

MERCHANT SHIPPING ACT 57 OF 1951

[ASSENTED TO 27 JUNE, 1951]
[DATE OF COMMENCEMENT: 1 JANUARY, 1960]
(Unless otherwise indicated)
(Afrikaans text signed by the Governor-General)

as amended by

Merchant Shipping Amendment Act 30 of 1959
Commonwealth Relations Act 69 of 1962
Merchant Shipping Amendment Act 40 of 1963
Merchant Shipping Amendment Act 13 of 1965
Unemployment Insurance Act 30 of 1966
Merchant Shipping Amendment Act 42 of 1969
Births, Marriages and Deaths Registration Amendment Act 58 of 1970
Merchant Shipping Amendment Act 24 of 1974
Merchant Shipping Amendment Act 5 of 1976
Merchant Shipping Amendment Act 70 of 1977
Merchant Shipping Amendment Act 62 of 1978
Merchant Shipping Amendment Act 3 of 1981
South African Transport Services Act 65 of 1981
Merchant Shipping Amendment Act 3 of 1982
Admiralty Jurisdiction Regulation Act 105 of 1983
Merchant Shipping Amendment Act 25 of 1985
Carriage of Goods by Sea Act 1 of 1986
Transport Advisory Council Act 58 of 1987
Merchant Shipping Amendment Act 3 of 1989
Population Registration Act Repeal Act 114 of 1991
Merchant Shipping Amendment Act 18 of 1992
Transport General Amendment Act 86 of 1992
Transport General Amendment Act 16 of 1995
General Law Amendment Act 49 of 1996
Abolition of Restrictions on the Jurisdiction of Courts Act 88 of 1996
Wreck and Salvage Act 94 of 1996
Shipping General Amendment Act 23 of 1997
South African Maritime Safety Authority Act 5 of 1998
Shipping Laws Amendment Act 57 of 1998
Institution of Legal Proceedings Against Certain Organs of State Act 40 of 2002
Ship Registration Act 58 of 1998
Declaration under section 3(9) of Merchant Shipping Act, 1951 – July 2008
[Application of this Act to ‘Declared Inland Waters’]

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SAMSA Centre for Boating**

October
2010

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GENERAL NOTE

- (a) In terms of s 2(2) of Act 5 of 1998 the word "Director-General", wherever it occurs, except in the definition of "Director-General" in s 2(1) and in ss 343 and 344, is substituted by the word "Authority".
- (b) In terms of s 2(2) of Act 5 of 1998 the word "Minister", wherever it occurs, except in the definition of "Minister" and "safety standard" in s 2(1) and in ss 3–6, 13, 18(1) and (2), 72A, 73(2), 74(1), 84(1), 102, 180(1), 218, 264(2), 266–8, 275–7, 282, 290, 291, 324, 325, 327, 336, 343, 344, 353, 356, 356*bis*, 356*ter* and 356*quat*, is substituted by the word "Authority".
- (c) In terms of item 24 (Sch2) of Act 58 of 1998 the expression "superior court", wherever it occurs, is substituted by the expression "High Court".

To provide for the control of merchant shipping and matters incidental thereto.

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Note: Schedules omitted

PRELIMINARY

Repeal and amendment of laws

1. The laws mentioned in the First Schedule to this Act are hereby repealed or amended to the extent set out in the fourth column of that Schedule: Provided that until all the provisions of this Act have been brought into operation in terms of section *three hundred and fifty-eight*, any provision of any such law which corresponds to a provision of this Act which has not yet been so brought into operation shall, in so far as it is not inconsistent with any provision of this Act which has been so brought into operation, continue to apply in relation to the ships in respect of which the provisions of this Act which have been so brought into operation apply, and in relation to the owners, masters, seamen and apprentice-officers of such ships as if this section had not been enacted.

[S 1 amended by s 2, Act 30/1959]

Definitions and interpretation of certain references

2. (1) In this Act, unless the context indicates otherwise—

"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) 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;
- (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;
- (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;
- (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;
- (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;

[Definition of "accident" inserted by s 1(a), Act 18/1992]

"air-cushion vehicle" means any craft of which the whole or a significant part of its weight

can be supported, whether at rest or in motion, by a continuously generated cushion of air dependent for its effectiveness on the proximity of the surface over which the craft operates;

[Definition of "air-cushion vehicle" inserted by s 1(a), Act 16/1995]

"apprentice-officer" means an indentured apprentice to the sea service;

"Authority" means the South African Maritime Safety Authority established by section 2 of the South African Maritime Safety Authority Act, 1998;

[Definition of "Authority" inserted by s 2(2), Act 5/1998]

"cadet" means an unindentured apprentice to the sea service;

"cargo ship safety construction certificate" means such a certificate, issued in conformity with the Safety Convention under subparagraph (a) of paragraph (1) or (2) of section 193, or deemed in accordance with the provisions of section 202(1)(b) to have been so issued;

[Definition of "cargo ship safety construction certificate" inserted by s 1(a), Act 13/1965 and substituted by s 1(a), Act 23/1997]

"cargo ship safety equipment certificate" means such a certificate, issued in conformity with the Safety Convention under subparagraph (b) of paragraph (1) or (2) of section 193, or deemed in accordance with the provisions of section 202(1)(b) to have been so issued;

[Definition of "cargo ship safety equipment certificate" inserted by s 1(a), Act 13/1965 and substituted by s 1(a), Act 23/1997]

"cargo ship safety radio certificate" means such a certificate, issued in conformity with the Safety Convention under subparagraph (b) of paragraph (3) or (4) of section 193, or deemed in accordance with the provisions of section 202(1)(b) to have been so issued;

[Definition of "cargo ship safety radio certificate" inserted by s 1(b), Act 23/1997]

"cargo ship safety radiotelegraphy certificate" . . .

[Definition of "cargo ship safety radiotelegraphy certificate" inserted by s 1(a), Act 13/1965 and deleted by s 1(c), Act 23/1997]

"cargo ship safety radiotelephony certificate" . . .

[Definition of "cargo ship safety radiotelephony certificate" inserted by s 1(a), Act 13/1965 and deleted by s 1(c), Act 23/1997]

"carrier" includes the owner of the charterer who enters into a contract of carriage with a shipper;

"clearance" includes any clearance or transire referred to in the Customs and Excise Act 91 of 1964;

[Definition of "clearance" amended by s 3(a), Act 30/1959 and substituted by s 1(a), Act 5/1976]

"coasting ship" means a ship employed in plying between ports in the same country, but does not include any fishing, sealing or whaling boat;

[Definition of "coasting ship" amended by s 3(b), Act 30/1959]

"collision regulations" means the regulations made under paragraph (b) of subsection (2) of section 356 to give effect to the relative provisions of the International Collision Regulations Convention and Annexures thereto, or such regulations as applied under subsection (3) of that section;

[Definition of "collision regulations" amended by s 1(a), Act 40/1963, and substituted by s 1(a), Act 3/1982]

"Commonwealth ship" . . .

[Definition of "Commonwealth ship" deleted by s 31(a), Act 69/1962]

"conditions of assignment" means such of the load line regulations as are made to give effect to the relative provisions of the Load Line Convention and Annexes thereto, or such regulations as applied under subsection (3) of section *three hundred and fifty-six*;

[Definition of "conditions of assignment" substituted by s 1(b), Act 13/1965]

"construction regulations" means the regulations made under paragraph (a) of subsection (2) of section *three hundred and fifty-six* to give effect to the relative provisions of the Safety Convention, or such regulations as applied under subsection (3) of the said section;

[Definition of "construction regulations" amended by s 3(c), Act 30/1959, and substituted by s 1(c), Act 13/1965]

"contract of carriage" applies only to contracts of carriage covered by a bill of lading or any similar document of title, in so far as such document relates to the carriage of goods by sea, including any bill of lading or any similar document as aforesaid issued under or pursuant to a charter party from the moment at which such bill of lading or similar document of title regulates the relations between a carrier and a holder of the same;

"country to which the Load Line Convention applies" means a country in respect of which the Load Line Convention is for the time being in force, and includes any territory to which the said Convention applies in accordance with the relative Article thereof;

[Definition of "country to which the Load Line Convention applies" substituted by s 1(d), Act 13/1965, and s 1(d), Act 23/1997]

"country to which the Safety Convention applies" means a country in respect of which the Safety Convention is for the time being in force;

[Definition of "country to which the Safety Convention applies" substituted by s 1(e), Act 13/1965, and s 1(d), Act 23/1997]

"crew" means all seamen on board a ship;

[Definition of "crew" inserted by s 1(b), Act 18/1992]

"crew accommodation" includes sleeping rooms, store rooms, galleys, mess rooms, sanitary accommodation, hospitals and recreation spaces provided for use by or for the benefit of seamen and apprentice-officers;

"dangerous goods" means goods which by reason of their nature, quantity or mode of stowage, are either singly or collectively liable to endanger the lives or health of persons on or near the ship or to imperil the ship, and includes all substances within the meaning of the expression 'explosives' as used in the Explosives Act 26 of 1956 and any other goods specified in the regulations as dangerous goods;

[Definition of "dangerous goods" amended by s 3(d), Act 30/1959 and substituted by s 1(e), Act 23/1997]

"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;

[Definition of "dangerous space" inserted by s 1(c), Act 18/1992]

"deck line" means a mark on each side of a ship indicating the position of the uppermost complete deck, as defined by the load line regulations;

"Declared Inland Waters" are all waters in the Republic that are-

- (a) from time to time capable of navigation; and
- (b) open to or used by the public for navigation, whether on payment of a fee or otherwise.

"Director-General" means the Director-General: Transport;

[Definition of "Director-General" inserted by s 1(a), Act 3/1981]

"Director" . . .

[Definition of "Director" deleted by s 3(e), Act 30/1959]

"dynamically supported craft" means any air-cushion vehicle, sidewall craft, hydrofoil boat, or other similar craft, used wholly or principally in navigation by water;

[Definition of "dynamically supported craft" inserted by s 1(b), Act 16/1995 and substituted by s 1(f), Act 23/1997]

"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;

[Definition of "employee" inserted by s 1(d), Act 18/1992]

"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;

[Definition of "employer" inserted by s 1(d), Act 18/1992]

"equipment" includes boats, tackle, pumps, apparel, furniture, life-saving appliances of every description, spars, masts, rigging and sails, fog signals, lights and signals of distress, medicines and medical and surgical stores and appliances, charts, radio apparatus, apparatus for preventing, detecting or extinguishing fires, buckets, compasses, axes, lanterns, loading and discharging gear and apparatus of all kinds, and all other stores or articles belonging to or to be used in connection with, or necessary for, the navigation and safety of a ship;

"exemption certificate" means such a certificate, issued in conformity with the Safety Convention under paragraph (c) of section 192, subparagraph (a) or (b) of paragraph (2) or subparagraph (a) of paragraph (4) of section 193, or deemed in accordance with the provisions of section 202(1)(a) or (b) to have been so issued;

[Definition of "exemption certificate" inserted by s 1(f), Act 13/1965 and substituted by s 1(g), Act 23/1997]

"fishing boat" means any ship engaged in sea fishing for financial gain or reward, but does not include any sealing boat or whaling boat;

[Definition of "fishing boat" amended by s 3(f), Act 30/1959 and substituted by s 1(g), Act 13/1965]

"foreign country" means a country which is not a treaty country;

[Definition of "foreign country" amended by s 31(b), Act 69/1962]

"foreign-going ship" means—

(a) a ship plying between a port in one country and a port in another country; or

(b) . . .

(c) . . .

[Para (c) deleted by s 3(g), Act 30/1959]

(d) a whaling boat other than a shore-based whaling boat;

"foreign ship" means a ship other than a treaty ship;

[Definition of "foreign ship" amended by s 31(c), Act 69/1962]

"freight" includes passage money and hire;

"general safety certificate" . . .

[Definition of "general safety certificate" deleted by s 1(h), Act 13/1965]

"goods" includes all animals, matter or things, save that in Chapter VIII **"goods"** does not include animals or cargo which by a contract of carriage it is provided shall be carried on

deck and is so carried;

"High Court" means any division of the High Court of the Republic;

[Definition of "High Court" inserted by item 1(a) (Sch 2), Act 58/1998]

"hazard" means a source of or exposure to danger;

[Definition of "hazard" inserted by s 1(h), Act 23/1997]

"hydrofoil boat" means any craft which is supported above the surface of water in normal operating condition by hydrodynamic forces generated on foils;

[Definition of "hydrofoil boat" inserted by s 1(c), Act 16/1995]

"Inland Waters" means the waters of any dam, lagoon, lake, river or wetland, but does not include a tidal lagoon or tidal river as defined in section 1 of the Sea-Shore Act, 1935 (Act No. 21 of 1935);

"International Collision Regulations Convention" means the Convention on the International Regulations for Preventing Collisions at Sea done at London on 20 October 1972, as modified by any amendment made under Article VI of that Convention that has entered into force for the Republic;

[Definition of "International Collision Regulations" substituted by s 1(b), Act 40/1963, substituted by definition of "International Collision Regulations Convention" by s 1(b), Act 3/1982 and substituted by s 1(i), Act 23/1997]

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

[Definition of "international load line certificate" inserted by s 1(i), Act 13/1965 and substituted by s 1(a), Act 42/1969 and by s 1(j), Act 23/1997]

"international load line exemption certificate" means such a certificate issued in conformity with the Load Line Convention under section 204(1)(a);

[Definition of "international load line exemption certificate" inserted by s 1(b), Act 42/1969 and substituted by s 1(j), Act 23/1997]

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

[Definition of "international load line ship" substituted by s 1(c), Act 42/1969 and by s 1(b), Act 5/1976]

"international voyage", when used with reference to ships registered in a country to which the Load Line Convention applies, means a voyage from a port in one country to a port in another country, either of those countries being a country to which the Load Line Convention applies, and when used with reference to ships registered in a country to which the Safety Convention applies, means a voyage from a port in one country to a port in another country either of those countries being a country to which the Safety Convention applies; and "short international voyage" means an international voyage in the course of which a ship is not more than two hundred nautical miles from a port in which the passengers and crew could be placed in safety, and which does not exceed six hundred nautical miles in length between the last port of call in the country in which the voyage begins and the final port of destination; and in the application of this definition—

- (a) no account shall be taken of any deviation by a ship from her intended voyage due solely to stress of weather or any other circumstances which neither the master nor the owner nor the charterer (if any) of the ship could have prevented or forestalled; and
- (b) every colony, overseas territory, protectorate, territory for whose international relations a State that has accepted the Safety Convention is responsible, territory for which the

United Nations are the administering authority, and territory administered by a State in whose favour a mandate thereover was issued by the Council of the former League of Nations, shall be deemed to be a separate country;

"licence", in relation to a ship, means a licence contemplated in section 68; and "licensed" shall be construed accordingly;

[Definition of "licence" inserted by item 1(b) (Sch 2), Act 58/1998]

"life-saving equipment regulations" means the regulations made under paragraph (a) of subsection (2) of section *three hundred and fifty-six* to give effect to the relative provisions of the Safety Convention, or such regulations as applied under subsection (3) of the said section;

[Definition of "life-saving equipment regulations" amended by s 3(h), Act 30/1959 and substituted by s 1(j), Act 13/1965]

"load lines" means the marks indicating the several maximum depths to which a ship is entitled to be loaded in various circumstances prescribed by the load line regulations;

"load line certificate" means an international load line certificate or a local load line certificate;

[Definition of "load line certificate" substituted by s 1(k), Act 13/1965]

"Load Line Convention" means the International Convention on Load Lines done at London on 5 April 1966, as modified by any amendment made under Article 29 of that Convention that has entered into force for the Republic;

[Definition of "Load Line Convention" substituted by s 1(c), Act 40/1963 and by s 1(k), Act 23/1997]

"load line exemption certificate" means an international load line exemption certificate or a local load line exemption certificate;

[Definition of "load line exemption certificate" inserted by s 1(d), Act 42/1969]

"load line convention certificate" . . .

