

DEPARTMENT OF TRANSPORT

NOTICE 388 OF 2021

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

**MARITIME OCCUPATIONAL HEALTH AND SAFETY AMENDMENT
REGULATIONS, 2021**

The Minister of Transport in terms of section 356 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), hereby publishes for comments the draft Maritime Occupational Health and Safety Amendment Regulation set out in the Schedule hereunder.

Interested persons are invited to submit comments on these draft Maritime Occupational Health and Safety Amendment Regulation to the Director-General, Department of Transport for the attention of Ms. G Semanya or Ms. Moloko Machaka within 30 days after publication of this notice:

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SCHEDULE

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

MARITIME OCCUPATIONAL HEALTH AND SAFETY AMENDMENT REGULATIONS, 2021

GENERAL EXPLANATORY NOTE:

[] Words in bold typed in square brackets indicate omissions/deletions from existing regulations.

_____ Words underlined with a solid line indicate insertions in existing regulations.

Draft Maritime Occupational Health and Safety Amendment Regulations, 2021

Definition

1. In this Schedule “the Regulations” means the Maritime Occupational Health and Safety Regulations, 1994 published in Government Gazette No. 16068 by Government Notice No. R. 1904 dated 11 November 1994, as amended.

Amendment of Chapter I of the Regulations

2. Chapter I of the Regulations is hereby amended by the substitution for the table of contents (Arrangement of regulations) of the following table:

“Chapter I General

- 1 Definitions
- 2 General application
- 3 Duties of **[employers]** an employer and an employee
- 4 Health and Safety equipment and facilities to be provided by
[employers] an employer
- 5 First-aid kit and first-aider
- 6 Reporting of accidents or serious injuries on board vessels”.

Amendment of regulation 1 of the Regulations

3. Regulation 1 of the Regulations is hereby amended—

- (a) by the insertion after the definition of “access equipment” of the following definitions:

““ **Authority**” means the South African Maritime Safety Authority established by section 2 of the South African Maritime Safety Authority Act, 1998 (Act No. 5 of 1998);”; and

““ **confined space**” means a space which has any of the following characteristics:

- (a) has limited openings for entry and exit;
- (b) has unfavourable natural ventilation;
- (c) is not designed for continuous worker occupancy; and
- (d) where it is foreseeable that the atmosphere may at some stage contain toxic or flammable gases or vapours, or be deficient in oxygen, to the extent that it may endanger the life or health of any person entering that space; and includes, but is not limited to, cargo spaces, double bottoms, fuel tanks, ballast tanks, pump-rooms, compressor rooms, cofferdams, void spaces, duct keels, inter-barrier spaces, engine crankcases and sewage tanks;”;

- (b) by the insertion after the definition of “contravene” of the following definition:

““ **employer**” for the purposes of this Chapter means the owner, master or person who employs and remunerates or undertakes to remunerate any stevedores, ship repair and maintenance worker or incidental person;”; and

- (c) by the substitution for the definition of “tanker” of the following definition:

““**tanker**” means a cargo ship constructed or adapted for the carriage in bulk of oil, chemicals or gas; and”.

Substitution of regulation 2 of the Regulations

4. The following Regulation is hereby substituted for Regulation 2 of the Regulations:

“These regulations apply on board **[vessels]**a vessel and to the performance of all work on **[vessels]**a vessel, whether or not the **[vessels are]** vessel is afloat.”.

Amendment of regulation 3 of the Regulations

5. Regulation 3 of the Regulations is hereby amended—

- (a) by the substitution for the heading of regulation 3 of the following heading:

“3 Duties of [employers and employees]**an employer and an employee**”; and

- (b) by the substitution for regulation 3 of the following regulation:

“(1) **[Every]****An** employer shall—

- (a) have a copy of these regulations readily available for perusal by his employees;
- (b) ensure that **[all his employees are]****each employee is** so far as is practicable familiar with these regulations where applicable;
- (c) in so far as is practicable, ensure that employees observe the applicable provisions of these regulations **[applicable to employees are observed by them]**;
- (d) in the interest of health and safety, ensure that discipline is enforced on board a vessel;
- (e) ensure that on board a vessel work is performed or machinery is used under the general supervision of a person who is fully aware of the hazards connected therewith and who is conversant with the health and safety measures to be taken or observed to obviate such hazards;

- (f) ensure that health and safety measures contained in the applicable Code and the SANS Standards prescribed by the South African Bureau of Standards are complied with;
 - (g) ensure that **[every]**each employee is **[aware of the hazards connected with any work to be performed, or machinery to be used by him and that he is conversant with the safety measures to be taken or observed to obviate such hazards]**—
 - (i) aware of the hazards connected with any work to be performed, or machinery to be used; and
 - (ii) conversant with the health and safety measures to be taken or observed to obviate hazards referred to in subparagraph (i);
 - (h) ensure that machinery and equipment which is brought on board a vessel and which does not form part of that vessel's machinery or equipment complies with the provisions of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993);
 - (i) ensure **[than]** that an employee who operates machinery or equipment on board a vessel is competent to do so~~[.]~~; and
 - (j) as far as is reasonably practicable establish that:
 - (i) the hazards to the health or safety of persons attached to any work which is performed, any cargo, equipment and any plant or machinery which is used in on board the vessel; and
 - (ii) the precautionary measures to be taken with respect to such work, cargo, equipment, plant or machinery in order to protect the health and safety of persons and provide the necessary means to apply such precautionary measures.
- (2) **[No]** An employer shall not, other than in writing and subject to the conditions stipulated by **[him]**the applicable Code, allow the raising, lowering, transporting or supporting of a person by means of a lifting appliance, except in an emergency.
- (3) **[Every]**An employee shall—
- (a) take reasonable care for **[his]** own health and safety and that of any other **[persons]**person who may be affected by **[his]**the employee's acts or omissions;

- (b) as regards any duty or requirement imposed on [his]the employee's, employer or any other person by the Act or regulations, co-operate with [such] the employer or person to enable that duty or requirement to be performed or complied with;
- (c) carry out any lawful order given [to him], and obey the rules and procedures laid down by [his]the employer or by anyone [authorized]authorised thereto by his employer, in the interest of health and safety;
- (d) if any situation which is unsafe comes to [his]the employee's attention, as soon as practicable report such situation to [his]the employer or to the health and safety representative for [his]the workplace or section thereof, as the case may be, who shall report it to the employer;
- (e) if [he]the employee is involved in any incident which may affect [his]the employee's health and safety, or which has caused an injury to [himself]the employee, report such incident to [his]the employer or to anyone [authorized]authorised thereto by the employer, or to [his]the health and safety representative, as soon as practicable but not later than the end of the particular shift during which the incident occurred, unless the circumstances were such that the reporting of the incident was not possible, in which case [he]the employee shall report the incident as soon as practicable thereafter; and
- (f) not intentionally or recklessly interfere with or misuse anything which is provided in the interest of health and safety.”.

Amendment of regulation 4 of the Regulations

6. Regulation 4 of the Regulations is hereby amended—

- (a) by the substitution for the heading of regulation 4 of the following heading:

**“4 Health and Safety equipment and facilities to be provided by
[employers]an employer”;** and

- (b) by the substitution for regulation 4 of the following regulation:

“[Taking into account the nature of the hazard that may be encountered, every employer shall, in order to render his employees safe, provide on a vessel adequate safety equipment and facilities, including—

- (1) suitable eye protection, welding shields, visors, hard hats, protective helmets, gloves, gauntlets, aprons, jackets, protective overalls or any similar equipment that will prevent bodily injury;
 - (2) waterproof clothing, low temperature clothing, fire retardant or flameproof clothing or any similar equipment, protective ointment, ear muffs, earplugs, respirators, breathing apparatus, masks, airlines, hoods, helmets or any similar equipment that will effectively protect against harm;
 - (3) belts, harnesses, nets, fall arresters, life lines, safety hooks, or any similar equipment that will provide protection in cases of falls; and
 - (4) mats, barriers, safety signs or any similar facility that will effectively prevent slipping or entry to unsafe areas.]
- (1) An employer must, taking into account the nature of the hazard that may be encountered, and in order to render the employees safe, provide on a vessel adequate health and safety equipment, personal protective equipment and facilities, including—
- (a) suitable eye protection, welding shields, visors, hard hats, protective helmets, gloves, gauntlets, aprons, jackets, protective overalls, safety footwear, reflective safety jackets or any similar equipment that will prevent bodily injury;
 - (b) waterproof clothing, low temperature clothing, fire retardant or flameproof clothing or any similar equipment, protective ointment, earmuffs, earplugs, respirators, breathing apparatus, masks, airlines, hoods, helmets or any similar equipment that will effectively protect against harm;
 - (c) belts, harnesses, nets, fall arresters, lifelines, safety hooks, or any similar equipment that will provide protection in cases of falls;
 - (d) mats, barriers, safety signs or any similar facility that will effectively prevent slipping and falling, multi-gas detectors for use before entry into confined spaces and other spaces with unsafe and harmful atmosphere; and
 - (e) other equipment and facilities as determined by the hazard identification process.
- (2) An employer must immediately replace personal protective equipment that has become worn or defective.”.

