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[No. 2382.

DEPARTMENT OF THE PRIME MINISTER.

DEPARTEMENT VAN DIE EERSTE MINISTER.

No. 732.

7th May, 1969.

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

No. 42 of 1969: Merchant Shipping Amendment Act, 1969.

No. 732.

7 Mei 1969.

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

No. 42 van 1969: Wysigingswet op Handelskeepvaart, 1969.

Act No. 42, 1969

MERCHANT SHIPPING AMENDMENT ACT, 1969.

ACT

To amend the provisions of the Merchant Shipping Act, 1951, as to definitions; the power of the Minister to delegate; notification of building of vessels; the obligation to apply for registration of a ship; evidence on first registration; prohibition of use of unlicensed vessels; the granting of certificates of service; certificates granted by competent foreign authorities; agreements with crew; the reporting of changes in crew; the discharge of seamen before a proper officer; payment of wages on discharge of a seaman of a South African ship; the delivery of an account of wages; the issue of load line exemption certificates; the initial and subsequent surveys of ships in respect of load line provisions; the issue of load line certificates; the surrender of expired or cancelled load line certificates; the prohibition of the taking of South African ships to sea without load line certificates; the display of a safety convention certificate, local safety certificate or load line certificate; information about stability of a ship; reports to a proper officer of accidents to ships; preliminary enquiries into shipping casualties; powers of court of marine enquiry in respect of master or ship's officer; powers of maritime courts; opportunity of making a defence; effect of cancellation or suspension of certificate of master or ship's officer or prohibition of employment; prohibition of endorsement of such a certificate; the powers of the Minister in respect of a cancelled or suspended certificate; and to provide for incidental matters.

(English text signed by the State President.)

(Assented to 25th April, 1969.)

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, section 31 of Act 69 of 1962, section 1 of Act 40 of 1963 and section 1 of Act 13 of 1965.

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

(a) by the substitution for the definition of "international load line certificate" in subsection (1) of the following definition:

"'international load line certificate' means a certificate issued under paragraph 1 of section 207, or deemed in accordance with the provisions of section 215 (1) to have been so issued and includes an international load line exemption certificate;"

(b) by the insertion in the said subsection after the definition of "international load line certificate" of the following definition:

"'international load line exemption certificate' means a certificate issued under section 204 (1) (a);"

(c) by the substitution for the definition of "international load line ship" in the said subsection of the following definition:

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- “international load line ship’ means a load line ship of seventy-nine feet or more in length, which is engaged on an international voyage;”;
- (d) by the insertion in the said subsection after the definition of “Load Line Convention” of the following definition:
“load line exemption certificate’ means an international load line exemption certificate or a local load line exemption certificate;”;
- (e) by the substitution for the definition of “load line ship” in the said subsection of the following definition:
“load line ship’ means any ship of forty-five feet or more in length, which is not solely engaged in fishing and is not a pleasure yacht;”;
- (f) by the substitution for the definition of “local general safety certificate” in the said subsection of the following definition:
“local general safety certificate’ means a certificate issued under section 194 (1) (a) or (b) (ii);”;
- (g) by the substitution for the definition of “local load line certificate” in the said subsection of the following definition:
“local load line certificate’ means a certificate issued under paragraph 2 of section 207 and includes a local load line exemption certificate;”;
- (h) by the insertion in the said subsection after the definition of “local load line certificate” of the following definition:
“local load line exemption certificate’ means a certificate issued under section 204 (1) (b);”;
- (i) by the substitution for the definition of “local load line ship” in the said subsection of the following definition:
“local load line ship’ means a load line ship—
(a) engaged on an international voyage and of less than seventy-nine feet in length; or
(b) not engaged on an international voyage;”;
- (j) by the substitution for subparagraph (i) of paragraph (b) of the definition of “proper officer” in the said subsection of the following subparagraph:
“(i) a career consular representative of the Republic; or”; and
- (k) by the substitution for the definition of “surveyor” in the said subsection of the following definition:
“surveyor’ means any person recognized or appointed in terms of section 4 (b) or any qualified person employed as surveyor by an organization referred to in an instrument of delegation issued under section 4 (d);”.

