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## GOVERNMENT NOTICE

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### DEPARTMENT OF TRANSPORT

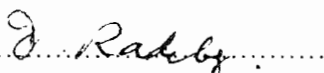
No. 255

6 March 2009

#### PORTS RULES

I, Jeff Thamsanqa Radebe, Minister of Transport, hereby, in terms of section 80(2) of the National Ports Act no 12 of 2005, approve the rules made by the National Ports Authority for the control, management of ports, the approaches thereto, for the maintenance of safety and security; good order and the protection of the ports environment.

These Port Rules are published for general information and compliance and will come into operation on the date of publication.



J. Radebe

Minister of Transport



## **Port Rules**

**"The Authority may, with the approval of the Minister, by notice in the Gazette, make rules for the control and management of ports and the approaches thereto and for the maintenance of safety, security and good order in ports,..."**

**National Ports Act No. 12 of 2005, Section 80 (2)**



Port Rules in terms of the National Ports Act No. 12 of 2005

## PORT RULES

Issued in terms of the National Ports Act, No. 12 of 2005, Section (80)(2)

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**CHAPTER 1: INTERPRETATION, APPLICATION AND POWERS OF THE HARBOUR MASTER AND THE *AUTHORITY***

**1. Interpretation**

- (1) In these rules, unless the context indicates otherwise —
- (a) "**Act**" means the National Ports Act No. 12 of 2005.
  - (b) "**agent**" refers to all representatives having commercial dealings with a *vessel* or its *cargo*, unless the context indicates that it refers to a particular kind of *agent*, and includes a *vessel's agent* and a *cargo agent*.
  - (c) "**approaches to a port**" means the *VTS zone* in respect of each *port* excluding the *port limits*, or, where a *port* does not have a *VTS zone*, the *port limits*.
  - (d) "**Authority**" means, subject to section 3 of the *Act*, the National Ports Authority of South Africa or the National Ports Authority Limited, as contemplated in section 4 of the *Act*.
  - (e) "**cargo**" means any cargo, goods, wares, merchandise, and articles of every kind whatsoever, including animals, birds, fish, plants and containers, carried, or intended to be carried, by sea.
  - (f) "**cargo agent**" includes both a clearing and forwarding *agent*.
  - (g) "**certified chemist**" means a person who holds a B. Sc degree in chemistry or a recognised equivalent certificate, or who has successfully completed a specialised course in Chemical Tanker or Oil Tanker Safety Training Program in accordance with the South African Code of Maritime Qualifications published by *SAMSA*, and who has at least two years laboratory experience and specialised training in the testing of atmospheres in vessels.
  - (h) "**chart**" means the latest valid navigational chart for sea navigation purposes.
  - (i) "**Chief Fire Officer**" means the Chief Fire Officer of the *Authority* or the Municipal Fire Services.
  - (j) "**container operator**" means any person providing international transportation of containerised goods, and approved by the Commissioner for the South African Revenue Service under section 96A of the Customs and Excise Act 91 of 1964, as amended, for operating containers in the *Republic*.
  - (k) "**customs**" means the South African Revenue Service.
  - (l) "**dangerous goods**" includes dangerous *cargo* and —
    - (i) goods classified in the *IMDG Code*, published by the International Maritime Organisation, as amended from time to time;

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- (ii) 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 International Maritime Organisation, as amended from time to time;
  - (iii) 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 International Maritime Organisation, as amended from time to time;
  - (iv) 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;
  - (v) 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;
  - (vi) 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
  - (vii) 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 International Maritime Organisation, as amended from time to time.
- (m) "**entering port**" means a *vessel* entering the port's limits.
- (n) "**entering the VTS zone**" means a *vessel* entering the *VTS* limits.
- (o) "**foreign regulated ship**" means a foreign ship that is —
- (i) in South African waters;
  - (ii) in, or is intending to proceed to, a port in the *Republic*; and
  - (iii) a *passenger* ship, a *cargo* ship of 500 gross tonnage or more, or a mobile offshore drilling unit (other than a unit that is attached to the seabed).
- (p) "**fire protection personnel**" means fire protection personnel complying with the requirements set by the *Authority* in terms of rule 73.
- (q) "**fishing vessel**" means a *vessel* that is used for the purpose of catching fish or other living resources of the sea for financial gain or reward.
- (r) "**gangway**" means any access between *vessel* and shore and vice versa.
- (s) "**gas free**" means that the tank, compartment or container has sufficient fresh air introduced into it in order to lower the level of any flammable, toxic or inert gas to that required for any purpose.

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- (t) "**Harbour Master**" means the employee of the *Authority* appointed for each port as contemplated in section 74(3) of the *Act*.
- (u) "**hot work**" means work involving sources of ignition or temperatures sufficiently high to cause the ignition of a flammable gas mixture or combustibles. This includes any work requiring the use of welding, burning or soldering equipment, blow torches, some power driven tools, portable electrical equipment, which is not intrinsically safe or contained within an approved explosion proof housing or internal combustion engines.
- (v) "**hot work permit**" means a document issued by the *Authority* permitting specific *hot work* to be done during a specific time interval in a defined area.
- (w) "**IMDG Code**" means the International Maritime Dangerous Goods Code adopted by the Maritime Safety Committee of the International Maritime Organization by resolution MSC.122 (75).
- (x) "**in contact**" means the wilful physical contact or interaction occurring between a *vessel* and a *pleasure vessel* that involves the movement of persons or goods or the provision of services to or from the *vessel*.
- (y) "**industry guidelines**" includes the industry reference works referred to in rule 1041(2), as amended from time to time.
- (z) "**IMO**" means International Maritime Organisation.
- (aa) "**length**" refers to the length overall (LOA) and means —
  - (i) in the case of a registered *vessel*, the *length* shown in the certificate of registry; and
  - (ii) 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.
- (bb) "**manoeuvre**" means any *vessel* movement that may be detrimental to safe navigation, and includes —
  - (i) a compass adjustment;
  - (ii) the calibration and servicing of navigational aids;
  - (iii) a sea trial;
  - (iv) a dredging operation; and
  - (v) the laying, picking up and servicing of submarine cables.
- (cc) "**master**" means any person, other than a pilot, having charge or command of a *vessel* or *pleasure vessel*.

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- (dd) "**motor vehicle**" means a vehicle that is registered in terms of the National Road Traffic Act No. 93 of 1996.
- (ee) "**ISO container**" means a freight container with the specifications prescribed by the International Organization for Standardisation.
- (ff) "**owner**" means any person to whom a *vessel* or *pleasure vessel* or a share in a *vessel* or *pleasure vessel* belongs or any other organisation or person, such as the manager or charterer, who has assumed the responsibility for the operation of the *vessel* or *pleasure vessel* from the owner of the *vessel* or *pleasure vessel*.
- (gg) "**passenger**" means any person carried in a *vessel*, except —
- (i) a person employed or engaged in any capacity on board a *vessel* on the business of the *vessel*;
  - (ii) a person on board the *vessel* either in pursuance of the obligation laid upon the master to carry shipwrecked, distressed or other persons or by reason of any circumstance that neither the master nor the owner nor the charterer (if any) could have prevented; and
  - (iii) a child under one year of age.
- (hh) "**passenger vessel**" means a *vessel* that carries more than 12 *passengers*.
- (ii) "**pleasure vessel**" means a *vessel*, however propelled, that is used, or intended to be used, solely for sports and recreation and that does not carry more than 12 *passengers*.
- (jj) "**port**" means any of the ports as defined in section 1 or determined in terms of section 10 of the *Act*.
- (kk) "**Port Security Officer**" means a person appointed by the *Authority* in a *port* to implement and maintain the *Authority's* maritime security plan.
- (ll) "**Republic**" means the Republic of South Africa.
- (mm) "**revenue office**" means the *Authority's* Revenue Office.
- (nn) "**SAMSA**" means the South African Maritime Safety Authority, established as a juristic person by virtue of section 2(1) of the South African Maritime Safety Authority Act No. 5 of 1998.
- (oo) "**security officer operating within a port**" means a person designated by the *Authority* or operator within a *port* to implement and maintain the relevant maritime security plan.
- (pp) "**shift**" means the movement of a *vessel* from one place in the port to another, and "shifting" bears a corresponding meaning.

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- (qq) "**small vessel**" means a commercial small *vessel* that:
- (i) is registered in the *Republic*;
  - (ii) lies in, is used in or operates from a *port*; and
  - (iii) includes a tug, *fishing vessel*, launch, barge, lighter, rowing boat, skiboat, sailing boat, yacht or similar vessel, or a hulk of any of the vessels enumerated, but excludes a *pleasure vessel*.
- (rr) "**tanker**" means a *vessel* designed to carry liquid *cargo* in bulk, including a combination carrier being used for this purpose.
- (ss) "**Tariff Book**" means the Tariff Book contemplated in section 72 of the *Act*.
- (tt) "**unseaworthy**", used in relation to a *vessel*, has the same meaning as set out in the Merchant Shipping Act No. 57 of 1951, read with the changes required by the context.<sup>1</sup>
- (uu) "**vessel**" means any water-navigable vessel or structure and includes a *passenger vessel*, ship, seaplane, *small vessel* and a non-displacement vessel, but excludes a *pleasure vessel*, to which Part B of Chapter 2 applies.
- (vv) "**vessel agent**" refers to the *agent* of the owner of the vessel.
- (ww) "**vessel in need of assistance**" means a *vessel* in a situation, apart from one requiring rescue of persons on board, that could give rise to the loss of the *vessel* or an environmental or navigational hazard. "**Pleasure vessel in need of assistance**" has a corresponding meaning.
- (xx) "**VTS**" means the vessel traffic service of a *port* administered by the *Authority* in respect of a *VTS zone*.

<sup>11</sup> The definition of "**unseaworthy**" in the Merchant Shipping Act 57 of 1951 is:

"**unseaworthy**", used in relation to a vessel, means that she —

- (a) is not in a fit state as to the condition of her hull, equipment or machinery, the stowage of her *cargo* or ballast, or the number or qualifications of her master or crew, or in any other respect, to encounter the ordinary perils of the voyage upon which she is engaged or is about to enter; or
- (b) does not comply with the conditions of assignment to the extent set forth in paragraph (c) of section *two hundred and seven*; or
- (c) is loaded beyond the limits allowed—
  - (i) by a load line certificate issued in the *Republic* under this *Act*; or
  - (ii) if she is a load line ship, registered in a country in which the Load Line Convention applies, by a recognized non-South African international load line certificate; or
  - (iii) by a load line certificate to which a notice issued under section *two hundred and eighteen* applies:

Provided that a safety convention ship not registered in the *Republic*, in respect of which a recognized non-South African safety convention certificate is produced, shall not be deemed *unseaworthy*, as regards the condition of her hull, equipment or machinery, unless it appears, on the report of a surveyor, that she cannot proceed to sea without danger to human life owing to the fact that the actual condition of the hull, equipment or machinery does not correspond substantially with the particulars stated in the certificate;"

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- (yy) "**vessel traffic services zone**" or "**VTS zone**" means the inshore vessel traffic services zone in respect of a *port* as described in columns 1 and 2 of Annex 1.
- (zz) "**writing**" includes electronic communications such as e-mails, facsimiles and telexes.
- (2) Unless the context indicates otherwise, and except for the expressions defined in sub-rule (1), any expression used in these rules bears the same meaning assigned to it in the *Act*.

## 2. Purpose

The purpose of these rules is to ensure the proper control and management of *ports*, the regulation and control of navigation within the approaches to *ports* and the maintenance of safety, security and good order in *ports* and the protection of the environment.

## 3. Application

These rules apply to the *ports* of Richards Bay, Durban, East London, Ngqura, Port Elizabeth, Mossel Bay, Cape Town, Saldanha Bay and Port Nolloth and to any other *port* that has been determined to be a *port* in terms of section 10(2) of the *Act*.

## 4. Location of resources

The following documents may either be found on the website of the *Authority* or otherwise obtained from the *Authority*.

- (a) Ballast Water Management Plan;
- (b) Local Contingency Plan;
- (c) National Contingency Plan;
- (d) Port Contingency Plan;
- (e) *Tariff Book*;
- (f) Traffic Separation Scheme;
- (g) *VTS charts*; and
- (h) Port Waste Management Plan.

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## 5. Powers of the *Harbour Master*

- (1) If a matter falls within the *Harbour Master's* functions as specified in section 74(3) of the *Act*<sup>2</sup>, then the *Harbour Master* may —
  - (a) give written or verbal instructions in accordance with the *Harbour Master's* powers as set out in section 74(3) of the *Act*;
  - (b) permit a *vessel* to follow a procedure or practice other than that required by these rules, if he or she is satisfied that the other procedure or practice is as safe as that required by the relevant rule and is in the interests of security, good order, protection of the environment and the effective and efficient working of the *port*.
- (2) Contravention of a procedure or practice substituted pursuant to sub-rule (1)(b) is deemed to constitute a contravention of the procedure or practice required by the relevant rule.

## 6. Powers of the *Authority*

- (1) The *Authority* may give written or verbal instructions in accordance with the *Authority's* powers and functions as set out in the *Act*, if the matter does not fall within the *Harbour Master's* functions as specified in rule 5.
- (2) The *Authority* may permit a person to follow a procedure or practice other than that required by these rules in respect of matters that do not fall within the *Harbour Master's* functions as specified in rule 5, if the *Authority* is satisfied that the other procedure or practice is as safe as that required by the relevant rule and is in the interests of security, good order, protection of the environment and the effective and efficient working of the *port*.
- (3) Contravention of a procedure or practice substituted pursuant to sub-rule (2) is deemed to constitute a contravention of the procedure or practice required by the relevant rule.

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<sup>2</sup> In terms of section 74(3) of the *Act* —

- (a) the *Harbour Master* is, in respect of the port for which he or she is appointed, the final authority in respect of all matters relating to pilotage, navigation, navigational aids, dredging and all other matters relating to the movement of vessels within port limits;
- (b) for the purposes of paragraph (2), the *Harbour Master* may give written or verbal instructions as may reasonably be necessary for —
  - (i) promoting or securing conditions conducive to the ease, convenience or safety of navigation in the port;
  - (ii) regulating the movement or mooring and unmooring of a vessel in the port;
  - (iii) controlling the manner in which *cargo*, fuel, water or ship's stores are taken on, discharged or handled;
  - (iv) regulating the removal or disposal of any residues and mixtures containing oil or noxious liquid substances, sewage and garbage from vessels in a port and requiring any such matter to be deposited in reception facilities in the port;
  - (v) the detention of a vessel reasonably suspected of causing oil pollution and ensuring that the total cost of the pollution clean-up operation is recovered, or acceptable guarantees are provided, prior to the vessel being given permission to leave the port; and
  - (vi) carrying into effect the provisions of the *Act*.

