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REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

Price 10c Prys
Overseas 15c Oorsee
POST FREE—POSVRY

Vol. 47.]

CAPE TOWN, 7TH MAY, 1969.

KAAPSTAD, 7 MEI 1969.

[No. 2382.]

DEPARTMENT OF THE PRIME MINISTER.

DEPARTEMENT VAN DIE EERSTE MINISTER.

No. 732. 7th May, 1969.

No. 732. 7 Mei 1969.

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 42 of 1969: Merchant Shipping Amendment Act, 1969.

No. 42 van 1969: Wysigingswet op Handelskeepvaart, 1969.

Act No. 42, 1969

MERCHANT SHIPPING AMENDMENT ACT, 1969.

ACT

To amend the provisions of the Merchant Shipping Act, 1951, as to definitions; the power of the Minister to delegate; notification of building of vessels; the obligation to apply for registration of a ship; evidence on first registration; prohibition of use of unlicensed vessels; the granting of certificates of service; certificates granted by competent foreign authorities; agreements with crew; the reporting of changes in crew; the discharge of seamen before a proper officer; payment of wages on discharge of a seaman of a South African ship; the delivery of an account of wages; the issue of load line exemption certificates; the initial and subsequent surveys of ships in respect of load line provisions; the issue of load line certificates; the surrender of expired or cancelled load line certificates; the prohibition of the taking of South African ships to sea without load line certificates; the display of a safety convention certificate, local safety certificate or load line certificate; information about stability of a ship; reports to a proper officer of accidents to ships; preliminary enquiries into shipping casualties; powers of court of marine enquiry in respect of master or ship's officer; powers of maritime courts; opportunity of making a defence; effect of cancellation or suspension of certificate of master or ship's officer or prohibition of employment; prohibition of endorsement of such a certificate; the powers of the Minister in respect of a cancelled or suspended certificate; and to provide for incidental matters.

(English text signed by the State President.)

(Assented to 25th April, 1969.)

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

Amendment of section 2 of Act 57 of 1951, as amended by section 3 of Act 30 of 1959, section 31 of Act 69 of 1962, section 1 of Act 40 of 1963 and section 1 of Act 13 of 1965.

1. Section 2 of the Merchant Shipping Act, 1951 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the substitution for the definition of "international load line certificate" in subsection (1) of the following definition:

"'international load line certificate' means a certificate issued under paragraph 1 of section 207, or deemed in accordance with the provisions of section 215 (1) to have been so issued and includes an international load line exemption certificate;"
- (b) by the insertion in the said subsection after the definition of "international load line certificate" of the following definition:

"'international load line exemption certificate' means a certificate issued under section 204 (1) (a);"
- (c) by the substitution for the definition of "international load line ship" in the said subsection of the following definition:

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WET

Tot wysiging van die bepalinge van die Handelskeepvaartwet, 1951, betreffende woordbepalinge; die bevoegdheid van die Minister om te deleger; aanmelding van die bou van skepe; die verpligting om aansoek om die registrasie van 'n skip te doen; bewyse by eerste registrasie; verbod op gebruik van ongelisensieerde vaartuie; toekenning van dienssertifikate; sertifikate toegeken deur bevoegde vreemde gesag; ooreenkomste met bemanning; die rapportering van veranderings in bemanning; die ontslag van seelui voor 'n bevoegde beampte; betaling van loon by ontslag van 'n seeman van 'n Suid-Afrikaanse skip; die lewering van 'n loonstaat; die uitreiking van laslynvrystellingsertifikate; die eerste en daaropvolgende ondersoek van skepe ten opsigte van voorskryfte in verband met laslyne; die uitreiking van laslynsertifikate; inlewering van verstreke en gekanselleerde laslynsertifikate; die verbod op die vaar van Suid-Afrikaanse skepe sonder laslynsertifikate; die vertoning van 'n veiligheidskonvensiesertifikaat, plaaslike veiligheidsertifikaat of laslynsertifikaat; gegewens oor stabiliteit van 'n skip; verslae aan bevoegde beampte oor skeepsongelukke; voorlopige ondersoeke na skeepsongevale; bevoegdheid van hof van marine-ondersoek ten aansien van gesagvoerder of skeeps-offisier; bevoegdhede van seehowe; geleentheid tot verweer; gevolge van kansellering of opskorting van sertifikaat van gesagvoerder of skeeps-offisier of verbod op indienseneming; verbod op endossement van so 'n sertifikaat; die bevoegdhede van die Minister ten aansien van 'n gekanselleerde of opgeskorte sertifikaat; en om vir bykomstige aangeleenthede voorsiening te maak.

(Engelse teks deur die Staatspresident geteken.)

(Goedgekeur op 25 April 1969.)

DAAR WORD BEPAAL deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

1. Artikel 2 van die Handelskeepvaartwet, 1951 (hieronder die Hoofwet genoem), word hierby gewysig—
 - (a) deur subparagraaf (i) van paragraaf (b) van die omskrywing van „bevoegde beampte” in subartikel (1) deur die volgende subparagraaf te vervang:

„(i) 'n beroeps-konsulêre verteenwoordiger van die Republiek; of”;
 - (b) deur in bedoelde subartikel die omskrywing van „internasionale laslynsertifikaat” deur die volgende omskrywing te vervang:

„internasionale laslynsertifikaat” 'n sertifikaat uitgereik kragtens paragraaf 1 van artikel 207, of wat volgens die bepalinge van artikel 215 (1) geag word aldus uitgereik te gewees het, en ook 'n internasionale laslynvrystellingsertifikaat;”;
 - (c) deur in bedoelde subartikel die omskrywing van „internasionale laslynskip” deur die volgende omskrywing te vervang:

Wysiging van artikel 2 van Wet 57 van 1951, soos gewysig deur artikel 3 van Wet 30 van 1959, artikel 31 van Wet 69 van 1962, artikel 1 van Wet 40 van 1963 en artikel 1 van Wet 13 van 1965.

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- “international load line ship” means a load line ship of seventy-nine feet or more in length, which is engaged on an international voyage;”;
- (d) by the insertion in the said subsection after the definition of “Load Line Convention” of the following definition: “load line exemption certificate” means an international load line exemption certificate or a local load line exemption certificate;”;
- (e) by the substitution for the definition of “load line ship” in the said subsection of the following definition: “load line ship” means any ship of forty-five feet or more in length, which is not solely engaged in fishing and is not a pleasure yacht;”;
- (f) by the substitution for the definition of “local general safety certificate” in the said subsection of the following definition: “local general safety certificate” means a certificate issued under section 194 (1) (a) or (b) (ii);”;
- (g) by the substitution for the definition of “local load line certificate” in the said subsection of the following definition: “local load line certificate” means a certificate issued under paragraph 2 of section 207 and includes a local load line exemption certificate;”;
- (h) by the insertion in the said subsection after the definition of “local load line certificate” of the following definition: “local load line exemption certificate” means a certificate issued under section 204 (1) (b);”;
- (i) by the substitution for the definition of “local load line ship” in the said subsection of the following definition: “local load line ship” means a load line ship—
- (a) engaged on an international voyage and of less than seventy-nine feet in length; or
- (b) not engaged on an international voyage;”;
- (j) by the substitution for subparagraph (i) of paragraph (b) of the definition of “proper officer” in the said subsection of the following subparagraph: “(i) a career consular representative of the Republic; or”; and
- (k) by the substitution for the definition of “surveyor” in the said subsection of the following definition: “surveyor” means any person recognized or appointed in terms of section 4 (b) or any qualified person employed as surveyor by an organization referred to in an instrument of delegation issued under section 4 (d);”.

Amendment of
section 4 of
Act 57 of 1951.

2. Section 4 of the principal Act is hereby amended by the substitution for paragraph (d) of the following paragraph:

“(d) delegate any of his powers under this Act (except the power of delegation) to any officer or organization with respect to the powers or matters specified or the port or area defined in the instrument of delegation.”.

Amendment of
section 10 of
Act 57 of 1951.