Substitution of regulation 5 of the Regulations

7. The following Regulation is hereby substituted for Regulation 5 of the Regulations:

“(1) **[Every]**Where more than five employees work on board a vessel an employer shall ensure that **[-]** there is readily available at that workplace a person holding a certificate of competency in first aid and thereafter one first aider must be appointed and available for every group of up to 50 employees.

(2) The certificate of competency referred to in subregulation (1) shall-

- (a) in the case of a vessel crew be in compliance with the Merchant Shipping (Safe Manning, Training and Certification) Regulations, 2013; and
- (b) for stevedores, ship repair and maintenance workers and incidental persons be **[a certificate of competency]** issued with a certificate of competency by an organization or person accredited by the relevant Sector Education and Training Authority and approved by the Chief Inspector of the Department of Employment and Labour for that purpose.

[(1) where more than five employees work on board a vessel where the vessel's medicine and medical appliances are not readily accessible, a portable first-aid kit is made available at or near the workplace where the employees are engaged and there is readily available at that workplace a person qualified in practical first aid; and

(2) the minimum contents of the portable first-aid kit is as follows:

Contents	Quantity
Wound cleanser (Cetrimide 1% solution)	1 x 200 ml
Pain relief tablets (e.g. paracetamol-codeine combination)	25
Antiseptic burn/wound cream (e.g. Proiodine)	25g
Paraffin gauze dressings 400mm x 100 mm	1 tin
Paraffin gauze dressings 100 mm x 100 mm	1 tin
Eyedrops (Naphazoline)	10 ml
Crepe bandage 75 mm x 6 mm	1
Roller bandages 75 mm x 6 mm	2

Triangular bandages	2 large
Cotton wool	1 x 50 g
Wound dressings 150 mm x 100 mm	2
Wound dressings 200 mm x 150 mm	1
Elastic adhesive wound dressing 25 mm x 1 m	1 roll
Self-adhesive wound dressings, assorted	50
Gauze 90 mm x 5 mm	1
Eyeshield	1
Tweezers	1 pair
Scissors, stainless steel, 100 mm blunt/sharp	1 pair
Assorted safety pins, brass, large	1 packet
Splints, in net for neck, arms and leg	1 set
Surgical gloves	2 pairs

]

(3) Where more than five employees work on board a vessel an employer must ensure that a portable first-aid kit is made available at or near the workplace unless there is an agreement between the vessel Master and the employer over the use of the vessel's medicine and medical appliances.

(4) The portable first-aid kit referred to in subregulation (3) shall contain a minimum of the following contents:

Item	Contents	Quantity
<u>1</u>	<u>Wound cleaner / antiseptic</u>	<u>(100ml)</u>
<u>2</u>	<u>Swabs for cleaning wounds</u>	<u>1 packet</u>
<u>3</u>	<u>Cotton wool for padding</u>	<u>(100g)</u>
<u>4</u>	<u>Sterile gauze</u>	<u>10</u>
<u>5</u>	<u>Forceps (for splinters)</u>	<u>1 pair</u>
<u>6</u>	<u>Scissors (minimum size 100mm)</u>	<u>1 pair</u>
<u>7</u>	<u>Safety pins</u>	<u>1 set</u>
<u>8</u>	<u>Triangular bandages</u>	<u>4</u>
<u>9</u>	<u>Roller bandages (75mm x 5m)</u>	<u>4</u>
<u>10</u>	<u>Roller bandages (100mm x 5m)</u>	<u>4</u>
<u>11</u>	<u>Roll of elastic adhesive (25mm x 3m)</u>	<u>1</u>
<u>12</u>	<u>Non-allergenic adhesive strip (25mm x 3m)</u>	<u>1</u>
<u>13</u>	<u>Adhesive dressing strips (minimum quantity 10 assorted sizes)</u>	<u>1 packet</u>
<u>14</u>	<u>First aid dressings (75mm x 100mm)</u>	<u>4</u>
<u>15</u>	<u>First aid dressings (150mm x 200mm)</u>	<u>4</u>
<u>16</u>	<u>Straight splints</u>	<u>2</u>
<u>17</u>	<u>Large and Medium size disposable latex gloves</u>	<u>2 pairs of each size</u>

<u>18</u>	<u>CPR mouth pieces or similar devices</u>	<u>2</u>
<u>19</u>	<u>An adequate supply of absorbent material [for the absorption of blood and other body fluids spilled]</u>	
<u>20</u>	<u>Disinfectant [to disinfect the area after cleaning up blood and other body fluids spilled]</u>	
<u>21</u>	<u>Large and medium size disposable rubber household gloves</u>	<u>2 Pairs of each size</u>
<u>22</u>	<u>A suitable sized impervious bag [for the safe disposal of blood and other body fluid contaminated biohazard materials]</u>	

”

Substitution of regulation 6 of the Regulations

8. The following Regulation is hereby substituted for Regulation 6 of the Regulations:

“**[Any]**An employer or an employee must report any accident or serious injury, contemplated in section 259 of the Act, **[shall be reported]** on the prescribed casualty report, obtainable from the proper officer concerned.”.

Amendment of Chapter II of the Regulations

9. Chapter II of the Regulations is amended—
- (a) by the substitution for the table of contents (Arrangement of regulations) of the following table:

“Chapter II	<u>Health and</u> Safety provisions for staff on board ship, appliances and equipment
7	Definitions
8	Application
9	Duties of an employer
10	Appointment, termination of appointment, and functions of <u>a health and safety [officers]officer</u>
11	Appointment, termination of appointment, and functions of <u>a health and safety [committees]committee</u>
12	Election, termination of office, and functions of <u>a health and safety [representatives]representative</u>

- 13 Requirements and duties of **[employers]**an employer regarding health and safety officers, health and safety committees and health and safety representatives to enable them to perform their functions
- 14 Access equipment
- 15 Use of access equipment
- 16 Hatch coverings
- 17 Lifting plants
- 18 Safeguarding of machinery
- 19 Electrical equipment
- 20 Safety measures when working under hazardous conditions
- 21 Safe access of persons on board
- 22 Transit areas
- 23 Lighting
- 24 Safety signs
- 25 Guardrails and Guarding of Openings
- 26 Fixed ladders
- 27 Enclosed or confined spaces”; and

(b) by the substitution for the heading of Chapter II of the following heading:

“Chapter II Health and Safety provisions for staff on board ship, appliances and equipment”.

Amendment of regulation 7 of the Regulations

10. Regulation 7 of the Regulations is hereby amended—

(a) by the insertion after the definition of “Code” of the following definition:

““competent person” means a person possessing the knowledge and experience required for the performance of a specific duty or duties and acceptable as such to a competent authority, as prescribed in the Code;”;

(b) by the substitution for the definition of “employer” of the following definition:

““employer” for the purposes of this Chapter means master or owner of a vessel;” and

- (c) by the substitution for the definition of “new vessel” of the following definition:

“**“new vessel”** means a vessel built on or after 1 January 1994 and includes a vessel whose construction and assembly commenced on or after 1 January 1994; and”.

Substitution of regulation 8 of the Regulations

11. The following Regulation is hereby substituted for Regulation 8 of the Regulations:

“This Chapter shall not apply to—

- [(1)](a)** fishing vessels, except for regulations 17, 21 and 27(1), (2), (3)(b) and (c), and (4), read with the applicable Code;
- [(2)](b)** vessels used solely for sport and recreation;
- [(3)](c)** offshore installations while they are on or within 500 [metres]meters of their working stations; and
- [(4)](d)** a vessel in which there is, for the time being, no workplace.”.

Substitution of regulation 9 of the Regulations

12. The following Regulation is hereby substituted for Regulation 9 of the Regulations:

“**[Every]**An employer of a crew **[shall]** in addition to the general duties prescribed in Chapter I **[comply with the following:]** shall—

- [(1)](a)** **[Ensure]**ensure that no safety equipment or other facility on a vessel **[be]**is removed therefrom, except for cleaning, repairing, maintenance, modification or replacement thereof;
- [(2)](b)** train all **[his]** employees or cause **[them]**employees to be trained in the proper use and maintenance of health and safety equipment or other facilities on board a vessel; and
- [(3)](c)** ensure that all health and safety hazards or potential health and safety hazards that **[caused]** may cause a safety officer to instruct that work **[to]** be stopped on a vessel, are removed before such work is resumed.”.

