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REPUBLIEK VAN SUID-AFRIKA

# STAATSKOERANT

## GOVERNMENT GAZETTE

FOR THE REPUBLIC OF SOUTH AFRICA

*As 'n Nuusblad by die Poskantoor Geregistreer*

*Registered at the Post Office as a Newspaper*

R0,80 Prys • Price  
R0,08 Plus 10% BTW • VAT  
R0,88 Verkoopprijs • Selling price  
Buitelands R1,10 Other countries  
Post free • Posvry

VOL. 321

KAAPSTAD, 13 MAART 1992

No. 13835

CAPE TOWN, 13 MARCH 1992

### KANTOOR VAN DIE STAATSPRESIDENT

No. 787.

13 Maart 1992

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

No. 18 van 1992: Wysigingswet op Handelskeepvaart, 1992.

### STATE PRESIDENT'S OFFICE

No. 787.

13 March 1992

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

No. 18 of 1992: Merchant Shipping Amendment Act, 1992.

**ALGEMENE VERDUIDELIKENDE NOTA:**

**[ ]** Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.

\_\_\_\_\_ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

**WET**

Tot wysiging van die Handelskeepvaartwet, 1951, ten einde sekere uitdrukkings te omskryf of nader te omskryf; die gebied Suidwes-Afrika van die toepassing van die Wet uit te sluit en die bestek van die Wet uit te brei ten opsigte van sekere persone, en voorwerpe op vaartuie; die bevoegdhede van beamptes en howe uit te brei; nuwe reëlins in verband met die beskikking oor die eiendom van 'n oorlede seeman te tref; verdere vereistes te stel ten opsigte van veiligheid op skepe wat nie in die Republiek geregistreer is nie; verdere voorsiening te maak vir die uitskakeling van gebreke; verdere voorsiening te maak in verband met verslagdoening aan 'n bevoegde beampte oor skeepsongelukke en ongelukke aan boord van skepe; ander reëlins te tref in verband met voorlopige ondersoeke na skeepsongevale; te bepaal dat verslae van voorlopige ondersoeke na skeepsongevale slegs aan 'n hof van marine-onderzoek of geregshof blootgelê word; die bevoegdhede van 'n hof van marine-onderzoek uit te brei na lede van die bemanning, en so 'n hof te magtig om 'n boete op te lê; ander voorsiening te maak aangaande die strawwe wat vir misdrywe opgelê kan word; sekere persone te vrywaar teen siviele aanspreeklikheid ten opsigte van versuim om handelinge kragtens die Wet te verrig; voorsiening te maak vir die aanstelling van veiligheidsbeamptes, veiligheidsbenoemdes en veiligheidskomitees en die verkiesing van veiligheidsverteenvoerders; die Minister se bevoegdheid om regulasies uit te vaardig, uit te brei; voorsiening te maak vir die inlywing van veiligheidsstandaarde by die regulasies; en sekere verouderde verwysings te verbeter; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Engelse teks deur die Staatspresident geteken.)  
(Goedgekeur op 3 Maart 1992.)*

**D**AAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 2 van Wet 57 van 1951, soos gewysig deur artikel 3 van Wet 30 van 1959, artikel 31 van Wet 69 van 1962, artikel 1 van Wet 40 van 1963, artikel 1 van Wet 13 van 1965, artikel 1 van Wet 42 van 1969, artikel 1 van Wet 24 van 1974, artikel 1 van Wet 5 van 1976, artikel 1 van Wet 3 van 1981, artikel 1 van Wet 3 van 1982 en artikel 1 van Wet 25 van 1985

1. Artikel 2 van die Handelskeepvaartwet, 1951 (hieronder die Hoofwet genoem), word hierby gewysig—

(a) deur in subartikel (1) na die omskrywing van “akkommodasie vir die bemanning” die volgende omskrywings in te voeg:

“‘bemanning’ alle seemanne aan boord van 'n skip;

‘beroepsveiligheid’ die veiligheid van enige werknemer aan boord van 'n skip, en terwyl hy aan boord gaan of afstap van die skip;”;



## GENERAL EXPLANATORY NOTE:

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

Words underlined with a solid line indicate insertions in existing enactments.

# ACT

To amend the Merchant Shipping Act, 1951, so as to define or further define certain expressions; to exclude the territory of South West Africa from the application of the Act and to extend the scope of the Act in respect of certain persons, and objects on vessels; to extend the powers of officers and courts; to make new arrangements in connection with the disposal of the property of a deceased seaman; to determine further requirements in respect of safety on ships not registered in the Republic; to further provide for the elimination of defects; to make further provision in connection with the reporting to a proper officer of accidents to ships and accidents on board ships; to make other arrangements in connection with preliminary enquiries into shipping casualties; to provide that reports of preliminary enquiries into shipping casualties shall only be disclosed to a court of marine enquiry or a court of law; to extend the powers of a court of marine enquiry to members of the crew, and to empower such a court to impose a fine; to make other provision in connection with the penalties which may be imposed for offences; to indemnify certain persons from civil liability in respect of failure to perform acts in terms of the Act; to provide for the appointment of safety officers, safety appointees and safety committees and the election of safety representatives; to extend the powers of the Minister to make regulations; to provide for the incorporation of safety standards in the regulations; and to amend certain obsolete references; and to provide for matters connected therewith.

*(English text signed by the State President.)*

*(Assented to 3 March 1992.)*

**BE IT ENACTED** by the State President and the Parliament 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, section 1 of Act 5 of 1976, section 1 of Act 3 of 1981, section 1 of Act 3 of 1982 and section 1 of Act 25 of 1985

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) before the definition of “apprentice-officer” of the following definition:

“‘accident’, in relation to a vessel, includes—

(a) the collapse or overturning of any lift, crane, davit, derrick, mobile powered access platform, access equipment, staging or bosun’s chair or the failure of any load-bearing part thereof;

(b) deur in subartikel (1) na die omskrywing van "erkende nie-Suid-Afrikaanse" die volgende omskrywing in te voeg:

"'ernstige besering' ook—

- (a) 'n fraktuur van die kopbeen, ruggraat of bekkenbeen;
- (b) 'n fraktuur van enige been behalwe 'n been in die pols, hand, enkel of voet, of 'n enkele ribbebeen;
- (c) die amputasie van 'n hand of voet;
- (d) die verlies van die sig van 'n oog;
- (e) die bevriesing van enige liggaamlike ekstremititeit wat tot permanente skending kan lei;
- (f) enige aantasting van 'n persoon se fisiese toestand as gevolg van—
  - (i) die gebruik van masjinerie;
  - (ii) 'n elektriese skok;
  - (iii) die blootstelling aan gevaarlike werksomstandighede of gevaarlike stowwe of artikels; of
  - (iv) die blootstelling aan natuurlike of kunsmatige omgewings- uiterstes,

aan boord van 'n vaartuig wat meebring dat daardie persoon vir meer as 24 uur aaneenlopend in 'n hospitaal as pasiënt opgeneem word, of sou meegebring het dat hy aldus opgeneem sou gewees het indien hy binne die bereik van 'n hospitaal was;"

(c) deur in subartikel (1) na die omskrywing van "familiebetrekking" die volgende omskrywing in te voeg:

"'gebruiker' met betrekking tot masjinerie, iemand wat masjinerie op 'n vaartuig vir sy eie voordeel gebruik;"

(d) deur in subartikel (1) na die omskrywing van "gevaarlike goedere" die volgende omskrywing in te voeg:

"'gevaarlike ruimte' enige ingeslote of beperkte ruimte waarin dit redelik voorsienbaar is dat die atmosfeer op 'n bepaalde tydstip giftige of ontvlambare gasse of dampe of gevaarlike stowwe kan bevat, of 'n tekort aan suurstof kan hê, in so 'n mate dat dit die lewe of gesondheid van enige persoon wat die ruimte binnegaan in gevaar kan stel;"

(e) deur in subartikel (1) paragraaf (b) van die omskrywing van "hawe" deur die volgende paragraaf te vervang:

"(b) 'n hawe in die Republiek, 'n hawe [bedoel in die omskrywing van 'hawens' in artikel 1 van die Suid-Afrikaanse Vervoerdienstewet, 1981 (Wet No. 65 van 1981)] waarvan Transnet Beperk ingevolge artikel 3 van die Wet op die Regsopvolging van die Suid-Afrikaanse Vervoerdienste, 1989 (Wet No. 9 van 1989), die eienaar geword het, of 'n vissershawe [bedoel] soos omskryf in artikel 1 van die Wet op [Seevisserye, 1973 (Wet No. 58 van 1973)] Seevisserye, 1988 (Wet No. 12 van 1988), of 'n plek wat kragtens hierdie Wet of enige ander wet aangewys is as 'n plek vanwaar of waar enige vaartuig of 'n vaartuig van 'n besondere tipe te water gelaat, op die strand gesleep, geanker of vasgemeer mag word;"

(f) deur in subartikel (1) na die omskrywing van "loon" die volgende omskrywings in te voeg:

"'marine-kennisgewing' 'n kennisgewing as sodanig beskryf en deur die Departement van Vervoer uitgereik; 'masjinerie' enige artikel of kombinasie van artikels wat inmeekaargesit, ingerig of verbind is en wat gebruik word of bestem is om gebruik te word vir die omskepping van enige vorm van energie vir die verrigting van werk, of wat gebruik word of bestem is om gebruik te word, hetsy dit bykomend daarby is of nie, vir die ontwikkeling, ontvangs, opberging, inperking, omvorming, geleiding, oordrag of beheer van enige vorm van energie;"

(g) deur in subartikel (1) die omskrywing van "Minister" deur die volgende omskrywing te vervang:

"'Minister' die Minister van [Vervoerwese] Vervoer;"



- (b) the explosion, collapse or bursting of any closed container, including a boiler or boiler tube, in which there is any gas (including air), liquid or any vapour at a pressure greater than atmospheric pressure;
- 5 (c) any electrical short circuit or overload resulting in fire or explosion;
- (d) the sudden, uncontrolled release of flammable liquid or gas from any system, plant or pipeline;
- 10 (e) the uncontrolled release or escape of any harmful substance;
- (f) either of the following occurrences in respect of any pipeline, valve or any piping system in a vessel—
- (i) the bursting, explosion or collapse of a pipeline;
- (ii) the accidental ignition of anything in a pipeline or of anything which, immediately before it ignited, was in a pipeline;
- 15 (g) any contact of the human body with loose asbestos fibre;
- (h) the failure of any lashing-wire, chain or appliance;
- (i) any collapse or significant movement of cargo;
- 20 (j) the malfunctioning of any hatch cover, hatch cover control wire or other mechanism;
- (k) any person falling overboard;
- (l) the parting of a tow-rope;
- (m) the failure of bilge-pumping arrangements or life-saving or fire-fighting equipment to operate;”;
- 25 (b) by the insertion in subsection (1) after the definition of “country to which the Safety Convention applies” of the following definition:
- “‘crew’ means all seamen on board a ship;”;
- (c) by the insertion in subsection (1) after the definition of “dangerous goods” of the following definition:
- 30 “‘dangerous space’ means any enclosed or confined space in which it is reasonably foreseeable that the atmosphere may at some stage contain toxic or flammable gases or vapours or dangerous substances, or be deficient in oxygen, to the extent that it may endanger the life or health of any person entering that space;”;
- 35 (d) by the insertion in subsection (1) after the definition of “Director-General” of the following definitions:
- “‘employee’ means any person on board a vessel, including a member of the crew, who is employed by or working for an employer and receives or is entitled to receive any remuneration, or who works under the direction or supervision of an employer, or any other person who on board a vessel in any manner assists in the carrying on or the conducting of the business of an employer, except as provided otherwise by regulation;
- 40 ‘employer’ means any person, including the owner or master of a vessel, who employs any person or provides work for him on a vessel and who remunerates that person or expressly or tacitly undertakes to remunerate him, except as provided otherwise by regulation;”;
- 45 (e) by the insertion in subsection (1) after the definition of “local safety exemption certificate” of the following definitions:
- 50 “‘machinery’ means any appliance or combination of appliances assembled, arranged or connected and which is used or intended to be used for converting any form of energy to perform work, or which is used or intended to be used, whether incidental thereto or not, for generating, receiving, storing, containing, transforming, transmitting, transferring or controlling any form of energy;
- 55 ‘marine notice’ means a notice described as such and issued by the Department of Transport;”;
- (f) by the substitution in subsection (1) for the definition of “Minister” of the following definition:
- 60 “‘Minister’ means the Minister of Transport [Affairs];”;
- (g) by the insertion in subsection (1) after the definition of “near relative” of the following definition:

