

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

As 'n Nuusblad by die Poskantoor Geregistreer

Registered at the Post Office as a Newspaper

PRYS + 1c AVB 20c PRICE + 1c GST
BUITELANDS 30c ABROAD
POSVRY · POST FREE

Vol. 188]

KAAPSTAD, 13 FEBRUARIE 1981

[No. 7408

CAPE TOWN, 13 FEBRUARY 1981

KANTOOR VAN DIE EERSTE MINISTER

OFFICE OF THE PRIME MINISTER

No. 282.

13 Februarie 1981.

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

No. 2 van 1981: Wet op Seeverkeer, 1981.

No. 282.

13 February 1981.

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

No. 2 of 1981: Marine Traffic Act, 1981.

ACT

To regulate marine traffic in the Republic of South Africa and to provide for matters connected therewith.

*(English text signed by the State President.)
(Assented to 4 February 1981.)*

BE IT ENACTED by the State President and the House of Assembly of the Republic of South Africa, as follows:—

Definitions.

1. In this Act, unless the context otherwise indicates—

- (i) "authorized person" means—
 - (a) any officer as defined in section 1 of the Public Service Act, 1957 (Act No. 54 of 1957), designated by the Minister; 5
 - (b) any officer of the South African Navy;
 - (c) any member of the South African Police above the rank of sergeant; 10
 - (d) any member of the South African Railways Police Force above the rank of sergeant; or
 - (e) any person accompanying any person referred to in paragraph (a), (b), (c) or (d) and acting under his instructions; (iii) 15
- (ii) "foreign", in relation to any ship, submarine or other underwater vessel, means a ship, submarine or other underwater vessel which is not registered or licensed in the Republic; (x)
- (iii) "innocent passage" means passage which is not prejudicial to the peace, good order or security of the Republic; (xi) 20
- (iv) "internal waters" means the waters on the landward side of the normal baseline from which the territorial waters are determined, and includes— 25
 - (a) any harbour under the jurisdiction of the South African Railways and Harbours Administration;
 - (b) any fishing harbour as defined in section 1 of the Sea Fisheries Act, 1973 (Act No. 58 of 1973); and
 - (c) Walvis Bay, Saldanha Bay, Hout Bay, False Bay, the Knysna Lagoon, the Bay of Natal and Richards Bay; (i) 30
- (v) "master", in relation to any ship, submarine or other underwater vessel, means any person having charge or command of such ship, submarine or other underwater vessel; (iv) 35
- (vi) "Minister" means the Minister of Transport Affairs; (v)
- (vii) "offshore installation" means—
 - (a) any installation which is situated within the territorial waters or internal waters or in the open sea and which is used for the transfer of oil from a ship to a point on land or from such point to a ship, and includes an oil derrick so situated; 40

Act No. 2, 1981

MARINE TRAFFIC ACT, 1981

- (b) a bunkering vessel in such waters or the open sea; or
- (c) any vessel or appliance used for the purpose of exploiting the seabed in such waters or the open sea; (vii) 5
- (viii) "passage" means navigation through the territorial waters in a continuous and expeditious manner on a normal and customary route for the purpose of—
 - (a) traversing those waters without entering internal waters or calling at a roadstead or offshore 10 installation outside internal waters; or
 - (b) proceeding to or from a harbour, whether through internal waters or not, or a call at any such roadstead or offshore installation, and includes stopping and anchoring, in so far as such 15 stopping and anchoring are incidental to ordinary navigation or are rendered necessary by *vis major* or distress or are for the purpose of rendering assistance to persons, ships or aircraft in danger or distress; (ii)
- (ix) "regulation" means a regulation made under section 20 14; (vi)
- (x) "ship" means a ship as defined in section 2 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951); (viii)
- (xi) "territorial waters" means the territorial waters of the 25 Republic as defined in section 2 of the Territorial Waters Act, 1963 (Act No. 87 of 1963). (ix)

Right of innocent passage.

