

# DEPARTMENT OF TRANSPORT

No. R. 503

GG23345 (RG 7336)

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

## MERCHANT SHIPPING (CARRIAGE OF CHARTS AND NAUTICAL PUBLICATIONS) REGULATIONS, 2002

The Minister of Transport has, under section 356 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), made the regulations in the Schedule.

### SCHEDULE

#### Title and commencement

1. These regulations are called the Merchant Shipping (Carriage of Charts and Nautical Publications) Regulations, 2002, and come into operation on 1 June 2002.

#### Definitions

2. In these regulations any word or expression given a meaning in the Act has the meaning so given and, unless the context indicates otherwise—

"**chart**" means a nautical chart;

"**contravene**", in relation to a provision of these regulations, includes failing or refusing to comply with that provision;

"**fishing vessel**" means a vessel that is used for catching fish or other living resources of the sea for financial gain or reward;

"**Hydrographer of the Navy**" means the person for the time being appointed to that office by the Navy;

"**reference catalogue**", in respect of an area to be navigated by a ship, means—

- (a) for waters under South African jurisdiction, the South African Chart Catalogue, published by the Hydrographer of the Navy, or any similar publication issued under the authority of the government of another country and applicable to the charts that, in terms of regulation 4, are required to be on board the ship when being navigated in those waters; and
- (b) for waters outside South African jurisdiction, the *Catalogue of Admiralty Charts and Other Hydrographic Publications*, published by the Government of the United Kingdom, or the *Catalog of Charts and Publications*, published by the Government of the United States of America;

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

"**ton**", in relation to a ship, means its gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex 1 to the Tonnage Convention;

**"waters under South African jurisdiction"** means waters comprising—

- (a) the internal and territorial waters of the Republic; and
- (b) the exclusive economic zone of the Republic.

### **Application**

**3.** (1) Subject to subregulations (2) and (3), these regulations apply to ships of South African nationality in all waters and to all ships in waters under South African jurisdiction.

(2) These regulations do not apply to—

- (a) ships of less than 25 tons; or
- (b) ships of less than 100 tons that are used solely for sport or recreation.

(3) A provision of these regulations does not apply to a ship of South African nationality in the waters of a country other than the Republic where the provision is inconsistent with a law of that country that, by its terms, applies to the ship when in the waters of that country.

### **Carriage of charts and publications**

**4.** (1) Subject to subregulation (2), the master and owner of every ship must have on board, in respect of each area in which the ship is to be navigated, the current editions of the charts and publications that are required to be used in terms of regulations 5 and 6.

(2) (a) The Authority may, on such terms as it may specify, exempt the master and owner of any ship, other than a foreign-going ship, from the requirement to have on board any one or more of the charts or publications referred to in subregulation (1), and may, after reasonable notice, alter or cancel any such exemption.

(b) An exemption may be granted under paragraph (a) only if—

- (i) the Authority considers that the area to be navigated by the ship is such as to render the application of the relevant requirement unreasonable or unnecessary; and
- (ii) the person in charge of the navigation of the ship has, in the opinion of the Authority, sufficient knowledge of the information referred to in paragraph (c), such that safe and efficient navigation in the area where the ship is to be navigated is not compromised.

(c) The information referred to in paragraph (b)(ii) is—

- (i) the location and character of charted—
  - (aa) shipping routes;
  - (bb) lights, buoys and marks; and
  - (cc) navigational hazards; and
- (ii) the prevailing navigational conditions, taking into account such factors as tides, currents and weather patterns.

### **Use of charts**

**5.** The person in charge of the navigation of a ship must use the current edition of a chart that—

- (a) is published under the authority of the government of a country;
- (b) applies to the immediate area in which the ship is being navigated; and
- (c) is of such scale and detail as clearly to show—
  - (i) all navigational marks that may be used by a ship when navigating the waters comprised in the chart;
  - (ii) all known dangers affecting those waters; and
  - (iii) information respecting any ships' routeing and ship reporting measures applicable to those waters.

### **Use of publications**

**6.** (1) Subject to subregulation (3), the person in charge of the navigation of a ship in waters under South African jurisdiction must use, in respect of each area to be navigated by the ship, the current edition of—

- (a) the reference catalogue;
- (b) the Annual Summary of South African Notices to Mariners, published by the Hydrographer of the Navy;
- (c) the following publications, published by the Hydrographer of the Navy, namely—
  - (i) sailing directions;
  - (ii) tide tables;
  - (iii) lists of lights and fog signals; and
  - (iv) where the ship is required to be fitted with or to carry radio equipment pursuant to any Act of Parliament or of a foreign jurisdiction, the list of radio services; and
- (d) the publications listed in the Annex.

(2) Subject to subregulation (3), the person in charge of the navigation of a ship of South African nationality in waters outside South African jurisdiction must use, in respect of each area to be navigated by the ship, the current edition of—

- (a) the reference catalogue;
- (b) the Annual Summary of South African Notices to Mariners, published by the Hydrographer of the Navy;
- (c) the following publications referred to in the reference catalogue, namely—
  - (i) sailing directions;
  - (ii) tide and current tables;
  - (iii) lists of lights; and

- (iv) where the ship is required to be fitted with or to carry radio equipment pursuant to any Act of Parliament, the list of radio aids to navigation; and
- (d) the publications listed in the Annex.

(3) The publications referred to in paragraphs (b), (c) and (d) of subregulations (1) and (2) may be replaced by similar publications issued under the authority of the government of another country, if the information contained in them that is necessary for the safe navigation of a ship in the area in which the ship is to be navigated is of a standard not inferior to that of the information contained in the publications referred to in those provisions.

### **Maintenance of charts and publications**

7. The master of a ship must ensure that the charts and publications required by these regulations are, before being used for navigation, correct and up-to-date, based on information that is contained in the current supplements, corrections, notices to mariners or radio navigational warnings.

### **Offences and penalties**

8. A person who contravenes regulation 4(1), 5, 6(1) or (2), or 7 commits an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding 12 months.

### **Defence**

9. It is a defence for a person charged under regulation 8 to show that he or she took reasonable precautions and exercised due diligence to avoid the commission of the offence.

### **Repeal of regulations**

10. Regulation 15 of the Safety of Navigation Regulations, 1968, published by Government Notice No. R. 651 of 19 April 1968, is repealed.

## ANNEX

(Regulation 6)

### NAUTICAL PUBLICATIONS

1. Table of Life-Saving Signals, published by the International Maritime Organization.

2. The Merchant Ship Search and Rescue (MERSAR) Manual, published by the International Maritime Organization, where the ship is a foreign-going ship, a coasting ship, or a fishing vessel making a voyage outside waters under South African jurisdiction.

3. Where the ship is required to be fitted with radio equipment and is a foreign-going ship, a coasting ship, or a fishing vessel making a voyage outside waters under South African jurisdiction, the following publications, published by the International Maritime Organization:

- (a) the International Code of Signals; and
- (b) the Standard Marine Navigational Vocabulary.

4. (a) Those parts of the following publications that are relevant to the area to be navigated by the ship and to its operation:

- (i) marine notices, published by the South African Maritime Safety Authority;
- (ii) notices to mariners, published by the Hydrographer of the Navy;
- (iii) nautical almanac;
- (iv) navigation tables; and
- (v) operating and maintenance instructions for navigational aids carried by the ship.

(b) The publications, or relevant parts of publications, referred to in paragraph (a)(iii) and (iv) need not be carried on fishing vessels that, on any voyage, do not proceed outside waters under South African jurisdiction.