



Republic of Namibia  
Annotated Statutes

**REGULATIONS**

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REGULATIONS MADE IN TERMS OF

**Marine Traffic Act 2 of 1981**  
section 14 read with sections 1, 2, 4, 5, 9 and 16

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**Marine Traffic Regulations**

RSA Government Notice R.194 of 1985

[\(RSA GG 9575\)](#)

came into force on date of publication: 1 February 1985

This RSA Government Notice replaces RSA Government Notice  
R.39/1985 which was erroneously published in RSA GG 9544.

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CHAPTER I

*Definitions*

1. In these Regulations “the Act” means the Marine Traffic Act, 1981 (Act 2 of 1981), and any expression to which a meaning has been assigned in the Act shall bear such meaning and, unless the context otherwise indicates -

“authorized agency” means a person, club, society or organisation approved by the Minister to perform such functions as are required to be performed by it in terms of these Regulations;

“fishing boat” means a ship used in connection with the harvesting of the living resources of the sea;

“local authority” means a local authority as defined in section 1 of the Seashore Act, 1935 (Act 21 of 1935);

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[The Seashore Act 21 of 1935 was not made applicable to South West Africa,  
where the similar Sea-Shore Ordinance 37 of 1958 was later enacted.]

“launching site” means any place, whether artificially constructed or not, approved by a local authority or other Government authority, from or at which a vessel or a vessel of a particular type, as specified, may be launched, beached, moored or berthed, excluding a harbour or fishing harbour;

“Merchant Shipping Act” means the Merchant Shipping Act, 1951 (Act 57 of 1951);

“principal officer” means the officer in charge of the office of the Marine Division of the Water Transport Directorate of the Department of Transport at a harbour;

“small vessel” means a small vessel as defined in section 2(1) of the Merchant Shipping Act;

“South African national”, when used to describe any ship, submarine or other underwater vehicle, means a ship, submarine or other underwater vehicle which -

- (a) is registered or required to be registered in terms of the Merchant Shipping Act;
- (b) is licenced or required to be licenced in terms of the Merchant Shipping Act; or
- (c) is exempted from licencing in terms of the Merchant Shipping Act, but -
  - (i) the whole of which is owned by persons all of whom are qualified in terms of the Merchant Shipping Act to own a South African ship; and
  - (ii) the majority of the owners of which, either in number or extent of ownership, are persons resident in the Republic;

“utility ship” means a ship used or employed for commercial purposes, but does not include a fishing boat or a ship mainly used or employed for carrying cargo or passengers.

## CHAPTER II

### *Application*

2. Warships, submarines or other underwater vehicles present in the territorial waters and which constitute or form part of a visiting force as defined in section 1 of the Defence Act, 1957 (Act 44 of 1957), are hereby exempted from the provisions of the Act.

[The Defence Act 44 of 1957 has been replaced by the Defence Act 1 of 2002.]

## CHAPTER III

### *Right of innocent passage*

3. For the purposes of these Regulations navigation in such manner as is necessitated by their normal activities shall be deemed to constitute “passage” as defined in section 1 of the Act in the case of the following ships:

- (a) South African national fishing boats;

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- (b) South African national utility ships;
- (c) South African national ships used for sporting or recreational purposes;
- (d) foreign fishing boats which have been chartered or which have contracted or which are otherwise authorized in accordance with the laws of the Republic to operate within the territorial waters;
- (e) foreign utility ships which have been chartered or which have contracted in accordance with the laws of the Republic to perform services within the territorial waters; and
- (f) foreign ships used for sporting or recreational purposes, provided such ships are in possession of written permission granted by a local authority or other Government authority or by an authorized agency to use the territorial waters for such purposes, such permission to clearly state the area in which the said ships may be used and the type of sporting or recreational activities which may be practised.

CHAPTER IV

*Entry into and departure from internal waters*

*Exemptions*

4. The following ships or classes of ships are hereby exempted from the provisions of section 4(1) of the Act while they are engaged in their normal activities:

- (a) South African national fishing boats;
- (b) South African national small vessels engaged in sporting or recreational activities;
- (c) foreign small vessels engaged in sporting or recreational activities, provided such vessels engage in such activities under the supervision of a local authority or other Government authority, or an authorized agency;
- (d) South African national utility ships; and
- (e) foreign fishing boats which have been chartered or which have contracted or which are otherwise authorized in accordance with the laws of the Republic to operate within the internal waters.

