1
		Second engineer	Marine Motorman Grade 2	1
4	≥ 1000 but < 2000	Chief engineer	Marine Motorman Higher Grade	1
		Second engineer	Marine Motorman Grade 1	1
5	≥ 2000 but < 3000	Chief engineer	Marine Engineer Officer (Class 4) (B)	1
		Second engineer	Marine Motorman Grade 1	1
6	≥ 3000	Chief engineer	Marine Engineer Officer (Class 3) (C)	1
		Second engineer	Engineer officer	1

Notes:
(A) Not required on vessels not exceeding 14 metres in length if the master has passed a level 3 assessment (oral examination) in basic engineering knowledge. In item 2 the dispensation applies only to vessels going to sea for periods not exceeding 12 consecutive hours.
(B) Certification to include the class 4 service endorsement.
(C) Certification to include the class 3 service endorsement."

Amendment of regulation 16 of Regulations

25. Regulation 16 of the Regulations is amended—

- (a) by the substitution for the words preceding paragraph (a) of the following words:

"The owner and the master of every ship shall ensure that there is employed on the ship the number and description of appropriately certificated radio operators specified in the applicable item of the following table: Provided that—"; and

- (b) by the substitution for the existing table of the following table:

"Item"	Voyage / Operation	Tonnage / Length of ship	Appropriate certification and number of persons to be employed	
			Certification	Number
1	Port operations	≥ 25 GT	Restricted Radiotelephone Operator	1
2	Near-coastal	≥ 25 GT but < 300 GT	Restricted Radiotelephone Operator	2
3		≥ 300 GT	GMDSS General Operator	2
4	Fishing operations within 40 nautical miles offshore	≥ 25 GT	Restricted Radiotelephone Operator (VHF only)	1
5	Fishing operations beyond 40 but within 200 nautical miles offshore	≥ 25 GT	Restricted Radiotelephone Operator	2
6	Fishing operations beyond 200 nautical miles offshore	≥ 25 GT but < 45 metres	Restricted Radiotelephone Operator	2
7		≥ 45 metres	GMDSS General Operator	2
8	Unlimited	≥ 100 GT but < 300 GT	Restricted Radiotelephone Operator	2
9		≥ 300 GT	GMDSS General Operator	2

Substitution of regulations 17 and 18 of Regulations

26. The following regulations are substituted for regulations 17 and 18 of the Regulations, respectively:

"Employment of certificated ratings on ships other than fishing vessels

17. The owner and the master of every ship other than a fishing vessel shall ensure that there is employed on the ship in their appropriate capacities the number and description of appropriately certificated ratings specified in the applicable item of the table below: Provided that—

- where a combination of ratings qualified as ordinary seamen and as able seamen is employed in the deck department, at least half the combined number of ratings so employed shall be qualified as able seamen;
- where a combination of ratings qualified as wipers and as oilers is employed in the engine-room department, at least one of the ratings so employed shall be qualified as an oiler;
- on passenger ships the prescribed number of ratings qualified as proficient in survival craft and as proficient in fast rescue boats shall be in addition to the number of ratings qualified as able seamen and as oilers;

- (d) on ships having only liferafts as survival craft there may be employed, instead of the number of ratings qualified as proficient in survival craft, an equal number of ratings qualified as proficient in liferafts only;
- (e) owners and masters (bearing in mind that the table below specifies minimum requirements only) shall have regard to the requirements of regulation 4(4) when determining the appropriate manning;
- (f) in respect of a ship engaged solely in port operations, and instead of meeting the requirements specified in the table below, application may be made to the proper officer at the ship's port of operation for the number of certificated ratings to be determined, with the necessary changes, in accordance with regulation 4(4);
- (g) on ships engaged solely in port operations, there may be employed, instead of the number of ratings qualified as able seamen or as oilers, an equal number of ratings holding the qualification as General Purpose Rating (Port Operations).

Item	Type of ship	Voyage / Operation	Minimum certification and number to be employed			
			Ordinary seaman / Able seaman	Wiper / Oiler	Proficient in survival craft	Efficient cook
1	Passenger	Unlimited or near-coastal	Sufficient to man each 4 hour watch in a 12 hour period with a rating, plus one (i.e. 4)	Sufficient to man each 4 hour watch in a 12 hour period with a rating (i.e. 3)	One for every 50 passengers, or part of such number, on board	1
2		Port operations	Sufficient to man each 6 hour watch in a 12 hour period with a rating, plus one (i.e. 3)	Sufficient to man each 6 hour watch in a 12 hour period with a rating (i.e. 2)		—
3	Other	Unlimited	Sufficient to man each 4 hour watch in a 12 hour period with a rating, plus one (i.e. 4)	Sufficient to man each 4 hour watch in a 12 hour period with a rating (i.e. 3)	—	1
4		Near-coastal	Sufficient to man each 6 hour watch in a 12 hour period with a rating, plus one (i.e. 3)	Sufficient to man each 6 hour watch in a 12 hour period with a rating (i.e. 2)		—
5		Port operations	1 Able seaman (Port Operations) and 1 ordinary seaman (Port Operations) OR 2 Able seamen (Port Operations)	1 Oiler (Port Operations)		—

Employment of certificated ratings on fishing vessels of 100 GT or more

18. The owner and the master of every fishing vessel of 100 GT or more shall ensure that there is employed on the vessel in their appropriate capacities the number and description of appropriately certificated ratings specified in the applicable item of the following table:

Item	Number of persons on vessel	Minimum certification and number to be employed		
		Able seaman	Proficient in survival craft	Efficient cook
1	≥ 15 but < 30	1	1	—
2	≥ 30	1	2	1

Notes:
The number of ratings required to be qualified as proficient in survival craft shall be in addition to the number required to be qualified as able seaman.
The certification as able seaman and as proficient in survival craft and fast rescue boats may be the local certification or the certification issued in accordance with the STCW Convention."

