

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

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DEPARTEMENT VAN DIE EERSTE MINISTER

DEPARTMENT OF THE PRIME MINISTER

No. 410.

17 Maart 1976.

No. 410,

17 March 1976.

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

5 van 1976: Wysigingswet op Handelskeepvaart, 1976.

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

No. 5 of 1976: Merchant Shipping Amendment Act, 1976.

ACT

To amend the provisions of the Merchant Shipping Act, 1951, relating to the definitions; so as to substitute metric measures for certain other measures for the purposes of the Act; to authorize the Minister to exempt any person from any provision of the regulations; to make different provision relating to the constitution and functions of the National Marine Advisory Council; to grant to the Minister certain powers in respect of certain wrecks and ships; to increase the amounts of certain fines; to extend and modify the power of the Minister to make regulations; and to provide for incidental matters.

(English text signed by the State President.)
(Assented to 4 March 1976.)

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

1. Section 2 (1) of the Merchant Shipping Act, 1951 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the substitution for the definition of "clearance" of the following definition:

"'clearance' includes any clearance or transire referred to in the Customs and Excise Act, 1964 (Act No. 91 of 1964);

(b) by the substitution for the definition of "international load line ship" of the following definition:

"'international load line ship' means a load line ship of 24 metres or more in length, which is engaged on an international voyage;"

(c) by the substitution for the definition of "load line ship" of the following definition:

"'load line ship' means any ship of 14 metres or more in length, which is not solely engaged in fishing and is not a pleasure yacht;"

(d) by the substitution for the definition of "local load line ship" of the following definition:

"'local load line ship' means a load line ship—

(a) engaged on an international voyage and of less than 24 metres in length; or

(b) not engaged on an international voyage;"

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 and section 1 of Act 24 of 1974.

MERCHANT SHIPPING AMENDMENT ACT, 1976

Act No. 5, 1976

- (e) by the substitution for the definition of "medical practitioner" of the following definition:

"'medical practitioner' means—

(a) at a place in the Republic, a person registered as such under the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974); or

(b) at a place outside the Republic, a person who is entitled to practise as such under the law in force in that place;"

- (f) by the substitution for the definition of "officer of customs" of the following definition:

"'officer of customs' means an officer as that expression is defined by section 1 of the Customs and Excise Act, 1964 (Act No. 91 of 1964);"

- (g) by the substitution for the definition of "savings bank" of the following definition:

"'savings bank' means the Post Office Savings Bank, or a banking institution registered under the Banking Act, 1965 (Act No. 23 of 1965), or a building society registered under the Building Societies Act, 1965 (Act No. 24 of 1965), or, in respect of the allotment of premiums, a person registered or deemed to be registered as an insurer under the Insurance Act, 1943 (Act No. 27 of 1943), or any other body designated by the Minister;" and

- (h) by the substitution for the definition of "superior court" of the following definition:

"'superior court' means a division of the Supreme Court of South Africa;"

2. Section 4 of the principal Act is hereby amended by the insertion after paragraph (c) of the following paragraph:

- "(cA) subject to such conditions as may be determined by him exempt any person from any of or all the provisions of the regulations made under section 356;"

Amendment of section 4 of Act 57 of 1951, as amended by section 2 of Act 42 of 1969.

3. Section 6 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:

"(1) There shall be a National Marine Advisory Council, consisting of not more than twelve members, of whom at least one (who shall be the chairman) shall be a member of the public service, and of whom eight shall be nominated by such bodies and associations as may be recognized by the Minister as being representative of the interests in merchant shipping in the Republic;" and

Amendment of section 6 of Act 57 of 1951, as amended by section 4 of Act 30 of 1959 and section 2 of Act 40 of 1963.

- (b) by the substitution for subsection (4) of the following subsection:

MERCHANT SHIPPING AMENDMENT ACT, 1976

Act No. 5, 1976

“(4) The National Marine Advisory Council shall advise the Minister relating to matters—

- (a) arising out of the application of this Act;
- (b) connected with merchant shipping in the Republic or, if referred to it by the Minister, merchant shipping in general.”.