3. Section 10 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Every person who at the coming into operation of this section is building, or after such coming into operation intends to build, a vessel which when completed will be required to be registered or licensed in terms of this Act, shall within sixty days of such coming into operation or before beginning to build the vessel, as the case may be,

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- „internasionale laslynskip” ’n laslynskip van nege-en-sewentig voet of meer lank wat vir ’n internasionale reis gebruik word;”;
- (d) deur in bedoelde subartikel na die omskrywing van „internasionale laslynskip” die volgende omskrywing in te voeg:
- „internasionale laslynvystellingsertifikaat” ’n sertifikaat wat kragtens artikel 204 (1) (a) uitgereik is;”;
- (e) deur in bedoelde subartikel die omskrywing van „laslynskip” deur die volgende omskrywing te vervang:
- „laslynskip” ’n skip van vyf-en-veertig voet of meer lank wat nie net vir visvang gebruik word nie en nie ’n plesierjag is nie;”;
- (f) deur in bedoelde subartikel na die omskrywing van „laslynskip” die volgende omskrywing in te voeg:
- „laslynvystellingsertifikaat” ’n internasionale laslynvystellingsertifikaat of ’n plaaslike laslynvystellingsertifikaat;”;
- (g) deur in bedoelde subartikel die omskrywing van „opnemer” deur die volgende omskrywing te vervang:
- „opnemer” ’n persoon wat kragtens artikel 4 (b) erken of aangestel is of ’n gekwalifiseerde persoon wat as opnemer werksaam is by ’n organisasie genoem in ’n kragtens artikel 4 (d) uitgereikte delegasie-akte;”;
- (h) deur in bedoelde subartikel die omskrywing van „plaaslike algemene veiligheidsertifikaat” deur die volgende omskrywing te vervang:
- „plaaslike algemene veiligheidsertifikaat” ’n sertifikaat wat kragtens artikel 194 (1) (a) of (b) (ii) uitgereik is;”;
- (i) deur in bedoelde subartikel die omskrywing van „plaaslike laslynsertifikaat” deur die volgende omskrywing te vervang:
- „plaaslike laslynsertifikaat” ’n sertifikaat wat kragtens paragraaf 2 van artikel 207 uitgereik is, en ook ’n plaaslike laslynvystellingsertifikaat;”;
- (j) deur in bedoelde subartikel die omskrywing van „plaaslike laslynskip” deur die volgende omskrywing te vervang:
- „plaaslike laslynskip” ’n laslynskip—
- (a) wat vir ’n internasionale reis gebruik word, en minder as nege-en-sewentig voet lank is; of
- (b) wat nie vir ’n internasionale reis gebruik word nie;” en
- (k) deur in bedoelde subartikel na die omskrywing van „plaaslike laslynskip” die volgende omskrywing in te voeg:
- „plaaslike laslynvystellingsertifikaat” ’n sertifikaat wat kragtens artikel 204 (1) (b) uitgereik is;”.

2. Artikel 4 van die Hoofwet word hierby gewysig deur paragraaf (d) deur die volgende paragraaf te vervang:

„(d) bevoegdhede wat hy kragtens hierdie Wet besit (behalwe die mag van delegasie), aan ’n beampte of organisasie deleger ten aansien van die bevoegdhede of sake uiteengesit, of die hawe of gebied omskryf, in die delegasie-akte.”.

Wysiging van
artikel 4 van
Wet 57 van 1951.

3. Artikel 10 van die Hoofwet word hierby gewysig deur sub-artikel (1) deur die volgende subartikel te vervang:

„(1) Elke persoon wat by die inwerkingtreding van hierdie artikel besig is, of wat na sodanige inwerkingtreding van voorneme is, om ’n vaartuig te bou wat by voltooiing kragtens hierdie Wet geregistreer of gelisensieer moet word, verstrek binne sestig dae na sodanige inwerkingtreding of voordat begin word met die bou van die vaartuig, al na

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furnish to the proper officer at the port where the vessel will be registered or licensed or to the Secretary such written particulars of the vessel as may be prescribed.”.

Amendment of section 13 of Act 57 of 1951, as amended by section 5 of Act 40 of 1963.

4. Section 13 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) The Minister may in his discretion exempt the owners of certain classes of ships of less than one hundred gross tons, to be determined by him, or the owners of ships which are not self-propelled and which are used exclusively in a port, from the provisions of this section.”.

Amendment of section 20 of Act 57 of 1951.

5. Section 20 of the principal Act is hereby amended—

(a) by the substitution for paragraph (b) of subsection (1) of the following paragraph:

“(b) a certificate signed by the builder and containing a true account of the size and dimensions and the tonnage of the ship as estimated by the said builder, and of the time when and the place where she was built, and of the name of the person on whose account she was built, unless the person who makes the declaration of ownership declares that the time and place of building are unknown to him, or that the builder's certificate cannot be obtained, in which case there shall be required only the deed of sale under which the ship became vested in the applicant for registry;” and

(b) by the substitution for subsection (2) of the following subsection:

“(2) The builder of a ship shall not refuse or omit upon request by the owner to grant the certificate required by this section.”.

Substitution of section 72 of Act 57 of 1951.

6. The following section is hereby substituted for section 72 of the principal Act:

“Unlicensed vessels not to be used. 72. No person shall use a vessel which in terms of section 68 is required to be licensed, for any purpose whatsoever, unless the owner or master of the vessel holds a valid and current licence issued in respect thereof.”.

Amendment of section 80 of Act 57 of 1951, as amended by section 16 of Act 30 of 1959 and section 14 of Act 40 of 1963.

7. Section 80 of the principal Act is hereby amended by the substitution for subsections (1), (2), (3), (4) and (5) of the following subsections:

“(1) Any person who—

(a) immediately before the repeal by this Act of the Merchant Shipping (Certificates of Competency) Act, 1925 (Act No. 45 of 1925), was entitled, in terms of the proviso to section 1 (3) of that Act, to act as master, mate or engineer; or

(b) is the holder of an uncanceled certificate of service granted under section 15 of the said Merchant Shipping (Certificates of Competency) Act, 1925; or

(c) at any time before the coming into operation of this section has for a continuous period of not less than one year, or within three years before the said coming into operation has for two or more periods amounting in the aggregate to not less than one year—

(i) acted as boatswain or as assistant to the engineer or driver of a fishing boat of one hundred or more gross register tons registered in the Republic or, except in the case of a foreign ship, licensed under the Sea Fisheries Act, 1940 (Act No. 10 of 1940), or the Sealing and Fisheries Ordinance, 1949 (Ordinance No. 12 of 1949), of the Territory of South-West Africa; or

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die geval, aan die bevoegde beampte by die hawe waar die vaartuig geregistreer of gelisensieer sal word of aan die Sekretaris, sodanige skriftelike besonderhede van die vaartuig as wat voorgeskryf is.”.

4. Artikel 13 van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

„(3) Die Minister kan na goeë dunde die eienaars van skepe van sekere deur hom bepaalde kategorieë van minder as eenhonderd bruto-ton of die eienaars van skepe wat nie selfaangedrewe is nie en wat uitsluitlik in 'n hawe gebruik word, vrystel van die bepalings van hierdie artikel.”.

Wysiging van artikel 13 van Wet 57 van 1951, soos gewysig deur artikel 5 van Wet 40 van 1963.
5. Artikel 20 van die Hoofwet word hierby gewysig—
 - (a) deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:

„(b) 'n sertifikaat onderteken deur die bouer wat 'n ware opgawe bevat van die grootte en afmetings en die tonnemaat van die skip soos deur genoemde bouer geskat, en van die tyd toe en die plek waar dit gebou is, en van die naam van die persoon vir wie se rekening dit gebou is, tensy die persoon wat die verklaring van eiendomsreg maak, verklaar dat die tyd toe en die plek waar dit gebou is, hom onbekend is, of dat die bouersertifikaat nie verkry kan word nie, in welke geval net die koopakte vereis word waardeur die skip die eiendom van die aansoeker om registrasie geword het;” en
 - (b) deur subartikel (2) deur die volgende subartikel te vervang:

„(2) Die bouer van 'n skip weier of versuim nie om op die eienaar se versoek die sertifikaat uit te reik wat deur hierdie artikel vereis word nie.”.

Wysiging van artikel 20 van Wet 57 van 1951.
6. Artikel 72 van die Hoofwet word hierby deur die volgende artikel vervang:

„Onge-lisensieerde vaartuie word nie gebruik nie. 72. Niemand gebruik 'n vaartuig wat ingevolge artikel 68 gelisensieer moet wees, vir enige doel hoegenaamd nie tensy die eienaar of gesagvoerder van die vaartuig in besit is van 'n geldige en lopende lisensie wat ten aansien daarvan uitgereik is.”.

Vervanging van artikel 72 van Wet 57 van 1951.
7. Artikel 80 van die Hoofwet word hierby gewysig deur subartikels (1), (2), (3), (4) en (5) deur die volgende subartikels te vervang:
 - „(1) Enige persoon wat—
 - (a) onmiddellik voor die herroeping van die „Koopvaardij (Certifikaten van Bekwaamheid) Wet, 1925” (Wet No. 45 van 1925), deur hierdie Wet, kragtens die voorbehoudsbepaling by artikel 1 (3) van daardie Wet geregtig was om as gesagvoerder, stuurman of ingenieur op te tree; of
 - (b) die houer is van 'n ongekanselleerde dienssertifikaat verleen kragtens artikel 15 van genoemde „Koopvaardij (Certifikaten van Bekwaamheid) Wet, 1925”; of
 - (c) te eniger tyd voor die inwerkingtreding van hierdie artikel ononderbroke vir minstens een jaar, of binne drie jaar voor gemelde inwerkingtreding vir twee of meer tydperke van altesame minstens een jaar—
 - (i) as bootsman of as assistent tot die masjinis of masjienewerker van 'n vissersboot van eenhonderd of meer bruto-registerton wat in die Republiek geregistreer is, of, behalwe in die geval van 'n vreemde skip, kragtens die Wet op Seevisserye, 1940 (Wet No. 10 van 1940), of die Ordonnansie op Robbevings en Visserye, 1949 (Ordonnansie No. 12 van 1949), van die Gebied Suidwes-Afrika, gelisensieer is, opgetree het; of

Wysiging van artikel 80 van Wet 57 van 1951, soos gewysig deur artikel 16 van Wet 30 van 1959 en artikel 14 van Wet 40 van 1963.

