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GENERAL NOTICES

NOTICE 1695 OF 2007

DEPARTMENT OF TRANSPORT

MERCHANT SHIPPING (CONSOLIDATED MARITIME LABOUR CONVENTION) REGULATIONS, 200x: FOR COMMENT

The Minister of Transport, publishes for public comment the proposed Regulations set out in the accompanying Schedule. Written submissions should reach the Department of Transport **on or before 4 January 2008** (Note: late submissions may be disregarded). These should be addressed to the Chief Director: Maritime Regulation (for the attention of Ms N Sobekwa) and may be either:

- hand-delivered to Department of Transport at 159 Forum Building, Pretoria; or
- mailed to Private Bag X 193, 0001; or
- faxed to (012) 309 3124; or
- e-mailed to mabuelat@dot.gov.za

Telephonic enquiries should be directed to Mr T. Mabuela at (012) 309 3070 or Mr N. Campbell at (041) 585 0051. Attention is invited to the explanatory note following the regulations.

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PART 1**INTRODUCTORY****Title and commencement**

1. These regulations are called the Merchant Shipping (Consolidated Maritime Labour Convention) Regulations, 200x. These regulations commence on the day they are published in the Gazette.

Objects of regulations

2. These regulations give effect to Consolidated Maritime Labour Convention 2006.

Interpretation

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

“**authorized person**” means a person authorized by the Authority to perform some or all functions and duties of the Authority.

“**convention**” means the Consolidated Maritime Labour Convention, 2006;

“**Declaration of Maritime Labour Compliance**” means the Declaration of Maritime Labour Compliance referred to in regulation 5.1.3 of the convention;

“**Maritime Labour Certificate**” means the Maritime Labour Certificate referred to in regulation 5.1.3 of the convention;

“**seafarer**” means any person who is employed or engaged or works on any capacity on board a ship to which the convention applies;

“**ship**” means a ship other than one that navigates exclusively in inland waters or within port limits;

“**shipowner**” means the owner of the ship or any organization or person, such as a manager or bareboat charterer who has assumed the responsibility for the operation of the ship;

“**tons**” in relation to a ship, means its gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex 1 of the International Convention on Tonnage measurement of Ships, 1965.

Application

4. (1) Subject to subregulation (2) these regulations apply to all South African ships of 500 tons or more ordinarily engaged in commercial activities, wherever they may be;

(2) These regulations do not apply to—

(a) fishing vessels;

(b) vessels operating solely within port limits; and

(c) vessels of less than 25GT.

PART 2

DUTY TO HOLD AND HAVE ONBOARD DOCUMENTATION

Duty to hold certificates

5. (1) No person may operate a ship unless—
- (a) the ship has been issued with a valid Maritime Labour Certificate;
 - (b) the ship has been issued with a valid Declaration of Maritime Labour Compliance.
- (2) For the purpose of this regulation a Maritime Labour Certificate is not valid if between the second and third anniversary of the issue of the certificate, it has not been endorsed.

Duty to carry documentation

6. Every shipowner must ensure that—
- (a) the original Maritime Labour Certificate is onboard;
 - (b) the original Declaration of Labour Compliance is onboard and attached to the Maritime Labour Certificate;
 - (c) the Consolidated Maritime Labour Convention is on board; and
 - (d) a procedure for the masters to deal with onboard complaints relating to matters dealt with by the convention is on board.

PART 3

ISSUE OF DOCUMENTATION

Maritime Labour Certificate

7. If the Authority is satisfied that the operator of a South African ship complies with the convention and after inspection of the ship and audit of the shipowner, may issue the ship with a Maritime Labour Certificate valid for a period not exceeding five years.

Declaration of Maritime Labour Compliance

8. (1) Prior to the application for the issue of a Maritime Labour Certificate the shipowner shall make application to the Authority for the completion of Part I of the declaration.
- (2) On completion of Part I of the declaration the Authority shall forward to the shipowner the declaration for the completion of Part II. On completion Part II is returned to the Authority for certification.

Interim Maritime Labour Certificate

9. (1) The authority may, on request, issue an interim Certificate of Labour Compliance when—

- a. a ship is on a delivery voyage;
- b. a ship is transferred to the south African register;
and
- c. a shipowner assumes responsibility for the operation of a ship from another shipowner.

(2) A certificate issued in terms of this regulation is valid for a period not exceeding six months.