2. Subject to the provisions of this Act, every ship, submarine and other underwater vessel (other than any foreign ship, submarine or other underwater vessel not used for commercial 30 purposes) shall enjoy the right of innocent passage through the territorial waters.

Certain vessels to show flag.

3. (1) Save as otherwise authorized by the Minister, the master of any foreign submarine or other foreign underwater vessel shall not cause it to navigate the territorial waters or 35 internal waters otherwise than on the surface and without showing its flag.

(2) The master of such submarine or vessel who contravenes the provisions of subsection (1) shall be guilty of an offence.

Entry into and departure from internal waters.

4. (1) The master of any ship, foreign submarine or other 40 foreign underwater vessel shall not, except as prescribed by regulation, cause it to enter or leave internal waters other than a harbour or port under the jurisdiction or control or management of the South African Railways and Harbours Administration.

(2) The master of such ship, submarine or vessel who 45 contravenes the provisions of subsection (1) shall be guilty of an offence.

Ships not to be stopped or anchored.

5. (1) No person shall within the territorial or internal waters—

(a) except in a port for repair or refitting, stop or anchor a 50 ship which is temporarily withdrawn from service and has no means of propulsion; or

(b) stop or anchor a fully manned and fully powered ship which is temporarily out of employment,

except with the permission of the Minister and on the conditions 55 and within the areas prescribed by regulation.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence.

Ships and wreckage not to be sunk or abandoned.

6. (1) No person shall within the territorial waters or internal waters intentionally— 60

(a) sink or cause to be sunk a ship, a wreck or a hulk except with the permission of the Minister and within

Act No. 2, 1981

MARINE TRAFFIC ACT, 1981

the areas and on the conditions prescribed by regulation; or

(b) abandon a ship which is not in distress, a wreck or a hulk.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence. 5

Suspension of passage.

7. (1) Notwithstanding the other provisions of this Act, if the Minister after consultation with the Minister of Defence considers it essential for the protection of the security of the Republic, he may for a specified period suspend the passage of ships in specified areas of the territorial waters or prohibit entry into internal waters. 10

(2) Such suspension or prohibition shall not take effect before it is given notice of as provided in section 15.

(3) The master of a ship who wilfully fails to observe such suspension or prohibition shall be guilty of an offence. 15

Passage deemed to be not innocent.

8. (1) Notwithstanding the provisions of section 16, the passage of a ship which carries or has on board in the territorial waters—

(a) narcotic drugs; or 20

(b) cargo or any appliance or apparatus the use of which or persons who in the opinion of the Minister may constitute a threat against the sovereignty, territorial integrity or political independence of the Republic,

shall be deemed to be not innocent, and that ship and cargo and those persons may be dealt with as provided by section 9. 25

(2) The master of any ship referred to in subsection (1) (a) shall be guilty of an offence.

Minister's powers relating to ship on non-innocent passage.

9. (1) The Minister may require the master of a ship of which the passage is in terms of section 8 deemed to be not innocent or is believed by him to be not innocent— 30

(a) to stop or anchor the ship;

(b) to declare the ship's name, official number, flag, type, gross tonnage, destination and cargo;

(c) to move the ship to a place specified by the Minister; 35

(d) to produce for inspection by an authorized person all papers or documents relative to the ship and its cargo and allow him to make copies thereof;

(e) to allow authorized persons on board the ship to inspect the ship, its equipment and cargo; 40

(f) to deliver any person referred to in section 8 (1) to an authorized person having powers of arrest, in order to be dealt with according to law.