[Definition of "load line convention certificate" deleted by s 1(l), Act 13/1965]

"load line regulations" means the regulations made under paragraph (c) of subsection (2) of section *three hundred and fifty-six* to give effect to the relative provisions of the Load Line Convention and Annexes thereto, or such regulations as applied under subsection (3) of the said section;

[Definition of "load line regulations" substituted by s 1(m), Act 13/1965]

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

[Definition of "load line ship" substituted by s 1(e), Act 42/1969 and by s 1(c), Act 5/1976]

"local general safety certificate" means a certificate issued under section 194(1)(a) or (b)(ii);

[Definition of "local general safety certificate" substituted by s 1(f), Act 42/1969]

"local load line certificate" means a certificate issued under paragraph 2 of section 207 and includes a local load line exemption certificate;

[Definition of "local load line certificate" substituted by s 1(g), Act 42/1969]

"local load line exemption certificate" means a certificate issued under section 204(1)(b);

[Definition of "local load line exemption certificate" inserted by s 1(h), Act 42/1969]

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

- (a) engaged on an international voyage and of less than 24 metres in length; or
- (b) not engaged on an international voyage;

[Definition of "local load line ship" substituted by s 1(i), Act 42/1969 and by s 1(d), Act 5/1976]

"local safety certificate" means a local general safety certificate or a local safety exemption certificate;

[Definition of "local safety certificate" substituted by s 1(n), Act 13/1965]

"local safety exemption certificate" means a certificate issued under subparagraph (i) of paragraph (b) of subsection (1) of section *one hundred and ninety-four*;

"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;

[Definition of "machinery" inserted by s 1(e), Act 18/1992]

"marine notice" means a notice described as such and issued by the Authority;

[Definition of "marine notice" inserted by s 1(e), Act 18/1992 and amended by s 2(2), Act 5/1998]

"master" means, in relation to a ship, any person (other than a pilot) having charge or command of such ship;

"medical practitioner" means—

- (a) at a place in the Republic, a person registered as such under the Medical, Dental and Supplementary Health Service Professions Act 56 of 1974; or
- (b) at a place outside the Republic, a person who is entitled to practise as such under the law in force in that place;

[Definition of "medical practitioner" substituted by s 1(e), Act 5/1976]

"Minister" means the Minister of Transport;

[Definition of "Minister" amended by s 3(i), Act 30/1959 and substituted by s 1(b), Act 3/1981 and by s 1(f), Act 18/1992]

"nautical mile" means a distance of 1 852 metres; and **"mile"** has a corresponding meaning;

[Definition of "nautical mile" inserted by s 1(c), Act 3/1981 and substituted by s 1(l), Act 23/1997]

"near relative" in relation to a seaman means the wife or parent or a grandparent, child, grandchild, brother or sister of the seaman or the guardian or the person having the custody of a child of the seaman;

"occupational safety" means the safety of any employee working on or in a ship and whilst boarding or leaving the ship;

[Definition of "occupational safety" inserted by s 1(g), Act 18/1992 and substituted by s 1(m), Act 23/1997]

"officer of customs" means an officer as that expression is defined by section 1 of the Customs and Excise Act 91 of 1964;

[Definition of "officer of customs" amended by s 3(j), Act 30/1959 and substituted by s 1(f), Act 5/1976]

"owner" means any person to whom a ship or a share in a ship belongs, except as provided otherwise by regulation;

[Definition of "owner" substituted by item 1(c) (Sch 2), Act 58/1998]

"part of the Commonwealth" . . .

[Definition of "part of the Commonwealth" deleted by s 31(d), Act 69/1962]

"passenger" means any person carried in a ship, except—

- (a) a person employed or engaged in any capacity on board the ship on the business of the ship;
- (b) a person on board the ship either in pursuance of the obligation laid upon the master to carry shipwrecked, distressed or other persons or by reason of any circumstances that neither the master nor the owner nor the charterer (if any) could have prevented; and
- (c) a child under one year of age;

"passenger ship" means a ship which carries more than twelve passengers;

"passenger ship safety certificate" means such a certificate, issued in conformity with the Safety Convention under paragraph (a) or (c) of section 192, or deemed in accordance with the provisions of section 202(1)(a) to have been so issued;

[Definition of "passenger ship safety certificate" inserted by s 1(o), Act 13/1965 and substituted by s 1(n), Act 23/1997]

"passenger ship's exemption certificate" . . .

[Definition of "passenger ship's exemption certificate" deleted by s 1(p), Act 13/1965]

"port", in relation to—

- (a) a port in a country other than the Republic, means a place, whether proclaimed a public harbour or not, and whether natural or artificial, to which ships may resort for shelter or to ship or unship goods or passengers; and
- (b) a port in the Republic, means a harbour of which Transnet Limited has become the owner in terms of section 3 of the Legal Succession to the South African Transport Services Act 9 of 1989, or a fishing harbour as defined in section 1 of the Sea Fishery Act 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;

[Definition of "port" substituted by s 1(a), Act 25/1985. Para (b) substituted by s 1(h), Act 18/1992]

"port of registry", in relation to a ship, means its home port as selected or changed in accordance with the Ship Registration Act, 1998;

[Definition of "port of registry" substituted by item 1(d) (Sch 2), Act 58/1998]

"prescribed" means prescribed by this Act;

"principal officer" means the officer in charge of the office of the Authority at a port;

[Definition of "principal officer" inserted by s 1(a), Act 24/1974 and amended by s 2(2), Act 5/1998]

"proper officer" means the officer designated by the Authority to be the proper officer at the place or in respect of the area and in respect of the matter to which reference is made in the provision of this Act in which the expression occurs; or if no such designation has been made—

- (a) at a place in the Republic, a principal officer or, where there is no principal officer, the Controller of Customs and Excise; or

[Para (a) substituted by s 31(e), Act 69/1962 and by s 1(b), Act 24/1974]

- (b) at a place outside the Republic but within a treaty country, in the following order:
- (i) a career consular representative of the Republic; or
[Subpara (i) substituted by s 1(j), Act 42/1969]
 - (ii) a diplomatic representative of the Republic; or
 - (iii) the person who, in terms of the law in force in the treaty country, is entrusted with the function or charged with the duty to which reference is made in the provision of this Act in which the expression occurs; or
 - (iv) a consular representative of a treaty country (other than the Republic); or
 - (v) a diplomatic representative of a treaty country (other than the Republic); or
[Para (b) substituted by s 31(e), Act 69/1962]
- (c) at a place outside any treaty country, the person, and in the order, indicated, in subparagraphs (i), (ii), (iv) and (v) of paragraph (b); or
[Para (c) substituted by s 31(e), Act 69/1962]
- (d) at a place outside the Republic, where there is no proper officer as defined in paragraph (b) or (c), any master of a South African ship who is specially authorized in writing to act as proper officer by the Authority, but only in relation to the functions and duties in respect of which, and subject to the conditions subject to which, he has been so authorized to act;

[Definition of "proper officer" amended by s 1(b), Act 24/1974. Para (d) added by s 31(e), Act 69/1962]

"proper return port", in relation to a master, seaman or apprentice-officer discharged or left behind, means—

- (a) the port at which the master, seaman or apprentice-officer was engaged; or
- (b) a port in a country in which the master, seaman or apprentice-officer is domiciled; or
- (c) a port agreed to as such by the master, seaman or apprentice-officer,
as decided by the proper officer;

"Protocol of 1978 relating to the Safety Convention" means the Protocol of 1978 relating to the International Convention for the Safety of Life at Sea, 1974 done at London on 17 February 1978, the English text of which is set forth in the Second Schedule, as modified by any amendment made under Article VIII of the International Convention for the Safety of Life at Sea, 1974, as incorporated in that Protocol by Article II of that Protocol, that has entered into force for the Republic;

[Definition of "Protocol of 1978 relating to the Safety Convention" inserted by s 1(o), Act 23/1997]

"qualified local safety certificate" . . .

[Definition of "qualified local safety certificate" deleted by s 1(q), Act 13/1965]

"qualified safety certificate" . . .

[Definition of "qualified safety certificate" deleted by s 1(r), Act 13/1965]

"qualified safety equipment certificate" . . .

[Definition of "qualified safety equipment certificate" deleted by s 1(s), Act 13/1965]

"qualified safety radio exemption certificate" . . .

[Definition of "qualified safety radio exemption certificate" deleted by s 1(t), Act 13/1965]

"qualified safety radiotelegraphy certificate" . . .

[Definition of "qualified safety radiotelegraphy certificate" deleted by s 1(u), Act 13/1965]

"qualified safety radiotelephony certificate" . . .

[Definition of "qualified safety radiotelephony certificate" deleted by s 1(v), Act 13/1965]

"radio" includes radiotelegraphy and radiotelephony;

"radio regulations" means the regulations made under paragraph (a) of subsection (2) of section *three hundred and fifty-six* to give effect to the relative provisions of the Safety Convention, or such regulations as applied under subsection (3) of the said section;

[Definition of "radio regulations" substituted by s 1(w), Act 13/1965]

"recognized non-South African", used in relation to a safety convention certificate or an international load line certificate, signifies that the certificate has been issued by or under the authority of the Government of a country other than the Republic to which the Safety Convention or the Load Line Convention, as the case may be, applies, and that the certificate complies with the regulations made under paragraph (a) of subsection (2) of section *three hundred and fifty-six* to give effect to the relative provisions of the Safety Convention or with those made under paragraph (c) of that subsection to give effect to the relative provisions of the Load Line Convention, respectively;

[Definition of "recognized non-South African" amended by s 1(d), Act 40/1963 and substituted by s 1(x), Act 13/1965]

"registered", in relation to a ship (except with reference to the law of another country), means registered or deemed to be or regarded as registered under the Ship Registration Act, 1998;

[Definition of "registered" inserted by item 1(e) (Sch 2), Act 58/1998]

"register tons" and **"register tonnage"** mean, in relation to a South African ship, the tonnage of the ship, either gross or net as the case may be, recorded in the register mentioned in section 33 of the Ship Registration Act, 1998, and in the case of any other ship, the tonnage accepted or determined by the Minister, Authority or proper officer;

[Definition of "register tons" and "register tonnage" amended by s 2(2), Act 5/1998, and substituted by item 1(f) (Sch 2), Act 58/1998]

"regulation" means a regulation made under this Act;

"safe" means free from any threat which may cause bodily injury, illness or death, and free from any hazard as far as practicable;

[Definition of "safe" inserted by s 1(i), Act 18/1992 and substituted by s 1(p), Act 3/1997]

"safety appointee" means any person appointed in terms of section 355A(1)(a);

[Definition of "safety appointee" inserted by s 1(i), Act 18/1992]

"safety committee" means a committee appointed in terms of section 355A(1)(a);

[Definition of "safety committee" inserted by s 1(i), Act 18/1992]

"Safety Convention" means the International Convention for the Safety of Life at Sea done at London on 1 November 1974, the English text of which is set forth in the Second Schedule as modified by any amendment made under Article VIII of that Convention that has entered into force for the Republic and, after the date on which the Protocol of 1978 relating to the Safety Convention enters into force for the Republic, as also modified by that Protocol;

[Definition of "Safety Convention" substituted by s 1(e), Act 40/1963 and by s 1(q), Act 23/1997]

"safety convention certificate" means a passenger ship safety certificate, a cargo ship

safety construction certificate, a cargo ship safety equipment certificate, a cargo ship safety radio certificate or an exemption certificate;

[Definition of "safety convention certificate" substituted by s 1(y), Act 13/1965 and by s 1(r), Act 23/1997]

"safety equipment certificate" . . .

[Definition of "safety equipment certificate" deleted by s 1(z), Act 13/1965]

"safety equipment exemption certificate" . . .

[Definition of "safety equipment exemption certificate" deleted by s 1(aa), Act 13/1965]

"safety officer" means any person appointed in terms of section 355A(1)(a);

[Definition of "safety officer" inserted by s 1(j), Act 18/1992]

"safety radio exemption certificate" . . .

[Definition of "safety radio exemption certificate" deleted by s 1(bb), Act 13/1965]

"safety radiotelegraphy certificate" . . .

[Definition of "safety radiotelegraphy certificate" deleted by s 1(cc), Act 13/1965]

"safety radiotelephony certificate" . . .

[Definition of "safety radiotelephony certificate" deleted by s 1(dd), Act 13/1965]

"safety representative" means any person elected in terms of section 355A(1)(b);

[Definition of "safety representative" inserted by s 1(j), Act 18/1992]

"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;

[Definition of "safety standard" inserted by s 1(j), Act 18/1992]

"savings bank" means the Post Office Savings Bank, or a bank registered under the Banks Act 94 of 1990, or, in respect of the allotment of premiums, a person registered or deemed to be registered as an insurer under the Insurance Act 27 of 1943, or any other body designated by the Authority;

[Definition of "savings bank" substituted by s 1(g), Act 5/1976, by s 1(k), Act 18/1992 and by s 1(s), Act 23/1997]

"sealing boat" means any ship exclusively employed in seal-catching;

[Definition of "sealing boat" amended by s 3 (k), Act 30/1959]

"seaman" means any person (except a master, pilot or apprentice-officer) employed or engaged in any capacity as a member of the crew of a ship; **The application by virtue of this Notice, of the definition of 'seaman' in subsection (1) in relation to vessels operating on inland waters does not affect the application of any other law relating to seamen.**

"Secretary" . . .

[Definition of "Secretary" inserted by s 3(l), Act 30/1959, and deleted by s 1(d), Act 3/1981]

"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
- (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
 - (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 would have resulted in his being so admitted had he been within reach of a hospital;

[Definition of "serious injury" inserted by s 1(l), Act 18/1992]

"ship" means any kind of vessel used in navigation by water, however propelled or moved, and includes—

- (a) a barge, lighter or other floating vessel;
- (b) a structure that is able to float or be floated and is able to move or be moved as an entity from one place to another; and
- (c) a dynamically supported craft;

and **"vessel"** has a corresponding meaning;

[Definition of "ship" substituted by s 1(c), Act 25/1985 and by s 1(t), Act 23/1997]

"ship's officer" means a navigating officer or engineer officer, whether certificated or uncertificated, employed as such on board a ship, but does not include a master; and any reference to a ship's officer shall, in its application to a ship in which a mate, boatswain, marine engineman or assistant marine engineman is employed, be construed as including a reference to a mate, boatswain, marine engineman or assistant marine engineman;

"shore-based whaling boat" means a whaling boat which delivers the whole of its catch to be processed in a factory established ashore in the Republic;

"side wall craft" means any air-cushion vehicle of which the walls extending along the sides are permanently immersed hard structures;

[Definition of "side wall craft" inserted by s 1(d), Act 16/1995]

"short voyage safety certificate" . . .

[Definition of "short voyage safety certificate" deleted by s 1(ee), Act 13/1965]

"small vessel" means a vessel of less than twenty-five gross tons. **(Amended)**

[Definition of "small vessel" inserted by s 1(e), Act 3/1981]

"South African ship" means a ship registered in the Republic;

[Definition of "South African ship" substituted by item 1(g) (Sch 2), Act 58/1998]

"special load line certificate" means a certificate issued under subsection (1) of section *two hundred and seventeen*;

"sport or recreation" means any sporting or recreational activity carried on in, on or under the water, irrespective of whether that activity is of a competitive nature or whether prizes

are involved, provided it is not carried on for commercial purposes;

"standard" means—

- a) any provision occurring in a specification, compulsory specification, code of practice or standard method within the meaning of the Standards Act 29 of 1993; or

[Para (a) substituted by s 1(v), Act. 23/1997]

- (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 country or territory, seeks to promote standardization;

[Definition of "standard" inserted by s 1(m), Act 18/1992]

"STCW Convention" means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers done at London on 7 July 1978, as modified by any amendment made under Article XII of that Convention that has entered into force for the Republic;

[Definition of "STCW Convention" inserted by s 1(u), Act 23/1997 and substituted by s 1, Act 57/1998]

"superior court" . . .