Intermediate audit

10. (1) The Authority must carry out an intermediate audit of each ship to ensure compliance with the conditions for the continued validity of the Maritime Labour Certificate.

(2) The audit must be undertaken between the second and third anniversary of the date of issue of the certificate.

(3) The Authority may undertake inspections at any time that it thinks fit.

Renewal of certificate

11. Before the renewal of the Maritime Labour Certificate the Authority must carry out a renewal audit of the ship during the six month period exceeding the expiry date of the certificate.

Powers of audit, inspection, suspension of service and detention

12. (1) For the purpose of ensuring compliance with these regulations—

(a) The Authority may instruct an authorized person to conduct an audit to a shipowner or any ship regarding compliance with the convention.

(b) The Authority may, after considering the report of an authorized person and is satisfied that a shipowner or ship, despite holding a Declaration of Maritime Compliance or a Maritime Labour Certificate, operates a vessel in contravention of the convention, the Authority may suspend both the certificate and declaration until such time as the convention is complied with.

(c) Where a service is to be suspended under paragraph (b), the Authority must serve on the shipowner or ship a notice stating that the operation of the service specified in the notice must be suspended and giving reasons for the suspension.

(2) For the purpose of ensuring compliance with these regulations—

(a) The Authority may instruct an authorized person to inspect any shipowner or ship, which inspection may include an audit regarding compliance with the convention.

(b) The Authority may, after considering the report of an authorized person, and is satisfied that there is a failure to comply with the convention, the Authority may cause the ship to be detained.

(3) An authorized person performing functions in terms of this regulation, who is not a surveyor, has all the powers conferred upon a surveyor by section 9 of the Act.

Suspension or cancellation of Declarations of Maritime Labour Compliance and Maritime Labour Certificates.

13. (1) (a) The Authority may, by notice in writing, suspend or cancel any Declarations of Maritime Compliance and Maritime Labour Certificates issued by it or at its request under these regulations where any audit of a shipowner or ship has revealed or where it believes on reasonable grounds that—

(i) the certificate or declaration was issued on false or erroneous information; or

(ii) since any audit required by these regulations, the ownership of the ship has changed without notification to the Authority.

(b) A notice must set out the grounds for suspending or canceling the certificate.

(c) A notice must not be given unless the holder of the Declarations of Maritime Labour Compliance and Maritime Labour Certificates has been given the opportunity to make representations.

(2) The Authority may require that any Declarations of Maritime Labour Compliance and Maritime Labour Certificates issued by it or at its request under these regulations that has expired or has been suspended or cancelled, be surrendered as directed.

(3) No person may—

(a) Intentionally, alter a Declarations of Maritime Labour Compliance or a Maritime Labour Certificate;

(b) In connection with any audit conducted pursuant to these regulations, knowingly or recklessly furnish false information;

(c) With intent to deceive, use, lend or allow to be used by another the Declarations of Maritime Labour Compliance and Maritime Labour Certificate;

(d) Fail to surrender a Declarations of Maritime Labour Compliance and Maritime Labour Certificate required to be surrendered under subregulation (2); or

(e) Forge any Declarations of Maritime Compliance and Maritime Labour Certificate.

Issue of certificates on behalf of other governments

14. (1) The Authority may, at the request of the government of a State, other than the Republic, to which the convention applies—

(a) Audit the systems of shipowners and ships registered in that State; and

(b) If satisfied that the requirements of the convention are complied with and that the audit has been satisfactorily completed in accordance with these regulations, issue to the ship a Maritime Labour Certificate or endorse such certificates after an intermediate audit.

(2) A certificate issued under subregulation (1) must—

(a) Contain a statement that it has been so issued; and

(b) Correspond to the appropriate form of certificate set out in the Appendix 1 to these regulations.

(3) A certificate issued under this regulation has the same effect as if it were issued by the relevant government and not by the Authority.

PART 4

OFFENCES

Offences and penalties

15. (1) A shipowner and/or a ship that contravenes regulations 5 and 6 shall be guilty of an offence and is liable on conviction to a fine or imprisonment for a period not exceeding 12 months.

(2) A master who contravenes regulations 5 and 6 commits an offence and is liable on conviction to a fine or imprisonment for a period not exceeding 12 months.

(3) Any person who contravenes regulation 13 commits an offence and is liable on conviction to a fine or imprisonment for a period not exceeding 12 months.

