

NOTICE 729 OF 2004**SOUTH AFRICAN MARITIME SAFETY AUTHORITY****DRAFT MERCHANT SHIPPING (AUTOMATIC IDENTIFICATION SYSTEM)
REGULATIONS, 2004**

The South African Maritime Safety Authority (SAMSA) intends to submit to the Minister of Transport the proposed regulations set out in the accompanying Schedule. Anyone wishing to comment on the proposal may do so in writing **on or before 31 May 2004** (**Note:** late submissions may be disregarded). Submissions should be addressed to the Chief Executive Officer, SAMSA (for the attention of Mr C Briesch), and may be either:

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

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

SCHEDULE**DRAFT MERCHANT SHIPPING (AUTOMATIC IDENTIFICATION SYSTEM)
REGULATIONS, 2004**

(under section 356 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951))

Title and commencement

1. (1) These regulations are called the Merchant Shipping (Automatic Identification System) Regulations, 2004.

(2) These regulations commence on **1 July 2004**.

Purpose of regulations

2. These regulations give effect to regulation V/19.2.4 of the Safety Convention (as amended in December 2002).

Definitions

3. In these regulations the expression "**the Act**" means the Merchant Shipping Act, 1951 (Act No. 57 of 1951), and, unless the context indicates otherwise, any expression given a meaning by the Act has the meaning so given, and—

"**Convention State**" means a state, other than the Republic, that is a party to the Safety Convention;

"**foreign ship**" means a ship that is not a South African ship;

"**South African ship**" includes an unregistered ship having South African nationality.

Application

4. (1) These regulations apply to—

- (a) every passenger ship;
- (b) every foreign-going ship, other than a passenger ship, of 300 or more gross tonnage; and
- (c) every ship, other than a passenger ship or a ship mentioned in paragraph (b), of 500 or more gross tonnage,

and so apply to—

- (i) South African ships anywhere; and
- (ii) foreign ships when in the Republic or its territorial waters.

(2) However, these regulations do not apply to—

- (a) vessels used solely for sport or recreation;
- (b) fishing, sealing or whaling boats;
- (c) ships not propelled by mechanical means; or
- (d) wooden ships of primitive build.

Performance standards

5. (1) The equipment required by these regulations must—

- (a) comply with performance standards not inferior to the appropriate performance standards adopted by the International Maritime Organisation and specified by the Authority in a marine notice as having been so adopted; and
- (b) be of a type approved—
 - (i) in the case of a South African ship, by the Authority; or
 - (ii) in the case of a foreign ship, by or on behalf of the ship's flag state.

(2) An approval in terms of subregulation (1)(b)(i)—

- (a) must be in writing;
- (b) must specify the period for which it is in force and any conditions on which it is given; and
- (c) may, after reasonable notice, be varied or cancelled.

Automatic identification system

6. (1) The owner of a ship must ensure that an automatic identification system is fitted on board the ship in accordance with the requirements of regulation V/19 of the Safety Convention.

(2) The master of a ship must ensure that the automatic identification system is in operation at all times.

Exemptions

7. (1) The Authority may, in writing, exempt a particular ship or class of ships from the provisions of regulation 6, on such terms (if any) as it may specify, and may, after reasonable notice, vary or cancel any such exemption.

(2) An exemption under subregulation (1) may only be granted if the Authority is satisfied that the ship, or class of ships, concerned will be taken permanently out of service within the period mentioned in regulation V/19.2.4.4 of the Safety Convention.

Inspection of foreign ships

8. When considering whether a foreign ship complies with the requirements of these regulations, a proper officer or a surveyor, as the case may be, need not satisfy himself or herself in relation to the following:

- (a) regulation 5(1)(a), if the equipment is of a type approved by or on behalf of the ship's flag state and that state is a Convention State;
- (b) regulation 5(1)(b)(ii), if the ship's flag state is a Convention State.

Authority must allow ship with defects to proceed in certain cases

9. If—

- (a) a ship is fitted with an automatic identification system as required by regulation 6; and
- (b) the automatic identification system is malfunctioning; and
- (c) the ship is at a port in the Republic; and
- (d) repair facilities are not readily available; and
- (e) the Authority is satisfied that the ship can proceed safely to another specified port (within or outside the Republic) where repairs can be made,

the Authority must allow the ship to proceed to the specified port.

Offence (failing to ensure automatic identification system is in operation)

10. (1) The master of a ship commits an offence if—

- (a) the ship is required by regulation 6 to be fitted with an automatic identification system; and
- (b) the automatic identification system is not in operation at all times.

(2) Subregulation (1) does not apply if the master has a reasonable excuse.

(3) An offence in terms of subregulation (1) is punishable upon conviction by a fine or by imprisonment for a period not exceeding 12 months.

EXPLANATORY NOTE

(This note is not part of the regulations)

These regulations give effect to the requirements of regulation V/19.2.4 of the International Convention for the Safety of Life at Sea, 1974 (as amended in December 2002). In terms of these requirements, passenger ships; foreign-going cargo ships of 300 or more gross tonnage; and other cargo ships of 500 or more gross tonnage are required to be fitted with an automatic identification system (AIS). AIS will:

- provide automatically to appropriately equipped shore stations, other ships and aircraft information about the ship's identity, type, position, course, speed and navigational status, and other safety-related information;
- receive automatically such information from similarly fitted ships;
- monitor and track ships; and
- exchange data with shore-based facilities.

These regulations will enable the Republic to meet its obligations under the Convention.