

DEPARTMENT OF TRANSPORT

No. R 5494

GG 51486

01 November 2024

MARINE POLLUTION (PREVENTION OF POLLUTION FROM SHIPS) ACT, 1986

DRAFT MARINE POLLUTION (BCH CODE) REGULATIONS, 2024

The Minister of Transport intends, in terms of the Marine Pollution (Prevention of Pollution from Ships) Act 1986, section 3 to repeal the Marine Pollution (BCH Code) Regulations, 1998 published by GNR. 134 in Government Gazette No. 18631 of 23 January 1998 and promulgate the Draft Marine Pollution (BCH Code) Regulations, 2024, as set out in the Schedule published in the South African Maritime Safety Authority website at [Draft Regulations \(samsa.org.za\)](https://www.samsa.org.za).

To facilitate stakeholder engagement on the Draft Marine Pollution (BCH Code) Regulations, 2024, SAMSA will conduct various workshops around the country, including the following:

| DATE | REGION | VENUE |
|------------------|----------------------------|--|
| 13 November 2024 | Western Region (Cape Town) | Southern Sun Cape Sun Strand Street, Cape Town |
| 19 November 2024 | Southern Region (Gqeberha) | Town Lodge Port Elizabeth Cnr Beach Road & Lodge Road Summerstrand, Gqeberha |
| 27 November 2024 | Eastern Region (Durban) | Garden Court Marine Parade 167 OR Tambo Parade, Durban |

Electronic copies of the Draft Regulations are accessible on the SAMSA website at <https://www.samsa.org.za/Pages/SAMSADraftRegulation.aspx> and may also be requested from Bulelani Ncanywa at bncanywa@samsa.org.za

Interested persons are hereby invited to submit written comments on these draft regulations on or before the **20 December 2024** to the Chief Executive Officer: SAMSA, for the attention of:

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DEPARTMENT OF TRANSPORT

No. R.5494

GG 51486

01 November 2024

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

THE MARINE POLLUTION (BCH CODE) REGULATIONS, 2024

I, Barbara Creecy, Minister of Transport hereby, in terms of section 3 of the Marine Pollution (Prevention of Pollution from Ships) Act 1986 (Act No. 2 of 1986), repealed the Marine Pollution (BCH Code) Regulations 1998 promulgated in Government *Gazette* Number: GG 18631 under Government Notice No. R. 134 of 23 January 1998 and, make the Regulations set out in the Schedule hereunder.

Ms. B Creecy, MP

Minister of Transport

Date:

SCHEDULE

Arrangement of regulations

- 1 Interpretation and Definitions
- 2 Application of Regulations
- 3 Compliance with BCH Code
- 4 Survey requirements
- 5 Issue or endorsement of Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk
- 6 Keeping and inspection of Certificate of Fitness
- 7 Issue or endorsement of Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk by another Government
- 8 Duration and validity of Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk
- 9 Cancellation of Certificate of Fitness
- 10 Form of Certificate of Fitness
- 11 Alteration of Certificate of Fitness
- 12 Maintenance of condition after survey
- 13 Loading and carriage in bulk of listed chemicals
- 14 Authority's permission required for transfer of certain harmful substances or for certain other acts in respect of ships or tankers
- 15 Power to detain
- 16 Exemptions and equivalents
- 17 Offences and penalties
- 18 Repeal of regulations
- 19 Short title and commencement

Interpretation and Definitions

1. (1) In these Regulations, any word or expression given a meaning in the Act has that meaning and, unless the context indicates otherwise—

'Annex II' means Annex II to MARPOL as set out in the Schedule to the Marine Pollution Act;

'Authority' means the South African Maritime Safety Authority established in terms of section 2 of the South African Maritime Safety Authority Act, 1998 (Act No. 5 of 2008);

'BCH Code' means the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk;

‘Cargo Ship Safety Construction Certificate’, ‘Cargo Ship Safety Equipment Certificate’ and ‘Cargo Ship Safety Radio Certificate’ mean respectively the certificates so entitled issued in conformity with the Safety Convention as amended and, in the case of a South African ship, under or pursuant to the Merchant Shipping Act;

‘Category “X”’, ‘Category “Y”’ or ‘Category “Z”’ in relation to a substance, mean respectively the category of the substance as defined in Annex II Chapter 2 regulation 6 of MARPOL;