[Definition of "superior court" substituted by s 1(h), Act 5/1976, and deleted by item 1(h) (Sch 2), Act 58/1998]

"surveyor" means any person recognized or appointed in terms of section 4(b);

[Definition of "surveyor" substituted by s 1(k), Act 42/1969, and substituted by item 1(i) (Sch 2), Act 58/1998]

"this Act" includes any proclamation, notice, rule or regulation issued or made thereunder;

"timber cargo regulations" means the regulations made under section 356(2)(a) to give effect to the relative provisions of the Safety Convention, or such regulations as applied under subsection (3) of section 356;

[Definition of "timber cargo regulations" substituted by s 1(ff), Act 13/1965, and by s 1(w), Act 23/1997]

"Tonnage Convention" means the International Convention on Tonnage Measurement of Ships done at London on 23 June 1969, as modified by any amendment made under Article 18 of that Convention that has entered into force for the Republic;

[Definition of "Tonnage Convention" inserted by s 1(d), Act 25/1985, and substituted by s 1(x), Act 23/1997]

"treaty country", in relation to any provision of this Act, means the Republic and any country, including any colony, protectorate or territory subject to the authority or under suzerainty of such country or any territory over which a mandate or trusteeship is exercised by such country, which is a party to any bilateral treaty or agreement entered into by the Republic in connection with any matter dealt with in such provision;

[Definition of "treaty country" inserted by s 31(f), Act 69/1962]

"treaty ship" means a ship registered at any place in a treaty country under the relative laws in force at that place or any ship which by the law of a treaty country is recognized as a ship belonging to that treaty country;

[Definition of "treaty ship" inserted by s 31(f), Act 69/1962]

"unseaworthy", used in relation to a vessel, means that she—

- (a) is not in a fit state as to the condition of her hull, equipment or machinery, the stowage of her cargo or ballast, or the number or qualifications of her master or crew, or in any other respect, to encounter the ordinary perils of the voyage upon which she is engaged

- or is about to enter; or
- (b) does not comply with the conditions of assignment to the extent set forth in paragraph (c) of section *two hundred and seven*; or
- (c) is loaded beyond the limits allowed—
- (i) by a load line certificate issued in the Republic under this Act; or
- (ii) if she is a load line ship, registered in a country in which the Load Line Convention applies, by a recognized non-South African international load line certificate; or
- [Subpara (ii) amended by s 1(f), Act 40/1963, and substituted by s 1(gg), Act 13/1965]
- (iii) by a load line certificate to which a notice issued under section *two hundred and eighteen* applies:

[Subpara (iii) amended by s 1(f), Act 40/1963]

Provided that a safety convention ship not registered in the Republic, in respect of which a recognized non-South African safety convention certificate is produced, shall not be deemed unseaworthy, as regards the condition of her hull, equipment or machinery, unless it appears, on the report of a surveyor, that she cannot proceed to sea without danger to human life owing to the fact that the actual condition of the hull, equipment or machinery does not correspond substantially with the particulars stated in the certificate;

[Definition of "unseaworthy" amended by s 1(f), Act 40/1963]

"user", in relation to machinery, means any person who uses machinery on a vessel for his own benefit;

"vessel" . . . [Definition of "vessel" substituted by s 1(f), Act 3/1981, and by s 1(e), Act 16/1995, and deleted by s 1(y), Act 23/1997]

"wages" includes any emoluments;

"whaling boat" means any ship engaged exclusively in whale-catching, or on which any processing takes place of the bodies or any portion of the bodies of the whales caught by other whaling boats;

"workplace" means any place on a vessel where an employee performs work in the course of his employment;

[Definition of "workplace" inserted by s 1(o), Act 18/1992]

"wreck" includes flotsam, jetsam, lagan and derelict found in or on the shores of the sea or of any tidal waters of the Republic, any portion of a ship or aircraft lost, abandoned, stranded or in distress, any portion of the cargo, stores or equipment of such ship or aircraft and any portion of the personal property on board such ship or aircraft when it was lost, abandoned, stranded or in distress and belonged to any person who was on board that ship or aircraft at that time;

"year" means the calendar year, but for the purpose of the inspection of vessels required by this Act it means twelve calendar months from the date of the certificate of inspection or survey.

(2) . . .

[Subs (2) deleted by s 31(g), Act 69/1962]

(3) Whenever in this Act reference is made to—

- (a) an act or omission by or a duty resting upon or a fault committed by a vessel; or

- (b) damage or loss suffered by a vessel; or
- (c) a liability resting upon a vessel,

such reference shall, unless the context indicates otherwise, be construed as a reference to—

- (i) an act or omission by or a duty resting upon or a fault committed by the person responsible for the navigation of the vessel in connection with the navigation thereof; or
- (ii) damage or loss suffered by the owner or the person having an interest in the vessel or her cargo or freight, in connection with the vessel or her cargo or freight; or
- (iii) a liability resting upon the person in charge of the vessel or upon the person who in law is answerable for the conduct of the person in charge of the vessel, in connection with such conduct,

respectively.

(4) (a) In this Act references to a ship built or constructed before or after any date shall be construed as references to a ship the keel of which has been laid or which is at a similar stage of construction before or after that date, as the case may be.

(b) In paragraph (a) "**similar stage of construction**" means the stage at which—

- (i) construction identifiable with the ship has begun; and
- (ii) assembly of the ship has commenced and comprises at least 50 tons or one per cent of the estimated mass of all structural material, whichever is less.

[Subs (4) substituted by s 1(z), Act 23/1997]

(5) Any reference in this Act to an entry of an occurrence or other fact in the official log-book of a ship shall, in the application of the provision in which the reference occurs to a ship for which no official log-book is kept, be construed as a reference to a record of such occurrence or fact made otherwise than in an official log-book.

(6) Any reference in this Act to any order or entry made or document issued under any provision of this Act shall, unless otherwise indicated, be construed as including a reference to an order or entry made or document issued under the corresponding provision of any law repealed by section *one*.

Application of Act

3. (1) . . .

[Subs (1) amended by s 32(a), Act 69/1962, with effect from 1 January 1960, substituted by s 2(a), Act 18/1992, and deleted by s 1, Act 49/1996]

(2) This Act and any amendment thereof shall apply to Marion Island and Prince Edward Island: Provided that in its application voyages between ports in the Republic and ports in those islands shall be deemed to be voyages between ports in the Republic and ports outside the Republic.

[Subs (2) amended by s 32(b), Act 69/1962]

(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 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.

[Subs (3) amended by s 2(a), Act 40/1963, and substituted by s 2(b), Act 18/1992]

(4) Unless otherwise indicated, those provisions of this Act which apply to vessels which are registered or licensed in the Republic or which in terms of this Act are required to be so licensed shall so apply wherever such vessels may be.

[Subs (4) substituted by item 2(a) (Sch 2), Act 58/1998]

(5) Unless otherwise indicated, those provisions of this Act which apply to vessels other than those referred to in subsection (4) shall so apply only while such vessels are within the Republic or the territorial waters thereof.

(6) The provisions of this Act shall not apply to ships belonging to the defence forces of the Republic or of any other country.

[Subs (6) substituted by s 2, Act 13/1965]

(7) Except as provided otherwise by regulation, the provisions of this Act shall apply to any vessel or ship contemplated in section 68(3)(b) as if such vessel or ship were licensed in terms of this Act.

[Subs (7) substituted by s 2, Act 25/1985, and item 2(b) (Sch 2), Act 58/1998]

(8) The Minister may by notice in the *Gazette* declare that any of the provisions of this Act which are by that notice specified, subject to the exemptions, modifications and restrictions so specified, and which do not by virtue of the other provisions of this Act apply to a particular ship or to ships of a particular class, category or tonnage, shall apply to that ship or to ships of that class, category or tonnage: Provided that provisions which in terms of this Act apply only to South African ships shall not by any such notice be applied also to ships not registered in the Republic and vice versa.

[Subs (8) amended by s 4, Act 30/1959]

(9) The Minister may by notice in the *Gazette* declare that any of the provisions of this Act which are by that notice specified, subject to the exemptions, modifications and restrictions so specified, shall apply to any dams or other inland waters so specified.

[Subs (9) amended by s 4, Act 30/1959]

(10) If it has been made to appear to the Minister that the Government of any country other than the Republic is desirous that any of the provisions of this Act, which do not apply to the ships of that country should so apply, and there are no special provisions in this Act for that application, the Minister may by notice in the *Gazette* declare that such of those provisions as are by that notice specified (subject to the limitations, if any, contained therein) shall apply to the ships of that country and to the owners, masters, seamen and apprentice-officers of those ships, when not locally within the jurisdiction of the government of that country, in the same manner in all respects as if those ships were ships registered in the Republic; and thereupon the provisions so specified shall, subject to such limitations, if any, so apply.

[Subs (10) amended by s 4, Act 30/1959]

(11) If the Minister is satisfied—

- (a) that ships registered in any country other than the Republic are required by the law in force in that country to comply with any provisions which are substantially the same as, or equally effective with, any of the provisions of this Act which apply to such ships while they are within the Republic or the territorial waters thereof; and

- (b) that that country has made or has undertaken to make provision for the exemption of South African ships while they are within that country or the territorial waters thereof from the corresponding requirements of the law of that country,

he may by notice in the *Gazette* declare that the said provisions of this Act shall not apply to any ship of that country, while she is within the Republic or its territorial waters, if it is proved that the ship complies with the corresponding provisions of the law in force in that country; and thereafter upon such proof being furnished, the said provisions of this Act shall not apply to such ship.

[Subs (11) amended by s 4, Act 30/1959, and substituted by s 2(b), Act 40/1963]

(12) Unless otherwise indicated, only the provisions of sections 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, and every user, employer and employee;

[Para (a) substituted by s 2, Act 57/1998]

- (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;

- (c) every other person on board a vessel in the execution of his duties, or working on the exterior shell or appurtenances of a vessel, including the equipment used by such person, whether or not the vessel is afloat;

[Para (c) substituted by s 2, Act 23/1997]

- (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 the construction or equipment of such vessel, including any machinery or equipment brought on board a vessel and which does not form part of the equipment of such vessel.

[Para (d) substituted by s 2, Act 23/1997]

[Subs (12) added by s 2(c), Act 18/1992]

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

[Subs (13) added by s 2(c), Act 18/1992]

CHAPTER I

ADMINISTRATION

Powers of Authority

4. The Authority may—

- (a) appoint such officers as it considers necessary for the administration of this Act;
- (b) recognize or appoint as a ship surveyor, engineer surveyor or radio or other surveyor any qualified person whom it deems fit to act as such for the purposes of this Act;
- (c) subject to such conditions as may be determined by it, and with the concurrence of the Minister, exempt any person from any of or all the provisions of the regulations made

under section 356.

[S 4 amended by s 2, Act 42/1969, and s 2, Act 5/1976, and substituted by item 3 (Sch 2), Act 58/1998]

Authority responsible for administration of Act

5. (1) The Authority shall be responsible for the administration of this Act, and shall have the control of all matters incidental thereto.

(2) The Authority shall, subject to the provisions of this Act or any other law, have such powers and perform such duties as are assigned to it by the Minister.

(3) All powers conferred and all duties imposed upon the Authority may be exercised or performed by the Authority, or by a person or organization under a delegation from or under the control or direction of the Authority.

[Subs (3) substituted by s 3, Act 25/1985, and by s 3, Act 23/1997]

[S 5 substituted by s 5, Act 30/1959, and by s 2(2), Act 5/1998]

National Marine Advisory Council, National Advisory Council for the Welfare of Merchant Seamen, port welfare committees and ad hoc advisory committees

6. (1) . . .

[Subs (1) substituted by s 3(a), Act 5/1976, and deleted by s 15(a), Act 58/1987]

(2) . . .

[Subs (2) deleted by s 6(a), Act 30/1959]

(3) . . .

[Subs (3) amended by s 6(b), Act 30/1959, and deleted by s 15(a), Act 58/1987]

(4) . . .

[Subs (4) substituted by s 3(b), Act 5/1976, and deleted by s 15(a), Act 58/1987]

(5) . . .

[Subs (5) deleted by s 6(c), Act 30/1959]

(6) . . .

[Subs (6) amended by s 3, Act 40/1963, and deleted by s 1(a), Act 86/1992]

(7) The Minister may from time to time appoint a committee for the purpose of advising him in regard to any particular matter dealt with by this Act and referred to it.

(8) The members of every committee referred to in subsection (7) shall be appointed by the Minister in accordance with the regulations, and the said councils and committees shall perform their functions in accordance with the regulations.

[Subs (8) amended by s 6(d), Act 30/1959, and by s 15(b), Act 58/1987, and substituted by s 1(b), Act 86/1992]

(9) There shall be paid to members of any committee appointed under subsection (7) such allowances towards subsistence and transport as may be prescribed by the regulations made under this Act, or, if they are members of the public service, such allowances towards subsistence and transport as are prescribed by or under the laws governing the public service.

[Subs (9) amended by s 6(e), Act 30/1959, and by s 15(c), Act 58/1987, and substituted by s 1(b), Act 86/1992]

(10) . . .

[Subs (10) added by s 6(f), Act 30/1959, and deleted by s 1(c), Act 86/1992]

Survey of ship to ascertain whether she complies with the Act

7. Subject to the provisions of this Act, a surveyor may inspect any South African ship wherever she may be or any ship not registered in the Republic while she is within the Republic or the territorial waters of the Republic for the purpose of ascertaining whether she complies with the provisions of this Act.

Duty of proper officer to ensure compliance with this Act

8. If a proper officer has reason to suspect that the provisions of this Act are not being or have not been complied with in respect of any ship within the Republic or the territorial waters of the Republic, which is not registered in the Republic, or in respect of any South African ship wherever she may be, he shall take such steps as in his opinion are necessary to ensure compliance with the said provisions.

Powers of officers and courts

9. (1) Any—

- (a) proper officer or surveyor; or
- (b) court of marine enquiry, maritime court or court of survey; or
- (c) person appointed in terms of section *two hundred and sixty-four* or subsection (1) of section *two hundred and eighty-one*, or to whom an appeal is referred in terms of subsection (1) or (2) of section *two hundred and eighty-two*; or
- (d) other person authorized or required by or under this Act, or generally or specially authorized or required by the Authority, to make any survey or inspection or conduct any investigation,

may, in the execution of his or its duty or the exercise of his or its functions—

- (i) board any South African ship wherever she may be, or any ship other than a

South African ship while she is within the Republic or the territorial waters of the Republic, and inspect the same or any part thereof, or any equipment thereof, or any articles on board, or any log-books, certificates or other documents relating to the ship or the crew thereof, and muster the crew of the ship and interrogate them, and require the master and crew to demonstrate the related competency at their place or places of duty;

[Para (i) substituted by s 3, Act 57/1998]

- (ii) enter any premises, including any land, structure, vehicle or vessel, and inspect the same or any articles therein;
- (iii) by written notice or otherwise summon any person who in his or its opinion may be able to give information which is likely to assist him or it in the carrying out of such duty, or who he or it suspects or believes has in his possession or custody or under his control any book, document or thing the inspection of which is likely to assist him or it in the carrying out of such duty, to appear before him or it at a time and place specified, to be interrogated or to produce that book, document or thing;
- (iv) administer an oath to any person appearing in obedience to any summons or otherwise, and interrogate him and inspect and detain any book, document or thing produced;
- (v) require any person interrogated to subscribe to a declaration of the truth of the statement made by him;
- (vi) copy any document inspected by or produced to him or it.
- (vii) . . .

[Para (vii) added by s 3(b), Act 18/1992, and deleted by s 4, Act 23/1997]

[Subs (1) amended by s 7(a), Act 30/1959]

(2) Every person—

- (a) shall upon demand assist to the best of his ability any officer or other person or court in the exercise of any of the powers conferred by subsection (1);
- (b) summoned under paragraph (iii) of subsection (1) whose reasonable expenses have been paid or offered to him shall attend at the time and place specified, and remain in attendance until excused by the officer or other person or court from further attendance;

[Para (b) amended by s 7(b), Act 30/1959]

- (c) shall take the oath administered to him by any officer or other person or court under paragraph (iv) of subsection (1);
- (d) shall answer fully and satisfactorily, to the best of his ability, all questions lawfully put to him by any officer or other person or court under paragraph (i) or (iv) of subsection (1), and, upon being required to do so, produce any book, document or thing in his possession or under his control: Provided that in connection with the interrogation of any such person by, or the production of any such book, document or thing to any such officer or other person or court, the law relating to privilege, as applicable to a witness summoned to give evidence or produce any book, document or thing before a court of law shall apply; and
- (e) upon being required to do so, shall subscribe to a declaration of the truth of any statement made by him.

(3) Any person who, after being sworn by an officer or other person or court in the exercise of the said powers, gives a false answer to any question put to him, or makes a false statement on any matter, knowing that answer or statement to be false, shall be deemed to be guilty of perjury.

(4) Any person or court referred to in paragraph (a), (b) or (c) of subsection (1) may in the execution of his or its duty or the exercise of his or its functions, if he or it deems it necessary to do so, direct that any South African ship wherever she may be, or any ship other than a South African ship while she is within the Republic or the territorial waters of the Republic, be taken into dock at the owner's expense, in order that every part of the hull thereof may be inspected.

(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 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 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.

(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.

(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 of such person's safety, such proper officer or surveyor may by 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.

[Subs (5) inserted by s 3(c), Act 18/1992]

CHAPTER II

RECORDING, REGISTERING AND LICENSING OF SHIPS

Notification of building of vessels

10. (1) Every person who at the coming into operation of this section is building, or after such coming into operation intends to build, a vessel which when completed will be registered or licensed in the Republic, shall within sixty days of such coming into operation or before beginning to build the vessel, as the case may be, furnish to the proper officer at the port where the vessel will be registered or licensed or to the Authority such written particulars of the vessel as may be prescribed.

[Subs (1) substituted by s 3, Act 42/1969, and item 4 (Sch 2), Act 58/1998]

(2) The person on whose account any vessel is built shall for the purposes of subsection (1) be deemed to build that vessel.

11 to 16 inclusive . . .

[Ss 11 to 16 inclusive repealed by s 60(a), Act 58/1998]

Tonnage once ascertained to be the tonnage of ship

17. Whenever the tonnage of a ship has been ascertained and recorded in accordance with this Act, that tonnage shall be the tonnage of the ship unless any alteration is made in the form or capacity of the ship, or unless it is discovered that the tonnage of the ship has been erroneously computed, in either of which cases the ship shall be resurveyed, and her tonnage redetermined in accordance with this Act.