*Application for entry into internal waters*

5. (1) The master of any ship, other than a ship contemplated in regulation 16(1) or exempted in terms of the Act or regulation 4, shall, prior to the time of such ship's intended entry into internal waters other than a harbour or a fishing harbour, apply during office hours to the principal officer at the nearest harbour for permission for such entry, stating the reasons for such entry, the ship's destination, route and the period for which it is intended to remain in such internal waters.

(2) The principal officer to whom application is made in terms of subregulation (1), may -

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- (a) permit such ship to enter internal waters;
- (b) fix a reasonable period for the ship to remain in internal waters;
- (c) specify the area in which the ship is to remain or to anchor;
- (d) order or permit such a ship to leave internal waters;
- (e) require such a ship to enter or leave internal waters by such routes as may be determined by him; or
- (f) require that one or more of the conditions set out in regulation 12 be complied with.

CHAPTER V

*Immobilizing, laying-up, stopping or anchoring outside harbours or fishing harbours*

*Exemption*

6. Any ship moored or berthed at a launching site is hereby exempted from the provisions of section 5 of the Act.

*Application for lay-up*

7. (1) Any person requiring permission by the Minister in terms of section 5(1) of the Act to lay-up a ship shall direct a written application for such permission to the principal officer at the harbour nearest to the proposed lay-up area, not less than 30 days prior to the estimated time of arrival in such area of such ship or, if more than one ship is to be so laid up, not less than 30 days prior to the estimated time of arrival of the first ship.

(2) An application referred to in subregulation (1) shall contain the following information in regard to the ship or ships in question:

- (a) The name, official number, port of registry and gross tonnage of the ship, the name and address of the owner of the ship and of the owner's agent in the Republic.
- (b) The type of ship and the nature of the cargo aboard, if any, including fuel and lubricating oil.
- (c) The proposed location of lay-up and anchoring and mooring arrangements.
- (d) The maximum intended draught of the ship in question during the period of lay-up.
- (e) The number of officers and crew to remain on board the ship during the period of lay-up.
- (f) The anticipated duration of the lay-up.

*Guarantee for possible loss or damage caused by a laid-up ship*

8. The person desiring permission to lay up a ship, shall together with his application referred to in regulation 7, satisfy the Minister that he has the financial means to meet any claims

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for damage or loss suffered either by the Government of the Republic or by third parties as a result of the vessel being laid up. Evidence of such financial means shall be either in the form of a bank guarantee or other security acceptable to the Minister; such guarantee or other security having due regard to any insurance arrangements which the owner of the said ship has made to cover such claims.

*Place or area of lay-up*

**9.** The principal officer at the harbour nearest to the place or area of lay-up shall specify such place or area.

*Duration and termination of lay-up*

**10.** (1) A period of lay-up shall not exceed six calendar months unless the Minister extends such period upon written application made *mutatis mutandis* in the manner prescribed in regulation 7(1) prior to the termination of the said period of six months.

- (2) A period of lay-up commences when the ship arrives in the area of lay-up.
- (3) A period of lay-up terminates -
  - (a) when the ship departs from the area of lay-up; or
  - (b) one month after the serving of a notice by the Minister, withdrawing his permission for the lay-up; or
  - (c) immediately upon the serving of a notification by the Minister, withdrawing his permission for a lay-up under circumstances whereby the lay-up is prejudicial to the peace, good order or security of the Republic.

*Inspection of laid-up ship*

**11.** An authorized person shall at any time have access to and may inspect a laid-up ship, its cargo, stores, machinery in use and such certificates as are required in terms of the laws of the Republic to be carried on board the ship.

*Conditions of lay-up*

**12.** The Minister may require any person who is permitted to lay-up a ship, to comply with one or more of the following conditions in respect of the ship while so laid-up:

- (1) (a) Any ship to be laid up shall be retained in Class. The person desiring to lay-up a ship or ships shall submit to the principal officer at the harbour nearest to the proposed lay-up area the following documents not less than 14 days prior to the arrival of the ship or the first of the ships:
  - (i) A copy of the certificate of classification; or
  - (ii) a copy of the lay-up report or of the conditions of layup as provided for by the classification society or by a society recognised by the Minister as being competent to issue such a certificate.