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### **7. Compliance with the *Harbour Master's* and *Authority's* instructions**

All persons must comply with the instructions of the *Harbour Master* in respect of all matters referred to in rule 5 and the instructions of the *Authority* in respect of all matters referred to in rule 6(1).

### **8. Co-operation with other authorities**

- (1) In terms of section 84 of the *Act*, the *Authority* may enter into co-operation agreements with immigration, *customs*, law enforcement and any other authorities required to perform a function within a *port*.
- (2) The co-operation agreement —
  - (a) must afford the authorities referred to in sub-rule (1) every facility reasonably necessary, subject to such compensation as may be agreed between the *Authority* and the other authorities, or failing an agreement, such compensation as the Minister may determine;
  - (b) must regulate the operational relationship between the *Authority* and the other authorities referred to in sub-rule (1); and
  - (c) may vary these rules for or exempt the authorities referred to in sub-rule (1) from complying with one or more of these rules, provided that the co-operation agreement puts in place adequate measures that ensure safety and that these measures are in the interests of security, good order, protection of the environment and the effective and efficient working of the *port*.

## **CHAPTER 2: VESSEL MOVEMENTS AND RELATED MATTERS**

### **PART A: APPLICATION**

#### **9. Application of this Chapter and Part B**

- (1) Parts C to G of this chapter apply to *vessels*, but do not apply to *pleasure vessels*.
- (2) Subject to sub-rule (3), Part B of this chapter applies to —
  - (a) the *approaches to a port* where there is a defined *VTS zone*;
  - (b) *vessels* and *pleasure vessels* of 15 metres or more in *length*;
  - (c) *vessels* and *pleasure vessels* engaged in towing or pushing any *vessel*, *pleasure vessel* or object, other than fishing gear, where —
    - (i) the combined *length* of the *vessel* or *pleasure vessel* and any *vessel*, *pleasure vessel* or object towed or pushed by the *vessel* or *pleasure vessel* is 30 metres or more in *length*; or



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- (ii) the *length* of the *vessel*, *pleasure vessel* or object being towed or pushed is 15 metres or more in *length*;
  - (d) *passenger vessels*; and
  - (e) a *vessel* carrying *dangerous goods*.
- (3) Part B of this chapter does not apply to —
- (a) *vessels* exempted from the provisions of the Marine Traffic Act No. 2 of 1981 by virtue of regulation 2 of the Marine Traffic Regulations, 1981, published by Government Notice No. R. 194 of 1 February 1985<sup>3</sup>; or
  - (b) *fishing vessels* of less than 24 metres in *length*.

**PART B: THE REGULATION AND CONTROL OF NAVIGATION IN THE APPROACHES TO A PORT**

**10. Functions of the VTS with respect to the *approaches to a port***

With respect to any *vessel* about to enter or within a *VTS zone* and for the purpose of promoting safe and efficient navigation, the *VTS* may —

- (a) give a traffic clearance to a *vessel* to enter, leave or proceed within a *VTS zone*;
- (b) direct the *master*, pilot or person in charge of the bridge watch of the *vessel* to provide relevant information in respect of that *vessel*;
- (c) direct the *vessel* to use specific radio frequencies in communications with coast stations or other *vessels*;
- (d) advise the *vessel* of —
  - (i) the non-availability of a berth required for the *vessel*;
  - (ii) pollution or reasonable apprehension of pollution in the *VTS zone*;
  - (iii) the proximity of animals whose well-being could be endangered by the movement of the *vessel*;
  - (iv) any obstruction or hazard to navigation in the *VTS zone*;
  - (v) the proximity of a *vessel* in apparent difficulty or presenting a pollution threat or other hazard to life or property;

<sup>3</sup> In terms of regulation 2 of the Marine Traffic Regulations, 1981, warships, submarines or other underwater vehicles present in the territorial waters and which constitute or form part of a visiting force as defined in section 1 of the Defence Act No. 44 of 1957 are exempted from the provisions of the Marine Traffic Act No. 2 of 1981.

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- (vi) the proximity of a *vessel* navigating in an unsafe manner or with improperly functioning equipment or radio equipment, or without *charts* or publications required by these rules or any other law; or
  - (vii) *vessel* traffic congestion that constitutes an unacceptable risk to shipping, the public or the environment; and
- (e) in the light of one or more of the conditions referred to in sub-rule (d), direct the *vessel*—
- (i) to leave a *VTS zone*;
  - (ii) to leave or refrain from entering an area within a *VTS zone*; or
  - (iii) to proceed to or remain at a location within a *VTS zone*.

#### 11. Nautical *charts* and publications relating to the *VTS zone*

The *master* of a *vessel* must ensure, before the *vessel* enters or proceeds within a *VTS zone*, that it has on board the latest editions of the nautical *charts* relating to that *VTS zone*.

#### 12. Traffic clearance and communication with *VTS*

- (1) Subject to sub-rules (4) and (6), no *vessel* may —
- (a) enter, leave or proceed within a *VTS zone* without having previously obtained a traffic clearance as envisaged by rule 10(a); or
  - (b) proceed within a *VTS zone* unless able to maintain direct communication with the *port's VTS* in accordance with sub-rule (2)(b).
- (2) The *master* of a *vessel* must ensure that —
- (a) before the *vessel* enters a *VTS zone*, its radio equipment is capable of receiving and transmitting radio communications on the channel and radio frequency published by the South African Navy Hydrographic Office or other recognised international hydrographic publications; and
  - (b) where the *vessel* is in a *VTS zone*, a continuous listening watch is maintained on the channel and radio frequency referred to in sub-rule (2)(a) on the radio equipment located —
    - (i) at any place on the *vessel*, when the *vessel* is at anchor or moored to a buoy; and
    - (ii) in the vicinity of the *vessel's* conning position, when the *vessel* is under way.
- (3) The listening watch to the *port's VTS* referred to in sub-rule (2) may be suspended if the *VTS* directs the *vessel* to communicate with coast stations and other *vessels* on a different channel and radio frequency.

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- (4) The *master* of a *vessel* may proceed on his or her route, if the *vessel*, for any reason other than the failure of shipboard radio equipment —
  - (a) is unable to obtain a clearance required by sub-rule (1)(a) by reason of inability to establish direct communication with the *VTS*; or
  - (b) after receiving a clearance, is unable to maintain direct communication with the *VTS*.
- (5) The *master* of the *vessel* referred to in sub-rule (4) must take all reasonable measures to communicate with the *VTS* as soon as possible.
- (6) The *master* of a *vessel* may not proceed on his or her route, if the *vessel*, due to the failure of shipboard radio equipment —
  - (a) is unable to obtain a clearance required by sub-rule (1)(a) by reason of inability to establish direct communication with the *VTS*; or
  - (b) after receiving a clearance, is unable to maintain direct communication with the *VTS*.
- (7) The *master* of the *vessel* referred to in sub-rule (6) must take all reasonable measures to repair the radio equipment, broadcast the position of the *vessel* and report the occurrence to the *VTS* as soon as possible.

### 13. Reporting to the VTS

- (1) The *master* of a *vessel* must ensure that a report is made to the *VTS* —
  - (a) at least 15 minutes before the *vessel* —
    - (i) enters a *VTS zone*, except where the *vessel* has been given a traffic clearance under rule 12(1)(a); or
    - (ii) commences a *manoeuvre* in a *VTS zone* that may be detrimental to safe navigation;
  - (b) as soon as practicable after the *vessel* arrives at an anchorage or mooring buoy in a *VTS zone*;
  - (c) at least five minutes before commencing a *manoeuvre* in a *VTS zone* during which the *vessel* leaves an anchorage or mooring buoy and gets safely under way;
  - (d) when the *vessel* arrives at a *VTS* reporting point as described on the *charts*;
  - (e) as soon as practicable after the *vessel* commences a *manoeuvre* in a *VTS zone* that may be detrimental to safe navigation; and
  - (f) immediately after the *vessel* gets safely under way after leaving an anchorage or mooring buoy in a *VTS zone*.

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(2) The contents of the reports required in sub-rule (1) must specify the issues set out in the third column of the table below:

Item	Nature of the Report	Report to specify
1	Rule 13(1)(a)(i) – At least 15 minutes before the <i>vessel</i> enters a <i>VTS zone</i> , except where the ship has been given a traffic clearance under rule 12(1)(1)(a).	<ul style="list-style-type: none"> <li>• The name of the <i>vessel</i>;</li> <li>• The radio call sign of the <i>vessel</i>;</li> <li>• The position of the <i>vessel</i>;</li> <li>• The estimated time that the <i>vessel</i> will enter the <i>VTS zone</i>;</li> <li>• The destination of the <i>vessel</i>;</li> <li>• The estimated time that the <i>vessel</i> will arrive at its destination; and</li> <li>• Whether any <i>dangerous goods</i> are carried on board the <i>vessel</i> or the <i>vessel</i> being towed or pushed by the <i>vessel</i>.</li> </ul>
2	Rule 13(1)(a)(ii) – At least 15 minutes before the <i>vessel</i> commences a <i>manoeuvre</i> in a <i>VTS zone</i> that may be detrimental to safe navigation.	<ul style="list-style-type: none"> <li>• The name of the <i>vessel</i>;</li> <li>• The position of the <i>vessel</i>; and</li> <li>• The <i>manoeuvre</i> that the <i>vessel</i> is about to commence.</li> </ul>
3	Rule 13(1)(b) – As soon as practicable after the <i>vessel</i> arrives at an anchorage or mooring buoy in a <i>VTS zone</i> .	<ul style="list-style-type: none"> <li>• The name of the <i>vessel</i>; and</li> <li>• The position of the <i>vessel</i>.</li> </ul>
4	Rule 13(1)(c) – At least five minutes before commencing a <i>manoeuvre</i> in a <i>VTS zone</i> during which the <i>vessel</i> leaves an anchorage or mooring buoy and gets safely under way.	<ul style="list-style-type: none"> <li>• The name of the <i>vessel</i>;</li> <li>• The radio call sign of the <i>vessel</i>;</li> <li>• The position of the <i>vessel</i>;</li> <li>• The estimated time that the <i>vessel</i> will depart the anchorage or mooring buoy;</li> <li>• The destination of the <i>vessel</i> in the <i>port</i>;</li> <li>• The estimated time that the <i>vessel</i> will arrive at its destination; and</li> <li>• Whether any harmful substance <i>cargo</i> is carried on board the <i>vessel</i> or any <i>vessel</i> being towed or pushed by the <i>vessel</i>.</li> </ul>
5	Rule 13(1)(d) – When the <i>vessel</i>	<ul style="list-style-type: none"> <li>• The name of the <i>vessel</i>;</li> </ul>

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Item	Nature of the Report	Report to specify
	<p>arrives at a <i>VTS</i> reporting point as described on the <i>charts</i>.</p> <p>Rule 13(1)(f) – Immediately after the <i>vessel</i> gets safely under way after leaving an anchorage or mooring buoy in a <i>VTS zone</i>.</p>	<ul style="list-style-type: none"> <li>• The position of the <i>vessel</i> and the number of the reporting point on the <i>charts</i>; and</li> <li>• The estimated time that the <i>vessel</i> will arrive at the next location where a report is required by these regulations to be made.</li> </ul>
6	<p>Rule 13(1)(e) – As soon as practicable after the <i>vessel</i> commences a <i>manoeuvre</i> in a <i>VTS zone</i> that may be detrimental to safe navigation.</p>	<ul style="list-style-type: none"> <li>• Description of the <i>manoeuvre</i>.</li> </ul>

#### 14. Anchoring or sojourning of vessels with nuclear material

No *vessel* propelled by nuclear power or which has on board any radioactive material capable of causing nuclear damage may anchor or sojourn in the *approaches to a port* without a nuclear vessel licence issued by the Chief Executive Officer of the National Nuclear Regulator in terms of section 21(2) of the National Nuclear Regulator Act No. 47 of 1999.<sup>4</sup>

#### 15. Vessels may not be *unseaworthy*

For the purpose of promoting safe and efficient navigation, the provisions of rule 50, read with the changes required by the context, apply to *vessels* within the *approaches to a port*.

### **PART C: REQUIREMENTS FOR ENTERING A PORT**

#### 16. Permission to enter a port

- (1) No *vessel* may enter a *port* without the permission of the *Harbour Master*. The *Harbour Master* may grant, refuse, withdraw or amend the permission.
- (2) No *vessel* propelled by nuclear power or which has on board any radioactive material capable of causing nuclear damage may enter a *port* without a nuclear vessel licence issued by the

<sup>4</sup>Section 21(2) of the National Nuclear Regulator Act No. 47 of 1999 states the following:

"Any person wishing to—

(a) Anchor or sojourn in the territorial waters of the *Republic*, or

(b) Enter any port in the *Republic*;

With a vessel which is propelled by nuclear power or which has on board any radioactive material capable of causing nuclear damage may apply to the chief executive officer [of the National Nuclear Regulator] for a nuclear vessel licence and must furnish such information as the board requires."

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Chief Executive Officer of the National Nuclear Regulator in terms of section 21(2) of the National Nuclear Regulator Act No. 47 of 1999.<sup>5</sup>

**17. Notices in terms of Merchant Shipping (Maritime Security) Regulations, 2004 to be copied to the Authority**

At least 96 hours before the arrival in a *port* of a *foreign regulated ship*, the *owner*, *master* or *agent* of that vessel must send to the *Authority* a copy of the ship's pre-arrival information that was sent to the South African authorities in terms of regulation 86 of the Merchant Shipping (Maritime Security) Regulations, 2004.<sup>6</sup>

**18. Notice of arrival**

- (1) The *owner*, *master* or *agent* of a *vessel* must give at least 72 hours notice in *writing* of the arrival of a *vessel* at a *port* to the *Harbour Master* of that *port*.
- (2) The notice must include —
  - (a) the expected date and time of arrival of the *vessel*;
  - (b) the name and type of the *vessel*, call sign, *port* of registration and flag;
  - (c) the purpose of the call at the *port*;
  - (d) the *vessel's* draught (both fore and aft), deadweight, *length* overall, freeboard and gross tonnage;
  - (e) the name and contact details of the *agent* representing the *vessel*;
  - (f) whether the *vessel* is compliant with the International Safety Management (ISM) Code;
  - (g) the *vessel's* *IMO* number;

<sup>5</sup> See footnote 4.