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- (ii) acted as master, skipper, mate, second hand, engineer or driver or as assistant to the engineer or driver of a coasting ship or a fishing, sealing or whaling boat of less than one hundred gross register tons registered in the Republic or, except in the case of a foreign ship, licensed under the Sea Fisheries Act, 1940 (Act No. 10 of 1940), or the Sealing and Fisheries Ordinance, 1949 (Ordinance No. 12 of 1949), of the Territory of South-West Africa; or
 - (d) is a South African citizen and is the holder of an uncanceled certificate of service issued by a competent authority in a country other than the Republic; or
 - (e) holds a permanent commission as an executive officer or engineer-officer or is on the reserve of the South African Navy Permanent Force, and who has completed the qualifying service prescribed by regulation, may apply to the Secretary for a certificate of service.
- (2) The Secretary may grant to the applicant—
- (a) if the application is made under subsection (1) (a), an appropriate certificate of service authorizing him to act as master, navigating officer or engineer-officer, as the case may be, of a ship of not more than one thousand gross register tons (in the case of a master or navigating officer) or of not more than one thousand indicated horsepower (in the case of an engineer-officer); or
 - (b) if the application is made under subsection (1) (b), an appropriate certificate of service authorizing him to act as skipper, mate or marine engineman, as the case may be, of a fishing boat; or
 - (c) if the application is made—
 - (i) under subsection (1) (c) (i), an appropriate certificate of service authorizing him to act as boatswain or assistant marine engineman, as the case may be, of a fishing boat; or
 - (ii) under subsection (1) (c) (ii), an appropriate certificate of service authorizing him to act as skipper, mate, engineer-officer or assistant marine engineman, as the case may be, of a coasting ship or a fishing, sealing or whaling boat, as the case may be, of less than one hundred gross register tons, and the capacity in which he is so authorized to act shall not be higher than the lowest capacity in which he acted during the period or periods in respect of which his claim is based; or
 - (d) if the application is made under subsection (1) (d), an appropriate certificate of service which, in the opinion of the Secretary, testifies to the possession by the holder thereof of qualifications and a degree of competency not higher than those to which the certificate, upon the possession of which the application is based, testifies; or
 - (e) if the application is made under subsection (1) (e), an appropriate certificate of service authorizing him to act as navigating officer, master or engineer-officer, as the case may be, of a foreign-going ship or a coasting ship, as the case may be.
- (3) Before a certificate of service is granted the Secretary may require the surrender to him of—
- (a) if the application is made under paragraph (a) of subsection (1), and by virtue of the possession of such a certificate as is referred to in the proviso mentioned in that paragraph, that certificate; or

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- (ii) as skeepskaptein, skipper, stuurman, maat, bootsman, masjini of masjienewerker of as assistent tot die masjini of masjienewerker van 'n kusvaarder of 'n vissersboot of robbe- of walvisvaarder van minder as eenhonderd bruto-registerton wat in die Republiek geregistreer is, of, behalwe in die geval van 'n vreemde skip, kragtens die Wet op Seevisserye, 1940 (Wet No. 10 van 1940), of die Ordonnansie op Robbevangs en Visserye, 1949 (Ordonnansie No. 12 van 1949), van die Gebied Suidwes-Afrika, gelisensieer is, opgetree het; of
 - (d) 'n Suid-Afrikaanse burger is en die houer is van 'n ongekanselleerde dienssertifikaat uitgereik deur 'n bevoegde gesag in 'n ander land as die Republiek; of
 - (e) 'n permanente kommissie-aanstelling as uitvoerende offisier of ingenieuroffisier toegeken is of op die reserwelys van die Suid-Afrikaanse Vloot Staande Mag is en die kwalifiserende diens voltooi het wat by regulasie voorgeskryf is,
- kan om 'n dienssertifikaat by die Sekretaris aansoek doen.
- (2) Die Sekretaris kan aan die applikant—
- (a) as die aansoek kragtens subartikel (1) (a) gedoen word, 'n paslike dienssertifikaat toestaan wat hom magtig om as gesagvoerder, navigasie-offisier of ingenieuroffisier, al na die geval, van 'n skip van hoogstens eenduisend bruto-registerton (in die geval van 'n gesagvoerder of navigasie-offisier) of van hoogstens eenduisend aangegewe perdekrag (in die geval van 'n ingenieuroffisier) op te tree; of
 - (b) as die aansoek kragtens subartikel (1) (b) gedoen word, 'n paslike dienssertifikaat toestaan wat hom magtig om as skipper, stuurman of seemasjini, al na die geval, van 'n vissersboot op te tree; of
 - (c) as die aansoek—
 - (i) kragtens subartikel (1) (c) (i) gedoen word, 'n paslike dienssertifikaat toestaan wat hom magtig om as bootsman of as assistent-seemasjini, al na die geval, van 'n vissersboot op te tree; of
 - (ii) kragtens subartikel (1) (c) (ii) gedoen word, 'n paslike dienssertifikaat toestaan wat hom magtig om op te tree as skipper, maat, ingenieuroffisier of assistent-seemasjini, al na die geval, van 'n kusvaarder of 'n vissersboot of robbe- of walvisvaarder, al na die geval, van minder as eenhonderd bruto-registerton, en die hoedanigheid waarin hy aldus gemagtig word om op te tree, mag nie hoër wees nie as die laagste hoedanigheid waarin hy opgetree het gedurende die tydperk of tydperke ten aansien waarvan sy eis gegrond is; of
 - (d) as die aansoek kragtens subartikel (1) (d) gedoen word, 'n paslike dienssertifikaat toestaan wat na die mening van die Sekretaris getuig van die houer se besit van kwalifikasies en 'n graad van bekwaamheid wat nie hoër is nie as dié waarvan die sertifikaat, op die besit waarvan die aansoek gegrond is, getuig; of
 - (e) as die aansoek kragtens subartikel (1) (e) gedoen word, 'n paslike dienssertifikaat toestaan wat hom magtig om as navigasie-offisier, gesagvoerder of ingenieuroffisier, al na die geval, van 'n skip op vreemde vaart of 'n kusvaarder, al na die geval, op te tree.
- (3) Voordat 'n dienssertifikaat toegeken word, kan die Sekretaris vereis dat aan hom afgegee word—
- (a) as die aansoek gedoen word kragtens paragraaf (a) van subartikel (1) en uit hoofde van die besit van 'n sertifikaat bedoel in die in daardie paragraaf vermelde voorbehoudsbepaling, daardie sertifikaat; of

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(b) if the application is made under subsection (1) (b) or (d), the certificate upon the possession of which the application is based.

(4) In the case of an application under subsection (1) (c) or (e), the grant of a certificate of service may be withheld until the applicant has passed the colour and form vision tests prescribed.

(5) Subsections (1) and (2) shall apply in respect of certificates of service referred to in subsection (1) (b) during the period of one year after the coming into operation of this section and no longer."

Substitution of section 83 of Act 57 of 1951, as amended by section 41 of Act 69 of 1962 and section 16 of Act 40 of 1963.

8. The following section is hereby substituted for section 83 of the principal Act:

"Certificates granted by competent foreign authorities.

83. (1) The master and every officer on board a foreign ship who has received a certificate of competency or certificate of service granted by a competent authority in a foreign country and still in force shall, if the Minister is satisfied that the certificate is of corresponding value to any certificate of competency granted under this Act or the Merchant Shipping (Certificates of Competency) Act, 1925 (Act No. 45 of 1925), be deemed to be duly certificated under this Act in respect of such ship, provided his certificate is of a grade appropriate to his station in such ship, or of a higher grade.