ANNEXURE I

Maritime Labour Certificate

(Note: This Certificate shall have a Declaration of Maritime Labour Compliance attached)

Issued under the provisions of Article V and Title 5 of the *Maritime Labour Convention, 2006* (referred to below as “the Convention”) under the authority of the Government of:

.....
(full designation of the State whose flag the ship is entitled to fly)
by

(full designation and address of the competent person or organization duly authorized under the provisions of the Convention)

Particulars of the ship

Name of ship
.....

Distinctive number or letters
.....

Port of registry
.....

Date of registry
.....

Gross tonnage *
.....

IMO number
.....

Type of ship
.....

Name and address of the shipowner (as defined in Article II, paragraph 1(j), of the Convention)
.....
.....

This is to certify:

1. That this ship has been inspected and verified to be in compliance with the requirements of the Convention, and the provisions of the attached Declaration of Maritime Labour Compliance.
2. That the seafarers’ working and living conditions specified in Appendix A5-I of the Convention were found to correspond to the abovementioned country’s national requirements implementing the Convention. These national requirements are summarized in the Declaration of Maritime Labour Compliance, Part I.

This Certificate is valid until subject to inspections in accordance with Standards A5.1.3 and A5.1.4 of the Convention.

This Certificate is valid only when the Declaration of Maritime Labour Compliance issued at on is attached.

Completion date of the inspection on which this Certificate is based was

.....

Issued at on

.....

Signature of the duly authorized official issuing the Certificate

(Seal or stamp of issuing authority, as appropriate)

Endorsements for mandatory intermediate inspection and any additional inspection (if required)

This is to certify that the ship was inspected in accordance with Standards A5.1.3 and A5.1.4 of the Convention and that the seafarers' working and living conditions specified in Appendix A5-I of the Convention were found to correspond to the abovementioned country's national requirements implementing the Convention.

Intermediate inspection: Signed

(to be completed between the second and third anniversary dates)

(signature of authorized official)

.....

Place

Date

(Seal or stamp of the authority, as appropriate)

Additional endorsements (if required)

This is to certify that the ship was the subject of an additional inspection for the purpose of verifying that the ship continued to be in compliance with the national requirements implementing the Convention, as required by Standard A3.1, paragraph 3, of the Convention (re-registration or substantial alteration of accommodation) or for other reasons.

Additional inspection: Signed

(if required) (signature of authorized official)

.....

Place

Date

(Seal or stamp of the authority, as appropriate)

Additional inspection: Signed

(if required) (signature of authorized official)

.....

Place

Date

(Seal or stamp of the authority, as appropriate)

Additional inspection: Signed
(if required) (signature of authorized official)

.....
Place

Date

(Seal or stamp of the authority, as appropriate)

ANNEX II

Maritime Labour Convention, 2006

Declaration of Maritime Labour Compliance – Part I

(Note: This must be attached to the ship's Maritime Labour Certificate)

Issued under the authority of: (insert name of competent authority as defined in Article II, paragraph 1(a), of the Convention)

In respect to the provisions of the Maritime Labour Convention, 2006, the following referenced ship:

Name of ship	IMO number	Gross tonnage

is maintained in accordance with Standard A5.1.3 of the Convention.

The undersigned declares, on behalf of the abovementioned competent authority, that:

1. The provisions of the Maritime Labour Convention are fully embodied in the national requirements referred to below;

2. These national requirements are contained in the national provisions referenced below; explanations concerning the content of those provisions are provided where necessary;

3. The details of any substantial equivalencies under Article VI, paragraphs 3 and 4, are provided *<under the corresponding national requirement listed below>* *<in the section provided for this purpose below>* *<strike out the statement which is not applicable>*; and

4. Any ship-type specific requirements under national legislation are also referenced under the requirements concerned.

- (a) Minimum age (Regulation 1.1)
- (b) Medical certification (Regulation 1.2)
- (c) Qualifications of seafarers (Regulation 1.3)
- (d) Seafarer employment agreements (Regulation 2.1)
- (e) Use of a licensed or certified or regulated private recruitment and placement service (Regulation 1.4)
- (f) Hours of work or rest (Regulation 2.3)
- (g) Manning levels for the ship (Regulation 2.7)
- (h) Accommodation (Regulation 3.1)

- (i) On-board recreational facilities (Regulation 3.1)
- (j) Food and catering (Regulation 3.2)
- (k) Health and safety and accident prevention (Regulation 4.3)
- (l) On-board medical care (Regulation 4.1)
- (m) On-board complaint procedures (Regulation 5.1.5)
- (n) Payment of wages (Regulation 2.2)

Name:

Title:

Signature:

Place:

Date:

Substantial equivalencies

(Note: Strike out the statement which is not applicable)

The following substantial equivalencies, as provided under the Convention, Article VI, paragraphs 3 and 4, except where stated above, are noted: [insert description if applicable]

.....
.....