‘Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk’, in relation to—

- (a) a South African ship, means a certificate issued pursuant to regulation 5; and
- (b) any other ship, means a certificate issued in conformity with Chapter 1 of the BCH Code by or on behalf of the government of the State in which the ship is registered;

‘chemical tanker’ means a cargo ship constructed or adapted and used for the carriage in bulk of any liquid product listed in Chapter 17 of the IBC Code;

‘clearance’ includes any clearance or transire referred to in the Customs and Excise Act, 1964 (Act No. 91 of 1964);

‘constructed’ has the same meaning assigned to “ship construction” in MARPOL;

‘IBC Code’ means the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk;

‘in bulk’ means directly and without intermediate form of containment in a tank forming a structural part of or permanently attached to a ship;

‘internationally-trading’ means engaged otherwise than as a South African-trading ship;

‘MARPOL’ means the International Convention for the Prevention of Pollution from Ships 1973, as amended;

‘Merchant Shipping Act’ means the Merchant Shipping Act, 1951 (Act No. 57 of

1951);

‘principal officer’ has the meaning given in section 2(1) of the Merchant Shipping Act;

‘recognised organisation’ means an organisation authorised by an Authority in accordance with MARPOL Annex II regulation 8.2.2 and the Safety Convention regulation XI-1/1;

‘Safety Convention’ has the meaning assigned to it in the Merchant Shipping Act;

‘short voyage’ has the meaning assigned to it in the Merchant Shipping Act;

‘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;

‘South African-trading’ means engaged solely on voyages between ports or terminals in the Republic;

‘surveyor’ has the meaning assigned to it in section 2(1) of the Merchant Shipping Act; and

‘the Act’ means the Marine Pollution (Prevention of Pollution from Ships) Act 1986 (Act No. 2 of 1986).

- (2) In interpreting the BCH Code—
 - (a) the requirements having been made mandatory under regulation 3, the language thereof is to be construed accordingly;

- (b) the definitions set out in Chapter I, paragraph 1.4 of the BCH Code apply;
- (c) the footnotes to in the BCH Code shall be read as an integral part of the BCH Code;
- (d) references to the Administration are references to the Authority; and
- (e) the second sentence of the footnote to paragraph 3.13 of the BCH Code, is substituted for the following:

"All chemical tankers constructed after 20 May 1980 but before 1 September 1984 are to comply with section 3.13 of the 1980 edition of this Code."

Application of Regulations

2. (1) Subject to subregulations (2) and (3), these Regulations apply to chemical tankers constructed before 1 July 1986 that carry Category X, Y, Z substances.

(2) These Regulations apply to all ships specified in subregulation (1) that are South African ships, wherever they may be, and to other such ships while they are in the Republic or its territorial waters; but in the case of a ship registered in a State not party to MARPOL they do not apply by reason of the ship's being in the Republic or its territorial waters if it would not have been there but for stress of weather or any circumstances that could not have been prevented by the owner, the master or the charterer, if any.

(3) These Regulations do not apply to any ship to which the Merchant Shipping/Marine Pollution (IBC Code) Regulations, 1998 apply by virtue of regulation 2(1)(b) or (c) thereof (ships converted or undergoing major modifications after 1 July 1986).

Compliance with BCH Code

3. (1) Every chemical tanker to which these Regulations apply shall comply with the requirements of the BCH Code as follows:

- (a) (i) Every internationally-trading chemical tanker for which the building contract was placed on or after 2 November 1973; and
- (ii) Every South African-trading chemical tanker constructed on or after 1 July 1983,

shall be constructed, equipped and operated in accordance with the requirements relevant to it of Chapters II to VI inclusive, and VIII of the BCH Code.

- (b) (i) Every internationally-trading chemical tanker for which the building contract was placed before 2 November 1973; and
- (ii) Every South African-trading chemical tanker of 1,600 gross tons or more constructed before 1 July 1983,

shall be constructed, equipped and operated in accordance with the

requirements relevant to it of the BCH Code, except to the extent provided in subparagraphs 1.7.3 (a) to (f) thereof.

- (c) Every South African-trading chemical tanker of less than 1,600 gross tons constructed before 1 July 1983 shall be operated in accordance with the requirements of Chapters V of the BCH Code.