Insertion of regulation 18A in Regulations

27. The following regulation is inserted in the Regulations after regulation 18:

"Employment of qualified personnel on tankers and passenger ships

18A. (1) The owner and the master of every tanker shall ensure that—

- (a) every seaman assigned specific duties and responsibilities related to cargo or cargo equipment on the ship; and
- (b) the master, chief engineer officer, chief mate, second engineer officer and every other seaman with immediate responsibility for loading, discharging and care in transit or handling of cargo on the ship,

hold—

- (i) the appropriate certificate or endorsement evidencing compliance with the provisions of regulation 51 of the Training and Certification Regulations relative to their capacity, duties and responsibilities on the ship; or
- (ii) the appropriate certificate or endorsement, issued by or on behalf of another party to the STCW Convention, evidencing compliance with the provisions of regulation V/1 of that Convention relative to their capacity, duties and responsibilities on the ship.

(2) The owner and the master of every ro-ro passenger ship shall ensure that the master and every seaman employed on the ship hold—

- (a) the appropriate certificate or endorsement evidencing compliance with the provisions of regulation 52 of the Training and Certification Regulations relative to their capacity, duties and responsibilities on the ship; or
- (b) the appropriate certificate or endorsement, issued by or on behalf of another party to the STCW Convention, evidencing compliance with the provisions of regulation V/2 of that Convention relative to their capacity, duties and responsibilities on the ship.

(3) The owner and the master of every passenger ship, other than a ro-ro passenger ship, engaged on unlimited voyages shall ensure that the master and every seaman employed on the ship hold—

- (a) the appropriate certificate or endorsement evidencing compliance with the provisions of regulation 52A of the Training and Certification Regulations relative to their capacity, duties and responsibilities on the ship; or
- (b) the appropriate certificate or endorsement, issued by or on behalf of another party to the STCW Convention, evidencing compliance with the provisions of regulation V/3 of that Convention relative to their capacity, duties and responsibilities on the ship."

Substitution of regulations 19 and 20 of Regulations

28. The following regulations are substituted for regulations 19 and 20 of the Regulations, respectively:

"Employment of qualified medical personnel

19. (1) The owner and the master of every ship on an unlimited voyage that carries 100 or more persons shall ensure that at least one medical practitioner is employed on the ship.

(2) The owner and the master of every ship to which the STCW Convention applies shall ensure that—

- (a) every seaman designated to take charge of medical care on the ship, in the absence of a qualified medical practitioner, holds—
 - (i) a valid Ship Captain's Medical Training Certificate issued in accordance with the Code; or
 - (ii) a valid certificate in medical care issued in accordance with regulation VI/4, paragraph 2 of the STCW Convention by or on behalf of another party to that Convention; and
- (b) every seaman designated to provide medical first aid on the ship holds—
 - (i) a valid First Aid at Sea Certificate issued in accordance with the Code; or
 - (ii) a valid certificate in medical first aid issued in accordance with regulation VI/4, paragraph 1 of the STCW Convention by or on behalf of another party to that Convention.

(3) Every person who is designated the duties referred to subregulation (2)(a) or (b) shall undertake approved refresher training at intervals not exceeding five years.

Employment of qualified fire-fighting personnel

20. (1) The owner and the master of every ship shall ensure that every seaman designated to take charge of a fire-fighting party on the ship holds—

- (a) in the case of a ship of 100 GT or more, a valid Fire-Fighting Certificate issued in accordance with the Code, or an approved equivalent qualification;

- (b) in the case of a tanker of 100 GT or more, a valid Tanker Fire-Fighting Certificate issued in accordance with the Code, or an approved equivalent qualification; and
- (c) in the case of a ship of less than 100 GT, a valid Fire-Fighting (Small Vessels) Certificate issued in accordance with the Code, or an approved equivalent qualification.

(2) The owner and the master of every ship to which the STCW Convention applies shall ensure that every seaman designated to control fire-fighting operations on the ship holds—

- (a) a valid Advanced Fire-Fighting Certificate issued in accordance with the Code; or
- (b) a valid certificate in advanced fire-fighting issued in accordance with regulation VI/3, paragraph 1 of the STCW Convention by or on behalf of another party to the Convention.

(3) Every person who is designated the duties referred to in subregulation (1) or (2) shall undertake approved refresher training at intervals not exceeding five years."

Amendment of regulation 24 of Regulations

29. Regulation 24 of the regulations is amended—

- (a) by the substitution in subregulation (1) for the words preceding paragraph (a) of the following words:

"The owner of every ship shall ensure that—";

- (b) by the substitution for subregulation (2) of the following subregulation:

"(2) The master of every ship shall ensure that the ship does not go to sea unless there is on board and in force in respect of the ship a valid safe manning document and the manning of the ship complies with that document."; and

- (c) by the deletion of subregulations (3) and (4).

Insertion of regulations 24A and 24B in Regulations

30. The following regulations are inserted in the Regulations after regulation 24:

"Carriage of documents

24A. Without limiting regulation 4, the owner and the master of every ship shall ensure that there are carried at all times on board the ship all original certificates and other documents issued pursuant to the Act or the STCW Convention, as the case may be, indicating the qualification of the master and any member of the crew to perform functions which they are required to perform aboard ship in the course of their designated duties.