<sup>6</sup> Regulation 86 of the Merchant Shipping (Maritime Security) Regulations, 2004 states the following:

- (1) The master of a *foreign regulated ship*, or a ship intending to enter South African waters that would, once it had done so, be a *foreign regulated ship*, must provide pre-arrival information in accordance with the requirements determined in writing by the Director-General.
- (2) Without limiting subregulation (1), the Director-General may determine —
  - (a) The person or persons to whom pre-arrival information must be given;
  - (b) The circumstances in which pre-arrival information must be given; and
  - (c) The form and manner in which pre-arrival information must be given.
- (3) Pre-arrival information is information that —
  - (a) Must be provided by the ship before the ship enters one or more of the following:
    - (i) South African waters;
    - (ii) A security regulated port;
    - (iii) A port that is not a security regulated port; and
  - (b) Is of a kind that can be requested, under X1-2/9 of the Safety Convention, by a port state from a foreign flagged ship.
- (4) If the master of a ship contravenes subregulation (1), the master or the ship operator for the ship may be given a control direction under Division 2 of this Part."

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- (h) the *port* where the *vessel* paid or intends to pay its light dues;
- (i) the *vessel's* last and next ports of call;
- (j) conditions that may cause the *vessel* to be *unseaworthy*;
- (k) the quantity of bunkers on board, and the *vessel's* bunker and other requirements;
- (l) whether the *vessel* will be bunkering by barge or by pipeline;
- (m) any nuclear installations, radio-active or toxic material or waste, explosives, flammable liquids or other *dangerous goods* on board, in accordance with Rule 20;
- (n) the nature and quantity of *cargo* to be shipped, landed or transhipped;
- (o) any other matter, including stowaways on board, which may affect the safety, security, good order and the protection of the environment in the *port*;
- (p) the crew complement on the *vessel*;
- (q) whether the *vessel* is engaged in a towage or salvage service; and
- (r) whether the *vessel* has one or more *vessels* in tow and the particulars of these *vessels*, as required by rule 19.

**19. Procedures to approach and enter a port if there are vessels in tow**

- (1) If the *vessel* intending to enter a *port* has one or more *vessels* in tow, then the notice of arrival referred to in rule 18 must disclose –
    - (a) the number of *vessels* being towed and the total length of the tow, which is the distance from the forepart of the towing *vessel* to the after-part of the last *vessel* under tow;
    - (b) the method of towing;
    - (c) whether the towing *vessel* or any *vessel* being towed is *unseaworthy*;
    - (d) whether auxiliary power is available on the *vessel* or *vessels* under tow;
    - (e) if auxiliary power is available on the *vessel* or *vessels* under tow, the extent of the power available and whether it is sufficient for working the main engine, steering gear, deck machinery and lowering or heaving the anchors of the *vessel* or *vessels* under tow;
    - (f) the crew complement on board the towing *vessel* and the *vessel* under tow;
    - (g) whether any of the *vessels* in tow are *tankers*, and if so, whether the *tankers* are *gas free*;
    - (h) what quantity of fuel and lubricating oil is on board the towing *vessel*;
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- (i) what quantity and type of fuel and lubricating oil is on board any *vessel* in tow and where such fuel and oil is located;
  - (j) what means of radio communication is available to the *master* of the towing *vessel*;
  - (k) whether the *vessel* or *vessels* in tow can be disconnected and handed over to another tug at sea; and
  - (l) any other details which may affect the safety, security, good order and the protection of the environment in the *port*.
- (2) Unless the *Harbour Master* directs otherwise, the towing *vessel* and the *vessel* or *vessels* in tow must request the *Harbour Master* for permission to enter the *port* at a position no closer than 12 nautical miles to seaward.
- (3) Unless the *Harbour Master* directs otherwise, a *vessel* engaged in a towage or a salvage service may not *enter the VTS zone*.

## 20. Notice of weapons, explosives and other *dangerous goods* on board

- (1) The *owner*, *master* or *agent* of a *vessel* having any radio-active or toxic material or waste, weapons, explosives, flammable liquids or other *dangerous goods* on board must give the *Harbour Master* and the terminal operator full written particulars of these items at least 72 hours before the arrival of the *vessel* at the *port*.
- (2) The particulars must include —
- (a) the items' correct technical name;
  - (b) the UN number;
  - (c) the net explosive quantity and mass of the *cargo*;
  - (d) the class of the *dangerous goods*, as specified by the categories listed in the *IMDG Code*;
  - (e) the type of packaging used; for example, drums, containers or bulk;
  - (f) the nature of any weapons on board the *vessel* and the purpose for which they are kept on board;<sup>7</sup>
  - (g) copies of any permits or licences in respect of the weapons, explosives or *dangerous goods* that were issued in terms of any applicable legislation;
  - (h) any other information relevant to the maintenance of the safety, security, good order of the *port* and the protection of the environment; and
  - (i) in the case of a *vessel* propelled by nuclear power or which has on board any radioactive material capable of causing nuclear damage, a nuclear vessel licence in terms of section 21(2) of the National Nuclear Regulator Act No. 47 of 1999.
- (3) The *Harbour Master* may shorten the 72-hour period specified in sub-rule (1).

<sup>7</sup> See rule 27.



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### **21. Requirements for *passenger vessels***

- (1) A *passenger vessel* calling at any *port* must hold relevant and valid *passenger vessel* safety certificates in accordance with the Safety of Life at Sea Convention 1974, as amended.
- (2) The total complement of *passengers* may not exceed the total number of *passengers* allowed to voyage on board a *vessel* according to the certificates described in sub-rule (1).

### **22. List of *passengers* and crew**

- (1) At least 24 hours before the arrival of the *vessel* in the *port*, the *vessel's owner, master* or *agent* must submit to the *Authority*, and where applicable to the terminal operator, a list of the *passengers* and crew for disembarkation.
- (2) The *Authority* may shorten the 24-hour period specified in sub-rule (1).

### **23. Nautical *charts* and publications relating to the port**

The *master* of a *vessel* must ensure, before the *vessel* enters or proceeds within a *port*, that it has on board the latest editions of the nautical *charts* and publications relating to that *port* and the Traffic Separation Scheme applicable to the *port*, where one exists.

### **24. Vessels to communicate with VTS or Port Control**

- (1) *Vessels* must comply with all traffic directives issued by the *port's VTS* or, where the *port* does not operate a *VTS*, the Port Control.
- (2) A *vessel* must communicate to *VTS* or, where the *port* does not operate a *VTS*, the Port Control, its arrival at the reporting points indicated on the *chart* for that *port*.

### **25. Signals, flags and lights**

When entering a *port* a *vessel* must display —

- (a) its national colours;
- (b) the flag of the *Republic*;
- (c) if applicable, a signal indicating that a pilot is on board (international code flag "H");
- (d) if free pratique has not been granted, a quarantine flag (international code flag "Q");
- (e) if immigration officials are required (international code flag "I");
- (f) if there are *dangerous goods* on board, international code flag "B" by day and a red light by night; and
- (g) any other signal the *Harbour Master* requires.

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## 26. Mooring plan

- (1) The *Harbour Master* may direct that a mooring plan be furnished to the *Harbour Master* before the entry of a *vessel* into the *port*.
- (2) If a plan is not furnished as directed, or the plan is, in the opinion of the *Harbour Master*, inadequate, the *Harbour Master* may refuse permission for the *vessel* to enter the *port*.
- (3) If the *Harbour Master* is of the opinion that the plan is inadequate, the *Harbour Master* will provide reasons for that opinion.

## 27. Weapons and explosives to be locked up and disarmed

- (1) Unless the *Harbour Master* directs in writing otherwise, before a *vessel*, other than a South African naval *vessel*, enters a *port*, the *master* of the *vessel* must ensure that all weapons and explosives on board the *vessel*, irrespective of whether or not they are intended for import or transit, are locked up in a secure place such as a gun safe and are disarmed.
- (2) If the weapons or explosives are to be imported into or transported through the *Republic*, then the owner or master of the vessel must comply with section 73 of the Firearms Control Act No. 60 of 2000.<sup>8</sup>

## PART D: VESSELS WITHIN A PORT

### 28. Moorings and shore connections

- (1) A *vessel* within a *port* must at all times and to the satisfaction of the *Harbour Master* —
  - (a) have sufficient hands on board to attend to its moorings, *gangways* and other shore connections; and
  - (b) deal with its moorings, *gangways* and other shore connections so as to ensure the safety and security of the *vessel*.
- (2) No rope may be made fast except to the dolphins, buoys, mooring posts and bollards that are designated for that purpose.
- (3) No wire rope may be used, unless the bollards and the edging of the coping of the wharf or jetty are protected to the satisfaction of the *Harbour Master* from chafe.
- (4) Chain cables may not be used for mooring, except with the permission of the *Harbour Master*.

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<sup>8</sup> Section 73 of the Firearms Control Act No. 60 of 2000:

“(1) No person may import into or export from South Africa any firearms or ammunition without an import or export permit issued in terms of this Act.  
(2) No person may carry in transit through South Africa any firearms or ammunition without an in-transit permit issued in terms of this Act.”

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### **29. Vessels to have sound and efficient mooring lines**

- (1) A *vessel* must have sound and efficient mooring lines when it moors in a *port* so that it moors safely.
- (2) If the *vessel* does not have sound and efficient mooring lines on board, then the *vessel's agent* must see to it that mooring lines of this nature are provided to the *vessel* at the time that it moors.
- (3) The *Harbour Master* may direct a *vessel* that does not have sound and efficient mooring lines to obtain them before the *vessel* is moored.
- (4) No mooring line may be cast off, unless the *Harbour Master* directs or authorises this.

### **30. Permission to *shift* or to immobilise within a port**

- (1) No *vessel* may *shift* within a *port* without the permission of the *Harbour Master*. The *Harbour Master* may grant, refuse, withdraw or amend the permission.
- (2) While within a *port*, no *vessel* may be immobilised without the prior written permission of the *Harbour Master*. The *Harbour Master* may grant permission for the immobilisation of a *vessel*, subject to whatever conditions he or she prescribes in the interests of safety, security, the efficiency and good order of the *port* and the protection of the environment.

### **31. Notice of port movements**

- (1) The terminal operator, *master* or *agent* of a *vessel* must give at least four hours notice to the *Harbour Master* of the time the *vessel* will be ready to *shift* within a *port*.
- (2) The terminal operator, *master* or *agent* of the *vessel* must confirm this notice no less than two hours before the movement takes place.
- (3) The *Harbour Master* may vary the notice periods set out in sub-rules (1) and (2).

### **32. Signals, flags and lights**

When alongside a quay or jetty or moving within a *port*, a *vessel* must display the signals, flags and lights required by the *Harbour Master*.

### **33. *Harbour Master* may require the movement of a vessel**

The *Harbour Master* may, in the interest of safety, security, good order and the efficient working of the *port*, or the protection of the environment, require a *vessel* to *shift* from a berth to another part of the *port*. The costs of this movement will be for the *master* of the *vessel*, unless otherwise agreed.

### **34. Explosives and pyrotechnics**

- (1) No explosives or pyrotechnic signals may be used within a *port*, unless a *vessel* is in distress or the *Harbour Master* permits otherwise.

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- (2) The *Harbour Master* may impose any conditions upon the use of explosives or pyrotechnic signals in the interests of safety, security, good order and the protection of the environment.

### **35. VTS or Port Control**

While in a *port*, *vessels* must comply with all the traffic directives of the *port's VTS* or, where the *port* does not operate a *VTS*, the Port Control.

## **PART E: DEPARTURE FROM A PORT**

### **36. Permission to leave a port**

No *vessel* may leave a *port* without the permission of the *Harbour Master*. The *Harbour Master* may grant, refuse, withdraw or amend the permission.

### **37. Notice of departure**

- (1) The terminal operator, *master* or *agent* of a *vessel* must give at least four hours notice to the *Harbour Master* of the time that the *vessel* will be ready to depart from the *port*.
- (2) The terminal operator, *master* or *agent* of the *vessel* must confirm this notice no less than two hours before the departure is to take place.
- (3) The *Harbour Master* may vary the notice periods set out in sub-rules (1) and (2).

### **38. List of passengers and crew**

- (1) At least 24 hours before the departure of the *vessel* in the *port*, the *vessel's owner*, *master* or *agent* must submit to the *Authority*, and where applicable, the terminal operator, a list of the *passengers* and crew for embarkation.
- (2) The *Authority* may shorten the 24-hour period specified in sub-rule (1).

### **39. Vessels to communicate with VTS**

- (1) *Vessels* must comply with all traffic directives issued by *VTS* or, where the *port* does not operate a *VTS*, the Port Control.
- (2) A *vessel* must communicate to *VTS* or, where the *port* does not operate a *VTS*, the Port Control, its departure at the reporting point indicated on the *chart* for that *port*.

## **PART F: PILOTS AND PILOTAGE**

### **40. Pilotage is compulsory unless exemption is granted**

- (1) Pilotage is compulsory for *vessels* entering, departing from or moving within a *port*.

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- (2) If the *Harbour Master* is satisfied that the *master* of a *vessel* is competent to navigate the *vessel* safely within *port* limits without assistance of a pilot, then the *Harbour Master* may —
- (a) grant permission in *writing* to the *master* to navigate the *vessel* without the assistance of a pilot on a specified occasion; or
  - (b) grant to the *master* standing permission in the form of a pilotage exemption licence to navigate the *vessel* without the assistance of a pilot during the period of validity of the licence.
- (3) The *Harbour Master* may suspend or cancel a pilotage exemption licence if it is in the interests of safety, security, good order and the protection of the environment.

#### 41. Pilot's functions

In terms of sections 75(3) to (5) of the *Act* —

- (a) the pilot's function is to navigate a *vessel* in the *port*, to direct its movements and to determine and control the movements of the tugs assisting the *vessel* under pilotage;
- (b) the pilot must determine the number of tugs required for pilotage with the concurrence of the *master* of the *vessel*;
- (c) in the event of a disagreement between the pilot and the *master* of the *vessel* regarding the number of tugs to be used, the *Harbour Master* takes the final decision.

#### 42. Licensing of pilots

- (1) In terms of section 77(1) of the *Act*, no person may perform the functions of a pilot in a *port* unless —
- (a) *SAMSA* has certified the person; and
  - (b) the *Authority* has issued the person with a licence to perform these functions.
- (2) The *Authority* may —
- (a) determine the manner in which applications for licences are assessed and decided;
  - (b) subject to the provisions of the *Act*, the requirements set by the Minister of Transport and these rules, determine the terms and conditions of the licence;
  - (c) impose conditions upon the issuing of a licence; and
  - (d) on good cause shown, suspend, withdraw or cancel a licence or registration after it has followed a fair procedure.

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#### **43. Master remains in control of a vessel under pilotage**

In terms of sections 75(6) and (7) of the *Act* –

- (a) the *master* of the *vessel* must at all times remain in command of the *vessel*;
- (b) neither the *master* nor any person under the *master's* command may, while the *vessel* is under pilotage, in any way interfere with the navigation or movement of the *vessel* or prevent the pilot from carrying out his or her duties, except in an emergency; and,
- (c) in an emergency, the *master* may intervene to preserve the safety of the *vessel*, *cargo* or crew and take whatever action he or she considers reasonably necessary to avert the danger.