Amendment of regulation 10 of the Regulations

13. Regulation 10 of the Regulations is hereby amended—

(a) by the substitution for the heading of regulation 10 of the following heading:

“10 Appointment, termination of appointment, and functions of a health and safety [officers]officer”; and

(b) by the substitution for regulation 10 of the following regulation:

“(1) An employer shall in writing appoint an officer other than the master of a vessel as the health and safety officer for that vessel.

(2) The appointment of a health and safety officer shall terminate on —

(a) **[on]** the date that health and safety officer ceases to be employed on board that vessel; or

(b) **[on]** the date that the employer terminates **[his]the** appointment.

(3) **[The]A** health and safety officer shall—

(a) ensure that the crew of the vessel comply with the provisions of the Code;

(b) ensure that the crew comply with any occupational health and safety policy determined by the employer concerned;

(c) ensure that the crew maintain a high standard of occupational health and safety;

(d) investigate the cause of an accident contemplated in section 259(1)(c) of the Act, all hazards or potential hazards to health and safety, including fatigue, that affect or may affect the crew of a vessel in the execution of their work, and all complaints by the crew of the vessel concerning occupational health and safety;

(e) make recommendations to the health and safety committee concerned about any investigation or inspection or the prevention of any accident or the removal of any hazard or potential hazard, and about any deficiency in occupational health and safety regarding—

(i) the requirements of the Act and these regulations that affect the crew;

(ii) any relevant Marine Notice; and

(iii) any provision of the Code;

(f) carry out inspections of each accessible part of the vessel in respect of the occupational health and safety of the crew, at least once during

this term of appointment or more frequently if there have been substantial changes in the conditions of work: provided that the interval between successive inspections shall not exceed three months;

- (g) keep a record book **[in]** which **[he]** shall **[enter]** contain the full details—
 - (i) of any accident or hazardous occurrence **[(including the date, the names of persons involved and the nature of any injury)]**, including the name of any person involved or the nature of any injury; and
 - (ii) of any investigation, complaint or inspection referred to in this regulation;
- (h) on written request as soon as practicable make the record book referred to in paragraph (g) available to the Authority or the health and safety committee concerned, as the case may be;
- (i) immediately stop or cause to be stopped the performance of any work which **[in his opinion]** may cause an accident or **[serious]**an accident that may result in an injury, and inform the master thereof forthwith; and
- (j) carry out any other investigation relating to occupational health and safety which an employer or a health and safety committee may deem necessary, if so requested to in writing by the employer or the health and safety committee, as the case may be, and thereafter submit a report in respect of such investigation.”.

Amendment of regulation 11 of the Regulations

14. Regulation 11 of the Regulations is hereby amended—

- (a) by the substitution for the heading of regulation 11 of the following heading:

“11 Appointment, termination of appointment, and functions of a health and safety [committees]committee”; and

- (b) by the substitution for regulation 11 of the following regulation

“(1) An employer shall in writing establish a health and safety committee on board a vessel, designating the master to be chairperson and appointing

the health and safety officer and every health and safety representative as members.

- (2) An employer may in writing dissolve a health and safety committee.
- (3) A health and safety committee shall—
 - (a) upon receipt of any recommendation referred to in regulation 10(3)(e), submit to the employer such recommendation together with their own recommendations; and
 - (b) inquire into any occupational health and safety matter that affects a vessel and her crew and take the steps it may deem necessary to remove any hazard or potential hazard.”.

Amendment of regulation 12 of the Regulations

15. Regulation 12 of the Regulations is hereby amended –

- (a) by the substitution for the heading of regulation 12 of the following heading:

“12 Election, termination of office, and functions of a health and safety [representatives]representative”; and

- (b) by the substitution for regulation 12 of the following regulation:

“(1) The crew may, if they so choose, elect—

- (a) in a ship carrying fewer than 16 crew members, one health and safety representative; or
- (b) in a ship carrying more than 15 crew members, one health and safety representative, to be elected by the officers, and one health and safety representative to be elected by the ratings, or in a ship carrying more than 30 ratings, one health and safety representative, to be elected by the ratings in each of the deck, engine and catering departments; and general purpose ratings shall for this purpose be included in the deck apartment.

- (2) If a group of employees chooses to elect a health and safety representative, the manner in which the election is to be conducted shall be as follows:
 - (a) **[At]**~~at~~ a meeting convened for the purpose of this election and presided over by the chairman of the health and safety committee or

- his nominee, a group of employees shall from within their group nominate a candidate[.];
- (b) **[Each]**each nominated candidate shall, in writing, confirm to the chairman of the health and safety committee his acceptance of such nomination[.];
 - (c) **[The]**the election of a health and safety representative shall be decided by ballot[.];
 - (d) **[Each]**each member of the group of employees holding an election shall have only one vote[.];
 - (e) **[The]**the candidate obtaining the majority of votes shall be the health and safety representative for the specific group of employees for a period not exceeding six months[.]; and
 - (f) **[In]**in the event of an equality of votes, the chairman of the health and safety committee shall have the decisive vote.
- (3) The office of the health and safety representative shall terminate—
- (a) on the date that the health and safety representative ceases to be employed on board that vessel;
 - (b) on the date of **[his]**the health and safety representative's resignation from office; or
 - (c) after **[he]**the health and safety representative has completed **[his]**the term of appointment.
- (4) **[When he makes]** A health and safety representative must submit any representations and **[submits]** requests in writing to the employer or health and safety officer or health and safety committee on behalf of the crew **[he represents, the safety representative shall make such representations and submissions in writing]**being represented.".

Amendment of regulation 13 of the Regulations

16. Regulation 13 of the Regulations is hereby amended by—

- (a) the substitution for the heading of regulation 13 of the following heading:

"13 Requirements and duties of [employers]an employer regarding health and safety officers, health and safety committees and health and safety representatives to enable them to perform their functions"; and

(b) the substitution for regulation 13 of the following regulation:

“**[Every]**~~An~~ employer of a crew shall—

- [(1)]**~~(a)~~ inform the health and safety officer and health and safety committee concerned of any hazardous cargo on board a vessel and the hazards which may arise therefrom, and of any other hazards on board the vessel that are known to **[him]**~~the employer~~ and that may endanger the vessel or her crew;
- [(2)]**~~(b)~~ allow a health and safety officer **[and]**~~or~~ health and safety representative such reasonable absence from ship's duties without loss of pay as may be necessary **[to enable them]** to perform their duties or functions as health and safety officer or health and safety representative, as the case may be;
- [(3)]**~~(c)~~ at any reasonable time, receive representations about occupational health and safety from the health and safety officer, the health and safety representatives or the health and safety committee, including recommendations by a health and safety representative that certain work should be suspended, and discuss their representations with them and implement any agreed measures as soon as may be reasonable and practicable;
- [(4)]**~~(d)~~ provide the health and safety officer, and health and safety committee concerned on request with any information relating to accidents and potential hazards to health and safety on board a vessel;
- [(5)]**~~(e)~~ provide the health and safety officer concerned on request with any information or plans necessary to enable **[him]**~~the health and safety officer~~ to undertake an inspection referred to in regulation 10(3)(d);
- [(6)]**~~(f)~~ set the election date of a health and safety representative to be within three working days of being requested to do so by any two persons entitled to vote in such an election and give publicity to any such election;
- [(7)]**~~(g)~~ subject to the provision of section 355A(5) of the Act, provide the health and safety officer and health and safety committee access to any necessary information, document and similar material, including any applicable legislation and Marine Notices;
- [(8)]**~~(h)~~ provide the health and safety officer and health and safety committee with the necessary accommodation, office equipment and similar materials;

- [(9)](i) permit the health and safety officer and health and safety committee to inspect the whole or part of the vessel for the purpose of occupational health and safety; and
- [(10)](i) display in a conspicuous place on board a notice containing the names of the health and safety officer and health and safety representative on board the vessel.”.

Amendment of regulation 14 of the Regulations

17. Regulation 14 of the Regulations is hereby amended —

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

“(1) **[The]**An employer shall provide—”; and

(b) by the substitution in subregulation (1) for paragraph (c) of the following paragraph:

“(c) on board a vessel of 120 **[metres]**meters or more in length, in addition to the gangway, an accommodation ladder **[(including a rope or portable ladder)]**, including a rope or portable ladder which is appropriate to the deck layout, size, shape and maximum free board of the vessel and which complies with the applicable requirements prescribed in the Code.”.