No equivalencies have been granted

.....

Name:

Title:

Signature:

Place:

Date:

Declaration of Maritime Labour Compliance – Part II*Measures adopted to ensure ongoing compliance between inspections*

The following measures have been drawn up by the shipowner, named in the Maritime Labour Certificate to which this Declaration is attached, to ensure ongoing compliance between inspections:

<State below the measures drawn up by the shipowner to ensure compliance with each of the items in Part I>

1. Minimum age (Regulation 1.1)

.....
2. Medical certification (Regulation 1.2)

.....
3. Qualifications of seafarers (Regulation 1.3)

.....
4. Seafarer employment agreements (Regulation 2.1)

.....
5. Use of a licensed or certified or regulated private recruitment and placement service (Regulation 1.4)

.....
6. Hours of work or rest (Regulation 2.3)

.....
7. Manning levels for the ship (Regulation 2.7)

.....
8. Accommodation (Regulation 3.1)

.....
9. On-board recreational facilities (Regulation 3.1)

.....
10. Food and catering (Regulation 3.2)

.....
11. Health and safety and accident prevention (Regulation 4.3)

.....
12. On-board medical care (Regulation 4.1)

.....
13. On-board complaint procedures (Regulation 5.1.5)

.....
14. Payment of wages (Regulation 2.2)

.....
The above measures have been reviewed by <insert name of competent authority or duly recognized organization> and, following inspection of the ship, have been determined as meeting the purposes set out under (b) of paragraph 10 of Standard A5.1.3, regarding measures to ensure initial and ongoing compliance with the requirements set out in Part I of this Declaration.

Name:

Title:

Company address:

.....

.....

Signature:

Place:

(Seal or stamp of the competent authority)

EXPLANATORY NOTE

(This note is not part of the regulations)

1. The purpose of these regulations is to introduce the Consolidated Maritime Labour Convention into domestic legislation.
2. South Africa has indicated that it will ratify the convention.

EXPLANATORY NOTE

(This note is not part of the regulations)

1. The purpose of these regulations is to introduce the Consolidated Maritime Labour Convention, 2006, into domestic legislation.
2. These regulations give effect to Consolidated Maritime Labour Convention 2006.
3. It is the intention of the South African Government to ratify the Consolidated Maritime Labour Convention 2006.

NOTICE 1696 OF 2007

DEPARTMENT OF TRANSPORT

Draft Merchant Shipping (Seafarer Recruitment and Placement) Regulations: For comment

The Minister of Transport, publishes for public comment the proposed Regulations set out in the set out in the accompanying Schedule. Written submissions should reach Department of Transport **on or before 4 January 2008** (Note: late submissions may be disregarded). These should be addressed to the Chief Director: Maritime Regulation (for the attention of Ms N Sobekwa) and may be either:

- hand-delivered to Department of Transport at 159 Forum Building, Pretoria; or
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Schedule

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Part 1 Preliminary

1 Title and commencement

- (1) These regulations are called the *Merchant Shipping (Seafarer Recruitment and Placement) Regulations 2007*.
- (2) These regulations commence on the day they are published in the Gazette.

2 Purpose

These regulations give effect to Regulation 5.3 [Labour-supplying responsibilities] of the *Consolidated Maritime Labour Convention 2006*.

3 Definitions

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

"approved" means approved by the Authority;

"Convention" means the *Consolidated Maritime Labour Convention 2006*;

"seafarer" means a person who is employed or engaged or works in any capacity on a ship;

"seafarer recruitment and placement service" means a person that recruits seafarers or carries on business of recruiting and placing of seafarers on behalf of a shipowner or places seafarers with a shipowner;

"shipowner" means the owner of a ship or any person, such as a manager or bareboat charterer, who has assumed the responsibility for the operation of the ship;

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

4 Application

These regulations apply to any seafarer recruitment or placement service that recruits or places seafarers on ships to which the Convention applies.