#### **44. Assistance to the pilot**

In terms of section 75(8) of the *Act*, the *master* of the *vessel* must ensure that the officers and crew are at their posts, that a proper lookout is kept and that the pilot is given all assistance necessary in the execution of his or her duties.

#### **45. Pilot ladders**

- (1) The *master* of a *vessel* entering or leaving or moving within a *port* under pilotage must provide a pilot ladder unless the pilot is embarking and disembarking by helicopter.
- (2) The pilot ladders must comply with the *IMO's* Recommendation on Pilot Transfer Arrangements and the International Organisation for Standardisation (ISO) standards on pilot ladders.
- (3) The *master* in charge of an unmanned *vessel* under tow must, on arrival at the *approaches to a port*, arrange for a safe and suitable way for *port* and other officials to board the *vessel* under tow. In general, this means that the *master* should arrange for a pilot ladder equipped with two man-ropes over-side of the *vessel* under tow.

#### **46. Helicopter vessel-shore operations**

- (1) The *Harbour Master* may decide to use a helicopter for the pilot to embark and disembark from a *vessel*.
- (2) All helicopter operations must be carried out in compliance with Schedule 1 of the South African Civil Aviation Authority Act No. 40 of 1998.
- (3) The *master* of a *vessel* must follow the procedures and take the measures indicated in the International Chambers of the Shipping Guide when using a helicopter for the transfer of persons to and from a ship.

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**PART G: PERMITS FOR SMALL VESSELS - AND RELATED MATTERS**

**47. Small vessels**

- (1) No *small vessel* may lie in, be used in or operated from a *port* unless —
    - (a) *SAMSA*, or another authority acceptable to *SAMSA*, has granted the *owner* or *master* of the *small vessel* a certificate of fitness; and
    - (b) the *Harbour Master* for that *port* has granted the *owner* or *master* of the *small vessel* a permit to do so.
  - (2) The *Authority* may determine —
    - (a) the manner in which applications for permits for *small vessels* are to be invited, assessed and decided;
    - (b) in the *Tariff Book*, the fees payable for application for a *small vessel* permit and the permit itself;
    - (c) the qualifications and suitable criteria that applicants for a permit must meet in order to obtain a permit; and
    - (d) subject to the *Act* and these rules, including the powers of the *Harbour Master* in terms of section 74(3), the terms and conditions of the permit.
  - (3) The *Harbour Master* for the *port* where the *small vessel* has applied for a permit as contemplated in sub-rule (1) may impose conditions or limitations upon the granting of the permit in the interests of safety, security, protection of the environment and the good order and efficient working of the *port*.
  - (4) The *Authority* may, on good cause shown, refuse, suspend, withdraw or cancel a permit provided it has followed a fair procedure before the decision is taken.
  - (5) If an *owner* or *master* of a *small vessel* fails to obtain a permit, the *Harbour Master* may remove or *shift* the *small vessel* at the expense of the *owner* or *master* of the *small vessel*.
  - (6) The *owner* or *master* of a *small vessel* must comply with the *Harbour Master's* restrictions relating to launching, speed and area of operations or any other restrictions determined by the *Harbour Master* in respect of *small vessels* within port limits.
  - (7) A *small vessel* in possession of a permit as contemplated in sub-rule (1) must, at all times, keep out of the way of a *vessel* navigating in any channel or other area of the port.
  - (8) No *owner* or *master* of a *small vessel* may allow the *small vessel* to come into contact with another *vessel* while within *port* limits unless the *Harbour Master* authorises it.
  - (9) The provisions of rules 129 and 130, read with the changes required by the context, apply to *small vessels* in possession of a permit as contemplated in sub-rule (1).
  - (10) The *Authority* will set out, in the *Tariff Book*, the fees, dues and fines applicable to *small vessels* in possession of a permit as contemplated in sub-rule (1).
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- (11) The *Harbour Master* may issue written instructions about the regulation and control of *small vessels* in possession of a permit as contemplated in sub-rule (1).
- (12) The *Authority* may exempt *small vessels* in possession of a permit as contemplated in sub-rule (1) from the provisions of one or more of these rules<sup>9</sup>.

#### **PART H: GENERAL**

#### **48. Compliance with laws, charts, schemes and directives with regard to vessel movement**

While within the *approaches to a port* or within *port* limits, the *master* of a *vessel* is required to —

- (a) comply with all applicable international and South African legislation with respect to *vessel* movement, including the Merchant Shipping (Collision and Distress Signals) Regulations 2005 and the Convention on International Regulations for the Prevention of Collisions at Sea 1972;
- (b) move in accordance with the *chart* of the *port* or the Traffic Separation Scheme applicable to the *port*; and
- (c) adhere to the instructions of the *VTS* or port control with regard to designated anchorage areas that the *Harbour Master* may have determined.

#### **49. Master's authority not affected**

Nothing in this Chapter affects the authority and responsibility of the *master* of a *vessel* for the safe navigation of his or her *vessel*.

#### **50. Vessels may not be unseaworthy**

- (1) A *vessel* entering, leaving, moving or *shifting* within a *port*, or moving to an anchorage, may not be *unseaworthy* for that purpose.
- (2) No *vessel* within a *port* may materially reduce its state of seaworthiness for any purpose without the prior written consent of the *Harbour Master*.
- (3) As the final authority in respect of all matters relating to pilotage, navigation, navigational aids, dredging and all other matters relating to the movement of *vessels* within *port* limits, the *Harbour Master* may direct that measures be adopted to prevent an *unseaworthy vessel* from navigating from, and within, the *port*.
- (4) All costs and expenses incurred by the *Authority* or by the *vessel* as a result of having to comply with any of the *Harbour Master's* measures as contemplated in terms of sub-rule (3) must be paid by the *vessel* before the *vessel* departs from the *port*.

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<sup>9</sup> In terms of the current permit conditions, *small vessels* may be exempt from rules 18, 31, 37, 115, 117, 118 and 119.



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### **51. Assignment of berths**

- (1) The terminal operator will determine the assignment of berths where only one terminal operator operates the berth.
- (2) The *Authority* will determine the assignment of berths where a single terminal operator does not operate a berth and it may impose conditions upon the assignment of such a berth.
- (3) In making its determination referred to in sub-rule (2), the *Authority* will take into account the contractual and other requirements of any terminal operators operating at that berth and the good order and efficient working of the *port*.
- (4) Despite the provisions of this rule, the *Harbour Master* may determine the assignment of any berth if it is in the interests of the safety and security and the protection of the environment.

### **52. Assignment of marine services**

- (1) The *Harbour Master* determines the order of provision of marine services, which includes pilotage, tug and berthing services to *vessels* and the movement and mooring of ships in the *port*.
- (2) In making the determination, the *Harbour Master* will take into account the interests of safety, security, and good order, the efficient working of the *port* and the protection of the environment.

### **53. Vessels to rig and stow gear**

A *vessel* entering a *port*, berthing, *shifting* or departing from a *port* must have its sides clear, its boats swung inboard and projections of any kind rigged inboard.

### **54. Lost anchors**

- (1) The *master* of a *vessel* must, on becoming aware of any anchor, chain or cable that has parted or slipped from the *vessel*, report to the *VTS* or *port control*.
- (2) The *master* must communicate to the *VTS* or port control the position where the anchor, chain or cable parted or slipped and whether the anchor, chain or cable was buoyed when the parting or slipping took place.
- (3) The *master* must recover any parted or slipped anchor, chain or cable as soon as possible, if it is reasonably possible to do so, and failing that, the *Authority* will recover it at the expense of the *owner* or *master* of the *vessel*.

### **55. Making fast to navigational aids**

No *vessel* may be made fast to any marking buoy, light buoy, or any navigational aid or mark provided for the safety of *vessels*.

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#### 56. Incidents in the approaches and within ports

- (1) The *master* of a *vessel* that is within or about to enter the *approaches to a port* or within *port* limits must ensure that a report is made to the *Harbour Master* about any of the following matters as soon as the *master* becomes aware of them:
  - (a) the occurrence on board the *vessel* of any fire or explosion;
  - (b) the involvement of the *vessel* in a collision, grounding or striking;
  - (c) any defect in the *vessel's* hull, main propulsion systems or steering systems, radars, compasses, radio equipment, anchors or cables;
  - (d) any discharge or threat of discharge of *dangerous goods* or other harmful substances from the *vessel* into the water;
  - (e) another *vessel* 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 *dangerous goods* or harmful substances in the water;
  - (i) the presence of a *vessel* that may impede the safe movement of other *vessels*;
  - (j) any weather conditions that are detrimental to safe navigation;
  - (k) any matter that may affect the safety and security of the *vessel*, its crew or *passengers* and the port, or any matter that may affect the environment; and
  - (l) any other navigational or environmental incident.
- (2) The *owner* or *master* of a *vessel* that has been involved in any navigational incident within the approaches to or in a *port*, or any environmental incident within a *port*, whether or not damage is done to any property, including underwater property, must —
  - (a) immediately report the incident to the *Harbour Master* as well as any other applicable regulatory body or government department;
  - (b) submit to the *Harbour Master* a full written report setting out the circumstances of the incident, within 24 hours after the accident or before the departure of the *vessel* from the *port*, whichever is the sooner; and
  - (c) furnish any further particulars that the *Harbour Master* may require.

#### 57. Damage to property

The *owner* or *master* of any *vessel* that damages any property within the *port* or the approaches thereto, including fouling or displacing any buoy, navigational aid or navigational channel, must —

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- (a) immediately report the occurrence to the *Harbour Master* and any other applicable regulatory body or government department;
- (b) submit to the *Harbour Master* a full written report setting out the circumstances of the occurrence, within 24 hours of the occurrence or before the departure of the *vessel* from the *port*, whichever is the sooner;
- (c) furnish any further particulars that the *Harbour Master* may require.

#### **58. Financial security for damages caused**

Before a *vessel* departs from a *port*, the *Authority* may require the *owner* or *master agent* of a *vessel* to lodge financial security with the *Authority* to the satisfaction of the *Authority* if that *vessel* or its staff have caused pollution or damage to the environment or to property within a *port*.

#### **59. Master to produce *vessel's* papers**

The *Harbour Master* may require the *master* of a *vessel* arriving in a *port* to produce for inspection the *vessel's* register, certificates and any other papers relating to the *vessel*.

#### **60. *Vessels* in need of assistance**

- (1) If a *vessel* is in need of assistance and requests permission to enter into a *port*, the *Harbour Master* may consult with *SAMSA* and any other relevant statutory body.
- (2) In considering whether to allow the *vessel* into a *port*, the *Harbour Master* takes into account the following factors —
  - (a) safeguarding of human life at sea;
  - (b) the *port's* industrial and urban environment;
  - (c) the risk of pollution and damage to the environment;
  - (d) the evaluation of consequences if a request is refused, including the possible effect to neighbouring states;
  - (e) the risk of disruption to the *port's* operations;
  - (f) the seaworthiness of the *vessel*, in particular its buoyancy, stability, means of propulsion and power generation, and its docking ability;
  - (g) the nature and condition of the *cargo*, stores and bunkers, especially if there is any hazardous *cargo*;
  - (h) the preservation of the hull, machinery and *cargo* of the *vessel in need of assistance*;
  - (i) the distance and estimated transit time to a *SAMSA* allocated place of refuge;
  - (j) whether the *master* is still on board;

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- (k) the number of crew, salvors and other persons on board and an assessment of human factors, including fatigue;
- (l) whether the *vessel* in question is insured or not insured;
- (m) where the *vessel* is insured, identification of the insurer, and the limits of liability available;
- (n) provisions of financial security in favour of the *Authority* to guarantee payment of all expenses that may be incurred in connection with its operations;
- (o) whether the *owner* and *master* of the *vessel* have agreed to the proposals of the *Authority* and/or salvor to proceed or to be brought to a place of refuge;
- (p) commercial salvage contracts already concluded by the *master* or *owner* of the *vessel*;
- (q) information on the intention of the *master* and/or salvor;
- (r) the designation of a representative of the *owner* of the *vessel* in the *Republic*;
- (s) the risk of disruption to the *Authority's* operations taking into account the *IMO* guidelines; and
- (t) any other relevant considerations.

#### **61. Arrested vessels**

- (1) The *Harbour Master* may direct that any *vessel* that has been arrested or attached by order of court, or detained by another authority, be moved to another place within *port* limits.
- (2) The *Harbour Master* will give notice to the sheriff of the court, or any other official responsible for the upkeep of an arrested *vessel*, that the *vessel* must be moved.
- (3) If the sheriff of the court or any other official of another authority contemplated in sub-rule (2) is unable to move the *vessel* within the period stipulated in the notice, the *Harbour Master* may move the *vessel* at the expense of the arresting creditor or creditors after consultation with the sheriff or other authority, as the case may be.
- (4) In the event of the *vessel's agent* terminating his or her services, the sheriff of the court, or any other official responsible for the upkeep of an arrested *vessel*, must include any fees charged by the *Authority* in his or her claim against the Preservation Fund as contemplated in the Admiralty Jurisdiction Regulation Act No. 105 of 1983 in respect of the arrested, attached or detained *vessel* from the time of its arrest, attachment, or detention until it is freed from the arrest, attachment or detention.

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## CHAPTER 3: HEALTH AND SAFETY

### PART A: VESSEL SAFETY MEASURES

#### 62. The master is responsible for the safety of the vessel

The *master* of a *vessel* within the *port* limits is at all times responsible for the safety of his or her *vessel* and nothing in these rules may be construed as relieving the *master* of this responsibility.

#### 63. Conduct of the crew

The *owner* or *master* of a *vessel* must ensure the orderly conduct and behaviour of the crew of his or her *vessel* and ensure that all persons on board the *vessel* observe the laws of the *Republic* while the *vessel* is within *port* limits.

#### 64. Fires and *hot work* repairs on vessels

- (1) No open fires are permitted on board a *vessel* unless the *master* of the *vessel* has obtained the *Authority's* permission for that fire.
- (2) No *hot work* repairs are permitted on board a *vessel* unless the *master* of the *vessel* is authorised in terms of a *hot work permit* issued by the *Authority* in terms of rule 154.
- (3) If a fire occurs on board a *vessel* within *port* limits, the *master* must inform port control by VHF radio, telephonically or any other appropriate means possible of the fire and —
  - (a) immediately give the alarm by sounding one continuous blast on the *vessel's* siren; or
  - (b) if it is not possible to use the *vessel's* siren, by the continuous ringing of the *vessel's* bell.
- (4) The staff of a *vessel* with a fire on board must immediately —
  - (a) take practicable steps to extinguish the fire and to protect adjoining property; and
  - (b) provide any further assistance that the *Harbour Master* or the *Chief Fire Officer* requires.