Offences, penalties and defences

24B. (1) Every owner commits an offence who contravenes regulation 4(1) or (4), 6, 6A(1), 6B, 24(1) or 24A.

(2) Every employer, being an employer who in terms of regulation 6B(3) has become subject to the duties of the owner under that regulation, who contravenes regulation 6B commits an offence.

(3) Every master commits an offence who contravenes regulation 4(2) or (4), 6, 6A(2) or (3), 6B(9) or (10), 6C, 24(2) or 24A.

(4) Every seaman who contravenes regulation 6A(3) commits an offence.

(5) Every person who commits an offence in terms of subregulation (1), (2) or (3) is liable on conviction to a fine or to imprisonment for a period not exceeding 12 months.

(6) Every person who commits an offence in terms of subregulation (4) is liable on conviction to a fine or to imprisonment for a period not exceeding six months.

(7) In proceedings for an offence in terms of this regulation it is a defence to prove that the accused took reasonable precautions and exercised due diligence to avoid the commission of the offence.

(8) In proceedings for an offence in terms of this regulation consisting of a failure to comply with a duty or requirement to do something so far as is reasonably practicable, it shall be for the accused to show that it was not reasonably practicable to do more than what was in fact done to satisfy the duty or requirement."

Amendment of regulation 26 of Regulations

31. Regulation 26 of the Regulations is amended by the deletion of subregulation (2).

Substitution of contents list in Regulations

32. The following contents list is substituted for the contents list (arrangement of regulations) in the Regulations:

*"Arrangement of regulations"**Regulation
No.*

1. Interpretation
2. Application
3. ...
4. Responsibilities of owners and masters
5. ...
6. Watchkeeping standards
- 6A. Hours of work: general duty of owners, masters and others
- 6B. Hours of work: schedules of duties

- 6C. Hours of work: exception for emergencies
- 7. ...
- 8. ...
- 9. Employment of persons holding foreign certificates
- 10. Recognition of foreign certificates
- 11. Employment of certificated deck officers on ships other than fishing vessels
- 12. Employment of certificated deck officers on fishing vessels operating wholly within defined fishing zone
- 13. Employment of certificated deck officers on fishing vessels operating outside defined fishing zone
- 14. Employment of certificated engineer officers on ships other than fishing vessels
- 15. Employment of certificated engineer officers on fishing vessels
- 16. Employment of certificated radio operators
- 17. Employment of certificated ratings on ships other than fishing vessels
- 18. Employment of certificated ratings on fishing vessels of 100 GT or more
- 18A. Employment of qualified personnel on tankers and passenger ships
- 19. Employment of qualified medical personnel
- 20. Employment of qualified fire-fighting personnel
- 21. Employment of qualified personnel on ships equipped with fast rescue boat
- 22. Exemptions in respect of certain ships
- 23. Equivalence of certificates and endorsements
- 24. Safe manning document
- 24A. Carriage of documentation
- 24B. Offences, penalties and defences
- 25. Repeal of regulations
- 26. Title and commencement

Annex 1: Watchkeeping principles and arrangements

Annex 2: ...".

PART 3

SEAMEN'S DOCUMENTS

Interpretation

33. In this Part "the Regulations" means the Merchant Shipping (Seamen's Documents) Regulations, 2000, published by Government Notice No. R. 432 of 5 May 2000.

Amendment of regulation 1 of Regulations

34. Regulation 1 of the Regulations is amended—

- (a) by the substitution in subregulation (1) for the definition of "contravene" of the following definition:

" 'contravene', in relation to a provision of these regulations, includes failing or refusing to comply with that provision;" and

- (b) by the deletion of the definition of "port operations vessel".

Substitution of regulation 10 of Regulations

35. The following regulation is substituted for regulation 10 of the Regulations:

"Exemptions

10. The Authority may grant exemption, on such terms (if any) as it may specify, from all or any of the provisions of these regulation (as may be specified in the exemption) for classes of cases or individual cases and may, after reasonable notice, alter or cancel any such exemption."

PART 4**SMALL VESSEL SAFETY****Interpretation**

36. In this Part "the Regulations" means the Merchant Shipping (Small Vessel Safety) Regulations, 2002, published by Government Notice No. R. 500 of 26 April 2002.

Amendment of regulation 2 of Regulations

37. Regulation 2 of the Regulations is amended—

- (a) by the substitution in subregulation (1) for the definition of "certificate of competence" of the following definition:

" 'certificate of competence' means a certificate, including any relative endorsement, issued by a certifying authority pursuant to regulation 14B(1) and entitling its lawful holder to act in the capacity and perform the functions involved on a vessel of the type, category, tonnage or length, power and means of propulsion concerned;

- (b) by the insertion in subregulation (1) after the definition of "inflatable" of the following definition:

" 'night' means the space of time between sunset and sunrise;";

- (c) by the substitution in subregulation (1) for the definition of "owner" of the following definition:

" 'owner', in relation to a vessel, includes—

- (a) a credit receiver (buyer) in the case of a credit agreement in terms of Credit Agreements Act, 1980 (Act No. 75 of 1980); and
- (b) any person entrusted by the owner with the care and control of the vessel;" and

- (d) by the insertion in subregulation (1) after the definition of "owner" of the following definition:

" 'passenger vessel' means a vessel that carries more than 12 passengers;".

