

No. 40, 1963.]

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.

# ACT

To amend the Merchant Shipping Act, 1951.

(English text signed by the State President.)  
(Assented to 3rd May, 1963.)

**BE IT ENACTED** by the State President, the Senate 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 and section 31 of Act 69 of 1962.

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

- (a) by the deletion in the definition of “collision regulations” in sub-section (1) of the words “or deemed in terms of sub-section (4) of that section to have been so made,”;
- (b) by the substitution for the definition of “International Collision Regulations” in the said sub-section of the following definition:  
“‘International Collision Regulations’ means the regulations set out in the Third Schedule to this Act;”;
- (c) by the substitution for the definition of “Load Line Convention” in the said sub-section of the following definition:  
“‘Load Line Convention’ means the convention set out in the Fourth Schedule to this Act;”;
- (d) by the substitution in the definition of “recognized non-Union” in the said sub-section for the word “non-Union” of the words “non-South African”;
- (e) by the substitution for the definition of “Safety Convention” in the said sub-section of the following definition:  
“‘Safety Convention’ means the convention set out in the Second Schedule to this Act;”;
- (f) by the substitution in the definition of “unseaworthy” in the said sub-section for the word “non-Union”, wherever it occurs, of the words “non-South African”, and for the word “proclamation”, in sub-paragraph (iii) of paragraph (c), of the word “notice”.

Amendment of section 3 of Act 57 of 1951, as amended by section 4 of Act 30 of 1959 and section 32 of Act 69 of 1962.

2. Section *three* of the principal Act is hereby amended—

- (a) by the substitution in sub-section (3) for the words “Government of the Union” of the words “Government of the Republic”; and
- (b) by the substitution for sub-section (11) of the following sub-section:

“(11) If the Minister is satisfied—

- (a) that ships registered in any country other than the Republic are required by the law in force in that country to comply with any provisions which are substantially the same as, or equally effective with, any of the provisions of this Act which apply to such ships while they are within the Republic or the territorial waters thereof; and
- (b) that that country has made or has undertaken to make provision for the exemption of South African ships while they are within that country or the territorial waters thereof from the corresponding requirements of the law of that country,

he may by notice in the *Gazette* declare that the said provisions of this Act shall not apply to any ship of that country, while she is within the Republic or its territorial waters, if it is proved that the ship complies with the corresponding provisions of the

law in force in that country; and thereafter upon such proof being furnished, the said provisions of this Act shall not apply to such ship.”.

Amendment of section 6 of Act 57 of 1951, as amended by section 6 of Act 30 of 1959.

3. Section *six* of the principal Act is hereby amended by the substitution in sub-section (6) for the words “Union port” of the words “port in the Republic”.

Amendment of section 11 of Act 57 of 1951, as amended by section 33 of Act 69 of 1962.

4. Section *eleven* of the principal Act is hereby amended by the substitution for the words “Government of the Union”, wherever they occur, of the words “Government of the Republic”.

Amendment of section 13 of Act 57 of 1951.

5. Section *thirteen* of the principal Act is hereby amended by the substitution in paragraph (a) of sub-section (1) for the words “Government of the Union” of the words “Government of the Republic”.

Amendment of section 14 of Act 57 of 1951.

6. Section *fourteen* of the principal Act is hereby amended by the substitution for the words “port in the Union” of the words “port in the Republic”.

Amendment of section 30 of Act 57 of 1951.

7. Section *thirty* of the principal Act is hereby amended by the insertion in sub-section (1) after the word “port”, where it occurs for the second time, of the words “or the Secretary”, the insertion in the said sub-section after the word “officer”, where it occurs for the second time, of the words “or the Secretary, as the case may be,” and by the substitution in the said sub-section for the words “shall forward a copy of the certificate” of the words “the proper officer shall, if the certificate is issued by him, forward a copy thereof”.

Amendment of section 64 of Act 57 of 1951.

8. Section *sixty-four* of the principal Act is hereby amended by the substitution in paragraph (d) for the words “Government of the Union” of the words “Government of the Republic”.

Amendment of section 65 of Act 57 of 1951, as amended by section 36 of Act 69 of 1962.

9. Section *sixty-five* of the principal Act is hereby amended by the substitution in paragraph (b) and in paragraph (c) of sub-section (2) for the words “Union port” of the words “port in the Republic”.

Amendment of section 68 of Act 57 of 1951, as amended by section 14 of Act 30 of 1959.

10. Section *sixty-eight* of the principal Act is hereby amended by the substitution in paragraph (a) of sub-section (3) for the words “Government of the Union” of the words “Government of the Republic”.