4. Section 73 of the principal Act is hereby amended by the substitution for subsections (1) and (2) of the following subsections, respectively:

“(1) Subject to the provisions of this section, the owner and the master of every—

- (a) South African ship going to sea from any port whatsoever; or
- (b) ship (other than a South African ship) embarking passengers at, and going to sea from, any port in the Republic,

shall, if the ship is of twenty-five or more gross register tons, and is of the class shown in Column 2 of any item in the Table hereunder and of the tonnage or power shown in Column 3 of that item, ensure that there are employed on board that ship in their appropriate capacities the number of officers or other persons, duly certificated or deemed to be certificated under this Act, as shown in Columns 4 and 5 of that item:

Amendment of section 73 of Act 57 of 1951, as amended by section 15 of Act 30 of 1959, section 37 of Act 69 of 1962 and section 11 of Act 40 of 1963.

Column 1	Column 2	Column 3	Column 4	Column 5
Item No.	Class of ship	Gross register tonnage or power	Numbers of officers or other persons to be employed	Certificates to be held by persons shown in Column 4, and paragraphs of section 75 (1) by which grant of certificates is authorized.
1	Foreign-going ship	Any	One One One	Master: para. (a). Chief navigating officer: para. (b). Second navigating officer: para. (c).
2	Coasting ship	100 or more tons	One One	Master: para. (d). Navigating officer: para. (e).
3	Fishing, sealing or shore-based whaling boat	100 or more tons	One One One	Skipper: para. (f). Mate: para. (g). Boatswain: para. (h).
4	Coasting ship or fishing, sealing or shore-based whaling boat	50 or more but less than 100 tons	One One	Skipper: para. (i). Mate: para. (j).
5	Coasting ship or sealing or shore-based whaling boat	Less than 50 tons	One One	Skipper: para. (i). Mate: para. (j).
6	Fishing boat	Less than 50 tons	One	Mate: para. (j).

MERCHANT SHIPPING AMENDMENT ACT, 1976

Act No. 5, 1976

Column 1	Column 2	Column 3	Column 4	Column 5
Item No.	Class of ship	Gross register tonnage or power	Numbers of officers or other persons to be employed	Certificates to be held by persons shown in Column 4, and paragraphs of section 75 (1) by which grant of certificates is authorized.
7	Foreign-going ship, other than a whaling boat	750 kW or more	One One	Chief engineer-officer: para. (k). Second engineer-officer: para. (l).
8	Coasting ship	1 125 kW or more	One	Chief engineer-officer: para. (k)bis.
9	Whaling boat, other than a shore-based whaling boat	750 kW or more	One	Chief engineer-officer: para. (k).
10	Coasting ship	Less than 1 125 kW	One	Second engineer-officer: para. (l)bis.
11	Foreign-going ship, other than a whaling boat	Less than 750 kW	One	Second engineer-officer: para. (l).
12	Whaling boat, other than a shore-based whaling boat	Less than 750 kW	One	Second engineer-officer: para. (l).
13	Power-driven fishing, sealing or shore-based whaling boat	More than 225 kW	One One	Marine engineman: para. (m). Assistant marine engineman: para. (n).
14	Power-driven fishing, sealing or shore-based whaling boat	225 kW or less	One	Assistant marine engineman: para. (n).

(2) The Minister may by notice in the *Gazette* require that more or more highly certificated officers or other persons than are prescribed by subsection (1) shall be employed on board any class of ships of any tonnage or power specified in that notice; and after the publication of any such notice the owner of any ship to which it applies shall ensure that there are employed on board that ship the number of officers or other persons prescribed by that notice, duly certificated or deemed to be certificated under this Act."

MERCHANT SHIPPING AMENDMENT ACT, 1976

Act No. 5, 1976

5. Section 80 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (2) of the following paragraph:

Amendment of section 80 of Act 57 of 1951, as amended by section 16 of Act 30 of 1959, section 14 of Act 40 of 1963 and section 7 of Act 42 of 1969.

“(a) if the application is made under subsection (1) (a), an appropriate certificate of service authorizing him to act as master, navigating officer or engineer-officer, as the case may be, of a ship of not more than one thousand gross register tons (in the case of a master or navigating officer) or of not more than 750 kW indicated power (in the case of an engineer-officer); or”.

6. The following section is hereby substituted for section 157 of the principal Act:

Substitution of section 157 of Act 57 of 1951.