#### 65. Sparks and the lighting of fires

- (1) The *master* of a *vessel* in a *port* must take all necessary precautions to avoid the emission of sparks from his or her *vessel*, except where a *hot work permit* is issued in terms of rule 154.
- (2) No person may light a fire upon any wharf, jetty, stacking area, quay or at any other place where the lighting of fires is prohibited by notice, except with the permission of the *Authority*.
- (3) The *Authority* may impose conditions on any permission granted, to maintain safety, security, good order or to protect the environment.

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- (4) No person may smoke, ignite a match or lighters, or otherwise create or allow a fire or flame in any hold or at any open hatch of any hold of any *vessel* or within an area adjacent to such hold or open hatch —
  - (a) while flammable *cargo* is being shipped, discharged or transhipped into or from a hold or open hatch; or
  - (b) when non-flammable *cargo* is being worked in a hold that contains flammable *cargo*.
- (5) Portable radios and cellular phones may not be used in any hold or at any open hatch of any hold of any *vessel* or within an area adjacent to such hold or open hatch, unless the radio or cellular phone is certified to be intrinsically safe.

#### **66. Smoking on board vessels**

- (1) Notices must be displayed on board *vessels* where smoking is prohibited for safety reasons.
- (2) Smoking is prohibited in the holds or on deck of *vessels* with open hatches or in the vicinity of deck *cargo*.
- (3) *Vessels* carrying *dangerous goods* must prominently display at the *gangway* or other shore access points notices inscribed with the words: "Dangerous goods on board, smoking strictly prohibited."
- (4) The notices must be written in English and accompanied by the international prohibition symbol for no smoking.

#### **67. Persons disembarking or embarking**

- (1) A competent member of the *vessel's* crew must be in attendance at the *vessel's* *gangway* while persons, other than pilots, are disembarking from or embarking upon a *vessel* lying alongside a wharf, jetty or quay, in order to attend to the security of the *gangway* and the safety of persons passing over it.
- (2) The same applies when a *vessel* lying at anchor uses a *gangway*, an accommodation ladder or other similar equipment.
- (3) No person, other than a pilot in the exercise of his or her duties, may, except after obtaining the *Harbour Master's* permission, board or leave a *vessel* while that *vessel* is in motion and that person may only leave or board the *vessel* by way of the pilot ladder or a helicopter provided for that purpose.

#### **68. Gangways**

- (1) The *master* of a *vessel* that is alongside a wharf, quay or jetty, lying at buoys or at anchor, or outside another *vessel* must provide a safe and proper *gangway* to allow for free and safe passage to and from the deck of the *vessel*.
- (2) The *gangway* must be sufficiently illuminated.

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- (3) A proper safety net must be rigged and secured below a *gangway* as soon as the *gangway* is in position, to safeguard persons using the *gangway* from falling into the water or onto a wharf, quay or jetty.
- (4) The *master* is responsible for the handling of the *gangway* and must ensure that the operations are carried out in a proper and safe manner.
- (5) The person in control of the *gangway* must regulate the number of persons allowed on the *gangway* at any one time.
- (6) A notice indicating the maximum number of persons to be allowed on the *gangway* at any one time must be clearly displayed at each end of the *gangway*.
- (7) A lifebuoy with a line attached to it must be placed near each *gangway* and kept ready for immediate use.
- (8) The *master* must ensure that the *gangway* is at all times positioned so that it does not obstruct or foul rail or crane tracks, constitute a hazard to the safe movement of trucks and cranes or interfere with bunkering operations.
- (9) The *master* of a *vessel* must take the necessary precautions to prevent damage to quay surfaces by the *vessel's gangways* and loading ramps.
- (10) Where the nature or construction of a jetty or wharf is such that it is impossible for the *vessel* to comply with this rule, the *master* of the *vessel* must conform to the *Harbour Master's* instructions concerning *vessel* to shore access.

#### **69. Engine trials**

No *master* may perform engine trials of the *vessel* while it is alongside a wharf, quay or jetty or while it is berthed outside another *vessel* in a *port*, unless the *master* has the permission of the *Harbour Master*.

#### **70. Lowering of boats from vessels**

A *master* may cause or permit a boat to be lowered from his or her *vessel* in a *port* only if the *master* has permission from *Customs* and the *Harbour Master*.

#### **71. Vessel's handling material or gear in port**

- (1) Unless a *vessel's* handling material or gear is being used for legitimate operational purposes, a *vessel* may not place its handling material or gear upon any wharf, jetty or quay, or elsewhere within *port* limits without the written consent of the terminal operator, in the case of a terminal, or the *Harbour Master*, in the case of any other area.
- (2) If it is placed anywhere without the required consent, it may be removed immediately, at the expense of the *owner* or *master* of the *vessel*, to a place determined by the terminal operator or the *Harbour Master*.

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**72. Vessels may not be moored nor obstacles placed within the water area of a port repair facility**

Unless the *Harbour Master* directs otherwise, no *vessel* may anchor or be moored within, and no person may place any chain, anchor or other obstacle in the water area adjacent to a *port* repair facility, which includes a floating dock, synchrolift or slipway.

**PART B: GENERAL SAFETY MEASURES**

**73. Requirements for *fire protection personnel***

- (1) The *Authority* may set requirements for *fire protection personnel* who operate within a *port*.
- (2) All *fire protection personnel* must comply with the *Authority's* requirements.

**74. The *Harbour Master* may instruct that safety measures be taken**

Despite the provisions of any other rule, the *Harbour Master* may, in the interests of the safety of the *port*, the persons, *vessels* and other property in it, issue instructions that safety precautions be taken, or take emergency measures that the *Harbour Master* believes are necessary or appropriate.

**75. Heating of substances**

- (1) No person may boil or heat pitch, tar, resin, turpentine, oil or other flammable matter on shore within a *port* on any wharf, jetty, stacking area, quay or at any other place where the lighting of fires is prohibited by notice except —
  - (a) with the permission of the *Authority*, or
  - (b) if the person has a valid *Hot Work Permit* issued by the *Authority*.
- (2) The *Authority* may impose conditions upon any permission granted to maintain safety, security, good order or to protect the environment.

**76. Smoking on the shore**

The *Authority* will designate areas on the shore of the *port* where no smoking may take place. No person may smoke in such a designated *no-smoking area*.

**77. The use of portable radios or cellular phones on the shore**

The *Authority* will designate areas on the shore of the *port* where portable radios and cellular phones may not be used. No person may use portable radios or cellular phones, other than those that are certified to be intrinsically safe, in such a designated area.



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#### **78. Occupational health and safety legislation**

All persons, including service providers, terminal operators, drivers of transport vehicles, employers, lessees and visitors within *port* limits, must comply with the provisions of any legislation relating to occupational health and safety matters, including the Merchant Shipping Act No. 57 of 1951, the Occupational Health and Safety Act No. 85 of 1993 and its regulations, the Maritime Safety Regulations of 1994, the *IMDG Code* and the National Road Traffic Act No. 93 of 1996.

#### **79. Authority's written instructions with regard to occupational health and safety matters**

- (1) In order to give effect to rule 77, the *Authority* may issue verbal or written instructions relating to occupational health and safety matters within the *port*.
- (2) All persons are required to adhere to these instructions.

#### **80. Personal protective equipment**

All persons working within an area that is designated as an operational area by the *Authority* must wear the appropriate personal protective equipment, including a hard hat, safety boots and reflective high-visibility vests.

#### **81. Closing of parts of the port**

- (1) In the interests of maintaining safety, security, good order and the protection of the environment, or if the *Authority* determines that construction work should be carried out in any part of the *port*, the *Authority* may —
  - (a) close any part of the *port* to the public; or
  - (b) prohibit the public's use of or restrict the public's access to any part of the *port*.
- (2) Despite sub-rule (1), the *Authority* may allow access to parts of the *ports* to which the public has restricted access or which are closed to the public on conditions to be determined by the *Authority*.

#### **82. Incidents or damage to property on the shore within ports**

All service providers, employers, lessees or other persons, other than a licensed operator<sup>10</sup>, involved in an incident on the shore within a *port*, whether or not damage is done to any property or the environment, or involved in damage to the *Authority's* property on the shore or the environment within the *port*, must —

- (a) immediately report the incident to the *Authority* as well as any other applicable regulatory body or government department;

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<sup>10</sup> Licensed operators are required to report incidents in terms of s 62(5) of the *Act*.

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- (b) submit to the *Authority* a full written report setting out the circumstances of the incident or damage to property within 24 hours after the incident; and
- (c) furnish any further particulars that the *Authority* may require.

### **83. Swimming, surfing, fishing, diving and water sports**

- (1) No person is allowed to dive or perform diving operations within *port* limits without the permission of the *Harbour Master*.
- (2) A person may only swim, surf, fish or engage in water sports within *port* limits in areas designated for these purposes by the *Authority* or a person authorised by the *Authority*.
- (3) The *Harbour Master* may, in the interests of maintaining safety, security, good order and the protection of the environment, impose conditions upon any swimming, surfing, fishing, diving or water sports that take place within port limits.

### **84. Animals**

- (1) For the purposes of this rule, animals include birds.
- (2) The *Authority* may confiscate or confine any domesticated, tame or wild animal that is found at large on the *Authority's* premises within *port* limits.
- (3) The *master* of a *vessel* must properly secure animals that are on board a *vessel* in a *port*.
- (4) The *master* of a *vessel* may not allow an animal to come ashore without the *Authority's* permission.

## **CHAPTER 4: PROTECTION OF THE ENVIRONMENT**

### **85. Prevention of pollution and protection of the environment**

- (1) All persons within a *port* must take all reasonable steps to prevent, minimise and mitigate pollution or damage to or degradation of the environment.
- (2) Any person who pollutes or causes damage to the environment will bear the costs associated with the combating and cleaning up of that pollution, damage or degradation, and the associated impacts relating thereto.
- (3) If the person or persons responsible for the pollution or damage to the environment fail to take the necessary measures to prevent, minimize, mitigate, combat and clean up the pollution or damage to the environment, including its associated impacts, the *Authority* may take the necessary measures. The person or persons who caused the pollution or damage to the environment will be liable for the costs associated with the pollution, damage or degradation to the environment, its associated impacts and any mitigating measures.

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#### **86. Deposit of harmful matter, including oil, in a port**

- (1) No person may throw or deposit within *port* limits any harmful matter or substance of whatsoever nature, including effluent or polluted water or foreign organisms, without the permission of the *Authority*, and, in the case where it is to be thrown or deposited from a *vessel*, without the permission of the *Harbour Master*. The *Authority* or the *Harbour Master*, as the case may be, may impose conditions upon the permission to be granted.
- (2) No person may cause or allow pollutants, including paint, or cause or allow substances that can cause pollution or negatively impact on the environment, whether or not the substance or pollutant is of a mineral, animal or plant origin, to be dumped on the property of a *port* or to be discharged or to escape into waters within *port* limits.
- (3) No oil of any description or harmful matter or substances of whatever nature, including effluent, polluted water or foreign organisms, may be discharged or dumped from a —
  - (a) *Vessel*, or be allowed to escape from a *vessel* into any part of the *port*; or
  - (b) terminal or any other source, or be allowed to escape into *port* waters from a terminal or any other source.
- (4) The *master* of a *vessel* that is berthed alongside a quay or jetty must cause all the discharge outlets of the *vessel* facing the quay or jetty to be closed or to be provided with adequate covers to prevent any inadvertent discharge of water or effluent or substances onto the quay or jetty surface, bollards, moorings, telephone cables, fenders or hose connections or into the environment.
- (5) The cleanup of pollutants, including oil, which is spilled within port limits, must be dealt with in accordance with the applicable Port Contingency Plan.
- (6) If the spill straddles the area within *port* limits and areas falling outside *port* limits, the spill must be dealt with in accordance with the applicable Port Contingency Plan, and in the case of oil pollution management, the National Contingency Plan and any applicable legislation.
- (7) A person who drops or deposits any article within *port* limits that might cause a danger, obstruction, pollution, a negative impact upon the environment or a nuisance, or any person who witnesses a person doing this, must report the matter to the *Authority* immediately.
- (8) The *owner* or *master* of a *vessel*, terminal operator, lessee or *port* user that contravenes this rule, causing an obstruction in the *port* must immediately cause the obstruction to be removed at their expense, failing which the *Authority* may remove the obstruction at their expense. If any damage arises from the obstruction, the person responsible for it is liable for the costs relating to the damage.

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### **87. Cleanliness of the quayside**

- (1) This rule applies to quaysides that are not operated by a terminal operator.<sup>11</sup>
- (2) The *owner* or *master* of a *vessel* must ensure that the quayside is cleaned after the *vessel* has completed its working operations.
- (3) If the *owner* or *master* of the *vessel* fails to affect the cleanup, the *Authority* will affect the cleanup at the cost of the *owner* or *master* of the *vessel*. These costs will include the costs associated with or incidental to the clean up and the removal of materials on the quayside.

### **88. Ballast water**

The *master* of a *vessel* and any other person to whom the Port Ballast Waste Management Plan applies, must comply with that plan.

### **89. Port waste reception facilities**

- (1) Every terminal operator and master of a *vessel* must make use of the *port's* facilities for the reception of wastes from *vessels*.
- (2) Despite sub-rule (1), the *Authority* may require —
  - (a) a terminal operator to provide or procure proper and adequate facilities from a licensed waste disposal service provider for the reception of wastes from *vessels* using the *port* terminal; and
  - (b) the *vessel's owner* or *master* to provide or procure proper and adequate facilities from a licensed waste disposal service provider for the reception of wastes from *vessels*, if the berth is not operated by a terminal operator.
- (3) In assessing the adequacy of the waste reception facilities contemplated in sub-rule (2), the terminal operator or *owner* or master of the *vessel*, as the case may be, must have regard to the Port Waste Management Plan.
- (4) Despite the provisions of this rule, the *owner* or *master* of a *vessel* must arrange to dispose galley waste in accordance with the Port Waste Management Plan.

### **90. Compliance with Port Waste Management Plan**

All persons to whom the Port Waste Management Plan applies, including terminal operators and tenants, must comply with that plan.

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<sup>11</sup> The cleanliness of a quayside operated by a terminal operator will be regulated by the licence agreement with the terminal operator.

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**91. Compliance with Vessel Waste Management Plan**

The *owner, master or agent* of a *vessel* must comply with their Vessel Waste Management Plan.

**92. Use of port waste reception facilities**

Any waste reception facilities provided for a particular purpose by the terminal operator must be open for use for that purpose by all *vessels* using the terminal.