Substitution of regulation 15 of the Regulations

18. The following Regulation is hereby substituted for Regulation 15 of the Regulations:

[The]An employer shall ensure that, except in an emergency, access equipment referred to in regulation 14 is always used between a secured vessel and any quay, pontoon or similar structure or another vessel alongside to which that vessel is secured, and that—

[(1)](a) the access equipment is placed in position promptly after the vessel has been so secured and remains in position while the vessel is so secured;

[(2)](b) the access equipment which is used—

(i) is properly constructed, of adequate strength, properly

- rigged, secured, deployed, and safe to use; and
- (ii) is so adjusted from time to time as to maintain safety of access;
- [(3)](c) the access equipment and immediate approaches thereto are adequately illuminated;
- [(4)](d) when access is necessary between a vessel and the shore and that vessel is not secured alongside, access equipment is provided to ensure safe access;
- [(5)](e) a portable ladder is used as access equipment only where no other safe means of access is practicable;
- [(6)](f) a rope ladder is used as access equipment only between a vessel with high freeboard and a vessel with low freeboard or between a vessel and a boat where no other safe means of access is practicable;
- [(7)](g) a life-buoy with a self-activating light and a separate safety line attached to a quoit or a similar device is provided ready for use at the point of access to a vessel; and
- [(8)](h) an adequate number of safety nets are rigged to safeguard the full length of a gangway or accommodation ladder in use.”.

Amendment of regulation 16 of the Regulations

19. Regulation 16 of the Regulations is hereby amended —

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

“(1) **[The]**An employer shall ensure—”;

(b) by the substitution in subregulation (1) paragraph (b) for subparagraph (ii) of the following subparagraph:

“(ii) is clearly marked, showing the correct replacement position, except in so far as hatch coverings are interchangeable or incapable of being incorrectly replaced; and”; and

(c) by the substitution for subregulation (2) of the following subregulation:

“(2) Except in the event of an emergency, **[no]**a person shall not operate a hatch covering which is power-operated or a vessel's ramp or a retractable car-deck unless authorised to do so by the officer of the watch.”.

Amendment of regulation 17 of the Regulations

20. Regulation 17 of the Regulations is hereby amended –

(a) by the substitution for regulation 17 of the following regulation:

“(1) **[Every]**An employer shall ensure that any vessel's lifting plant is—”;

(b) by the substitution in regulation 17 subregulation (1) for paragraph (c) of the following paragraph:

“(c) operated only by a competent person properly trained in the operation thereof and duly authorised by the officer of the watch to do so;”;

(c) by the substitution in regulation 17 subregulation (1) for paragraphs (e) and (f) of the following paragraphs:

“(e) examined by a competent person after any **[of the tests]**test referred to in paragraph (d) **[have]**has been carried out, but at least once every 12 months, and that no lifting plant is used unless so examined and declared safe in writing;

(f) supplied with a test certificate stating that the lifting plant was tested by a competent person after any **[of the tests]**test prescribed in paragraph (d);”;

(d) by the substitution in regulation 17 subregulation (1) for paragraphs (h) and (i) of the following paragraphs:

“(h) where practicable, fitted with—

(i) a limiting device which automatically arrests any driving effort when the load reaches its highest or lowest safe position;

- (ii) a brake or other device suitable to holding a load and preventing the uncontrolled downward movement thereof when the raising effort of the lifting plant is interrupted; and
 - (iii) a hook or load-attaching device so designed or proportioned that the accidental disconnection of a load under working conditions is prevented; and
- (i) fitted with—
 - (i) a device indicating the operating radius of the lifting plant at all times while it is in operation; and
 - (ii) a diagram or indicator indicating to the operator the safe working load of the lifting plant corresponding to its operating radius, if it has a safe working load which varies according to its operating radius.”; and
- (e) by the addition after subregulation (1) of the following subregulations:
 - “(2) An employer must obtain from the vessel’s crew, prior to commencement of each crane operation, documentary proof of—
 - (a) the register of on-board lifting appliances and items of loose gear;
 - (b) crane wire certificates; and
 - (c) maintenance schedule for crane wires.
 - (3) The vessel's crew must-
 - (a) at all times monitor cargo operations; and
 - (b) ensure that routine inspection and maintenance of wire-ropes is conducted as per the manufacturer’s requirements for inspection.”.

Substitution of regulation 18 of the Regulations

21. The following Regulation is hereby substituted for Regulation 18 of the Regulations:

“**[Every]**An employer shall—”.

- [(1)](a)** specifically cause every exposed and hazardous part of machinery on board a vessel which is within the normal reach of a person to be effectively safeguarded by means of insulation, fencing, screening or guarding so that it does not constitute a further hazard or potential hazard;

- [(2)](b) ensure that the quality of material used for such insulation, fencing, screening or guarding is suitable for the purpose for which it is being utilised;
- [(3)](c) ensure that all insulation, fencing, screening or guarding is properly maintained and kept in position while the guarded part is in operation; and
- [(4)](d) supply suitable apparatus to stop immediately any machine on board a vessel in an emergency.”.

Substitution of regulation 19 of the Regulations

22. The following Regulation is hereby substituted for Regulation 19 of the Regulations:

“**[Every]**An employer shall ensure that all the electrical equipment and installations on a vessel are operated and maintained in such a manner that any hazard or potential hazard is removed.”.

Amendment of regulation 20 of the Regulations

23. The following Regulation is hereby substituted for Regulation 20 of the Regulations:

“**[Every]**An employer shall take all reasonable precautionary measures in order to ensure that **[employees]**an employee who **[have]**has to work on or near machinery which is in motion, under pressure, at high temperature or electrically alive **[(including the operation of such machinery for the purposes of the examination, adjustment, repair, lubrication or testing thereof)]**,including the operation of such machinery for the purpose[] of the examination, adjustment, repair, lubrication or testing thereof, are not injured, and shall in particular ensure that—

- [(1)](a) the exposure of employees to dangerous parts of such machinery is limited to the minimum;
- [(2)](b) the said exposure is authorised by the officer of the watch or other competent person;
- [(3)](c) such machinery is examined only by a competent person;

- [(4)](d) any employee who is required to be close to such machinery has, so far as is practicable, a working area which is of adequate size, properly illuminated, and clear of obstructions and loose material; and
- [(5)](e) a notice specifying the hazards relating to such machinery is affixed in a legible form in a conspicuous place on, or in the vicinity of, that machinery or that the area around such machinery is demarcated with hazard tape.”.

Substitution of regulation 21 of the Regulations

24. The following Regulation is hereby substituted for Regulation 21 of the Regulations:

“[Every]An employer shall ensure that a safe means of access is provided and maintained to any place on a vessel to which a person may be required to go.”.

Substitution of regulation 22 of the Regulations

25. The following Regulation is hereby substituted for Regulation 22 of the Regulations:

“[Every]An employer shall ensure that all deck surfaces used for transit and all passageways, walkways and stairs on a vessel are properly maintained and, in so far as it is practicable, are kept free from all materials for substances likely to cause a person to slip or fall.”.

Substitution of regulation 23 of the Regulations

26. The following Regulation is hereby substituted for Regulation 23 of the Regulations:

“[Every]An employer shall ensure that those areas of a vessel being used for the loading or unloading of cargo or for any other work or transit are adequately and appropriately illuminated.”.

Substitution of regulation 24 of the Regulations

27. The following Regulation is hereby substituted for Regulation 24 of the Regulations:

“[Every]An employer shall ensure that all permanent health and safety signs used on board a vessel for the purpose of giving health and safety information or instruction comply with the standards prescribed by the International Maritime Organisation, the South African Bureau of Standards or the International Standards Organisation.”.

Amendment of regulation 25 of the Regulations

28. Regulation 25 of the Regulations is hereby amended —

- (a) by the substitution for the heading of regulation 25 of the following heading:

“25 Guardrails and Guarding of Openings”; and

- (b) by the substitution for regulation 25 of the following regulation:

“[(1) Every employer shall ensure that any opening, open hatchway or dangerous edge into, through, or over which a person may fall is fitted with secure guardrails or fencing of adequate design and construction to prevent such occurrence, except where the installation of such guardrails of fencing will interfere with the proper performance of work.