[S 17 substituted by item 5 (Sch 2), Act 58/1998]

Tonnage of ships of other countries

18. (1) Whenever the Minister is satisfied that provisions substantially the same as those of this Act relating to the measurement of the tonnage of ships are in force in any other country, he may by notice in the *Gazette* direct that ships registered in that country shall without being resurveyed in the Republic be presumed to be of the tonnage denoted in their certificates of registry or other national papers, in the same manner, to the same extent, and for the same purposes as the tonnage denoted in the certificate of registry of a South African ship is presumed to be the tonnage of that ship, and that the space shown by the certificate of registry or other national papers of any ship registered in such other country, as deducted

from tonnage on account of being occupied by seamen or apprentice-officers and appropriated to their use, shall for the purpose of determining her tonnage be presumed to have been certified by a surveyor under subsection (2) of section *two hundred and sixty-two* to comply with those of the provisions of this Act which apply to such a space in the case of a South African ship.

(2) Whenever the Minister has given any such direction as is mentioned in subsection (1), the presumptions referred to shall apply in respect of any ship registered in the country to which the direction relates.

(3) If any question arises as to whether the tonnage of any ship registered in any country to which any such direction relates, as denoted in her certificate of registry or other national papers, materially differs from that which would be her tonnage if measured under this Act, or as to whether the construction and the equipment of any ship so registered as regards the said space do for the purpose of determining the tonnage of the ship conform to the standards required under this Act, the Authority may direct that a surveyor inspect the ship.

(4) If from the report of a surveyor so directed to inspect a ship it appears to the Authority that the tonnage of that ship, as so denoted, materially differs from that which would be her tonnage if measured under this Act or that her construction and equipment as regards the said space do not, for the purpose of determining her tonnage conform to the said standards, or if for any reason it appears to the Authority that the tonnage of any ship so registered has been erroneously computed, it may order that, notwithstanding any direction for the time being in force under this section, that ship or any ship registered in the country to which the direction relates shall, for all or any of the purposes of this Act or the Ship Registration Act, 1998, be surveyed in accordance with this Act.

[Subs (4) substituted by s 2(2), Act 5/1998, and item 6 (Sch 2), Act 58/1998]

19 to 67 inclusive . . .

[Ss 19 to 67 inclusive repealed by s 60(a), Act 58/1998]

Certain vessels to be licensed

68. (1) The owner or the master of a vessel which is not registered in the Republic or elsewhere and which operates **on declared inland waters**, shall be in possession of a licence issued to him in terms of this Act by proper officer.

(2) An application for a licence in terms of subsection (1) shall be made in the prescribed form and the owner or master shall produce to the proper officer a local general safety certificate and, where applicable, a local safety exemption certificate.

(3) The provisions of this section shall not apply in respect of any vessel—

- (a) unless the vessel is **owned or operated as described in** section 16(a) or (b) of the Ship Registration Act, 1998; or
- (b) of less than 100 gross tons used solely for sport or recreation.

[S 68 amended by s 10, Act 40/1963; s 3, Act 13/1965; s 2, Act 3/1981; s 5(a), Act 25/1985; and substituted by item 7 (Sch 2), Act 58/1998]

Renewal of licences

69. (1) The owner or master of any vessel which in terms of section *sixty-eight* is required to be licensed, and in respect of which a licence has been issued, shall before or at the expiration of the period for which the licence was issued or renewed apply to the proper officer by whose office the licence was issued for a renewal thereof.

(2) The provisions of subsection (2) of section *sixty-eight* shall apply, *mutatis mutandis*, to any application for the renewal of a licence (date of commencement 1 November, 1961).

Issue and duration of licences

70. A licence issued upon an application made under section *sixty-eight* or *sixty-nine* shall be in the prescribed form and shall be issued for one year under such conditions as may be prescribed (date of commencement 1 November, 1961).

Cancellation of licences

71. (1) If the proper officer is satisfied that a licence issued under this Act was obtained fraudulently or on wrong information he may cancel the licence.

(2) If by reason of the contents of a report by a surveyor, or for any other reason, a proper officer is satisfied that—

- (a) material alterations which affect the seaworthiness of a vessel which has been licensed under this Act have taken place since the licence was issued; or
- (b) the life-saving appliances have not been maintained on such vessel in an effective condition; or
- (c) the master of such a vessel is not a fit and proper person to operate the vessel,

he may cause the vessel to be detained and direct that the deficiency or other cause for the detention of the vessel be remedied; and if after due notice the directions of the proper officer are not complied with, the licence shall be cancelled (date of commencement 1 November, 1961).

Unlicensed vessels not to be used

72. No person shall use a vessel which in terms of section 68 is required to be licensed, for any purpose whatsoever, unless the owner or master of the vessel holds a valid and current licence issued in respect thereof.

[S 72 substituted by s 6, Act 42/1969]

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

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

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

- (a) prescribe the purpose for and the area in which a vessel of less than three metres in length may be used; and
- (b) prescribe the conditions subject to which any such vessel may be so used.

[Para (b) substituted by item 8 (Sch 2), Act 58/1998]

[S 72A inserted by s 3, Act 3/1981, and amended by item 8 (Sch 2), Act 58/1998]

CHAPTER III

CERTIFICATES OF COMPETENCY, SERVICE AND QUALIFICATION

[Heading substituted by s 4, Act 57/1998]

What certificated officers and other persons to be employed on certain ships

73. (1) Subject to the provisions of this section, the owner and the master of every **ship operating on declared waters** shall ensure that there is employed on board that ship, in their appropriate capacities, the number of officers and other persons, duly certificated as prescribed by regulation, or deemed to be so certificated.

[Subs (1) amended by s 15(a), Act 30/1959, and by s 11(a), (b) and (c), Act 40/1963,
and substituted by s 4, Act 5/1976, s 1, Act 3/1989 and s 5(a), Act 57/1998]]

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

[Subs (2) substituted by s 4, Act 5/1976]

(3) Whenever the Authority is satisfied from a report by a surveyor that it would be unreasonable to require the owner of a ship to provide the accommodation on board that ship necessary to accommodate the numbers of officers or other persons required to be employed in terms of subsection (1), or in terms of a notice issued under subsection (2), it may vary the requirements of subsection (1) or of that notice in respect of that ship as it deems fit.

[Subs (3) substituted by s 2(2), Act 5/1998]

(4) **Not Applicable by Notice**

[Subs (4) amended by s 37, Act 69/1962, and by s 11(d), Act 40/1963 and substituted by s 5(b), Act 57/1998]

(5) No person who has been engaged for the purpose of subsection (1) or (2) as master, ship's officer or rating shall act as such unless he is duly certificated, or deemed to be so certificated, in terms of this Act.

[Subs (5) substituted by s 5(b), Act 57/1998]

(6) No person shall for the purpose of subsection (1) or (2) employ a master, ship's officer or rating as such without first ascertaining that he is duly certificated, or deemed to be so certificated, in terms of this Act.

[Subs (6) substituted by s 5(b), Act 57/1998]

(7) . . .

(8) . . .

When ship's officers and other persons deemed to be duly certificated

74. (1) Subject to the provisions of sections 83 and 84, a master, ship's officer or rating shall not be deemed to be duly certificated as such for the purposes of this Act, unless he is the holder for the time being in the case of a—

- (a) master or ship's officer, of a valid certificate of competency or certificate of service, issued in terms of this Act, of a grade appropriate to the ship in which he is employed and to his station in the ship, or of a higher grade; or
- (b) rating, of a valid certificate of qualification, issued or recognised in terms of this Act.

[Subs (1) amended by s 38, Act 69/1962 and substituted by s 6, Act 57/1998]

(2) Whenever the question arises whether any certificate is of a higher grade than any other certificate, that question shall be determined by the Authority, in accordance with the regulations relative thereto, if any.

75. . . .

[S 75 amended by s 12, Act 40/1963 and repealed by s 7, Act 57/1998]

76. . . .

[S 76 repealed by s 2, Act 3/1989]

Examinations for certificates of competency and qualification

77. (1) Examinations of applicants for certificates of competency and qualification under this Act shall be held at such places in the Republic and at such times as the Authority may determine and under such conditions as may be prescribed by regulation.

(2) No person shall be admitted to examination for a certificate of competency or qualification unless he possesses the qualifications, and satisfies such other conditions, if any, prescribed by regulation.

[Subs (2) amended by s 39, Act 69/1962, substituted by s 4(a), Act 13/1965 and amended by s 2(2), Act 5/1998]

(3) . . .

[Subs (3) deleted by s 4(b), Act 13/1965]

(4) The Authority may appoint examiners for the conduct of such examinations, and remove any examiner so appointed.

[S 77 substituted by s 8, Act 57/1998]

Granting of certificates of competency and qualification after examination

78. (1) Subject to the provisions of subsection (2), the Authority may grant a certificate of competency or certificate of qualification, as the case may be, to every applicant who passes the examination prescribed for the certificate satisfactorily, and produces satisfactory evidence that he possesses the qualifications and satisfies such other conditions, if any, prescribed for the holder of the certificate and of his sobriety, experience,

ability, physical fitness and general good conduct.

(2) The Authority may, at any time before the delivery of a certificate, require a re-examination of the applicant by the examiners who made the examination or by any other examiners, and order a further enquiry into his testimonials or character or both, and if not satisfied with the result may order that a certificate be not granted to him.

[S 78 substituted by s 9, Act 57/1998]

79. . . .

[S 79 amended by s 40, Act 69/1962, s 13, Act 40/1963, s 5, Act 13/1965, s 2(2), Act 5/1998 and repealed by s 10, Act 57/1998]

80. . . .

[S 80 amended by s 16, Act 30/1959, by s 14, Act 40/1963, by s 7, Act 42/1969, and by s 5, Act 5/1976, and repealed by s 3(1), Act 3/1989]

Form and record of certificates of competency, service and qualification

81. (1) All certificates of competency, service and qualification shall be made in the prescribed form.

[Subs (1) amended by s 15, Act 40/1963]

(2) A record of certificates of competency, service and qualification granted and of any matter affecting them shall be kept in such manner as the Authority may direct.

(3) Any such certificate and any record kept in terms of subsection (2) shall be admissible in evidence.

[S 81 substituted by s 11, Act 57/1998]

Loss of certificates of competency, service and qualification

82. If any person proves to the satisfaction of the Authority that he has lost or been deprived of a valid certificate of competency, service or qualification granted him under this Act or the Merchant Shipping (Certificates of Competency) Act 45 of 1925, the Authority may, upon payment of such fee as may be prescribed, issue to that person a certified copy of the said certificate, and such copy shall be regarded as having the same force and effect as the original.

[S 82 substituted by s 12, Act 57/1998]

Certificates granted by competent foreign authorities

83. (1) A master or a ship's officer who holds a valid certificate of competency or service granted to him by a competent authority in another country shall not be engaged as such on a **ship operating on declared waters**, except as authorised under subsection (2) or by regulations; and while any such authorization remains in force, and if the conditions under which it was granted are complied with, the person so engaged shall be deemed to be duly certificated under this Act in respect of such ship, provided his certificate is of a grade appropriate to his station in such ship, or of a higher grade.

(2) If the Authority is satisfied that a certificate referred to in subsection (1) is of corresponding value to any certificate of competency or service granted under this Act, it may, with or without conditions, permit the engagement on a **ship operating on declared inland waters** of a person who is the holder of such a certificate, and who possesses a knowledge of an official language of the Republic sufficient to enable him to communicate effectively in the performance of his duties.

[Subs (2) substituted by s 2(2), Act 5/1998]

[S 83 amended by s 41, Act 69/1962, and by s 16, Act 40/1963, and substituted by s 8, Act 42/1969 and s 13, Act 57/1998]

Certificates granted in Republic prior to commencement of Act

84. (1) All uncanceled certificates of competency or service issued under the Merchant Shipping (Certificates of Competency) Act 45 of 1925 shall continue in force as if issued under this Act, but shall be valid only for the purpose for which, and the extent to which, they would have been valid in accordance with the provisions of the aforementioned Act.

[Subs (1) amended by s 42, Act 69/1962 and s 14(a), Act 57/1998]

(2) Any such certificate may be dealt with as if issued under this Act.

(3) . . .

[Subs (3) deleted by s 14(b), Act 57/1998]

Authority may vary requirements as to certificates

85. Notwithstanding the provisions of section 73 the Authority may, in its discretion and for such periods and under such conditions as it may specify if it is satisfied that no suitable holder of a certificate of the required grade and granted under this Act or referred to in section 83 or 84 is available, permit **a ship to operate on declared inland waters** without the prescribed number of certificated officers or other persons, and while any such permission remains in force any person who acts in terms thereof shall not, if the conditions under which it was granted are complied with, be deemed to have contravened the provisions of section 73.

[S 85 amended by s 17, Act 40/1963, and substituted by s 2(2), Act 5/1998 and s 15, Act 57/1998]

Production to proper officer of certificates

86. (1) . . .

Not Applicable by Notice

Holder of certificate incapacitated by ill-health

87. (1) If at any time it appears to the proper officer that owing to ill-health or mental or physical defect the holder of a certificate of competency, service or qualification is unfit to perform the duties required of him, the proper officer may require him to submit himself to examination by a medical practitioner approved by the Authority.

[Subs (1) substituted by s 17, Act 57/1998]

(2) If after consideration of the report on the medical examination the Authority is satisfied that the person concerned is owing to continued ill-health or mental or physical defect incapable of performing satisfactorily the duties appertaining to his certificate of competency, service or qualification it may direct that until it is satisfied that the holder of the certificate has again become capable of performing satisfactorily the duties appertaining to the said certificate, the holder shall not **serve** in the capacity referred to in the certificate or in any other capacity specified by the Authority.

[Subs (2) substituted by s 2(2), Act 5/1998 and s 17, Act 57/1998]

- (3) Any direction by the Authority under subsection (2) shall—
- (a) if the certificate was issued in the Republic, be effective everywhere and in respect of all ships; and
 - (b) if the certificate was issued elsewhere than in the Republic, be effective—
 - (i) within the Republic and the territorial waters of the Republic in respect of all ships; and
 - (ii) outside the Republic and the territorial waters of the Republic in respect of South African ships only.

Cancellation and suspension of certificates

88. Notwithstanding anything contained in this Act, the Authority may cancel or suspend a certificate of competency, service or qualification—

- (a) if the holder has been convicted of any offence and sentenced to imprisonment without the option of a fine, or has been convicted of any offence under this Act; or
- (b) if the holder obtained the certificate on erroneous information.

[S 88 amended by s 18, Act 57/1998]

Appeals against cancellation or suspension of certificate

89. (1) Any person in respect of whom any direction has been given under section 87 or whose certificate of competency, service or qualification has been cancelled or suspended under section 88 may appeal against the direction, cancellation or suspension to **the Minister or** the High Court within the area of jurisdiction of which that person resides, and **the Minister or** that court may confirm, set aside or vary the direction, cancellation or suspension.

[Subs (1) substituted by s 19, Act 57/1998]

- (2) An appeal under this section shall be made in the manner and subject to the

conditions and in accordance with the provisions laid down in the regulations.

CHAPTER IV
ENGAGEMENT, DISCHARGE, REPATRIATION, PAYMENT, DISCIPLINE
AND GENERAL
TREATMENT OF SEAMEN, CADETS AND APPRENTICE-OFFICERS

90. -160 Not Applicable by Notice

Crew accommodation

161. (1) The owner of a **vessel operating on declared inland waters shall provide and maintain** crew accommodation to the satisfaction of the proper officer, and in accordance with the regulations.

(2) . . .

[Subs (2) amended by s 27, Act 40/1963, and deleted by s 1(2), Act 114/1991]

(3)&(4) **Not Applicable by Notice**

Complaints as to provisions or water or accommodation

162. – 166. Not Applicable by Notice

Medicines to be provided and kept on board certain ships

167. The owner and master of a ship of any prescribed class shall ensure that there is on board that ship an adequate supply, according to the prescribed scales, of antiscorbutics and medicines and appliances for the treatment and prevention of diseases and accidents likely to occur **on board** and of the prescribed first-aid equipment.

[S 167 substituted by s 2, Act 24/1974]

168. – 189 Not Applicable by Notice

CHAPTER V
SAFETY OF SHIPS AND LIFE AT SEA

*Part I—Construction of ships, provision of life-saving appliances and
installation of radio*

Initial and subsequent surveys of vessels in respect of safety provisions

190. (1) If the owner of any vessel which is or is to be registered or licensed in the Republic desires that a safety convention certificate or a local safety certificate be issued in respect of the vessel, he shall, before he applies for the issue of the certificate, cause her to be inspected by a surveyor.