**93. Discharge or dumping in a port of sewage or residue water as a result of hatch or tank cleaning**

- (1) No *vessel* may discharge or dump sewage into *port* waters or any part of the *port* except into a facility dedicated for that purpose.
- (2) No *vessel* may discharge or dump residue water into *port* waters as a result of hatch or tank cleaning without the written permission of the *Harbour Master*. The *Harbour Master* may impose conditions upon the granting of his or her permission.

**94. Removal of vessels having offensive matter on board**

- (1) The *Harbour Master* may order the removal of a *vessel* from a *port* if that *vessel* has *cargo* or other matter on board that may be a threat to the environment.
- (2) At the expense of the *owner or master* of the *vessel*, the *Harbour Master* may order that the *cargo* or other matter be disposed of.

**95. The emission of fumes or smoke**

- (1) The *master* of a *vessel* in a *port* must take all necessary precautions to avoid the emission of excessive fumes or smoke from his or her *vessel*.
  - (2) No *master* of a *vessel* in a *port* may permit the emission of fumes, smoke or atmospheric pollutants from the *vessel* that violates the National Environment Management: Air Quality Act No. 39 of 2004 or any other applicable law.
  - (3) The provisions of sub-rule (2) do not apply —
    - (a) to smoke emanating from a *vessel*/within 5 minutes during the start-up period;
    - (b) while the smoke-producing appliance is being overhauled if the emission cannot reasonably be prevented; or
    - (c) during the period of any breakdown or disturbance of an appliance.
  - (4) All persons must comply with the applicable legislation relating to pollution, including the National Environmental Management: Air Quality Act No. 39 of 2004.
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#### **96. Protection of animals, birds, fish and plants**

Subject to rule 83 and any lease, licence or agreement with the *Authority* regulating pest control, no person may collect, use, remove or relocate any animal, bird, fish or plant that is within the *port* unless the *Authority* has authorised this in *writing*.

#### **97. Burials**

No dead persons or carcasses of any kind may be buried within waters of the *port*.

### **CHAPTER 5: WORKING OF VESSELS AND DANGEROUS AND FLAMMABLE GOODS HANDLING**

#### **PART A: WORKING OF VESSELS**

#### **98. Working of vessels may be refused**

The *Harbour Master* may, in the interests of safety, security, good order and the protection of the environment, impose conditions upon the handling of goods, including *dangerous goods*, and may refuse to allow such goods to be landed from a *vessel* until –

- (a) a suitable wharf, shed, quay, or other accommodation is available for the goods; or
- (b) arrangements to the satisfaction of the *Harbour Master* have been made for the removal and storage of the goods.

#### **99. The master or his or her delegatee to supervise and to protect all persons during the handling of cargo**

- (1) The *master* or his or her delegatee must remain on board the *vessel* whilst it is loading or discharging *cargo*, which includes containers, for the purpose of supervising these operations.
- (2) The *master* may only delegate the supervision of the loading or discharge operations to a suitably qualified person.
- (3) The *master* must take all reasonable steps to ensure the safety and protection of all persons working aboard the *vessel* during the loading or discharge operations.

#### **100. Prevention of cargo and vessel's gear falling into a port**

- (1) The *master* of a *vessel* that is loading or discharging *cargo* must ensure, in accordance with best practice, that all measures are taken to prevent *cargo* or the vessel's gear from falling into the water.
- (2) If measures to the satisfaction of the *Harbour Master* have not been put in place, the *Harbour Master* may suspend the working of the *vessel* until satisfactory measures are put in place.

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### **101. Reporting about *cargo* and vessel's gear that has fallen into the port**

- (1) The *master* must immediately and fully report to the *Harbour Master* about any *cargo* or *vessel's* gear that is dropped overboard as soon as the master becomes aware of it.
- (2) The *master* must provide the *Harbour Master* with any particulars that the *Harbour Master* requires.

### **102. Recovery of *cargo* or vessel's gear that has fallen overboard**

- (1) The *master* of the *vessel* must immediately cause the *cargo* or *vessel's* gear that has fallen overboard to be recovered as soon as is reasonably possible.
- (2) The *master* of the *vessel* must abide by the *Harbour Master's* directives regarding the recovery.
- (3) If the *vessel* fails to recover the *cargo* or vessel's gear that has fallen overboard, the *Harbour Master* may direct another person to recover it, and the *owner* or *master* of a *vessel* will be liable for the costs associated with the recovery of the *cargo* or vessel's gear that has fallen overboard.
- (4) The terminal operator or any *port* service provider must ensure that any *cargo*, *cargo* handling or packing materials or oil-spills that have fallen on the quayside or terminal of any part of the *port* are removed, failing which the *Harbour Master* may arrange for its removal at the expense of the responsible person.

### **103. Mechanical handling appliances**

- (1) A *vessel* berthed near or under the mechanical handling appliances must have sufficient crew on board ready to *shift* the *vessel* at any hour, day or night, as or when directed by the *Harbour Master*.
- (2) The *Harbour Master* may *shift* the *vessel* at the expense of the *owner* or *master* of the *vessel*, if the *vessel* fails to comply with the *Harbour Master's* directives.
- (3) Operators of mechanical or other *cargo*-handling appliances or installations may not cause the booms, chutes, loading gantries or other appurtenances to be lowered, to protrude or to be so positioned so as to cause an obstruction on a berth or over the water.
- (4) The *Harbour Master* may grant an exception to sub-rule (3) and may impose conditions in the interests of safety, security, good order and the protection of the environment.

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**PART B: HANDLING OF DANGEROUS GOODS**

**104. Compliance with other legislation and *industry guidelines***

- (1) All persons must comply with the applicable legislation relating to dangerous and flammable liquids in bulk and in containers, including the Explosives Act No. 26 of 1956 and any regulations promulgated under that Act.
- (2) All persons involved in the handling of *dangerous goods* must comply with the standards, procedures, practices and requirements set out in the *industry guidelines*, as amended from time to time, including:
  - (a) The International Safety Guide for Oil Tankers and Terminals (presently in its fifth edition);
  - (b) Marine Terminals Baseline Criteria and Assessment Questionnaire;
  - (c) Liquefied Gas Handling Principles on Ships and in Terminals;
  - (d) Ship/Shore Interface: Safe Working Practice for LPG and Liquefied Chemical Gas Cargoes;
  - (e) Guidelines for the Handling, Storage, Inspection and testing of Hoses in the Field; and
  - (f) Chemical carriers entered into the CDI Scheme.
- (3) The *Harbour Master* may permit a vessel to follow a procedure or practice other than those required by the *industry guidelines*, if he or she is satisfied that the other procedure or practice is as safe as that required by the *industry guideline* and is in the interests of security, good order, the protection of the environment and the effective and efficient working of the port.
- (4) Contravention of a procedure or practice substituted pursuant to sub-rule (3) is deemed to constitute a contravention of the practice or procedure required by these rules.

**105. *Harbour Master's directives relating to dangerous goods***

- (1) The *Harbour Master* may, in the interests of safety, security, good order and the protection of the environment and at the expense of the *owner or master* of the *vessel* —
  - (a) approve the discharge and storage of uncontainerised, *dangerous goods* at demarcated areas in the *port* at the expense of the *owner or master* of the *vessel* and impose conditions upon the approval, in the interests of safety, security, good order and the protection of the environment;
  - (b) order that *dangerous goods* be discharged from a *vessel*, removed from the *port* or be otherwise disposed of, at any time of the day or night;
  - (c) order that landed *dangerous goods* —



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- (i) be returned on board the vessel from which it was landed;
  - (ii) be destroyed; or
  - (iii) be dealt with in a manner that the *Harbour Master* considers necessary and appropriate.
- (d) order that vessels having *dangerous goods* on board that are berthed alongside a wharf or jetty have sufficient *fire protection personnel* and equipment in attendance;
- (e) order that the *master of a vessel* with *dangerous goods* on board adopt precautionary measures, as the *Harbour Master* considers appropriate.
- (2) Miscellaneous class 9 dangerous substances of the *IMDG Code*, which do not need to be labelled, are exempted from the requirements of sub-rules (b) to (e).

#### **106. *Dangerous goods* landed in ISO containers**

- (1) If *dangerous goods* are landed in *ISO containers*, then the *vessel's agent* must present the terminal operator with a packing declaration before the container is landed.
- (2) The packing declaration must reflect —
- (a) the correct technical name;
  - (b) mass;
  - (c) the UN number;
  - (d) *IMDG Code* class of each consignment in the container; and
  - (e) a declaration that —
    - (i) the container is fit to transport this kind of *dangerous goods*;
    - (ii) the *cargo* is adequately secured in the container; and
    - (iii) no other *cargo* known to be incompatible with the *dangerous goods* has been placed in the container.
- (3) The packing declaration must accompany the container to its final destination.
- (4) If *dangerous goods* are to be shipped in *ISO containers*, the packing station must provide a packing declaration as stipulated in sub-rule (2) with the loaded container. The packing declaration must accompany the container at all times and must be provided to the *owner* or the *master* of the *vessel* when the container is loaded on board.
- (5) All *ISO containers* with *IMDG Code* labels attached must be treated as though they contain *dangerous goods*.

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- (6) The *container operator* and the *agent* of the *vessel* must ensure that old *IMDG Code* labels are defaced or removed.

**107. The need for a landing, delivery, forwarding or container terminal order**

- (1) No *dangerous goods* may be landed, delivered or forwarded without the terminal operator's completed landing, delivery, forwarding or container terminal order.
- (2) If any *dangerous goods* are to be landed, delivered or forwarded without the appropriate order, the terminal operator must report this to the *Authority* immediately.
- (3) The correct type of landing, delivery, forwarding or container terminal order referred to in sub-rules (2) and (3) is governed by the *cargo's* IMDG hazardous *cargo* classification, or, if the commodity is not listed in the *IMDG Code*, by the definition of *dangerous goods* contained in the Code.

**108. Copy of packing certificate to be provided to the Authority**

- (1) A copy of the packing certificate referred to in the Merchant Shipping (Dangerous Goods) Regulations, 1997 must be attached to the order covering the shipment and sent to the *Authority's* offices at the *port* 24 hours before the arrival of the *dangerous goods* within *port* limits. If this is not done, the *Authority* may refuse the shipment and the shipper will be liable for all costs arising from the non-compliance with this requirement, including costs incurred in connection with the return of the *cargo*.
- (2) The *Authority* may request the correct Material Safety Data Sheet.

**109. Explosive standards**

The *Harbour Master* may issue written instructions for the shipment, handling and short-term storage of explosives in *ports*.

**PART C: HANDLING OF BULK FLAMMABLE LIQUIDS AND FLAMMABLE LIQUID CONTAINERS**

**110. Survey certificate for the carriage of flammable liquid**

- (1) Every *tanker* carrying flammable liquids that enters *port* limits must be in possession of a valid survey certificate issued by the flag state, or an authority recognised by the flag state, for the carriage of any flammable liquid.
- (2) The *Harbour Master* may refuse to allow any *tanker* that is not in possession of a valid survey certificate for the carriage of flammable liquid to enter into *port*.

**111. Vessels to operate with due regard to safety, security and the protection of the environment**

*Vessels* that convey, discharge or ship flammable liquids in bulk or during bunkering operations, or convey or discharge containers that hold or held flammable liquids, must

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conduct their operations in a safe and secure manner, and in a way that does not threaten the environment.

### **112. Harbour Master's instructions**

- (1) In order to give effect to rule 111, the *Harbour Master* may, in the interests of safety, security and the protection of the environment, issue verbal or written instructions relating to—
  - (a) the conveyance, discharge or shipping of flammable liquids in bulk or during bunkering operations; and
  - (b) conveyance, discharge or shipping of containers that hold or held flammable liquids.
- (2) All persons to whom the instructions are directed must adhere to them.
- (3) For the purpose of any rule or written instruction that requires that a *gas free* certificate be obtained, the certificate is deemed not to have been issued until —
  - (a) both the *master* and the *Harbour Master* are in possession of duplicate originals signed by the *certified chemist*; and
  - (b) it is posted in a conspicuous place on board the *vessel* where all persons concerned can easily read it.
- (4) The *master* of a *vessel* and the terminal operator must afford every facility to the *Harbour Master* to ascertain whether any of these rules or any instruction, which is intended to give effect to any of these rules, has been and is being observed.

### **113. Liability for costs**

- (1) All persons to whom the verbal or written instructions referred to in rule 112 are directed are jointly and severally liable for the costs of implementing those instructions.
- (2) Despite sub-rule (1) —
  - (a) the *owner* or *master* of a *vessel*, pipeline, bulk storage or other installation that discharges or allows flammable liquid or contaminated water to escape into a *port*, is liable for the costs that the *Authority* may incur in removing the flammable liquid or contaminated water;
  - (b) the *owner* or *master* of a *vessel* is responsible for the costs of *fire protection personnel*, safety measures and supervision as may be provided, taken or exercised in terms of these rules or by the direction of the *Harbour Master*; and
  - (c) if the *Harbour Master* orders the removal of a *tanker* that has flammable liquids on board from the berth at which it is lying because the *Harbour Master* is of the opinion that this is in the interests of safety or the efficiency of the *port*, the *owner* or *master* is responsible for the costs of the removal, unless otherwise agreed.

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**PART D: AGENTS, FINANCIAL SECURITY, PORT AND CARGO DUES AND CHARGES, AND PENALTIES**

**114. Appointment of vessel agents**

Every *owner* of a *vessel* intending to enter a *port* in the *Republic* must appoint a *vessel agent*, unless the *Authority* grants an exemption to a *vessel*.

**115. Security to be furnished to the Authority**

- (1) Before a *vessel* enters a *port* the *owner*, *master* or *agent* of that *vessel* must furnish security to the satisfaction of the *Authority* for the payment of any fees payable to the *Authority*.<sup>12</sup>
- (2) Despite sub-rule (1), the *Authority* may, on written application by an *agent*, and subject to conditions that it may impose, open a credit account or credit facility against which will be levied any fees or charges that may become payable by the applicant under these rules or the *Tariff Book*.

**116. Termination of vessel agent's mandate**

- (1) If the vessel *agent's* mandate is terminated, the vessel *agent* —
  - (a) must give the *Authority* written notice of the termination; and
  - (b) remains liable for all fees due and payable up to the expiry of the termination notice.
- (2) Upon the termination of a vessel *agent's* mandate, the owner or master of a vessel must appoint forthwith another vessel *agent*.

**117. Port dues, fees and fines to be paid before vessel departs from port**

- (1) Before a *vessel* departs from a *port*, the *Authority* may require the *owner*, *master* or *agent* of that *vessel* to pay or provide sufficient security to the satisfaction of the *Authority*, for all *port* dues, fees, fines or any other monies owing to the *Authority* by the *vessel's* owner.
- (2) Despite anything to the contrary in these rules, the *vessel's* *agent* is responsible for all the *vessel's* debts that remain due to the *Authority* after the *vessel* has departed from the *port*.