(2) Notwithstanding the provisions of section 73 the Minister may, in his discretion, and for such periods and under such conditions as he may specify, permit the engagement on a South African ship going to sea from any port whatsoever or on a treaty ship other than a South African ship going to sea from a port in the Republic, in lieu of a person duly certificated under this Act or deemed, in terms of the other provisions of this Act, to be so certificated, of a person who is the holder of such a certificate of competency or certificate of service as is referred to in subsection (1), and who possesses a knowledge of either of the official languages of the Republic sufficient to enable him to give the necessary orders in the performance of his duties; and while any such permission remains in force, and if the conditions under which it was granted are complied with, the person so engaged shall be deemed to be duly certificated under this Act in respect of such ship, provided his certificate is of a grade appropriate to his station in such ship, or of a higher grade."

Amendment of section 102 of Act 57 of 1951.

9. Section 102 of the principal Act is hereby amended by the substitution for paragraph (f) of subsection (3) of the following paragraph:

"(f) the wages which each seaman is to receive;".

Amendment of section 104 of Act 57 of 1951, as amended by section 18 of Act 30 of 1959.

10. Section 104 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) Where an agreement has been entered into with the crew of a South African ship, the Master or the owner thereof shall—

(a) before the ship leaves the port where the agreement was entered into, sign and render to the proper officer at that port a full and accurate statement in a form approved by the Secretary of every change that has taken place in the crew without the authority of the proper officer since the agreement was entered into; and

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(b) as die aansoek gedoen word kragtens subartikel (1) (b) of (d), die sertifikaat op die besit waarvan die aansoek gegronde is.

(4) In geval van 'n aansoek kragtens subartikel (1) (c) of (e), kan die toekenning van 'n dienssertifikaat agterweë gehou word totdat die applikant in die voorgeskrewe gesigstoetse vir kleur en vorm geslaag het.

(5) Subartikels (1) en (2) is van toepassing op die in subartikel (1) (b) bedoelde dienssertifikate gedurende die tydperk van een jaar na die inwerkingtreding van hierdie artikel en niks langer nie."

8. Artikel 83 van die Hoofwet word hierby deur die volgende artikel vervang:

„Sertifikate
toegeken
deur be-
voegde
vreemde
gesag.

83. (1) Die gesagvoerder en elke offisier aan boord van 'n vreemde skip wat 'n bekwaamheid-sertifikaat of dienssertifikaat ontvang het wat deur 'n bevoegde gesag in 'n vreemde land toegeken is en nog van krag is, word as die Minister oortuig is dat die sertifikaat van ooreenstemmende waarde is met 'n bekwaamheid-sertifikaat wat kragtens hierdie Wet of die „Koopvaardij (Certifikaten van Bekwaamheid) Wet, 1925" (Wet No. 45 van 1925), toegeken is, geag behoorlik kragtens hierdie Wet gediplomeerd te wees ten opsigte van sodanige skip, mits sy sertifikaat van 'n graad is wat pas by sy rang op sodanige skip, of van 'n hoër graad is.

(2) Ondanks die bepalinge van artikel 73, kan die Minister, na goeddunke en vir sodanige tydperke en onderhewig aan sodanige voorwaardes as wat hy bepaal, op 'n Suid-Afrikaanse skip wat uitvaar uit enige hawe hoegenaamd of op 'n verdragskip behalwe 'n Suid-Afrikaanse skip wat uitvaar uit 'n hawe in die Republiek die indiensneming toelaat, in stede van 'n persoon behoorlik gediplomeerd kragtens hierdie Wet of wat ingevolge die ander bepalinge van hierdie Wet geag word aldus gediplomeerd te wees, van 'n persoon wat die houer is van 'n in subartikel (1) bedoelde bekwaamheid-sertifikaat of dienssertifikaat, en wat voldoende kennis het van een van die twee offisiële tale van die Republiek om die nodige bevel te kan gee in die uitvoering van sy pligte; en solank sodanige toelating van krag bly, en indien die voorwaardes van toekenning nagekom word, word die persoon wat aldus in diens geneem is geag behoorlik kragtens hierdie Wet gediplomeerd te wees ten opsigte van sodanige skip, mits sy sertifikaat van 'n graad is wat pas by sy rang op sodanige skip, of van 'n hoër graad is."

Vervanging van
artikel 83 van
Wet 57 van 1951,
soos gewysig
deur artikel 41
van Wet 69 van
1962 en artikel
16 van Wet 40
van 1963.

9. Artikel 102 van die Hoofwet word hierby gewysig deur in die Engelse teks paragraaf (f) van subartikel (3) deur die volgende paragraaf te vervang:

„(f) the wages which each seaman is to receive;"

Wysiging van
artikel 102 van
Wet 57 van 1951.

10. Artikel 104 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

„(1) Waar 'n ooreenkoms met die bemanning van 'n Suid-Afrikaanse skip aangegaan is, moet die gesagvoerder of die eienaar daarvan—

(a) voordat die skip die hawe verlaat waar die ooreenkoms aangegaan is, 'n volledige en juiste verklaring in 'n deur die Sekretaris goedgekeurde vorm van elke verandering in die bemanning wat sonder magtiging van die bevoegde beampte plaasgevind het sedert die ooreenkoms aangegaan is, onderteken en aan die bevoegde beampte by daardie hawe lewer; en

Wysiging van
artikel 104 van
Wet 57 van 1951,
soos gewysig
deur artikel 18
van Wet 30 van
1959.

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- (b) before the ship leaves any port subsequently entered by her during the currency of the agreement, sign and render to the proper officer at that port a full and accurate statement in a form approved by the Secretary of every change that has taken place in the crew without the authority of the proper officer since he last rendered a statement in terms of this section.”.

Amendment of
section 113 of
Act 57 of 1951.

11. Section 113 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) When a seaman is discharged and the master declines to express an opinion on the conduct, character and qualifications of the seaman, he shall furnish to the proper officer before whom the discharge is made a report in the prescribed form stating that he so declines, and the proper officer shall, if the seaman so desires, give to him or endorse on his certificate of discharge a copy of such report. The master shall enter in the official log-book his reasons for so declining, and shall, upon the request of the seaman, read out to him, in the presence of the proper officer, the reasons so entered. The proper officer shall, whenever practicable, give the seaman a reasonable opportunity to make a statement upon such report.”.

Substitution of
section 120 of
Act 57 of 1951,
as amended by
section 19 of
Act 30 of 1959.

12. The following section is hereby substituted for section 120 of the principal Act:

“Payment of wages on discharge of a seaman of a South African ship. 120. When a seaman of a South African ship is discharged, he may or if he has a dispute regarding his wages, he shall be paid his wages, or the balance thereof, in the manner directed by the proper officer, and the owner or master of the ship, as the case may be, shall, in the case of a dispute, not pay the wages of the seaman, or the balance thereof, in any other manner.”.

Amendment of
section 121
of Act 57 of
1951, as amended
by section 19
of Act 30 of 1959.

13. Section 121 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:

“(1) When a seaman of a South African ship is discharged, the master or the owner of such ship shall cause to be delivered to such seaman a full and true account of his wages in a form approved by the Secretary.”;

- (b) by the deletion of subsection (2); and

- (c) by the substitution for subsection (3) of the following subsection:

“(3) A deduction from the wages of a seaman shall not be allowed unless it is included in the account delivered in terms of subsection (1), except in respect of a matter happening after the said delivery.”.

Amendment of
section 204 of
Act 57 of 1951,
as amended by
section 33 of
Act 40 of 1963.

14. Section 204 of the principal Act is hereby amended—

- (a) by the substitution for subsections (1) and (2) of the following subsections:

“(1) If, after consideration of the report of a surveyor of his inspection of a load line ship registered in the Republic, the Minister (in the case of an international load line ship), or the Secretary (in the case of a local load line ship), is satisfied that the ship is exempt by virtue of the exercise by him of a power conferred on him by the load line regulations, from any or all of the requirements of the said regulations

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- (b) voordat die skip enige hawe verlaat waarby daarna aangedoen word gedurende die duur van die ooreenkoms, 'n volledige en juiste verklaring in die deur die Sekretaris goedgekeurde vorm van elke verandering in die bemanning wat sonder magtiging van die bevoegde beampte plaasgevind het sedert hy laas 'n verklaring ingevolge hierdie artikel gelewer het, onderteken en aan die bevoegde beampte by daardie hawe lewer."

11. Artikel 113 van die Hoofwet word hierby gewysig deur subartikel (4) deur die volgende subartikel te vervang:

Wysiging van artikel 113 van Wet 57 van 1951.

„(4) Wanneer 'n seeman ontslaan word en die gesagvoerder weier om 'n mening uit te spreek oor die gedrag, karakter en kwalifikasies van die seeman, verstrekk hy aan die bevoegde beampte voor wie die ontslag plaasvind 'n verslag in die voorgeskrewe vorm waarin hy meld dat hy aldus weier en die bevoegde beampte gee, as die seeman dit verlang, aan hom of endosseer op sy ontslagsertifikaat 'n afskrif van sodanige verslag. Die gesagvoerder teken in die amptelike skeepsjoernaal sy redes vir sodanige weiering aan, en, as die seeman dit verlang, lees hy in die teenwoordigheid van die bevoegde beampte die aldus aange tekende redes aan hom voor. Die bevoegde beampte bied die seeman, wanneer doenlik, 'n redelike geleentheid om 'n verklaring oor sodanige verslag af te lê."