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

11. Section *seventy-three* of the principal Act is hereby amended—

- (a) by the substitution in paragraph (b) of sub-section (1) for the words “port in the Union” of the words “port in the Republic”;
- (b) by the substitution in Column 5 of Item No. 8 of the Table set forth in sub-section (1) for the expression “para. (k)” of the expression “para. (k)*bis*”;
- (c) by the substitution in Column 5 of Item No. 10 of the said Table for the expression “para. (l)” of the expression “para. (l)*bis*”; and
- (d) by the substitution in sub-section (4) for the words “port in the Union”, wherever they occur, of the words “port in the Republic”.

Amendment of section 75 of Act 57 of 1951.

12. (1) Section *seventy-five* of the principal Act is hereby amended by the substitution in sub-section (1) for paragraphs (k) and (l) of the following paragraphs:

- “(k) chief engineer-officer of a foreign-going ship;
- (k)*bis* chief engineer-officer of a coasting ship;
- (l) second engineer-officer of a foreign-going ship;
- (l)*bis* second engineer-officer of a coasting ship;”.

(2) Any certificate of competency granted for the grade of chief engineer-officer or second engineer-officer before the coming into operation of sub-section (1) shall be deemed to have been granted in respect of a foreign-going ship and any such certificate shall on production thereof to the Secretary be endorsed to that effect by him.

Amendment of section 79 of Act 57 of 1951, as amended by section 40 of Act 69 of 1962.

13. Section *seventy-nine* of the principal Act is hereby amended by the substitution in paragraph (b) of sub-section (1) for the words "which is a member of the British Commonwealth of Nations" of the words "other than the Republic".

Amendment of section 80 of Act 57 of 1951, as amended by section 16 of Act 30 of 1959.

14. (1) Section *eighty* of the principal Act is hereby amended by the substitution in sub-paragraph (i) and in sub-paragraph (ii) of paragraph (c) of sub-section (1) for the word "Union" of the words "Republic or, except in the case of a foreign ship, licensed under the Sea Fisheries Act, 1940 (Act No. 10 of 1940), or the Sealing and Fisheries Ordinance, 1949 (Ordinance No. 12 of 1949), of the Territory of South-West Africa".

(2) Sub-section (1) shall be deemed to have come into operation on the date on which section *eighty* of the principal Act came into operation.

Amendment of section 81 of Act 57 of 1951.

15. Section *eighty-one* of the principal Act is hereby amended by the deletion in sub-section (1) of the words "and in duplicate, one being delivered to the person entitled to the certificate, and the other being filed for record".

Amendment of section 83 of Act 57 of 1951, as amended by section 41 of Act 69 of 1962.

16. Section *eighty-three* of the principal Act is hereby amended by the substitution in sub-section (2) for the words "Union port" of the words "port in the Republic".

Amendment of section 85 of Act 57 of 1951.

17. Section *eighty-five* of the principal Act is hereby amended by the substitution for the words "Union port" of the words "port in the Republic".

Amendment of section 86 of Act 57 of 1951.

18. Section *eighty-six* of the principal Act is hereby amended by the substitution in paragraph (b) of sub-section (2) for the words "port in the Union" of the words "port in the Republic".

Amendment of section 97 of Act 57 of 1951.

19. Section *ninety-seven* of the principal Act is hereby amended by the substitution for the words "port in the Union" of the words "port in the Republic" and by the substitution in paragraph (ii) of the proviso for the word "Union" of the word "Republic".

Amendment of section 103 of Act 57 of 1951.

20. Section *one hundred and three* of the principal Act is hereby amended by the substitution in paragraph (g) for the words "Union port", wherever they occur, of the words "port in the Republic".

Amendment of section 106 of Act 57 of 1951.

21. Section *one hundred and six* of the principal Act is hereby amended by the substitution in paragraph (d) for the words "Union port", wherever they occur, of the words "port in the Republic".

Amendment of section 110 of Act 57 of 1951.

22. Section *one hundred and ten* of the principal Act is hereby amended by the substitution for the words "ports in the Union" of the words "ports in the Republic".

Amendment of section 112 of Act 57 of 1951.

23. Section *one hundred and twelve* of the principal Act is hereby amended by the addition to sub-section (3) of the following paragraph, the existing sub-section becoming paragraph (a):

"(b) The Secretary may grant to every person who is a South African citizen and who produces proof to the Secretary's satisfaction that he is the holder of an uncanceled certificate issued in a country other than the Republic which entitles him to serve as able seaman, a certificate of qualification as able seaman."

Amendment of section 126 of Act 57 of 1951, as amended by section 20 of Act 30 of 1959.