Amendment of
section 4 of
Act 57 of 1951.

2. Section 4 of the principal Act is hereby amended by the substitution for paragraph (d) of the following paragraph:

“(d) delegate any of his powers under this Act (except the power of delegation) to any officer or organization with respect to the powers or matters specified or the port or area defined in the instrument of delegation.”.

Amendment of
section 10 of
Act 57 of 1951.

3. Section 10 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Every person who at the coming into operation of this section is building, or after such coming into operation intends to build, a vessel which when completed will be required to be registered or licensed in terms of this Act, shall within sixty days of such coming into operation or before beginning to build the vessel, as the case may be,

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furnish to the proper officer at the port where the vessel will be registered or licensed or to the Secretary such written particulars of the vessel as may be prescribed.”.

Amendment of section 13 of Act 57 of 1951, as amended by section 5 of Act 40 of 1963.

4. Section 13 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) The Minister may in his discretion exempt the owners of certain classes of ships of less than one hundred gross tons, to be determined by him, or the owners of ships which are not self-propelled and which are used exclusively in a port, from the provisions of this section.”.

Amendment of section 20 of Act 57 of 1951.

5. Section 20 of the principal Act is hereby amended—

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

“(b) a certificate signed by the builder and containing a true account of the size and dimensions and the tonnage of the ship as estimated by the said builder, and of the time when and the place where she was built, and of the name of the person on whose account she was built, unless the person who makes the declaration of ownership declares that the time and place of building are unknown to him, or that the builder's certificate cannot be obtained, in which case there shall be required only the deed of sale under which the ship became vested in the applicant for registry;” and

(b) by the substitution for subsection (2) of the following subsection:

“(2) The builder of a ship shall not refuse or omit upon request by the owner to grant the certificate required by this section.”.

Substitution of section 72 of Act 57 of 1951.

6. The following section is hereby substituted for section 72 of the principal Act:

“Unlicensed vessels not to be used. 72. No person shall use a vessel which in terms of section 68 is required to be licensed, for any purpose whatsoever, unless the owner or master of the vessel holds a valid and current licence issued in respect thereof.”.

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

7. Section 80 of the principal Act is hereby amended by the substitution for subsections (1), (2), (3), (4) and (5) of the following subsections:

“(1) Any person who—

(a) immediately before the repeal by this Act of the Merchant Shipping (Certificates of Competency) Act, 1925 (Act No. 45 of 1925), was entitled, in terms of the proviso to section 1 (3) of that Act, to act as master, mate or engineer; or

(b) is the holder of an uncanceled certificate of service granted under section 15 of the said Merchant Shipping (Certificates of Competency) Act, 1925; or

(c) at any time before the coming into operation of this section has for a continuous period of not less than one year, or within three years before the said coming into operation has for two or more periods amounting in the aggregate to not less than one year—

(i) acted as boatswain or as assistant to the engineer or driver of a fishing boat of one hundred or more gross register tons registered in the 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; or