Amendment of regulation 7 of Regulations

38. Regulation 7 of the Regulations is amended—

- (a) by the substitution for subregulation (2) of the following subregulation:

"(2) The skipper of a commercial small vessel must ensure that a flotation aid of the kind required by these regulations is worn—

- (a) by every crew member performing work on deck at night;
- (b) by every crew member performing work that creates the risk of the person being lost overboard; and
- (c) by every crew member whenever the vessel is being operated within 1 nautical mile from shore."; and

- (b) by the addition of the following subregulations:

"(3) A person on board a vessel must wear a lifejacket or flotation aid of the kind required by these regulations at such times as the skipper may direct; Provided that every person on board (including the skipper) must wear such a lifejacket or flotation aid whenever the vessel is launched or operated in the surf, or otherwise operates in rough sea conditions.

(4) On each occasion before any vessel goes to sea, the skipper must—

- (a) ensure that every person on board the vessel has received essential safety information appropriate to that person's functions on board, including—
 - (i) information about the location on board of the safety appliances and equipment required to be carried on the vessel; and
 - (ii) instruction in the use of such appliances and equipment; and
- (b) cause the safety appliances and equipment required to be on board the vessel to be inspected to ascertain whether they are fit and ready for use.

(5) The skipper of a commercial small vessel must, if it is practicable to do so, cause the vessel's emergency procedures and arrangements, including those respecting fire-fighting, abandon ship and man overboard, to be practised at least once each week."

Amendment of regulation 8 of Regulations

39. Regulation 8 of the Regulations is amended by the substitution for subregulation (3) of the following subregulation:

"(3) Before any power-driven vessel goes to sea, the skipper must ensure that the vessel carries a sufficient quantity of fuel for its intended voyage, and a reserve of not less than 25 percent of that quantity."

Substitution of regulation 14 of Regulations

40. The following regulation is substituted for regulation 14 of the Regulations:

"Responsibilities of owner

14. (1) The owner of a vessel must ensure that the vessel is operated by or under the constant guidance of a person (in these regulations called *the skipper*) who is physically able and of sound mental health and who, in the case of—

- (a) a commercial small vessel; or
- (b) a pleasure vessel that is either a sailing vessel of 6 metres or more in overall length or a power-driven vessel with propulsion power exceeding 4 kW,

holds a valid certificate of competence issued by a certifying authority: Provided that this provision does not require a certificate of competence to be held in respect of a vessel referred to in paragraph (b) during the period expiring 12 months after the commencement of these regulations.

(2) (a) The owner must, in addition to meeting the requirements of subregulation (1), ensure that the vessel is otherwise sufficiently and efficiently manned.

(b) For the purposes of paragraph (a), a vessel is taken to be sufficiently and efficiently manned if, in the opinion of the certifying authority, it has a crew of competent persons to enable it to go to sea with due regard to the requirements of these regulations and any other safety provisions that may be applicable to the vessel.

(c) The certifying authority, when determining the adequacy of the crew in accordance with this subregulation, must take the following into account:

- (i) the complement normally carried by similar vessels engaged on similar voyages or operations;
- (ii) the complement that the vessel in question has recently carried on previous voyages or operations;
- (iii) the nature of the service for which the vessel is intended; and
- (iv) any other consideration the certifying authority thinks appropriate.

(3) The owner of a commercial small vessel must, in addition to meeting the requirements of subregulations (1) and (2), ensure that—

- (a) the skipper and every crew member on the vessel hold documentary evidence of having successfully completed approved safety induction training; this documentary evidence must be held by every person going to sea for the first time and, not later than 24 months after the commencement of these regulations, by all other skippers and crew members;

- (b) documentation and data relevant to the skipper and every crew member on the vessel are maintained and readily available for inspection, including documentation and data respecting their employment, experience, training, medical fitness and competency in assigned duties;
- (c) the skipper and every crew member, on being assigned to the vessel, are familiarized with their specific duties and with all vessel arrangements, installations, equipment, procedures and vessel characteristics that are relevant to their routine and emergency duties; and
- (d) the vessel's crew can effectively co-ordinate their activities in an emergency situation and in performing functions vital to safety or to the prevention or mitigation of pollution."

Insertion of regulations 14A and 14B in Regulations

41. The following regulations are inserted in the Regulations after regulation 14:

"Passenger vessel endorsement

14A. No person may serve in the capacity as skipper of a commercial small vessel that is a passenger vessel unless so authorized in terms of an appropriate endorsement to his or her certificate of competence.

Certificates of competence

14B. (1) A certifying authority must issue an applicant with a certificate of competence if it is satisfied that the applicant is physically able and of sound mental health and—

- (a) in the case of a certificate in respect of a commercial small vessel—
 - (i) is not under the age of 18 years; and
 - (ii) satisfies the relevant requirements specified by the Authority; or
 - (b) in the case of a certificate in respect of a pleasure vessel—
 - (i) is not under the age of 16 years; and
 - (ii) satisfies the relevant requirements specified by the Authority after consultation with the affected governing body or bodies (if any).
- (2) A certifying authority may suspend or cancel a certificate of competence if—
- (a) the holder has been convicted of an offence in terms of the Act or an offence in respect of dishonest conduct; or
 - (b) it believes on reasonable grounds that the holder has conducted himself or herself in a negligent or incompetent manner while serving in any capacity authorized by the certificate; or

(c) it believes on reasonable grounds that the certificate was obtained fraudulently or on wrong information.

(3) Every person whose certificate of competence has been suspended or cancelled must surrender the certificate to the certifying authority upon demand.

(4) (a) Any person whose certificate of competence has been suspended or cancelled may appeal in writing to the Minister against the suspension or cancellation, as the case may be, not later than three months after the date of the decision to suspend or cancel the certificate.