Survey requirements

4. (1) The structure, equipment, systems, fittings, arrangements and material, other than items in respect of which a Cargo Ship Safety Construction Certificate, Cargo Ship Safety Equipment Certificate or Cargo Ship Safety Radio Certificate is issued, of a chemical tanker shall be subjected to the following surveys:

- (a) (i) An initial survey before the ship is put in service or before the Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk is issued for the first time, which shall include a complete examination of its structure, equipment, fittings, arrangements and material in so far as the ship is covered by the BCH Code.
- (ii) The survey in subparagraph (i) shall be such as to ensure that the structure, equipment, fittings, arrangements and material fully comply with the applicable provisions of the BCH Code.
- (b) (i) A renewal survey at intervals specified by the Authority, but not exceeding five years, except where regulation 8 subregulations (3), (7), (8) and (9) are applicable.
- (ii) The renewal survey shall be such as to ensure that the structure, equipment, fittings, arrangements and material fully comply with the applicable provisions of the IBC Code.
- (c) (i) An intermediate survey within three months before or after the second anniversary date or within three months before or after the third anniversary date of the Certificate, which shall take the place of one of the annual surveys specified in paragraph (d).
- (ii) The intermediate survey shall be such as to ensure that the safety equipment, and other equipment, and associated pump and piping systems fully comply with the applicable provisions of the Code and are in good working order.
- (iii) Such intermediate surveys shall be endorsed on the Certificate issued under regulation 7 or 8.
- (d) (i) An annual survey within three months before or after each anniversary date of the Certificate, including a general inspection of the structure, equipment, fittings, arrangements and material referred to in paragraph (a) to ensure that they have been maintained in accordance with regulation 12 and that they remain satisfactory for the service for which the ship is intended.
- (ii) The annual surveys in subparagraph (i) shall be endorsed on the Certificate issued under regulation 7 or 8.

- (e) (i) An additional survey, either general or partial according to the circumstances, shall be made when required after an investigation prescribed in regulation 12(3), or whenever any important repairs or renewals are made.
- (ii) The survey in subparagraph (i) shall ensure that the necessary repairs or renewals have been effectively made, that the material and workmanship of such repairs or renewals are satisfactory; and that the ship is fit to proceed to sea without danger to the ship or persons on board or without presenting unreasonable threat of harm to the marine environment.

(2) Every such survey of a South African ship must be carried out by a surveyor appointed by the Authority; and application for such a survey must be made by or on behalf of the owner to the Authority.

Issue or endorsement of Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk

5. (1) (a) Upon satisfactory completion of an initial or periodical renewal survey under regulation 4(1)(a) or (b) of these Regulations and under regulation 10 of Annex II to MARPOL the Authority shall issue to a ship that complies with the requirements of the BCH Code and of Annex II to MARPOL a certificate called a Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk in the form so entitled set out in the appendix to the BCH Code.
- (b) The certificate in paragraph (a) shall be issued for a period not exceeding five years beginning on the date of completion of the survey in question.

(2) In the case of a ship that has transferred from registry in another State to registry in the Republic the Authority may, subject to such requirements as to survey or otherwise as the Authority thinks fit, if the Authority is satisfied, notwithstanding that the surveys were not carried out by a surveyor appointed by the Authority as required by regulation 4(2), that—

- (a) the ship has already been subjected to a satisfactory initial or renewal survey and to any intermediate, annual or additional surveys required;
- (b) the ship was issued by or on behalf of the government of that other State with a certificate of fitness that would, but for the change of registry, have remained valid;
- (c) the condition of the ship and its equipment has been maintained in conformity with the requirements of the BCH Code; and
- (d) since completion of the surveys referred to in paragraph (a) no change has been made in the structure, equipment, systems, fittings, arrangements and material covered by those surveys without the approval of the government of that other State or of the Authority, except by direct replacement;

issue to that ship a Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk for a period to be determined by the Authority, expiring

not later than the expiry date of the certificate referred to in paragraph (b).

Keeping and inspection of Certificate of Fitness

6. The Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk shall be kept available on board the ship for inspection at all reasonable times.

