

DEPARTMENT OF TRANSPORT

No. R. 431

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5 May 2000

MARINE TRAFFIC ACT, 1981 (ACT No. 2 OF 1981)

MARINE TRAFFIC (INSHORE VESSEL TRAFFIC SERVICES) REGULATIONS, 2000

The Minister of Transport has, under section 14 of the Marine Traffic Act, 1981 (Act No. 2 of 1981), made the regulations in the Schedule.

SCHEDULE

Arrangement of regulations

*Regulation
No.*

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Definitions

1. In these regulations, any word or expression given a meaning in the Act shall have that meaning and, unless the context indicates otherwise—

"**berth**" includes a wharf, quay, dock, pier, anchorage or mooring buoy;

"**contravene**" includes failing or refusing to comply; and "**contravention**" has a corresponding meaning;

"**departure manoeuvre**" means an operation during which a ship leaves a berth and gets safely under way;

"fishing vessel" means a ship that is used for the purpose of catching fish or other living resources of the sea for financial gain or reward;

"harmful substance" includes—

- (a) goods classified in the International Maritime Dangerous Goods (IMDG) Code, published by the Organization, as amended from time to time;
- (b) substances listed in chapter 17 of the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code), published by the Organization, as amended from time to time;
- (c) substances listed in chapter 19 of the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (IGC Code), published by the Organization, as amended from time to time;
- (d) oils as defined in Annex I of the International Convention for the Prevention of Pollution from Ships 1973, as modified by the 1978 Protocol, as amended from time to time;
- (e) noxious liquid substances as defined in Annex II of the International Convention for the Prevention of Pollution from Ships 1973, as modified by the 1978 Protocol, as amended from time to time;
- (f) harmful substances as defined in Annex III of the International Convention for the Prevention of Pollution from Ships 1973, as modified by the 1978 Protocol, as amended from time to time; and
- (g) radioactive materials specified in the Code for the Safe Carriage of Irradiated Nuclear Fuel, Plutonium and High-level Radioactive Wastes in Flasks on board Ships (INF Code), published by the Organization, as amended from time to time;

"length" means—

- (a) in the case of a registered vessel, the length shown in the certificate of registry;
- (b) in the case of a vessel licensed in terms of section 68 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), the length shown in the licence; and
- (c) in the case of a vessel that is not registered or licensed, the horizontal distance measured between perpendiculars erected at the extreme ends of the outside of the hull;

"manoeuvre" means any ship movement that may be detrimental to safe navigation, and includes—

- (a) a compass adjustment;
- (b) the calibration and servicing of navigational aids;
- (c) a sea trial;
- (d) a dredging operation; and
- (e) the laying, picking up and servicing of submarine cables;

"marine traffic regulator" means the person designated by the Authority pursuant to regulation 4 in respect of the vessel traffic services zone concerned;

"passenger" and "passenger ship" have the meanings given in section 2(1) of the Merchant Shipping Act, 1951 (Act No. 57 of 1951);

"pleasure yacht" means a ship, however propelled, that is used solely for sport or recreation and does not carry more than 12 passengers;

"South African waters" means the internal waters and the territorial waters referred to in sections 3 and 4 respectively of the Maritime Zones Act, 1994 (Act No. 15 of 1994);

"sport or recreation" has the meaning given in section 2(1) of the Merchant Shipping Act, 1951 (Act No. 57 of 1951);

"the Act" means the Marine Traffic Act, 1981 (Act No. 2 of 1981);

"the Organization" means the International Maritime Organization;

"traffic clearance" means a traffic clearance given pursuant to regulation 5(1)(a);

"vessel traffic services zone" means an inshore vessel traffic services zone referred to in regulation 3.

Application

- 2.** (1) Subject to subregulation (2), these regulations apply to—
- (a) every ship of 15 metres or more in length;
 - (b) every ship engaged in towing or pushing any vessel or object, other than fishing gear, where—
 - (i) the combined length of the ship and any vessel or object towed or pushed by the ship is 30 metres or more in length; or
 - (ii) the length of the vessel or object being towed or pushed by the ship is 15 metres or more in length;
 - (c) every passenger ship; and
 - (d) every ship carrying a harmful substance as cargo.
- (2) These regulations do not apply to—
- (a) ships exempted from the provisions of the Act by virtue of regulation 2 of the Marine Traffic Regulations, 1985, published by Government Notice No. R. 194 of 1 February 1985;
 - (b) fishing vessels of less than 24 metres in length; or
 - (c) pleasure yachts.