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- (ii) acted as master, skipper, mate, second hand, engineer or driver or as assistant to the engineer or driver of a coasting ship or a fishing, sealing or whaling boat of less than one hundred gross register tons registered in the 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; or
 - (d) is a South African citizen and is the holder of an uncanceled certificate of service issued by a competent authority in a country other than the Republic; or
 - (e) holds a permanent commission as an executive officer or engineer-officer or is on the reserve of the South African Navy Permanent Force, and who has completed the qualifying service prescribed by regulation, may apply to the Secretary for a certificate of service.
- (2) The Secretary may grant to the applicant—
- (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 one thousand indicated horsepower (in the case of an engineer-officer); or
 - (b) if the application is made under subsection (1) (b), an appropriate certificate of service authorizing him to act as skipper, mate or marine engineman, as the case may be, of a fishing boat; or
 - (c) if the application is made—
 - (i) under subsection (1) (c) (i), an appropriate certificate of service authorizing him to act as boatswain or assistant marine engineman, as the case may be, of a fishing boat; or
 - (ii) under subsection (1) (c) (ii), an appropriate certificate of service authorizing him to act as skipper, mate, engineer-officer or assistant marine engineman, as the case may be, of a coasting ship or a fishing, sealing or whaling boat, as the case may be, of less than one hundred gross register tons, and the capacity in which he is so authorized to act shall not be higher than the lowest capacity in which he acted during the period or periods in respect of which his claim is based; or
 - (d) if the application is made under subsection (1) (d), an appropriate certificate of service which, in the opinion of the Secretary, testifies to the possession by the holder thereof of qualifications and a degree of competency not higher than those to which the certificate, upon the possession of which the application is based, testifies; or
 - (e) if the application is made under subsection (1) (e), an appropriate certificate of service authorizing him to act as navigating officer, master or engineer-officer, as the case may be, of a foreign-going ship or a coasting ship, as the case may be.
- (3) Before a certificate of service is granted the Secretary may require the surrender to him of—
- (a) if the application is made under paragraph (a) of subsection (1), and by virtue of the possession of such a certificate as is referred to in the proviso mentioned in that paragraph, that certificate; or

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(b) if the application is made under subsection (1) (b) or (d), the certificate upon the possession of which the application is based.

(4) In the case of an application under subsection (1) (c) or (e), the grant of a certificate of service may be withheld until the applicant has passed the colour and form vision tests prescribed.

(5) Subsections (1) and (2) shall apply in respect of certificates of service referred to in subsection (1) (b) during the period of one year after the coming into operation of this section and no longer."

Substitution of section 83 of Act 57 of 1951, as amended by section 41 of Act 69 of 1962 and section 16 of Act 40 of 1963.

8. The following section is hereby substituted for section 83 of the principal Act:

"Certificates granted by competent foreign authorities.

83. (1) The master and every officer on board a foreign ship who has received a certificate of competency or certificate of service granted by a competent authority in a foreign country and still in force shall, if the Minister is satisfied that the certificate is of corresponding value to any certificate of competency granted under this Act or the Merchant Shipping (Certificates of Competency) Act, 1925 (Act No. 45 of 1925), be deemed to be duly certificated under this Act in respect of such ship, provided his certificate is of a grade appropriate to his station in such ship, or of a higher grade.

(2) Notwithstanding the provisions of section 73 the Minister may, in his discretion, and for such periods and under such conditions as he may specify, permit the engagement on a South African ship going to sea from any port whatsoever or on a treaty ship other than a South African ship going to sea from a port in the Republic, in lieu of a person duly certificated under this Act or deemed, in terms of the other provisions of this Act, to be so certificated, of a person who is the holder of such a certificate of competency or certificate of service as is referred to in subsection (1), and who possesses a knowledge of either of the official languages of the Republic sufficient to enable him to give the necessary orders in the performance of his duties; and while any such permission remains in force, and if the conditions under which it was granted are complied with, the person so engaged shall be deemed to be duly certificated under this Act in respect of such ship, provided his certificate is of a grade appropriate to his station in such ship, or of a higher grade."

Amendment of section 102 of Act 57 of 1951.

9. Section 102 of the principal Act is hereby amended by the substitution for paragraph (f) of subsection (3) of the following paragraph:

"(f) the wages which each seaman is to receive;"

Amendment of section 104 of Act 57 of 1951, as amended by section 18 of Act 30 of 1959.