Issue or endorsement of Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk by another Government

7. (1) A Government that is both a Contracting Government to the Safety Convention and a Party to MARPOL may, at the request of another such Government, cause a ship entitled to fly the flag of the other State to be surveyed and, if satisfied that the provisions of the Code are complied with, issue or authorize the issue of the Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk to the ship, and, where appropriate, endorse or authorize the endorsement of the Certificate on board the ship in accordance with the Code.

(2) Any Certificate issued in terms of subregulation (1) shall contain a statement to the effect that the certificate has been issued at the request of the Government of the State whose flag the ship is entitled to fly.

Duration and validity of Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk

8. (1) A Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk shall be issued for a period specified by the Authority which shall not exceed five years.

(2) Notwithstanding the provisions of subregulation (1), when the renewal survey is completed within three months before the expiry date of the existing Certificate, the new Certificate shall be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of expiry of the existing Certificate.

(3) When the renewal survey is completed after the expiry date of the existing Certificate, the new Certificate shall be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of expiry of the existing Certificate.

(4) When the renewal survey is completed more than three months before the expiry date of the existing Certificate, the new Certificate shall be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of completion of the renewal survey.

(5) If a Certificate is issued for a period of less than five years, the Authority may extend the validity of the Certificate beyond the expiry date to the maximum period specified in subregulation (1), provided that the surveys referred to in regulation 4(1)(c) and (d), applicable when a Certificate is issued for a period of five years, are carried out as appropriate.

(6) (a) If a renewal survey has been completed and a new Certificate cannot be issued or placed on board the ship before the expiry date of the existing Certificate, the person or organization authorized by the Authority may endorse the existing Certificate.

(b) The existing Certificate in paragraph (a) shall be accepted as valid for a further period which shall not exceed five months from the expiry date.

(7) (a) If a ship, at the time when a Certificate expires, is not in a port in which it is to be surveyed, the Authority may extend the period of validity of the Certificate but this extension shall be granted only for the purpose of allowing the ship to complete its voyage to the port in which the ship is to be surveyed, and then only in cases where it appears proper and reasonable to do so.

(b) No certificate shall be extended in terms of paragraph (a) for a period longer than three months, and the ship to which an extension is granted, should not, on its arrival in the port in which it is to be surveyed, be entitled, by virtue of such extension to leave that port without having a new certificate.

(c) When the renewal survey is completed, the new certificate in paragraph (a) should be valid to a date not exceeding five years from the date of expiry of the existing certificate before the extension was granted.

(8) (a) A Certificate, issued to a ship engaged on short voyages which has not been extended under the foregoing provisions of this regulation, may be extended by the Authority for a period of grace of up to one month from the date of expiry stated on the certificate.

(b) When the renewal survey is completed, the new Certificate shall be valid to a date not exceeding five years from the date of expiry of the existing Certificate before the extension was granted.

(9) In special circumstances, as determined by the Authority, a new Certificate need not be dated from the date of expiry of the existing Certificate as required by subregulations

(3), (7) or (8) and in these special circumstances, the new Certificate shall be valid to a date not exceeding five years from the date of completion of the renewal survey.

(10) If an annual or intermediate survey is completed before the period specified in regulation 4(1), then:

- (a) the anniversary date shown on the Certificate shall be amended by endorsement to a date which shall not be more than three months later than the date on which the survey was completed;
- (b) the subsequent annual or intermediate survey required by regulation 4(1) shall be completed at the intervals prescribed by that regulation, using the new anniversary date; and
- (c) the expiry date may remain unchanged provided one or more annual or intermediate surveys, as appropriate, are carried out so that the maximum intervals between the surveys prescribed by regulation 4(1) are not exceeded.

(11) (a) A Certificate issued under regulation 5 or 7 shall cease to be valid in any of the following cases:

- (i) if the relevant surveys are not completed within the periods specified under regulation 4(1);
 - (ii) if the Certificate is not endorsed in accordance with regulation 4(1)(c) or (d); or
 - (iii) if any survey required by regulation 4(1)(e) is not completed within such reasonable time as the surveyor may specify;
- (b) (i) A Certificate issued by the previous flag ceases to be valid upon transfer of the ship to the South African flag.
- (ii) Upon the transfer in subparagraph (i), a new certificate shall only be issued when the Authority is fully satisfied that the ship is in compliance with the requirements of regulation 5(1) and (2).

