

No. R. 730

11 July 2008

MERCHANT SHIPPING ACT, 1951 (ACT No. 57 OF 1951)

**DECLARATION UNDER SECTION 3(9) OF MERCHANT SHIPPING
ACT, 1951 (ACT No.57 OF 1951)**

I, Jeffrey Thamsanqa Radebe, Minister of Transport, make, under section 3(9) of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), the declaration set out in the accompanying Schedule with effect from the date of publication of this notice.



J. T. RADEBE,
Minister of Transport

SCHEDULE

1 Definitions

In this declaration, unless the context indicates otherwise, an expression given a meaning by the Act has the given meaning, and—

"declared inland waters" has the meaning given by paragraph 2;

"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);

"the Act" means the Merchant Shipping Act, 1951 (Act No. 57 of 1951).

2 Meaning of declared inland waters

Declared inland waters are all inland 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.

3 Application of Act to declared inland waters

The provisions of the Act specified in column 1 of the following table apply, subject to the exemptions, modifications and restrictions (if any) specified in column 2 of the table, to declared inland waters:

Item	Column 1	Column 2
	Section	Exemption, modification or restriction
1	2	The application, by virtue of this Notice, of the definition of "seaman" in subsection (1) in relation to vessels operating on declared inland waters does not affect the application of any other law relating to seamen.
		In subsection (1), in the definition of "small vessel" omit "and of more than three metres in length".
2	3	None.
4	4	None.
5	5	None.
6	6	None.
7	7	None.
8	8	None.
9	9	None.
10	10	None.
11	17	None.
12	18	None.
13	68	In subsection (1) replace "at or from a port or from anywhere else on the coast of the Republic" with "on declared inland waters".
		In subsection (3)(a) replace "entitled to be registered in the Republic in terms of" with "owned or operated as described in".
14	69	None.
15	70	None.
16	71	None.
17	72	None.
18.1	73(1)	Replace "South African ship operating at a port in the Republic or going to sea from any port whatsoever" with "ship operating on declared inland waters".
18.2	73(2)	Insert "length," before "tonnage".
18.3	73(3)	Omit "built before the coming into operation of this section".
18.4	73(5)	None.
18.5	73(6)	None.
19	74	None.
20	77	None.

Item	Column 1	Column 2
	Section	Exemption, modification or restriction
21	78	None.
22	81	None.
23	82	None.
24	83	In subsection (1) replace "South Africa ship" with "ship operating on declared inland waters".
		In subsection (2) replace "South African ship" with "ship operating on declared inland waters".
25	84	None.
26	85	Replace "South African ship to go to sea from any port whatsoever or a ship other than a South African ship to go to sea from a port in the Republic" with "ship to operate on declared inland waters".
27	87	In subsection (2) replace "be engaged or got to sea" with "serve".
28	88	None.
29	89	In subsection (1) insert "the Minister or" before "the High Court" and "the Minister" before "that court".
30	161(1)	Replace "South African ship shall provide" with "vessel operating on declared inland waters shall provide and maintain".
31	167	Omit "South African" and replace "at sea" with "on board".
32	190	None.
33	191	None.
34	194	None.
35	195	None.
36	197	None.
37	198	None.
38	199	None.
39	201	None.
40.1	203(1)	None.
40.2	203(8)	Replace "plying regularly between ports in the Republic or operating from a port in the Republic" with "operating regularly on declared inland waters".
40.3	203(9)	Replace "proceed to sea from any port in the Republic" with "operate on declared inland waters".
41	221(1)	Replace "South African ship operating at a port in the Republic or going to sea from any port whatsoever" with "ship operating on declared inland waters".
42	223	In subsection (2) omit "at any place at which clearance for that vessel may be requested, and a clearance shall not be granted".
43	224	None.

Item	Column 1	Column 2
	Section	Exemption, modification or restriction
44	225	In subsection (1) replace ", wherever registered, plying between ports in the Republic or between a port in the Republic and any other port" with "operating on declared inland waters".
		In subsection (2) omit "registered in the Republic"
45.1	226(1)	Replace "South African ship of a class or tonnage prescribed by regulation built after the coming into operation of this section" with "licensed vessel of a class, length or tonnage prescribed by regulation".
45.2	226(2)	None.
45.3	226(3)	None.
46	228	In subsection (1) omit "plying regularly between ports in the Republic or between a port in the Republic and any other port, wherever she may be registered,".
47	229	Replace "South Africa ship of one hundred or more gross register tons (or of such lower tonnage gross register as may be prescribed) shall not cause or permit the ship to proceed to sea" with "vessel of a class, length or tonnage prescribed by regulation shall not cause or permit the vessel to operate on declared inland waters".
48	232	In subsection (1) in the words preceding paragraph (a), replace "which is registered or licensed in the Republic or which, in terms of this Act, is required to be so licensed shall not, within or outside the Republic, and the master of any other vessel shall not, within the Republic or the territorial waters thereof" with "operating on declared inland waters shall not" and omit ", and no person shall use or display at a place on land in the Republic from which it can be seen from the sea", and omit paragraph (b).
		In subsection (2) omit "Such compensation may, without prejudice to any other remedy, be recovered in the same manner in which salvage is recoverable in terms of this Act."
49	235	None.
50	238	None.
51	239	In subsection (1) omit "South African" wherever occurring.
52	240	Replace the whole section with "No person, including the owner or master, shall cause or permit a vessel to be operated on declared inland waters in an unseaworthy state."
53	242	None.
54	243	None.
55	244	None.
56	245	None.
57	246	None.
58	247	None.

Item	Column 1	Column 2
	Section	Exemption, modification or restriction
59	248	None.
60	254	None.
61.1	259(1)	Omit paragraph (e).
		In the words following paragraph (f) omit "within 24 hours after the ship has arrived at a port or, if the event occurred in a port," and "but before the ship departs from that port".
61.2	259(5)	None.
62	263(1)	None.
63.1	264(1)	In paragraph (a), in the words preceding subparagraph (i), replace "which is registered or licensed in the Republic or which is in terms of this Act required to be so licensed" with "operating on declared inland waters", and omit the words following item (cc) of subparagraph (ii).
		Omit paragraphs (b), (c) and (d).
63.2	264(2)	None.
63.3	264(3)	Omit ", (b) or (d)" and ", provided the ship is not thereby delayed".
64	265	None.
65	266(1)	None.
66	267	None.
67	268	None.
68	269(1)	None.
69	279	None.
70	280	None.
71	283	None.
72	284	None.
73	285	None.
74	286	None.
75	287	None.
76	288	None.
77	289	None.
78	290	None.
79	291	None.
80	292	None.
81	312	None.
82	313	None.
83	314	None.
84	315	None.
85	316	None.

Item	Column 1	Column 2
	Section	Exemption, modification or restriction
86	319(1)	None.
87	320	None.
88	324	None.
89	325	None.
90	328	None.
91	334	None.
92	335	None.
93	336	None.
94	337	None.
95	338	None.
96	342	None.
97	343bis	None.
98	343ter	None.
99	345	None.
100	346	None.
101	347	None.
102	348	None.
103	349	None.
104	350	None.
105	355A	None.
106.1	356(1)	Omit paragraphs (xv), (xviii), (xx), (xxi), (xxii), (xxiii) and (xxxvii).
		In paragraph (xix) omit "South African".
		In paragraph (xxxix) replace "at sea" with "on board".
106.2	356(2)	None.
106.3	356(3)	None.
106.4	356(4)	None.
106.5	356(5)	None.
106.6	356(6)	Insert "length or" before "tonnage".
107	357	None.