

## DEPARTMENT OF TRANSPORT

No. R. 432

GG 21136 / RG 6796

5 May 2000

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

### MERCHANT SHIPPING (SEAMEN'S DOCUMENTS) REGULATIONS, 2000\*

The Minister of Transport has, under section 356 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), made the regulations in the Schedule.

#### SCHEDULE

##### Interpretation

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

"**agreement with the crew**" shall be construed in accordance with section 102 of the Act;

"**approved**" means approved by the Authority;

"**contract of service**" means a contract of service (other than an agreement with the crew) in terms of which a seaman undertakes to serve in a ship;

"**contravene**", in relation to a provision of these regulations, includes failing or refusing to comply with that provision;

[Definition of "contravene" substituted by reg 38(a) GNR545/26301,30Apr2004]

"**port operations vessel**" . . .

[Definition of "port operations vessel" deleted by reg 38(b) GNR545/26301,30Apr2004]

"**record book**" means the Seaman's Record Book and Certificates of Discharge set out in Annex 1;

"**the Act**" means the Merchant Shipping Act, 1951 (Act No. 57 of 1951).

(2) In these regulations—

- (a) a reference, however expressed, to employment in a ship shall be read as a reference to service in the ship in terms of the agreement with the crew or a contract of service; and
- (b) a reference to the holder of a record book or to holding a record book shall be read as a reference to the lawful holder of the record book or to lawfully holding the record book, as the case may be.

##### Persons entitled to record book

2. (1) Subject to subregulation (2), a person is entitled to apply for a record book if he or she is employed—

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\* This is a consolidation incorporating amendments up to April 2004 (i.e. GNR545/26301,30Apr2004).  
Compiled by SAMSA Legal Office, 11 May 2004.

- (a) in a ship registered in the Republic; or
- (b) if the person is a South African citizen or is permanently resident in the Republic, in a ship registered outside the Republic,

and—

- (i) in respect of employment in a ship registered in the Republic, is not the holder of a document containing substantially the same information as a record book, issued by or under the authority of the government of another country; or
  - (ii) in respect of employment in a ship registered outside the Republic, is otherwise unable, for whatever reason, to obtain a document containing substantially the same information as a record book from or acceptable to the ship's flag state.
- (2) Notwithstanding subregulation (1), the following persons are not entitled to a record book:
- (a) Persons employed in vessels used solely for sport or recreation who receive no wages for their service;
  - (b) persons employed in a ship engaged on a coastal voyage solely for the purpose of trials of the ship, its machinery or equipment, where such persons are not ordinarily employed as masters or seamen;
  - (c) persons in the employment of the State who are not ordinarily employed as masters or seamen; and
  - (d) persons employed in a ship solely in connection with the construction, alteration, repair or testing of the ship, and not engaged in the navigation of the ship, unless such person is a member of the crew.

### **Application for record book**

**3.** (1) Application for a record book shall be made in the approved form by the applicant in person or through his or her employer or a duly authorized agent either of the applicant or of the employer.

(2) An application contemplated in subregulation (1) shall be lodged with a proper officer and shall, subject to subregulation (3), be accompanied by—

- (a) the relevant fee;
- (b) the applicant's official identity document or valid passport;
- (c) the applicant's original certificates of competency or qualification that are required to enable the proper officer to make the relevant entries in the record book;
- (d) documentary proof of the applicant having successfully completed the relevant prescribed pre-sea training (if any); and
- (e) two recent photographs, of size 65 mm by 40 mm, of the applicant.

(3) Where application is made through an employer or agent, there shall be lodged in lieu of the original documents and certificates referred to in subregulation (2)(b) to (d), copies of such documents and certificates duly certified by a commissioner of oaths as being true copies of the originals, and the photographs referred to subregulation (2)(e) shall be so certified as being a true likeness of the applicant.

### **First issue of record book**

4. The proper officer shall, after satisfying himself or herself that the applicant is entitled to a record book and that the particulars appearing in the application form are correct, transcribe the particulars into the record book to be issued to the applicant. The applicant shall sign the book in the space provided on page 5 before the proper officer or, in the case of an application contemplated in regulation 3(3), before a commissioner of oaths.

### **Certificate of discharge**

5. (1) When a seaman who has signed the agreement with the crew or who has entered into a contract of service is discharged from a South African ship, the master shall complete a certificate of discharge in one of the spaces provided in the record book issued to the seaman, and shall enter in such discharge all the particulars for the recording of which spaces are provided.

(2) (a) Where a seaman is, for whatever reason, not in possession of a record book, the master shall issue to the seaman an interim certificate of discharge in the form set out in Annex 2.

(b) The particulars appearing in an interim certificate of discharge shall, as soon as conveniently possible, be entered in the seaman's record book by a proper officer, whereupon the interim certificate shall be surrendered to that officer.

(3) In subregulations (1) and (2), reference to a record book shall, in relation to a seaman holding a document containing substantially the same information as a record book, issued by or under the authority of the government of another country, be taken to include reference to such a document.