(b) Upon receiving an appeal, the Minister must designate one or more officials in the Department of Transport to hear any representations made by the appellant and the certifying authority and to report to the Minister, who must then determine the appeal.

(c) In determining an appeal, the Minister may confirm, vary or set aside the suspension or cancellation of an appellant's certificate, and the certifying authority must give effect to the Minister's determination.

(5) The holder of a certificate of competence must keep the original certificate, or a certified copy thereof, available for inspection at all reasonable times."

Amendment of regulation 15 of Regulations

42. Regulation 15 of the Regulations is amended—

(a) by the substitution for subregulation (2) of the following subregulation:

"(2) No person may operate a vessel or any of a vessel's equipment or machinery while under the influence of drink or a drug to such an extent that his or her capacity to fulfil his or her responsibility for the vessel or carry out his or her duties relative to the vessel is impaired."; and

(b) by the substitution in subregulation (3) for the words preceding paragraph (a) of the following words:

"No person may operate a vessel or any of a vessel's equipment or machinery while—".

Amendment of regulation 16 of Regulations

43. Regulation 16 of the Regulations is amended—

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

"(1) No person under the age of 18 years may serve in the capacity as skipper of a commercial small vessel."; and

(b) by the substitution in subregulation (2) for the words preceding paragraph (a) of the following words:

"No person under the age of 16 years may operate a power-driven vessel having a propulsion power exceeding 4 kW, unless—".

Insertion of regulation 16A in Regulations

44. The following regulation is inserted in the Regulations after regulation 16:

"Unauthorized liquor and illicit drugs

16A. (1) This regulation applies only to commercial small vessels.

(2) No person may, in the Republic or elsewhere—

- (a) take any unauthorized liquor or illicit drug on board a vessel;
- (b) have any unauthorized liquor or illicit drug in his or her possession on board a vessel;
- (c) allow another person to take on board a vessel, or to have in his or her possession on board a vessel, any unauthorized liquor or illicit drug; or
- (d) intentionally obstruct another person in the exercise of powers conferred on that person by subregulation (3).

(3) Where an authorized person has reason to believe that an offence against subregulation (2) has been committed in relation to any vessel, the authorized person may, without a warrant—

- (a) go on board the vessel and search it and any property on it; and
- (b) take possession of any liquor or drug found on the vessel and believed to be unauthorized liquor or an illicit drug and may detain the liquor or drug for the period needed to ensure that the liquor or drug is available as evidence in proceedings for the offence.

(4) In this regulation—

'authorized person', in relation to a vessel, means—

- (a) a surveyor;
- (b) a proper officer;
- (c) the skipper of the vessel in question;
- (d) the owner of the vessel in question;
- (e) any person instructed by the skipper or owner to prevent the commission of an offence against subregulation (1) in relation to the vessel;

'fishing boat' does not include a vessel for the time being used solely to convey persons engaged in sea fishing for sport or pleasure;

'illicit drug' means a drug the use or possession of which is prohibited by law;

'drug' has the same meaning as in section 1(1) of the Drugs and Drug Trafficking Act, 1992 (Act No. 140 of 1992);

'liquor' means spirits, wine, beer, cider and any other fermented, distilled or spirituous liquor;

'unauthorized liquor', in relation to—

- (a) a fishing boat, means liquor of any kind; and
 - (b) any other vessel, means liquor in respect of which permission to take it on board the vessel has been given neither by the skipper nor the owner of the vessel nor by a person authorized by the owner of the vessel to give such permission.
- (5) Any reference in subregulation (4) to the owner of a vessel is to be read as excluding any member of the crew of the vessel."

Amendment of regulation 18 of Regulations

45. Regulation 18 of the Regulations is amended by the substitution for subregulation (10) of the following subregulation:

"(10) (a) Before the date referred to in paragraph (b),

- (i) an approved marking is taken, for the purposes of regulation (1)(a), to include an identification number (*ID number*) allocated under regulation 5(1) of the regulations repealed by regulation 33(1)(b) (*the repealed regulations*);
- (ii) subregulation (4) is taken, for the purposes of subregulation (1)(b), to be satisfied in relation to an ID number by the marking of that number in accordance with regulation 5(3) of the repealed regulations; and
- (iii) subregulations (5), (6), (7), (8) and (9) apply, with the necessary modifications, in relation to an ID number.

(b) The date for the purposes of paragraph (a) is the earlier of the following two dates:

- (i) the date on which the inspection referred to in regulation 20(1)(a) is first carried out; or
- (ii) the date on which the period of 12 months expires after the commencement of these regulations."

Amendment of regulation 27 of Regulations

46. Regulation 27 of the Regulations is amended—

- (a) by the insertion after subregulation (1)(b) of the following paragraph:

"(bA) to determine whether a vessel is sufficiently and efficiently manned for the purposes of regulation 14(2);" and

- (b) by the substitution for paragraph (c) of subregulation (1) of the following paragraph:

"(c) to issue, suspend or cancel certificates of competence, and to demand the surrender of suspended or cancelled certificates, under regulation 14B;"

Amendment of regulation 28 of Regulations

47. Regulation 28 of the Regulations is amended by the substitution for subregulation (5) of the following subregulation:

"(5) An enforcement officer who is a safety officer may exercise the powers of an enforcement officer under subregulations (3) and (4)(a) only in respect of pleasure vessels entered with the authorized agency whose functions he or she has been designated to perform and may inspect such vessels and their appliances and equipment only when they are at dockside, moored or ashore."