- (h) deur in subartikel (1) na die omskrywing van "Minister" die volgende omskrywing in te voeg:  
 "ongeluk", met betrekking tot 'n vaartuig, ook—
- (a) die neerstort of omval van enige hyser, hyskraan, kraanbalk, laaiboom, mobiele kragaangedrewe toegangsplatform, toegangstoerusting, steierwerk of bootsmanstoel of die meegee van enige gewigdraende gedeelte daarvan; 5
  - (b) die ontploffing, neerstort of oopbars van enige geslote houer, insluitende 'n ketel of ketelbuis, waarin daar enige gas (insluitende lug), vloeistof of damp teen 'n druk hoër as atmosferiese druk is; 10
  - (c) enige elektriese kortsluiting of oorlading wat 'n brand of ontploffing tot gevolg het;
  - (d) die skielike, onbeheerde vrylating van ontvlambare vloeistof of gas vanuit enige stelsel, toerusting of pypleiding; 15
  - (e) die onbeheerde vrylating of ontsnapping van 'n skadelike stof;
  - (f) enige van die volgende voorvalle ten opsigte van enige pypleiding, klep of enige pypstelsel in 'n vaartuig—
    - (i) die oopbars, ontploffing of ineenstorting van 'n pypleiding; 20
    - (ii) die toevallige ontsteking van enigiets in 'n pypleiding of van enigiets wat, onmiddellik voordat dit ontbrand het, in 'n pypleiding was;
  - (g) enige kontak van die menslike liggaam met los asbesvesel;
  - (h) die meegee van enige binddraad, ketting of toestel;
  - (i) enige ineenstorting of aanmerklike verskuiwing van die vrag; 25
  - (j) die wanfunksionering van 'n luikdeksel, luikdekselbeheerdraad of ander meganisme;
  - (k) enige persoon wat oorboord val;
  - (l) die breek van 'n sleeptou;
  - (m) die weiering van vullingspompsamestellings, reddingstoerusting of brandbestrydingstoerusting om te funksioneer;"; 30
- (i) deur in subartikel (1) die omskrywing van "spaarbank" deur die volgende omskrywing te vervang:  
 " 'spaarbank' die Posspaarbank of 'n **[bankinstelling]** depositonemende instelling geregistreer kragtens die **[Bankwet, 1965 (Wet No. 23 van 1965)]** Wet op Depositonemende Instellings, 1990 (Wet No. 94 van 1990), **[of 'n bouvereniging geregistreer kragtens die Bouverenigingswet, 1965 (Wet No. 24 van 1965)]** of, ten aansien van die toewysing van premies, 'n persoon wat kragtens die Versekeringswet, 1943 (Wet No. 27 van 1943), as 'n versekeraar geregistreer is of geag word geregistreer te wees, of enige ander liggaam deur die Minister aangewys;";
- (j) deur in subartikel (1) na die omskrywing van "sport of ontspanning" die volgende omskrywing in te voeg:  
 "standaard"— 45
- (a) enige bepaling wat voorkom in 'n spesifikasie, standaardspesifikasie, verpligte spesifikasie, gebruikskode of standaardmetode ooreenkomstig die bedoeling van die Wet op Standaarde, 1982 (Wet No. 30 van 1982); of
  - (b) enige bepaling wat voorkom in 'n spesifikasie, kode of enige ander voorskrif wat standaardisasie ten doel het en wat uitgereik is deur 'n instelling of organisasie binne of buite die Republiek wat, hetsy in die algemeen of met betrekking tot enige bepaalde artikel of aangeleentheid en hetsy internasionaal of in 'n bepaalde land of gebied, hom vir die bevordering van standaardisasie beywer;"; 50
- (k) deur in subartikel (1) na die omskrywing van "vaartuig" die volgende omskrywings in te voeg:  
 " 'veilig' vry van enige bedreiging wat liggaamlike besering, siekte of dood kan veroorsaak; 60  
 'veiligheidsbeampte' iemand ingevolge artikel 355A(1)(a) aangestel;  
 'veiligheidsbenoemde' iemand ingevolge artikel 355A(1)(a) aangestel;



“‘occupational safety’ means the safety of any employee on board a ship and whilst boarding or leaving the ship;”;

- (h) by the substitution in subsection (1) for paragraph (b) of the definition of “port” of the following paragraph:

5 “(b) a port in the Republic, means a harbour **[contemplated in the definition of ‘harbours’ in section 1 of the South African Transport Services Act, 1981 (Act No. 65 of 1981)]** of which Transnet Limited has become the owner in terms of section 3 of the Legal Succession to the South African Transport Services Act, 1989 (Act No. 9 of 1989), or a fishing harbour **[contemplated]** as defined in section 1 of the Sea **[Fisheries Act, 1973 (Act No. 58 of 1973)]** Fishery Act, 1988 (Act No. 12 of 1988), or any place which has under this Act or any other law been designated as a place from or at which any vessel or a vessel of a particular type may be launched, beached, moored or berthed;”;

- (i) by the insertion in subsection (1) after the definition of “regulation” of the following definitions:

20 “‘safe’ means free from any threat which may cause bodily injury, illness or death;  
‘safety appointee’ means any person appointed in terms of section 355A(1)(a);  
‘safety committee’ means a committee appointed in terms of section 355A(1)(a);”;

- 25 (j) by the insertion in subsection (1) after the definition of “safety convention certificate” of the following definitions:

30 “‘safety officer’ means any person appointed in terms of section 355A(1)(a);  
‘safety representative’ means any person elected in terms of section 355A(1)(b);  
‘safety standard’ means any standard, irrespective of whether or not it has the force of law, which, if applied for the purposes of this Act, will in the opinion of the Minister promote the attainment of an object of this Act;”;

- 35 (k) by the substitution in subsection (1) for the definition of “savings bank” of the following definition:

40 “‘savings bank’ means the Post Office Savings Bank, or a **[banking]** deposit-taking institution registered under the **[Banking Act, 1965 (Act No. 23 of 1965)]** Deposit-taking Institutions Act, 1990 (Act No. 94 of 1990), **[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;”;

- 45 (l) by the insertion in subsection (1) after the definition of “seaman” of the following definition:

50 “‘serious injury’ includes—  
(a) a fracture of the skull, spine or pelvis;  
(b) a fracture of any bone other than a bone in the wrist, hand, ankle or foot, or a single rib;  
(c) the amputation of a hand or foot;  
(d) the loss of sight of an eye;  
(e) frost-bite of any bodily extremity which may lead to permanent disfigurement; or  
55 (f) any impairment of a person’s physical condition owing to—  
(i) the use of machinery;  
(ii) an electrical shock;  
(iii) the exposure to hazardous working conditions or hazardous substances or articles; or  
60 (iv) the exposure to natural or artificial environmental extremes,

on board a vessel which results in that person being admitted to hospital as a patient for more than 24 consecutive hours, or

- ‘veiligheidskomitee’ ’n komitee ingevolge artikel 355A(1)(a) aan-gestel;”.
- (l) deur in subartikel (1) na die omskrywing van “veiligheidskonvensiesertifikaat” die volgende omskrywing in te voeg:
- “‘veiligheidsstandaard’ ’n standaard, ongeag of dit regsrag het of nie, wat na die oordeel van die Minister by die toepassing daarvan vir die doeleindes van hierdie Wet die bereiking van ’n oogmerk van hierdie Wet sal bevorder;
- ‘veiligheidsvertegenwoordiger’ iemand ingevolge artikel 355A(1)(b) verkies;”; en
- (m) deur in subartikel (1) na die omskrywing van “walvisvaarder met landbasis” die volgende omskrywings in te voeg:
- “‘werkgewer’ enige persoon, insluitende die eienaar of gesagvoerder van ’n vaartuig, wat enige persoon in diens neem of aan hom op ’n vaartuig werk verskaf en wat daardie persoon beloon of uitdruklik of stilswyend onderneem om hom te beloon, behalwe soos by regulasie anders bepaal;
- ‘werknemer’ enige persoon aan boord van ’n vaartuig, insluitende ’n lid van die bemanning, wat deur ’n werkgewer in diens geneem is of wat vir hom werk en wat beloning ontvang of geregtig is om beloning te ontvang, of wat onder opdrag of toesig van ’n werkgewer werk, of enige ander persoon wat aan boord van ’n vaartuig op enige manier help met die voortgaan of die bedryf van die besigheid van ’n werkgewer, behalwe soos by regulasie anders bepaal;”.
- ‘werkplek’ enige plek op ’n vaartuig waar ’n werknemer in die loop van sy diens werk verrig;”.

Wysiging van artikel 3 van Wet 57 van 1951, soos gewysig deur artikel 4 van Wet 30 van 1959, artikel 32 van Wet 69 van 1962, artikel 2 van Wet 40 van 1963, artikel 2 van Wet 13 van 1965 en artikel 2 van Wet 25 van 1985

2. Artikel 3 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Hierdie Wet en enige wysiging daarvan is van toepassing op [die Gebied Suidwes-Afrika en] die hawe en nedersetting Walvisbaai [en genoemde Gebied word by die toepassing van hierdie Wet geag ’n deel van die Republiek uit te maak: Met dien verstande dat die bepalings van hierdie Wet geen inbreuk maak nie op die bevoegdheid van die Wetgewende Vergadering van genoemde Gebied om, by die uitoefening van sy magte kragtens artikel vyf-en-twintig van die ‘Zuidwest-Afrika Konstitutie Wet, 1925’ (Wet No. 42 van 1925), soos uitgebrei deur artikel dertien bis van die Wet op Seevisserye, 1940 (Wet No. 10 van 1940), soos ingevoeg deur artikel drie van die Wysigingswet op Seevisserye, 1949 (Wet No. 58 van 1949), Ordonnansies te maak wat handel oor sake aangaande robbevangs en seevisserye en die lisensiering van vaartuie wat vir robbe- en visvangs gebruik word, of op die geldigheid van enige sodanige Ordonnansies wat voor die inwerkingtreding van enige van die bepalings van hierdie Wet gemaak is].”;

(b) deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Hierdie Wet [verbind] bind die Staat: Met dien verstande dat die Minister by kennisgewing kan gelas dat artikels 102 tot en met artikel 109, artikels 113 en 120 tot en met artikel 124 en artikels 133, 134, 145, 188 en 323 nie van toepassing sal wees nie ten aansien van die gesagvoerder, seelui of leerling-offisiere van ’n skip wat in die kennisgewing genoem word en wat aan die Regering van die Republiek [(insluitende die Spoorwegadministrasie)] of aan Transnet Beperk behoort, wie se diensvoorwaardes gereël word deur ander wette as hierdie Wet of deur ander statutêre regulasies as regulasies uitgevaardig kragtens hierdie Wet.”; en

(c) deur die volgende subartikels by te voeg:

“(12) Tensy anders aangedui, is slegs die bepalings van artikels



- would have resulted in his being so admitted had he been within reach of a hospital;”;
- (m) by the insertion in subsection (1) after the definition of “sport or recreation” of the following definition:
- 5 “‘standard’ means—
- (a) any provision occurring in a specification, standard specification, compulsory specification, code of practice or standard method within the meaning of the Standards Act, 1982 (Act No. 30 of 1982); or
- 10 (b) any provision occurring in any specification, code or any other directive having standardization as its aim and issued by an institution or organization inside or outside the Republic which, whether generally or with respect to any particular article or matter and whether internationally or in any particular
- 15 country or territory, seeks to promote standardization;”;
- (n) by the insertion in subsection (1) after the definition of “unseaworthy” of the following definition:
- “‘user’, in relation to machinery, means any person who uses machinery on a vessel for his own benefit;”;
- 20 (o) by the insertion in subsection (1) after the definition of “whaling boat” of the following definition:
- “‘workplace’ means any place on a vessel where an employee performs work in the course of his employment;”.

25 **Amendment of section 3 of Act 57 of 1951, as amended by section 4 of Act 30 of 1959, section 32 of Act 69 of 1962, section 2 of Act 40 of 1963, section 2 of Act 13 of 1965 and section 2 of Act 25 of 1985**

2. Section 3 of the principal Act is hereby amended—
- (a) by the substitution for subsection (1) of the following subsection:
- 30 “(1) This Act and any amendment thereof, shall apply to **[the Territory of South-West Africa and]** the port and settlement of Walvis Bay **[and the said Territory shall for the purpose of this Act be deemed to form part of the Republic: Provided that the provisions of this Act shall not affect the competency of the**
- 35 **Legislative Assembly for the said Territory to make Ordinances dealing with matters relating to sealing and sea fisheries and the licensing of vessels engaged in sealing and sea fishing, in the exercise of its powers under section twenty-five of the South-West Africa Constitution Act, 1925 (Act No. 42 of 1925), as extended by section thirteen bis of the Sea Fisheries Act, 1940 (Act No. 10 of 1940), as**
- 40 **inserted by section three of the Sea Fisheries Amendment Act, 1949 (Act No. 58 of 1949), nor the validity of any such Ordinances made before the coming into operation of any of the provisions of this Act].**”;
- (b) by the substitution for subsection (3) of the following subsection:
- 45 “(3) This Act shall bind the State: Provided that the Minister may by notice direct that sections 102 to 109, inclusive, 113, 120 to 124, inclusive, 133, 134, 145, 188 and 323 shall not apply in respect of the master, seamen or apprentice-officers of any ship named in the notice and belonging to the Government of the Republic
- 50 **[(including the Railway Administration)]** or to Transnet Limited whose conditions of service are governed by laws other than this Act or statutory regulations other than regulations made under this Act.”; and
- (c) by the addition of the following subsections:
- 55 “(12) Unless otherwise indicated, only the provisions of sections

- 9(5), 223, 259, 264, 313, 343ter, 355A, 356 en 356ter, saamgelees met artikel 2, van toepassing op—
- (a) elke eienaar en gesagvoerder van 'n vaartuig, elke gebruiker en elke werkgewer van persone aan boord van 'n vaartuig;
  - (b) alle bemanning aan boord van 'n vaartuig wat 'n dienskontrak met die gesagvoerder of met die vaartuig se eienaar of operateur aangegaan het, of iemand wat in die geval van 'n vaartuig van minder as 100 bruto registerton as bemanning aan boord van sodanige vaartuig beskou kan word;
  - (c) elke ander persoon aan boord van 'n vaartuig in die uitvoering van sy pligte;
  - (d) elke werkende toestel, hystoestel, anker of kabel, enige masjinerie, elke loopplank of akkommodasie-leer of enige toerusting of toebehore in of op 'n vaartuig wat deel van sodanige vaartuig se konstruksie of toerusting uitmaak, maar nie ook enige masjinerie of toerusting wat aan boord van 'n vaartuig gebring is en wat nie deel van die vaartuig se toerusting uitmaak nie.
- (13) Die bepalings in subartikel (12) bedoel is nie van toepassing nie op 'n vaartuig terwyl dit gebou of afgetakel word.”.