- (2) Where a temporary opening is made in a ship for carrying out repair work, the opening may, in lieu of the guarding required by subregulation (1), be guarded by means of hazard tape displayed at a height of not less than 800 mm and not higher than 1 200 mm and at a distance of not less than 2 000 mm from the edge of the opening]**

- (1) An employer must ensure that—

- (a) any opening, open hatchway or dangerous edge into, through, or over which a person may fall is fitted with secure guardrails or fencing of adequate design and construction to prevent such occurrence, except where the installation of such guardrails of fencing will interfere with the proper performance of work;

- (b) where a temporary opening is made in a ship for carrying out repair work, the opening may, in lieu of the guarding required by subregulation (1), be guarded by means of a hazard tape displayed at

- a height of not less than 800 mm and not higher than 1 200 mm and at a distance of not less than 2 000 mm from the edge of the opening;
- (c) hatchways open for handling cargo or stores, through which persons may fall or on which they may trip, should be closed as soon as work stops, except during short interruptions or where they cannot be closed without prejudice to safety or mechanical efficiency because of the heel or trim of the ship: Provided in such a case, an employer must ensure the opening is guarded by means of a fencing of adequate design and construction to prevent such occurrence;
 - (d) guard rails or fencing should not have sharp edges and should be properly maintained;
 - (e) where necessary, locking devices and suitable stops or toe-boards should be provided;
 - (f) each course of rails should be kept substantially horizontal and taut throughout their length;
 - (g) guard rails or fencing should consist of an upper rail at a height of 1 meter and an intermediate rail at a height of 0.5 meters which may consist of taut wire or taut chain;
 - (h) work is not conducted on walkways that are not properly fenced;
 - (i) for a ship undergoing repair and maintenance work, positive guarding or barricading is utilised for openings made in railings, decks, or tank tops; and
 - (j) walkways are safely and securely fenced by the ship's crew and that foremen or supervisors ensure that fencing has been erected and complies with the specifications prescribed in paragraphs (a) to (i)."

Amendment of regulation 26 of the Regulations

29. Regulation 26 of the Regulations is hereby amended —

- (a) by the substitution for the heading of regulation 26 of the following heading:

"26 Fixed ladders";

- (b) by the substitution for regulation 26 of the following regulation:

"(1) [Every]An employer shall ensure that every ladder used on a vessel—

- (a) **[all ladders used on a vessel are]**is constructed of **[good construction and]** sound material, adequate strength and is suitable for the purpose for which **[they are]**it is used;
- (b) **[Such ladders are]**is properly maintained and free from defects; and
- (c) **[all the ladders on a new vessel comply]** complies with the requirements prescribed in the relevant sections of the Code.”.

Amendment of regulation 27 of the Regulations

30. Regulation 27 of the Regulations is hereby amended —

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

“(1) **[Every]**An employer shall ensure that all entrances to unattended, enclosed or confined spaces on a vessel are kept either closed or otherwise secured against entry, except when work is to be done therein.”;

- (b) by the substitution for subregulation (2) of the following subregulation:

“(2) **[Every]**An employer shall ensure that the provisions of the applicable Code pertaining to the hazards for safe entry to and work in an enclosed or confined space on board a vessel are complied with.”;

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

“(3) **[Every]**An employer of crew on board—

- (a) any tanker or gas carrier of 500 gross registered tons or more; **[and]**
- (b) any other vessel of 1 000 gross registered tons or more~~[,]; and~~
- (c) or any other vessel with confined spaces on board,

shall ensure that drills simulating the rescue of a crew member from an enclosed or confined space are held at intervals not exceeding two months, and that such drills are recorded in the official log book.”; and

- (d) by the substitution for subregulation (4) of the following subregulation:

“**[(4) (a) Where entry into an enclosed or confined space may be necessary, every employer shall ensure that an oxygen meter and such other testing device as is appropriate to the hazard likely to be encountered in any such space is carried on board the vessel.**

(b) Every employer shall ensure that such meter any such other testing device is maintained in good working order and, where applicable, is regularly serviced and calibrated according to the manufacturers' requirements.]

(4) An employer shall ensure that—

- (a) where entry into an enclosed or confined space may be necessary, an oxygen meter, a multi-gas detector and such other testing device as is appropriate to the hazard likely to be encountered in any such space is carried on board the vessel;**
- (b) the confined space is certified by a competent person on board using a multi-gas detector as safe for human entry; and**
- (c) the oxygen meter, multi-gas detector or any such other testing device referred to in paragraph (a) is maintained in good working order and, where applicable, is regularly serviced and calibrated according to the manufacturer's requirements.**

Amendment of Chapter III of the Regulations

31. Chapter III of the Regulations is amended —

- (a) by the substitution for the table of contents (Arrangement of regulations) of the following table:

“Chapter III Stevedores, [shore]ship repair and maintenance contractors and incidental person on board vessels in the course and scope of their duty

- 28 Definitions
- 29 Application
- 30 Duties of **[owners, masters and employers]**an employer
- 31 Appointment, termination of appointment, and functions of a health and safety officer
- 31A Appointment, termination of appointment, and functions of a health and safety appointee
- 31B Appointment, termination of appointment, and functions of a health and safety committee
- 31C Incidental persons

31D Certification of stevedores, ship repair and maintenance contractor and incidental person as fit for duty by an Occupational Medicine Practitioner

31E Certification of an employee as fit for duty by an Occupational Medicine Practitioner

31F Portable Ladders

31G Safety measures when working with steel pipes and on container tops

32 Record books

32A Stevedore Health and Safety Induction Training"; and

- (b) the substitution for the heading of Chapter III of the following heading:

"Chapter III Stevedores, [shore]ship repair and maintenance contractors and incidental person on board vessels in the course and scope of their duty".

Amendment of regulation 28 of the Regulations

32. Regulation 28 of the Regulations is hereby amended —

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

"["Code" means the South African Ports Cargo Handling Code of Practice published by the National Ports Authority of South Africa, a division of Transnet Limited, as may be amended from time to time;]

"Code" means the Code of Safe Working Practice for Ships Working Cargo in South African Ports;";

- (b) by the insertion after the definition of "Code" of the following definition:

"competent person" means a person possessing the knowledge and experience required for the performance of a specific duty or duties and acceptable as such to a competent Authority, as prescribed in the Codes;

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

“**“employee”** means any person other than a crew member who is employed by or working for any employer and receives or is entitled to receive any remuneration or who works under the direction or supervision of an employer or any other person who in any manner assists in the carrying on or the conducting of the business of an employer in so far as this person is performing stevedoring, or **[shore]ship repair and maintenance** contracting or any other work whatsoever in the course and scope of **[his]** employment on board a vessel;”;

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

“**“employer”** means any person other than an employer of the master or crew who employs any person and remunerates that person or expressly or tacitly undertakes to remunerate **[him] any person**, or who permits any person in any manner to assist him in performing stevedoring or **[shore contracting] ship repair and maintenance** or any other work on board a vessel;”;

- (e) by the substitution for the definition of “incidental persons” of the following definitions:

“**“incidental [persons]person”** means any person other than the master and crew, and **[stevedores]stevedore** and **[shore contractors] ship repair and maintenance contractor** on board a vessel in the course and scope of their duty;”;

- (f) by the insertion after the definition of “incidental persons” of the following definitions:

“**“Occupational Medicine Practitioner”** for the purposes of this Chapter means a registered medical practitioner who meets the prescribed requirements of and has registered the applicable additional qualification with the Medical and Dental Professions Board of the Health Professions Council of South Africa;”;

“**“safety officer”** means a person who holds an NQF level 5 training qualification in Health and Safety management accredited by a relevant Education and Training Authority or an equivalent NQF level 6 qualification from a recognised higher education institution and is appointed as such in terms of regulation 31(1);”;

- (g) by the substitution for the definition of “shore contractor” of the following definition:

“**[shore]ship repair and maintenance contractor**” means a person temporarily employed on board a vessel to effect general or specific repairs, alterations, renovations, improvements, painting, maintenance of vessel or machinery, tank or hatch cleaning and related tasks;”;

- (h) by the insertion after the definition of “ship repair and maintenance contractor” of the following definitions:

“**shipyard competent person**” means a person with a minimum NQF level 5 certificate in Safety management which includes hazard identification modules and has:

- (a) completed a training in proper care and use of a multi-gas detector provided by the manufacturer;
- (b) [has] a minimum of two years working in the ship repair and maintenance industry or oil and gas industry; and;
- (c) [has] basic knowledge of vessel structure;”; and

“**Ship repair Code**” means the Code of Safe Working Practice for Ships undergoing repair and maintenance in South Africa;”; and

- (i) by the addition after the definition of “stevedore” of the following definition:

“**stevedore**” means a person employed in the loading or unloading of a vessel or activities related thereto[.]; and

“workplace” means an area on board a vessel where work is performed.”.