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- (b) The certificates referred to in subparagraphs (i) and (ii) of paragraph (a) shall be kept on board the ship.
- (2) Unladen tankers shall be ballasted to not less than 35% of deadweight while ships other than tankers shall be fully ballasted.
- (3) (a) Cargo oil tanks, pipelines and bilges shall be empty, cleaned of sludge and of other deposits and shall be gas-freed.
  - (b) The said tanks may be inerted in ships in which an inert gas system is fitted.
- (4) (a) In the case of a ship in which the tanks are gas-freed, a certificate, issued by an authorised agency, shall be produced at the commencement of the lay-up and thereafter at intervals not exceeding two months.
  - (b) Gas-free tests shall be conducted weekly.
- (5) (a) Anchoring or mooring arrangements shall be carried out to the satisfaction of the principal officer concerned.
  - (b) A spare or second anchor shall be held ready for immediate use.
- (6) The position of the ship shall be checked daily and anchors and chain cables shall be inspected regularly.
- (7) Fire fighting equipment shall be maintained in good order and shall be tested at intervals not exceeding one week.
- (8) Anchor and radio telephone watches shall be kept at all times.
- (9) The ship shall display the correct navigation lights and shapes and make the required sound signals in accordance with international practice.
- (10) The permission of the principal officer concerned shall be obtained at all times when any repair work, requiring the use of hot welding or cutting equipment, is to be undertaken.
- (11) No article or matter of any kind, other than effluent from water closets, latrines and washplaces, shall be discharged into the sea.

*Application to stop or anchor a ship for repairs*

- 13.** (1) A person desiring a ship to be stopped or anchored for repairs in the territorial or internal waters outside a harbour or fishing harbour shall without delay apply for the Minister's permission for such stopping or anchoring and shall direct such an application to the principal officer at the harbour nearest to the proposed location of stopping or anchoring.
- (2) When applying in terms of subregulation (1) the applicant shall furnish the following information in regard to the ship in question:
- (a) The name, official number, port of registry, type and gross tonnage of the ship.
  - (b) The name and address of the owner of the ship and of the owner's agent in the Republic.

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- (c) The nature of the cargo aboard the ship, including fuel and lubricating oil.
- (d) The reason for the proposed stopping or anchoring of the ship.
- (e) The proposed location of such stopping or anchoring.
- (f) The anticipated duration of such stopping or anchoring.
- (g) Prevailing weather conditions.

*Conditions for stopping or anchoring of a ship*

14. (1) The person who has been granted permission in terms of regulation 13, shall comply with such measures specified by the principal officer concerned as he may reasonably deem necessary for minimising the risk of stranding, for the safety of the ship, its crew, passengers or cargo, for preventing pollution of the sea or for maintaining the peace, good order or security of the Republic.

- (2) The said measures shall be carried out at the expense of the owner of the ship.

*Notification of departure of ship*

15. The person who has been granted permission in terms of regulation 13, shall cause the ship to proceed on its normal course immediately after the reason for the stopping or anchoring has ceased to exist and he shall forthwith notify the principal officer concerned of the departure of the ship.

*Ship in distress*

16. (1) The master or owner of a ship which, due to *vis major* or distress, has without the necessary permission stopped, anchored or been immobilized in the territorial or internal waters or entered the internal waters, shall notify the principal officer at the nearest harbour immediately after such ship has so stopped, been anchored or immobilized or has entered internal waters.

[The word “necessary” is misspelt in the *Government Gazette*, as reproduced above.]

(2) The notification referred to in subregulation (1) shall contain the same information as prescribed in regulation 13(2) and the provisions of regulations 14 and 15 shall *mutatis mutandis* apply in respect of the ship in question.

CHAPTER VI

*Places of departure and arrival along the shore*

17. (1) No ship shall be launched or otherwise proceed to sea from, or shall be landed, beached, moored or berthed at, any place along the shore other than a harbour, fishing harbour or launching site.

(2) Any person who contravenes the provisions of subregulation (1) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding R200.