Part 2 Seafarer recruitment and placement services

5 Recruitment and placement

- (1) No person may operate a seafarer recruitment and placement service unless that person holds a certificate of accreditation issued by the Authority.
- (2) The authorised representative of a ship must ensure that no person is recruited or placed for work on the ship by a seafarer recruitment and placement service unless the service—
 - (a) holds a certificate of accreditation issued by the Authority.

6 Accreditation of seafarer recruitment and placement services

- (1) For the purpose of accreditation, the seafarer recruitment and placement service must submit an application, in writing, to the Authority with the following particulars:
 - (a) name and physical address of the seafarer recruitment and placement service;
 - (b) name of each placement agent with a brief description of the agent's qualifications and experience;
 - (c) details of any quality assurance system applicable to the activities of the service.
- (2) For accreditation, a seafarer recruitment and placement service must, on receipt of reasonable notice, make available for inspection, by the Authority, the following documentation:
 - (a) the Act;
 - (b) Safe Manning Regulations;
 - (c) the Convention;
 - (d) STCW Convention; and
 - (e) for each ship to which labour is supplied—
 - (i) Maritime Labour Certificate; and
 - (ii) Declaration of Maritime Labour Compliance: Parts 1 and 2.
- (3) Every seafarer recruitment and placement service that is accredited must—
 - (a) make available, to the Authority, in reasonable time, all contracts entered into between the service and a shipowner;

- (b) make available, to the Authority, all contracts entered into with seafarers;
 - (c) for audit purposes, preserve the documents referred to in paragraphs (a) and (b) for a period of at least five years.
- (4) A person appointed by the Authority may visit a seafarer recruitment and placement service at any reasonable time for the purpose of auditing the operations of the service.
- (5) The Authority may vary or revoke an accreditation granted under subregulation (1) if—
- (a) the seafarer recruitment and placement service concerned fails to comply with these regulations or any of the conditions of accreditation; or
 - (b) the Authority otherwise has reasonable grounds to vary or revoke such accreditation.
- (6) Where the Authority intends to vary or revoke accreditation under subregulation (5), it shall inform the seafarer recruitment and placement service concerned accordingly, giving it at least 30 days to correct any deficiencies or to furnish reasons why accreditation should not be varied or revoked.
- (7) A list of all accreditations in force under subregulation (1), including the particulars thereof, shall be published from time to time by marine notice.

7 Fees and other charges

No person shall impose, directly or indirectly, any fees or other charges on any seafarer for recruiting, placing or providing employment to the seafarer, other than the cost of obtaining a medical certificate, a seaman's record book or passport, or any training required for a particular post.

8 Duties of seafarer recruitment and placement service

- (1) A seafarer recruitment and placement service must—
- (a) maintain an up-to-date register of all seafarers recruited or placed by the service, which is to be kept available for inspection by the Authority;
 - (b) ensure that seafarers are informed of their rights and duties under their employment agreements prior to engagement and proper arrangements are made for seafarers to examine their employment agreements before and after they are signed and for them to receive a copy of the agreements;

- (c) verify that seafarers recruited or placed by them are properly qualified and hold the appropriate qualifications for the position;
 - (d) ensure that the shipowner has the means to repatriate seafarers;
 - (e) examine and respond to any complaint concerning from seafarers they have recruited or placed;
 - (f) forward to the Authority all complaints that are received concerning on-board working or living conditions;
 - (g) establish a system of protection, by way of insurance or an equivalent system, to compensate seafarers for any monetary loss that they may incur as a result of the failure of the seafarer recruitment and placement service to meet its obligations to them;
 - (h) advise the seafarer if the vessel is registered in a country, in which the seafarer is to be placed, has not ratified the Convention and of any possible problems;
 - (i) advise the seafarer of any particular conditions applicable to the job, and the shipowner's policies relating to employment;
 - (j) ensure that requests for information or advice by the families of seafarers, while at sea, are dealt with promptly and sympathetically at no cost;
 - (k) ensure that the shipowner has in place financial protection to cover—
 - (i) medical costs in the event of an accident;
 - (ii) funeral and death benefit cover, including the repatriation of the body;
 - (iii) loss of personal belongings due to an accident to the ship; and
 - (iv) repatriation costs in the event of the seafarer being stranded in any port;
 - (l) ensure the confidentiality of documents submitted by a seafarer.
- (2) No seafarer recruitment or placement service shall use any means, mechanisms or lists intended to prevent or deter any person from gaining employment for which they are qualified.

