
GENERAL NOTICES • ALGEMENE KENNISGEWINGS

DEPARTMENT OF TRANSPORT

NOTICE 1373 OF 2022

NOTICE OF INTENTION TO INTRODUCE THE MERCHANT SHIPPING BILL, 2022 INTO PARLIAMENT IN TERMS OF RULE 241(1) (b) OF THE NATIONAL ASSEMBLY

The Minister of Transport hereby in terms of National Assembly Rule No. 241(1) (b) intends introducing the Merchant Shipping Bill, 2022 ("the Bill") in Parliament during 2022/23.

The Bill and its Explanatory Memorandum were published for comments in the Government Gazette No. 43073, Notice Number 205 of 6 March 2022, and further published on Government Gazette 43505, Notice 369 of 6 July 2022.

The object of the Bill is as follows:-

To provide for the powers and duties of the Minister and the South African Maritime Safety Authority in the administration of this Act; to provide for the registration, permitting and licensing of ships in the Republic; to provide for the application of labour laws to seafarers; to provide for the conditions of employment of seafarers and the health and well-being of seafarers on board a vessel; to promote the safety of life at sea; to establish inspection and enforcement mechanisms including those for marine casualties and crimes committed on ships; to provide for the regulation of marine traffic; to provide for legal proceedings and jurisdictional matters; to recognise and incorporate international conventions to which the Republic is bound in terms of the Constitution and its incorporation into domestic law; to repeal certain Acts; to provide a transitional framework for the new provisions of this Act; and to provide for matters incidental thereto.

Copies of the Bill and the Memorandum on the Objects can be obtained from the Office of the Government Printers on (012) 334 4500/ 334 4741 alternatively from the Department of Transport.

THE MERCHANT SHIPPING (AMENDMENT) BILL 2022

	<p>An Act further to amend the Merchant Shipping Act, 1958</p> <p>BE it enacted by Parliament in the ____ Year of the Republic of India as follows: -</p>	
Short title and commencement.	<p>1. (1) This Act may be called the Merchant Shipping (Amendment) Act, 2022.</p> <p>(2) It shall come into force on such date as the Central Government may, by notification, appoint, and different dates may be appointed for different provisions of this Act.</p>	
Amendment of section 20	<p>2. In section 20 of the Merchant Shipping Act, 1958 (hereinafter referred to the principal Act), the words “fitted with mechanical means of propulsion” shall be omitted.</p>	44 of 1958
Amendment of section 21	<p>3. For section 21 of the principal Act, the following shall be section shall be substituted, namely: -</p> <p>“21. Indian ships - For the purpose of this part, no ship shall be an Indian ship unless such ship is owned by any of the following persons and in such proportion of ownership as may be notified:</p> <p>(a) a citizen of India including a Non-Resident Indians or an Overseas Citizen of India; or</p> <p>(b) a company or a body established by or under any Central Act or State Act which has its registered office or principal place of business in India; or</p> <p>(c) such other person or body as the Central Government may notify.”</p>	
Amendment of Section 22	<p>4. In section 22 of the principal Act, for sub section (1), the following sub-section shall be substituted, namely: -</p>	

	<p>“(1) Every Indian ship, shall be registered under this Act.</p> <p>Provided that registration under sub-section (1) shall not be mandatory for ships owned by an Overseas Citizen of India, where none of the persons or bodies under section 21, other than such Overseas Citizen of India, have ownership in such ship:</p> <p>Provided further that the vessels registered under the provisions of the Coasting Vessels Act, 1838 shall be re-registered under the provisions of this Part within a period of one year from the date of coming into force of this provision.”</p>	
Insertion of new 22A	<p>5. In the principal Act, after section 22, the following section shall be inserted, namely: -</p> <p>“22A. Registration of Indian chartered ships. -</p> <p>Any foreign ship chartered on a bareboat charter cum-demise contract by an Indian charterer, may be registered under this Chapter in such manner and subject to such conditions as may be prescribed”.</p>	
Insertion of new 22B	<p>6. In the principal Act, after section 22, the following section shall be inserted, namely: -</p> <p>“22B. Temporary registration of ships sought to be recycled.</p> <p>Any ship, not registered under this Act, which is sought to be recycled in India in accordance with the provisions of the Recycling of Ships Act, 2019 and its corresponding rules, shall be registered temporarily under this Chapter in such manner, for such duration and subject to such conditions as may be prescribed.”</p>	
Substitution of new section for section 40	<p>7. For section 40 of the principal Act, the following section shall be substituted, namely: -</p> <p>“40. Provisional registration of Indian ship (1) If at any port or place a ship becomes entitled to be registered as an Indian ship, the Registrar may</p>	

	<p>issue a provisional certificate of registry in accordance with such procedure as may be prescribed and such provisional certificate of registry shall have the effect of a certificate of registry.</p> <p>(2) The procedure, validity, and extension of such registration or cancellation shall be as may be prescribed.</p> <p>(3)The unsatisfied mortgage shall continue to be reflected in the Register book in case of deemed closure of the provisional registry."</p>	
Substitution of Heading in Part XI-A	<p>8. In the principal Act, in Part XI-A, for heading, the following heading shall be substituted, namely: -</p> <p>"Prevention and Containment of Pollution by ships"</p>	
Amendment of section 356-A	<p>9. In clause (b) of sub-section (1) for the words "release of oil, ballast water, noxious liquid and other harmful substances into sea" the words</p> <p>"release of oil, ballast water, noxious liquid, air pollutant, emission, garbage and other harmful substances by ship"</p>	
Amendment of section 405	<p>10. In section 405 of the principal Act, the words "fitted with mechanical means of propulsion of not less than one hundred- and fifty-tons gross, but the Central Government may, by notification in the Official Gazette, fix any lower tonnage for the purposes of this Part" shall be omitted.</p>	
Amendment of section 436	<p>11. In section 436 of the principal Act, in sub-section (2), in Table: -</p> <p>(a)against serial no 29, in column (4), the words "Imprisonment which may extend to three months, or fine which may extend to one thousand rupees, or both"shall be substituted with the words "Fine which may extend to one thousand rupees."</p> <p>(b) against serial no 35, in column (4), the words</p>	