**Wysiging van artikel 9 van Wet 57 van 1951, soos gewysig deur artikel 7 van Wet 30 van 1959**

**3. Artikel 9 van die Hoofwet word hierby gewysig—**

- (a) deur die woord “en” aan die einde van paragraaf (v) van subartikel (1) te skrap;
- (b) deur die volgende paragraaf by subartikel (1) te voeg:
  - “(vii) verbied dat enige artikel van die toneel van 'n ongeluk wat ingevolge artikel 259 aangemeld moet word, verwyder word.”;
  - en
- (c) deur die volgende subartikel by te voeg:
  - “(5) (a) (i) Wanneer 'n werkgewer 'n handeling verrig of vereis of toelaat dat 'n handeling verrig word wat na die oordeel van die bevoegde beampte of opnemer die veiligheid van 'n persoon by 'n werkplek of in die loop van sy diens bedreig of waarskynlik sal bedreig, kan die bevoegde beampte of opnemer daardie werkgewer by skriftelike kennisgewing verbied om met die verrigting van daardie handeling voort te gaan of te begin of om te vereis of toe te laat dat daar met daardie handeling voortgegaan of begin word, na gelang van die geval.
  - (ii) Wanneer 'n gebruiker enige masjinerie gebruik of beoog om dit te gebruik op 'n wyse of in omstandighede wat na die oordeel van 'n bevoegde beampte of opnemer die veiligheid bedreig of waarskynlik sal bedreig van 'n persoon wat met daardie masjinerie werk of wat in die nabyheid daarvan is of mag kom, kan so 'n bevoegde beampte of opnemer daardie gebruiker by skriftelike kennisgewing verbied om met die gebruik van daardie masjinerie of die gebruik daarvan op daardie wyse of in daardie omstandighede voort te gaan of te begin, na gelang van die geval.
  - (iii) 'n Verbod kragtens subparagraaf (i) of (ii) opgelê, kan te eniger tyd skriftelik deur die betrokke bevoegde beampte of opnemer opgehef word indien reëlins tot bevrediging van daardie bevoegde beampte of opnemer getref is om die bedreiging wat tot die oplegging van die verbod aanleiding gegee het, uit die weg te ruim.
  - (b) Wanneer 'n bevoegde beampte of opnemer van oordeel is dat die veiligheid van iemand by 'n werkplek of in die loop van sy diens of in verband met die gebruik van masjinerie bedreig word as gevolg van die weiering of versuim van 'n werkgewer of gebruiker, na gelang van die geval, om redelike stappe in belang van so iemand se veiligheid te doen, kan so 'n bevoegde beampte of opnemer daardie werkgewer of gebruiker by skriftelike kennisgewing gelas om die



9(5), 223, 259, 264, 313, 343*ter*, 355A, 356 and 356*ter*, read with section 2, shall apply to—

- (a) every owner and master of any vessel, every user and every employer of persons on board a vessel;
- 5 (b) all crew on board a vessel who have entered into a contract of employment with the master or with the owner or operator of such vessel, or any person who in the case of a vessel of less than 100 gross register tons can be regarded as crew on board such vessel;
- 10 (c) every other person on board a vessel in the execution of his duties;
- (d) every working gear, lifting gear, anchor or cable, any machinery, every gangway or accommodation ladder, any equipment or every appurtenance in or on a vessel which forms a part of
- 15 the construction or equipment of such vessel, excluding any machinery or equipment brought on board a vessel and which does not form part of the equipment of such vessel.

(13) The provisions referred to in subsection (12) shall not apply to a vessel while being constructed or dismantled.”.

**20 Amendment of section 9 of Act 57 of 1951, as amended by section 7 of Act 30 of 1959**

**3. Section 9 of the principal Act is hereby amended—**

- (a) by the deletion of the word “and” at the end of paragraph (v) of subsection (1);
- 25 (b) by the addition to subsection (1) of the following paragraph:  
 “(vii) prohibit the removal of any article from the scene of an accident which must be reported in terms of section 259.”;  
 and
- (c) by the addition of the following subsection:
- 30 “(5) (a) (i) When an employer performs an act or requires or permits an act to be performed which in the opinion of a proper officer or surveyor threatens or is likely to threaten the safety of any person at a workplace or in the course of his employment, the proper officer or surveyor may by notice in writing prohibit that
- 35 employer from continuing or commencing with the performance of that act or from requiring or permitting that act to be continued or commenced with, as the case may be.
- (ii) When a user uses any machinery or proposes to use it in a manner or in circumstances which in the opinion of a proper officer or surveyor threatens or is likely to threaten the safety of any person who works with such machinery or who is or may come in the vicinity thereof, such proper officer or surveyor may by
- 40 notice in writing prohibit that user from continuing or commencing with the use of such machinery or the use thereof in that manner or those circumstances, as the case may be.
- 45 (iii) A prohibition imposed under subparagraph (i) or (ii) may at any time be revoked in writing by the proper officer or surveyor if arrangements to the satisfaction of such proper officer or surveyor have been made to dispose of the threat which gave rise to the imposition of the prohibition.
- 50 (b) When a proper officer or surveyor is of the opinion that the safety of any person at a workplace or in the course of his employment or in connection with the use of machinery is threatened on account of the refusal or failure of an employer or a user, as the case may be, to take reasonable steps in the interest
- 55 of such person’s safety, such proper officer or surveyor may by

stappe in die kennisgewing vermeld binne 'n vermelde tydperk te doen.

(c) Wanneer daar aan boord van 'n vaartuig in die nabyheid van 'n werkplek 'n oorlas bestaan wat na die oordeel van 'n bevoegde beampte of opnemer die veiligheid bedreig of waarskynlik sal bedreig van 'n werknemer wat by daardie werkplek werk verrig, kan so 'n bevoegde beampte of opnemer die persoon wat vir die oorlas verantwoordelik is of die eienaar of gesagvoerder van die vaartuig by skriftelike kennisgewing gelas om die oorlas binne 'n bepaalde tydperk te verwyder.

(d) Wanneer 'n bevoegde beampte of opnemer van oordeel is dat 'n werkgewer of gebruiker versuim het om aan 'n bepaling van 'n regulasie wat op hom van toepassing is, te voldoen, kan so 'n bevoegde beampte of opnemer daardie werkgewer of gebruiker by skriftelike kennisgewing gelas om die stappe wat na so 'n bevoegde beampte of opnemer se oordeel nodig is om aan bedoelde bepaling te voldoen en in die kennisgewing vermeld word, binne 'n tydperk insgelyks vermeld, te doen.

(e) 'n Tydperk beoog in paragraaf (b), (c) of (d) kan te eniger tyd deur die betrokke bevoegde beampte of opnemer by skriftelike kennisgewing aan die betrokke persoon verleng word.

(f) (i) 'n Bevoegde beampte of opnemer kan by skriftelike kennisgewing 'n werkgewer verbied om te vereis of toe te laat dat werknemers of 'n werknemer wat behoort tot 'n kategorie werknemers in die kennisgewing vermeld, vir 'n langer tydperk as 'n tydperk aldus vermeld in die loop van hulle of sy diens blootgestel word aan 'n artikel of toestand wat na die oordeel van so 'n bevoegde beampte of opnemer die veiligheid van daardie werknemers of die werknemer wat tot daardie kategorie werknemers behoort, na gelang van die geval, bedreig of waarskynlik sal bedreig.

(ii) 'n Werkgewer moet die inhoud van 'n kennisgewing in subparagraaf (i) bedoel, onverwyld onder die aandag van die betrokke werknemers of werknemer bring."

#### **Wysiging van artikel 101 van Wet 57 van 1951, soos gewysig deur artikel 17 van Wet 30 van 1959**

4. Artikel 101 van die Hoofwet word hierby gewysig deur paragraaf (a) van subartikel (8) deur die volgende paragraaf te vervang:

"(a) vaartuig wat aan **[die Spoorwegadministrasie]** Transnet Beperk behoort en wat deur daardie **[Administrasie]** instansie in verband met sy hawebedryf gebruik word; of".

#### **Wysiging van artikel 130 van Wet 57 van 1951, soos gewysig deur artikel 16 van Wet 3 van 1982**

5. Artikel 130 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Behoudens die bepalings van subartikel (2) kan 'n seeman in diens op 'n Suid-Afrikaanse skip voor die aanvang van die reis stipulasies maak betreffende die betaling tydens sy afwesigheid van 'n deel van die loon wat hy gedurende die seereis mag verdien by wyse van 'n toewysingsorder aan 'n familiebetrekking of spaarbank of 'n liggaam wat hom besig hou met die bevordering van die welsyn van seelui en wat kragtens die Nasionale Welsynswet, **[1965 (Wet No. 79 van 1965)]** 1978 (Wet No. 100 van 1978), geregistreer is."

#### **Wysiging van artikel 135 van Wet 57 van 1951**

6. Artikel 135 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Geen bepaling van hierdie artikel raak die bepalings van hierdie Wet



notice in writing direct that employer or user to take such steps as are specified in the notice, within a specified period.

(c) When on board a vessel in the vicinity of a workplace there is any nuisance which in the opinion of a proper officer or surveyor threatens or is likely to threaten the safety of an employee performing work at that workplace, such proper officer or surveyor may by notice in writing direct the person responsible for such nuisance or the owner or master of such vessel to remove the nuisance within a specified period.

(d) When a proper officer or surveyor is of the opinion that an employer or a user has failed to comply with a provision of a regulation applying to him, such proper officer or surveyor may by notice in writing direct that employer or user to take, within a period specified in the notice, such steps as in the opinion of the proper officer or surveyor are necessary to comply with the said provision and as are specified in the notice.

(e) The period contemplated in paragraph (b), (c) or (d) may at any time be extended by the proper officer or surveyor by notice in writing to the person concerned.

(f) (i) A proper officer or surveyor may by notice in writing prohibit an employer from requiring or permitting employees or any employee belonging to a category of employees specified in the notice, to be exposed in the course of their or his employment for a longer period than a period specified in the notice to any article or condition which in the opinion of such proper officer or surveyor threatens or is likely to threaten the safety of such employees or the employee belonging to such category of employees, as the case may be.

(ii) An employer shall forthwith bring the contents of a notice under subparagraph (i) to the attention of the employees or employee concerned."

#### **Amendment of section 101 of Act 57 of 1951, as amended by section 17 of Act 30 of 1959**

4. Section 101 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (8) of the following paragraph:

"(a) vessel belonging to **[the Railway Administration]** Transnet Limited and used by that **[Administration]** authority in connection with the working of its harbours; or".

#### **Amendment of section 130 of Act 57 of 1951, as amended by section 16 of Act 3 of 1982**

5. Section 130 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) Subject to the provisions of subsection (2), a seaman engaged on a South African ship may before the commencement of a voyage make stipulations for the payment during his absence by means of an allotment note to a near relative or a savings bank or a body engaged in the promotion of the welfare of seamen and registered under the National Welfare Act, **[1965 (Act No. 79 of 1965)] 1978 (Act No. 100 of 1978)**, of any portion of the wages which he may earn during the voyage."

#### **Amendment of section 135 of Act 57 of 1951**

6. Section 135 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) Nothing in this section shall affect the provisions of this Act

insake toewysingsorders of dié van artikel 326 van hierdie Wet of dié van artikels [74 en 75] 99 en 100 van die Inkomstebelastingwet, [1941 (Wet No. 31 van 1941)] 1962 (Wet No. 58 van 1962), nie.”.

#### Invoeging van artikel 152 in Wet 57 van 1951

7. Die volgende artikel word hierby in die Hoofwet na artikel 151 ingevoeg: 5

##### “Beskikking oor eiendom van oorlede seeman

152. Indien die eiendom van ’n oorlede seeman aan ’n bevoegde beampte oorhandig word, word daardie eiendom aan sy naasbestaan-des oorhandig nadat die nodige magtiging daartoe van die Meester van die Hooggeregshof of ’n ander bevoegde persoon verkry is.”. 10

#### Wysiging van artikel 163 van Wet 57 van 1951

8. Artikel 163 van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Die bepalings van hierdie artikel doen geen afbreuk hoegenaamd aan die bevoegdhede en pligte van ’n hawegesondheidsbeampte kragtens die bepalings van die [‘Volksgezondheidswet, 1919’ (Wet No. 36 van 1919)] Wet op Gesondheid, 1977 (Wet No. 63 van 1977), nie.”. 15

#### Wysiging van artikel 168 van Wet 57 van 1951

9. Artikel 168 van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang: 20

“(3) Die bepalings van hierdie artikel doen geen afbreuk hoegenaamd aan die bevoegdhede en pligte van ’n hawegesondheidsbeampte kragtens die bepalings van die [‘Volksgezondheidswet, 1919’ (Wet No. 36 van 1919)] Wet op Gesondheid, 1977 (Wet No. 63 van 1977), nie.”.