**118. Manifest of cargo**

- (1) At least one day before the arrival of a *vessel* in the *port* in respect of imported *cargo* and at least 14 days after the *vessel's* departure in respect of exported *cargo* —

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<sup>12</sup> In terms of section 73(4) of the *Act*, the *Authority* may require any person to furnish such security as it deems fit for the payment of any fee payable to the *Authority*.

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- (a) the *owner, master or agent* of a *vessel* must submit to the *Authority* a certified true copy in English of the manifest of any non-containerised, breakbulk or bulk *cargo* intended for landing or that has been shipped;
  - (b) the *container operator* must submit to the *Authority* a certified true copy in English of the manifest of any containerised *cargo* intended for landing or that has been shipped.
- (2) The manifest referred to in sub-rule (1) must include —
- (a) the *vessel's* details, voyage number, and estimated arrival and departure dates;
  - (b) its country or origin and destination;
  - (c) the *port* of loading, discharge, and trans-shipment;
  - (d) for non-containerised, breakbulk and bulk —
    - (i) the consignee and consignor names, addresses and contact details, where available;
    - (ii) the *cargo agent's* or *cargo agents'* names, addresses and contact details;
    - (iii) the bill of lading or mates receipt;
    - (iv) the marks and numbers;
    - (v) the number and description of packages or goods;
    - (vi) the commodity description of the *cargo*; and
    - (vii) the gross mass; and
  - (e) for containers —
    - (i) the consignee and consignor names, addresses and contact details, and in the case of a group consignment, all the consignee and consignor names, addresses and contact details, where available;
    - (ii) the *cargo agent's* or *cargo agents'* names, addresses and contact details;
    - (iii) the container number, size, type, status and *container operator*;
    - (iv) the commodity description of the *cargo*; and
    - (v) the gross mass.
- (3) The *container operator* must submit to the *Revenue Office* within the timeframes stipulated in the *Tariff Book* a list of empty containers intended for landing or shipping at the *port*.
- (4) The list referred to in sub-rule (3) must include —
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- (a) the *vessel's* details, voyage number, and estimated arrival and departure dates;
- (b) the *port* of loading and discharge; and
- (c) the container number, sizes, type, status and *container operator*.

#### **119. Outturn reports**

- (1) After the *vessel* has completed its working the terminal operator must submit to the relevant *Revenue Office* outturn reports in respect of all *cargo* landed, shipped or transhipped at all *port* terminals on a per *vessel* basis and within the timeframes stipulated by the *Authority*.
- (2) The outturn report referred to in sub-rule (1) must contain the —
  - (a) *vessel's* details and voyage number;
  - (b) arrival and departure dates;
  - (c) terminal indicator;
  - (d) berth indicator;
  - (e) for containerised *cargo* —
    - (i) container number, indicator, size, type and status; and
    - (ii) *container operator*, and
  - (f) for bulk and breakbulk *cargo*—
    - (i) bill of lading number or mate receipt's number, together with a commodity description of goods, number of packages and mass; and
    - (ii) *vessel's agent*.

#### **120. Cancelling *cargo* documentation**

- (1) The applicable charges for cancelling *cargo* documentation to be submitted to the *Authority* is stipulated in the *Tariff Book*.
- (2) The *Authority* may raise a charge in respect of each *cargo* document, cancelling a previously submitted *cargo* document, and the charge is due and payable at the time that the cancelling *cargo* document is delivered to the *Authority*.
- (3) The *Authority* may accept cancelling *cargo* documentation only if the *cargo owner* or his or her *agent* has signed an undertaking to pay the additional charges that are stipulated in the *Tariff Book*.

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### **121. Cargo dues**

The *Authority* may require an exporter or importer of *cargo* and the *cargo agent* appointed to act on behalf of the importer or exporter, if such an *agent* is appointed, to furnish such security as the *Authority* deems fit for the payment of *cargo dues*.

### **122. Penalties**

The *Authority* may levy penalties as stipulated in the *Tariff Book* for late submission, non-submission or cancelling of *cargo* documentation.

## **CHAPTER 6: PLEASURE VESSELS**

### **123. Application of this chapter**

This chapter applies to *pleasure vessels* only.

### **124. Permission to approach, enter into, *shift* within or leave a port**

- (1) No *pleasure vessel* may approach, enter into, *shift* within or leave a *port* without the permission of the *Harbour Master*.
- (2) The *Harbour Master* may grant, refuse, withdraw or amend the permission.

### **125. Pleasure vessels to comply with applicable legislation**

The *owner* or *master* of a *pleasure vessel* must comply with all applicable legislation, including the Merchant Shipping (Collisions and Distress Signals) Regulations, 2005 and the Merchant Shipping (Small Vessel Safety) Regulations, 2002, which apply also within a *port*.

### **126. Pleasure vessels to make way**

*Pleasure vessels* must, at all times, keep out of the way of a *vessel* navigating in any channel or other area of the *port*.

### **127. Pleasure vessels to communicate with VTS**

The *Harbour Master* may require a *pleasure vessel* to communicate their arrival and departure to Port Control.

### **128. The *Harbour Master's* restrictions on pleasure vessels**

The *owner* or *master* of any *pleasure vessel* must obey the *Harbour Master's* restrictions relating to launching, speed, and area of operations or any other restrictions determined by the *Harbour Master* in respect of *pleasure vessels* within *port* limits.

### **129. Mooring only at places assigned by the *Harbour Master***

- (1) *Pleasure vessels* may be moored only at positions assigned by the *Harbour Master*.

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- (2) No *pleasure vessel* may be beached within *port* limits except with the prior permission of the *Harbour Master*.
- (3) The *Harbour Master* may issue written instructions about where *pleasure vessels* may be beached.
- (4) No *pleasure vessel* may be made fast to a channel marking buoy, light buoy, or other navigational aid or mark provided for the safety of *vessels*.

**130. No anchoring or mooring in a channel navigable by a vessel without *Harbour Master's* permission**

- (1) No *pleasure vessel* may be anchored or moored in any channel of a *port* that is navigable by a *vessel* except with the permission of the *Harbour Master*.
- (2) If the *Harbour Master* grants a *pleasure vessel* permission to anchor or moor in a channel that is navigable by *vessels*, then the *pleasure vessel* must, at all times, not interfere with *vessels* navigating in that channel.
- (3) If, for reasons beyond the control of the *owner* or *master* of the *pleasure vessel*, a *pleasure vessel* is moored at a berth or position that has not been specifically assigned to it by the *Harbour Master*, then —
  - (a) the *owner* or *master* of the *pleasure vessel* must immediately notify the *Harbour Master* that the *pleasure vessel* is so moored; and
  - (b) the *Harbour Master* may, at the expense of the *owner* or *master* of the *pleasure vessel*, take whatever action is necessary for the maintenance of safety, security, good order and the protection of the environment.

**131. Pleasure vessels not to be *in contact* with vessels**

No *owner* or *master* of a *pleasure vessel* may permit the *pleasure vessel* to come *in contact* with a *vessel* within the *port's* limits unless the *Harbour Master* authorises this.

**132. Damage to or displacement of navigational aids**

- (1) The *owner* or *master* of a *pleasure vessel* that fouls, displaces or damages a buoy or navigational aid or mark, must —
  - (a) immediately report the incident to the *Harbour Master*;
  - (b) within 24 hours after the incident took place, submit to the *Harbour Master* a full written report setting out the circumstances of the incident; and
  - (c) provide in *writing* any particulars that the *Harbour Master* requires.
- (2) The *owner* or *master* of a *pleasure vessel* that fouls, displaces or damages a channel marking, buoy, light buoy or other navigational aid or mark is liable for all costs incurred in the replacement or repair of that channel marking, buoy, light buoy or other navigational aid or mark.



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### **133. Pleasure vessels in need of assistance**

The provisions of rule 60 apply to *pleasure vessels* with the necessary changes required by the context.

### **134. Discharge of sewage in a port**

No *pleasure vessel* may discharge or dump sewage into *port* waters or any part of the *port* except into a facility dedicated for that purpose.

### **135. Weapons and explosives to be locked up and disarmed**

- (1) Before a *pleasure vessel* enters a *port*, the *master* of the *pleasure vessel* must ensure that all weapons and explosives on board the *pleasure vessel* are locked up in a secure place such as a gun safe and are disarmed.
- (2) Upon arrival in a *port*, the *master* of a *pleasure vessel* must declare to the *VTS* or Port Control whether any person on board his or her *pleasure vessel* is in possession of a weapon or explosives and, if so, the nature of the weapon or the explosive.

### **136. Permits for a *pleasure vessel***

- (1) No *pleasure vessel* may lie or be used in or operated from a *port* unless —
  - (a) *SAMSA*, or another authority acceptable to *SAMSA*, has granted the *owner* or *master* of the *pleasure vessel* a certificate of fitness; and
  - (b) the *Harbour Master* for that *port* has granted the *owner* or *master* of the *pleasure vessel* a permit to do so.
- (2) The *Authority* may determine —
  - (a) the manner in which applications for permits for *pleasure vessels* are to be invited, assessed and decided;
  - (b) in the *Tariff Book*, the fees payable for application for a pleasure vessel permit and the permit itself;
  - (c) the qualifications and suitable criteria that applicants for a permit must meet in order to obtain a permit; and
  - (d) subject to the *Act* and these rules, including the powers of the *Harbour Master* in terms of section 74(3), the terms and conditions of the permit.
- (3) The *Authority* may on good cause shown, refuse, suspend, withdraw or cancel a permit, provided it has followed a fair procedure before the decision is taken.
- (4) If an *owner* or *master* of a *pleasure vessel* fails to obtain a permit, the *Harbour Master* may remove or *shift* the *pleasure vessel* at the expense of the *owner* or *master* of the *pleasure vessel*.
- (5) The *Authority* will set out, in the *Tariff Book*, the fees, dues and fines applicable to *pleasure vessels in possession of a permit as contemplated in sub-rule (1)*.

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### **137. Visiting pleasure vessels**

*Pleasure vessels* visiting the *port* must pay port dues as stipulated in the *Tariff Book*.

### **138. Inspection of pleasure vessels**

The *Harbour Master* or any of the *Harbour Master's* staff may, in the interests of safety, security, the protection of the environment and the good order of the *port* inspect and examine the *pleasure vessel* and its equipment.

## **CHAPTER 7: SECURITY AND ACCESS**

### **139. The Authority is responsible for security**

Subject to the provisions of any legislation regulating other state security agencies, the *Authority* is responsible for the regulation and control of security within *port* limits.

### **140. Security officers operating in the port**

- (1) *Security officers operating within a port* must have been trained in accordance with the provisions of the ISPS Code and must be conversant with the provisions of the following documents —
  - (a) the ISPS Code;
  - (b) the Merchant Shipping (Maritime Security) Regulations, 2004; and
  - (c) any other relevant security legislation.
- (2) The *Port Security Officer* or his or her appointee may stop and interview any *security officer operating within a port* in order to establish whether the security officer —
  - (a) has been trained in accordance with the provisions of the ISPS Code; and
  - (b) is conversant with the documents referred to in sub-rule (1) and the standard operating procedures associated with his or her work.
- (3) In carrying out the functions contemplated in sub-rule (2), the *Port Security Officer* or his or her appointee must record in the *Authority's* Occurrence Book —
  - (a) the name of the person interviewed;
  - (b) the date when the interview took place;
  - (c) the *port* facility or the contracted private security firm to which the security personnel belongs; and
  - (d) his or her findings.

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- (4) The *Port Security Officer* or his or her appointee must discuss his or her findings with the *port* facility operator or the contracted security firm as soon as possible after the interview.
- (5) If, in the opinion of the *Port Security Officer*, it is apparent that the person interviewed is not conversant with the provisions of any or some of the documents referred to in sub-rule (1), the *Port Security Officer* must —
  - (a) bring this to the attention of the *port* facility operator or the contracted private security company to whom that security officer is associated; and
  - (b) give written notice that the deficiency be corrected within a period of one month.
- (6) If the matter is not remedied within the period specified in the notice, the *Authority* may —
  - (a) in the case of a port facility operator, report the matter to the Minister of Transport or the Director General of the Department of Transport, as may be required by relevant legislation, for appropriate action; and
  - (b) in the case of a contracted private security firm, terminate the authorisation to provide that service.

#### **141. Access permits are required for entry into a *port***

- (1) Subject to sub-rule (9), no person may enter a *port* without a valid access permit.
- (2) The *Authority* will designate an area or areas of the *port* where a person is not required to obtain an access permit.
- (3) The *Authority* will determine whether a permit is issued by the *Authority*, the operator of a facility within a *port*, or both.
- (4) The *Authority* may, in respect of an access permit issued by the *Authority* —
  - (a) determine the manner in which a permit is issued;
  - (b) determine the duration for which it is valid;
  - (c) set out in the *Tariff Book*, the fees, if any, payable for access permits;
  - (d) determine the conditions of access; and
  - (e) suspend, withdraw or cancel the permit.
- (5) The operator of a port facility may, with the approval of the *Authority*, in respect of an access permit issued by the operator —
  - (a) determine the manner in which a permit is issued;
  - (b) determine the duration for which it is valid;
  - (c) determine the conditions of access; and

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- (d) suspend, withdraw or cancel the permit.
- (6) The Authority may require the operator that issues an access permit as contemplated in sub-rule **Error! Reference source not found.**, to pay to the *Authority* the fees, if any, set out in the *Tariff Book* for access permits.
- (7) A person may be required to produce and show a valid access permit to an officer of the *Authority* or the operator of the relevant facility at any time while he or she is in the port, including at any exit point.
- (8) Despite anything to the contrary in these rules, entry into any part of a *port* or port facility within a *port* is subject to the security plans for that *port* and that port facility as provided for by the Merchant Shipping (Maritime Security) Regulations, 2004.
- (9) The master of a *vesse/* must ensure that all crew members of the *vesse/* have an identity document that complies with the Seafarers' Identity Documents Convention, 1958 or the Seafarers' Identity Documents Convention (Revised), 2003. The *Authority* will determine the date when it will no longer accept identity documents that are not in compliance with the Seafarers' Identity Documents Convention (Revised), 2003.
- (10) The following categories of persons may enter a *port* without an access permit —
- (a) persons authorised in terms of section 12 of the National Key Points Act No. 102 of 1980 to enter any National Key Point that is within *port* limits;
  - (b) officials who are empowered in terms of any legislation to enter a *port*;
  - (c) persons attending to emergencies, including doctors, paramedics and ambulance personnel attending to patients, fire fighters from local authorities and veterinary surgeons attending to animals.
- (11) The persons referred to in sub-rule (9) must carry a letter or card identifying the institution that they work for or identifying their membership of the relevant professional society, as the case may be.

