



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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Government Notice

OFFICE OF THE PRIME MINISTER

No. 133

1991

PROMULGATION OF ACT OF THE NATIONAL ASSEMBLY

The following Act which has been passed by the National Assembly and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 15 of 1991: Marine Traffic Amendment Act, 1991.

Act No. 15, 1991

**MARINE TRAFFIC AMENDMENT
ACT, 1991**

EXPLANATORY NOTE:

- _____ Words underlined with solid line indicate insertions in existing enactments.
- [] Words in bold type in square brackets indicate omissions from existing enactments.

ACT

To amend the Marine Traffic Act, 1981, in order to adjust its provisions in view of the independence of Namibia; and to provide for incidental matters.

(Signed by the President on 28 November 1991)

BE IT ENACTED by the National Assembly of the Republic of Namibia, as follows:-

Amendment of section 1 of Act 2 of 1981, as amended by section 1 of Act 5 of 1983.

1. Section 1 of the Marine Traffic Act, 1981 (hereinafter referred to as the principal Act), is hereby amended -

- (a) by the substitution for the definition of "authorized person" of the following definition:

"authorized person" means -

- (a) any officer as defined in section 1 of the Public Service Act, 1980 (Act 2 of 1980);
- (b) any member of the Namibian Police Force, as defined in section 1 of the Police Act, 1990 (Act 19 of 1990), above the rank of sergeant;
- (c) any member of the Namibian Defence Force, as defined in section 1 of the Defence Act, 1957 (Act 44 of 1957), above the rank of sergeant;
- (d) any person accompanying any person referred to in paragraph (a), (b) or (c) and acting under his or her instructions;

- (b) by the deletion of the definition of "Director-General";

- (c) by the substitution for the definition of "harbour" of the following definition:

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“ ‘harbour’ means a harbour in terms of the definition of [**‘harbours’**] ‘harbour’ in section 1 of the [**South African Transport Services Act, 1981 (Act No. 65 of 1981), except Lüderitz**] National Transport Corporation Act, 1987 (Act 21 of 1987);”;

- (d) by the substitution for the definition of “internal waters” of the following definition:

“ ‘internal waters’ means the waters on the landward side of the normal baseline from which the territorial sea is determined, and includes any harbour and any fishing harbour;”;

- (e) by the substitution for the definition of “Minister” of the following definition:

“ ‘Minister’ means the Minister of [**Transport Affairs**] Works, Transport and Communication;”;

- (f) by the substitution for the definition of “passage” of the following definition:

“ ‘passage’ means navigation through the territorial [**waters**] sea in a continuous and expeditious manner on a normal and customary route for the purpose of -

- (a) traversing [**those waters**] such sea without entering internal waters or calling at a roadstead or offshore installation outside internal waters; or

- (b) proceeding to or from a harbour, whether through internal waters or not, or a call at any such roadstead or offshore installation,

and includes stopping and anchoring, in so far as such stopping or such anchoring is incidental to ordinary navigation or is rendered necessary by *vis major* or distress or is for the purpose of rendering assistance to persons, ships or aircraft in danger or distress;”;

- (g) by the insertion after the definition of “passage” of the following definition:

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“ ‘Permanent Secretary’ means the Permanent Secretary: Works, Transport and Communication;”; and

- (h) by the substitution for the definition of “territorial waters” of the following definition:

“ ‘territorial sea’ means the territorial sea of Namibia as defined in section 2 of the Territorial Sea and Exclusive Economic Zone of Namibia Act, 1990 (Act 3 of 1990).”

Amendment of section 5 of Act 2 of 1981, as substituted by section 5 of Act 5 of 1983.

2. Section 5 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) The Minister may require the master or owner of a ship immobilized or laid-up or to be immobilized or laid-up to find security to the satisfaction of the **[Director-General] Permanent Secretary** in an amount determined by the **[Director-General] Permanent Secretary** for the recovery of any costs incurred by the Minister in enforcing any condition applicable to the immobilizing or laying-up of the ship, or in the exercise of **[his] the Minister’s** powers under this Act.”

Amendment of section 9 of Act 2 of 1981, as amended by section 9 of Act 5 of 1983.

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

“(3) If the Minister is satisfied that the passage of the ship is not innocent, **[he] the Minister** may cause the ship and its cargo or part thereof, or the ship or its cargo or part thereof, to be detained on such conditions as may be prescribed by regulation, for a period not exceeding seven days or such further period as an order of **[a division of the Supreme Court of South Africa] the High Court** may authorize.”

Amendment of section 14 of Act 2 of 1981.

4. Section 14 of the principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph:

“(a) regulating marine traffic in the territorial sea and internal waters, including the prescribing of sea lanes and traffic separation schemes for ships in general or for any class of ship or for ships

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carrying nuclear or other dangerous or noxious substances;”.

Substitution of certain words and expression in Act 2 of 1981.

5. The principal Act is hereby amended -

- (a) by the substitution for the words “the Republic”, wherever they occur, of the word “Namibia”; and
- (b) by the substitution for the expression “territorial waters”, wherever it occurs, of the expression “territorial sea”.

Substitution of long title to Act 2 of 1981.

6. The following long title is hereby substituted for the long title to the principal Act:

“To regulate marine traffic in [**the Republic of South Africa**] Namibia and to provide for matters connected therewith.”.

Short title.

7. This Act shall be called the Marine Traffic Amendment Act, 1991.