12. Artikel 120 van die Hoofwet word hierby deur die volgende artikel vervang:

Vervanging van artikel 120 van Wet 57 van 1951, soos gewysig deur artikel 19 van Wet 30 van 1959.

„Betaling van loon by ontslag van 'n seeman van 'n Suid-Afrikaanse skip.

120. Wanneer 'n seeman van 'n Suid-Afrikaanse skip ontslaan word, kan, of indien hy betrokke is by 'n geskil aangaande sy loon, moet sy loon, of die balans daarvan, aan hom betaal word op die wyse wat deur die bevoegde beampte gelas word, en die eienaar of gesagvoerder van die skip, na gelang van die geval, betaal, in die geval van 'n geskil, die loon van die seeman of die balans daarvan op geen ander wyse nie."

13. Artikel 121 van die Hoofwet word hierby gewysig—

Wysiging van artikel 121 van Wet 57 van 1951, soos gewysig deur artikel 19 van Wet 30 van 1959.

(a) deur subartikel (1) deur die volgende subartikel te vervang:

„(1) Wanneer 'n seeman van 'n Suid-Afrikaanse skip ontslaan word, moet die gesagvoerder of eienaar van daardie skip sorg dat aan daardie seeman 'n volledige en ware staat van sy loon, in 'n vorm deur die Sekretaris goedgekeur, gelewer word."

(b) deur subartikel (2) te skrap; en

(c) deur subartikel (3) deur die volgende subartikel te vervang:

„(3) 'n Aftrekking van die loon van 'n seeman word nie toegelaat nie, tensy dit ingesluit is by die staat kragtens subartikel (1) gelewer, behalwe ten aansien van 'n saak wat na genoemde lewering voorval."

14. Artikel 204 van die Hoofwet word hierby gewysig—

Wysiging van artikel 204 van Wet 57 van 1951, soos gewysig deur artikel 33 van Wet 40 van 1963.

(a) deur subartikels (1) en (2) deur die volgende subartikels te vervang:

„(1) Indien na oorweging van die verslag van 'n opnemer oor sy inspeksie van 'n in die Republiek geregistreerde laslynskip, die Minister (in die geval van 'n internasionale laslynskip) of die Sekretaris (in die geval van 'n plaaslike laslynskip), oortuig is dat die skip uit hoofde van die uitoefening deur hom van 'n bevoegdheid aan hom verleen deur die laslynregulasies, vrygestel is van die een of ander van of al die vereistes van gemelde regulasies en dat dit aan die oorblywende

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and that she complies with the remaining requirements (if any), the Minister or the Secretary, as the case may be, shall cause to be issued in respect of that ship—

- (a) if she is an international load line ship, an international load line exemption certificate; or
- (b) if she is a local load line ship, a local load line exemption certificate.

(2) Every load line exemption certificate shall be in the prescribed form.”; and

- (b) by the deletion of subsection (4).

Amendment of section 205 of Act 57 of 1951.

15. Section 205 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) The owner of every ship in respect of which a load line certificate has been issued, shall cause her to be inspected by a surveyor in accordance with the load line regulations, at the intervals specified in the said regulations, calculated from the date of the initial survey referred to in subsection (1).”.

Substitution of section 207 of Act 57 of 1951, as amended by section 26 of Act 30 of 1959 and section 19 of Act 13 of 1965.

16. The following section is hereby substituted for section 207 of the principal Act:

“Issue of load line certificates other than load line exemption certificates.

207. If, after consideration of the report of a surveyor of his inspection of a load line ship registered in the Republic, the Minister (in the case of an international load line ship), or the Secretary (in the case of a local load line ship), is satisfied that—

- (a) the ship is marked with deck lines and load lines of the description and number required by the load line regulations; and
- (b) the ship's load lines are in the position required by the load line regulations; and
- (c) the ship complies with the conditions of assignment,

the Minister or the Secretary, as the case may be, shall cause to be issued in respect of that ship—

- (i) if she is an international load line ship, an international load line certificate other than an international load line exemption certificate; or
- (ii) if she is a local load line ship, a local load line certificate other than a local load line exemption certificate,

which shall be in the form prescribed.”.

Amendment of section 211 of Act 57 of 1951.

17. Section 211 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) A load line certificate which has expired or has been cancelled, shall on demand be surrendered by the owner or master of the ship to the Secretary or a person nominated by him.”.

Amendment of section 212 of Act 57 of 1951, as amended by section 27 of Act 30 of 1959, section 35 of Act 40 of 1963 and section 22 of Act 13 of 1965.

18. Section 212 of the principal Act is hereby amended by the substitution for paragraphs (a) and (b) of the following paragraphs:

“(a) if the voyage which she is undertaking is an international voyage—

- (i) in the case of an international load line ship, an international load line certificate other than an international load line exemption certificate, and if an international load line exemption certificate has been issued, such international load line exemption certificate, or an international load line exemption certificate if the ship is exempt from all the requirements of the load line regulations; or
- (ii) in the case of a local load line ship, a local load line certificate other than a local load line exemption certificate, and if a local load line exemption certificate has been issued, such local load line exemption certificate, or a local load line exemption certificate if the ship is exempt from all the requirements of the load line regulations; or

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vereistes (as daar is) voldoen, laat die Minister of die Sekretaris, al na die geval, ten aansien van daardie skip—

- (a) as dit 'n internasionale laslynskip is, 'n internasionale laslynvystellingsertifikaat uitreik; of
- (b) as dit 'n plaaslike laslynskip is, 'n plaaslike laslynvystellingsertifikaat uitreik.

(2) Elke laslynvystellingsertifikaat moet in die voorgeskrewe vorm wees.”; en

- (b) deur subartikel (4) te skrap.

15. Artikel 205 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang: Wysiging van artikel 205 van Wet 57 van 1951.

„(2) Die eienaar van elke skip ten aansien waarvan 'n laslynsertifikaat uitgereik is, sorg dat die skip by die tussenpose in die laslynregulasies vermeld, bereken vanaf die datum van die eerste inspeksie bedoel in subartikel (1), deur 'n opnemer in ooreenstemming met gemelde regulasies geïnspekteer word.”.

16. Artikel 207 van die Hoofwet word hierby deur die volgende artikel vervang: Vervanging van artikel 207 van Wet 57 van 1951,

„Uit-reiking van laslynsertifikate behalwe laslynvystellingsertifikate.

207. Indien na oorweging van die verslag van 'n opnemer oor sy inspeksie van 'n in die Republiek geregistreerde laslynskip, die Minister (in die geval van 'n internasionale laslynskip) of die Sekretaris (in die geval van 'n plaaslike laslynskip) oortuig is dat—

- (a) die skip gemerk is met deklýne en laslyne van die soort en getal wat deur die laslynregulasies voorgeskryf is; en
- (b) die skip se laslyne in die posisie is wat deur die laslynregulasies voorgeskryf word; en
- (c) die skip aan die toewysingsvoorwaardes voldoen, laat die Minister of die Sekretaris, al na die geval, ten aansien van daardie skip—
 - (i) as dit 'n internasionale laslynskip is, 'n ander internasionale laslynsertifikaat as 'n internasionale laslynvystellingsertifikaat uitreik; of
 - (ii) as dit 'n plaaslike laslynskip is, 'n ander plaaslike laslynsertifikaat as 'n plaaslike laslynvystellingsertifikaat uitreik,

wat in die voorgeskrewe vorm moet wees.”.

17. Artikel 211 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang: Wysiging van artikel 211 van Wet 57 van 1951.

„(1) 'n Laslynsertifikaat wat verstryk het of wat gekanselleer is, word deur die eienaar of gesagvoerder van die skip op aanvraag aan die Sekretaris of 'n persoon deur hom benoem, afgelewer.”.