Substitution of regulation 31 of Regulations

48. The following regulation is substituted for regulation 31 of the Regulations:

"Offences, penalties and defences

31. (1) Every person commits an offence who contravenes regulation 4(1), (3) or (4), 7, 8, 9, 10, 11(1), 12(1), (3), (4) or (5), 13, 14, 14A, 14B(3) or (5), 15(1), (2), (3), or (5), 16, 16A(2), 18(1), (4), (5), (6) or (8), 19, 24, 25, 26, 27(5) or 28(6).

(2) Every person who commits an offence in terms of subregulation (1) is liable on conviction to a fine or to imprisonment for a period not exceeding 12 months.

(3) In proceedings for an offence in terms of subregulation (1) it is a defence to prove that the accused took reasonable precautions and exercised due diligence to avoid the commission of the offence.

(4) In proceedings for an offence in terms of subregulation (1) in relation to regulation 15(2) it is an additional defence to prove that, at the time of the conduct alleged against the accused, he or she was under the influence of a drug taken by him or her for medicinal purposes and either that he or she took it on medical advice and complied with any directions given as part of that advice or that he or she had no reason to believe that the drug might have the influence it had."

Insertion of regulation 31A in Regulations

49. The following regulation is inserted in the Regulations after regulation 31:

"Offences due to fault of another person

31A. Where the commission by any person of an offence in terms of regulation 31(1) is due to the act or omission of some other person, that other person also commits the offence and may be charged with and convicted of the offence by virtue of this regulation, whether or not proceedings are taken against the first-mentioned person."

Amendment of regulation 33 of Regulations

50. Regulation 33 of the Regulations is amended by the deletion of subregulation (2).

Amendment of Annex 1 to Regulations

51. Annex 1 to the Regulations is amended—

- (a) by the substitution for subitem (i) of paragraph 1(1)(c) of the following subitem:
 - "(i) until 1 January 2007, existing commercial small vessels, being fishing boats of more than 7 metres in overall length and of such heavy construction that the fitting of built-in buoyancy is impracticable;"
- (b) by the substitution for the proviso to subparagraph (2) of paragraph 1 of the following proviso:

"Provided that a decked vessel may, instead of built-in buoyancy, be provided with at least two watertight bulkheads so positioned and of sufficient strength that, in the event of flooding of the largest compartment formed by the bulkheads, the vessel will remain afloat in its worst envisaged load condition with positive transverse stability.";
- (c) by the addition to subparagraph (3) of paragraph 1 of the following sentence:

"In passenger vessels, built-in buoyancy must be such that the vessel will remain afloat with positive transverse stability when fully flooded in its worst envisaged load condition.";
- (d) by the addition to paragraph 1 of the following subparagraph:

"(6) In this paragraph any reference to an existing vessel is a reference to a vessel constructed before the commencement of these regulations.";
- (e) by the substitution for subparagraph (1) of paragraph 7 of the following subparagraph:

"(1) Subject to this regulation, every vessel must be provided with an engine capable of propelling the vessel, in its full load condition, at a speed in calm water of at least 5 knots. Additionally, if the vessel is to be operated in the surf, the engine must be capable of propelling the vessel at a safe speed when operating in surf conditions.".
- (f) by the substitution for subparagraph (3) of paragraph 7 of the following subparagraph:

"(3) Every category A, B and C power-driven vessel that employs outboard engine propulsion must be provided with at least two engines either of which must be capable of propelling the vessel, in its full load condition, at a speed in calm water of at least 5 knots. Additionally, if the vessel is to be operated in the surf, either engine must be capable of propelling the vessel at a safe speed when operating in surf conditions."; and
- (g) by the addition to paragraph 16 of the following subparagraphs, the existing paragraph becoming subparagraph (1):

"(2) Every passenger vessel certified to carry a maximum of 20 passengers must comply with following additional requirements:

- (a) with the vessel in the worst anticipated intact condition and, as far as is practicable, with 75 per cent of the passengers congregated on one side of the vessel and 25 per cent on the other side, the angle of heel may not exceed 7 degrees and may not result in deck-edge immersion of the vessel;
- (b) with the vessel in the worst anticipated intact condition and, as far as is practicable, with all of the passengers congregated on one side, neither may a capsizing moment be introduced nor may the resultant angle of heel result in a downflooding point being reached;
- (c) with the vessel in its fully loaded condition including passengers, crew and fuel, the freeboard at the lowest point may not be less than 381 mm for vessels not exceeding 6,1 metres in length and 762 mm for vessels of 18,3 metres in length; for vessels of intermediate length, the freeboard is to be obtained by linear interpolation.

Compliance with these requirements may be demonstrated theoretically or practically.

(3) Every passenger vessel certified to carry more than 20 passengers must comply with the stability criteria applicable to ships classified as class VI passenger ships in terms of the Safety of Navigation Regulations, 1968."

Amendment of Annex 2 to Regulations

52. Annex 2 to the Regulations is amended—

- (a) by the substitution for item 1 of the table in paragraph 1 of the following item:

Item No.	Description of safety appliance and equipment	Category of vessel					Additional remarks
		A	B	C	D	E	
"1	Approved lifejacket*	X	X	X	—	—	One lifejacket of appropriate size to be provided for each person on board. *Lifejackets to comply with standard specification SABS 146/1979, published by the South African Bureau of Standards."