“Measuring instruments on board. 157. The master of a South African ship shall keep on board proper measuring instruments for determining the quantities of the several provisions and articles served out, and in the event of any dispute as to the quantities served out, shall cause the quantities to be measured in the presence of a witness by using such measuring instruments.”.

7. Section 294 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

Amendment of section 294 of Act 57 of 1951.

“(2) An appointment as salvage officer shall be in respect of a defined area; and if at any time there is no salvage officer for any area, the Controller of Customs and Excise at the principal port in that area shall be the salvage officer for that area.”.

8. The following section is hereby substituted for section 301 of the principal Act:

Substitution of section 301 of Act 57 of 1951, as amended by section 37 of Act 30 of 1959.

“Salvage payable for saving wreck. 301. When any ship is wrecked, stranded, abandoned or in distress or any wreck is found within the territorial waters of or on or near the coasts of the Republic, and services are rendered by any person other than a salvage officer or his authorized representative in saving such ship or wreck, there shall, subject to the provisions of section 300 (2), be paid to that person by the owner of the ship or wreck, or by the Secretary for Customs and Excise if the ship or wreck is disposed of by him in terms of section 112 (3) of the Customs and Excise Act, 1964 (Act No. 91 of 1964), a reasonable amount of salvage.”.

9. The following section is hereby inserted in the principal Act after section 304:

Insertion of section 304A in Act 57 of 1951.

“Powers of Minister in respect of certain wrecks and ships. 304A. (1) (a) When a ship is wrecked, stranded or in distress within the territorial waters of or on or near the coasts of the Republic, the Minister may direct the master or owner of such ship, or both such master and such owner, either orally or in writing to move such ship to a place specified by the Minister or to perform such an act in respect of such ship as may be specified by the Minister.”.

MERCHANT SHIPPING AMENDMENT ACT, 1976

Act No. 5, 1976

(b) If the master or owner of a ship referred to in paragraph (a) fails to perform within the time specified by the Minister any act which he has in terms of that paragraph been required to perform, the Minister may cause such act to be performed.

(2) If the Minister is of the opinion that any wreck or any wrecked, stranded or abandoned ship constitutes a danger or potential danger to navigation in the territorial waters of the Republic, he may, notwithstanding the provisions of subsection (1), cause such wreck or ship or any part thereof to be raised, removed or destroyed or dealt with in such manner as he may deem fit.

(3) If the Minister incurred any expenses in connection with the exercise of any power in terms of subsection (1) (b) or (2), the Minister may recover such expenses from the owner of the wreck or ship in question or, in the case of an abandoned wreck or ship, from the person who was the owner thereof at the time of the abandonment.

(4) If the Minister incurred or will incur any expenses in connection with the exercise of any power in terms of subsection (1) (b) or (2) in respect of any wreck or ship, he may cause any goods to be removed from such wreck or ship.

(5) The Minister may—

(a) sell any wreck or ship in respect of which any power has been exercised in terms of subsection (1) (b) or (2), any part of such wreck or ship and any goods removed therefrom in terms of subsection (4), and apply the proceeds of the sale towards the defrayal of any expenses incurred in connection with the exercise of such power; or

(b) cause any such wreck, ship or goods to be detained until security to the satisfaction of the Minister has been given for the payment of such expenses.

(6) If any wreck, ship or goods are sold in terms of subsection (5) and the proceeds of the sale exceed the amount of the expenses referred to in that subsection, the surplus shall be paid to the owner of the wreck, ship or goods in question after deducting therefrom the amount of any duty payable in respect of such wreck, ship or goods in terms of the Customs and Excise Act, 1964 (Act No. 91 of 1964).

(7) The Minister or any person acting under the authority of the Minister shall not be liable in respect of anything done in good faith in terms of the provisions of this section."

10. The following section is hereby substituted for section 313 of the principal Act:

Substitution of section 313 of Act 57 of 1951.

"Penalties for offences.

313. (1) Every person who is guilty of an offence under this Act for which no penalty is specially provided in subsection (2) or (3) of this section or section 323 (4) or under section 356 (5) shall on conviction be liable to a fine not exceeding R200.