Vessel traffic services zones

3. For the purposes of these regulations and, in particular, the promotion of safe and efficient navigation and environmental protection, there are hereby established in South African waters the inshore vessel traffic services zones set out in column 1 of the items of the Annex.

Marine traffic regulators

4. The Authority shall designate a marine traffic regulator in respect of each vessel traffic services zone and shall establish the requirements that a person must meet before being so designated and the conditions of such designation.

Powers of marine traffic regulators

5. (1) With respect to any ship about to enter or within a vessel traffic services zone, a marine traffic regulator may, for the purpose of promoting safe and efficient navigation or environmental protection, but subject to any other law governing ports or harbours and to these regulations—

- (a) give a traffic clearance to a ship to enter, leave or proceed within a vessel traffic services zone;
- (b) direct the master, pilot or person in charge of the deck watch of the ship to provide such pertinent information in respect of that ship as may be specified in the direction;
- (c) direct the ship to use such radio frequencies in communications with coast stations or other ships as may be specified in the direction; and
- (d) direct the ship, at such time or between such times as may be specified in the direction—
 - (i) to leave a vessel traffic services zone;
 - (ii) to leave or refrain from entering such area within a vessel traffic services zone as may be specified in the direction; or
 - (iii) to proceed to or remain at such location within a vessel traffic services zone as may be specified in the direction,

where the marine traffic regulator believes on reasonable grounds that any of the following circumstances exist, namely—

- (aa) non-availability of a berth required for the ship;
- (bb) pollution or reasonable apprehension of pollution in the vessel traffic services zone;
- (cc) the proximity of animals whose well-being could be endangered by the movement of the ship;
- (dd) any obstruction or hazard to navigation in the vessel traffic services zone;
- (ee) the proximity of a ship in apparent difficulty or presenting a pollution threat or other hazard to life or property;
- (ff) the proximity of a ship navigating in an unsafe manner or with improperly functioning equipment or radio equipment, or without charts or publications required by these regulations or any other law; or
- (gg) vessel traffic congestion that constitutes an unacceptable risk to shipping, the public or the environment.

(2) A marine traffic regulator is under a duty to exercise its powers under subregulation (1) if the exercise of those powers may reasonably be expected to avoid or

mitigate a situation that is detrimental to safe and efficient navigation or environmental protection.

General requirements

6. (1) The master of a ship shall ensure, before the ship enters or proceeds within a vessel traffic services zone, that it has on board the latest editions of the nautical charts and publications relating to that vessel traffic services zone.

- (2) Except as provided by subregulations (3) and (4), no ship shall—
- (a) enter, leave or proceed within a vessel traffic services zone without having previously obtained a traffic clearance under regulation 5(1)(a); or
 - (b) proceed within a vessel traffic services zone unless able to maintain direct communication with a marine traffic regulator in accordance with regulation 7.

- (3) Where a ship, for any reason other than the failure of shipboard radio equipment—
- (a) is unable to obtain a clearance required by subregulation (2)(a) by reason of inability to establish direct communication with a marine traffic regulator; or
 - (b) after receiving a clearance, is unable to maintain direct communication with a marine traffic regulator,

the master may nevertheless proceed on his or her route, but shall take all reasonable measures to communicate with a marine traffic regulator as soon as possible.

- (4) Where a ship, due to the failure of shipboard radio equipment—
- (a) is unable to obtain a clearance required by subregulation (2)(a) by reason of inability to establish direct communication with a marine traffic regulator; or
 - (b) after receiving a clearance, is unable to maintain direct communication with a marine traffic regulator,

the master may nevertheless proceed on his or her route, but shall take all reasonable measures to report the occurrence to a marine traffic regulator as soon as possible, and shall proceed to the nearest reasonably safe port or anchorage on his or her route where the radio equipment can be repaired.