	<p>"Imprisonment which may extend to six months, or fine which may extend to five hundred rupees, or both" shall be substituted with the words "Fine which may extend to five hundred rupees."</p> <p>(c) against serial no 43, in column (4), the words "Imprisonment which may extend to one month, or fine which may extend to one thousand rupees, or both" shall be substituted with the words "Fine which may extend to one thousand rupees".</p> <p>(d) against serial number 44, in column (4), the words "Imprisonment which may extend to six months, or fine which may extend to one thousand rupees, or both" shall be substituted with the words "Fine which may extend to one thousand rupees".</p> <p>(e) against clause (a) of serial number 57, in column (4), the words "and also to imprisonment which may extend to three months" shall be omitted.</p> <p>(f) against clause (b) of serial number 57, in column (4), the words "and also to imprisonment which may extend to two months" shall be omitted.</p> <p>(g) in clause (iv) of serial number 59, the words "and (e) of section 194" shall be omitted.</p> <p>(h) in serial number 59, after clause (iv) the following clause shall be inserted, namely: -</p> <p>"(iva) clause (e) of section 194: imprisonment which may extend to one month, or fine which may extend to five hundred rupees, or both."</p> <p>(i) against serial number 60, in column (4), the words "Imprisonment which may extend to one month, or fine which may extend to one hundred rupees, or both" shall be substituted with the words "Fine which may extend to one hundred rupees".</p> <p>(j) against serial number 65, in column (4), the words "imprisonment which may extend to one month, or fine which may extend to two hundred rupees, or both" shall be substituted with the</p>	
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	<p>words "Fine which may extend to two hundred rupees".</p> <p>(k) against serial number 66(a), in column (4), the words "Imprisonment which may extend to three months, or fine which may extend to one thousand rupees; or both" shall be substituted with the words "Fine which may extend to one thousand rupees."</p> <p>(l) against serial number 68, in column (4), the words "Imprisonment which may extend to three months, or fine which may extend to one thousand rupees, or both" shall be substituted with the words "Fine which may extend to one thousand rupees."</p> <p>(m) against serial number 108B, in column (4), the words "The master or owner or agent shall be, liable to imprisonment which may extend to six months or fine which may extend to ten thousand rupees or both" shall be substituted with the words "The master or owner or agent shall be liable to fine which may extend to ten thousand rupees and the ship may also be detained."</p> <p>(n) against serial number 108E(a), in column (4), the words "Imprisonment which may extend to one year or fine which may extend to ten thousand rupees or both" shall be substituted with the words "Fine which may extend to ten thousand rupees and the ship may also be detained."</p> <p>(o) against serial number 108E(b), in column (4), the words "Imprisonment which may extend to one year or fine which may extend to ten thousand rupees or both" shall be substituted with the words "Fine which may extend to ten thousand rupees and the ship may also be detained."</p> <p>(p) against serial number 109, in column (4), the words "imprisonment which may extend to three months or fine which may extend to three thousand rupees, or both" shall be substituted with the words "fine which may extend to three thousand rupees".</p> <p>(q) against serial number 115D(ii), in column (4),</p>	
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	<p>the words “the offender shall be liable to penalty of imprisonment which may extend to six months or fine” which may extend to ten thousand rupees or both” shall be substituted with the words “the offender shall be liable to penalty of fine which may extend to ten thousand rupees”.</p> <p>(r) against serial number 135, in column (4), the words “Imprisonment which may extend to three months, or fine which may extend to two hundred rupees, or both” shall be substituted with the words “Fine which may extend to two hundred rupees”.</p> <p>(s) against serial number 137, in column (4), the words “imprisonment which may extend to six months or fine which may extend to five thousand rupees, or both” shall be substituted with the words “Fine which may extend to five thousand rupees”.</p>	
Insertion of new 454B	<p>12. After section 454A of the principal Act, the following section shall be inserted, namely: -</p> <p>“454B. Requirements for ships including non-mechanically propelled ships.</p> <p>The Central Government may prescribe safety, security, manning and pollution prevention requirements, and such types of certificates and documents, as may be considered appropriate depending on the type, size, nature and area of operation of a ship, including non-mechanically propelled ship.</p>	
Insertion of new 454C	<p>13. After section 454A of the principal Act, the following section shall be inserted, namely: -</p> <p>“454C. Obligations under international conventions.</p> <p>The Central Government may prescribe rules for compliance of the following conventions, as applicable, namely: —</p> <p>(a) International Convention relating to the Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969;</p> <p>(b) International Convention on Maritime Search</p>	

	<p>and Rescue, 1979;</p> <p>(c) 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972;</p> <p>(d) International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001;</p> <p>(e) International Convention for the Control and Management of Ship's Ballast Water and Sediments, 2004.</p>	
Amendment of the Schedule.	<p>14. In Entry No. 1, in Part I of the Schedule, the words "In so far as it applies to sea-going ships fitted with mechanical means of propulsion and to sailing vessels" shall be substituted with the words "The Whole".</p>	