



# STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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KANTOOR VAN DIE EERSTE MINISTER

OFFICE OF THE PRIME MINISTER

No. 283.

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. 3 van 1981: Wysigingswet op Handelskeepvaart, 1981.

No. 283.

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. 3 of 1981: Merchant Shipping Amendment Act, 1981.

Act No. 3, 1981

MERCHANT SHIPPING AMENDMENT ACT, 1981

## GENERAL EXPLANATORY NOTE:

**[ ]** Words in bold type in square brackets indicate omissions from existing enactments.

                     Words underlined with solid line indicate insertions in existing enactments.

**ACT**

To amend the Merchant Shipping Act, 1951, so as to insert, substitute or delete certain definitions; to further regulate the licensing of small vessels; to prohibit the use of vessels of less than three metres in length; to transfer the powers to issue certificates of qualification as able seaman from the Minister to the Director-General; to change the designation "matroos" in the Afrikaans text to "seaman"; to extend the circumstances in which a seaman shall be entitled to wages although his services have been terminated, or in which a seaman shall be entitled to compensation for loss of property; to further regulate the issue of certain safety certificates; to extend the meaning of "grain" for the purposes of transport by ship; to extend the meaning of "owner" for the purposes of limitation of liability; to extend the category of persons who may act as chairman of a court of marine enquiry; to provide for South African citizens committing offences on board any foreign ship outside South African waters to be tried by a South African court; and to substitute the expression "Director-General" for the word "Secretary"; and to provide for incidental matters.

*(Afrikaans 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:—

Amendment of  
section 2 of  
Act 57 of 1951,  
as amended by  
section 3 of  
Act 30 of 1959,  
section 31 of  
Act 69 of 1962,  
section 1 of  
Act 40 of 1963,  
section 1 of  
Act 13 of 1965,  
section 1 of  
Act 42 of 1969,  
section 1 of  
Act 24 of 1974  
and section 1 of  
Act 5 of 1976.

1. Section 2 of the Merchant Shipping Act, 1951 (hereinafter referred to as the principal Act), is hereby amended—
  - (a) by the insertion in subsection (1) after the definition of "deck line" of the following definition: 5  

"Director-General" means the Director-General: Transport";;
  - (b) by the substitution in subsection (1) for the definition of "Minister" of the following definition: 10  

"Minister" means the Minister of Transport Affairs";;
  - (c) by the insertion in subsection (1) after the definition of "Minister" of the following definition:  

"nautical mile" means a distance of 1 852 metres";;
  - (d) by the deletion in subsection (1) of the definition of 15  

"Secretary";;
  - (e) by the insertion in subsection (1) after the definition of "short voyage safety certificate" of the following definition:  

"small vessel" means a vessel of less than twenty-five 20  
gross tons and of more than three metres in  
length";; and
  - (f) by the substitution in subsection (1) for the definition of "vessel" of the following definition:

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“vessel’ includes any ship, or any boat, small vessel or [any] other description of vessel used or designed to be used in navigation;”.

Amendment of section 68 of Act 57 of 1951, as amended by section 14 of Act 30 of 1959, section 10 of Act 40 of 1963 and section 3 of Act 13 of 1965.

2. Section 68 of the principal Act is hereby amended—
- (a) by the substitution for subsection (1) of the following subsection:
- “(1) The owner or the master—
- (a) of a small vessel which—
- [(i) is of less than twenty-five gross tons; and]
- (ii) is not registered as a ship in the Republic or elsewhere; and
- [(iii) is employed or owned for the purpose of fishing or carrying persons or goods of any kind for financial gain or reward; and]
- (iv) operates at or from a port in or from anywhere else on the coast of the Republic; or
- (b) of a ship which has been exempted under the provisions of subsection (3) of section 13, shall before such small vessel or ship is used in the Republic
- [1. in the case of a vessel referred to in paragraph (a), within one month from the date of her being employed or acquired or built for the said purpose; or
2. in the case of a vessel referred to in paragraph (b), within one month from the date of her being exempted as aforesaid,
- apply to the nearest proper officer in the Republic for a licence in terms of this Act.] be in possession of a licence issued to him in terms of this Act by a proper officer.”; and
- (b) by the addition of the following subsection:
- “(4) The Minister may on such conditions as he may determine exempt the owner or the master of a small vessel used solely for sport or recreation from the provisions of this section.”.

Insertion of section 72A in Act 57 of 1951.

3. The following section is hereby inserted in the principal Act after section 72:

“Prohibition of use of vessels of less than three metres in length.

72A. (1) No vessel of less than three metres in length shall go to sea from any port in or from anywhere else on the coast of the Republic.

(2) Notwithstanding the provisions of subsection (1) the Minister may by regulation—

(a) prescribe the purpose for and the area in which a vessel of less than three metres in length may be used; and

(b) apply the provisions of section 68 *mutatis mutandis* to any such vessel in any area.”.