#### **142. Compliance with the conditions of an access permit**

A person in a *port* must comply with the conditions of his or her access permit or permits, unless the person is in an area of the *port* that is designated as not requiring an access permit.

#### **143. Removal of persons and *motor vehicles* from a *port***

The *Authority* may remove or cause to be removed any person who or *motor vehicle* that fails to comply with the provisions of these rules, the *Harbour Master's* or *Authority's* instructions or the conditions of the access permit or *motor vehicle* access permit.

#### **144. Firearms**

- (1) No person may carry a firearm within a *port* unless the *Authority* has authorised that person to do so.

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- (2) The *Authority* may impose conditions upon the manner in which a firearm may be used or carried within a *port*.
- (3) Despite sub-rule (1), *vessels* that have firearms on board must comply with rule 27 and *pleasure vessels* that have firearms on board must comply with rule 135.
- (4) The provisions of this rule do not apply to members of the following organs of state who are on official business: government law enforcement agencies, including the South African Police Service (SAPS), the South African National Defence Force (SANDF), *customs* and the National Intelligence Agency (NIA).

#### **145. Entry points into a *port***

A person may only enter or leave a *port* through an entrance or exit designated by the *Authority* for that purpose.

#### **146. Motor vehicles in a *port***

- (1) A *motor vehicle* may only enter a *port* or be used in a *port* after the *Authority* has issued an access permit for that *motor vehicle*.
- (2) Despite sub-rule (1), the *Authority* may designate an area or areas of a *port* where a *motor vehicle* is not required to obtain an access permit.
- (3) The *Authority* will determine whether a *motor vehicle* access permit is issued by the *Authority*, the operator of a facility within a *port*, or both.
- (4) The *Authority* may, in respect of *motor vehicle* access permits issued by the *Authority* itself—
  - (a) determine the manner in which a permit is issued;
  - (b) determine the duration for which it is valid;
  - (c) require the holder of the permit to display proof of the permit in the *motor vehicle*;
  - (d) set out in the *Tariff Book*, the fees, if any, payable for *motor vehicle* access permits;
  - (e) determine the conditions of access; and
  - (f) suspend, withdraw or cancel the permit.
- (5) The operator of a port facility may, with the approval of the *Authority*, in respect of a *motor vehicle* access permit issued by the operator —
  - (a) determine the manner in which a permit is issued;
  - (b) determine the duration for which it is valid;
  - (c) require the holder of the permit to display proof of the permit in the *motor vehicle*;
  - (d) determine the conditions of access; and

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- (e) suspend, withdraw or cancel the permit.
- (6) The *Authority* may require the operator that issues a *motor vehicle* access permit as contemplated in sub-rule (5), to pay to the *Authority* the fees, if any, set out in the *Tariff Book* for *motor vehicle* access permits.
- (7) The categories of persons set out in rule 141(10) are not required to obtain a motor vehicle access permit.

#### **147. Rail traffic within port limits**

- (1) By virtue of section 3 of the National Railway Safety Regulator Act No. 5 of 2002, that Act applies within the *port's* limits. These rules do not derogate from that Act.
- (2) The *Authority* may, in the interest of safety, security, good order and the protection of environment, give directions to a train driver relating to the movement, stopping or parking of trains within a port.

### **CHAPTER 8: LICENCES AND REGISTRATION**

#### **148. Activities to be licensed or registered**

The *Authority* may require persons who carry out activities in the *ports* and at off-shore *cargo*-handling facilities to register or apply for a licence. These activities include —

- (a) fire protection and fire equipment installation and maintenance;
- (b) bunkering;
- (c) pollution control;
- (d) diving;
- (e) pest control; and
- (f) *vessel agents*.

#### **149. Activities requiring licensing or registration may not be carried out without a licence or registration**

If a licence or registration is required, no person may carry out an activity in a *port* or at an off-shore *cargo*-handling facility without having a licence or being registered.

#### **150. Determination of licences or registration**

The *Authority* may determine—

- (a) which activities carried out in the *ports* should be regulated by way of licence or registration;

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- (b) the manner in which applications for licences or registrations are to be invited, assessed and decided;
- (c) set out in the *Tariff Book*, the fees payable for applications for a licence or a registration, and the licence or registration itself;
- (d) the qualifications and other suitable criteria, including security clearances, that applicants for licence or registration must meet in order to be licensed or registered;
- (e) subject to the *Act* and these rules, including the powers of the *Harbour Master* in terms of section 74(3)(b), the terms and conditions of the licence or registration.

#### **151. Suspension, withdrawal or cancellation**

The *Authority* may, on good cause shown, suspend, withdraw or cancel a licence or registration provided that it has followed a fair procedure before the decision is taken.

### **CHAPTER 9: GENERAL**

#### **152. Port repair facilities**

- (1) In the interests of safety, security, good order and the protection of the environment, the *Harbour Master* may, in respect of any *port* repair facility, direct that priority be given to a *vessel* in a damaged or *unseaworthy* condition.
- (2) While in any *port* repair facility, no *vessel* may discharge effluent water, oil or refuse, except with the permission in *writing* of the *Harbour Master* or his or her appointee. The *Harbour Master* or his or her appointee may impose conditions upon the granting of permission in order to maintain safety, security, good order and the protection of the environment.

#### **153. The *Authority's* port repair facilities**

- (1) The *Harbour Master* determines the order of provision of *port* repair facility services.
- (2) In making the determination the *Harbour Master* will take into account the interests of safety, security, good order, the efficient working of the port and the protection of the environment.
- (3) The decision of the *Harbour Master* as to the use or turn of use of the *Authority's* *port* repair facility in all cases of dispute is final.

#### **154. Hot work permit**

- (1) No *hot work* may be performed on a *vessel* or *pleasure vessel* within a *port* without a permit issued by the *Harbour Master*.
- (2) No *hot work* may be performed on the shore within a *port* without a permit issued by the *Authority*.
- (3) The *Harbour Master* or the *Authority* may inspect the place where the *hot work* will be performed before it issues the permit.

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- (4) The *Harbour Master* or *Authority* may impose conditions upon the performance of the *hot work*.

#### **155. Repairs or maintenance to a vessel**

- (1) No external repairs or maintenance to a *vessel* may be carried out in a *port* except with the permission of the *Harbour Master*.
- (2) The *Harbour Master* may direct that precautionary measures be implemented or the *Harbour Master* may impose conditions upon the permission granted to ensure safety, security, good order and the protection of the environment.
- (3) If the *master* fails to comply with the *Harbour Master's* directives, the *Harbour Master* may withdraw his or her permission and order that work be stopped.
- (4) No internal repairs or maintenance to a *vessel* may be carried out in a *port* unless the *master* has —
- (a) advised the *Harbour Master* of the nature and extent of the repairs contemplated;
  - (b) obtained a *hot work permit* from the *Authority*; and
  - (c) taken adequate precautions to guard against the risk of fire occurring through or in consequence of the carrying out of the work.
- (5) If, in the opinion of the *Harbour Master*, the precautions taken are not adequate, the *Harbour Master* may order that the work be stopped until precautions to the satisfaction of the *Harbour Master* have been taken.

#### **156. Inspections and searches**

- (1) Subject to the provisions of any legislation —
- (a) the *Authority's* authorised officials may inspect and search any person, vehicle or trailer within *port* limits, including at the entry and exit points of the *port*; and
  - (b) no person may board a *vessel* within *port* limits without the permission of the *master* or person authorised by the *master*.
- (2) Despite sub-rule (1) and subject to the provisions of any applicable legislation —
- (a) the *Harbour Master* or any person authorised by the *Harbour Master* may board a *vessel* for purposes of investigating any matter related to the safety, security and protection of the environment of the *port*; and
  - (b) the *Authority's* authorised officers may board a *vessel* or enter any premises in the *port* for purposes of investigating any matter related to the safety, security and protection of the environment of the *port*.



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### **157. Fumigation of vessels**

- (1) No *master* may cause his or her *vessel* to be fumigated in a *port* except with the permission of the *Harbour Master*.
- (2) The *Harbour Master* may impose conditions upon any permission granted as contemplated in sub-rule (1), in order to maintain safety, security, good order or to protect the environment.

### **158. Late or incomplete notices**

- (1) The acceptance of a late or incomplete notice required in terms of these rules may be granted if there are special circumstances and it is in the interests of safety, security, the protection of the environment, good order and the efficient management and control of the *port*.
- (2) Application in respect of the late or incomplete notice must be sought from the *Authority* or the *Harbour Master*, as the case may be.

### **159. Advertising**

- (1) No person may, without the permission of the *Authority* —
  - (a) exhibit or cause to be exhibited any advertisement, placard, notice or sign on any land, building or structure; or
  - (b) distribute or cause to be distributed any literature within *port* limits.
- (2) No person may deface, damage or cause to be defaced or damaged any advertisement, placard, notice, or sign within *port* limits.

### **160. Prohibited actions**

- (1) No person within *port* limits may —
  - (a) for the purposes of avoiding prosecution, give a false name or address to an employee of the *Authority* on duty;
  - (b) be in a state of intoxication or behave in a threatening or violent manner;
  - (c) do anything wilfully or negligently that may cause injury to persons or damage to property or the environment;
  - (d) commit any nuisance or act of indecency or use any defamatory language;
  - (e) take photographs or film without the *Authority's* permission;
  - (f) write, draw or affix any defamatory matter upon any premises or property of the *Authority* within *port* limits;

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- (g) remove or deface the *writing* on a notice board or document set up or posted by order of the *Authority* or deface the *writing* on a board or a notice authorised by the *Authority* to be exhibited;
  - (h) obstruct or do anything likely to obstruct the authorised use of a *port* facility; and
  - (i) interfere with or hinder an employee of the *Authority* in the execution of his or her duty.
- (2) The *Authority* may exempt categories of persons from the prohibition referred to in sub-rule (1)(e).

#### **161. Dredging**

The *Harbour Master* will, as far as it is practicable and reasonably possible, ensure that the depth of the channels and the *port* is kept at a depth not less than the promulgated depths for channels, basins and berths of the *port*.

#### **162. Declaration of a wharf**

The *Authority* may at any time declare and define a certain area within the limits of the *port* to be a wharf on which *cargo* may be landed and from which *cargo* may be shipped in *vessels*.

#### **163. Breaking up and removal of wrecks in a port**

- (1) No person may break up or remove a wreck, hulk or *vessel* within *port* limits without the written permission of the *Harbour Master*.
- (2) The *Harbour Master* may impose conditions upon the granting of this permission in order to maintain safety, security, good order and the protection of the environment.
- (3) No permission will be granted unless the applicant has provided security to the satisfaction of the *Authority*, in an amount not exceeding the cost that the *Authority* estimates for breaking up and removal of the wreck.
- (4) If the applicant fails to remove every part of the wreck, hulk or *vessel* within the period stipulated by the *Authority*, the *Authority* may use the security to remove those parts of the wreck, hulk or *vessel* that have not been removed by the applicant. Any additional costs will be for the account of the applicant who undertook to remove the wreck.
- (5) This rule does not apply to historic wrecks.

#### **164. Information to be furnished by port users**

Despite the provisions of these rules, the *Authority* may request information from users of the *port* in relation to any of their activities within *port* limits and that information must be furnished to the *Authority* when requested.

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#### **165. Manner in which time is to be specified**

If a report or notice is made or given in terms of these rules and it requires a time to be specified, then the time must be specified in local time (UTC + 2), using the 24-hour clock system.

#### **166. Changes in information to be reported**

A person who provides information to the *Authority* pursuant to these rules must ensure that the *Authority* is provided with any significant change in the information as soon as it is reasonably possible.

#### **167. Liability of the *Authority***

Neither the *Authority* nor an employee or a representative of the *Authority* is liable for loss or damage caused by anything done or omitted by the *Authority*, the employee or the representative in good faith whilst performing any function in terms of these rules.

#### **168. Observance of other laws and conventions**

The provisions of these rules do not exempt any person from the due observance of the provisions of any other law or convention that applies within a *port*.

#### **169. Offences**

- (1) A person is guilty of an offence if he or she contravenes rule 7, 10(e), 34(1), 64(1), 64(2), 65(2), 65(4), 66, 75(1), 76, 79,80, 820,83(1), 83(1), 85(1), 86(1), 86(2), 86(3), 86(7), 86(8), 91, 96, 97, 104, 159, 141(1), 142, 0(1), 145, 0Error! Reference source not found., 0Error! Reference source not found. to Error! Reference source not found., 0Error! Reference source not found., 149, 156(1)(1)(b), 157(1), 158 or 163.
- (2) The *master* of a *vessel* is guilty of an offence if he or she contravenes rules 16(1), 20(1), 27, 30, 36, 54Error! Reference source not found., 54(1), 55, 56, 69, 70, 72, 84(3), 84(4), 88, 93, 101(1), 154(1), 154(2), 155(1), 155(4),
- (3) The *master* of a *pleasure vessel* is guilty of an offence if he or she contravenes rule 124(1),126, 131, 132(1), 133, 135, 136(1) or 154(1).

#### **170. Transitional arrangements**

A licence issued by the *Authority* or permission granted, order or direction given by the *Authority* or other action lawfully taken under repealed legislation remains valid until the licence, permission, order ,direction or action expires or is suspended or cancelled in terms of the *Act* or these rules.

Port Rules in terms of the National Ports Act No. 12 of 2005

**ANNEXURE 1 (RULE (1)(YY)) INSHORE VESSEL TRAFFIC SERVICES (VTS) ZONES**

Item	Column 1 <i>Vessel traffic services zones</i>	Column 2 Description
1	Saldanha Bay and approaches	All South African waters contained within— A. Cape Columbine 32°49'.6 S 017°50'.9 E B. 33°00'.0 S 017°30'.0 E C. 33°25'.0 S 017°45'.0 E D. Yzerfontein Point 33°21'.0 S 018°08'.6 E
2	Table Bay and approaches	All South African waters contained within— A. Bok Point 33°34'.0 S 018°18'.4 E B. 33°45'.0 S 018°02'.5 E C. 34°00'.0 S 018°10'.0 E D. Duiker Point 34°02'.4 S 018°18'.6 E
3	Port Elizabeth and approaches	A1 34°01.7' S 25°47.4' E, a line to St. Croix Island bearing 330° (T) to the shore high water mark. B1 33°54.3' S 25°50.0' E, a line to Cape Recife bearing 270° (T) to the shore high water mark.
4	Durban and approaches	A radius of 12 nautical miles from 29°50.2' S and 31°05.8' E to the shore high water mark.
5	Richards Bay and approaches	A radius of 15 nautical miles from south breakwater position 28°48.86' S and 32°05.85' E to the shore high water mark.