Part 3 **Conditions of employment**

9 **Articles of agreement**

Where a seafarer is placed on a ship registered in the Republic to which the Convention applies, section 102 of the Act applies.

10 **Contracts of employment**

- (1) Where a seafarer is placed on a ship to which either section 102 of the Act does not apply or the ship is not registered in the Republic, a contract of employment is to be entered into and must contain the following information:
- (a) the full names of the contracting parties;
 - (b) the full names, passport and identity numbers of the seafarer;
 - (c) the names and contact details of the seafarer's next of kin;
 - (d) the place and date at which the contract was entered into;
 - (e) the date on which the contract terminates;
 - (f) the capacity in which the seafarer is to be employed;
 - (g) the amount of the crew members wages, including overtime payments and any other financial compensation;
 - (h) the amount of the crew members leave entitlement;
 - (i) any deductions that can be made from wages;
 - (j) the frequency of payment of wages;
 - (k) details of any collective bargaining agreement that may be in place;
 - (l) notice periods by either party;
 - (m) accident and death insurance cover;
 - (n) any other obligations or rights that either party may agree.
- (2) A copy of the contract must be given to the seafarer.

11 **Visas**

The owner of a ship is liable for the cost of any visa required by a seafarer when joining or leaving the ship and, if required, when the ship calls at a port.

Part 4 Supplementary

12 Offences and penalties

- (1) Every person commits an offence who, without reasonable excuse, contravenes regulation 5, 6 (3), 7, 8, 10 or 11.
- (2) The offence is punishable on conviction by a fine or by imprisonment for a period not exceeding 12 months.

Explanatory note

(This note is not part of the regulations)

1. The purpose of these regulations is to introduce into domestic legislation a regime that gives effect to Article IV (2) and regulation 5.3 (1) of the Convention.
2. To ensure that South African seafarers employed on South African and foreign registered vessels, recruited in the republic, enjoy at least the minimum employment conditions and protection envisaged in the Convention.
3. To ensure that South African employment agencies placing seafarers on foreign flagged vessels can demonstrate compliance with the relevant provisions of the Convention.

ANNEXURE: E

NOTICE 1697 OF 2007

DEPARTMENT OF TRANSPORT

Draft Merchant Shipping Regulations, 200x: For comment

The Minister of Transport, publishes for public comment the proposed Regulations set out in the set out in the accompanying Schedule. Written submissions should reach Department of Transport **on or before 4 January 2008** (**Note:** late submissions may be disregarded). These should be addressed to the Chief Director: Maritime Regulation (for the attention of Ms N Sobekwa) and may be either:

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PART 1

DRAFT MERCHANT SHIPPING (SAFE MANNING) AMENDMENT REGULATIONS, 1999

1 Title and commencement

(1) These regulations are called the *Merchant Shipping (Safe Manning) Amendment Regulations, 1999*

(2) These regulations commence on the day they are published in the Gazette.

2 Definitions

In these regulations, "**the Regulations**" means the *Merchant Shipping (Safe Manning) Regulations, 1999*, published by Government Notice No R 1548, on 30th December 1999, as amended.

3 Amendment of regulation 6B of Regulations

Regulation 6B of the Regulations is amended—

(a) by the substitution for subregulation (5) (c) of the following subregulation:

"(5) (c) it provides a minimum of ten hours of rest in any 24-hour period, which period may be divided into no more than two periods, one of which shall be at least six hours duration: Provided that the minimum period of ten hours may be reduced to not less than six consecutive hours on condition that any such reduction shall not extend beyond two days and not less than seventy seven hours of rest are provided in each seven day period."

(b) by inserting in the Regulations after subregulation (5) (c):

"(d) The interval between consecutive periods of rest shall not exceed 14 hours."

(c) by the substitution for subregulation (10) (a) of the following subregulation:

“(10) (a) The owner and the master shall keep on board the ship a copy of the schedule, a record of every seaman’s hours of work and a record of all deviations from its requirements.”.

4 Insertion of subregulation 17 (h) in the Regulations

The following subregulation is inserted in the Regulations after subregulation (g)

“(h) no seaman under the age of 18 shall be engaged or employed as a ships’ cook.”.

PART 2 DRAFT MERCHANT SHIPPING (CREW ACCOMMODATION) AMENDMENT REGULATIONS, 1961

1 Title and commencement

(1) These regulations are called the *Merchant Shipping (Crew Accommodation) Amendment Regulations, 1961*

(2) These regulations commence on the day they are published in the Gazette.