#### Wysiging van artikel 171 van Wet 57 van 1951

10. Artikel 171 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

“(2) Hierdie artikel is nie ten aansien van ’n seeman of leerling-offisier aan boord van ’n vaartuig wat aan [die Spoorwegadministrasie] Transnet Beperk behoort en wat deur daardie [Administrasie] instansie in verband met sy hawebedryf gebruik word, van toepassing nie.”. 30

#### Wysiging van artikel 180 van Wet 57 van 1951, soos gewysig deur artikel 24 van Wet 30 van 1959

11. Artikel 180 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang: 35

“(2) (a) Wanneer die bepalings van hierdie subartikel kragtens subartikel (1) van toepassing gemaak is op seelui en leerling-offisiere behorende tot skepe van ’n vreemde land, kan ’n magistraat op aansoek deur die gesagvoerder van ’n skip van daardie land, as hy uit hoofde van informasie onder eed afgeneem oortuig is dat redelike grond bestaan om te vermoed dat ’n seeman of leerling-offisier van daardie skip gedros het of sonder verlof afwesig is, ’n lasbrief uitreik vir die inhegtenisneming van daardie seeman of leerling-offisier en om hom voor ’n regterlike amptenaar te laat bring, [Elke] en sodanige lasbrief word op dieselfde wyse uitgevoer as ’n lasbrief uitgereik kragtens artikel [28] 43 van die Strafproseswet [1955 (Wet No. 56 van 1955)] 1977 (Wet No. 51 van 1977). 40 45

(b) ’n Regterlike amptenaar voor wie die seeman of leerling-offisier ingevolge paragraaf (a) gebring word, kan, as bewys word dat hy van daardie skip gedros het of sonder verlof afwesig was, beveel dat hy aan boord van daardie skip geneem word, of aan die gesagvoerder of ’n skeepsoffisier of die eienaar van daardie skip oorgelewer word om aldus aan boord geneem te word, en so ’n bevel word behoorlik uitgevoer.”. 50



regarding allotment notes or those of section 326 of this Act or those of sections **[74 and 75]** 99 and 100 of the Income Tax Act, **[1941 (Act No. 31 of 1941)]** 1962 (Act No. 58 of 1962).”.

#### Insertion of section 152 in Act 57 of 1951

- 5 7. The following section is hereby inserted in the principal Act after section 151:

#### “Disposal of property of deceased seaman

- 10 **152.** If the property of a deceased seaman is handed over to a proper officer, such property shall be handed over to his next of kin after the necessary authority thereto has been obtained from the Master of the Supreme Court or any other authorized person.”.

#### Amendment of section 163 of Act 57 of 1951

8. Section 163 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

- 15 “(3) The provisions of this section shall not in any way derogate from or modify the powers and duties of a port health officer under the provisions of the **[Public] Health Act, [1919 (Act No. 36 of 1919)]** 1977 (Act No. 63 of 1977).”.

#### Amendment of section 168 of Act 57 of 1951

- 20 9. Section 168 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

- 25 “(3) The provisions of this section shall not in any way derogate from or modify the powers and duties of a port health officer under the provisions of the **[Public] Health Act, [1919 (Act No. 36 of 1919)]** 1977 (Act No. 63 of 1977).”.

#### Amendment of section 171 of Act 57 of 1951

10. Section 171 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

- 30 “(2) This section shall not apply in respect of a seaman or apprentice-officer on board a vessel belonging to **[the Railway Administration] Transnet Limited** and used by that **[Administration]** authority in connection with the working of its harbours.”.

#### Amendment of section 180 of Act 57 of 1951, as amended by section 24 of Act 30 of 1959

- 35 11. Section 180 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

- 40 “(2) (a) If the provisions of this subsection have in terms of subsection (1) been applied to seamen and apprentice-officers belonging to ships of any foreign country, any magistrate may, on application by the master of a ship of that country, if he is satisfied from information taken on oath that reasonable grounds exist for suspecting that any seaman or apprentice-officer has deserted or is absent without leave from that ship, issue a warrant for the apprehension of that seaman or apprentice-officer and for bringing him before a judicial officer, **[Every]** and such warrant shall be executed in the same manner as a warrant issued under section **[28]** 43 of the Criminal Procedure Act, **[1955 Act No. 56 of 1955)]** 1977 (Act No. 51 of 1977).

- 50 (b) A judicial officer before whom the seaman or apprentice-officer is brought in terms of paragraph (a) may, on proof that he has deserted or is absent without leave from that ship, order that he be conveyed on board that ship or delivered to the master or a ship’s officer or the owner of that ship, to be so conveyed, and any such order shall be duly executed.”.

**Wysiging van artikel 203 van Wet 57 van 1951, soos gewysig deur artikel 32 van Wet 40 van 1963 en artikel 18 van Wet 13 van 1965**

12. Artikel 203 van die Hoofwet word hierby gewysig deur die volgende subartikels by te voeg:

“(8) Ondanks die bepalinge van hierdie artikel moet elke skip wat nie in die Republiek geregistreer of gelisensieer is nie, maar gereeld tussen hawens in die Republiek vaar of vanuit ’n hawe in die Republiek in bedryf is, en wat nie in besit is nie van ’n veiligheidskonvensiesertifikaat uitgereik deur of kragtens ’n magtiging van die regering van die land van herkoms van die skip, in besit wees van ’n plaaslike algemene veiligheidsertifikaat. 5 10

(9) Niemand, met inbegrip van die eienaar of gesagvoerder van ’n skip in subartikel (8) bedoel, bewerkstellig of laat toe dat daardie skip van enige hawe in die Republiek uitvaar nie, tensy daar ’n plaaslike algemene veiligheidsertifikaat ten opsigte van daardie skip aan boord daarvan is.”.

**Wysiging van artikel 221 van Wet 57 van 1951, soos gewysig deur artikel 49 van Wet 69 van 1962 en artikel 40 van Wet 40 van 1963** 15

13. Artikel 221 van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Subartikel (1)(a) is nie ten aansien van enige vaartuig wat aan **[die Spoorwegadministrasie]** Transnet Beperk behoort en wat deur daardie **[Administrasie]** instansie in verband met sy hawe-bedryf gebruik word, as daardie vaartuig in geval van nood ter see uitvaar, van toepassing nie.”. 20

**Wysiging van artikel 223 van Wet 57 van 1951, soos gewysig deur artikel 27 van Wet 13 van 1965**

14. Artikel 223 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang: 25

“(1) Indien by ondersoek van ’n vaartuig ’n opnemer bevind dat aan die bepalinge van artikel 73 of 221 of van die maritieme beroepsveiligheidsregulasies nie voldoen word nie, of dat die vaartuig nie ooreenkomstig die vereistes van die regulasies in verband met konstruksie, die regulasies vir reddingsuitrusting, die radio-regulasies, die regulasies in verband met botsing of enige ander toepaslike regulasies wat uitgevaardig is, toegerus is nie, of nie ooreenkomstig die vereistes van die laslynregulasies gemerk is nie, of dat die uitrusting nie in ’n goeie toestand is nie, of dat die dekllyn of laslyne nie behoorlik in stand gehou word nie, of dat voorsiening nie gemaak is nie vir die bevoegde personeel wat deur die radio-regulasies vir die hantering van die radio-installasie vereis word, gee hy skriftelik daarvan kennis aan die eienaar of gesagvoerder, vermeld in die kennisgewing die tekortkomings of gebreke en gelas dat hulle aangevul of uit die weg geruim moet word.”. 30 35

**Vervanging van artikel 259 van Wet 57 van 1951, soos gewysig deur artikel 21 van Wet 42 van 1969** 40

15. Artikel 259 van die Hoofwet word hierby deur die volgende artikel vervang:

**“Verslag aan bevoegde beampte oor skeepsongelukke en ongelukke aan boord van skepe**

259. (1) Die eienaar of gesagvoerder van ’n skip— 45

(a) wat verlore gegaan het, verlaat is of gestrand het; of  
(b) wat ernstig beskadig is, of wat ernstige skade aan ’n ander skip veroorsaak het; of

(c) waarop ’n ongeval wat lewensverlies of ernstige besering van ’n persoon veroorsaak het of ’n ongeluk plaasgevind het; of 50

(d) wat in groot gevaar verkeer het, hetsy deur die optrede van ’n ander skip, hetsy om ’n ander rede; of

(e) wat na sy vertrek uit ’n hawe in die Republiek na daardie hawe teruggekeer het; of



**Amendment of section 203 of Act 57 of 1951, as amended by section 32 of Act 40 of 1963 and section 18 of Act 13 of 1965**

12. Section 203 of the principal Act is hereby amended by the addition of the following subsections:

5 “(8) Notwithstanding the provisions of this section, every ship not registered or licensed in the Republic, plying regularly between ports in the Republic or operating from a port in the Republic, and which is not in possession of any safety convention certificate issued by or under the authority of the government of the country of origin of the ship, shall be in  
10 possession of a local general safety certificate.

(9) No person, including the owner or master of a ship referred to in subsection (8), shall cause or permit that ship to proceed to sea from any port in the Republic, unless there is on board and in respect of that ship a  
15 local general safety certificate.”.

15 **Amendment of section 221 of Act 57 of 1951, as amended by section 49 of Act 69 of 1962 and section 40 of Act 40 of 1963**

13. Section 221 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

20 “(3) Subsection (1)(a) shall not apply in respect of any vessel belonging to **[the Railway Administration] Transnet Limited** and used by that **[Administration] authority** in connection with the working of its harbours, if that vessel goes to sea in an emergency.”.

**Amendment of section 223 of Act 57 of 1951, as amended by section 27 of Act 13 of 1965**

25 14. Section 223 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) If upon the inspection of a vessel a surveyor finds that the provisions of section 73 or 221 or of the maritime occupational safety regulations are not being complied with, or that the vessel is not equipped as required by  
30 the construction regulations, the life-saving equipment regulations, the radio regulations, the collision regulations or any other applicable regulations which may have been made or not marked as required by the load line regulations, or that the equipment is not in a good condition, or that the deck lines or load lines are not being properly maintained, or that the  
35 qualified staff required by the radio regulations for the operation of the radio installation is not provided, he shall give notice in writing to that effect to the owner or master, pointing out the deficiencies or defects and requiring that they be made good.”.

40 **Substitution of section 259 of Act 57 of 1951, as amended by section 21 of Act 42 of 1969**

15. The following section is hereby substituted for section 259 of the principal Act:

**“Report to proper officer of accidents to and on board ships**

45 **259. (1) The owner or master of any ship—**  
(a) which has been lost, abandoned or stranded; or  
(b) which has been seriously damaged or has caused serious damage to any other ship; or  
(c) on which any casualty resulting in loss of life or serious injury to any person or an accident has occurred; or  
50 (d) which has been in a position of great peril either from the action of some other ship or for any other reason; or  
(e) which, having left any port in the Republic, has put back to that port; or

(f) wat vasgeloop het in, of skade veroorsaak het aan, enige hawe, dok of kaai of aan enige ligskip, boei, baken of seeteken, moet binne 24 uur **[na die voorval, of so gou moontlik daarna, dit]** nadat die skip in 'n hawe aangekom het of, indien die voorval in 'n hawe plaasgevind het, binne 24 uur nadat die voorval plaasgevind het, maar voordat die skip uit daardie hawe vertrek, die voorval aan die naaste bevoegde beampte in die voorgeskrewe vorm rapporteer **[: die rapport vermeld]** met vermelding van die aard van die voorval en die waarskynlike oorsaak daarvan, die naam van die skip, sy amptelike nommer, die hawe waartoe die skip behoort, die plek waar die voorval gebeur het en die plek waar die skip dan is, en alle ander beskikbare relevante informasie: Met dien verstande dat 'n voorval wat lewensverlies of ernstige besering tot gevolg het onverwyld deur middel van die vinnigste beskikbare wyse van kommunikasie aldus gerapporteer word.

(2) Behoudens subartikel (3) geld subartikel (1) vir elke skip wat in die Republiek geregistreer of gelisensieer is of wat ingevolge hierdie Wet aldus geregistreer of gelisensieer moet wees ten aansien of aan boord waarvan so 'n voorval as wat in subartikel (1) bedoel word, op enige plek gebeur het, en dit geld alleen vir 'n skip wat in 'n ander land as die Republiek geregistreer is terwyl dit in die Republiek of in die Republiek se territoriale waters is en as 'n sodanige voorval ten aansien of aan boord van die skip gebeur het tydens 'n reis na 'n hawe in die Republiek of in die Republiek of in die Republiek se territoriale waters.

(3) Subartikel (1)(f) is nie op 'n vaartuig wat aan **[die Spoorwegadministrasie]** Transnet Beperk behoort en wat deur daardie **[Administrasie]** instansie in verband met sy hawebedryf gebruik word, van toepassing nie.

(4) 'n Werknemer, werkgewer of gebruiker wat van 'n voorval bedoel in subartikel (1) te wete kom, moet die betrokke eienaar of gesagvoerder onverwyld van daardie voorval in kennis stel."