18. Artikel 212 van die Hoofwet word hierby gewysig deur paragrafe (a) en (b) deur die volgende paragrafe te vervang: Wysiging van artikel 212 van Wet 57 van 1951,

„(a) as die reis wat die skip onderneem 'n internasionale reis is—

- (i) in die geval van 'n internasionale laslynskip, 'n ander internasionale laslynsertifikaat as 'n internasionale laslynvystellingsertifikaat, en as 'n internasionale laslynvystellingsertifikaat uitgereik is, daardie internasionale laslynvystellingsertifikaat, of 'n internasionale laslynvystellingsertifikaat as die skip vrygestel is van al die vereistes van die laslynregulasies; of
- (ii) in die geval van 'n plaaslike laslynskip, 'n ander plaaslike laslynsertifikaat as 'n plaaslike laslynvystellingsertifikaat, en as 'n plaaslike laslynvystellingsertifikaat uitgereik is, daardie plaaslike laslynvystellingsertifikaat, of 'n plaaslike laslynvystellingsertifikaat as die skip vrygestel is van al die vereistes van die laslynregulasies; of

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(b) if the voyage which she is undertaking is not an international voyage—

- (i) an international load line certificate other than an international load line exemption certificate, and if an international load line exemption certificate has been issued, such international load line exemption certificate, or an international load line exemption certificate if the ship is exempt from all the requirements of the load line regulations; or
- (ii) a local load line certificate other than a local load line exemption certificate, and if a local load line exemption certificate has been issued, such local load line exemption certificate, or a local load line exemption certificate if the ship is exempt from all the requirements of the load line regulations.”.

Substitution of section 224 of Act 57 of 1951.

19. The following section is hereby substituted for section 224 of the principal Act:

“Display of safety convention certificate, local safety certificate or load line certificate.

224. Immediately after receipt of a safety convention certificate, a local safety certificate or a load line certificate, the owner or master shall cause it to be framed and displayed in some conspicuous place on board the vessel for the information of all on board, and shall cause it to be kept so framed and displayed so long as it remains in force and the vessel is in use: Provided that this section shall not apply in respect of any vessel of less than one hundred gross tons, if the Secretary has exempted her from its provisions.”.

Amendment of section 226 of Act 57 of 1951.

20. Section 226 of the principal Act is hereby amended by the substitution for subsections (1) and (2) of the following subsections:

“(1) The owner of every South African ship of the class or tonnage prescribed by regulation built after the coming into operation of this section shall cause to be kept on board the ship such information in writing about the stability of the ship as is necessary for the guidance of the master in loading and ballasting the ship.

(2) The information required in terms of subsection (1) shall be as determined by regulation, and shall be based upon the determination of the stability of the ship by means of an inclining test of the ship: Provided that the Secretary may allow the information to be based on a similar determination of the stability of a sister ship.”.

Amendment of section 259 of Act 57 of 1951.

21. Section 259 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Subsection (1) shall, subject to subsection (3), apply to every ship which is registered or licensed in the Republic or which is in terms of this Act required to be so registered or licensed and to or in respect of or on board of which any such event as is referred to in subsection (1) has occurred anywhere, and it shall apply to a ship registered in a country other than the Republic only while she is within the Republic or the territorial waters thereof and if any such event has occurred to or in respect of or on board of the ship during a voyage to a port in the Republic or within the Republic or the territorial waters thereof.”.

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(b) as die reis wat die skip onderneem nie 'n internasionale reis is nie—

- (i) 'n ander internasionale laslynsertifikaat as 'n internasionale laslynvystellingsertifikaat, en as 'n internasionale laslynvystellingsertifikaat uitgereik is, daardie internasionale laslynvystellingsertifikaat, of 'n internasionale laslynvystellingsertifikaat as die skip vrygestel is van al die vereistes van die laslynregulasies; of
- (ii) 'n ander plaaslike laslynsertifikaat as 'n plaaslike laslynvystellingsertifikaat, en as 'n plaaslike laslynvystellingsertifikaat uitgereik is, daardie plaaslike laslynvystellingsertifikaat, of 'n plaaslike laslynvystellingsertifikaat, as die skip vrygestel is van al die vereistes van die laslynregulasies.”.

19. Artikel 224 van die Hoofwet word hierby deur die volgende artikel vervang:

Vervanging van artikel 224 van Wet 57 van 1951.

„Vertoning van veiligheidskonvensiesertifikaat, plaaslike veiligheidsertifikaat of laslynertifikaat.

224. Onmiddellik na ontvangs van 'n veiligheidskonvensiesertifikaat, 'n plaaslike veiligheidsertifikaat of 'n laslynsertifikaat, laat die eienaar of gesagvoerder dit raam en tentoonstel op een of ander in-die-oog-lopende plek aan boord van die vaartuig vir die inligting van almal aan boord, en laat hy dit so geraam en tentoongestel hou solank dit van krag bly en die vaartuig gebruik word: Met dien verstande dat hierdie artikel nie ten aansien van 'n vaartuig van minder as honderd bruto-ton geld nie, as die Sekretaris die vaartuig van die bepalings daarvan vrygestel het.”.

20. Artikel 226 van die Hoofwet word hierby gewysig deur subartikels (1) en (2) deur die volgende subartikels te vervang:

Wysiging van artikel 226 van Wet 57 van 1951.

„(1) Die eienaar van elke Suid-Afrikaanse skip van die klas of tonnemaat deur regulasie voorgeskryf wat na die inwerkingtreding van hierdie artikel gebou word, sorg dat sodanige gegewens in geskrif oor die stabiliteit van die skip aan boord van die skip bewaar word as wat nodig mag wees vir die inligting van die gesagvoerder by die inlaai van vrug of ballas in die skip.

(2) Die ingevolge subartikel (1) vereiste gegewens moet wees soos deur regulasie bepaal en word op die bepaling van die stabiliteit van die skip deur middel van 'n hellingstoets van die skip gebaseer: Met dien verstande dat die Sekretaris kan toelaat dat die gegewens op 'n dergelike bepaling van die stabiliteit van 'n susterskip gebaseer word.”.

21. Artikel 259 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

Wysiging van artikel 259 van Wet 57 van 1951.

„(2) Behoudens subartikel (3), geld subartikel (1) vir elke skip wat in die Republiek geregistreer of gelisensieer is of wat ingevolge hierdie Wet aldus geregistreer of gelisensieer moet wees ten aansien of aan boord waarvan so 'n voorval as wat in subartikel (1) bedoel word, op enige plek gebeur het, en dit geld alleen vir 'n skip wat in 'n ander land as die Republiek geregistreer is terwyl dit in die Republiek of in die Republiek se territoriale waters is en as 'n sodanige voorval ten aansien of aan boord van die skip gebeur het tydens 'n reis na 'n hawe in die Republiek of in die Republiek of in die Republiek se territoriale waters.”.

Act No. 42, 1969

MERCHANT SHIPPING AMENDMENT ACT, 1969.

Substitution of section 264 of Act 57 of 1951, as amended by section 52 of Act 69 of 1962 and section 47 of Act 40 of 1963.

22. The following section is hereby substituted for section 264 of the principal Act:

"Pre-liminary enquiry into shipping casualties.

264. (1) The Secretary may, in his discretion, appoint any competent person to hold a preliminary enquiry—

(a) whenever an allegation of incompetency or misconduct is made against the master or any of the ship's officers of a ship which is registered or licensed in the Republic or which is in terms of this Act required to be so registered or licensed; or

(b) whenever—

(i) a ship referred to in paragraph (a) has been lost, abandoned or stranded; or

(ii) a ship referred to in paragraph (a) has been damaged or has caused damage to any other ship; or

(iii) loss of life or injury to any person on board a ship referred to in paragraph (a) has occurred,

at any place whatsoever.

(2) The Secretary may, in his discretion, appoint any competent person to hold a preliminary enquiry whenever—

(a) any such allegation as is referred to in subsection (1) (a) is made against the master or any of the ship's officers of a ship registered in a country other than the Republic and which is wholly engaged in plying between ports in the Republic, or any such event as is referred to in subsection (1) (b) has occurred at any place whatsoever to or in respect of or on board such a ship; or

(b) any such event as is referred to in subsection (1) (b) has occurred in a port in the Republic or on or near the coasts of the Republic to or in respect of any ship registered in a country other than the Republic and which is not wholly engaged in plying between ports in the Republic.

(3) The Secretary may, in his discretion, appoint any competent person to hold a preliminary enquiry whenever any such event as is referred to in subsection (1) (b) has occurred elsewhere than in a port in the Republic or on or near the coasts of the Republic to or in respect of or on board a ship registered in a country other than the Republic and—

(a) the ship subsequently arrives at a port in the Republic and an enquiry into the casualty has not been held by any competent court or other investigatory body in any other treaty country; or

(b) in the case of a treaty ship, evidence is obtainable in the Republic as to the circumstances in which the ship proceeded to sea, or was last heard of, or was lost, abandoned or stranded, or suffered or caused damage, or in which loss of life or serious injury to any person on board the ship occurred."

WYSIGINGSWET OP HANDELSKEEPVAART, 1969.

Wet No. 42, 1969

22. Artikel 264 van die Hoofwet word hierby deur die volgende artikel vervang:

„Voorlopige
ondersoek
na skeeps-
ongevalle.