2 Definitions

In these regulations, "**the Regulations**" means the *Merchant Shipping (Crew Accommodation) Regulations 1961*, published by Government Notice No R 1064, on 24th November 1961, as amended.

3 Substitution of regulation 3 of Regulations

The following regulation is substituted for regulation 3 of the Regulations:

“3 Application

(1) These regulations shall apply to all ships registered in the Republic or deemed to be so registered or which in terms of the Act are required to be so registered, except to fishing vessels.

(2) This amendment becomes effective on the date of promulgation of—

(a) The Regulations for the Construction and Equipment of South African Fishing Vessels of 24 metres in length or less but more than 25GT; or

(b) The Regulations for the Construction and Equipment of South African Fishing Vessels of more than 24 metres in length.”.

4 Substitution of regulation 6 of Regulations

The following subregulation is substituted for subregulation (1) of the Regulations:

“(1) In every ship the height of the crew accommodation measured from the deck to the deck head shall not be less than 2.1 metres. The Authority may, in respect of store rooms and sanitary accommodation, permit some reduction in head room”.

5 Insertion of regulation 13 (2) (c) in the Regulations

The following subregulation is inserted in the Regulations after subregulation (b):

“(c) Ships, except those regularly engaged in trade where temperate climatic conditions do not require this, shall be equipped with air conditioning for sleeping accommodation, messrooms, galleys, radio rooms, machinery control rooms and wheelhouses.”.

6 Substitution of regulation 17 of Regulations

The following regulation is substituted for regulation 17 of the Regulations:

“17 Sleeping rooms

(1) In ships other than passenger ships an individual sleeping room shall be provided for each seafarer, in ships of less than 3,000 gross tones, exemptions may be granted by the Authority after consultation with shipowners' and seafarer organizations.

(2) Separate sleeping rooms shall be provided for men and women.

(3) Separate berths for each seaman shall be provided in every case.

(4) In single berth sleeping rooms the floor area shall not be less than—

(a) 4.5 square metres in ships of less than 3,000 gross tones;

(b) 5.5 square metres in ships of 3,000 gross tons or over but less than 10,000 gross tons; and

(c) 7 square meters in ships of 10,000 gross tones or over.

(5) In ships of less than 3,000 gross tons, and passenger ships, where single berth sleeping rooms are provided the Authority may permit a reduction in the floor area required in terms of subsection (4)(a).

(6) In ships of less than 3,000 gross tons other than passenger ships, sleeping rooms may be occupied by a maximum of two seamen, the floor area of the sleeping room shall not be less than square metres.

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(7) On passenger ships the floor area of sleeping rooms for seamen not performing duties of ships' officers shall not be less than—

(a) 7.5 square metres in rooms accommodating two persons;

(b) 11.5 square metres in rooms accommodating three persons; and

(c) 14.5 square metres in rooms accommodating four persons.

(8) In ships other than passenger ships sleeping rooms for seamen who perform the duties of ships' officers, where no private sitting room or day room is provided, the floor area per person shall not be less than—

(a) 7.5 square metres in ships of less than 3,000 gross tones;

(b) 8.5 square metres in ships of 3,000 or over but less than 10,000 gross tons; and

(c) 10 square metres in ships of over 10,000 gross tons.

(9) With the exception of passenger ships each sleeping room shall be provided with a wash basin having hot and cold running

water, except where such a wash basin is situated in a private bathroom.”.

7 Substitution of regulation 18 of Regulations

The following subregulations 9 (a) and (b) are substituted for subregulation (9) of the Regulations:

“(9) The minimum inside dimensions of the bed provided for seamen shall be at least 198 centimetres long by 80 centimetres in width.”.

8 Substitution of regulation 19 of Regulations

The following subregulation is substituted for subregulation (1) (a) of the Regulations:

“(1) Every sleeping room for seamen shall be provided with the following equipment—

(a) for each person accommodated in the room—

(i) a drawer having a capacity of not less than 56 litres and be fitted with a lock;

(ii) a clothes locker having a capacity of not less than 475 litres and be fitted with a lock;

(iii) where the drawer and clothes locker are combined the minimum volume of the locker shall not be less than 500 litres and be fitted with a lock; and

(iv) the clothes locker shall be fitted with at least two clothes hooks.”.