- (b) by the insertion after item 1 of the table in paragraph 1 of the following item:

Item No.	Description of safety appliance and equipment	Category of vessel					Additional remarks
		A	B	C	D	E	
"1A	Approved flotation aid*	X†	X†	X†	X†	X†	† One flotation aid of appropriate size to be provided— (a) for the skipper and each member of the crew of every category A, B or C vessel that is a commercial small vessel; and (b) for each person on board every category A, B or C vessel that is launched or operated in the surf. ‡ One flotation aid of appropriate size to be provided for each person on board every category D or E vessel. * Flotation aids to comply with standard specification SABS 1417/1987, published by the South African Bureau of Standards";

- (c) by the insertion after item 18 of the table in paragraph 1 of the following item:

Item No.	Description of safety appliance and equipment	Category of vessel					Additional remarks
		A	B	C	D	E	
"18A	Emergency position-indicating radio beacon (EPIRB)* capable of transmitting distress alerts through the COSPAS-SARSAT satellite service operating in the 406 MHz band	X†	X†	X†	—	—	<p>EPIRB to be—</p> <p>(a) installed in an easily accessible position;</p> <p>(b) ready to be manually released and capable of being carried by one person into a survival craft;</p> <p>(c) capable of floating free if the vessel sinks;</p> <p>(d) capable of being activated manually; and</p> <p>(e) automatically activated when afloat.</p> <p>Provided that, on vessels spending not more than 12 consecutive hours at sea, the EPIRB may be of the hand-held or personal type, in which case it is to be fitted with a lanyard and wrist strap and kept readily available for use in an emergency.</p> <p>† Mandatory with effect from 1 June 2004.</p> <p>‡ Mandatory with effect from 1 June 2006.</p> <p>* EPIRB to be of a type approved by the Independent Communications Authority of South Africa (ICASA)."</p>

- (d) by the substitution for item 20 of the table in paragraph 1 of the following item:

Item No.	Description of safety appliance and equipment	Category of vessel					Additional remarks
		A	B	C	D	E	
"20	Suitable steering magnetic compass	X	X	X	X	—	Table of residual deviations to be provided on vessels of 9 metres or more in overall length. Compass to be illuminated on vessels operating at night."

- (e) by the substitution for item 24 of the table in paragraph 1 of the following item:

Item No.	Description of safety appliance and equipment	Category of vessel					Additional remarks
		A	B	C	D	E	
"24	2 oars or paddles	—	—	—	X	X	Required only on a vessel fitted with a single outboard petrol engine."

- (f) by the substitution for item 31 of the table in paragraph 1 for the following item:

Item No.	Description of safety appliance and equipment	Category of vessel					Additional remarks
		A	B	C	D	E	
"31	Watertight capsized bottle attached to vessel with rope readily accessible in event of vessel capsizing	X	X	X	X	X	To contain flares and other survival and emergency equipment."

- (g) by the substitution for item 34 of the table in paragraph 1 of the following item:

Item No.	Description of safety appliance and equipment	Category of vessel					Additional remarks
		A	B	C	D	E	
"34	First-aid kit	X	X	X	X	—	Suitable for the vessel's size, complement and intended operation, to the satisfaction of the surveyor or safety officer. First-aid kit to include elementary first-aid manual, such as the publication entitled <i>First on the Scene</i> , published by St Johns Ambulance."

- (h) by the addition to paragraph 2 of the following subparagraph:

"(3) Each emergency position-indicating radio beacon must be examined at least once a month to check—

- (a) its capability to operate properly, particularly its ability to float free (where required) in the event of the vessel sinking;
- (b) how secure it is in its mounting; and
- (c) for signs of damage."; and

- (i) by the addition of the following paragraph:

Emergency position-indicating radio beacon to be registered

4. Emergency position-indicating radio beacons of the kind required by these regulations must be registered with the South African Search and Rescue Organization, in accordance with the Merchant Shipping (EPIRB Registration) Regulations, 2002."

Substitution of certain expression in Regulations

53. The Regulations are amended by the substitution for the expression "after sunset", wherever it occurs, of the expression "at night".

Amendment of contents list in Regulations

54. The contents list (arrangement of regulations) in the Regulations is amended—

- (a) by the substitution for the entries under Part 3 of the following entries:

- "14. Responsibilities of owners
- 14A. Passenger vessel endorsement
- 14B. Certificates of competence
- 15. Physical and mental fitness
- 16. • Age limitations
- 16A. Unauthorized liquor and illicit drugs"; and

- (b) by the substitution for the entry "31. Offences and penalties" under Part 5 of the following entry:

"31. Offences, penalties and defences"; and

- (c) by the addition under Part 5 of the following entry:

"31A. Offences due to fault of another person."

Transitional arrangements

55. (1) Before the date referred to in subregulation (2), persons may, instead of complying with the provisions of regulation 7(2) and Annex 2 of the Regulations, as

amended by this Part, continue to comply with the provisions of that regulation and Annex in force before the commencement of this Part.

(2) The date for the purposes of subregulation (1) is the earlier of the following two dates:

- (a) the date after the commencement of this Part on which the vessel's initial survey or next renewal survey, as the case may be, falls due; or
- (b) the date on which the period of 12 months expires after the commencement of the Regulations.

(3) In subregulation (2)—

"initial survey" means a survey required to be undertaken in accordance with regulation 20(1)(a) of the Regulations or section 190(1) of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), as the case may be, before the appropriate certificate may be issued for the first time; and

"renewal survey" means a survey required to be undertaken in accordance with regulation 20(1)(b) of the Regulations or section 190(2) of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), as the case may be, before a further appropriate certificate may be issued.