Amendment of section 112 of Act 57 of 1951, as amended by section 23 of Act 40 of 1963.

4. Section 112 of the principal Act is hereby amended—
- (a) by the substitution for subsection (2) of the following subsection:
- “(2) The [Minister] Director-General may grant a certificate of qualification as able seaman to any candidate who passes the examination prescribed and produces satisfactory evidence that he possesses the qualifications prescribed.”; and
- (b) by the substitution in the Afrikaans text for the word “matroos”, wherever it occurs, of the word “seeman”.

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Amendment of section 140 of Act 57 of 1951, as amended by section 21 of Act 30 of 1959.

5. Section 140 of the principal Act is hereby amended—
- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:  
“(a) the wreck, loss, [or] abandonment, flooding, stranding, fire on board or collision of the ship; 5  
or”;
- (b) by the substitution for subsection (3) of the following subsection:  
“(3) If by reason of the wreck, loss, [or] abandonment, flooding, stranding, fire on board or collision of 10  
a ship on which a seaman is employed he sustains the loss of any or all of his property, he shall be entitled, in accordance with the regulations, to compensation from the owner of the ship for such loss.”; and
- (c) by the substitution for subsection (4) of the following 15 subsection:  
“(4) A seaman shall not be entitled to receive compensation under subsection (3) if it be proved that the loss of his property was not due to the wreck, loss, [or] abandonment, flooding, stranding, fire on board 20  
or collision of the ship.”.

Amendment of section 197 of Act 57 of 1951, as amended by section 14 of Act 13 of 1965.

6. Section 197 of the principal Act is hereby amended—
- (a) by the substitution for subsection (3) of the following subsection:  
“(3) (a) The Minister or any person thereto author- 25  
ized by him may grant an extension of any safety convention certificate, except a cargo ship safety construction certificate, and the [Secretary] Director-General may grant an extension of any local 30  
safety certificate, issued in respect of any vessel registered or licensed under this Act, for a period not exceeding one month from the date when the certificate would, but for the extension, have expired, or, if the vessel is absent from the Republic on that date, for a period not exceeding 35  
five months from that date.
- (b) If any safety convention certificate, except a cargo ship safety construction certificate, issued in respect of a ship not registered in the Republic, expires while such ship is in any port in the Republic, the Minister or any person authorized thereto by him may, for sound reasons, extend such certificate for any period not exceeding five months, which extension shall be granted only for the purpose of allowing such ship to complete its voyage to the country in which it is registered or is to be inspected. 40
- (c) Notwithstanding the provisions of this section the validity of a certificate shall expire upon transfer of any ship to the flag of another country. 50

Amendment of section 236 of Act 57 of 1951, as amended by section 43 of Act 40 of 1963.

7. Section 236 of the principal Act is hereby amended by the substitution for subsection (5) of the following subsection:  
“(5) In this section the word ‘grain’ includes wheat, maize, oats, rye, barley, rice, pulses, [and] seeds and processed forms thereof, whose behaviour during transport in bulk is similar to that of grain in its natural state, and in 55  
subsection (4) the expression ‘ship carrying a cargo of grain’ means a ship carrying a quantity of grain exceeding one-third of the ship’s net register tonnage, reckoning [one hundred cubic feet] 2,83 cubic metres or two [tons] tonne 60  
[weight] mass of grain as equivalent to one ton of net register tonnage.”.

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Amendment of section 263 of Act 57 of 1951.

8. Section 263 of the principal Act is hereby amended by the addition of the following subsection, the existing section becoming subsection (1):

“(2) For the purposes of section 261 the word ‘owner’ in relation to a ship shall include any charterer, any person interested in or in possession of such ship, and a manager or operator of such ship.” 5

Amendment of section 267 of Act 57 of 1951.

9. Section 267 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) A court of marine enquiry shall consist of a judge or ex-judge of the Supreme Court, magistrate, ex-magistrate, advocate or attorney, who shall be the presiding officer, and either two or four other members.” 10

Amendment of section 327 of Act 57 of 1951, as amended by section 40 of Act 30 of 1959 and section 55 of Act 69 of 1962.

10. Section 327 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph: 15

“(a) being a South African citizen, is charged with having committed an offence on board a South African ship on the high seas, or on board a South African ship in any port outside the Republic, or on board any ship (other than a South African ship) [to which he does not belong] irrespective of whether he belongs to that ship or not; or” 20

Substitution of word “Secretary” in Act 57 of 1951.

11. The principal Act is hereby amended by the substitution for the word “Secretary”, wherever it occurs, of the expression “Director-General”. 25

Short title and commencement.

12. (1) This Act shall be called the Merchant Shipping Amendment Act, 1981.

(2) The provisions of section 2 shall come into operation on a date fixed by the State President by proclamation in the *Gazette*. 30