[Subs (1) substituted by item 10 (Sch 2), Act 58/1998]

(2) The owner of every vessel in respect of which a safety convention certificate or a local safety certificate has been issued shall cause her to be inspected by a surveyor at intervals, calculated from the date of the initial survey referred to in subsection (1), as follows:

(a) in the case of a passenger ship, at intervals not exceeding twelve months in accordance with the construction regulations, the life-saving equipment regulations, the collision regulations, the radio regulations and any other applicable regulations which may have been made;

[Para (a) substituted by s 8, Act 13/1965]

(b) in the case of a vessel (other than a passenger ship) plying on international voyages, at intervals not exceeding twenty-four months in accordance with the construction regulations, the life-saving equipment regulations, the collision regulations and any other applicable regulations which may have been made: Provided that inspections in accordance with such of the said regulations which are solely applicable to the issue of a cargo ship safety construction certificate shall be at intervals not exceeding five years;

[Para (b) substituted by s 8, Act 13/1965]

(c) in the case of a vessel (other than a passenger ship) which does not ply on international voyages, at intervals not exceeding twelve months in accordance with the construction regulations, the life-saving equipment regulations the collision regulations and any other applicable regulations which may have been made;

[Para (c) substituted by s 8, Act 13/1965]

(d) in the case of a vessel (other than a passenger ship), which by the radio regulations is required to be fitted with a radio installation, at intervals not exceeding twelve months in accordance with the radio regulations applicable to her.

(3) On the inspection of a vessel in terms of subsection (1) or (2) there shall be paid by the owner of the vessel such fee as may be prescribed.

Surveyor's report on inspection under safety regulations

191. (1) Every surveyor who inspects a vessel in pursuance of section *one hundred and ninety* or any provision of the construction regulations, the life-saving equipment regulations, the radio regulations, the collision regulations, or any other applicable regulations which may have been made, shall draw up a report of his inspection in the prescribed form.

[Subs (1) substituted by s 9, Act 13/1965]

(2) The report shall contain full and clear statements as to the extent to which, in the case of an inspection of a ship referred to in paragraph (a), (b), (c) or (d) of subsection (2) of the said section, the vessel is constructed and equipped in accordance with the regulations referred to in those paragraphs, respectively, and as to all matters on which the form indicates that a report is required.

- (3) The surveyor shall forward the report to the proper officer.

192. – 193 Not Applicable by Notice

Issue of local safety certificates

194. (1) If, after consideration of the report of a surveyor, the Authority is satisfied that a vessel referred to in subsection (2)—

- (a) is constructed and equipped in accordance with all the requirements of the construction regulations, the life-saving equipment regulations, the radio regulations, the collision regulations and any other regulations which may have been made, which are applicable to the vessel when engaged in the voyages or the operations in which it is intended that she shall be engaged, it shall cause to be issued in respect of the vessel a local general safety certificate stating that she is so constructed and equipped, and specifying the voyages or the operations in which the vessel is by the certificate authorized to be engaged;

[Para (a) substituted by s 12(a), Act 13/1965, and by s 2(2), Act 5/1998]

- (b) is exempt, by virtue of the exercise by it of a power conferred on it by the regulations referred to in paragraph (a), from any of the requirements of the said regulations and is constructed and equipped in accordance with the remaining requirements, it shall cause to be issued in respect of the vessel—
- (i) a local safety exemption certificate stating which of the said requirements the vessel is exempt from, and that the exemption is conditional on her being engaged only in the voyages or operations and complying with the other conditions (if any) specified in the certificates; and
- (ii) a local general safety certificate stating that the vessel is constructed and equipped in accordance with the remaining requirements.

[Subpara (ii) substituted by s 12(b), Act 13/1965]

[Para (b) amended by s 2(2), Act 5/1998]

(2) The provisions of subsection (1) shall apply in respect of all—

- (a) passenger ships of whatever size which are not intended to be engaged in international voyages; or
- (b) ships (other than passenger ships)—
- (i) to which the Safety Convention does not apply and which are intended to be engaged in international voyages; or

[Subpara (i) substituted by s 12(c), Act 13/1965]

(ii) of whatever size which are not intended to be engaged in international voyages, and which are or are to be registered or licensed in the Republic.

[Subs (2) amended by item 13 (Sch 2), Act 58/1998]

Form of safety certificate

195. (1) Every safety convention certificate and every local safety certificate shall be in the form prescribed.

(2) Every passenger ship safety certificate, cargo ship safety equipment certificate or local general safety certificate shall state the maximum number of persons which the vessel is fit to carry, distinguishing, if necessary, between the respective numbers to be carried on the deck and in the cabins and in different parts of the deck and cabins, and any conditions and variations to which those numbers shall be subject, according to the time of the year, the nature of the voyage, the cargo carried, or other circumstances, as the case requires.

[Subs (2) substituted by s 13, Act 13/1965]

(3) Every local general safety certificate shall state the limits, if any, beyond which the vessel is not fit to proceed, and such other particulars as may be prescribed.

[Subs (3) substituted by s 13, Act 13/1965]

196. (1) **Not Applicable by Notice**

[

Duration of safety certificates

197. (1) Subject to the provisions of this section, a safety convention certificate or a local safety certificate shall expire at the end of such period, not exceeding two years, in the case of a cargo ship safety equipment certificate or five years, in the case of a cargo ship safety construction certificate, or one year, in the case of any other certificate, from the date of its issue, as may be specified therein, or upon the giving of notice by the Authority to the owner or master of the vessel that it has been cancelled.

[Subs (1) substituted by s 14, Act 13/1965]

(2) An exemption certificate shall not remain in force for a period longer than the period of the passenger ship safety certificate, the cargo ship safety construction certificate, the cargo ship safety equipment certificate or the cargo ship safety radio certificate, and a local safety exemption certificate shall not remain in force for a period longer than the period of the local general safety certificate, issued in respect of the same vessel.

[Subs (2) substituted by s 14, Act 13/1965, and by s 6, Act 23/1997]

(3) (a) The Authority may grant an extension of—

- (i) any safety convention certificate, except a cargo ship safety construction certificate; or
- (ii) any local safety certificate, issued in respect of any vessel registered or licensed in the Republic for a period not exceeding one month from the date when the certificate would, but for the extension, have expired, or, if the vessel is absent from the Republic on that date, for a period not exceeding five months from that date.

[Para (a) substituted by s 2(2), Act 5/1998, and item 14 (Sch 2), Act 58/1998]

(b) If any safety convention certificate, except a cargo ship safety construction certificate, issued in respect of a ship not registered in the Republic, expires while such ship is in any port in the Republic, the Authority may, for sound reasons, extend such certificate for any period not exceeding five months, which extension shall be granted only for the purpose of allowing such ship to complete its voyage to the country in which it is registered or is to be inspected.

[Subs (3)(b) substituted by s 2(2), Act 5/1998]

(c) Notwithstanding the provisions of this section the validity of a certificate shall expire upon transfer of any ship to the flag of another country.

[Subs (3) substituted by s 6, Act 3/1981]

Cancellation of safety convention certificates and local safety certificates

198. (1) The Authority may direct that a safety convention certificate or a local safety certificate be cancelled, if, by reason of the contents of a report by a surveyor, or for any other reason, it is satisfied that—

- (a) it was obtained fraudulently or on wrong information; or
- (b) since it was issued, the hull, equipment or machinery of the vessel has, by reason of any alteration made thereto, or by reason or any injury sustained by the vessel, or for any other reason, become insufficient: or
- (c) since it was issued, the vessel has for any reason become unseaworthy; or
- (d) the vessel no longer complies with all the requirements of the construction regulations, the life-saving equipment regulations, the radio regulations, the collision regulations and any other applicable regulations which may have been made, to the same extent to which she complied with those regulations when the certificate was issued.

[Para (d) substituted by s 15, Act 13/1965]

[Subs (1) amended by s 2(2), Act 5/1998]

(2) For the purposes of this section the word "**alteration**", in relation to the hull, equipment or machinery of a vessel, includes the renewal of any part thereof.

(3) Whenever a direction is issued under subsection (1) for the cancellation of a certificate, the Authority shall notify the owner or master of the vessel in respect of which the certificate was issued of the cancellation.

Surrender of expired or cancelled safety convention certificate or local safety certificate

199. (1) A safety convention certificate or a local safety certificate which has expired or has been cancelled shall on demand be surrendered by the owner or master of the ship to the Authority.

(2) If any certificate required to be surrendered under subsection (1) is not surrendered, the Authority may cause the ship to be detained until the certificate is surrendered.

[S 199 substituted by s 2(2), Act 5/1998]

200. Not Applicable by Notice

Carrying persons in excess

201. No master or owner of any vessel registered or licensed in the Republic shall anywhere, and no master of any vessel not registered or licensed in the Republic shall in the Republic or the territorial waters thereof, permit persons to be on board or on or in any part

of the vessel in excess of the number permitted by the vessel's safety convention certificate, local safety certificate, memorandum referred to in section *one hundred and ninety-six* or certificate referred to in subsection (4) or (5) of section *two hundred and three*: Provided that the Authority may, for the purpose of enabling persons to be moved from any place in consequence of a threat to their lives, authorize more persons to be carried on board a ship than are permitted by the said certificate or memorandum; and the carriage of persons in accordance with such authority shall not constitute a contravention of the provisions of this section.

Issue of safety convention certificate by one Government at request of another

202. Not Applicable by Notice

Application of this Part to ships not registered or licensed in the Republic while in the Republic

203. (1) Subject to the provisions of this section, the provisions of this Part shall, *mutatis mutandis*, apply in respect of all ships not registered or licensed in the Republic while they are within the Republic or the territorial waters thereof.

(2)(3)(4)(5)(6)(7) Not Applicable by Notice

(8) Notwithstanding the provisions of this section, every ship not registered or licensed in the Republic, **operating regularly on declared inland waters**, 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 possession of a local general safety certificate.

[Subs (8) added by s 12, Act 18/1992]

(9) No person, including the owner or master of a ship referred to in subsection (8), shall cause or permit that ship to **operate on declared inland waters**, unless there is on board and in respect of that ship a local general safety certificate.

[Subs (9) added by s 12, Act 18/1992]

Part II—Load lines

204. – 220 Not Applicable by Notice

Part III—Safety of navigation

Ship's complement

221. (1) The owner and the master of every **ship operating on declared inland waters** shall ensure that, in addition to the ship's officers and other persons which in terms of section 73 must be employed on board that ship, there are employed as crew the number and description of persons prescribed.

[Subs (1) substituted by s 23(a), Act 57/1998]

(2)(3) Not Applicable by Notice

222. Not Applicable by Notice

Surveyor may direct that defects be made good

223. (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 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 good condition, or that the deck lines or load lines are not being properly maintained, or that the master and crew cannot demonstrate the related competency at their place or places of duty, 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.

[Subs (1) substituted by s 27, Act 13/1965, s 14, Act 18/1992 and by s 25, Act 57/1998]

(2) A copy of every notice so given shall be transmitted by the surveyor to the proper officer and the vessel shall be detained, until a certificate under the hand of a surveyor is produced stating that the deficiencies or defects have been supplied or made good.

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

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

[S 224 substituted by s 19, Act 42/1969]

Printed notices and diagrams as to location of lifeboats, etc

225. (1) The master of every passenger ship **operating on inland waters** shall cause ample provision to be made, to the satisfaction of a surveyor, by printed notices, and by diagrams where necessary, to enable the passengers to ascertain the position of lifeboats, life-jackets and other life-saving appliances, fire-buckets, axes and fire-extinguishers. He shall also cause to be kept exhibited in each cabin, and throughout the ship to the satisfaction of a surveyor, notices showing the method of adjusting life-jackets to the body.

[Subs (1) amended by s 41, Act 40/1963]

(2) The master of every passenger ship shall cause to be kept in some conspicuous place accessible to all the passengers a printed copy of this Part.

Information about stability of ship

226. (1) The owner of every **licenced vessel of a class, length or tonnage prescribed by legislation** shall cause to be kept on board the ship such information in writing about the stability of the ship as is necessary for the guidance of the master in loading and ballasting the ship.

[Subs (1) substituted by s 20, Act 42/1969]

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

[Subs (2) substituted by s 20, Act 42/1969]

(3) When any such information is provided concerning any ship, the owner of the ship shall send a copy thereof to the Authority: Provided that the owner shall not be required to send a copy of any information to the Authority if a copy of the same information has been previously sent to him.

(4) **Not Applicable by Notice**

227. Not Applicable by Notice

Compasses to be adjusted

228. (1) The master of every ship shall ensure that the compasses on board that ship are properly adjusted from time to time, in accordance with the regulations.

[Subs (1) amended by s 41, Act 40/1963]

(2) Any person thereto authorized by the Authority may at any time inspect the compasses of any ship referred to in subsection (1) and shall report to the Authority the result of his inspection; and the Authority may upon such report direct that the compasses of the ship shall be adjusted in accordance with the regulations by an adjuster of compasses licensed under the regulations; and the master of the ship shall ensure that such direction is carried out.

Signalling lamps

229. The master or owner of a **vessel of a class, length or tonnage prescribed by regulation shall not cause or permit the vessel to operate on declared inland waters** unless she is provided with a signalling lamp in accordance with the regulations.

230. . . .

[S 230 repealed by s 30, Act 30/1959]

231. Not Applicable by Notice

Signals of distress

232. (1) The master of a vessel **operating on declared inland waters shall not** use or display or cause or permit any person under his authority to use or display;

(a) any signal which by regulation is declared to be a signal of distress, except in the circumstances and for the purpose prescribed; or

(b) **Not Applicable by Notice**

[Subs (1) substituted by s 3, Act 24/1974, and amended by item 18 (Sch 2), Act 58/1998]

(2) Any person convicted of contravening subsection (1) shall be liable, in addition to any penalty imposed under section *three hundred and thirteen*, to pay compensation for any labour undertaken, risk incurred or loss sustained in consequence of the signal used or displayed having been taken to be a signal of distress.

233. Not Applicable by Notice

234. . . .

[S 234 repealed by s 28, Act 94/1996]

Dangerous goods not to be carried

235. (1) No person shall send by or carry in any ship, except in accordance with the prescribed regulations, as cargo or ballast, any dangerous goods.

(2) No person shall send by any ship, or, if he be not the master or owner of a ship carry in that ship, any dangerous goods without distinctly marking, in one of the official languages of the Republic, their nature on the outside of the package containing the same, in accordance with the prescribed regulations, and without giving written notice of the nature of such goods and of the name and address of the sender thereof to the master or owner of a ship at or before the time of sending the same to be taken on board the ship.

(3) The master or owner of any ship may refuse to take on board any package or parcel which he suspects to contain dangerous goods, and may require such package or parcel to be opened to ascertain the fact.

(4) The provisions of this section shall not apply to ships' distress signals, or to the carriage of naval or military stores for the public service under conditions authorized by the Authority.

(5) This section shall apply—

(a) to South African ships wherever they may be; and

(b) to all other ships while they are within any port in the Republic, or are embarking or disembarking passengers within the territorial waters of the Republic, or are loading or discharging cargo or fuel within those waters.

[Para (b) amended by s 42, Act 40/1963]

236. –237 Not Applicable by Notice

Marking of heavy packages or objects

238. No person shall in the Republic consign to be loaded on any ship, and no owner or master of any ship in the Republic, wherever she may be registered, shall cause or permit to be loaded on that ship any package or object of a gross weight of one thousand kilograms or more, unless its weight is plainly and durably marked on the outside of the package or object: Provided that in the case of a package or object of such a character that its exact weight would be difficult to ascertain an approximate weight may be so marked accompanied by the word "APPROXIMATE" or "ONGEVEER" or any reasonable abbreviation thereof.

[S 238 amended by s 9, Act 23/1997]

Report of alteration or damage affecting seaworthiness, efficiency or compliance with regulations

239. (1) If any alteration has been made in, or any damage has been sustained by, a ship so material as to affect her seaworthiness or her efficiency, whether in her hull, equipment or machinery, or her compliance with such of the construction regulations, the life-saving equipment regulations, the radio regulations, the collision regulations, the load line regulations or any other regulations which may have been made, as apply to her, the owner or master shall, as soon as possible, forward a report to the Authority, giving full particulars of the alteration or damage.

[Subs (1) substituted by s 28, Act 13/1965]

(2) If, by reason of the contents of a report made in terms of subsection (1), or for any other reason, the Authority is of the opinion or suspects—

- (a) that a ship is unseaworthy; or
- (b) that the hull, equipment or machinery of a ship is insufficient; or
- (c) that a ship does not comply with such of the regulations referred to in subsection (1) as apply to her,

it may give special directions for the inspection of the ship by a surveyor, notwithstanding the fact that a safety convention certificate, a local safety certificate or a load line certificate is still in force in respect of that ship.