264. (1) Die Sekretaris kan na goeë dinge 'n bevoegde persoon aanstel om 'n voorlopige ondersoek in te stel—

(a) wanneer 'n bewering van onbevoegdheid of wangedrag teen die gesagvoerder of enigeen van die skeepsoffisiere van 'n skip wat in die Republiek geregistreer of gelisensieer is of wat ingevolge hierdie Wet aldus geregistreer of gelisensieer moet wees, gemaak word; of

(b) wanneer—

(i) 'n skip wat in paragraaf (a) bedoel word, verlore gegaan het, verlaat is of gestrand het; of

(ii) 'n skip wat in paragraaf (a) bedoel word, beskadig is of skade aan 'n ander skip veroorsaak het; of

(iii) lewensverlies of besering van 'n persoon aan boord van 'n skip wat in paragraaf (a) bedoel word, plaasgevind het, waar die voorval ook al gebeur het.

(2) Die Sekretaris kan na goeë dinge 'n bevoegde persoon aanstel om 'n voorlopige ondersoek in te stel wanneer—

(a) so 'n bewering as wat in subartikel (1) (a) bedoel word, teen die gesagvoerder of enigeen van die skeepsoffisiere van 'n skip wat in 'n ander land as die Republiek geregistreer is en wat geheel en al gebruik word op reise tussen hawens in die Republiek, gemaak word, of so 'n voorval as wat in subartikel (1) (b) bedoel word, ten aansien of aan boord van so 'n skip plaasgevind het, waar die voorval ook al gebeur het; of

(b) so 'n voorval as wat in subartikel (1) (b) bedoel word, in 'n hawe in die Republiek of aan of naby die kuste van die Republiek plaasgevind het ten aansien of aan boord van 'n skip wat in 'n ander land as die Republiek geregistreer is en wat nie geheel en al gebruik word op reise tussen hawens in die Republiek nie.

(3) Die Sekretaris kan na goeë dinge 'n bevoegde persoon aanstel om 'n voorlopige ondersoek in te stel wanneer so 'n voorval as wat in subartikel (1) (b) bedoel word, elders as in 'n hawe in die Republiek of aan of naby die kuste van die Republiek plaasgevind het ten aansien of aan boord van 'n skip wat in 'n ander land as die Republiek geregistreer is, en—

(a) die skip later by 'n hawe in die Republiek aankom, en geen ondersoek na die ongeval deur 'n bevoegde hof of ander ondersoekingsliggaam in 'n ander verdragland ingestel is nie; of

(b) in die geval van 'n verdragskip, getuienis in die Republiek beskikbaar is betreffende die omstandighede waaronder die skip uitgevaar het, of laas daarvan iets verneem is, of die skip verlore gegaan het, verlaat is of gestrand het, of skade opgeloop het of veroorsaak het, of waaronder lewensverlies of ernstige besering aan 'n persoon aan boord van die skip plaasgevind het.”

Vervanging van
artikel 264 van
Wet 57 van 1951,
soos gewysig
deur artikel 52
van Wet 69 van
1962 en artikel
47 van Wet 40
van 1963.

Act No. 42, 1969

MERCHANT SHIPPING AMENDMENT ACT, 1969.

Substitution of section 269 of Act 57 of 1951, as amended by section 49 of Act 40 of 1963.

23. The following section is hereby substituted for section 269 of the principal Act:

"Powers of court of marine enquiry in respect of master or ship's officer.

269. (1) If a court of marine enquiry finds that any master or ship's officer is incompetent or has been guilty of any act of misconduct, or that loss, abandonment or stranding of or serious damage to any ship or loss of life or serious injury to any person has been caused by the wrongful act or default of any master or ship's officer, it may, subject to the provisions of section 283, cancel the certificate of competency or service of the master or ship's officer or suspend it for a stated period or, if the master or ship's officer does not hold a certificate of competency or service or does not hold a certificate of competency or service appropriate to the capacity in which he served at the time of the loss of the ship or other event referred to in this subsection, prohibit his employment for a stated period, or reprimand the master or ship's officer, whether or not he holds a certificate of competency or service: Provided that any such cancellation or suspension or prohibition of employment shall apply only in respect of the capacity in which the master or ship's officer served at the time of the event as aforesaid or in respect of a higher capacity.

(2) Subsection (1) shall apply in respect of masters or ships' officers of all ships which are registered or licensed in the Republic or which are in terms of this Act required to be so registered or licensed, and in respect of masters or ships' officers of ships registered in a country other than the Republic only if those ships are wholly engaged in plying between ports in the Republic."

Amendment of section 273 of Act 57 of 1951, as amended by section 34 of Act 30 of 1959.

24. Section 273 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

"(b) if unanimous that any master or ship's officer of a South African ship is incompetent or has been guilty of any act of misconduct, or that loss, abandonment or stranding of or serious damage to any ship or loss of life or serious injury to any person has been caused by the wrongful act or default of any master or ship's officer of a South African ship, suspend the certificate of competency or service of that master or ship's officer for a stated period or, if such master or ship's officer does not hold a certificate of competency or service or does not hold a certificate of competency or service appropriate to the capacity in which he served at the time of the loss of the ship or other event referred to in this paragraph, prohibit his employment for a stated period, or reprimand such master or ship's officer whether or not he holds a certificate of competency or service: Provided that any such suspension or prohibition of employment shall apply only in respect of the capacity in which the master or ship's officer served at the time of the event as aforesaid or in respect of a higher capacity;"

Amendment of section 283 of Act 57 of 1951.

25. Section 283 of the principal Act is hereby amended—

(a) by the substitution in subsection (2) for all the words preceding paragraph (a) of the following words:

WYSIGINGSWET OP HANDELSKEEPVAART, 1969.

Wet No. 42, 1969

23. Artikel 269 van die Hoofwet word hierby deur die volgende artikel vervang:

„Bevoegdheid van hof van marine-onderzoek ten aansien van gesagvoerder of skeepsoffisier.

269. (1) As 'n hof van marine-onderzoek bevind dat 'n gesagvoerder of skeepsoffisier onbevoeg is of hom skuldig gemaak het aan 'n daad van wangedrag, of dat die verlies, verlating of stranding van of ernstige skade aan 'n skip, of lewensverlies of ernstige besering van 'n persoon veroorsaak is deur die wederregtelike daad of versuim van 'n gesagvoerder of skeepsoffisier, kan die hof, behoudens die bepalinge van artikel 283, die bekwaamheid- of dienssertifikaat van die gesagvoerder of skeepsoffisier kanselleer of vir 'n bepaalde tydperk opskort of, as die gesagvoerder of skeepsoffisier nie 'n bekwaamheid- of dienssertifikaat besit nie of nie 'n bekwaamheid- of dienssertifikaat besit nie wat pas by die hoedanigheid waarin hy gedien het ten tyde van die verlies van die skip of ander voorval wat in hierdie subartikel bedoel word, sy indienneming vir 'n bepaalde tydperk verbied of die gesagvoerder of skeepsoffisier berispe, hetsy hy 'n bekwaamheid- of dienssertifikaat besit al dan nie: Met dien verstande dat enige sodanige kansellering of opskorting of verbod op indienneming slegs van toepassing is ten aansien van die hoedanigheid waarin die gesagvoerder of skeepsoffisier gedien het ten tyde van voornoemde voorval of ten aansien van 'n hoër hoedanigheid.

(2) Subartikel (1) geld ten aansien van gesagvoerders of skeepsoffisiere van alle skepe wat in die Republiek geregistreer of gelisensieer is of wat ingevolge hierdie Wet aldus geregistreer of gelisensieer moet wees, en ten aansien van gesagvoerders en skeepsoffisiere van skepe wat in 'n ander land as die Republiek geregistreer is, alleen as bedoelde skepe geheel en al gebruik word op reise tussen hawens in die Republiek.”

Vervanging van artikel 269 van Wet 57 van 1951, soos gewysig deur artikel 49 van Wet 40 van 1963.

24. Artikel 273 van die Hoofwet word hierby gewysig deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:

„(b) as die hof dit eens is dat 'n gesagvoerder of skeepsoffisier van 'n Suid-Afrikaanse skip onbevoeg is of hom skuldig gemaak het aan 'n daad van wangedrag, of dat die verlies, verlating of stranding van of ernstige skade aan 'n skip of lewensverlies of ernstige besering van 'n persoon veroorsaak is deur die wederregtelike daad of versuim van 'n gesagvoerder of skeepsoffisier van 'n Suid-Afrikaanse skip, die bekwaamheid- of dienssertifikaat van daardie gesagvoerder of skeepsoffisier vir 'n bepaalde tydperk opskort of, as sodanige gesagvoerder of skeepsoffisier nie 'n bekwaamheid- of dienssertifikaat besit nie of nie 'n bekwaamheid- of dienssertifikaat besit nie wat pas by die hoedanigheid waarin hy gedien het ten tyde van die verlies van die skip of ander voorval wat in hierdie paragraaf bedoel word, sy indienneming vir 'n bepaalde tydperk verbied of sodanige gesagvoerder of skeepsoffisier berispe, hetsy hy 'n bekwaamheid- of dienssertifikaat besit al dan nie: Met dien verstande dat enige sodanige opskorting of verbod op indienneming slegs van toepassing is ten aansien van die hoedanigheid waarin die gesagvoerder of skeepsoffisier gedien het ten tyde van voornoemde voorval of ten aansien van 'n hoër hoedanigheid;”.