Vervanging van artikel 264 van Wet 57 van 1951, soos vervang deur artikel 22 van Wet 42 van 1969

16. Artikel 264 van die Hoofwet word hierby deur die volgende artikel vervang:

**"Voorlopige ondersoek na skeepsongevale**

**264.** (1) Die Direkteur-generaal kan na goedgevonden 'n bevoegde persoon aanstel om 'n voorlopige ondersoek in te stel—

(a) in die geval van 'n skip wat in die Republiek geregistreer of gelisensieer is of wat ingevolge hierdie Wet aldus geregistreer of gelisensieer moet wees, wanneer—

(i) 'n bewering van onbevoegdheid of wangedrag teen die eienaar, die gesagvoerder of 'n lid van die bemanning van sodanige skip gemaak word; of

(ii) (aa) sodanige skip verlore gegaan het, verlaat is of gestrand het;

(bb) 'n ongeluk aan boord van sodanige skip plaasgevind het of die skip beskadig is of skade aan enige ander skip veroorsaak het; of

(cc) lewensverlies gely is of 'n ernstige besering opgedoen is deur enige persoon aan boord van sodanige skip, waar die voorval ook al plaasgevind het;

(b) in die geval van 'n skip wat in 'n ander land as die Republiek geregistreer is of vereis word aldus geregistreer te wees, wanneer enige voorval waarna in paragraaf (a)(ii) verwys word, in 'n hawe of binne die territoriale waters van die Republiek plaasgevind het;

(c) in die geval van 'n skip, waar ook al geregistreer of vereis word aldus geregistreer te wees, wanneer 'n bewering bedoel in paragraaf (a)(i) gemaak word teen 'n werkgewer of enige persoon



(f) which has fouled or done any damage to any harbour, dock or wharf or to any lightship, buoy, beacon or sea mark, shall within 24 hours after the **[happening of the event, or as soon thereafter as possible, report it]** ship has arrived in a port or, if the event occurred in a port, within 24 hours after the event occurred, but before the ship departs from that port, report the event to the nearest proper officer in the form prescribed, stating the nature of the event and of the probable cause **[therefor]** thereof, the name of the ship, her official number, the port to which she belongs, the place where the event occurred and the place where the ship then is, and giving all other available relevant information: Provided that any event resulting in loss of life or serious injury shall forthwith be so reported by the fastest means of communication available.

(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.

(3) Subsection (1)(f) shall not apply to any vessel belonging to **[the Railway Administration] Transnet Limited** and used by that **[Administration]** authority in connection with the working of its harbours.

(4) Any employee, employer or user who learns about an event referred to in subsection (1), shall forthwith notify the owner or master concerned of such event.”.

### 30 Substitution of section 264 of Act 57 of 1951, as substituted by section 22 of Act 42 of 1969

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

#### “Preliminary enquiry into shipping casualties

35 **264. (1)** The Director-General may in his discretion appoint any competent person to hold a preliminary enquiry—

(a) in the case 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, whenever—

40 (i) an allegation of incompetency or misconduct is made against the owner, the master or any member of the crew of such ship; or

(ii) (aa) such ship has been lost, abandoned or stranded;  
 (bb) an accident has occurred on board such ship or such ship has been damaged or has caused damage to any other ship; or

45 (cc) loss of life or serious injury to any person on board such ship has occurred;  
 at any place whatsoever;

50 (b) in the case of a ship registered or required to be so registered in a country other than the Republic, whenever, in a port of or within the territorial waters of the Republic, any event referred to in paragraph (a)(ii) has occurred;

55 (c) in the case of any ship, wherever registered or required to be so registered, whenever an allegation referred to in paragraph (a)(i) is made against an employer or any person on board the

aan boord van die skip terwyl sodanige skip in 'n hawe of binne die territoriale waters van die Republiek is;

(d) in die geval van 'n skip wat in 'n vreemde land geregistreer is, wanneer 'n voorval waarna in paragraaf (a)(ii) verwys word elders as in 'n hawe of binne die territoriale waters van die Republiek plaasgevind het, en—

(i) die skip later in 'n hawe in die Republiek aankom en 'n ondersoek na die ongeval nie deur enige bevoegde hof of ander ondersoekliggaam in 'n ander verdragland ingestel is nie; of

(ii) in die geval van 'n verdragskip, bewyse beskikbaar is betreffende die omstandighede waaronder die skip uitgevaar het, of laaste van verneem is, of enige voorval waarna in paragraaf (a)(ii) verwys word, plaasgevind het.

(2) Die Direkteur-generaal kan die Direkteur-generaal van Mannekrag versoek om 'n persoon wat kragtens die bepalinge van artikel 20 van die Wet op Masjinerie en Beroepsveiligheid, 1983 (Wet No. 6 van 1983), aangestel is, aan te wys om 'n persoon by te staan wat kragtens subartikel (1) aangestel is om 'n voorlopige ondersoek in te stel.”.

#### Wysiging van artikel 265 van Wet 57 van 1951

17. Artikel 265 van die Hoofwet word hierby gewysig deur die volgende subartikel by te voeg, terwyl die bestaande artikel subartikel (1) word:

“(2) Ondanks andersluidende bepalinge van die een of ander Wet word die verslag in subartikel (1) bedoel, die mening daarvoor of enige getuienis in verband daarmee of enige afskrif van of uittreksel uit die verslag, mening of getuienis slegs aan 'n hof van marine-ondersoek of 'n geregshof blootgelê.”.

#### Wysiging van artikel 266 van Wet 57 van 1951, soos gewysig deur artikel 53 van Wet 69 van 1962 en artikel 48 van Wet 40 van 1963

18. Artikel 266 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

“(2) 'n Formele ondersoek na 'n bewering teen die gesagvoerder of 'n [skeepsoffisier] lid van die bemanning van 'n skip wat in 'n ander verdragland as die Republiek geregistreer is, of na 'n voorval wat ten aansien of aan boord van so 'n skip plaasgevind het, word nie ingestel nie behalwe op versoek of met die toestemming van die Regering van daardie verdragland: Met dien verstande dat hierdie beperking nie geld nie as—

(a) die bewering betrekking het op die gesagvoerder of 'n [skeepsoffisier] lid van die bemanning van 'n skip wat geheel en al gebruik word op reise tussen hawens in die Republiek, of die voorval ten aansien of aan boord van so 'n skip plaasgevind het, waar die voorval ook al gebeur het; of

(b) die voorval ten aansien of aan boord van 'n skip (behalwe 'n in paragraaf (a) bedoelde skip) in 'n hawe in die Republiek of [aan of naby die kuste] binne die territoriale waters van die Republiek plaasgevind het.”.

#### Vervanging van artikel 269 van Wet 57 van 1951, soos vervang deur artikel 23 van Wet 42 van 1969 en gewysig deur artikel 4 van Wet 24 van 1974

19. Artikel 269 van die Hoofwet word hierby deur die volgende artikel vervang:

“Bevoegdheid van hof van marine-ondersoek ten opsigte van gesagvoerder of lid van bemanning

269. (1) As 'n hof van marine-ondersoek bevind dat 'n gesagvoerder of [skeepsoffisier] lid van die bemanning onbevoeg is of hom skuldig gemaak het aan 'n daad van wangedrag, of dat die verlies, verlatenheid of stranding van of ernstige skade aan 'n skip of lewensverlies of ernstige besering van 'n persoon veroorsaak is deur die wederregtelike daad of



- ship while such ship is in a port of or within the territorial waters of the Republic;
- (d) in the case of a ship registered in a foreign country, whenever any event referred to in paragraph (a)(ii) has occurred elsewhere than in a port of or within the territorial waters of the Republic, and—
- (i) such 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
- (ii) in the case of a treaty ship, evidence is obtainable in the Republic as to the circumstances in which such ship proceeded to sea, or was last heard of, or any event referred to in paragraph (a)(ii) has occurred.
- (2) The Director-General may request the Director-General of Manpower to assign a person designated as an inspector under section 20 of the Machinery and Occupational Safety Act, 1983 (Act No. 6 of 1983), to assist a person appointed under subsection (1) to hold a preliminary enquiry.”.

#### 20 Amendment of section 265 of Act 57 of 1951

17. Section 265 of the principal Act is hereby amended by the addition of the following subsection, the existing section becoming subsection (1):

- “(2) Notwithstanding anything to the contrary contained in any law, the report referred to in subsection (1), the opinion thereon or any evidence relating thereto or any copy of or excerpt from the report, opinion or evidence shall only be disclosed to a court of marine enquiry or to a court of law.”.

#### Amendment of section 266 of Act 57 of 1951, as amended by section 53 of Act 69 of 1962 and section 48 of Act 40 of 1963

18. Section 266 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

- “(2) A formal investigation shall not be held into any allegation against the master or a **[ship's officer] member of the crew** of a ship registered in any treaty country other than the Republic, or into any event that has occurred **[to or]** in respect of or on board any such ship, save at the request or with the consent of the government of that treaty country: Provided that this restriction shall not apply if—
- (a) the allegation relates to the master or a **[ship's officer] member of the crew** of a ship which is wholly engaged in plying between ports in the Republic, or the event has occurred at any place whatsoever **[to or]** in respect of or on board any such ship; or
- (b) the event has occurred in a port in the Republic or **[on or near the coasts]** within the territorial waters of the Republic **[to or]** in respect of or on board a ship other than a ship referred to in paragraph (a).”.

#### 45 Substitution of section 269 of Act 57 of 1951, as substituted by section 23 of Act 42 of 1969 and amended by section 4 of Act 24 of 1974

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

- 50 Powers of court of marine enquiry in respect of master or member of crew**

269. (1) If a court of marine enquiry finds that any master or **[ship's officer] member of the crew** 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

versuim van 'n gesagvoerder of **[skeepsoffisier]** lid van die bemanning, kan die hof, behoudens die bepalings van artikel 283, die bekwaamheid- of dienssertifikaat van die gesagvoerder of **[skeepsoffisier]** lid van die bemanning kanselleer of vir 'n bepaalde tydperk opskort of, hetsy die gesagvoerder of **[skeepsoffisier]** lid van die bemanning 'n bekwaamheid- of dienssertifikaat besit al dan nie, sy indiensneming in 'n bepaalde hoedanigheid in 'n skip vir 'n bepaalde tydperk verbied of hom 'n boete van hoogstens R2 000 oplê of hom berispe. 5

(2) Subartikel (1) geld ten aansien van gesagvoerders of **[skeepsoffisiere]** lede van die bemanning van alle skepe wat in die Republiek geregistreer of gelisensieer is of wat ingevolge hierdie Wet aldus geregistreer of gelisensieer moet wees, en ten aansien van gesagvoerders en **[skeepsoffisiere]** lede van die bemanning van skepe wat in 'n ander land as die Republiek geregistreer is, alleen as bedoelde skepe geheel en al gebruik word op reise tussen hawens in die Republiek. 10 15

#### Wysiging van artikel 283 van Wet 57 van 1951, soos gewysig deur artikel 25 van Wet 42 van 1969

20. Artikel 283 van die Hoofwet word hierby gewysig deur in subartikel (2) die woorde wat paragraaf (a) voorafgaan, en paragraaf (a), deur die volgende woorde te vervang: 20

“ 'n Hof van marine-onderzoek kanselleer of skort nie 'n sertifikaat op of verbied nie die indiensneming van 'n persoon of lê hom 'n boete op of berispe hom nie, en 'n seehof skort nie 'n sertifikaat op of verbied nie die indiensneming van 'n persoon of berispe hom nie—

(a) tensy die houer van die sertifikaat of 'n ander persoon aanwesig was by die aanhoor van enige getuienis waarop die hof se besluit om sy sertifikaat te kanselleer of op te skort of sy indiensneming te verbied of hom 'n boete op te lê of hom te berispe, gebaseer is, of, as hy nie aldus aanwesig was nie, tensy 'n afskrif van die aantekeninge van sodanige getuienis minstens 48 uur voordat 'n oproep op hom gedoen word om homself te verweer, aan hom verskaf is; en”. 25 30

#### Vervanging van artikel 284 van Wet 57 van 1951

21. Artikel 284 van die Hoofwet word hierby deur die volgende artikel vervang:

“Hof kan tydens ondersoek inlewering van sertifikaat gelas

284. 'n Hof van marine-onderzoek [of 'n seehof] kan te eniger tyd tydens 'n ondersoek 'n gesagvoerder of **[skeepsoffisier]** lid van die bemanning wat in die ondersoek betrokke is, en 'n seehof kan te eniger tyd tydens 'n ondersoek 'n gesagvoerder of skeepsoffisier wat in die ondersoek betrokke is, gelas om sy sertifikaat onmiddellik by die hof in te lewer.”. 35 40 40

#### Wysiging van artikel 286 van Wet 57 van 1951

22. Artikel 286 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

“(2) Wanneer die ondersoek 'n gesagvoerder of **[skeepsoffisier]** lid van die bemanning van 'n skip wat nie 'n Suid-Afrikaanse skip is nie raak, stuur die Direkteur-generaal 'n afskrif van die hof se bevinding of beslissing tesame met die aantekeninge van die getuienis aan die bevoegde gesag in die land waar die skip geregistreer is.”. 45

#### Vervanging van artikel 288 van Wet 57 van 1951

23. Artikel 288 van die Hoofwet word hierby deur die volgende artikel vervang: 50



or **[ship's officer]** member of the crew, it may, subject to the provisions of section 283, cancel the certificate of competency or service of the master or **[ship's officer]** member of the crew or suspend it for a stated period or, whether or not the master or **[ship's officer]** member of the crew holds a certificate of competency or service, prohibit his employment in any stated capacity in a ship for a stated period or impose a fine not exceeding R2 000 upon him or reprimand him.