[Subs (2) amended by s 2(2), Act 5/1998]

(3) Any ship in respect of which any such directions as are referred to in subsection (2) have been given may be detained by the proper officer.

(4) If any such directions are not complied with, the Authority may cancel any certificates issued in respect of that ship under this Chapter.

(5) For the purpose of this section the expression "**alteration**" in relation to the hull, equipment or machinery of a ship includes the renewal of any part thereof.

Unseaworthy ships not permitted to leave port

240. No person, including the owner or master, shall cause or permit **a vessel to be operated on inland waters in anseaworthy state.**

[S 240 substituted by s 6, Act 25/1985]

241. Not Applicable by Notice

Sending unseaworthy ship to sea in special circumstances

242. Nothing in sections *two hundred and forty* and *two hundred and forty-one* contained shall subject the owner or master of any ship to any liability, civil or criminal, by reason of the ship being sent or taken to sea in an unseaworthy state, if it be proved—

- (a) that he used all reasonable means to ensure the seaworthiness of the ship; and
- (b) that, owing to special circumstances, the sending or taking of the ship to sea in such an unseaworthy state was reasonable and justifiable.

Unseaworthy ships to be detained

243. If on complaint made to him in accordance with the provisions hereinafter contained, or without any complaint, a proper officer has reason to believe that a ship at any port in the Republic is unseaworthy, he shall, whether or not she is registered in the Republic, detain her until he is satisfied that she is in a seaworthy state.

Ships may be inspected

244. (1) If any ship is detained in terms of section *two hundred and forty-three*, the proper officer may, before releasing it, require those defects or deficiencies which are believed or alleged to exist to be inspected by a surveyor.

(2) The surveyor who makes the inspection under this section, shall report fully to the proper officer who detained the ship on such supposed or alleged defects or deficiencies.

(3) The proper officer shall transmit a copy of the surveyors' report to the Authority and to the master of the ship.

Complaint as to seaworthiness to be in writing

245. Every complaint in respect of the seaworthiness of a ship shall be in writing, stating the name and address of the complainant, and if the ship be detained, a copy of the complaint, including the name and address of the complainant, shall be served on the master of the ship together with the notice of detention issued under section *three hundred and thirty-five*.

Complainant as to unseaworthiness may be required to give security

246. Before a ship is detained by a proper officer under the provisions of section *two hundred and forty-three* in consequence of a complaint, he shall assure himself by all means at his disposal that the complaint is not vexatious, frivolous or unreasonable, and if he thinks fit so to do, he may, except where the complaint is made by three or more of the members of the crew of the ship, require the complainant to give security to his satisfaction for the

expenses of the inspection and any loss which may be sustained by the owner on account of the detention of the ship.

Complainant to pay costs if not successful

247. (1) If, on inspection, it is determined that any ship detained under the provisions of section 243 was not an unseaworthy ship, the expenses incurred in connection with the inspection shall be paid to the Authority by the person making the complaint, and if it be proved that there was not reasonable cause, by reason of the condition of the ship or the act or default of the owner or master, for the detention of the ship, the Authority shall pay to the owner compensation for any damage suffered by him by reason of the detention.

[Subs (1) substituted by s 2(2), Act 5/1998]

(2) The provisions of this section in respect of payment of the cost of the inspection shall not have effect where the complaint is made by members of the crew of the ship complained of, unless, in the opinion of the Authority, such complaint was frivolous or vexatious.

Expenses to be paid by owner if complaint founded

248. If, on inspection, it is found that any complaint in respect of a ship detained under section *two hundred and forty-three* was well-founded, all expenses incurred in connection with the inspection shall be paid by the owner, and the ship shall not be released until they are paid.

249. –253. Not Applicable by Notice

Admissibility in evidence of safety and load line certificates and surveyors' reports

254. Every safety convention certificate, local safety certificate, and load line certificate and every report made by a surveyor in terms of any provision of this Act shall be admissible in evidence.

Part IV—Collisions, accidents at sea, and limitation of liability

255. –257. Not Applicable by Notice

258. . . . [S 258 repealed by s 28, Act 94/1996]

Report to proper officer of accidents to and on board ships

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
- (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) **Not Applicable by Notice**
- (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 event occurred, report the event to the nearest proper officer in the form prescribed, stating the nature of the event and of the probable cause 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.

(1A) **Not Applicable by Notice**

[Subs (1A) inserted by s 10(a), Act 23/1997]

(2)(3)(4) **Not Applicable by Notice**

[Para (b) added by s 10(c), Act 23/1997]

(5) No person shall disturb or remove anything from the scene of an accident required to be reported in terms of this section unless permitted by the proper officer, or if a person has been appointed under section 264 to hold a preliminary enquiry into the accident, by that person.

[Subs (5) added by s 10(d), Act 23/1997]

[S 259 amended by s 21, Act 42/1969; substituted by s 15, Act 18/1992; and amended by s 10, Act 23/1997, and item 19 (Sch 2), Act 58/1998]

260. - 262 Not Applicable by Notice

Application of this Part to persons other than the owners

263. (1) Any obligation imposed by this Part upon any owner of a ship shall be imposed also upon any person (other than the owner) who is responsible for the fault of the ship; and in any case where, by virtue of any charter or lease, or for any other reason, the owner is not responsible for the navigation and management of the ship, this Part shall be construed to impose any such obligation upon the charterer or other person for the time being so responsible, and not upon the owner.

(2) **Not Applicable by Notice.**

[Subs (2) added by s 8, Act 3/1981]

CHAPTER VI

SPECIAL SHIPPING ENQUIRIES AND COURTS OF ENQUIRY AND COURTS OF SURVEY

Preliminary enquiry into shipping casualties

264. (1) The Authority may in its discretion appoint any competent person to hold a preliminary enquiry—

- (a) in the case of a ship **operating on declared inland waters**, whenever—
- (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
 - (cc) loss of life or serious injury to any person on board such ship has occurred;
- at any place whatsoever;

[Para (a) amended by item 20 (Sch 2), Act 58/1998]

(b)(c)(d) **Not Applicable by Notice**

[Subs (1) amended by s 2(2), Act 5/1998]

(2) The Authority may request the Director-General of Labour to assign a person designated as an inspector under section 28 of the Occupational Health and Safety Act 85 of 1993 to assist a person appointed under subsection (1) to hold a preliminary enquiry.

[Subs (2) substituted by s 12(a), Act 23/1997, and by s 2(2), Act 5/1998]

(3) A ship referred to in subsection (1)(a), on board of which loss of life or serious injury to any person has occurred may be detained for purposes in relation to the holding of a preliminary enquiry thereunder.

[Subs (3) added by s 12(b), Act 23/1997]

[S 264 amended by s 52, Act 69/1962, and s 47, Act 40/1963; substituted by s 22, Act 42/1969, and s 16, Act 18/1992; and amended by s 12, Act 23/1997, s 2, Act 5/1998, and item 20 (Sch 2), Act 58/1998]

Report to Authority by person who has held preliminary enquiry

265. (1) Upon the conclusion of an enquiry by a person appointed in terms of section *two hundred and sixty-four* he shall without delay transmit to the Authority a report containing a full statement of the case, and of his opinion thereon, accompanied by such report of or extracts from the evidence and such observations as he thinks fit.

(2) . . .

[Subs (2) added by s 17, Act 18/1992, amended by s 5, Act 16/1995, and deleted by s 13, Act 23/1997]

Convening of court of marine enquiry in the Republic

266. (1) The Minister may, in his discretion, and whether or not a preliminary enquiry has been made under section *two hundred and sixty-four*, convene a court (hereinafter referred to as a court of marine enquiry) to hold a formal investigation into any such allegation or event as is referred to in that section.

(2) **Not Applicable by Notice**

[Subs (2) amended by s 53, Act 69/1962, and by s 48, Act 40/1963, and substituted by s 18, Act 18/1992]

Constitution of court of marine enquiry

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

[Subs (1) substituted by s 9, Act 3/1981]

(2) The members of the court shall be appointed by the Minister, and all members other than the presiding officer shall be persons of suitable nautical, engineering or other special skill, knowledge or experience, and, whenever possible, at least one member shall be in active sea-going service.

(3) The members of the court other than the presiding officer shall be selected from a list of persons approved by the Minister from time to time in accordance with the regulations: Provided that the Minister may appoint as a member of the court a person whose name does not appear on the said list, if it appears to him expedient to do so by reason of the special nature of the investigation.

(4) If by death, resignation or any other cause the number of members of the court is reduced, the remaining members shall, if they consist of the presiding officer and at least one other member, constitute the court.

(5) If the court, as originally constituted or as reduced for any reason referred to in subsection (4), consists of the presiding officer and two other members, the presiding officer and one other member shall form a quorum; and if it consists of the presiding officer and more than two other members, the presiding officer and two other members shall form a quorum.

How decisions of court of marine enquiry are reached and announced

268. (1) Any matter of law arising for decision at any investigation held by a court of marine enquiry, and any question arising thereat as to whether a matter for decision is a matter of fact or a matter of law, shall be decided by the presiding officer, and no other member shall have a voice in any such decision.

(2) The presiding officer may adjourn the argument upon any such matter or question as is mentioned in subsection (1), and may sit alone for the hearing of such argument and the decision of such matter or question.

(3) Whenever the presiding officer gives a decision in terms of subsection (1), he shall give his reasons for that decision.

(4) Upon all matters of fact the decision of the majority of the members of the court shall be the decision of the court.

(5) The decision of the court upon any matter in terms of subsection (4) shall be declared by one of the members concurring in that decision, and the reasons therefor shall be stated by at least one such member. Any member who dissents from the decision of the court may declare his dissent and his reasons therefor.

(6) If for any reason a majority of the members of the court (of, if the court consists of only two members, both members) are not agreed upon any matter of fact upon which a decision is necessary in order that the investigation may be completed, the presiding officer shall report that fact to the Authority, and thereupon the Minister may refer the matter back to the court for reconsideration or may discharge the members of the court and, if he thinks

fit, appoint another court of marine enquiry to hold the formal investigation.

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 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 or member of the crew, it may, subject to the provisions of section 283, cancel the certificate of competency or service of the master or member of the crew or suspend it for a stated period or, whether or not the master or 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) **Not Applicable by Notice.**

[Subs (2) substituted by item 21 (Sch 2), Act 58/1998]

[S 269 amended by s 49, Act 40/1963; substituted by s 23, Act 42/1969; amended by s 4, Act 24/1974; substituted by s 19, Act 18/1992; and amended by item 21 (Sch 2), Act 58/1998]

270. –278. Not Applicable by Notice

Interested persons not to serve on courts of marine enquiry, maritime courts or courts of survey

279. (1) No person who is connected, directly or indirectly, with the ship which forms the subject of investigation by a court of maritime enquiry or a maritime court, or which forms the subject of an appeal to a court of survey, or on board which the casualty or occurrence or conduct to be investigated by a court of marine enquiry or a maritime court took place, or with the owners of that ship, shall be appointed as a member of that court or under section *two hundred and eighty-two*.

(2) Nothing in subsection (1) contained shall prohibit the appointment as a member of a court of marine enquiry or a maritime court or a court of survey or under section *two hundred and eighty-two* of any person who is in the employ of or entitled to receive a pension from the Government of the Republic, merely on the ground that the said Government is the owner of the ship referred to in subsection (1).

[Subs (2) amended by s 50, Act 40/1963]

Procedure at court of marine enquiry or maritime court or court of survey

280. (1) A court of marine enquiry, a maritime court or a court of survey, or an expert or experts to whom an appeal has been referred under section *two hundred and eighty-two* may, subject to the provisions of this Act, determine the procedure to be followed at the investigation or the hearing of the appeal.

(2) Every such investigation shall, unless the court decide otherwise, be held in open court, and the hearing of every such appeal shall be held in open court; and the decision or finding shall, at the conclusion of the investigation or hearing, or as soon afterwards as

possible, be delivered in open court.

281. -282. Not Applicable by Notice

Opportunity of making a defence

283. (1) If at an investigation by a court of marine enquiry or a maritime court it is alleged or suggested that the conduct of any person has amounted to a punishable act or omission, that person shall be given a reasonable opportunity for making a defence.

(2) 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

[Para (a) substituted by s 25(b), Act 42/1969, and by s 20, Act 18/1992]

(b) unless copies of any written depositions or reports upon which such decision is based have been furnished to him and a copy of the charges laid against him has been served upon him in the manner prescribed, at least forty-eight hours before he is called upon to make his defence, and if after a copy of a charge laid against him has been served upon him the charge is amended, he has been given a reasonable opportunity of making a defence to the amended charge.

[Subs (2) amended by s 25(a), Act 42/1969, and by s 20, Act 18/1992]

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

[Subs (3) substituted by s 25(c), Act 42/1969]

Court may require delivery of certificate during course of investigation

284. A court of marine enquiry may at any time during the progress of the investigation order any master or member of the crew affected by the investigation, and a maritime 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.

[S 284 substituted by s 21, Act 18/1992]

Witnesses to be allowed expenses

285. Every witness summoned by a person appointed under section *two hundred and sixty-four* to make a preliminary enquiry or by a court of marine enquiry, a maritime court or a court of survey or an expert or experts to whom an appeal has been referred upon section *two hundred and eighty-two* shall be paid such expenses as would be allowed to any

witness attending or subpoenaed to give evidence in a civil case before a magistrate's court.

Transmission to Authority of record and decision of court of marine enquiry, maritime court, or court of survey

286. (1) The presiding officer of a court of marine enquiry, maritime court of court of survey or body of experts to whom an appeal has been referred under section *two hundred and eighty-two*, or, if an appeal has been referred to only one expert that expert shall, at the conclusion of the investigation or hearing transmit to the Authority the notes of evidence and as many copies as the Authority may require of the record of the proceedings and the report and decisions; and any member of the court or any one of the experts who dissents from any decision may attach to the record his written reasons for so dissenting, and the presiding officer shall transmit such written reasons with the record.

(2) When the investigation affects a master or member of the crew of a ship other than a South African ship the Authority 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.

[Subs (2) substituted by s 22, Act 18/1992]

Effect of cancellation or suspension of certificate or prohibition of employment

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

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

[Subpara (ii) substituted by item 22 (Sch 2), Act 58/1998]

[S 287 substituted by s 26, Act 42/1969, and amended by item 22 (Sch 2), Act 58/1998]

Delivery of Republic certificate which has been cancelled or suspended

288. A master or 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 Authority or a court of marine enquiry or suspended by a maritime court, deliver his certificate to the court on demand, or if it is not demanded by the court, to the Authority.

[S 288 substituted by s 23, Act 18/1992, and by s 2(2), Act 5/1998]

Certificate not be endorsed

289. If the certificate of a master or member of the crew is suspended by the Authority or a court of marine enquiry or a maritime court, or if the employment of a master or 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 Authority 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 member of the crew.

[S 289 substituted by s 27, Act 42/1969, and by s 24, Act 18/1992]

Powers of Minister in respect of cancelled or suspended certificates

290. The Minister may, if he thinks the justice of the case requires it—

- (a) set aside the suspension of a certificate suspended by a court of marine enquiry or a maritime court, or shorten or lengthen the period of suspension of, or cancel, a certificate so suspended; or
- (b) grant a new certificate of the same grade or any lower grade in the place of a certificate cancelled by any such court or grant a new certificate of any lower grade in the place of a certificate suspended by any such court, if the certificate was issued in the Republic, or return any certificate so cancelled or suspended, if it was issued elsewhere than in the Republic; or

[Para (b) substituted by s 28(a), Act 42/1969]

- (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.

[Para (c) added by s 28(b), Act 42/1969, and substituted by s 25, Act 18/1992]

Rehearing

291. (1) Whenever an investigation has been held by a court of marine enquiry or a maritime court, the Minister may order the case to be reheard, either generally or as to any part thereof, and shall so order—

- (a) if new and important evidence which could not be produced at the investigation has been discovered; or
- (b) if for any other reason there has been in his opinion ground for suspicion that a miscarriage of justice has occurred.

(2) The Minister may order the case to be reheard by the court of marine enquiry or the maritime court, as the case may be, consisting (if such is practicable) of the same members who, or other members than, constituted the court when it held the investigation in the first instance; and may, if the investigation was held by a maritime court, order the case to be reheard by a court of marine enquiry.

Appeals against decisions of courts of marine enquiry and maritime courts

292. (1) Any person aggrieved by any decision of a court of marine enquiry or a maritime court may appeal to the High Court within the area of jurisdiction of which—

- (a) in the case of a court of marine enquiry, the court was held; or
- (b) in the case of a maritime court, the ship which formed the subject of investigation, or on board which the casualty or occurrence investigated by the court took place, is registered.