10. Section 104 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) Where an agreement has been entered into with the crew of a South African ship, the Master or the owner thereof shall—

(a) before the ship leaves the port where the agreement was entered into, sign and render to the proper officer at that port a full and accurate statement in a form approved by the Secretary of every change that has taken place in the crew without the authority of the proper officer since the agreement was entered into; and

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- (b) before the ship leaves any port subsequently entered by her during the currency of the agreement, sign and render to the proper officer at that port a full and accurate statement in a form approved by the Secretary of every change that has taken place in the crew without the authority of the proper officer since he last rendered a statement in terms of this section."

Amendment of
section 113 of
Act 57 of 1951.

11. Section 113 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

"(4) When a seaman is discharged and the master declines to express an opinion on the conduct, character and qualifications of the seaman, he shall furnish to the proper officer before whom the discharge is made a report in the prescribed form stating that he so declines, and the proper officer shall, if the seaman so desires, give to him or endorse on his certificate of discharge a copy of such report. The master shall enter in the official log-book his reasons for so declining, and shall, upon the request of the seaman, read out to him, in the presence of the proper officer, the reasons so entered. The proper officer shall, whenever practicable, give the seaman a reasonable opportunity to make a statement upon such report."

Substitution of
section 120 of
Act 57 of 1951,
as amended by
section 19 of
Act 30 of 1959.

12. The following section is hereby substituted for section 120 of the principal Act:

"Payment of wages on discharge of a seaman of a South African ship. 120. When a seaman of a South African ship is discharged, he may or if he has a dispute regarding his wages, he shall be paid his wages, or the balance thereof, in the manner directed by the proper officer, and the owner or master of the ship, as the case may be, shall, in the case of a dispute, not pay the wages of the seaman, or the balance thereof, in any other manner."

Amendment of
section 121
of Act 57 of
1951, as amended
by section 19
of Act 30 of 1959.

13. Section 121 of the principal Act is hereby amended—

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

"(1) When a seaman of a South African ship is discharged, the master or the owner of such ship shall cause to be delivered to such seaman a full and true account of his wages in a form approved by the Secretary."

- (b) by the deletion of subsection (2); and

- (c) by the substitution for subsection (3) of the following subsection:

"(3) A deduction from the wages of a seaman shall not be allowed unless it is included in the account delivered in terms of subsection (1), except in respect of a matter happening after the said delivery."

Amendment of
section 204 of
Act 57 of 1951,
as amended by
section 33 of
Act 40 of 1963.

14. Section 204 of the principal Act is hereby amended—

- (a) by the substitution for subsections (1) and (2) of the following subsections:

"(1) If, after consideration of the report of a surveyor of his inspection of a load line ship registered in the Republic, the Minister (in the case of an international load line ship), or the Secretary (in the case of a local load line ship), is satisfied that the ship is exempt by virtue of the exercise by him of a power conferred on him by the load line regulations, from any or all of the requirements of the said regulations

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and that she complies with the remaining requirements (if any), the Minister or the Secretary, as the case may be, shall cause to be issued in respect of that ship—

- (a) if she is an international load line ship, an international load line exemption certificate; or
- (b) if she is a local load line ship, a local load line exemption certificate.

(2) Every load line exemption certificate shall be in the prescribed form.”; and

- (b) by the deletion of subsection (4).

Amendment of section 205 of Act 57 of 1951.

15. Section 205 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) The owner of every ship in respect of which a load line certificate has been issued, shall cause her to be inspected by a surveyor in accordance with the load line regulations, at the intervals specified in the said regulations, calculated from the date of the initial survey referred to in subsection (1).”.

Substitution of section 207 of Act 57 of 1951, as amended by section 26 of Act 30 of 1959 and section 19 of Act 13 of 1965.

16. The following section is hereby substituted for section 207 of the principal Act:

“Issue of load line certificates other than load line exemption certificates.