24. Section *one hundred and twenty-six* of the principal Act is hereby amended by the substitution for the word "Union" of the words "South African".

Amendment of section 152 of Act 57 of 1951.

25. Section *one hundred and fifty-two* of the principal Act is hereby amended—

(a) by the substitution in paragraph (a) of sub-section (1) for the word "native" of the words "Bantu person";

- (b) by the substitution in paragraph (b) of the said sub-section for the words "native, to the native commissioner" of the words "Bantu person, to the Bantu Affairs Commissioner";
- (c) by the substitution in the said sub-section for the words "native commissioner", where they occur for the second time, of the words "Bantu Affairs Commissioner"; and
- (d) by the substitution for sub-section (2) of the following sub-section:
- “(2) In this section ‘Bantu person’ bears the meaning assigned to ‘native’ in section *one* of the Population Registration Act, 1950 (Act No. 30 of 1950), and includes a person residing in a scheduled native area or a released area, as determined or defined in or in accordance with the Native Trust and Land Act, 1936 (Act No. 18 of 1936), under the same conditions as a Bantu person.”.
- Amendment of section 156 of Act 57 of 1951.      26. Section *one hundred and fifty-six* of the principal Act is hereby amended by the substitution in sub-section (2) for the words "non-European seamen not accustomed to a European dietary" of the words "non-white seamen not accustomed to the dietary of white persons".
- Amendment of section 161 of Act 57 of 1951.      27. Section *one hundred and sixty-one* of the principal Act is hereby amended by the substitution in sub-section (2) for the word "Europeans", wherever it occurs, of the words "white persons" and for the word "non-Europeans", wherever it occurs, of the words "non-white persons".
- Amendment of sections 175 and 176 of Act 57 of 1951, as amended by section 46 of Act 69 of 1962.      28. Sections *one hundred and seventy-five* and *one hundred and seventy-six* of the principal Act are hereby amended by the substitution in paragraph (a) of sub-section (1) of each of those sections for the words "Union port" of the words "port in the Republic".
- Amendment of section 177 of Act 57 of 1951, as amended by section 47 of Act 69 of 1962.      29. Section *one hundred and seventy-seven* of the principal Act is hereby amended by the substitution in paragraph (a) for the words "Union port" of the words "port in the Republic".
- Amendment of section 196 of Act 57 of 1951.      30. Section *one hundred and ninety-six* of the principal Act is hereby amended by the substitution in sub-section (3) for the word "non-Union" of the words "non-South African".
- Amendment of section 200 of Act 57 of 1951.      31. Section *two hundred* of the principal Act is hereby amended by the substitution in sub-section (3) for the words "port in the Union" of the words "port in the Republic" and for the words "port of call in the Union" of the words "port of call in the Republic".
- Amendment of section 203 of Act 57 of 1951.      32. Section *two hundred and three* of the principal Act is hereby amended—
- (a) by the substitution for the word "non-Union", wherever it occurs, of the words "non-South African"; and
- (b) by the deletion in the Afrikaans version of paragraph (b) of sub-section (3) of the word "erkende".
- Amendment of section 204 of Act 57 of 1951.      33. Section *two hundred and four* of the principal Act is hereby amended—
- (a) by the addition to sub-section (1) of the following paragraph, the existing sub-section becoming paragraph (a):
- “(b) The Secretary may, either unconditionally or on such conditions as he thinks fit, exempt from the provisions of this Part (other than those of this section and sections *two hundred and eleven* and *two hundred and twelve*) any South African ship which does not carry cargo and is not intended to be engaged in any international voyage.”;
- (b) by the insertion in sub-section (2) after the word "Minister" of the words "or the Secretary, whoever granted the exemption"; and
- (c) by the substitution in sub-section (4) for the words "may, in his discretion, direct that any load line exemption certificate" of the words "or the Secre-

tary may, in his discretion, direct that any load line exemption certificate issued in respect of a ship exempted by him”.

Amendment of section 208 of Act 57 of 1951.

34. Section *two hundred and eight* of the principal Act is hereby amended by the substitution in sub-section (2) for the words “Union ports” of the words “ports in the Republic” and for the words “Union port”, wherever they occur, of the words “port in the Republic”.

Amendment of section 212 of Act 57 of 1951, as amended by section 27 of Act 30 of 1959.

35. Section *two hundred and twelve* of the principal Act is hereby amended by the substitution in paragraph (b) for the words “certificate or a local load line certificate” of the words “certificate, a local load line certificate or a load line exemption certificate issued under section *two hundred and four*”.

Amendment of section 216 of Act 57 of 1951.