Amendment of regulation 30 of the Regulations

33. Regulation 30 of the Regulations is hereby amended—

- (a) by the substitution for the heading of regulation 30 of the following heading:

“30 Duties of [owners, masters and employers]an employer”;

- (b) by the substitution for subregulation (1) of the following subregulation:

“(1) **[Every]**An employer **[of stevedores, shore contractors or incidental persons]** shall—

- (a) in addition to the general duties prescribed by regulation 3, complies with the requirements of regulations 4, 5, 17(b) and (c), 20, 21, 25 and **[27(2)]**27(1), (2) and (4);
- (b) ensure that **[each accessible part of the vessel is]** the workplace, including transit and access facilities are inspected in respect of occupational health and safety affecting employees at **[least once a day during the period the employees are employed]** the commencement of each shift and maintain a record of such inspection;
- (c) immediately stop or cause to be stopped, the performance of any work which **[in his opinion]** may cause an accident or **[serious]**accident that may result in an injury and inform the employer, owner or master forthwith thereof~~[.]~~;
- (d) ensure that at the commencement of each shift, a health and safety information session is conducted with employees to inform employees of hazards, risks and mitigating measures associated with the task to be performed during the shift and maintain a record of such information sessions; and
- (e) ensure that for any work taking place in confined spaces, each confined space is certified gas-free, safe for human entry or safe for hot work by a competent person whilst the vessel is in port within South Africa and maintained as such by a shipyard competent person where applicable.”;

(c) by the substitution for subregulation (2) of the following subregulation:

“(2) **[Every]**An employer **[of stevedores, shore contractors or incidental persons]** shall ensure that all deck surfaces, all passageways, walkways and stairs on a vessel used for transit by employees are kept, as far as it is practicable, free from all materials or substances likely to cause a person to slip or fall.”; and

(d) by the substitution for subregulation (4) of the following subregulation:

“(4) **[Every]**An employer **[of a stevedore]** shall ensure **[compliance with the provisions of the Code]**—

- (a) compliance with the provisions of the Code;
- (b) that each employee—
 - (i) holds a valid medical certificate of fitness;
 - (ii) holds documentary evidence of having successfully completed a health and safety induction training in accordance with Annex 1 of the Code and Appendix 1 of the Ship Repair Code; and
 - (iii) has the appropriate personal protective equipment.”.

Amendment of regulation 31 of the Regulations

34. Regulation 31 of the Regulations is hereby amended —

(a) by the substitution for the heading of regulation 31 of the following heading:

“31 Appointment, termination of appointment, and functions of a health and safety officer”;

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

“(1) [~~The~~]An employer [~~of a stevedore or shore contractor~~] shall in writing appoint an employee as a health and safety officer for a group of [~~his~~]employees.”;

(c) by the substitution for subregulation (2) of the following subregulation:

“(2) The appointment of the health and safety officer shall cease on the date—
 (a) **the employee ceases to be employed by the employer; or**
 (b) **[~~that~~]the employer terminates the appointment.”;**

(d) by the substitution for subregulation (3) of the following subregulation:

“(3) [~~The~~] A health and safety officer shall whilst the employees are working on a vessel—”;

(e) by the substitution in subregulation (3) for paragraph (a) of the following paragraph:

- “(a) ensure that the employees comply with the provisions of the regulations and the related provisions of the applicable Codes;”;
- (f) by the substitution in subregulation (3) for paragraph (b) of the following paragraph:
- “(b) ensure that any occupational health and safety policy determined by the employer concerned is complied with by the employees;”;
- (g) by the substitution in subregulation (3) for paragraph (c) of the following paragraph:
- “(c) ensure that the employees maintain a high standard of occupational health and safety;”;
- (h) by the substitution in subregulation (3) for paragraph (d) of the following paragraph:
- “(d) investigate the cause of an accident **[mentioned]**referred to in section 259(1)(c) of the Act, all hazards or potential hazards to health and safety, including fatigue, affecting or which may affect the employees in the execution of their work and all complaints about occupational health and safety by the employees onboard the vessel;”;
- (i) by the substitution in subregulation (3) for paragraph (e) of the following paragraph:
- “(e) make recommendations to the employer **[regarding]**or the health and safety committee concerned about any investigation or inspection or the prevention of **[an]**any accident, or the removal of **[a]**any hazard, or potential hazard, and about any deficiency in occupational health and safety regarding **[the requirements of the Act and these regulations]**—
- (i) the requirements of the Act and these regulations that affect the employees; and
- (ii) the related provisions of the Code;”;
- (j) by the substitution in subregulation (3) for paragraph (f) of the following paragraph:

- “(f) monitor the effectiveness of the applicable health and safety measures, conduct inspections contemplated regulation 30(1)(b) and the investigation referred to in paragraph (j) and immediately stop or cause to be stopped, the performance of any work which **[in his opinion]** may cause an accident or **[serious]**an accident that may result in an injury and inform the employer, owner or master forthwith thereof;”;
- (k) by the substitution in subregulation (3) for paragraph (h) of the following paragraph:
- “(h) carry out any other investigation relating to occupational health and safety which an employer or a health and safety committee may deem necessary if requested thereto in writing by the employer or the health and safety committee, as the case may be, and thereafter submit a report in respect of such investigation;”;
- (l) by the substitution in subregulation (3) for paragraph (i) of the following paragraph:
- “(i) for the purposes of regulation 32, submit to the employer a brief report of **[the]**each investigation, complaint or inspection contemplated in this regulation **[to the employer for the purposes of record keeping]; and**”;
- (m) by the addition in subregulation (3) after paragraph (i) of the following paragraph:
- “(j) ensure that the workplace is inspected periodically in respect of unsafe acts and unsafe conditions during the time the employees are employed on board a vessel and evidence retained as prescribed in regulation 32.”.

Insertion of regulations 31A to 31E of the Regulations

35. The following regulations are hereby inserted in Chapter III of the Regulations after regulation 31:

31A Appointment, termination of appointment, and functions of a health and safety appointee

- (1) An employer shall in writing appoint in respect of any work on board a vessel at least one employee as a health and safety appointee for every shift worked on the vessel.
- (2) The appointment of the health and safety appointee shall terminate on the date—

 - (a) the person ceases to be employed by the employer; or
 - (b) the employer terminates the appointment.
- (3) A health and safety appointee shall ensure that—

 - (a) before each shift—

 - (i) every part of the vessel including access facilities, transit areas where cargo is to be worked is inspected in respect of occupational health and safety affecting employees;
 - (ii) employees are made aware of any hazards associated with the work being undertaken;
 - (iii) employees use the appropriate personal protective equipment; and
 - (iv) documentary evidence of compliance with subparagraphs (i) and (ii) are kept on the vessel;
 - (b) any unsafe equipment or workplace is reported to the health and safety officer and that appropriate corrective action is taken;
 - (c) workplaces are well-lit and well-ventilated;
 - (d) any person not involved in work is kept clear of areas where cargo handling and ship repair and maintenance is taking place;
 - (e) safety equipment is used only for its intended purpose and is not misused or interfered with;
 - (f) ensure that the inspection contemplated in regulation 30(1)(b) is conducted; and
 - (f) report any other unsafe acts or unsafe conditions to the Health and Safety Officer.

31B Appointment, termination of appointment, and functions of a health and safety committee

- (1) An employer shall in writing establish a health and safety committee consisting of a chairperson appointed by the employer, a health and safety officer and every health and safety appointee.
- (2) The chairperson may co-opt as a member of the health and safety committee any other person whose knowledge or experience can contribute to the business of the committee.
- (3) An employer may in writing dissolve, or reconstitute, the health and safety committee at any time.
- (4) The health and safety committee shall meet at least once every three months: provided that the Authority may by notice in writing direct that a meeting be held at any place and time determined by the Authority and specified in the notice.
- (5) Subject to any directions by an employer, the health and safety committee shall determine its own procedures.
- (6) The health and safety committee shall—

 - (a) consider every recommendation of the health and safety officer made in terms of regulation 31(3)(e) and any recommendation of a health and safety appointee;
 - (b) submit such recommendations referred to in paragraph (a) to the employer together with its own recommendations;
 - (c) inquire into any occupational health and safety matter that affects the employer or its employees and take the steps it may deem necessary to remove any hazard or potential hazard; and
 - (d) monitor the employer's procedures and arrangements for ensuring that—

 - (i) an accident involving an employee is reported in terms of the Act and investigated by the health and safety officer and that appropriate corrective action is taken;
 - (ii) every workplace is safe so far as reasonably practicable; and
 - (iii) any equipment used by employees to work meets the applicable statutory requirements.

- (7) An employer shall keep proper minutes of every meeting of the health and safety committee for a period of at least three years and shall make the minutes available to the Authority upon demand.

31C Incidental persons

- (1) An employer of an incidental person shall upon employment of a new employee ensure that—
- (a) the employee attends internal health and safety induction training covering hazards associated with access to the vessel as well as hazards and risks associated with working on board the vessel;
 - (b) the employee uses the appropriate personal protective equipment; and
 - (c) any incidental person reports to the health and safety appointee referred to in regulation 31(1) before proceeding to work on any working area where cargo operations or ship repair and maintenance work is taking place.