Wysiging van artikel 273 van Wet 57 van 1951, soos gewysig deur artikel 34 van Wet 30 van 1959.

25. Artikel 283 van die Hoofwet word hierby gewysig—

(a) deur al die woorde in subartikel (2) wat paragraaf (a) voorafgaan, deur die volgende woorde te vervang:

Wysiging van artikel 283 van Wet 57 van 1951.

Act No. 42, 1969

MERCHANT SHIPPING AMENDMENT ACT, 1969.

“(2) A court of marine enquiry shall not cancel or suspend a certificate or prohibit the employment of a person or reprimand him, and a maritime court shall not suspend a certificate or prohibit the employment of a person or reprimand him—”;

- (b) by the substitution for paragraph (a) of the said subsection of the following paragraph:

“(a) unless the holder of the certificate or other person has been present at the hearing of any evidence on which the decision of the court to cancel or suspend his certificate or to prohibit his employment or to reprimand him is based, or, if he has not been so present, unless a transcript of the notes of such evidence has been furnished to him at least forty-eight hours before he is called upon to make his defence; and”;

- (c) by the substitution for subsection (3) of the following subsection:

“(3) If the holder of the certificate concerned or other person has been summoned to attend before the court and has not done so, or if upon being asked in writing or otherwise whether he wishes to make a defence he has not replied that he wishes to do so, it shall not be necessary to furnish to him the notes, depositions or reports referred to in subsection (2).”.

Substitution of section 287 of Act 57 of 1951.

26. The following section is hereby substituted for section 287 of the principal Act:

“Effect of cancellation or suspension of certificate or prohibition of employment.

287. The cancellation or suspension of a certificate by the Minister or a court of marine enquiry, or the suspension of a certificate by a maritime court, or the prohibition of employment by a court of marine enquiry or a maritime court, shall—

- (a) if the certificate was issued in the Republic or if the prohibition of employment is in respect of a South African citizen, be effective everywhere and in respect of all ships; and
- (b) if the certificate was issued elsewhere than in the Republic or if the prohibition of employment is in respect of a citizen of a country other than the Republic, be effective—
- (i) within the Republic and the territorial waters of the Republic in respect of all ships; and
- (ii) outside the Republic and the territorial waters of the Republic only in respect of ships which are registered or licensed in the Republic or which are in terms of this Act required to be so registered or licensed.”.

Substitution of section 289 of Act 57 of 1951.

27. The following section is hereby substituted for section 289 of the principal Act:

“Certificate not to be endorsed.

289. If the certificate of a master or ship's officer is suspended by the Minister or a court of marine enquiry or a maritime court, or if the employment of a master or ship's officer is prohibited or he is reprimanded by a court of marine enquiry or a maritime court, or if a direction is given by the Minister under section 87 (2) in respect of the holder of a certificate, no person shall make any endorsement to that effect on the certificate of the master or ship's officer.”.

WYSIGINGSWET OP HANDELSKEEPVAART, 1969.

Wet No. 24, 1969

„(2) 'n Hof van marine-ondersoek kanselleer of skort nie 'n sertifikaat op of verbied nie die indiense-neming van 'n persoon of berispe hom nie, en 'n seehof skort nie 'n sertifikaat op of verbied nie die indiense-neming van 'n persoon of berispe hom nie—”;

- (b) deur paragraaf (a) van genoemde subartikel deur die volgende paragraaf te vervang:

„(a) tensy die houer van die sertifikaat of 'n ander persoon aanwesig was by die aanhoor van enige getuienis waarop die hof se besluit om sy sertifikaat te kanselleer of op te skort of sy indiense-neming te verbied of hom te berispe, gebaseer is, of, as hy nie aldus aanwesig was nie, tensy 'n afskrif van die aantekeninge van sodanige getuienis minstens agt-en-veertig uur voordat 'n oproep op hom gedoen word om homself te verweer, aan hom verskaf is; en”;

- (c) deur subartikel (3) deur die volgende subartikel te vervang:

„(3) Indien die houer van die betrokke sertifikaat of 'n ander persoon gedagvaar is om voor die hof te verskyn en in gebreke gebly het om dit te doen, of indien, nadat aan hom skriftelik of andersins gevra is of hy verlang om homself te verweer, hy nie geantwoord het dat hy dit wel wil doen nie, is dit nie nodig om aan hom die in subartikel (2) bedoelde aantekeninge, getuieverklarings of verslae te verskaf nie.”.

26. Artikel 287 van die Hoofwet word hierby deur die volgende artikel vervang:

„Gevolge van kansellering of opskorting van sertifikaat of verbod op indiense-neming.

287. Die kansellering of opskorting van 'n sertifikaat deur die Minister of 'n hof van marine-ondersoek of die opskorting van 'n sertifikaat deur 'n seehof of die verbod op indiense-neming deur 'n hof van marine-ondersoek of 'n seehof is—

- (a) as die sertifikaat in die Republiek uitgereik is of as die verbod op indiense-neming ten aansien van 'n Suid-Afrikaanse burger is, orals en ten aansien van alle skepe van krag; en
- (b) as die sertifikaat elders as in die Republiek uitgereik is of as die verbod op indiense-neming ten aansien van 'n burger van 'n ander land as die Republiek is, van krag—
- (i) in die Republiek en die Republiek se territoriale waters ten aansien van alle skepe; en
- (ii) buite die Republiek en die Republiek se territoriale waters net ten aansien van skepe wat in die Republiek geregistreer of gelisensieer is of wat ingevolge hierdie Wet aldus geregistreer of gelisensieer moet wees.”.

Vervanging van artikel 287 van Wet 57 van 1951.

27. Artikel 289 van die Hoofwet word hierby deur die volgende artikel vervang:

„Sertifikaat word nie geëndosseer nie.

289. As die sertifikaat van 'n gesagvoerder of skeepsoffisier deur die Minister of 'n hof van marine-ondersoek of 'n seehof opgeskort is, of as die indiense-neming van 'n gesagvoerder of skeepsoffisier verbied is of as hy deur 'n hof van marine-ondersoek of 'n seehof berispe is, of as opdrag deur die Minister kragtens artikel 87 (2) met betrekking tot 'n houer van 'n sertifikaat gegee is, maak niemand enige endossement tot dien effekte op die sertifikaat van die gesagvoerder of skeepsoffisier nie.”.

Vervanging van artikel 289 van Wet 57 van 1951.

Act No. 42, 1969

MERCHANT SHIPPING AMENDMENT ACT, 1969.

Amendment of
section 290 of
Act 57 of 1951.

28. Section 290 of the principal Act is hereby amended—
(a) by the substitution for paragraph (b) of the following paragraph:

“(b) grant a new certificate of the same grade or any lower grade in the place of a certificate cancelled by any such court or grant a new certificate of any lower grade in the place of a certificate suspended by any such court, if the certificate was issued in the Republic, or return any certificate so cancelled or suspended, if it was issued elsewhere than in the Republic; or”; and

(b) by the addition of the following paragraph:

“(c) set aside the prohibition of employment by a court of marine enquiry or a maritime court or shorten or lengthen the period of the prohibition, or set aside the reprimand by any such court.”.

Short title.

29. This Act shall be called the Merchant Shipping Amendment Act, 1969.

WYSIGINGSWET OP HANDELSKEEPVAART, 1969.

Wet No. 42, 1969

28. Artikel 290 van die Hoofwet word hierby gewysig—

(a) deur paragraaf (b) deur die volgende paragraaf te vervang:

„(b) 'n nuwe sertifikaat van dieselfde of 'n laer graad uitreik in die plek van 'n sertifikaat deur 'n sodanige hof gekanselleer of 'n nuwe sertifikaat van 'n laer graad uitreik in die plek van 'n sertifikaat deur 'n sodanige hof opgeskort, as die sertifikaat in die Republiek uitgereik is, of 'n sertifikaat wat aldus gekanselleer of opgeskort is, teruggee as dit elders as in die Republiek uitgereik is; of”; en

(b) deur die volgende paragraaf by te voeg:

„(c) die verbod op indiensneming deur 'n hof van marine-ondersoek of 'n seehof tersyde stel of die tydperk van die verbod verkort of verleng, of die berisping deur 'n sodanige hof tersyde stel.”.

Wysiging van
artikel 290
van Wet 57 van
1951.

29. Hierdie Wet heet die Wysigingswet op Handelskeepvaart, Kort titel.
1969.