36. Section *two hundred and sixteen* of the principal Act is hereby amended by the substitution in sub-section (1) and in sub-section (5) for the word “non-Union” of the words “non-South African”.

Amendment of section 218 of Act 57 of 1951, as amended by section 29 of Act 30 of 1959 and section 48 of Act 69 of 1962.

37. Section *two hundred and eighteen* of the principal Act is hereby amended by the substitution in the Afrikaans version for the word “plaaslike” of the word “spesiale”.

Amendment of section 219 of Act 57 of 1951.

38. Section *two hundred and nineteen* of the principal Act is hereby amended—

- (a) by the substitution in sub-paragraph (i) of paragraph (a) for the word “non-Union” of the words “non-South African”;
- (b) by the substitution in sub-paragraph (ii) of paragraph (a) and in paragraph (b) for the word “proclamation” of the word “notice”; and
- (c) by the substitution in the Afrikaans version of sub-paragraph (ii) of paragraph (a) and in the Afrikaans version of paragraph (b) for the word “plaaslike” of the word “spesiale”.

Amendment of section 220 of Act 57 of 1951.

39. Section *two hundred and twenty* of the principal Act is hereby amended—

- (a) by the substitution in paragraph (a) for the word “non-Union” of the words “non-South African”;
- (b) by the substitution in paragraph (b) for the word “proclamation” of the word “notice”; and
- (c) by the substitution in the Afrikaans version of paragraph (b) for the word “plaaslike” of the word “spesiale”.

Amendment of section 221 of Act 57 of 1951, as amended by section 49 of Act 69 of 1962.

40. Section *two hundred and twenty-one* of the principal Act is hereby amended by the substitution in sub-section (2) for the words “port in the Union”, wherever they occur, of the words “port in the Republic”.

Amendment of sections 225 and 228 of Act 57 of 1951.

41. Sections *two hundred and twenty-five* and *two hundred and twenty-eight* of the principal Act are hereby amended by the substitution in sub-section (1) of each of those sections for the words “Union ports” of the words “ports in the Republic” and for the words “Union port” of the words “port in the Republic”.

Amendment of section 235 of Act 57 of 1951.

42. Section *two hundred and thirty-five* of the principal Act is hereby amended by the substitution in paragraph (b) of sub-section (5) for the words “port in the Union” of the words “port in the Republic”.

Amendment of section 236 of Act 57 of 1951.

43. Section *two hundred and thirty-six* of the principal Act is hereby amended by the substitution for the words “port in the Union”, wherever they occur, of the words “port in the Republic”.

Amendment of section 237 of Act 57 of 1951, as amended by section 31 of Act 30 of 1959.

44. Section *two hundred and thirty-seven* of the principal Act is hereby amended by the substitution in sub-section (1) for the words “port in the Union” of the words “port in the Republic”.

Amendment of section 251 of Act 57 of 1951.

45. Section *two hundred and fifty-one* of the principal Act is hereby amended by the substitution for the words “Government of the Union” of the words “Government of the Republic”.