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CHAPTER VII

*Detention of ships, cargoes or part thereof*

[The word “thereof” is misspelt in the heading in the *Government Gazette*, as reproduced above.  
The same error appears in regulations 18 and 19 in this chapter.]

*Notice of detention of ship or cargo*

**18.** When a ship and its cargo or part thereof or a ship or its cargo or part thereof is to be detained under section 9(3) of the Act a principal officer shall sign and issue a Notice of Detention in the form of Annexure A (hereinafter in this chapter referred to as a “Notice”), setting forth the grounds of detention.

*Service of Notice*

**19.** (1) Subject to the provisions of subregulation (2) a Notice shall be served upon the master of the ship in question by an authorized person (hereinafter in this chapter referred to as a “detention officer”) who shall exhibit the original Notice to such master and deliver a copy thereof to him.

(2) If the master of the ship in question refuses or fails to accept service of the Notice, or if for any other reason service of the Notice cannot be effected, the detention officer shall leave a copy of the Notice in a conspicuous place on such ship, which action shall then be deemed to be proper service.

*Return of service*

**20.** (1) The detention officer who has served a Notice in terms of regulation 19, shall forthwith complete and sign a declaration in the form of Annexure B (hereinafter in this chapter referred to as a “return of service”).

(2) The detention officer shall thereupon forthwith deliver the original of the Notice served by him, together with the return of service, to the principal officer who issued the Notice and a copy thereof to each of the following persons:

- (a) The consular representative in the Republic, if any, of the state in which the ship is registered;
- (b) the ship’s agent in the Republic, if any;
- (c) the Commissioner for Customs and Excise or other proper officer of customs at the harbour where the ship is anchored, moored or berthed; and
- (d) the harbour authority or other authority, if any, who has jurisdiction or control over the sea where the ship is anchored, moored or berthed.

*Clearance Outward may be Refused*

[The capitalisation of the heading is reproduced as it appears in the *Government Gazette*.]

**21.** (1) The officer referred to in regulation 20(2)(c) shall refuse to give the master of a ship to which the Notice and the return of service relate or which was seized in terms of section

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9(4)(b) of the Act, clearance outward until he has received the Notice of Release contemplated in regulation 22(1).

(2) If the detained or seized ship is not in a harbour or a fishing harbour the Minister may take such steps or make such arrangements as he may deem necessary to prevent such ship from leaving the internal waters or the territorial waters.

*Release from detention*

**22.** (1) When a ship or cargo or part thereof which has been detained, is released from such detention as contemplated in section 9(4)(a) of the Act, the principal officer shall forthwith sign and issue a notice of release from detention substantially in the form of Annexure C.

(2) The original notice of release from detention referred to in subregulation (1) shall be retained by the principal officer who shall forthwith cause a copy thereof to be delivered by a detention officer to the master of the ship in question and to every person referred to in regulation 20(2)(a) to (d) to whom a copy of the relevant Notice and its accompanying Return of Service have been delivered by the detention officer.

(3) The detention officer shall in writing advise the principal officer of the date and time on which he has delivered the notice of release from detention to every person referred to in regulation 20(2)(a) to (d).

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**ANNEXURES**

To view content without printing, scroll down.

To print at full scale (A4), double-click the icon below.



Annexures A-C

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**ANNEXURE/AANHANGSEL A**

**DEPARTMENT OF TRANSPORT/DEPARTEMENT VAN VERVOER**

NOTICE OF DETENTION OF SHIP OR CARGO OR PART THEREOF

KENNISGEWING VAN AANHOUDING VAN SKIP OF VRAG OF GEDEELTE DAARVAN

[Marine Traffic Act, 1981 (Act 2 of 1981), hereinafter referred to as "the Act"]  
 [Wet op Seeverkeer, 1981 (Wet 2 van 1981), hierna "die Wet" genoem]

To: The Master  
 Aan: Die Gesagvoerder

..... (Name of ship)  
 ..... (Naam van skip)  
 ..... (Port of registry)  
 ..... (Registrasiehawe)  
 ..... (Official number)  
 ..... (Amptelike nommer)  
 ..... (Present location)  
 ..... (Huidige ligging)  
 ..... (Name and address of owner)  
 ..... (Naam en adres van eienaar)  
 .....  
 ..... (Name and address of agent)  
 ..... (Naam en adres van agent)

You are hereby notified that the ship/cargo/part of cargo\* described above is detained in terms of the provisions of section 9 of the Act for the reasons set out hereunder.