Communications

- 7.** (1) The master of a ship shall ensure that—
- (a) before the ship enters a vessel traffic services zone, the ship's radio equipment is capable of receiving and transmitting radio communications on the channel and radio frequency set out in paragraph 5 of section A or B, as applicable, of Notice to Mariners No. 18 of 1999 (or any subsequent Notice to Mariners amending or replacing it), published by the Hydrographer of the Navy; and
 - (b) where the ship is in a vessel traffic services zone, a continuous listening watch is maintained on the channel and radio frequency referred to in the relevant paragraph on the radio equipment located—
 - (i) at any place on the ship, when the ship is at anchor or moored to a buoy; and

- (ii) in the vicinity of the ship's conning position, when the ship is under way.
- (2) The listening watch referred to in subregulation (1)(b) may be suspended if a marine traffic regulator directs the ship to communicate with coast stations and other ships on a different channel and radio frequency.

Reporting

8. (1) The master of a ship shall ensure that a report is made to a marine traffic regulator—

- (a) at least 15 minutes before the ship—
 - (i) enters a vessel traffic services zone, except where the ship has been given a traffic clearance under regulation 5(1)(a); or
 - (ii) commences a manoeuvre in a vessel traffic services zone that may be detrimental to safe navigation;
- (b) as soon as practicable after the ship arrives at a berth in a vessel traffic services zone;
- (c) at least five minutes before commencing a departure manoeuvre in a vessel traffic services zone;
- (d) when the ship arrives at a reporting point described in paragraphs 8, 9 and 10 of section A or B, as applicable, of Notice to Mariners No. 18 of 1999 (or any subsequent Notice to Mariners amending or replacing it), published by the Hydrographer of the Navy;
- (e) as soon as practicable after the manoeuvre referred to in paragraph (a)(ii); and
- (f) immediately after completing the departure manoeuvre referred to in paragraph (c).

(2) A report required by subregulation (1)(a)(i) shall specify—

- (a) the name of the ship;
- (b) the radio call sign of the ship;
- (c) the position of the ship;
- (d) the estimated time that the ship will enter the vessel traffic services zone;
- (e) the destination of the ship;
- (f) the estimated time that the ship will arrive at its destination; and
- (g) whether any harmful substance cargo is carried on board the ship or the vessel being towed or pushed by the ship.

(3) A report required by subregulation (1)(a)(ii) shall specify—

- (a) the name of the ship;
- (b) the position of the ship; and
- (c) the manoeuvre that the ship is about to commence.

(4) A report required by subregulation (1)(b) shall specify—

- (a) the name of the ship; and
- (b) the position of the ship.

(5) A report required by subregulation (1)(c) shall specify—

- (a) the name of the ship;
- (b) the radio call sign of the ship;
- (c) the position of the ship;
- (d) the estimated time that the ship will depart the berth;
- (e) the destination of the ship;
- (f) the estimated time that the ship will arrive at its destination; and
- (g) whether any harmful substance cargo is carried on board the ship or the vessel being towed or pushed by the ship.

(6) A report required by subregulation (1)(d) or (f) shall specify—

- (a) the name of the ship;
- (b) the position of the ship; and
- (c) the estimated time that the ship will arrive at the next location where a report is required by these regulations to be made.

(7) A report required by subregulation (1)(e) shall describe the manoeuvre referred to in subregulation (1)(a)(ii).

(8) In addition to the information referred to in subregulation (6), when a vessel arrives at a reporting point described in paragraphs 8, 9 and 10 of section A or B, as applicable, of Notice to Mariners No. 18 of 1999 (or any subsequent Notice to Mariners amending or replacing it), published by the Hydrographer of the Navy, the master of the ship shall report the number of the reporting point as set out in the relevant paragraph.

Incident reports

9. (1) The master of a ship that is within or about to enter a vessel traffic services zone shall ensure that a report is made to a marine traffic regulator on any of the following matters as soon as the master becomes aware of them:

- (a) The occurrence on board the ship of any fire;
- (b) the involvement of the ship in a collision, grounding or striking;
- (c) any defect in the ship's hull, main propulsion systems or steering systems, radars, compasses, radio equipment, anchors or cables;
- (d) any discharge or threat of discharge of a harmful substance from the ship into the water;
- (e) another ship in apparent difficulty;
- (f) any obstruction to navigation;
- (g) any aid to navigation that is functioning improperly, damaged, off-position or missing;
- (h) the presence of any harmful substance in the water;
- (i) the presence of a ship that may impede the safe movement of other ships; and
- (j) any weather conditions that are detrimental to safe navigation.