EXPLANATORY NOTE

(This note is not part of the regulations)

1 These regulations amend the following regulations made under the Merchant Shipping Act, 1951:

- Part 1 amends the Maritime Occupational Safety Regulations, 1994;
- Part 2 amends the Merchant Shipping (Safe Manning) Regulations, 1999;
- Part 3 amends the Merchant Shipping (Seamen's Documents) Regulations, 2000;
- Part 4 amends the Merchant Shipping (Small Vessel Safety) Regulations, 2002.

2 Part 1 amends several provisions of the Maritime Occupational Safety Regulations, 1994. These measures are primarily intended to enhance the reach and enforceability of Chapter IV (Fishing Vessels) of the Regulations. The main objects of the amendments are:

- to extend responsibilities under Chapter IV in respect of safety officers and safety committees to persons who have assumed responsibility for the operation of a vessel from the owner;
- to extend owners responsibilities under Chapter IV in respect of fishing vessels in service;
- to introduce mandatory minimum training requirements for safety officers on fishing vessels;
- to revise requirements under Chapter IV relating to the constitution and functioning of safety committees.
- to require owners to periodically review compliance with Chapter IV;
- to introduce revised access equipment requirements, including access equipment requirements for fishing vessels;
- to introduce revised penalty provisions;
- to make other minor changes to certain requirements of the regulations; and
- to make several editorial changes.

3 Part 2 amends several provisions of the Merchant Shipping (Safe Manning) Regulations, 1999. The main objects of these amendments are:

- to extend manning responsibilities to persons who have assumed responsibility for the operation of a vessel from the owner;
- to harmonise the application provisions of the principal regulations with those of the Merchant Shipping (Small Vessel Safety) Regulations, 2002; the result is that the principal regulations apply only to vessels (other than pleasure vessels) of 25 gross tonnage or more and to pleasure vessels of 100 gross tonnage or more;
- to introduce approved safety induction training for all fishing vessel personnel; this requirement is phased in over 24 months for serving personnel;

- to introduce a general duty not to work more hours than is safe in relation to the safety of a ship and the shipboard personnel's performance of their duties, and to require schedules of duties to be produced and kept for this purpose;
- to introduce revised manning requirements for fishing vessels of 25 gross tonnage or more but not exceeding 14 metres in tonnage length; this responds to industry concerns about the manning requirements for fishing vessels on the 25 gross tonnage threshold; the amendments (a) allow the requirement for a certificated engineer officer (marine motorman) to be dispensed with, if the skipper has passed an oral examination in basic engineering knowledge and the vessel does not go to sea for periods exceeding 12 consecutive hours; (b) relax the requirements for mate by opening up this position to persons holding the small vessel skipper certificate of competence (vessels > 9 metres in length); and (c) thereby provide a measure of career mobility for small vessel skippers wishing to serve on larger vessels;
- to introduce the duty to carry crew documentation on board all ships; this formalises established international practice;
- to introduce revised penalty provisions; and
- to make several editorial changes.

4 Part 3 amends several provisions of the Merchant Shipping (Seamen's Documents) Regulations, 2000. The main object of these amendments is to omit the specific exclusion for persons serving on "port operations vessels" and to introduce appropriate exemption provisions under which non-trading vessels in general can be dealt with.

5 Part 4 amends several provisions of the Merchant Shipping (Small Vessel Safety) Regulations, 2002. These amendments form part of SAMSA's response to recent casualties involving small fishing vessels. The amendments also introduce enhanced construction, including stability, criteria for small passenger vessels. The main objects of the amendments are:

- to address the need for a lifejacket substitute, particularly for the working environment, by requiring certain vessels to carry SABS-approved flotation aids; a flotation aid, while not providing the same level of protection as a lifejacket, does not restrict movement to the same extent as a lifejacket and is, therefore, considered to be more suitable for workplace activities;
- to enhance safety on vessels working inshore or close to the surf-line by making the wearing of a flotation aid mandatory in certain circumstances; experience has shown that the crew on such vessels rarely have sufficient time to locate and don lifejackets in an emergency;
- to ensure that all persons on board a vessel are given essential safety information by introducing pre-sea and at-sea safety information and instruction requirements;
- to enhance existing safety equipment maintenance requirements by making mandatory pre-sea safety equipment checks;
- to revise and expand the owners responsibilities in relation to the manning of vessels, particularly commercial small vessels;
- to address alcohol and drug related accidents on board vessels by prohibiting the use of a vessel's equipment or machinery by affected persons and by

making the vessel's shipboard and shore side management responsible for ensuring that alcohol and illicit drugs are not taken or kept on board;

- to require the provision of built-in buoyancy in all fishing vessels that do not carry liferafts; this requirement will ensure that a vessel is capable of remaining afloat when damaged or capsized, thus significantly improving the crew's chances of survival at sea, particularly in cold Atlantic waters;
- to establish appropriate stability and other criteria for small passenger vessels; these criteria are capable of being demonstrated by practical means, thus avoiding costly theoretical evaluation;
- to require the provision of satellite (406 MHz) emergency position-indicating radio beacons (EPIRBs) on category A, B and C vessels; this is intended to facilitate search and rescue;
- to make other minor changes to safety equipment carriage requirements; and
- to make several editorial changes.

5.1 The requirements respecting flotation aids, built-in buoyancy and EPIRBs are to be phased in: compliance with the flotation aid requirements will become mandatory from the date of a vessel's next renewal survey or within one year of the commencement of the principal regulations, whichever is earlier; compliance with the built-in buoyancy requirements will become mandatory from 1 January 2007; and compliance with EPIRB carriage requirements will become mandatory from 1 June 2004 for category A vessels, and from 1 June 2006 for category B and C vessels.