207. If, after consideration of the report of a surveyor of his inspection of a load line ship registered in the Republic, the Minister (in the case of an international load line ship), or the Secretary (in the case of a local load line ship), is satisfied that—

- (a) the ship is marked with deck lines and load lines of the description and number required by the load line regulations; and
- (b) the ship's load lines are in the position required by the load line regulations; and
- (c) the ship complies with the conditions of assignment,

the Minister or the Secretary, as the case may be, shall cause to be issued in respect of that ship—

- (i) if she is an international load line ship, an international load line certificate other than an international load line exemption certificate; or
- (ii) if she is a local load line ship, a local load line certificate other than a local load line exemption certificate,

which shall be in the form prescribed.”.

Amendment of section 211 of Act 57 of 1951.

17. Section 211 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) A load line certificate which has expired or has been cancelled, shall on demand be surrendered by the owner or master of the ship to the Secretary or a person nominated by him.”.

Amendment of section 212 of Act 57 of 1951, as amended by section 27 of Act 30 of 1959, section 35 of Act 40 of 1963 and section 22 of Act 13 of 1965.

18. Section 212 of the principal Act is hereby amended by the substitution for paragraphs (a) and (b) of the following paragraphs:

“(a) if the voyage which she is undertaking is an international voyage—

- (i) in the case of an international load line ship, an international load line certificate other than an international load line exemption certificate, and if an international load line exemption certificate has been issued, such international load line exemption certificate, or an international load line exemption certificate if the ship is exempt from all the requirements of the load line regulations; or
- (ii) in the case of a local load line ship, a local load line certificate other than a local load line exemption certificate, and if a local load line exemption certificate has been issued, such local load line exemption certificate, or a local load line exemption certificate if the ship is exempt from all the requirements of the load line regulations; or

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(b) if the voyage which she is undertaking is not an international voyage—

- (i) an international load line certificate other than an international load line exemption certificate, and if an international load line exemption certificate has been issued, such international load line exemption certificate, or an international load line exemption certificate if the ship is exempt from all the requirements of the load line regulations; or
- (ii) a local load line certificate other than a local load line exemption certificate, and if a local load line exemption certificate has been issued, such local load line exemption certificate, or a local load line exemption certificate if the ship is exempt from all the requirements of the load line regulations.”.

Substitution of section 224 of Act 57 of 1951.

19. The following section is hereby substituted for section 224 of the principal Act:

“Display of safety convention certificate, local safety certificate or load line certificate.

224. Immediately after receipt of a safety convention certificate, a local safety certificate or a load line certificate, the owner or master shall cause it to be framed and displayed in some conspicuous place on board the vessel for the information of all on board, and shall cause it to be kept so framed and displayed so long as it remains in force and the vessel is in use: Provided that this section shall not apply in respect of any vessel of less than one hundred gross tons, if the Secretary has exempted her from its provisions.”.

Amendment of section 226 of Act 57 of 1951.

20. Section 226 of the principal Act is hereby amended by the substitution for subsections (1) and (2) of the following subsections:

“(1) The owner of every South African ship of the class or tonnage prescribed by regulation built after the coming into operation of this section shall cause to be kept on board the ship such information in writing about the stability of the ship as is necessary for the guidance of the master in loading and ballasting the ship.

(2) The information required in terms of subsection (1) shall be as determined by regulation, and shall be based upon the determination of the stability of the ship by means of an inclining test of the ship: Provided that the Secretary may allow the information to be based on a similar determination of the stability of a sister ship.”.

Amendment of section 259 of Act 57 of 1951.

21. Section 259 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Subsection (1) shall, subject to subsection (3), apply to every ship which is registered or licensed in the Republic or which is in terms of this Act required to be so registered or licensed and to or in respect of or on board of which any such event as is referred to in subsection (1) has occurred anywhere, and it shall apply to a ship registered in a country other than the Republic only while she is within the Republic or the territorial waters thereof and if any such event has occurred to or in respect of or on board of the ship during a voyage to a port in the Republic or within the Republic or the territorial waters thereof.”.

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Substitution of section 264 of Act 57 of 1951, as amended by section 52 of Act 69 of 1962 and section 47 of Act 40 of 1963.