9 Amendment of regulation 20 of Regulations

Regulation 20 of the Regulations is amended—

(a) by the substitution for subregulation (1) of the following subregulation:

“(1) In every ship, unless the circumstances are such that no members of the crew are required to mess onboard, mess rooms shall be provided for the crew and shall be of such dimensions as

will be sufficient to accommodate the greatest number of persons likely to use them at any one time.”.

10 Substitution of regulation 24 of Regulations

The following subregulations are substituted for subregulations (1) and (4) of the Regulations:

“(1) In every ship, washing accommodation shall be provided separately for men and women.”.

“(4) The following equipment shall be provided in the washing accommodation:—

(a) One wash basin, and one tub or shower or both for every six persons or less who do not have personal facilities.

(b) The Authority may exempt a passenger ship solely engaged on voyages of less than four hours from subregulation (a).”.

11 Amendment of regulation 27 of Regulations

Regulation 27 of the Regulations is amended—

(a) by substitution for subregulation (1) of the following subregulation:

“(1) In every ship, washing troughs or other suitable facilities shall be provided to enable the crew to wash their clothes, and shall be adequate in size and sufficient in number for that purpose. Such troughs shall be made of or coated with hygienic and durable material having a smooth and impervious surface not likely to crack, flake or become corroded. The troughs or other facilities shall be situated in a room appropriated for use only as a laundry: Provided that the troughs or other facilities may be situated in the crew washing accommodation if the provision of the separate laundry is unreasonable or impracticable in the circumstances. The troughs or other facilities shall be provided with an adequate supply of hot and cold fresh water, and shall be so arranged as to discharge overboard or into an enclosed tank served by a mechanically operated suction pump. The Secretary may exempt any whale catcher from the requirements of this paragraph if he is satisfied that the wash-basin provided therein in compliance with regulation 24 are suitable for washing clothes.”.

12 Substitution of regulation 28 of Regulations

The following subregulations are substituted for subregulations (1) and (2) of the Regulations:

“28 Water closets

(1) In every ship, water closets shall be provided separately for men and women.

(2) In every ship a minimum of one water closet shall be provided for every 6 persons or less, provided that—

(i) in determining the number of water closets no account shall be taken of—

(a) any private water closet; and

(b) water closets provided in hospital accommodation.”.

PART 3 **MERCHANT SHIPPING (PROVISIONS) AMENDMENT REGULATIONS, 1961**

1 Title and commencement

(1) These regulations are called the *Merchant Shipping (Provisions) Amendment Regulations, 1961*

(2) These regulations commence on the day they are published in the Gazette.

2 Definitions

In these regulations, “**the Regulations**” means the *Merchant Shipping (Provisions) Regulations, 1961*, published by Government Notice No R 896, on 27th October 1961, as amended.

3 Substitution of regulation 3 of Regulations

The following regulation is substituted for regulation 3 of the regulations:

“Provisions to be furnished

3. Every seaman shall be furnished with provisions in accordance with the scale set forth in the Annex.”.

4 Amendment of regulation 4 of Regulations

Regulation 4 of the Regulations is amended—

(a) by the deletion of regulation 4

**PART 4 MERCHANT SHIPPING (BEDDING,
TOWELS, MESS UTENSILS AND OTHER
ARTICLES FOR PERSONAL USE)
AMENDMENT REGULATIONS, 1961**

1 Title and commencement

(1) These regulations are called the *Merchant Shipping (Bedding, Towels, Mess Utensils And Other Articles For Personal Use) Amendment Regulations 1961*

(2) These regulations commence on the day they are published in the Gazette.

2 Definitions

In these regulations, "**the Regulations**" means the *Merchant Shipping (Bedding, Towels, Mess Utensils And Other Articles For Personal Use) Amendment Regulations 1961) Regulations, 1999*, published by Government Notice No R 897, on 27th October 1961, as amended.

3 Amendment of regulation 4 of Regulations

Regulation 4 of the Regulations is amended—

(a) by the deletion of subregulation (1) (a)

EXPLANATORY NOTE

(This note is not part of the regulations)

1. These regulations are enabled by section 356 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951) ("the Act").
 2. The purpose of these amendments is to bring domestic legislation in line with Consolidated Maritime Labour Convention, International Labour Organization, Geneva, 2006.
 3. It is the attention of the South African Government to ratify this Convention.
 4. These amendments also delete sections of regulations and repeal regulations that are unconstitutional.
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