(12) In either of the cases specified in subregulation (11)(a) the owner must surrender the certificate issued in relation to the ship to the Authority on demand.

Cancellation of Certificate of Fitness

9. (1) The Authority may, by written notice to the owner or master of a South African ship, cancel a Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk issued in respect of the ship if the Authority has reasonable grounds to believe that the certificate

was issued, or any endorsement on the certificate was made, on the basis of false or erroneous information.

(2) The Authority shall provide reasons for the cancellation of the certificate in the notice in subregulation (1).

(3) On receipt of the notice in subregulation (1), the owner or master of the ship shall deliver the certificate to the Authority immediately.

Form of Certificate of Fitness

10. The Authority may specify the form of the Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk.

Alteration of Certificate of Fitness

11. (1) The owner of a ship in respect of which a Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk has been issued by the Authority may request the Authority to alter any of the particulars contained in the Certificate.

(2) The Authority may refuse to make the alteration if the Authority considers it to be a material alteration that affects the Certificate.

(3) If the Authority agrees to make the alteration, the Authority shall, on payment of the prescribed fee, alter the Certificate.

Maintenance of condition after survey

12. (1) The condition of the ship and its equipment shall be maintained so as to conform to the requirements of the BCH Code to ensure that the ship will remain fit to proceed to sea without danger to the ship or persons on board or without presenting an unreasonable threat of harm to the marine environment.

(2) After any survey of the ship under regulation 4(1) has been completed, no change may be made in the structure, equipment, systems, fittings, arrangements and material covered by the survey, without the Authority's approval, except by direct replacement.

(3) (a) Whenever an accident occurs to a ship or a defect is discovered, either of which affects the safety or integrity of the ship, the safety of the crew or the efficiency or completeness of the equipment required by Annex II to MARPOL, the master or owner of the ship must report at the earliest

opportunity to the Authority, which must determine whether an additional survey is necessary and shall cause investigations to be initiated to determine whether a survey, as required by regulation 4(1)(e) is necessary.

- (b) If the ship is in a port of another State the master or owner shall also report immediately to the appropriate authority of the government of that State.

Loading and carriage in bulk of listed chemicals

13. (1) A ship to which these Regulations apply may not load in bulk or carry in bulk any Category X, Y or Z substance unless there is in force in respect of that ship a valid Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk covering the substance that the ship is loading or carrying and the loading and carrying is carried out in accordance with the terms of that certificate.

(2) A ship to which these Regulations apply may not load in bulk or carry in bulk any of the substances not listed in Chapter 6 of the BCH Code, unless either the Authority or the government of a State party to MARPOL has given specific approval for its carriage and any conditions relevant to loading or carriage subject to which that approval was given are complied with.

Authority's permission required for transfer of certain harmful substances or for certain other acts in respect of ships or tankers

14. (1) No person shall within the prohibited area transfer any prescribed harmful substance from any ship or tanker to any other ship or tanker or to an offshore installation or from such offshore installation to any ship or tanker, except with the permission of the Authority and in accordance with the provisions of this Act.

(2) In giving permission for the performance of any act referred to in subsection (1), the Authority may impose any conditions subject to which such act shall be performed, and such conditions may include the obligation to obtain the services of one or more tugs, spray boats or other vessels to stand by during a period determined by the Authority.

Power to detain

15. (1) A ship that fails to comply with the requirements of these Regulations may be detained in pursuance of section 243 of the Merchant Shipping Act, unless the failure relates only to the carriage of dangerous chemicals in bulk.

(2) A copy of every notice served in terms of subregulation (1) shall be transmitted by the surveyor to the principal officer at the port at which clearance for the ship may be

requested, and a clearance may not be granted, and the ship is detained, until a certificate issued by a surveyor is produced stating that the defect or deficiency has been made good.

(3) The survey of ships, so far as regards the enforcement of the provisions of these Regulations and granting of exemptions therefrom, shall be carried out by officers of the Authority, provided the Authority may, however, entrust the surveys to recognised organisations.

(4) The officers of the Authority or surveyors of recognised organisations conducting surveys in terms of subregulation (5) are empowered to-

- (a) require repairs to a ship; and
- (b) carry out surveys if requested by the appropriate authorities of a port State when the ship is in waters other than the Republic.