31D Certification of a stevedore, ship repair and maintenance contractor or incidental person as fit for duty by an Occupational Medicine Practitioner

- (1) A stevedore, ship repair and maintenance contractor or incidental person shall be examined and certified fit for duty only by a certified Occupational Medicine Practitioner, in accordance with the Medical Surveillance Protocols prescribed in Table 1 of Annex 5 of the Code, with due regard to the portability of the position.
- (2) An Occupational Medicine Practitioner shall consider the multitasking and exposure to additional hazards related to the position and conduct an assessment of whether stevedore, ship repair and maintenance contractor or incidental person is fit for duty in accordance with the criteria prescribed in Table 2 of Annex 5 of the Code.
- (3) An Occupational Medicine Practitioner shall, when conducting an assessment of whether a bulk cargo stevedore, ship repair and maintenance contractor or incidental person is fit for duty, comply with the guidelines prescribed in Table 3 of Annex 5 of the Code: provided where the bulk cargo is not listed in Table 3, the Material Safety Data Sheet

(MSDS) or the International Maritime Solid Bulk Cargoes Code (IMSBC Code) shall be consulted for guidance.

31E Certification of an employee as fit for duty by an Occupational Medicine Practitioner

- (1) An employee shall be examined and certified fit for duty only by a certified Occupational Medicine Practitioner, in accordance with the Medical Surveillance Protocols prescribed in Table 1 of Annex 4 of the Code, with due regard to the portability of the position.
- (2) An Occupational Medicine Practitioner shall consider the multitasking and exposure to additional hazards related to the position and conduct an assessment of whether an employee is fit for duty in accordance with the criteria prescribed in Table 2 of Annex 4 of the Code.

31F Portable Ladders

- (1) An employer shall ensure that every ladder used on a vessel—
 - (a) is constructed of sound material of adequate strength and is suitable for the purpose for which it is used;
 - (b) is properly maintained and free from defects;
 - (c) complies with the requirements prescribed in the relevant sections of the Code;
 - (d) is fitted with non-skid devices at the bottom ends and hooks or similar devices at the upper ends of the stiles which shall ensure the stability of the ladder during normal use; and
 - (e) is so lashed, held or secured whilst being used as to ensure the stability of the ladder under all conditions and at all times.
- (2) An employer shall not use a ladder, or permit it to be used, if it —
 - (a) (i) has rungs fastened to the stiles only by means of nails, screws, spikes or in like manner;
 - (ii) has rungs which have not been properly let into the stiles: provided that in the case of welded ladder or ladders of which the rungs are bolted or riveted to the stiles, the rungs need not be let into the sides; or
 - (iii) has damaged stiles, or damaged or missing rungs.

- (3) An employer may not permit the use of a ladder longer than 9 metres which is required to be leaned against an object for support.
- (4) In the case of a wooden ladder, an employer shall ensure that—
 - (a) each ladder is constructed of straight grained wood, free from defects, and with the grain running in the length of the stiles and rungs; and
 - (b) each ladder is not painted or covered in any manner, unless it has been established that there are no cracks or other inherent weaknesses: provided that the ladder may be treated with oil or covered with clear varnish or wood preservative.
- (5) When work is done from a ladder, an employer shall—
 - (a) take special precautionary measures to prevent articles from falling off; and
 - (b) provide suitable sheaths or receptacles in which hand tools shall be kept when not being used.
- (6) An employer shall ensure that a fixed ladder which exceeds 5 metres in length and is attached to a vertical structure with an inclination to the horizontal level of 75 degrees or more—
 - (a) has its rungs at least 150 millimetres away from the structure to which the ladder is attached; and
 - (b) is provided with a cage which—
 - (i) extends from a point not exceeding 2,5 metres from the lower level to a height of at least 900 millimetres above the top level served by the ladder; and
 - (iii) shall afford firm support along its whole length for the back of the person climbing the ladder, and for which purpose no part of the cage shall be more than 700 millimetres away from the level of the rungs: provided that the provisions of paragraph (b) shall not apply if platforms, which are spaced not more than 8 metres apart and suitable for persons to rest on, are provided.
- (7) An employer shall ensure that employees—
 - (a) have both hands free for climbing up and down;
 - (b) face the ladder when climbing up and down;
 - (c) do not wear footwear that is slippery; and

- (d) use a belt or other suitable means to carry any object they may need whilst using a ladder.

31G Safety measures when working with steel pipes and on container tops

- (1) An employer shall take all reasonable precautionary measures in order to ensure that employees who have to work **[with,]** near or with the discharge of steel pipes **[are]** follow precautions prescribed in the Code.
- (2) An employer shall take all reasonable precautionary measures in order to ensure that employees who have to work on top of containers are not injured and comply with the safety measures prescribed in the Code.”.

Amendment of regulation 32 of the Regulations

36. Regulation 32 of the Regulations is hereby amended —

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

- “(1) **[Every]**An employer **[of a stevedore or shore contractor]** shall maintain a record book**[, in which he shall enter]**containing the full details of—
- (a) any accident or dangerous occurrence **[mentioned]**referred to in section 259(1)(c) of the Act **[(including the date of, names of persons concerned and the nature, if any, of any injuries suffered)]** including the date of, names of persons concerned and the nature, if any, of any injuries suffered; and
- (b) any investigation, complaint or inspection in terms of regulation 31 and evidence of compliance with regulation 31A.”; and

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

- “(2) **[The]**An employer shall keep the records specified in subregulation (1) for a period of **[not less than]**at least three years, and shall make these records available to the Authority upon demand.”.

Amendment of Chapter IV of the Regulations

37. Chapter IV of the Regulations is amended by the substitution for the table of contents (Arrangement of regulations) of the following table:

“Chapter IV Fishing Vessels

- 33 Definitions
- 34 Application
- 35 Duties of employer
- 36 Appointment, termination of appointment, and functions of a health and safety [officers]officer
- 37 Appointment, termination of appointment, and functions of a health and safety [appointees]appointee
- 38 Appointment, termination of appointment, and functions of a health and safety [committees]committee
- 39 Record books
- 39A Compliance audit
- 39B Access equipment”.

Amendment of regulation 35 of the Regulations

38. Regulation 35 of the Regulations is hereby amended by the substitution for subregulation (2) of the following subregulation:

- “(2) **[Every employer of a crew shall in]**in addition to the general duties prescribed in Chapter I **[comply with the following:]**an employer of a crew shall—
- (a) **[Ensure]**ensure that **[no]**health and safety equipment or other facility on a vessel **[be]**is not removed therefrom, except for cleaning, repairing, maintenance, modification or replacement thereof;
 - (b) train all **[his]** employees or **[]**[them]the employees to be trained in the proper use and maintenance of health and safety equipment or other facilities on board a vessel;
 - (c) ensure that all hazards or potential hazards to health and safety that may cause~~[]~~ a health and safety officer or health and safety appointee to stop work on a vessel, are removed before resumption of such work;

- (d) ensure compliance with regulations 17, 21 and ~~[27(1)]~~27(1), (2), (3)(b) and (c), and (4), read with the applicable Code.”.

Amendment of regulation 36 of the Regulations

39. Regulation 36 of the Regulations is hereby amended—

- (a) by the substitution for the heading of regulation 36 of the following heading:

“36 Appointment, termination of appointment, and functions of a health and safety [officers] officer”;

- (b) by the substitution for subregulation (1) of the following subregulation:

“(1) (a) For the ~~[purpose]~~purposes of a fishing vessel in service, ~~[the]~~an employer of the crew of ~~[the]~~a vessel shall in writing appoint a suitably qualified crew member as ~~[the]~~a health and safety officer for the vessel.

- (b) A person is not suitably qualified for the purposes of paragraph (a) unless ~~[he or she]~~that such person holds documentary evidence of having successfully completed health and safety officer training approved by the Authority: provided that this provision does not require a person to hold such documentary evidence during the period expiring 12 months after the commencement of Part 1 of the Merchant Shipping (Miscellaneous Amendments) Regulations, 2004.”;

- (c) by the substitution for subregulation (2) of the following subregulation:

“(2) The appointment of a health and safety officer shall terminate—

- (a) on ~~[a]~~the date that ~~[he]~~the health and safety officer ceases to be employed on board the fishing vessel; or
- (b) on the date that ~~[his]~~the employer, in writing, terminates ~~[his]~~the health and safety officer's appointment.”; and

- (d) by the substitution for subregulation (3) of the following subregulation:

“(3) A health and safety officer shall, whilst a fishing vessel is in service—

- (a) ensure that the crew ~~[comply]~~complies with the provisions of the Code;