U word hiermee kennis gegee dat die skip/vrag/gedeelte van die vrag\* hierbo beskryf, aangehou word kragtens die bepalings van artikel 9 van die Wet, om die redes hieronder aangedui.

Section 9 (3): The Minister of Transport Affairs is satisfied that the passage of the ship is not innocent.

Artikel 9 (3): Die Minister van Vervoerwese is daarvan oortuig dat die deurvaart van die skip nie vry en vreedzaam is nie.

Signed at ..... this ..... day of ..... 19 .....

Geteken te ..... hierdie ..... dag van ..... 19 .....

.....  
*Issuing Officer/Uitreikingsbeampte.*  
*Capacity: Principal Officer.*  
*Hoedanigheid: Eerste Beampte.*

\* Delete which is not applicable.  
 Skrap wat nie van toepassing is nie.

**ANNEXURE/AANHANGSEL B**

**DEPARTMENT OF TRANSPORT/DEPARTEMENT VAN VERVOER**

RETURN OF SERVICE OF NOTICE OF DETENTION OF SHIP/CARGO/PART THEREOF\*

RELAAS VAN BETEKENING VAN KENNISGEWING VAN AANHOUDING VAN 'N SKIP/'N VRAG/DEEL VAN 'N VRAG\*

[Marine Traffic Act, 1981 (Act 2 of 1981)]  
 [Wet op Seeverkeer, 1981 (Wet 2 van 1981)]

I, ..... (full name)  
 Ek, ..... (volle naam)

declare that on the ..... day of ..... 19 .....

verklaar dat ek op die ..... dag van ..... 19 .....

at ..... hrs I served the notice of detention appearing on the reverse hereof

om .....-uur die kennisgewing van aanhouding wat op die keersy hiervan verskyn, beteken het

by—

deur—

(a) \*delivering a copy thereof to .....  
 \*'n afskrif daarvan te oorhandig aan .....  
 personally, in his capacity as .....  
 persoonlik, in sy hoedanigheid van .....  
 on board the ship.  
 aan boord van die skip.

or/of

(b) \*leaving a copy thereof .....  
 \*'n afskrif daarvan te laat .....

Signed at ..... this ..... day of ..... 19 .....

Geteken te ..... hierdie ..... dag van ..... 19 .....

.....  
*Detention Officer/Aanhoudingsbeampte.*

.....  
*Capacity/Hoedanigheid.*

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**ANNEXURE/AANHANGSEL C**

**DEPARTMENT OF TRANSPORT/DEPARTEMENT VAN VERVOER**  
**NOTICE OF RELEASE FROM DETENTION**  
**KENNISGEWING VAN ONTHEFFING VAN AANHOUDING**

[Marine Traffic Act, 1981 (Act 2 of 1981) hereinafter referred to as "the Act"]  
[Wet op Seeverkeer, 1981 (Wet 2 van 1981), hierna "die Wet" genoem]

To:

Aan: .....

.....	(Name of ship)
.....	(Naam van skip)
.....	(Port of registry)
.....	(Registrasiehaw)
.....	(Official No.)
.....	(Amptelike No.)
.....	(Present location)
.....	(Huidige ligging)
.....	(Name and address of owner)
.....	(Naam en adres van eienaar)
.....	(Name and address of agent)
.....	(Naam en adres van agent)

Please note that—  
Neem asseblief kennis dat—

(a) the abovementioned ship/cargo/part of cargo\* which was detained in terms of section 9(3) of the Act;  
bogenoemde skip/vrag/deel van die vrag\* wat ingevolge artikel 9(3) van die Wet aangehou is;

is hereby released from such detention.  
hierby onthef word van sodanige aanhouding.

Signed at ..... this ..... day of ..... 19 ....

Geteken te ..... hierdie ..... dag van ..... 19 ....

.....  
*Capacity/Hoedanigheid.*

.....  
*Detention Officer/Aanhoudingsbeampte.*

\* Delete which is not applicable.  
Skrap wat nie van toepassing is nie.