(2) Subsection (1) shall apply in respect of masters or **[ship's officers]** members of the crew 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 **[ship's officers]** members of the crew 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 283 of Act 57 of 1951, as amended by section 25 of Act 42 of 1969**

20. Section 283 of the principal Act is hereby amended by the substitution in subsection (2) for the words preceding paragraph (a), and paragraph (a), of the following words:

"A court of marine enquiry shall not cancel or suspend a certificate or prohibit the employment of a person or impose a fine upon him or reprimand him, and a maritime court shall not suspend a certificate or prohibit the employment of a person or reprimand him—

(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 impose a fine upon him 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 48 hours before he is called upon to make his defence; and"

**Substitution of section 284 of Act 57 of 1951**

21. The following section is hereby substituted for section 284 of the principal Act:

"Court may require delivery of certificate during course of investigation

284. A court of marine enquiry **[or a marine court]** may at any time during the progress of the investigation order any master or **[ship's officer]** member of the crew affected by the investigation, and a marine court may at any time during the progress of the investigation order any master or ship's officer affected by the investigation, to deliver his certificate to the court forthwith."

**Amendment of section 286 of Act 57 of 1951**

22. Section 286 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) When the investigation affects a master or **[ship's officer]** member of the crew of a ship other than a South African ship the Director-General shall transmit a copy of the court's finding or decision, together with the notes of the evidence, to the proper authority in the country where the ship is registered."

**Substitution of section 288 of Act 57 of 1951**

23. The following section is hereby substituted for section 288 of the principal Act:

**“Aflowering van Republiek-sertifikaat wat gekanselleer of opgeskort is**

288. 'n Gesagvoerder of **[skeepsoffisier]** lid van die bemanning wat die houer is van 'n sertifikaat wat in die Republiek uitgereik is, lewer sy sertifikaat op aanvraag aan die Minister of hof of, as dit nie deur die Minister of hof opgeëis word nie, aan die Direkteur-generaal, indien sodanige sertifikaat deur die Minister of 'n hof van marine-onderzoek gekanselleer of opgeskort is of deur 'n seehof opgeskort is.”

**Vervanging van artikel 289 van Wet 57 van 1951, soos vervang deur artikel 27 van Wet 42 van 1969**

24. Artikel 289 van die Hoofwet word hierby deur die volgende artikel vervang:

**“Sertifikaat word nie geëndosseer nie**

289. As die sertifikaat van 'n gesagvoerder of **[skeepsoffisier]** lid van die bemanning deur die Minister of 'n hof van marine-onderzoek of 'n seehof opgeskort is, of as die indiensneming van 'n gesagvoerder of **[skeepsoffisier]** lid van die bemanning verbied is of as hy deur 'n hof van marine-onderzoek **[of 'n seehof]** 'n boete opgelê of berispe is of deur 'n seehof berispe is, of as opdrag deur die Minister kragtens artikel 87(2) met betrekking tot 'n houer van 'n sertifikaat gegee is, maak niemand enige endossement te dien effekte op die sertifikaat van die gesagvoerder of **[skeepsoffisier]** lid van die bemanning nie.”

**Wysiging van artikel 290 van Wet 57 van 1951, soos gewysig deur artikel 28 van Wet 42 van 1969**

25. Artikel 290 van die Hoofwet word hierby gewysig deur paragraaf (c) deur die volgende paragraaf te vervang:

“(c) die verbod op indiensneming deur 'n hof van marine-onderzoek of 'n seehof tersyde stel of die tydperk van die verbod verkort of verleng, of die boete opgelê of die berisping deur sodanige hof tersyde stel.”

**Wysiging van artikel 298 van Wet 57 van 1951, soos gewysig deur artikel 36 van Wet 30 van 1959 en artikel 51 van Wet 40 van 1963**

26. Artikel 298 van die Hoofwet word hierby gewysig—

(a) deur paragraaf (c) van subartikel (1) te skrap; en

(b) deur subartikel (2) deur die volgende subartikel te vervang:

“(2) Iemand wat kragtens subartikel (1) namens 'n bergings-beampte optree, word ten aansien van enige wrak as die agent van die bergingsbeampte beskou en **[hy voldoen aan]** moet die bepalings van **[subartikel (2) van artikel honderd-en-vier van die Doeane wet, 1955 (Wet No. 55 van 1955)]** artikel 112(2) van die Doeane- en Aksynswet, 1964 (Wet No. 91 van 1964), nakom, maar **[hy]** word nie as gevolg van sy optrede aldus enige reg op bergloon ontnem waarop hy anders geregtig sou gewees het nie.”

**Vervanging van artikel 313 van Wet 57 van 1951, soos vervang deur artikel 10 van Wet 5 van 1976**

27. Artikel 313 van die Hoofwet word hierby deur die volgende artikel vervang:

**“Strawwe vir misdrywe**

313. (1) Iedereen wat skuldig is aan 'n misdryf ingevolge hierdie Wet waarvoor geen straf spesiaal in subartikel (2) of (3) van hierdie artikel of artikel 323(4) of kragtens artikel 356(5) voorgeskryf is nie, is by skuldigbevinding strafbaar met 'n boete **[van hoogstens R200]**, of met gevangenisstraf vir 'n tydperk van hoogstens drie maande.



**“Delivery of Republic certificate which has been cancelled or suspended**

288. A master or **[ship's officer]** member of the crew who is the holder of a certificate issued in the Republic shall, if such certificate has been cancelled or suspended by the Minister or a court of marine enquiry or suspended by a maritime court, deliver his certificate to the Minister or court on demand, or if it is not demanded by the Minister or court, to the Director-General.”.

**Substitution of section 289 of Act 57 of 1951, as substituted by section 27 of Act 42 of 1969**

24. 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]** member of the crew 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]** member of the crew is prohibited or if a fine is imposed upon him or he is reprimanded by a court of marine enquiry or if he is reprimanded by 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]** member of the crew.”.

**Amendment of section 290 of Act 57 of 1951, as amended by section 28 of Act 42 of 1969**

25. Section 290 of the principal Act is hereby amended by the substitution for paragraph (c) 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 fine imposed or the reprimand by any such court.”.

**Amendment of section 298 of Act 57 of 1951, as amended by section 36 of Act 30 of 1959 and section 51 of Act 40 of 1963**

26. Section 298 of the principal Act is hereby amended—

(a) by the deletion of paragraph (c) of subsection (1); and

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

“(2) Any person acting for a salvage officer in terms of subsection (1) shall in respect of any wreck be considered to be the agent of the salvage officer and shall comply with the provisions of **[subsection (2) of section one hundred and four of the Customs Act, 1955 (Act No. 55 of 1955)]** section 112(2) of the Customs and Excise Act, 1964 (Act No. 91 of 1964), but shall not be deprived, by reason of his so acting, of any right to salvage to which he would otherwise be entitled.”.

**Substitution of section 313 of Act 57 of 1951, as substituted by section 10 of Act 5 of 1976**

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

**“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]**, or to imprisonment for a period not exceeding three months.

(2) Iedereen wat skuldig is aan 'n misdryf ingevolge hierdie Wet wat in Kolom 1 hieronder gemeld word, is by skuldigbevinding strafbaar met 'n straf wat nie die straf wat in Kolom 2 hieronder teenoor die misdryf gemeld word, te bowe gaan nie:

| Kolom 1                                                                                                                                                                    | Kolom 2                                                                                                                                                                                                                                                                                                                                                                           |          |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| Oortreding van of versuim om aan die volgende bepalings te voldoen                                                                                                         | Straf                                                                                                                                                                                                                                                                                                                                                                             | 5        |
| Artikel 201.                                                                                                                                                               | Boete <b>[van R80]</b> , of gevangenisstraf vir 'n tydperk van hoogstens drie maande, en daarbenewens, ten opsigte van elke passasier meer as die aantal wat deur die sertifikaat of memorandum veroorloof is, 'n boete van twee maal die hoogste bedrag wat deur enige passasier aan boord aan passasiersgeld betaalbaar is.                                                     | 10<br>15 |
| <b>[Artikel 16, 19(2), 36(2), 65(2), 68, 72, 117(1), 118, 172, 213, 232(1) of 250.</b>                                                                                     | <b>Boete van R400.</b>                                                                                                                                                                                                                                                                                                                                                            | 20       |
| <b>Artikel 9(2), 174(2)(c) of (e), 200(1)(c) of (d), 212(b), 219(a)(ii), 228(1) of 303(1).</b>                                                                             | <b>Boete van R400 of gevangenisstraf van ses maande of beide sodanige boete en gevangenisstraf]</b>                                                                                                                                                                                                                                                                               |          |
| Artikel 9(2), 16, 19(2), 36(2), 65(2), 68, 72, 117(1), 118, 172, 174(2)(c) of (e), 200(1)(c) of (d), 203(9), 212(b), 213, 219(a)(ii), 228(1), 232(1), 250 of 303(1).       | Boete, of gevangenisstraf vir 'n tydperk van hoogstens ses maande.                                                                                                                                                                                                                                                                                                                | 25       |
| Artikel 32(2).                                                                                                                                                             | Boete <b>[van R400]</b> , of gevangenisstraf vir 'n tydperk van hoogstens ses maande <b>[of beide sodanige boete en gevangenisstraf]</b> , en daarbenewens 'n boete van <b>[R20]</b> hoogstens R100 vir elke dag wat die oortreding na skuldigbevinding voortduur.                                                                                                                | 30<br>35 |
| Artikel 73(1), 174(2) (d), (f) of (g), 200(1)(a) of (b), 212(a), 219(a)(i) of (b), 221(1), 235(1) of (2), 236(1), 237(1) of (2), 316(a), (b), (e), (f), (g) of (h) of 320. | Boete <b>[van R800]</b> , of gevangenisstraf vir 'n tydperk van hoogstens een jaar <b>[of beide sodanige boete en gevangenisstraf]</b> .                                                                                                                                                                                                                                          | 40       |
| Artikel 9(3), 11(2), 25, 65(3), 66, 67, 174(1), 204(3), 234(1) of (2), 296, 299(2), 314, 315 of 316(c).                                                                    | Boete <b>[van R2 000]</b> , of gevangenisstraf vir 'n tydperk van hoogstens twee jaar <b>[of beide sodanige boete en gevangenisstraf]</b> .                                                                                                                                                                                                                                       | 45       |
| Artikel 214(1).                                                                                                                                                            | Boete <b>[van R2 000]</b> , of gevangenisstraf vir 'n tydperk van hoogstens twee jaar <b>[of beide sodanige boete en gevangenisstraf]</b> , en daarbenewens 'n boete van <b>[R800]</b> R4 000 vir elke 25mm of gedeelte daarvan waarmee die toepaslike laslyn aan weerskante van die skip onder die water was of onder die water sou gewees het as die skip nie oorgehel het nie. | 50<br>55 |
| Artikel 240.                                                                                                                                                               | <b>[Boete van R4 000 of gevangenisstraf van drie jaar of beide sodanige boete en gevangenisstraf]</b>                                                                                                                                                                                                                                                                             | 60       |



## MERCHANT SHIPPING AMENDMENT ACT, 1992

Act No. 18, 1992

(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:

|    |                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                             |
|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 5  | Column 1                                                                                                                                                                     | Column 2                                                                                                                                                                                                                                                                                                                                                                    |
|    | Contravening or failing to comply with the following provisions                                                                                                              | Penalty                                                                                                                                                                                                                                                                                                                                                                     |
| 10 | Section 201.                                                                                                                                                                 | Fine <b>[of R80]</b> , or imprisonment for a period not exceeding <u>three months</u> , 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.                                                                                                      |
| 15 | <b>[Section 16, 19(2), 36(2), 65(2), 68, 72, 117(1), 118, 172, 213, 232(1) or 250.</b>                                                                                       | <b>Fine of R400.</b>                                                                                                                                                                                                                                                                                                                                                        |
| 20 | <b>Section 9(2), 174(2)(c) or (e), 200(1)(c) or (d), 212(b), 219(a)(ii), 228(1) or 303(1).</b>                                                                               | <b>Fine of R400 or six months' imprisonment or both such fine and imprisonment]</b>                                                                                                                                                                                                                                                                                         |
| 25 | <u>Section 9(2), 16, 19(2), 36(2), 65(2), 68, 72, 117(1), 118, 172, 174(2)(c) or (e), 200(1)(c) or (d), 203(9), 212(b), 213, 219(a) (ii), 228(1), 232(1), 250 or 303(1).</u> | <u>Fine, or imprisonment for a period not exceeding six months.</u>                                                                                                                                                                                                                                                                                                         |
| 30 | Section 32(2).                                                                                                                                                               | Fine <b>[of R400]</b> , or imprisonment for a period not exceeding six months <b>[months' imprisonment or both such fine and imprisonment]</b> , and, in addition, a fine <b>[of R20]</b> not exceeding R100 for every day during which the offence continues after conviction.                                                                                             |
| 35 | 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 <b>[of R800]</b> , or imprisonment for a period not exceeding one year <b>[year's imprisonment or both such fine and imprisonment]</b> .                                                                                                                                                                                                                               |
| 40 | 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 <b>[of R2 000]</b> , or imprisonment for a period not exceeding two years <b>[years' imprisonment or both such fine and imprisonment]</b> .                                                                                                                                                                                                                            |
| 45 | Section 214(1).                                                                                                                                                              | Fine <b>[of R2 000]</b> , or imprisonment for a period not exceeding two years <b>[years' imprisonment, or both such fine and such imprisonment]</b> , and, in addition, a fine of <b>[R800]</b> R4 000 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 no list. |
| 50 |                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                             |
| 55 | Section 240.                                                                                                                                                                 | <b>[Fine of R4 000 or three years' imprisonment or both such fine and imprisonment]</b> For vessels of less than 25 gross tons, a fine, or imprisonment for a period not exceeding six months.                                                                                                                                                                              |
| 60 |                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                             |

| Kolom 1            | Kolom 2                                                                                                                                                                                                                                                          |
|--------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                    | Vir vaartuie van minder as 25 bruto registerton, 'n boete, of gevangenisstraf vir 'n tydperk van hoogstens ses maande. 5                                                                                                                                         |
|                    | Vir vaartuie van 25 bruto registerton of meer maar minder as 100 bruto registerton, 'n boete, of gevangenisstraf vir 'n tydperk van hoogstens een jaar. 10                                                                                                       |
|                    | Vir vaartuie van 100 bruto registerton of meer maar minder as 500 bruto registerton, 'n boete, of gevangenisstraf vir 'n tydperk van hoogstens twee jaar. 15                                                                                                     |
|                    | Vir vaartuie van 500 bruto registerton of meer maar minder as 1 000 bruto registerton, 'n boete, of gevangenisstraf vir 'n tydperk van hoogstens drie jaar. 20                                                                                                   |
|                    | Vir vaartuie van 1 000 bruto registerton of meer, 'n boete, of gevangenisstraf vir 'n tydperk van hoogstens vier jaar. 25                                                                                                                                        |
| Artikel 259(1)(c). | Boete, of gevangenisstraf vir 'n tydperk van hoogstens drie jaar. 25                                                                                                                                                                                             |
| Artikel 316(d).    | Boete van drie maal die waarde van die skip of goedere wat ontvang is of wat in besit gewees het, of [R4 000] R12 000, watter ook al die grootste is, of gevangenisstraf vir 'n tydperk van hoogstens drie jaar [of beide sodanige boete en gevangenisstraf]. 30 |