- (b) ensure that the crew **[comply]**complies with any occupational health and safety policy determined by the employer concerned;
- (c) ensure that the crew **[maintain]**maintains a high standard of occupational health and safety;
- (d) investigate **[the cause of an accident contemplated in section 259(1)(c) of the Act; all hazards or potential hazards to safety including fatigue, that affect or may affect the crew of a vessel in the execution of their work, and all complaints concerning occupational safety]**—
 - (i) the cause of an accident contemplated in section 259(1)(c) of the Act;
 - (ii) all hazards or potential hazards to health and safety including fatigue, that affect or may affect the crew of a vessel in the execution of their work; and
 - (iii) all complaints concerning occupational health and safety;
- (dA) ensure that the members of the vessel's health and safety committee are made aware of—
 - (i) the relevant requirements of these regulations and **[of]**the Act;
 - (ii) any relevant Marine Notice; and
 - (iii) the provisions of the Code~~[.]~~;
- (e) make recommendations to the health and safety committee concerned about any investigation or inspection or the prevention of any accident or the removal of any hazard or potential hazard, and about any deficiency in occupational health and safety regarding—
 - (i) the requirements of the Act and these regulations that affect the crew;
 - (ii) any relevant Marine Notice; and
 - (iii) any provisions of the Code;
- (f) carry out inspections of each accessible part of the vessel in respect of the occupational health and safety affecting the crew, at least once during a voyage;
- (g) immediately stop or cause to be stopped, the performance of any work which **[in his opinion]** may cause an accident or **[serious]**an accident that may result in an injury, and inform the master thereof forthwith;

- (h) carry out any other investigation or inspection relating to occupational health and safety which an employer or health and safety committee may deem necessary, if so requested in writing by the employer or health and safety committee, as the case may be, and thereafter submit a report in respect of such investigation or inspection; and
- (i) submit to the employer for the purposes of the record book a brief report of the investigation or inspection referred to in this regulation.”.

Amendment of regulation 37 of the Regulations

40. Regulation 37 of the Regulations is hereby amended —

- (e) by the substitution for the heading of regulation 37 of the following heading:

“37 Appointment, termination of appointment, and functions of a health and safety [appointees]appointee”;

- (f) by the substitution for subregulation (1) of the following subregulation:

“(1) ~~[The]~~An owner of a fishing vessel shall in writing appoint an employee as a health and safety appointee for that fishing vessel whilst it is not in service.”;

- (g) by the substitution for subregulation (2) of the following subregulation:

“(2) The appointment of the health and safety appointee shall terminate—
 (a) on the date that the employee ceases to be employed by the owner;
 or
 (b) on the date that the employer terminates ~~[his]~~the employee's appointment.”; and

- (h) by the substitution for subregulation (3) of the following subregulation:

“(3) The health and safety appointee shall whilst a vessel is not in service—
 (a) ensure that ~~[the]~~employees comply with the provisions of the Code;
 (b) ensure that ~~[the]~~employees comply with any occupational health and safety policy determined by the employer concerned;
 (c) ensure that ~~[the]~~employees maintain a high standard of occupational health and safety;

- (d) investigate **[the cause of an accident contemplated in section 259(1)(c) of the Act; all hazards or potential hazards to safety including fatigue, that affect or may affect the employees in the execution of their work, and all complaints by the employees of the vessel concerning occupational safety]**—
 - (i) the cause of an accident contemplated in section 259(1)(c) of the Act;
 - (ii) all hazards or potential hazards to health and safety including fatigue, that affect or may affect the employees in the execution of their work; and
 - (iii) all complaints concerning occupational health and safety;
- (e) make recommendations to the health and safety committee concerned, about any investigation or inspection or the prevention of any accident or the removal of any hazard or potential hazard, and about any deficiency in occupational health and safety regarding—
 - (i) the requirements of the Act and these regulations that affect **[the]**employees;
 - (ii) any relevant Marine Notice; and
 - (iii) any provision of the Code;
- (f) carry out inspections of each accessible part of the vessel in respect of the occupational health and safety of **[the]**employees, at least once during the vessel's not-in-service period and should such period extend beyond one month, at least once a month;
- (g) immediately stop or cause to be stopped, the performance of any work which **[in his opinion]**may cause an accident or **[serious]**injury and inform the owner thereof forthwith;
- (h) carry out any other investigation relating to occupational health and safety which an employer or health and safety committee may deem necessary, if so requested in writing by the employer or the health and safety committee, as the case may be, and thereafter submit a report in respect of such investigation; and
- (i) submit to the employer for the purposes of the record book a brief report of the investigation or inspection referred to in this regulation.”.

Amendment of regulation 38 of the Regulations

41. Regulation 38 of the Regulations is hereby amended —

- (a) by the substitution for the heading of regulation 38 of the following heading:

“38 Appointment, termination of appointment, and functions of a health and safety [committees]committee”; and

- (b) by the substitution for regulation 38 of the following regulation:

- “(1) ~~[The]~~An owner of every fishing vessel shall in writing establish a health and safety committee for the vessel, which committee is to consist of such number of members as the owner may determine from time to time taking into account the other provisions of this regulation.
- (2) The ~~chairperson~~, in the person of the owner or the owner’s representative, shall co-opt the vessel’s health and safety officer and not less than one crew member from each of the deck, engine, factory ~~[(if applicable) and]~~or catering departments on board, and may co-opt such other crew members or employees as are necessary to conduct the business of the committee.
- (3) The ~~[chairman]~~chairperson may also co-opt any other person who by the virtue of ~~[his]~~such person’s special knowledge can contribute to the business of the health and safety committee.
- (4) An owner may, ~~[in his discretion,]~~in writing, dissolve a health and safety committee.
- (5) A health and safety committee ~~[is to]~~ shall meet as often as may be necessary for the effective and efficient performance of its functions: provided that the Authority may by notice in writing direct that a meeting be held at any place and time determined by it and specified in the notice.
- (6) The procedure at meetings of a health and safety committee shall be determined by the committee.
- (7) The committee shall consider all recommendations of the health and safety officer or health and safety appointee.
- (8) After consideration of such recommendations a health and safety committee may recommend any appropriate action in respect of any

incident on board a vessel and the recommendation shall be made available to the Authority upon demand.

- (9) **[The]An** owner shall keep the minutes of every meeting of a health and safety committee for a period of at least three years and shall make the minutes available to the Authority upon demand.”.

Amendment of regulation 39 of the Regulations

42. Regulation 39 of the Regulations is hereby amended —

- (i) by the substitution for subregulation (1) of the following subregulation:

“(1) **[Every]An** employer shall maintain a record book, **[in which he shall enter]** containing the full details of—

- (a) any accident or dangerous occurrence referred to in section 259(1)(c) of the Act **[(including the date, names of persons concerned and the nature, if any, of any injuries suffered)]** including the date, names of persons concerned and the nature, if any, of any injuries suffered; and
- (b) any investigation, complaint or inspection referred to in **[terms of]** regulations 36 and 37.”; and

- (j) by the substitution for subregulation (2) of the following subregulation:

“(2) **[The]An** employer shall keep the records specified in subregulation (1) for a period of at least three years, and shall make these records available to the health and safety committee, and to the Authority upon demand.”.

Amendment of regulation 39A of the Regulations

43. Regulation 39A of the Regulations is hereby amended —

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

“(1) **[The]An** owner shall, at intervals not exceeding three months, audit the arrangements for ensuring compliance with these regulations in respect of its vessels to ensure that they are implemented effectively—.”;

(b) by the substitution in subregulation (1) for paragraphs (a) and (b) of the following paragraphs:

- “(a) a health and safety officer or health and safety appointee, as the case may be, has been duly appointed in respect of each of the owner's vessels and is functioning effectively;
- (b) a health and safety committee has been duly appointed in respect of each of the owner's vessels and is functioning effectively;”;

(c) by the substitution for subregulation (3) of the following subregulation:

“(3) **[The]An** owner shall maintain a written record of each audit for a period of at least three years and shall make the record available to the Authority upon demand.”.

Substitution of regulation 39B of the Regulations

44. The following Regulation is hereby substituted for Regulation 39B of the Regulations:

“**[The]An** employer shall provide—”.

Amendment of regulation 40 of the Regulations

45. Regulation 40 of the Regulations is hereby amended by the substitution for subregulations (1) to (5) of the following subregulations:

- “(1) **[Every]An** employer commits an offence when an employer contravenes regulation 3(1) or (2), 4, 5, 9, 10(1), 11(1), 13, 14, 15, 16(1), 17, 18, 19, 20, 21, 22, 23, 24, 25(1), 26, 27, 30(1), (2) or (4), 31(1), 31A(1), 31B(1) or (7), 32, 35(2), 36(1), 39 or 39B.
- (2) **[Every]An** employee who contravenes regulation 3(3)(f) commits an offence.

- (3) **[Every]**A person who contravenes regulation 16(2) commits an offence.
- (4) **[Every]**An owner commits an offence when an owner contravenes regulation 35(1), 37(1), 38(1), 38(9) or 39A(1) or (3).
- (5) **[Every]**A master who contravenes regulation 35(1)(b) commits an offence.”.

Short title and commencement

- 46. “These regulations are called the Maritime Occupational Health and Safety Amendment Regulations, 2021 and are published for public comments.