- (5) (a) When a surveyor or the recognized organization determines, other than in an initial survey, that the condition of a ship or its equipment does not correspond substantially with the particulars of the Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk, or is such that the ship is not fit to proceed to sea without danger to the ship, or persons on board, or without presenting unreasonable threat of harm to the marine environment, such surveyor or recognized organization shall immediately ensure that corrective action is taken within a specified period, and shall, immediately notify the Authority.
- (b) If such corrective action is not taken within the specified period, the Certificate shall be withdrawn, provided the withdrawal shall be on approval of the Authority.
- (c) In the cases specified in subparagraph (b) the master or owner shall surrender the certificate issued in relation to the ship to the Authority or the recognised organisation on demand.
- (d) If the certificate is withdrawn and the ship is in a port of another Contracting Government, the appropriate authorities of the port State shall also be notified immediately by the officer of the Authority, a nominated surveyor or a recognized organization.

(6) Where a ship which is not a South African ship is inspected for the purposes of verifying whether the ship has discharged any noxious liquid substance in contravention of

these Regulations, the person exercising the powers of inspection must ensure that the report of the inspection is sent to—

- (a) the consul or diplomatic representative of the State whose flag the ship is entitled to fly or the appropriate maritime authorities of that State; and
- (b) the Contracting State that requested the inspection.

(7) Where any document is inspected the person exercising the power of inspection may—

- (a) make a copy of any entry in that document; and
- (b) require the master of the ship to certify that the copy is a true copy of the original.

Exemptions and equivalents

16. (1) The Authority may, either generally or subject to conditions, exempt any ship or class or description of ship from any of the requirements of the BCH Code and may, subject to giving reasonable notice, amend or cancel any such exemption.

(2) Without limiting the generality of subregulation (1), where the BCH Code requires that a particular fitting, material, appliance, apparatus, item of equipment or type thereof must be fitted or carried in a ship, or that any particular provision must be made, or any procedure or arrangement must be complied with, the Authority may permit any other fitting, material, appliance, apparatus, item of equipment or type thereof to be fitted or carried, or any other provision, procedure or arrangement to be made in that ship, if the Authority is satisfied by trial thereof or otherwise that such fitting, material, appliance, apparatus, item of equipment or type thereof, or that any particular provision, procedure or arrangement is at least as effective as that required by the BCH Code: provided the Authority may not allow operational methods or procedures to be made an alternative to a particular fitting, material, appliance, apparatus, item of equipment, or type thereof, which are prescribed by the Code, unless such substitution is specifically allowed by the Code.

(3) When the Authority allows any fitting, material, appliance, apparatus, item of equipment, or type thereof, or provision, procedure, or arrangement, or novel design or application to be substituted, the Authority shall communicate to the International Maritime Organization the particulars thereof, together with a report on the evidence submitted.

Offences and Penalties

- 17. (1)(a)** Any person who contravenes any provision of these Regulations or who fails to comply with any provision thereof with which it is the person's duty to comply, shall be guilty of an offence.
- (b)* Any person convicted of an offence under subsection (1) shall be liable to a fine not exceeding R10 million, or to imprisonment for a period not exceeding 10 years or to such fine as well as such imprisonment.
- (c)* If there is a contravention of regulation 3, 4(1), 6, 12 or 13, 14(1), 15(5)(c) then the owner and master of the ship are each guilty of an offence punishable on conviction by a fine not exceeding R10 million or by imprisonment for a period not exceeding 10 years or to such fine as well as such imprisonment.
- (d)* If there is a contravention of regulation 4(2) or 8(12) then the owner of the ship is guilty of an offence punishable on conviction by a fine not exceeding R10 million or by imprisonment for a period not exceeding 10 years or to such fine as well as such imprisonment.

(2) It is a good defence for a person charged under these Regulations to show that the person took all reasonable steps to ensure compliance with the Regulations.

Repeal of regulations

18. The Marine Pollution (BCH Code) Regulations 1998 promulgated in Government Gazette Number: GG 18631 under Government Notice No. R. 134 of 23 January 1998, are hereby repealed.

Short title and commencement

19. These Regulations are called the Marine Pollution (BCH Code) Regulations 2024 and are published for public comments.