(2) If the master of the ship fails to perform, within the time specified by the Minister, any act which he has in terms of subsection (1) been required to perform, the Minister may cause such act to be performed, with the employment of such force as may be necessary. 45

(3) If the Minister is satisfied that the passage of the ship is not innocent, he may cause the ship and its cargo or part thereof, or the ship or its cargo or part thereof, to be detained on such conditions as may be prescribed by regulation, for a period not exceeding seven days or such further period as an order of a division of the Supreme Court of South Africa may authorize. 50 55

(4) The Minister may, in respect of the ship and its cargo or part thereof detained in terms of subsection (3)—

(a) cause the ship and cargo or part thereof to be released from such detention;

(b) subject to any order referred to in subsection (3), cause the ship and cargo or part thereof, or the ship or cargo or part thereof, to be seized and dealt with in such manner as may be directed by him. 60

(5) If the ship and cargo or part thereof, or the ship or cargo or part thereof, is sold by virtue of the provisions of subsection (4) 65

Act No. 2, 1981

MARINE TRAFFIC ACT, 1981

(b), the proceeds of such sale shall be paid into the State Revenue Fund.

Notice to be given of proceedings in respect of foreign ships.

10. If any action in terms of this Act is contemplated or taken in respect of any foreign ship, or if any proceedings in terms of this Act are contemplated or taken against the master or owner or a member of the crew of or any person on board of any foreign ship, the Minister shall, if the master of the ship so requests, forthwith advise the agents of the ship and the consular representative of the country whose flag the ship flies at the nearest harbour to such ship, of the action or proceedings taken or contemplated and of the grounds therefor. 5 10

Penalties.

11. Any person shall be liable on conviction of—

- (a) any offence under section 3 (2), to a fine not exceeding R5 000 or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment; 15
- (b) any offence under section 4 (2), 5 (2) or 8 (2), to a fine not exceeding R10 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment; 20
- (c) any offence under section 6 (2) or 7 (3), to a fine not exceeding R1 000 or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

Delegation of powers.

12. The Minister may delegate any power conferred upon him by this Act, other than a power conferred upon him by section 14, to one or more persons in the service of the State, but shall not thereby be divested of any power so delegated and may amend or withdraw any decision of any such person. 25

Limitation of liability.

13. Any person in the service of the State or any other person exercising any power under this Act shall not be liable in respect of any loss or damage resulting from anything done in good faith in terms of the provisions of this Act. 30

Regulations.

14. The Minister may make regulations—

- (a) regulating marine traffic in the territorial and internal waters, including the prescribing of sea lanes and traffic separation schemes for ships in general or for any class of ship or for ships carrying nuclear or other dangerous or noxious substances; 35
- (b) providing for the protection of navigational aids and facilities and offshore installations; 40
- (c) exempting any ship or class of ship from any provision of this Act;
- (d) as to any matters which in terms of this Act are required or permitted to be prescribed by regulation, and, in general, as to all matters which he considers it necessary or expedient to prescribe in order that the purposes of this Act may be achieved. 45

Notification of regulations made or other action under Act.

15. The Minister may, instead of causing regulations under section 14, or any suspension or prohibition referred to in section 7 (1), or any requirement under section 9 (1), to be published in the *Gazette*, give notice thereof to the persons concerned in such manner as he may deem fit. 50

Craft to which Act does not apply.

16. The provisions of this Act do not apply to—

- (a) ships, submarines or other underwater vessels owned and operated by the Government of the Republic for non-commercial purposes; or 55
- (b) any other ship or vessel or class of ship or vessel exempted by the Minister by regulation from any provision of this Act in so far as it is so exempted. 60

Act No. 2, 1981

MARINE TRAFFIC ACT, 1981

Operation of Act in relation to other laws.

17. The provisions of this Act are in addition to and not in substitution of any other law which is not in conflict with or inconsistent with this Act.

Agreement with government of certain state or territory.

18. If agreed upon between the Government of the Republic and the government of any other state or territory of which the territorial waters are contiguous to the territorial waters of the Republic, the Minister may for and in respect of that state or territory perform any function which he would be capable of performing in the Republic in terms of this Act, as if that state or territory formed part of the Republic. 5 10

Short title and commencement.

19. This Act shall be called the Marine Traffic Act, 1981, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.