(2) An appeal to a High Court shall, if the appeal is made merely on a point of law, be heard by a judge of that court, and in every other case by a judge of that court assisted by at least one assessor acting in an advisory capacity, who shall be a person of suitable nautical, engineering or other special skill, knowledge or experience summoned by the judge for the purpose.

(3) The court to which the appeal is made may confirm or quash or vary the decision appealed from, or remit the case for rehearing either generally or as to any part thereof by the court from whose decision the appeal is brought, consisting (if such is practicable) of the same members who, or other members than, constituted that court when it held the investigation in the first instance.

(4) An appeal under this section shall be made in the manner and subject to the conditions and in accordance with the provisions laid down in the regulations.

CHAPTER VII WRECKS AND SALVAGE

293 to 306 inclusive . . .

[Ss 293 to 306 inclusive repealed by s 28, Act 94/1996]

CHAPTER VIII CARRIAGE OF GOODS BY SEA

307 to 311 inclusive . . .

[Ss 307 to 311 inclusive repealed by s 5, Act 1/1986]

CHAPTER IX OFFENCES, PENAL PROVISIONS AND LEGAL PROCEDURE

Offences not expressly mentioned

312. Any person who contravenes any provision of this Act or who fails to comply with any provision thereof with which it was his duty to comply shall be guilty of an offence.

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

(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:

Column 1	Column 2
<i>Contravening or failing to comply with the following provisions</i>	<i>Penalty</i>
Section 201	Fine, or imprisonment for a period not exceeding three months, and, in addition, for every passenger in excess of the number permitted by the certificate or memorandum, a fine of double the highest fare payable by any passenger on board.
Section 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)	Fine, or imprisonment for a period not exceeding six months.
Section 32(2)	Fine, or imprisonment for a period not exceeding six months, and, in addition, a fine not exceeding R100 for every day during which the offence continues after conviction.
Section 73(1), 174(2)(d), (f) or (g), 200(1)(a) or (b), 212(a), 219(a)(i) or (b), 221(1), 235(1) or (2), 236(1), 237(1) or (2), 316(a), (b), (e), (f), (g) or (h) or 320	Fine, or imprisonment for a period not exceeding one year.

Column 1	Column 2
<i>Contravening or failing to comply with the following provisions</i>	<i>Penalty</i>
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, or imprisonment for a period not exceeding two years.
Section 214(1)	Fine, or imprisonment for a period not exceeding two years, and in addition, a fine of 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.
Section 240	For vessels of less than 25 gross tons, a fine, or imprisonment for a period not exceeding six months. 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. 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. 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. For vessels of over 1 000 gross tons, a fine, or imprisonment for a period not exceeding four years.
Section 259(1)(c)	Fine, or imprisonment for a period not exceeding three years.
Section 316(d)	Fine, of treble the value of the ship or goods received or had in possession, or R12 000, whichever is the greater, or imprisonment for a period not exceeding three years.

(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, or imprisonment for a period not exceeding two years.

[S 313 substituted by s 10, Act 5/1976, and by s 27, Act 18/1992]

Bribery

314. No person shall, in respect of a matter relating to this Act—

- (a) not being authorized so to do, give or promise to give, directly or indirectly, any reward to an officer or a person who is employed by the Government, or upon whom any duty is imposed or to whom any function is entrusted by or under this Act, in respect of the performance or non-performance, by any such officer or person, of his employment, duty or function; or
- (b) agree with or propose to any such officer or person to do, or permit anything in contravention or evasion of this Act; or
- (c) being an officer or a person referred to in paragraph (a)—

- (i) demand or receive except from or through the Government or in accordance with the provisions of this Act, any reward in respect of the performance or non-performance of his employment, duty or function; or
- (ii) by any wilful act, neglect or default do or permit or agree to do or permit anything in contravention or evasion of this Act.

Forgery and other fraudulent acts

315. No person shall—

- (a) forge any document issued under this Act; or
- (b) make any false representation for the purpose of procuring the issue of any document under this Act, or for the purpose of inducing any person to do any act which by this Act he is authorized to do; or
- (c) produce or otherwise put off any forged document purporting to be a document issued under this Act, which he knows to be forged; or
- (d) knowingly produce or otherwise use any document issued under this Act which has been cancelled or suspended or which has expired or to which he is not entitled; or
- (e) make in any document, produced or delivered to any person authorized to receive it under this Act, any statement which he knows is untrue in any particular; or
- (f) produce or deliver any document which contains any statement which he knows is untrue in any particular to any person authorized to receive it under this Act; or
- (g) lend to any person who he knows is not entitled thereto a document issued under this Act or allow any such document to be used by any such person.

Obstructing administration of Act

316. No person shall—

- (a) damage, destroy, conceal or dispose of any vessel or goods to prevent the detention, forfeiture or seizure thereof under this Act; or
- (b) rescue, damage or destroy any vessel or goods detained, forfeited or seized under this Act; or
- (c) being the owner or master of a vessel which has been detained under this Act, or any other person under the control of either of them, cause or permit the vessel to proceed to sea without the permission of the proper officer; or
- (d) knowingly receive or have in his possession any vessel or goods forfeited under this Act; or
- (e) being the master of a vessel proceeding to sea, wrongfully take to sea any officer authorized to detain the vessel or any surveyor or other officer when on board the vessel in the execution of his duty; or
- (f) insult, resist, hinder or mislead any person or court upon whom any duty is imposed or any power is conferred or to whom any function is entrusted by or under this Act, in the discharge of that duty or the exercise of that power or the performance of that

function, or refuse or fail to give all reasonable assistance, when called upon to do so, to any such person or court in such discharge, exercise or performance, or hinder or prevent any other person from assisting any such person or court in such discharge, exercise or performance; or

- (g) hinder or prevent any witness from attending in obedience to any summons issued under this Act; or
- (h) hinder or prevent the service of any document under this Act.

317. -318. Not Applicable by Notice

Offences in connection with passenger ships

319. (1) No person shall—

- (a) if, on account of his being drunk or disorderly, he has been refused admission to a passenger ship by the owner thereof or any person in his employ, and if he has received or been tendered a refund of his fare (if he has paid it), go on board the ship; or
- (b) if, on account of his being drunk or disorderly on board any passenger ship, he has been requested by the master or any other person employed in the ship to leave the ship at any place in the Republic at which he can conveniently do so, and if he has received or been tendered a refund of his fare (if he has paid it), refuse or fail to comply with the request; or
- (c) after warning by the master of or any other person employed in a passenger ship, molest or continue to molest any passenger on the ship; or
- (d) after having been refused admission to a passenger ship by the owner thereof or any person in his employ on account of the ship being full, and having received or been tendered a refund of his fare (if he has paid it), go on board the ship; or
- (e) if, having gone on board a passenger ship at any place in the Republic, he has been requested, on account of the ship being full, by the master of or any other person employed in the ship to quit the ship, before it has left that place, and has received or been tendered a refund of his fare (if he has paid it), refuse or fail to comply with the request; or
- (f) travel in any passenger ship without first paying his fare, and with intent to evade payment thereof; or
- (g) if he has paid his fare for a certain distance, knowingly proceed in a passenger ship beyond that distance without first paying the additional fare for the additional distance, and with intent to evade payment thereof; or
- (h) if he has arrived in a passenger ship at a place to which he has paid his fare, knowingly refuse or fail to quit the ship; or
- (i) being on board a passenger ship, and being requested by the master of or any other person employed in the ship, either to pay his fare or exhibit his ticket or other document showing payment of his fare, refuse or fail to comply with the request; or
- (j) being on board a passenger ship, and being requested by the master or any other person employed in the ship to furnish his name and address, refuse or fail to comply with the request or furnish a false name or address.

(2) **Not Applicable by Notice**

Obstruction of navigation of ship

320. No person shall without reasonable excuse do anything to obstruct or injure any of the equipment of any ship wherever registered, or obstruct, impede or molest any of the crew in the navigation and management of the ship or otherwise in the execution of their duties about the ship.

321. – 323. Not Applicable by Notice

Authority may impose penalty upon admission of guilt

324. (1) If any person—

- (a) admits to the Authority that he has contravened any provision of this Act, or that he has failed to comply with any such provision with which it was his duty to comply; and
- (b) agrees to abide by the decision of the Authority; and
- (c) deposits with the Authority such sum as may be required of him, but not exceeding the maximum fine which may be imposed upon a conviction for the contravention or failure in question,

the Authority may, after such enquiry as it deems necessary, determine the matter summarily and may, without legal proceedings, order by way of penalty the whole or any part of the said deposit to be forfeited.

[Subs (1) substituted by s 2(2), Act 5/1998]

(2) There shall be a right of appeal to the Minister from a determination or order by the Authority under subsection (1) whereby a penalty exceeding R2 000 is imposed, provided such right is exercised within a period of three months from the date of such determination or order.

[Subs (2) substituted by s 6, Act 16/1995, by s 6, Act 88/1996, and by s 2(2), Act 5/1998]

(3) The imposition of a penalty under subsection (1) shall not be deemed to be a conviction of a criminal offence, but no prosecution for the relative offence shall thereafter be competent.

(4) Nothing in this section shall in any way affect liability to forfeiture of ships, shares therein or goods.

Release from forfeiture or mitigation of penalties

325. The Authority may—

- (a) direct that any ship or any share in a ship or any goods detained, seized or forfeited under this Act be released or delivered to the owner thereof; or
- (b) mitigate or remit any penalty incurred under this Act, not being a sentence imposed after conviction by a court of law,

on such conditions as to it appear proper: Provided that if the owner of any ship, share or goods referred to in paragraph (a) accepts such conditions he shall not thereafter be entitled to institute or maintain any action or other proceedings for damages on account of the detention, seizure or forfeiture.

326. -327. Not Applicable by Notice

Jurisdiction of magistrates' courts to impose punishment

328. Notwithstanding anything to the contrary contained in any other law, a magistrate's court shall have jurisdiction to impose any punishment prescribed by this Act: Provided that this section shall not apply in respect of any compensation referred to in subsection (2) of section *two hundred and thirty-two* or to any forfeiture under section *three hundred and thirty-four*.

329. . . .

[S 329 repealed by s 16(1), Act 105/1983]

330 and 331 . . .

[Ss 330 and 331 repealed by s 28, Act 94/1996]

332. . . .

[S 332 repealed by s 16(1), Act 105/1983]

333. Not Applicable by Notice

Forfeiture of ships, shares in ships and goods

334. All ships, shares or interests in ships of goods which are dealt with contrary to the provisions of this Act, or by means of which any offence under this Act is committed, or in connection with which or concerning which any false statement is made or any forged document or any document containing any false statement is produced or used for any purpose of this Act, or in connection with which an offence is committed under subsection (2) of section *eleven*, section *twenty-five*, subsection (3) of section *sixty-five*, section *sixty-six*, section *sixty-seven*, section *two hundred and forty* or paragraph (c) of section *three hundred and sixteen*, read with section *three hundred and twelve*, shall be liable for forfeiture.

Method of detaining a vessel or a share in a ship or goods

335. (1) A proper officer may cause a vessel or share in a ship or any goods which by this Act is declared to be liable to detention, to be detained.

[Subs (1) substituted by s 14, Act 23/1997]

(2) The detention shall be effected by the service of a notice of detention in accordance with the provisions of this section.

(3) A notice of detention shall be in the prescribed form, shall be signed by the proper officer, shall declare that the vessel or share or goods are thereby detained, and shall set forth the grounds of detention.

(4) A notice of detention of a vessel or share in a ship shall be served upon the master of the vessel, and a notice of detention of goods shall be served upon the person in whose physical possession they are, and thereupon the vessel or share or goods shall be deemed to be detained for the purposes of this Act.

(5) A copy of every notice of detention shall forthwith be transmitted by the officer who issued it to the Authority.

(6) Whenever the Authority directs the proper officer to release a detained vessel or share in a ship or any detained goods, the proper officer shall issue a notice declaring that that vessel or share or those goods are released.

(7) A notice of release shall be in the prescribed form and shall be signed by the proper officer.

(8) A notice of release of a vessel or a share in a ship shall be served upon the master of the vessel, and a notice of release of goods shall be served upon the person in whose possession they are, and thereupon the vessel or share or goods shall be deemed to be released.

Procedure in forfeiture of a ship, a share in a ship or goods

336. (1) Whenever under subsection (2) of section *twelve*, subsection (9) of section *forty-three* or section *three hundred and thirty-four* a ship or a share in a ship is or any goods are liable to forfeiture, the Authority may direct the proper officer to issue a notice of forfeiture of that ship or share or those goods in pursuance of that provision.

(2) A notice of forfeiture shall—

- (a) be in the prescribed form;
- (b) be signed by the proper officer;
- (c) set forth the grounds on which, and refer to the provisions of this Act under which, the forfeiture is claimed; and
- (d) state that unless the ship or share is or the goods are released in accordance with the provisions of subsection (8) or under an order of court, the ship, share or goods will be forfeited;
- (e) be served, in the case of a ship or share in a ship, upon the master of the ship, and, in the case of goods, upon the owner or if he is not within the Republic or his address is not known, upon the person in whose physical possession they are.

(3) The owner or any other person interested in any ship, share in a ship or goods in respect of which a notice of forfeiture has been issued, who objects to the forfeiture thereof, shall, within the period of thirty days from the date upon which the notice of forfeiture was served, or within such further period as may be fixed by the court under subsection (7), give notice in writing to the Authority or to the proper officer who issued the notice, that he claims the release of the ship, share or goods, as the case may be.

(4) If notice is not given by the owner or interested person in terms of subsection (3), no legal proceedings shall thereafter be instituted by him against the State, the Minister, the Authority, the Authority or any other officer for the release of the ship, share or goods or based merely upon the detention, seizure or forfeiture thereof.

[Subs (4) substituted by s 2(2), Act 5/1998]

(5) When notice has been given in terms of subsection (3), the person giving such notice may, within the period of ninety days from the date on which it was delivered to the Authority, or within such further period as may be fixed by the court under subsection (7), but not earlier than thirty days from the date upon which the said notice was so delivered, institute proceedings in a court of competent jurisdiction for the release of the ship, share or goods.

(6) If—

- (a) notice is not given in terms of subsection (3); or
- (b) such notice having been given, proceedings are not instituted in terms of subsection (5); or
- (c) such proceedings having been instituted, the court dismisses the claim for release, the ship, share or goods shall be forfeited and become the property of the State—

- (i) upon expiry of the period of thirty days from the date upon which the notice of forfeiture was served, or upon expiry of such further period as may be fixed by the court under subsection (7); or

- (ii) upon expiry of the period of ninety days from the said date, or upon expiry of such further period as may be fixed by the court under subsection (7); or

- (iii) upon dismissal by the court of the claim for release, respectively.

(7) A court having jurisdiction to try a claim for the release of the ship, share or goods, may, before or after the expiry of the period referred to in subsection (3) or (5), extend such period, if it thinks that the interests of justice so require.

(8) The Authority may at any time before the forfeiture has become effective in terms of subsection (6) direct that a notice of forfeiture be withdrawn, and thereupon the provisions of subsections (6), (7) and (8) of section *three hundred and thirty-five* shall, *mutatis mutandis*, apply.

Seizure of a ship, a share in a ship or goods detained or liable to forfeiture

337. (1) The Authority or proper officer may, if it or he deems it expedient to do so, in order that any ship, share in a ship or goods in respect of which a notice of detention or of forfeiture has been served in terms of section 335 or 336, or in respect of which it is intended to cause such a notice to be so served, may be secured against damage, destruction, concealment, removal or rescue, cause that ship or share or those goods, as the case may be, to be seized by a person thereto authorized for the purpose.

[Subs (1) substituted by s 2(2), Act 5/1998]

(2) The seizure of a ship or goods shall be effected by the physical taking possession thereof, and the seizure of a share in a ship shall be effected by the physical taking possession of that ship.

(3) The person effecting seizure of any ship, share in a ship or goods shall, upon demand, exhibit his written authority to do so, and, if at the time of seizure a notice of detention or forfeiture has not yet been served, shall serve upon the person in whose

possession the ship or goods are seized a notice setting forth that it is intended to cause a notice of detention or forfeiture to be served and the grounds on which that intention is based.

No clearance to be granted to detained ship

338. Whenever in terms of this Act a ship must be or has been detained an officer of customs shall, and whenever in terms of this Act a ship may be detained an officer of customs may, refuse to grant a clearance to that ship.