(2) A report made pursuant to subregulation (1) shall include the name and position of the ship.

Changes in information to be reported

10. The master of a ship that is within or about to enter a vessel traffic services zone shall ensure that a report is made to a marine traffic regulator describing any significant change in the information contained in a report made pursuant to these regulations.

Manner in which time to be specified

11. Where any report made in terms of these regulations requires a time to be specified, the time shall be specified in local time (UTC + 2), using the 24-hour clock system.

Variation of procedures and practices

12. (1) A marine traffic regulator may, on request, permit a ship to follow a procedure or practice other than that required by regulation 7, 8, 9 or 10 if it is satisfied that such other procedure or practice is as safe as that required by the relevant regulation.

(2) Contravention of a procedure or practice substituted pursuant to subregulation (1) shall be deemed to constitute a contravention of the procedure or practice required by the relevant regulation.

Master's authority not affected

13. Nothing in these regulations affects the authority and responsibility of the master of a ship for the safe navigation thereof.

Offences and penalties

14. (1) The following persons are, subject to subregulation (2), guilty of an offence in respect of the contravention referred to and are liable on conviction to a fine or to imprisonment for a period not exceeding two years:

- (a) The master of a ship that contravenes—
 - (i) a direction given by a marine traffic regulator under regulation 5(1)(c) or (d); or
 - (ii) regulation 6(2);
- (b) the master, pilot or person in charge of the deck watch of a ship, as the case may be, who contravenes a direction given by a marine traffic regulator under regulation 5(1)(b); and
- (c) the master of a ship who contravenes regulation 6(1), (3) or (4), 7(1), 8, 9 or 10.

(2) It is a defence to a charge in terms of subregulation (1) that the master, pilot or person in charge of the deck watch of the ship had reasonable grounds to believe that

compliance would have imperilled life, the ship or any other ship or any property and, in the case of contravening a direction referred to in subregulation (1)(a)(i) or (b), notified the marine traffic regulator that gave the direction, as soon as possible, of the contravention and of the reasons therefor.

(3) In a prosecution of a master for an offence referred to in subregulation (1)(a) it is sufficient proof of the commission of the offence to establish that the act or neglect that constitutes the offence was committed by the master of or any person on board the ship, whether or not the person on board the ship has been identified; and, for the purposes of any prosecution of a master for an offence referred to in subregulation (1)(a)(i), a direction given to the master of or any person on board the ship shall be deemed to have been given to the ship.

Offences due to fault of another person

15. Where the commission by any person of an offence referred to in regulation 14(1) is due to the act or neglect of some other person, that other person is also guilty of the offence and may be charged with and convicted of the offence by virtue of this regulation, whether or not proceedings are taken against the first-mentioned person.

Detention

16. (1) Where the Authority or any person authorized by it for the purposes of this regulation believes on reasonable grounds that an offence referred to in regulation 14(1) has been committed in respect of a ship, the Authority or person may, subject to subregulation (2), cause the ship to be detained.

(2) The provisions of section 9(3), (4) and (5) of the Act and of chapter VII of the Marine Traffic Regulations, 1985, shall apply with the necessary modifications in relation to the detention of a ship pursuant to subregulation (1).

Title and commencement

17. These regulations are called the Marine Traffic (Inshore Vessel Traffic Services) Regulations, 2000, and come into operation on 1 June 2000.

ANNEX
(Regulation 3)

INSHORE VESSEL TRAFFIC SERVICES ZONES

Item	Column 1 Vessel traffic services zones	Column 2 Description
1	Table Bay and approaches	<p>All South African waters contained within—</p> <p>A. Bok Point 33/34'.0 S 018/18'.4 E</p> <p>B. 33/45'.0 S 018/02'.5 E</p> <p>C. 34/00'.0 S 018/10'.0 E</p> <p>D. Duiker Point 34/02'.4 S 018/18'.6 E</p>
2	Saldanha Bay and approaches	<p>All South African waters contained within—</p> <p>A. Cape Columbine 32/49'.6 S 017/50'.9 E</p> <p>B. 33/00'.0 S 017/30'.0 E</p> <p>C. 33/25'.0 S 017/45'.0 E</p> <p>D. Yzerfontein Point 33/21'.0 S 018/08'.6 E</p>