22. The following section is hereby substituted for section 264 of the principal Act:

"Pre-liminary enquiry into shipping casualties.

264. (1) The Secretary may, in his discretion, appoint any competent person to hold a preliminary enquiry—

(a) whenever an allegation of incompetency or misconduct is made against the master or any of the ship's officers of a ship which is registered or licensed in the Republic or which is in terms of this Act required to be so registered or licensed; or

(b) whenever—

(i) a ship referred to in paragraph (a) has been lost, abandoned or stranded; or

(ii) a ship referred to in paragraph (a) has been damaged or has caused damage to any other ship; or

(iii) loss of life or injury to any person on board a ship referred to in paragraph (a) has occurred,

at any place whatsoever.

(2) The Secretary may, in his discretion, appoint any competent person to hold a preliminary enquiry whenever—

(a) any such allegation as is referred to in subsection (1) (a) is made against the master or any of the ship's officers of a ship registered in a country other than the Republic and which is wholly engaged in plying between ports in the Republic, or any such event as is referred to in subsection (1) (b) has occurred at any place whatsoever to or in respect of or on board such a ship; or

(b) any such event as is referred to in subsection (1) (b) has occurred in a port in the Republic or on or near the coasts of the Republic to or in respect of any ship registered in a country other than the Republic and which is not wholly engaged in plying between ports in the Republic.

(3) The Secretary may, in his discretion, appoint any competent person to hold a preliminary enquiry whenever any such event as is referred to in subsection (1) (b) has occurred elsewhere than in a port in the Republic or on or near the coasts of the Republic to or in respect of or on board a ship registered in a country other than the Republic and—

(a) the ship subsequently arrives at a port in the Republic and an enquiry into the casualty has not been held by any competent court or other investigatory body in any other treaty country; or

(b) in the case of a treaty ship, evidence is obtainable in the Republic as to the circumstances in which the ship proceeded to sea, or was last heard of, or was lost, abandoned or stranded, or suffered or caused damage, or in which loss of life or serious injury to any person on board the ship occurred."

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Substitution of section 269 of Act 57 of 1951, as amended by section 49 of Act 40 of 1963.

23. The following section is hereby substituted for section 269 of the principal Act:

"Powers of court of marine enquiry in respect of master or ship's officer.

269. (1) If a court of marine enquiry finds that any master or ship's officer is incompetent or has been guilty of any act of misconduct, or that loss, abandonment or stranding of or serious damage to any ship or loss of life or serious injury to any person has been caused by the wrongful act or default of any master or ship's officer, it may, subject to the provisions of section 283, cancel the certificate of competency or service of the master or ship's officer or suspend it for a stated period or, if the master or ship's officer does not hold a certificate of competency or service or does not hold a certificate of competency or service appropriate to the capacity in which he served at the time of the loss of the ship or other event referred to in this subsection, prohibit his employment for a stated period, or reprimand the master or ship's officer, whether or not he holds a certificate of competency or service: Provided that any such cancellation or suspension or prohibition of employment shall apply only in respect of the capacity in which the master or ship's officer served at the time of the event as aforesaid or in respect of a higher capacity.

(2) Subsection (1) shall apply in respect of masters or ships' officers of all ships which are registered or licensed in the Republic or which are in terms of this Act required to be so registered or licensed, and in respect of masters or ships' officers of ships registered in a country other than the Republic only if those ships are wholly engaged in plying between ports in the Republic."

Amendment of section 273 of Act 57 of 1951, as amended by section 34 of Act 30 of 1959.