### **Report on conduct, character and ability of discharged seaman**

6. When a seaman who has signed the agreement with the crew or who has entered into a contract of service is discharged from a South African ship and the master declines to express an opinion on the conduct, character and ability of the seaman, the master shall furnish to the proper officer before whom the discharge is made a report in the form set out in Annex 3, stating therein that he or she so declines.

### **Lost, mutilated, damaged or full record book**

7. (1) Application for a new record book to replace one that has been lost, mutilated or damaged, or that is full, shall be made in the approved form. In the case of loss, mutilation or destruction, a declaration concerning the circumstances thereof shall be made before a proper officer or, if there is no proper officer, before a commissioner of oaths.

(2) An application contemplated in subregulation (1), together with the relevant fee and accompanied by two recent photographs, of size 65 mm by 40 mm, of the applicant, duly certified by a proper officer or a commissioner of oaths as being a true likeness of the applicant, shall—

- (a) where there is a proper officer, be lodged with that officer; or
- (b) where there is no proper officer, be forwarded by the applicant to the nearest proper officer,

and the proper officer shall, if he or she is satisfied that the applicant is entitled to a record book and (as the case may be) that—

- (i) the applicant has lost his or her record book; or
- (ii) the applicant is the rightful owner of the record book and that the record book is mutilated or damaged to such an extent that it can no longer be used; or
- (iii) the applicant's record book is full,

issue to the applicant a new record book.

(3) A record book issued pursuant to subregulation (2)(i) or (ii) shall have the same force and effect as the original.

### **Duty of owner and master of South African ship**

**8.** It shall be the duty of the owner and the master of every South African ship to ensure that every person entitled to a record book who, after the date of commencement of these regulations, has signed the agreement with the crew of the ship or who has entered into a contract of service to serve in the ship, and to whom a record book has not been issued, makes application for such a book before being allowed to assume his or her duties in the ship.

### **Offences and penalties**

**9.** (1) Every master who contravenes regulation 5 or 6 shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months.

(2) Every owner or master who contravenes regulation 8 shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding one year.

(3) It shall be a defence for a person charged in terms of these regulations to show that he or she took all reasonable steps and used all due diligence to avoid commission of the offence.

### **Exemptions**

**10.** The Authority may grant exemption, on such terms (if any) as it may specify, from all or any of the provisions of these regulations (as may be specified in the exemption) for classes of cases or individual cases and may, after reasonable notice, alter or cancel any such exemption.

[Reg 10 substituted by reg 39 GNR545/26301,30Apr2004]

### **Repeal of regulations**

**11.** The Record Book Regulations, 1977, published by Government Notice No. R. 2080 of 14 October 1977, as amended by Government Notices Nos. R. 1590 of 15 July 1983 and R. 2438 of 19 October 1990, are repealed.

### **Transitional arrangements**

- 12.** Where—
- (a) before the commencement of these regulations, an application for a record book was made pursuant to the regulations repealed by regulation 11, but not finally dealt with; and
  - (b) the proper officer concerned is satisfied that the requirements of these regulations in respect of an application of the same kind are substantially the same as the requirements of the regulations repealed by regulation 11,

the proper officer shall treat that application as if it had been made pursuant to these regulations.

### **Title and commencement**

**13.** These regulations are called the Merchant Shipping (Seamen's Documents) Regulations, 2000, and come into operation on 15 May 2000.

**ANNEX 1**  
(Regulation 1)

**SEAMAN'S RECORD BOOK AND CERTIFICATES OF DISCHARGE**

Surname (in block letters) .....  
First names (in block letter) .....

**NAME, RELATIONSHIP AND ADDRESS OF NEXT-OF-KIN OR NEAREST FRIEND**

Name .....  
Relationship .....  
Address .....  
Address of holder (if different from above) .....

**NOTICE TO SEAMAN**

(1) This record book is a record of your service and should be produced either to the proper officer or to an employer when you are seeking employment. Without this book you may find it difficult to obtain employment at sea.

(2) It is the duty of every master to give to a seaman discharged from his or her ship a certificate of discharge specifying the period of service and the date and place of discharge. It is in your interest to ensure that full particulars in regard to your sea service are entered in this book.

(3) Should you desert or fail to join your ship your book will, after a period, be forwarded to the South African Maritime Safety Authority ("the Authority"), P.O. Box 13186 Hatfield 0028, Republic of South Africa. If you apply for its re-issue, it may be returned to you with an entry in the discharge and character columns that the engagement was not completed, but if you have wilfully or through misconduct failed to join your ship, the Authority may under section 179 of the Merchant Shipping Act 57 of 1951 withhold the book for such period as it thinks fit, and may refuse to furnish copies of your certificates of discharge or certified extracts of any particulars of service and character.

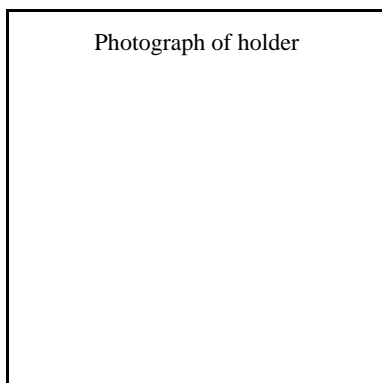
(4) In the event of your losing this book you should immediately notify the nearest proper officer or the Authority. Application for a new record book must be made to the nearest proper officer and two new photographs (size 65 mm by 40 mm), duly certified, and the relevant charge should accompany the completed application form. If you are able to prove that your book has been lost through shipwreck or fire aboard ship, no fee will be charged.

