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MERCHANT SHIPPING ACT, 1951 (ACT No. 57 OF 1951)

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

The Minister of Transport has, under section 356 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), made the regulations in the Schedule.

SCHEDULE**Title and commencement**

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

(2) These regulations commence on publication in the *Gazette*.

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 gross tonnage or more;

- (c) every ship, other than a passenger ship or a ship mentioned in paragraph (b), of **500 gross** tonnage or more,

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) However an exemption 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.