



South African Maritime Safety Authority

Ref: SM6/5/2/1
SM10/4/5

Date: 28 September 2016

Marine Notice No. 33 of 2016

Amendment Act, 2015: Regulated requirements for crew's agreements.

TO ALL PRINCIPAL OFFICERS, SURVEYORS, COMMERCIAL VESSEL OWNERS/OPERATORS, FISHING VESSEL OPERATORS, VESSEL MANAGERS, SKIPPERS AND CREWS.

Summary

This notice advises the affected parties of the requirements for crew's agreements in terms of the amended sections of the *Merchant Shipping Act* as contained in Act no.12 of 2015: *Merchant Shipping Amendment Act, 2015*.

BACKGROUND

The *Merchant Shipping Amendment Act, 2015* amends those sections of the *Merchant Shipping Act, Act 57 Of 1951* pertaining to definitions, workers agreements and conditions of employment to give effect to the *Maritime Labour Convention, 2006* and the *Work in Fishing Convention, 2007*.

The *Merchant Shipping Amendment Act, 2015* was published on 25 October 2015 as Act no. 12 of 2015 and came into operation on that date as proclaimed in Proclamation 35 of 2016, signed by the President of South Africa on 3rd May 2016.

AMENDMENTS: CREW'S AGREEMENTS

- i. 'South African ship' means a ship that is registered or licenced in the Republic.
- ii. *Section 102 (1)* of the principal Act is hereby amended; The master of every South African ship shall enter into an agreement on behalf of the employer (in this Act called the agreement with the crew) with every seafarer whom the master engages to serve in that ship.
- iii. *Section 102 (3)* of the Act is amended; regulating required contents of crew's agreements.
- iv. *Section 102 (5)(b)* of the Act is amended; operators party to a Bargaining Council or Statutory Council agreement that covers conditions of employment and wages, then that agreement will be acceptable.
- v. A new section has been added, *Section 111A*.

(1) (a) Every seafarer employed or engaged on a South African ship is entitled to leave accrued at the rate of at least 2.5 days per month of employment, except in the case of a seafarer employed on board a fishing vessel.

(b) A seafarer employed on board a fishing vessel is entitled to leave as stipulated in an agreement concluded with a registered Bargaining or Statutory Council.

(2) Leave commences when the seafarer arrives at his or her proper return port.

- vi.** *Section 114* of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: (1) When the service of a seafarer belonging to a South African ship terminates without the consent of the said seafarer at a place other than a proper return port, and before the expiration of the period for which the seafarer was engaged, the master or owner of the ship shall, in addition to any other relative obligation imposed on the seafarer by this Act, make adequate provision for the maintenance of the seafarer according to his or her rank or rating, and for the return of that seafarer to a proper return port.

SAMSA will update Local General Safety Survey checklists to reflect the amended requirements. SAMSA has made available a 1-page guide contract for smaller operators to assist in compliance with the required crew's agreements.

The checklists will be amended to include the below section:

APPLICATION: South African ship that is registered or licenced in the Republic.

CHECK	Section of MSA, 1951 as amended	NOTES
	MSA Section 102 (3) (a) to (e)	Crew's agreements to contain the following information: Nature and duration of intended voyage or engagement, Particulars of deck lines or load lines –if applicable, number and description of crew, time the seafarer is to be on board and capacity on board.
	MSA Section 102 (3) (f) to (m), Read with Sections 111A (leave and formula for calculation), Section 114 (right to repatriation)	Crew's agreements to contain the following additional amended information: Particulars of wages each seafarer is to receive, to include basic wages, leave, allowances, bonuses and commissions. Amount of seafarer's annual leave including formula used to calculate. Health and social security benefits. Right to repatriation. Reference to any collective bargaining agreement. Minimum notice periods.
	MSA Section 102 (5)(b)	If there is a collective bargaining agreement on board a fishing vessel covering the wages and conditions of employment of a seafarer agreed to under a registered Bargaining Council or Statutory Council, then the terms of agreement shall apply to the seafarers an board.
	MSA Section 121	Crew's payments to be received on a regular basis. Periods between payments not to exceed 45 days.
	MSA Section 130	Seafarers have the right to leave allotment notes ashore for payment of part of wages to be paid to a designated person ashore.

For any queries or assistance please contact Selwyn Bailey on 041- 5822130 or at sbailey@samsa.org.za.

28 September 2016

SM6/5/2/1
SM10/4/5

Issued by and obtainable from:
The South African Maritime Safety Authority
146 Lunnon Road
Hillcrest, Pretoria

PO Box 13186
Hatfield 0028

Tel: +27 12 366 2600

Fax: +27 12 366 2601

E-mail: marinenotices@samsa.org.za

Web Site : www.samsa.org.za