339. – 341. Not Applicable by Notice

Service of documents

342. Where for the purposes of this Act any document is to be served on any person, that document may be served—

- (a) in any case by delivering a copy thereof personally to the person on whom the document is to be served; or by sending such copy to him, in accordance with the regulations, by registered post, enclosed in an envelope upon which is written his name and address; or by leaving such copy for him with a member of his household at his dwelling; or, if no person belonging to his household can be found there, then by affixing such copy to the principal outer door of the said dwelling or of any place where he actually resides or was last known to reside; or
- (b) if the document is to be served on the master of a ship or on a person belonging to a ship, by leaving a copy thereof for him on board that ship with the person being or appearing to be in command or charge of the ship; and
- (c) if the document is to be served on the master of a ship, and there is no master, and the ship is within the Republic or the territorial waters thereof, by serving it on the owner of the ship, if he is within the Republic, or on an agent of the owner residing in the Republic, or if no such agent is known or can be found, by affixing a copy thereof to the mast of the ship.

343. . . .

[S 343 repealed by s 2(1), Act 40/2002]

Indemnification of State and Authority and certain persons in employ of State and Authority

343bis. Notwithstanding anything to the contrary in any law contained, the State and the Authority and their officers and employees acting in the performance of their duties shall not be liable for—

- (a) any loss or damage caused by the death of, or injury to, any person while conveyed in any vessel owned, operated or chartered by the State through its Department of Transport or by the Authority, or while entering or embarking upon or being in such vessel for the purpose of being conveyed in it, or while being in or alighting from such

vessel after having been conveyed in it, if that person was so conveyed or to be so conveyed otherwise than in the performance of his duties as an officer or employee of the State or the Authority and otherwise than for reward; or

- (b) any loss of or damage to any goods conveyed in such a vessel otherwise than in the interests of the State or the Authority and otherwise than for reward.

[S 343bis inserted by s 29, Act 13/1965, and substituted by s 2(2), Act 5/1998]

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.

[S 343ter inserted by s 29, Act 18/1992]

344. Not Applicable by Notice

345. Any person appointed under section *two hundred and sixty-four*, any member of a court of marine enquiry, maritime court or court of survey, any expert to whom an appeal has been referred under section *two hundred and eighty two* or any assessors summoned under subsection (2) of section *two hundred and ninety two* shall, if he or she is in the employ of the Government of the Republic, be paid such allowances towards subsistence and transport as may be prescribed (otherwise than under this Act) for Government employees of his or her class, and if he or she is not in the employ of the Government of the Republic, or if no such allowances have been prescribed for Government employees of his or her class, he or she shall be paid such allowances towards subsistence and transport as may be prescribed by the regulations made under this Act.

[S 345 amended by s 57, Act 40/1963, and substituted by s 30, Act 94/1996]

Presumption of knowledge

346. Whenever at the trial of any person charged under this Act the question arises whether the accused knew at any particular time that a statement referred to in the indictment, summons or charge was untrue, and it is proved or admitted that that statement was untrue, the accused shall be presumed to have known at the particular time referred to that the statement was untrue, unless the contrary is proved, and unless it is proved also that his ignorance was not due to negligence on his part.

Presumption in case of collision

347. If any damage to person or property arises from the non-observance by any ship of any of the collision regulations, the damage shall be deemed to have been caused by the wilful default of the person in charge of the deck of the ship at the time, unless it is proved that the circumstances of the case made a departure from the regulations necessary.

Mode of making declaration

348. Declarations required by this Act shall be made in the Republic before a proper officer or commissioner of oaths, and outside the Republic before a proper officer or any person who by the law of the place where it is made is authorized to administer an oath, and may be made on behalf of a corporate body by the secretary or any other officer of that body authorized by it for the purpose.

Power to dispense with declarations and other evidence

349. When in terms of this Act any person is required to make a declaration, or any documentary or oral evidence is required to be produced to the proper officer, and it is shown to the satisfaction of that officer that for reasonable cause that person is unable to make the declaration, or that the evidence cannot be produced, the said officer may, with the approval of the Authority and on the production of such other evidence, and subject to such terms as he may think fit, dispense with the declaration or evidence.

Admissibility of documents in evidence

350. (1) Any document which is by this Act declared to be admissible in evidence shall on production from the proper custody be admissible in evidence, and shall be prima facie evidence of the particulars stated therein in pursuance of this Act or in pursuance of any duty under this Act.

(2) A copy of or extract from any such document shall also be admissible in evidence and be prima facie evidence of the particulars stated in such copy or extract, if it purports to be signed and certified as a true copy or extract by the officer to whose custody the original document has been entrusted; and that officer shall, upon payment of the prescribed fee furnish a copy or extract so certified to any person applying for it.

351. – 353. Not Applicable by Notice

CHAPTER X

GENERAL

354. . . .

[S 354 repealed by s 26, Act 57/1998]

355. Not Applicable by Notice

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 343*ter*, 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 343*ter*, 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.

[S 355A inserted by s 31, Act 18/1992]

Regulations

356. (1) The Minister may make regulations—

- (i) for and in connection with, including the approval of, the books, forms and other documents to be used for the convenient and effective carrying out of the provisions of this Act, and of the particulars which shall be contained therein;

[Para (i) substituted by s 15(a), Act 23/1997]

- (ii) prescribing the powers and duties of officers or other persons employed in the administration of this Act;
- (iii) prescribing the services rendered or work done in pursuance of this Act for which fees shall be paid, the amount of such fees, and when and by whom such fees shall be paid;

(iv) . . .

[Para (iv) deleted by item 23(a) (Sch 2), Act 58/1998]

(v) . . .

[Para (v) deleted by item 23(a) (Sch 2), Act 58/1998]

(vi) as to the procedure to be followed in the event of a certificate issued under this Act being mislaid, lost or destroyed;

(vii) . . .

(viii) . . .

[Para (viii) deleted by item 23(a) (Sch 2), Act 58/1998]

(ix) prescribing the manner in which a ship shall be inspected, surveyed and measured for any purpose under this Act, and the particulars and statements which shall be contained in the report or certificate of a surveyor;

(x) prescribing the minimum numbers of the several classes of seamen required to be engaged as part of the crew of a ship;

(xi) prescribing what proportion of any of the several classes of seamen comprising the crew of a South African ship shall be South African citizens;

(xii) prescribing the qualifications which any person employed on board a ship in a particular capacity is required to hold;

(xiii) prescribing—

(a) the scope and conduct of examinations to be passed by a person desiring the grant under this Act of a certificate of competency or qualification as of any description testifying to his ability to perform work or duties of a particular kind on board a ship, and the standards required for passing;

[Subpara (a) substituted by s 27(a), Act 57/1998]

(b) the age and qualifications of the candidates, including the service at sea and other service which they must have performed and the training which they must have undergone;

(c) the fees to be paid by candidates for examination; and

(d) the qualifications of examiners and the conditions under which they are appointed, including the remuneration to be paid to them;

(xiiiA) regulating the recognition of certificates of competency or service granted by other competent authorities;

[Para (xiiiA) inserted by s 27(b), Act 57/1998]

(xiiiB) as to the approval by specified persons of seafarer training institutions and training courses;

[Para (xiiiB) inserted by s 27(b), Act 57/1998]

(xiv) as to the inspection of certificates which in terms of this Act any person employed on board a ship in any particular capacity is required to hold;

(xv) **Not Applicable by Notice**

(xvi) regulating the manner and extent to which a ship shall be manned;

(xvii) as to the medical examination of persons engaged to serve in ships, including the particulars to be contained in medical certificates;

(xviii) **Not Applicable by Notice**

(xix) prescribing the crew accommodation and the accommodation for passengers to

be provided on board a ship;

- (xx)(xxi)(xxii)(xxiii) **Not Applicable by Notice**
- (xxiv) providing for the vaccination against smallpox and the inoculation against yellow fever and typhoid fever of seamen (including masters and apprentice-officers) at the expense of the owner of the ship on which they serve;
- (xxv) prescribing the precautions to be taken in connection with the design and construction of ships and in respect of other matters to prevent the entrance of rats into ships;
- (xxvi) as to the ventilation to be provided when coal is loaded or carried in a ship as cargo or ballast;
- (xxvii) as to the dissemination of information concerning dangers to navigation;
- (xxviii) prescribing what signals are to be regarded as signals of distress, and the circumstances in and the purposes for which such signals are to be used;
- (xxix) as to the examination and licensing of adjusters of compasses;
- (xxx) prescribing the class or quantity of goods which may be carried in ships, and the manner in which such goods may be so carried;
- (xxxi) as to the carriage of ballast and the precautions to be taken to prevent shifting thereof;
- (xxxii) as to the conditions governing the installation, working and use of any anchors, chains, cables, and loading and discharging gear and any other machinery whatsoever on board or in connection with ships, and the strength and quality thereof, and the precautions to be taken to prevent persons being injured thereby or by falling articles;
- (xxxiii) prescribing with what radio and other navigational aids ships must be provided;
- (xxxiv) as to the inspection of equipment on ships;
- (xxxv) prescribing rules to be followed in respect of—
- (a) the convening of courts of marine enquiry, maritime courts and courts of survey;
- (b) the appointment of the members of such courts and of the experts to whom appeals are to be referred under section *two hundred and eighty-two*; and
- (c) the noting and prosecution of appeals from courts of marine enquiry of maritime courts to High Courts,
- and prescribing the procedure to be followed by courts of marine enquiry, maritime courts, courts of survey and experts to whom appeals are referred under section *two hundred and eighty-two*;
- [Para (xxxv) substituted by s 42(b), Act 30/1959]
- (xxxv)*bis* empowering courts of marine enquiry or maritime courts to order the payment of compensation by persons who have made frivolous or unjustified complaints, and empowering such courts, courts of survey or experts to whom appeals have been referred under section *two hundred and eighty-two* to make orders as to costs, including the costs incurred by the State in connection with the convening

of such courts, the appointment of the members of such courts or of the experts and in connection with any investigation made by such courts or experts, and the costs incurred by the parties;

[Para (xxxv)*bis* inserted by s 42(b), Act 30/1959]

(xxxv)*ter* prescribing the scales according to which costs shall be calculated, and providing for the taxation or assessment of costs;

(xxxv)*quat* as to—

- (a) the enforcement of judgements pronounced by High Courts on appeals from courts of marine enquiry or maritime courts; and
- (b) the enforcement of orders for the payment of compensation made by courts of marine enquiry or maritime courts and for the payment of costs made by such courts, courts of survey or experts to whom appeals have been referred under section *two hundred and eighty-two*;

[Para (xxxv)*quat* inserted by s 42(b), Act 30/1959]

(xxxvi) prescribing the standards of seaworthiness to be observed in respect of vessels to which the Safety Convention does not apply, and regarding the marking and inspection of such vessels and the life-saving appliances and first-aid apparatus with which such vessels shall be equipped;

[Para (xxxvi) substituted by s 11(a), Act 5/1976]

(xxxviA) (a) requiring such life-saving appliances to comply with specifications determined by the South African Bureau of Standards mentioned in the Standards Act 29 of 1993;

[Subpara (a) substituted by s 32(a), Act 18/1992, and by s 15(b), Act 23/1997]

(b) determining the circumstances under which such life-saving appliances shall for the purposes of this Act be deemed to comply with such specifications;

[Para (xxxviA) inserted by s 11(b), Act 5/1976]

(xxxvii) **Not Applicable by Notice**

(xxxviii) requiring ships, vessels or other craft which are not by this Act required to comply with any of its provisions, to comply with such of the said provisions as may be specified, subject to such exemptions, restrictions or modifications as may be prescribed;

(xxxix) prescribing the class or classes of ships on which supplies of antiscorbutics, medicines and appliances for the treatment and prevention of diseases and accidents likely to occur **on board** and of first-aid equipment are to be carried;

[Para (xxxix) substituted by s 6(b), Act 24/1974, and by s 11(c), Act 5/1976]

(xl) prescribing scales according to which supplies of antiscorbutics, medicines and appliances for the treatment and prevention of diseases and accidents likely to occur at sea and of first-aid equipment are to be carried on board a ship of a prescribed class;

[Para (xl) added by s 6(b), Act 24/1974, and substituted by s 11(c), Act 5/1976]

(xIA) as to the design, construction, operation, use and maintenance of dynamically supported craft and any other matter which may be reasonably necessary for the safe and orderly operation of such craft;

[Para (xliA) added by s 7(a), Act 16/1995, and substituted by s 15(c), Act 23/1997]

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

[Para (xlii) added by s 6(b), Act 24/1974, and substituted by s 11(c), Act 5/1976, and by s 32(b), Act 18/1992]

- (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;

[Para (xliA) inserted by s 32(b), Act 18/1992]

- (xliB) as to the safety measures to be taken in relation to vessels by employers, employees, owners and users;

[Para (xliB) inserted by s 32(b), Act 18/1992, and substituted by s 15(d), Act 23/1997]

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

[Para (xliC) inserted by s 32(b), Act 18/1992]

- (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 equipment, the application of first-aid and the qualifications which persons applying first-aid shall possess;

[Para (xliD) inserted by s 32, Act 18/1992]

- (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;

[Para (xliE) inserted by s 32(b), Act 18/1992]

- (xliF) as to the appointment and functions of safety officers, safety appointees and safety committees and the election, training and functions of safety representatives;

[Para (xliF) inserted by s 32(b), Act 18/1992]

- (xliG) as to the duties of owners, masters and employers;

(xli)*bis* . . .

- (xlii) prescribing such other matters as are necessary or useful to be prescribed for carrying out the purposes of this Act.

[Para (xlii) added by s 6(b), Act 24/1974]

[Subs (1) amended by s 42(a), Act 30/1959]

(2) The Minister may make such notifications, declarations and regulations as may be reasonably necessary to give effect, subject to such exemptions, restrictions and modifications as may be desirable, to the provisions of—

- (a) the Safety Convention;
- (b) the International Collision Regulations Convention;
- (c) the Load Line Convention;

- (d) the Tonnage Convention; and
- (e) the STCW Convention.

The regulations made under this subsection may include other and more extensive provisions than those contained in the said conventions, provided they relate to the same or similar matters as are dealt with in the said conventions.

[Subs (2) amended by s 42(a), Act 30/1959, by s 19(a) and (c), Act 3/1982, and by ss 2(c) and 7(b), Act 16/1995, and substituted by s 15(e), Act 23/1997]

(3) The Minister may by regulation apply, subject to such exemptions, restrictions and modifications as may be desirable, any of the regulations made under subsection (2), to ships to which and in circumstances in which the provisions of the conventions mentioned in that subsection do not apply.

[Subs (3) amended by s 42(a), Act 30/1959, and by s 59(a), Act 40/1963, and substituted by s 19(d), Act 3/1982, by s 7(d), Act 16/1995, and by s 15(e), Act 23/1997]

(4) (a) Any regulation made under subsection (1) or (2) may make provision in terms of any document which the Minister or any person considers relevant from time to time, without stating the text thereof, by mere reference to the number, title and year of issue of that document or to any other particulars by which that document is sufficiently identified.

(b) References in the regulations to any such document shall, unless expressly stated otherwise, be references to that document as revised or re-issued from time to time.

(c) A copy of the complete text of each such document, as revised or re-issued from time to time, shall be kept at such places in the Republic as the Authority directs and shall be available for public inspection.

(d) The provisions of section 31 of the Standards Act, 1993 (Act No. 29 of 1993), shall not affect the operation of this section.

[Subs (4) deleted by s 59(b), Act 40/1963, and inserted by s 27(c), Act 57/1998]

(5) Any regulations made under subsections (1) and (2) may prescribe penalties for contravention thereof or failure to comply therewith, of a fine, or imprisonment for a period not exceeding one year: Provided that if by any such regulation a penalty is prescribed for any act or omission for which a different penalty is prescribed by section *three hundred and thirteen* or *three hundred and twenty-three*, the provisions of the said sections shall prevail.

[Subs (5) amended by s 19(e), Act 3/1982, and by s 32(c), Act 18/1992]

(6) Different regulations may be made under subsections (1) and (2) in respect of ships falling within different classes or categories or of different tonnage or in respect of ships built before or after a date stated in the regulations.

(7) . . .

[Subs (7) amended by s 42(c), Act 30/1959; deleted by s 19(f), Act 3/1982; added by s 9(b), Act 25/1985; and deleted by item 23(b), Act 58/1998]

Conventions in Schedules to have force of law

356bis. Not Applicable by Notice

356ter* . . .

[S 356ter repealed by s 29(1), Act 57/1998]

356quat . . .**

[S 356quat repealed by s 30(1), Act 57/1998]

Exemption from stamp duty

357. Notwithstanding anything to the contrary in any law in force relating to stamp duty, an affidavit, certificate, receipt or other document required or issued under any provisions of this Act except a bill of lading, shall be exempt from stamp duty.

[S 357 amended by s 61(1)(b), Act 40/1963]

358. N/A

* Section 29(2) of Act 57/1998 provides that, after its commencement, any standard previously incorporated in the regulations in terms of repealed section 356ter is deemed to be a document referred to in section 356(4).

** Section 30(2) of Act 57/1998 provides that, after its commencement, any standard previously incorporated in the regulations in terms of repealed section 356quat is deemed to be a document referred to in section 356(4).