(3) Iedereen wat die gesagvoerder is van 'n skip wat in 'n botsing betrokke is, en wat in gebreke bly om aan die bepalings van artikel 258(1) te voldoen, of wat die gesagvoerder is van 'n skip waarop enige bepaling van die regulasies in verband met botsings van toepassing is, en wat sonder redelike oorsaak daardie bepaling oortree of in gebreke bly om daaraan te voldoen, is by skuldigbevinding strafbaar met 'n boete [van hoogstens R2 000], of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar [of met beide sodanige boete en sodanige gevangenisstraf].” 40

Vervanging van artikel 326 van Wet 57 van 1951, soos gewysig deur artikel 39 van Wet 30 van 1959 45

28. Artikel 326 van die Hoofwet word hierby deur die volgende artikel vervang:

“Aanwending van loon om toekenning van vergoeding by oortredings teen tug te betaal

326. Wanneer 'n seeman of leerling-offisier skuldig bevind is aan drosting soos omskryf in artikel 175 of aan afwesigheid sonder verlof soos omskryf in artikel 176, of aan oortreding van enige bepalings van artikel 174(1), (2) of (3), en die hof wat die saak verhoor het 'n toekenning van vergoeding kragtens artikel [357] 300 van die Strafproseswet, [1955 (Wet No. 56 van 1955)] 1977 (Wet No. 51 van 50



| Column 1 | Column 2                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 5        | For vessels of 25 gross tons and over but less than 100 gross tons, a fine, or imprisonment for a period not exceeding one year.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 10       | For vessels of 100 gross tons and over but less than 500 gross tons, a fine, or imprisonment for a period not exceeding two years.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 15       | For vessels of 500 gross tons and over but less than 1 000 gross tons, a fine, or imprisonment for a period not exceeding three years.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 20       | For vessels of over 1 000 gross tons, a fine, or imprisonment for a period not exceeding four years.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 25       | <u>Section 259(1)(c).</u> Fine, or imprisonment for a period not exceeding three years.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 30       | <u>Section 316(d).</u> Fine of treble the value of the ship or goods received or had in possession, or <b>[R4 000]</b> R12 000, whichever is the greater, or imprisonment for a period not exceeding three years <b>[years' imprisonment or both such fine and imprisonment]</b> .                                                                                                                                                                                                                                                                                                                                             |
| 35       | (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 <b>[not exceeding R2 000]</b> , or imprisonment for a period not exceeding two years <b>[or both such fine and imprisonment]</b> ."                                                                                                                                       |
| 40       | <b>Substitution of section 326 of Act 57 of 1951, as amended by section 39 of Act 30 of 1959</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 45       | <b>28.</b> The following section is hereby substituted for section 326 of the principal Act:<br><b>"Appropriation of wages to satisfy award of compensation in offences against discipline</b><br><b>326.</b> When a seaman or apprentice-officer has been convicted of desertion as defined by section 175 or of absence without leave as defined by section 176 or of contravening any of the provisions of section 174(1), (2) or (3), and the court trying the case has made an award of compensation under section <b>[357]</b> 300 of the Criminal Procedure Act, <b>[1955 (Act No. 56 of 1955)]</b> 1977 (Act No. 51 of |

1977), gemaak het, kan enige loon wat hom toekom of hom daarna mag toekom, aangewend word om die toekenning te betaal.”.

#### Invoeging van artikel 343ter in Wet 57 van 1951

29. Die volgende artikel word hierby in die Hoofwet na artikel 343bis ingevoeg:

##### “Ontheffing van aanspreeklikheid

5

**343ter.** 'n Veiligheidsbeampte, 'n veiligheidsbenoemde, 'n veiligheidsverteenvoordiger of 'n veiligheidskomitee of 'n lid daarvan, soos bedoel in artikel 355A, is nie siviël aanspreeklik as gevolg daarvan dat hy versuim het om iets te doen wat hy ingevolge die bepalings van artikels 3, 9(5), 223, 259, 264, 313, 343ter, 355A, 356 en 356ter, saamgelees met artikel 2, moes doen nie.”.

10

#### Vervanging van artikel 355 van Wet 57 van 1951, soos gewysig deur artikel 41 van Wet 30 van 1959 en artikel 58 van Wet 40 van 1963

30. Artikel 355 van die Hoofwet word hierby deur die volgende artikel vervang:

##### “Toepaslikheid van sekere arbeidswette op seelui

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**355.** (1) Die bepalings van hierdie Wet raak nie die toepaslikheid van die bepalings van die Wet op **[Nywerheidsversoening] Arbeidsverhoudinge, 1956** (Wet No. 28 van 1956), of van die Loonwet, 1957 (Wet No. 5 van 1957), **[of van die Wet op Swart Arbeid (Beslegting van Geskille), 1953 (Wet No. 48 van 1953)]** op seelui ten opsigte van hul diens as **[sulks]** sodanig nie.

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(2) Vir sover enige van die bepalings van hierdie Wet wat op enige seelui van toepassing sou wees, was dit nie vir die bepalings van hierdie artikel nie, teenstrydig is met 'n ooreenkoms of uitspraak kragtens die Wet op **[Nywerheidsversoening] Arbeidsverhoudinge, 1956**, of 'n vasstelling kragtens die Loonwet, 1957, **[of 'n order kragtens die Wet op Swart Arbeid (Beslegting van Geskille), 1953]** wat ten opsigte van daardie seelui bindend is, is bedoelde bepalings van hierdie Wet nie op daardie seelui van toepassing nie.

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(3) 'n Ooreenkoms of uitspraak kragtens die Wet op **[Nywerheidsversoening] Arbeidsverhoudinge, 1956**, of 'n vasstelling kragtens die Loonwet, 1957, **[of 'n order kragtens die Wet op Swart Arbeid (Beslegting van Geskille), 1953]** wat bindend is ten opsigte van enige seelui in diens aan boord van 'n skip wat in die Republiek geregistreer is, of aan boord van 'n skip wat nie in die Republiek geregistreer is nie en wat geheel en al gebruik word op reise tussen hawens in die Republiek, terwyl die skip in die Republiek is, is bindend ten opsigte van bedoelde seelui terwyl die skip buite die Republiek is.

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(4) Geen seeman wat 'n werknemer is, soos in artikel 1 van die Wet op **[Nywerheidsversoening] Arbeidsverhoudinge, 1956**, omskryf, wat nie 'n in artikel 2(2) van gemelde Wet bedoelde persoon is nie, en wat op 'n Suid-Afrikaanse skip in diens geneem is of daartoe behoort, is aan 'n misdryf skuldig ingevolge artikel 174(2)(b), (c), (d) of (f), 175 of 176 nie slegs omrede dat hy aan 'n staking of aan die voortsetting van 'n staking, soos in artikel 1 van daardie Wet omskryf, deelgeneem het, onder sodanige omstandighede dat die daad of versuim waardeur hy daaraan deelgeneem het, nie 'n misdryf ingevolge artikel 65 van daardie Wet uitmaak nie: Met dien verstande dat hierdie subartikel nie op 'n daad wat gepleeg word of 'n versuim wat plaasvind terwyl die skip op die ope see is, van toepassing is nie.

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(5) In hierdie artikel omvat die uitdrukking 'seelui' alle persone wat gebruik word of diens doen in enige hoedanigheid aan boord van 'n skip.”.



1977), any wages that have accrued or that may thereafter accrue to him may be applied to the satisfaction of the award.”.

#### Insertion of section 343ter in Act 57 of 1951

29. The following section is hereby inserted in the principal Act after section 343bis:

##### “Exemption from liability

**343ter.** A safety officer, a safety appointee, a safety representative or a safety committee or any member thereof, as referred to in section 355A, shall not incur any civil liability by reason of the fact that he failed to do anything which he should have done in terms of the provisions of sections 3, 9(5), 223, 259, 264, 313, 343ter, 355A, 356 and 356ter, read with section 2.”.

#### Substitution of section 355 of Act 57 of 1951, as amended by section 41 of Act 30 of 1959 and section 58 of Act 40 of 1963

30. The following section is hereby substituted for section 355 of the principal Act:

##### “Application of certain labour laws to seamen

**355.** (1) Nothing in this Act contained shall affect the application of the provisions of the **[Industrial Conciliation] Labour Relations Act, 1956 (Act No. 28 of 1956)**, or of the **Wage Act, 1957 (Act No. 5 of 1957)**, **[or of the Black Labour (Settlement of Disputes) Act, 1953 (Act No. 48 of 1953)]** to seamen in respect of their employment as such.

(2) To the extent to which any provisions of this Act which, but for the provisions of this section, would apply to any seamen are inconsistent with any agreement or award under the **[Industrial Conciliation] Labour Relations Act, 1956**, or any determination under the **Wage Act, 1957**, **[or any order under the Black Labour (Settlement of Disputes) Act, 1953]** which is binding in respect of those seamen, the provisions of this Act referred to shall not apply in respect of those seamen.

(3) Any agreement or award under the **[Industrial Conciliation] Labour Relations Act, 1956**, or any determination under the **Wage Act, 1957**, **[or any order under the Black Labour (Settlement of Disputes) Act, 1953]** which is binding in respect of any seamen employed on board any ship which is registered in the Republic or on board any ship which is not registered in the Republic and is wholly engaged in plying between ports in the Republic, while the ship is in the Republic, shall be binding in respect of such seamen while the ship is outside the Republic.

(4) No seaman who is an employee, as defined in section 1 of the **[Industrial Conciliation] Labour Relations Act, 1956**, who is not a person referred to in section 2(2) of that Act, and who is engaged on or belongs to any South African ship, shall be guilty of an offence under section 174(2)(b), (c), (d) or (f), section 175 or section 176 merely by reason of the fact that he has taken part in a strike or in the continuation of a strike, as defined in section 1 of that Act, in such circumstances that the act or omission by which he has taken part therein does not constitute an offence under section 65 of that Act: Provided that this subsection shall not apply in respect of any act which is committed or any omission which occurs while the ship is at sea.

(5) In this section the expression ‘seamen’ includes all persons employed or engaged in any capacity on board any ship.”.

**Invoeging van artikel 355A in Wet 57 van 1951**

31. Die volgende artikel word hierby in die Hoofwet na artikel 355 ingevoeg:

**“Aanstelling van veiligheidsbeampes, veiligheidsbenoemdes en veiligheidskomitees en verkiesing van veiligheidsverteenwoordigers**

**355A.** (1) Vir die doeleindes van veiligheid aan boord van vaartuie—

(a) kan 'n werkgewer 'n veiligheidsbeampte, 'n veiligheidsbenoemde en 'n veiligheidskomitee aanstel op die wyse by regulasie voorgeskryf;

(b) kan 'n groep werknemers 'n veiligheidsverteenwoordiger uit eie geledere verkies op die wyse by regulasie voorgeskryf.

(2) 'n Veiligheidsbeampte, veiligheidsbenoemde en veiligheidskomitee moet, behoudens die bepalings van artikel 343ter, die funksies verrig wat by regulasie voorgeskryf word.

(3) 'n Veiligheidsverteenwoordiger kan, op die wyse by regulasie voorgeskryf, en behoudens die bepalings van artikel 343ter, ten behoeve van die werknemers wat hy verteenwoordig, vertoë rig tot, versoeke voorlê aan en samesprekings voer met 'n werkgewer, veiligheidsbeampte, veiligheidsbenoemde of veiligheidskomitee.

(4) 'n Werkgewer moet aan die vereistes by regulasie voorgeskryf, voldoen ten einde 'n veiligheidsbeampte, veiligheidsbenoemde, veiligheidskomitee en veiligheidsverteenwoordiger in staat te stel om hulle pligte uit te voer.

(5) Niks in hierdie artikel word vertolk as sou dit aan 'n persoon 'n reg verleen om enige plek, artikel, stof of dokument te inspekteer wat onderhewig is aan beperkings op grond van nasionale veiligheid nie, tensy hy in enige toets slaag of enige vereiste nakom wat weens sodanige beperkings deur of ten behoeve van die Staat opgelê is.”.