(2) Every person who is guilty of an offence under this Act mentioned in Column 1 hereunder shall on conviction be liable to a penalty not exceeding the penalty mentioned in Column 2 hereunder opposite the offence:

MERCHANT SHIPPING AMENDMENT ACT, 1976

Act No. 5, 1976

Column 1	Column 2
Contravening or failing to comply with the following provisions.	Penalty.
Section 201.	Fine of R80 and, in addition, for every passenger in excess of the number permitted by the certificate or memorandum, a fine of double the highest fare payable by any passenger on board.
Section 16, 19 (2), 36 (2), 65 (2), 68, 72, 117 (1), 118, 172, 213, 232 (1) or 250.	Fine of R400.
Section 9 (2), 174 (2) (c) or (e), 200 (1) (c) or (d), 212 (b), 219 (a) (ii), 228 (1) or 303 (1).	Fine of R400 or six months' imprisonment or both such fine and imprisonment.
Section 32 (2).	Fine of R400 or six months' imprisonment or both such fine and imprisonment and, in addition, a fine of R20 for every day during which the offence continues after conviction.
Section 73 (1), 174 (2) (d), (f) or (g), 200 (1) (a) or (b), 212 (a), 219 (a) (i) or (b), 221 (1), 235 (1) or (2), 236 (1), 237 (1) or (2), 316 (a), (b), (e), (f), (g) or (h) or 320.	Fine of R800 or one year's imprisonment or both such fine and imprisonment.
Section 9 (3), 11 (2), 25, 65 (3), 66, 67, 174 (1), 204 (3), 234 (1) or (2), 296, 299 (2), 314, 315 or 316 (c).	Fine of R2 000 or two years' imprisonment or both such fine and imprisonment.
Section 214 (1).	Fine of R2 000 or two years' imprisonment, or both such fine and such imprisonment, and, in addition, a fine of R800 for every 25 mm or fraction thereof by which the appropriate load line on each side of the ship was submerged or would have been submerged if the ship had had no list.
Section 240.	Fine of R4 000 or three years' imprisonment or both such fine and imprisonment.
Section 316 (d).	Fine of treble the value of the ship or goods received or had in possession or R4 000, whichever is the greater, or three years' imprisonment or both such fine and imprisonment.

(3) Every person who, being the master of a ship involved in a collision, fails to comply with the provisions of section 258 (1) or who, being the master of a ship to which any provision of the collision regulations applies, without reasonable cause contravenes or fails to comply with that provision, shall on conviction be liable to a fine not exceeding R2 000 or imprisonment for a period not exceeding two years, or both such fine and imprisonment."

11. Section 356 of the principal Act is hereby amended—

(a) by the substitution for paragraph (xxxvi) of subsection (1) of the following paragraph:

"(xxxvi) prescribing the standards of seaworthiness to be observed in respect of vessels to which the Safety

Amendment of section 356 of Act 57 of 1951, as amended by section 42 of Act 30 of 1959,

MERCHANT SHIPPING AMENDMENT ACT, 1976

Act No. 5, 1976

Convention does not apply, and regarding the marking and inspection of such vessels and the life-saving appliances and first-aid apparatus with which such vessels shall be equipped;”

section 59 of Act 40 of 1963 and section 6 of Act 24 of 1974.

- (b) by the insertion after paragraph (xxxvi) of subsection (1) of the following paragraph:
- “(xxxviA) (a) requiring such life-saving appliances to comply with specifications determined by the South African Bureau of Standards mentioned in the Standards Act, 1962 (Act No. 33 of 1962); and
- (b) determining the circumstances under which such life-saving appliances shall for the purposes of this Act be deemed to comply with such specifications; and
- (c) by the substitution for paragraphs (xxxix), (xl) and (xli) of subsection (1) of the following paragraphs, respectively:
- “(xxxix) prescribing the class or classes of ships on which supplies of antiscorbutics, medicines and appliances for the treatment and prevention of diseases and accidents likely to occur at sea and of first-aid equipment are to be carried;
- (xl) prescribing scales according to which supplies of antiscorbutics, medicines and appliances for the treatment and prevention of diseases and accidents likely to occur at sea and of first-aid equipment are to be carried on board a ship of a prescribed class;
- (xli) prescribing the first-aid equipment to be carried on board a ship of a prescribed class;”.

12. This Act shall be called the Merchant Shipping Amendment Act, 1976. Short title.