- Amendment of section 260 of Act 57 of 1951. 46. Section *two hundred and sixty* of the principal Act is hereby amended by the substitution for the words "Union ports" of the words "ports in the Republic" and for the words "Union port" of the words "port in the Republic".
- Amendment of section 264 of Act 57 of 1951, as amended by section 52 of Act 69 of 1962. 47. Section *two hundred and sixty-four* of the principal Act is hereby amended—  
(a) by the substitution in paragraph (a) of sub-section (2) for the words "ports in the Union" of the words "ports in the Republic"; and  
(b) by the substitution in paragraph (b) of sub-section (2) and in sub-section (3) for the words "Union port" of the words "port in the Republic".
- Amendment of section 266 of Act 57 of 1951, as amended by section 53 of Act 69 of 1962. 48. Section *two hundred and sixty-six* of the principal Act is hereby amended—  
(a) by the substitution in paragraph (a) of the proviso to sub-section (2) for the words "ports in the Union" of the words "ports in the Republic"; and  
(b) by the substitution in paragraph (b) of the said proviso for the words "Union port" of the words "port in the Republic".
- Amendment of section 269 of Act 57 of 1951. 49. Section *two hundred and sixty-nine* of the principal Act is hereby amended by the substitution in sub-section (2) for the words "ports in the Union" of the words "ports in the Republic".
- Amendment of section 279 of Act 57 of 1951. 50. Section *two hundred and seventy-nine* of the principal Act is hereby amended by the substitution in sub-section (2) for the words "Government of the Union" of the words "Government of the Republic".
- Amendment of section 298 of Act 57 of 1951, as amended by section 36 of Act 30 of 1959. 51. Section *two hundred and ninety-eight* of the principal Act is hereby amended by the substitution in paragraph (d) of sub-section (1) for the words "Union Defence Forces" of the words "South African Defence Force".
- Amendment of section 311 of Act 57 of 1951, as amended by section 38 of Act 30 of 1959. 52. Section *three hundred and eleven* of the principal Act is hereby amended by the substitution in sub-section (1) for the words "Union port" of the words "port in the Republic".
- Amendment of section 317 of Act 57 of 1951. 53. Section *three hundred and seventeen* of the principal Act is hereby amended—  
(a) by the substitution in paragraph (b) and in paragraph (c) of sub-section (3) for the words "Union port" of the words "port in the Republic"; and  
(b) by the substitution in sub-section (4) for the word "harbour", where it occurs for the first time, of the word "port" and for the words "Union harbour" of the words "port in the Republic".
- Substitution of section 332 of Act 57 of 1951. 54. The following section is hereby substituted for section *three hundred and thirty-two* of the principal Act:  
"Damage to 332. In the construction of any enactment include loss which confers on any court Admiralty jurisdiction of life or in respect of damage, reference to damage shall personal injury. be deemed to include reference to damages for loss of life or personal injury, and proceedings in respect of such damages may be brought *in rem* or *in personam*."
- Amendment of section 333 of Act 57 of 1951. 55. Section *three hundred and thirty-three* of the principal Act is hereby amended by the substitution in sub-section (1) for the word "Union" of the word "Republic".
- Amendment of section 339 of Act 57 of 1951, as amended by section 56 of Act 69 of 1962. 56. Section *three hundred and thirty-nine* of the principal Act is hereby amended by the substitution in sub-section (1) for the words "Government of the Union" of the words "Government of the Republic".
- Amendment of section 345 of Act 57 of 1951. 57. Section *three hundred and forty-five* of the principal Act is hereby amended by the substitution for the words "Government of the Union", wherever they occur, of the words "Government of the Republic".
- Amendment of section 355 of Act 57 of 1951, as amended by section 41 of Act 30 of 1959. 58. Section *three hundred and fifty-five* of the principal Act is hereby amended by the substitution in sub-section (3) for the words "ports in the Union" of the words "ports in the Republic".

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

59. Section *three hundred and fifty-six* of the principal Act is hereby amended—

- (a) by the deletion in sub-section (3) of the words "or deemed in terms of sub-section (4) to have been so made,"; and
- (b) by the deletion of sub-section (4).

Insertion of section 356bis in Act 57 of 1951.

60. The following section is hereby inserted in the principal Act after section *three hundred and fifty-six*:

356bis. (1) The State President may do all things necessary—  
 (a) to ratify or cause to be ratified on behalf of the Republic any amendments of the International Collision Regulations, the Load Line Convention or the Safety Convention, which may from time to time be made; or  
 (b) to ratify or cause to be ratified on behalf of the Republic any regulations or convention which may from time to time be adopted in substitution for the International Collision Regulations, the Load Line Convention or the Safety Convention,  
 and may by proclamation in the *Gazette*—

- (i) amend the appropriate Schedule to this Act to give effect to any amendment ratified in terms of paragraph (a); and
- (ii) substitute for the regulations or the convention appearing in the appropriate Schedule to this Act the regulations which have or the convention which has been ratified in terms of paragraph (b).

(2) The Minister shall lay a copy of any proclamation issued under sub-section (1) on the Table of the Senate and of the House of Assembly within fourteen days after publication of such proclamation in the *Gazette* if Parliament is then in ordinary session or if Parliament is not in ordinary session, within fourteen days after the commencement of its next ensuing ordinary session."

Amendment of section 357 of Act 57 of 1951.

61. (1) Section *three hundred and fifty-seven* of the principal Act is hereby amended—

- (a) by the substitution in the Afrikaans version for the word "voorgeskryf" of the word "vereis"; and
- (b) by the insertion after the word "Act" of the words "except a bill of lading,".

(2) Sub-section (1) shall be deemed to have come into operation on the date on which section *three hundred and fifty-seven* of the principal Act came into operation.

Substitution in Act 57 of 1951 for the words "Union" and "Governor-General" of the words "Republic" and "State President", respectively.

62. Subject to the preceding provisions of this Act, the principal Act is hereby amended by the substitution for the word "Union", wherever it occurs, of the word "Republic" and for the word "Governor-General", wherever it occurs, of the words "State President".

Short title.

63. This Act shall be called the Merchant Shipping Amendment Act, 1963.