**Wysiging van artikel 356 van Wet 57 van 1951, soos gewysig deur artikel 42 van Wet 30 van 1959, artikel 59 van Wet 40 van 1963, artikel 6 van Wet 24 van 1974, artikel 11 van Wet 5 van 1976, artikel 19 van Wet 3 van 1982 en artikel 9 van Wet 25 van 1985**

32. Artikel 356 van die Hoofwet word hierby gewysig:

(a) deur in subartikel (1) subparagraaf (a) van paragraaf (xxxviA) deur die volgende subparagraaf te vervang:

“(a) wat vereis dat bedoelde reddingstoestelle moet voldoen aan spesifikasies wat deur die Suid-Afrikaanse Buro vir Standaardte vermeld in die Wet op Standaardte, [1962 (Wet No. 33 van 1962)] 1982 (Wet No. 30 van 1982), bepaal word; en”;

(b) deur in subartikel (1) paragraaf (xli) deur die volgende paragraawe te vervang:

“(xli) wat betref die ontwerp, vervaardiging, konstruksie, installering, werking, gebruik, hantering, verandering, herstel, onderhoud en vervoer van masjinerie en veiligheidstoerusting op vaartuie;

(xliA) wat betref die veiligheidstoerusting en ander fasiliteite wat op vaartuie deur werkgewers, eienaars en gebruikers verskaf of geïnstalleer moet word, die persone aan wie dit verskaf word en die omstandighede waarin dit verskaf of geïnstalleer moet word en die aanwending daarvan;

(xliB) wat betref die veiligheidsmaatreëls wat op vaartuie deur werkgewers, eienaars en gebruikers getref moet word;

(xliC) wat betref die verrigting van werk op vaartuie in toestande of omstandighede wat gevaarlik of potensieel gevaarlik is;

(xliD) wat betref die noodhulp- en geneeskundige toerusting wat op vaartuie deur werkgewers, eienaars en gebruikers beskikbaar gehou moet word, die plekke waar sodanige toerusting gehou moet word, die vereistes waaraan sodanige toerusting moet



**Insertion of section 355A in Act 57 of 1951**

**31.** The following section is hereby inserted in the principal Act after section 355:

**“Appointment of safety officers, safety appointees and safety committees and election of safety representatives**

**355A.** (1) For the purposes of safety on board vessels—

(a) an employer may appoint a safety officer, a safety appointee and a safety committee in the manner prescribed by regulation;

(b) a group of employees may from their number elect a safety representative in the manner prescribed by regulation.

(2) A safety officer, safety appointee and safety committee shall, subject to the provisions of section 343ter, perform such functions as may be prescribed by regulation.

(3) A safety representative may in the manner prescribed by regulation, and subject to the provisions of section 343ter, on behalf of the employees which he represents make representations and submit requests to and consult with any employer, safety officer, safety appointee or safety committee.

(4) An employer shall comply with the requirements prescribed by regulation to enable a safety officer, safety appointee, safety committee and safety representative to perform their duties.

(5) Nothing in this section shall be construed as conferring a right upon any person to inspect any place, article, substance or document which is subject to restrictions on the grounds of national security, unless he satisfies any test or complies with any requirement imposed on account of such restrictions by or on behalf of the State.”

**Amendment of section 356 of Act 57 of 1951, as amended by section 42 of Act 30 of 1959, section 59 of Act 40 of 1963, section 6 of Act 24 of 1974, section 11 of Act 5 of 1976, section 19 of Act 3 of 1982 and section 9 of Act 25 of 1985**

**32.** Section 356 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for subparagraph (a) of paragraph (xxxviA) of the following subparagraph:

“(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)] 1982 (Act No. 30 of 1982); and”;

(b) by the substitution in subsection (1) for paragraph (xli) of the following paragraphs:

“(xli) as to the design, manufacture, construction, installation, operation, use, handling, alteration, repair, maintenance and conveyance of machinery and safety equipment on vessels;

(xliA) as to the safety equipment and other facilities to be provided or installed on vessels by employers, owners and users, the persons to whom they are to be provided and the circumstances in which they are to be provided or installed and the application thereof;

(xliB) as to the safety measures to be taken on vessels by employers, owners and users;

(xliC) as to the performance of work on vessels in hazardous or potentially hazardous conditions or circumstances;

(xliD) as to the first-aid and medical equipment to be kept available on vessels by owners, employers and users, the places where such equipment are to be kept, the requirements with which such equipment shall comply, the inspection of such equip-

voldoen, die inspeksie van sodanige toerusting, die toepassing van noodhulp en die kwalifikasies waaroor persone wat noodhulp toepas, moet beskik;

(xliE) wat betref die opstel deur werkgewers van veiligheidsvoorskrifte ten opsigte van vaartuie, die aangeleenthede wat in sodanige voorskrifte behandel moet word en die wyse van bekendmaking van sodanige voorskrifte aan werknemers en ander persone by 'n werkplek;

(xliF) wat betref die aanstelling en werksaamhede van veiligheidsbeamptes, veiligheidsbenoemdes en veiligheidskomitees en die verkiesing, opleiding en werksaamhede van veiligheidsvertegenwoordigers;

(xliG) wat betref die pligte van eienaars, gesagvoerders en werkgewers;"; en

(c) deur in subartikel (5) die woorde wat die voorbehoudsbepaling voorafgaan, deur die volgende woorde te vervang:

"Enige regulasies wat kragtens subartikels (1) en (2) uitgevaardig word, kan strawwe voorskryf vir 'n oortreding daarvan of 'n versuim om daaraan te voldoen, **[maar geen sodanige straf gaan]** van 'n boete **[van R400]**, of gevangenisstraf vir 'n tydperk van hoogstens een jaar **[of beide sodanige boete en sodanige gevangenisstraf te bowe nie]**:".

**Wysiging van artikel 356bis van Wet 57 van 1951, soos ingevoeg deur artikel 60 van Wet 40 van 1963 en vervang deur artikel 20 van Wet 3 van 1982**

**33.** Artikel 356bis van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

"(3) Die Minister moet 'n afskrif van enige proklamasie wat kragtens subartikel (1) of (2) uitgereik word in die **[Volksraad] Parlement** ter Tafel lê binne 14 dae na publikasie van sodanige proklamasie in die *Staatskoerant* as die **[Volksraad] Parlement** dan in gewone sessie is of, as die **[Volksraad] Parlement** nie dan in gewone sessie is nie, binne 14 dae na die aanvang van sy eersvolgende gewone sessie."

**Invoeging van artikel 356ter in Wet 57 van 1951**

**34.** Die volgende artikel word hierby in die Hoofwet na artikel 356bis ingevoeg:

**"Inlywing van veiligheidstandaarde by regulasies**

**356ter.** (1) Die Minister kan by kennisgewing in die *Staatskoerant* enige veiligheidstandaard sonder om die teks daarvan te vermeld, by die regulasie inlyf by wyse van 'n blote verwysing na die nommer, artikel en jaar van uitreiking van daardie veiligheidstandaard of na die ander besonderhede waardeur daardie veiligheidstandaard vol-doende geïdentifiseer word.

(2) Geen veiligheidstandaard word by die regulasies ingelyf nie behalwe na oorleg met 'n komitee deur die Direkteur-generaal aangewys.

(3) 'n Veiligheidstandaard kragtens subartikel (1) by die regulasies ingelyf, word by die toepassing van hierdie Wet, vir sover dit nie strydig is met 'n regulasie kragtens artikel 356 uitgevaardig nie, geag 'n regulasie te wees, maar nie voor na verloop van 'n tydperk van twee maande vanaf die datum van inlywing daarvan nie.

(4) Indien 'n veiligheidstandaard te eniger tyd na die inlywing daarvan soos voormeld, deur die bevoegde gesag gewysig of vervang word, word die kennisgewing wat daardie veiligheidstandaard inlyf, tensy anders daarin bepaal, geag te verwys na daardie veiligheidstandaard soos aldus gewysig of vervang, na gelang van die geval.

(5) Elke eerste beampte moet 'n eksemplaar van die volledige teks van elke veiligheidstandaard kragtens subartikel (1) by die regulasies ingelyf, en van elke wysiging of vervanging van so 'n veiligheidstandaard, in sy kantoor hou en so 'n eksemplaar aan enige belangheb-



- ment, the application of first-aid and the qualifications which persons applying first-aid shall possess;
- (xliE) as to the compilation by employers of safety directives in respect of vessels, the matters to be dealt with in such directives and the manner in which such directives shall be brought to the attention of employees and other persons at a workplace;
- (xliF) as to the appointment and functions of safety officers, safety appointees and safety committees and the election, training and functions of safety representatives;
- (xliG) as to the duties of owners, masters and employers;"; and
- (c) by the substitution in subsection (5) for the words preceding the proviso, of the following words:
- "Any regulations made under subsections (1) and (2) may prescribe penalties for contravention thereof or failure to comply therewith, **[but no such penalty shall exceed]** of a fine **[of R400]**, or imprisonment for **[the]** a period **[of]** not exceeding one year **[or both such fine and such imprisonment]**:".

**Amendment of section 356bis of Act 57 of 1951, as inserted by section 60 of Act 40 of 1963 and substituted by section 20 of Act 3 of 1982**

33. Section 356bis of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

- "(3) The Minister shall lay a copy of any proclamation issued under subsection (1) or (2) on the Table **[of the House of Assembly]** in Parliament within 14 days after the publication of such proclamation in the *Gazette* if **[the House of Assembly]** Parliament is then in ordinary session or, if **[the House of Assembly]** Parliament is not then in ordinary session, within 14 days after the commencement of its next ensuing ordinary session."

**Insertion of section 356ter in Act 57 of 1951**

34. The following section is hereby inserted in the principal Act after section 356bis:

**"Incorporation of safety standards in regulations**

- 356ter.** (1) The Minister may by notice in the *Gazette* incorporate in the regulations any safety standard, without stating the text thereof, by mere reference to the number, title and year of issue of that safety standard or to any other particulars by which that safety standard is sufficiently identified.
- (2) No safety standard shall be incorporated in the regulations except after consultation with a committee designated by the Director-General.
- (3) Any safety standard incorporated in the regulations under subsection (1) shall for the purposes of this Act, in so far as it is not repugnant to any regulation made under section 356, be deemed to be a regulation, but not before the expiry of a period of two months from the date of incorporation thereof.
- (4) If any safety standard is at any time after the incorporation thereof as aforesaid, amended or substituted by the competent authority, the notice incorporating that safety standard shall, unless otherwise stated therein, be deemed to refer to that safety standard as so amended or substituted, as the case may be.
- (5) Every principal officer shall keep in his office a copy of the complete text of each safety standard incorporated in the regulations under subsection (1) and of each amendment or substitution of any such safety standard, and shall at the written request of any

bende persoon op sy skriftelike versoek kosteloos beskikbaar stel ter insae of vir die maak van 'n afskrif by 'n plek wat die eerste beamppte goedkeur: Met dien verstande dat 'n eerste beamppte nie verplig is om 'n eksemplaar van 'n veiligheidstandaard, of van 'n wysiging of vervanging daarvan, wat gepubliseer is in 'n publikasie wat in die Republiek verkrygbaar is, in sy kantoor vir genoemde doeleindes te hou nie, mits hy in 'n register besonderhede aanteken van die publikasie waarin daardie veiligheidstandaard, of 'n wysiging of vervanging daarvan, gepubliseer is asook van die plek in die Republiek waar daardie publikasie verkrygbaar is of andersins ingesien kan word, en daardie register of 'n uittreksel daaruit kosteloos aan belanghebbende persone ter insae beskikbaar stel.

(6) Die bepalings van artikel 33 van die Wet op Standaarde, 1982 (Wet No. 30 van 1982), raak nie 'n inlywing van 'n veiligheidstandaard of van 'n wysiging of vervanging van 'n veiligheidstandaard kragtens hierdie artikel nie."

#### Kort titel

35. Hierdie Wet heet die Wysigingswet op Handelskeepvaart, 1992.



5 interested person make any such copy available free of charge to any  
such person for inspection or for making a copy thereof at a place  
approved by the principal officer: Provided that a principal officer  
shall not be obliged to keep in his office for the said purpose a copy  
of any safety standard, or of any amendment or substitution thereof,  
which was published in a publication available in the Republic,  
provided he records in a register particulars of the publication in  
10 which such safety standard, or any amendment or substitution  
thereof, was published and also of the place in the Republic where  
such publication is obtainable or otherwise available for inspection,  
and makes that register or an extract therefrom available free of  
charge to interested persons for inspection.

15 (6) The provisions of section 33 of the Standards Act, 1982 (Act  
No. 30 of 1982), shall not affect any incorporation of a safety  
standard or of any amendment or substitution of a safety standard  
under this section.".

#### Short title

35. This Act shall be called the Merchant Shipping Amendment Act, 1992.

interested person make any such copy available free of charge to any such person for inspection or for making a copy thereof at a place approved by the principal officer. Provided that a principal officer shall not be obliged to keep in his office for the said purpose a copy of any safety standard, or of any amendment or substitution thereof, which was published in a publication available in the Republic, provided he records in a register particulars of the publication in which such safety standard, or any amendment or substitution thereof, was published and also of the place in the Republic where such publication is obtainable or otherwise available for inspection, and makes that register or an extract therefrom available free of charge to interested persons for inspection.

(e) The provisions of section 33 of the Standards Act, 1982 (Act No. 30 of 1982), shall not affect any incorporation of a safety standard or of any amendment or substitution of a safety standard under this section.

Short title

32. This Act shall be called the Merchant Shipping Amendment Act, 1992.