24. Section 273 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

"(b) if unanimous that any master or ship's officer of a South African ship is incompetent or has been guilty of any act of misconduct, or that loss, abandonment or stranding of or serious damage to any ship or loss of life or serious injury to any person has been caused by the wrongful act or default of any master or ship's officer of a South African ship, suspend the certificate of competency or service of that master or ship's officer for a stated period or, if such master or ship's officer does not hold a certificate of competency or service or does not hold a certificate of competency or service appropriate to the capacity in which he served at the time of the loss of the ship or other event referred to in this paragraph, prohibit his employment for a stated period, or reprimand such master or ship's officer whether or not he holds a certificate of competency or service: Provided that any such suspension or prohibition of employment shall apply only in respect of the capacity in which the master or ship's officer served at the time of the event as aforesaid or in respect of a higher capacity;"

Amendment of section 283 of Act 57 of 1951.

25. Section 283 of the principal Act is hereby amended—

(a) by the substitution in subsection (2) for all the words preceding paragraph (a) of the following words:

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“(2) A court of marine enquiry shall not cancel or suspend a certificate or prohibit the employment of a person or reprimand him, and a maritime court shall not suspend a certificate or prohibit the employment of a person or reprimand him—”;

- (b) by the substitution for paragraph (a) of the said subsection of the following paragraph:

“(a) unless the holder of the certificate or other person has been present at the hearing of any evidence on which the decision of the court to cancel or suspend his certificate or to prohibit his employment or to reprimand him is based, or, if he has not been so present, unless a transcript of the notes of such evidence has been furnished to him at least forty-eight hours before he is called upon to make his defence; and”;

- (c) by the substitution for subsection (3) of the following subsection:

“(3) If the holder of the certificate concerned or other person has been summoned to attend before the court and has not done so, or if upon being asked in writing or otherwise whether he wishes to make a defence he has not replied that he wishes to do so, it shall not be necessary to furnish to him the notes, depositions or reports referred to in subsection (2).”.

Substitution of section 287 of Act 57 of 1951.

26. The following section is hereby substituted for section 287 of the principal Act:

“Effect of cancellation or suspension of certificate or prohibition of employment.”

287. The cancellation or suspension of a certificate by the Minister or a court of marine enquiry, or the suspension of a certificate by a maritime court, or the prohibition of employment by a court of marine enquiry or a maritime court, shall—

- (a) if the certificate was issued in the Republic or if the prohibition of employment is in respect of a South African citizen, be effective everywhere and in respect of all ships; and
- (b) if the certificate was issued elsewhere than in the Republic or if the prohibition of employment is in respect of a citizen of a country other than the Republic, be effective—
- (i) within the Republic and the territorial waters of the Republic in respect of all ships; and
- (ii) outside the Republic and the territorial waters of the Republic only in respect of ships which are registered or licensed in the Republic or which are in terms of this Act required to be so registered or licensed.”.

Substitution of section 289 of Act 57 of 1951.

27. The following section is hereby substituted for section 289 of the principal Act:

“Certificate not to be endorsed.”

289. If the certificate of a master or ship's officer is suspended by the Minister or a court of marine enquiry or a maritime court, or if the employment of a master or ship's officer is prohibited or he is reprimanded by a court of marine enquiry or a maritime court, or if a direction is given by the Minister under section 87 (2) in respect of the holder of a certificate, no person shall make any endorsement to that effect on the certificate of the master or ship's officer.”.

Act No. 42, 1969

MERCHANT SHIPPING AMENDMENT ACT, 1969.

Amendment of
section 290 of
Act 57 of 1951.

28. Section 290 of the principal Act is hereby amended—

(a) by the substitution for paragraph (b) of the following paragraph:

“(b) grant a new certificate of the same grade or any lower grade in the place of a certificate cancelled by any such court or grant a new certificate of any lower grade in the place of a certificate suspended by any such court, if the certificate was issued in the Republic, or return any certificate so cancelled or suspended, if it was issued elsewhere than in the Republic; or”; and

(b) by the addition of the following paragraph:

“(c) set aside the prohibition of employment by a court of marine enquiry or a maritime court or shorten or lengthen the period of the prohibition, or set aside the reprimand by any such court.”.

Short title.

29. This Act shall be called the Merchant Shipping Amendment Act, 1969.