*N.B.*—Should this book come into the possession of any person to whom it does not belong, it should be handed to the nearest proper officer or be transmitted to the Authority.

**DECLARATION**

This is to certify that this record book has been issued in accordance with the provisions of the Merchant Shipping (Seamen's Documents) Regulations, and the photograph affixed is a true photograph of the holder of the record book.

.....  
Date ..... Place ..... Signature of proper officer



NAME OF SEAMAN

Surname (in block letters) .....

First names (in block letters) .....

Blood group ..... Rhesus.....

Height in cm	Colour of		Complexion
	Eyes	Hair	

Date, place and country of birth .....

Tattoo or other distinguishing marks .....

Nationality .....

Signature of seaman

DETAILS OF CERTIFICATES OF COMPETENCY OR QUALIFICATION

Grade	No.	Issuing authority and date	Certified: Signature of proper officer and date

DETAILS OF TRAINING COURSES

Date of course	Particulars of course	Certificate obtained	Certified: Signature of proper officer and date

CERTIFICATES OF DISCHARGE

(Compiled from lists of crew and official log-books, and copy of report of character if desired by the seaman)

No.	*Name of ship, official number and gross tonnage†	Date and place of		Rank	Description of voyage or nature of employment	Copy of report of character		Signature of (1) master; and of (2) proper officer; and official stamp
		*Engagement	Discharge			For ability	For general conduct	
1					1			(1) (2)
2					2			(1) (2)
3					3			(1) (2)
4					4			(1) (2)

\* These columns must be filled in at time of engagement.

† In engineer-officer's or marine motorman's book, insert power. In radio officer's book, insert gross tonnage and type of radio installation.

RECORD OF PREVIOUS SEA SERVICE

Date		Name of ship	Type of voyage	Rank
From	To			



**ANNEX 2**  
(Regulation 5)

**REPUBLIC OF SOUTH AFRICA**  
**SOUTH AFRICAN MARITIME SAFETY AUTHORITY**

Merchant Shipping Act, 1951 (Act 57 of 1951)

**INTERIM CERTIFICATE OF DISCHARGE**

(Section 113(2) of Act 57 of 1951)

(Note—The particulars appearing in this certificate shall as soon as possible be entered in the seaman's record book, whereupon the certificate shall be surrendered to a proper officer.)

Name of ship	Official number	Gross tonnage	*Power	Description of voyage or employment (e.g. foreign-going, coasting, fishing, etc.)

Full names of seaman (in block letters)	Date, place and country of birth	Rank	Details of certificates of competency or qualification (if any)

Date and place of engagement	Date and place of discharge	†Copy of report of character	
		For ability	For general conduct

I certify that the particulars appearing in this certificate are correct and that the above-named seaman was discharged accordingly.

Dated this ..... day of ..... (Year) .....

..... (Master)

Authenticated by

Date .....

.....

Port .....

Proper officer

.....

Signature of seaman

\* In the case of a radio officer, the type of radio installation on the ship must also be inserted.

† If the seaman does not require a report, enter "Endorsement not required".

**ANNEX 3**  
(Regulation 6)

**REPUBLIC OF SOUTH AFRICA**  
**SOUTH AFRICAN MARITIME SAFETY AUTHORITY**

Merchant Shipping Act, 1951 (Act 57 of 1951)

**REPORT BY MASTER IN TERMS OF SECTION 113(4) OF ACT 57 OF 1951**

*Remarks:*

(1) When a seaman is discharged and the master declines to express an opinion on the conduct, character and ability of the seaman, the master shall complete this form in duplicate and hand it to the proper officer, who shall retain one copy and forward the other copy to the South African Maritime Safety Authority, P.O. Box 13186 Hatfield 0028, Republic of South Africa.

(2) In Division D the master shall merely record that he or she declines to express an opinion on the aforesaid features. If the seaman desires it, a copy of this report shall be handed to him or her, or the master's statement shall be endorsed in the seaman's record book.

(3) This form must be signed by the master.

**A. DESCRIPTION OF SEAMAN**

Surname (in block letters)	First names (in block letters)	Date, place and country of birth	Rank	No. of record book

**B. DETAILS OF SHIP**

Name of ship	Port of registry	Official number	Gross tonnage	*Power

**C. DETAILS OF ENGAGEMENT AND DISCHARGE OF SEAMAN**

Port of engagement	Date of engagement	Description of voyage or employment	Port of discharge	Date of discharge

**D. STATEMENT BY MASTER**

.....  
 .....  
 .....

Port where form completed .....

Date .....

Signature of master

E. STATEMENT BY SEAMAN

.....  
.....  
.....

Port where statement made .....

Date .....

Signature of seaman

F. REPORT BY PROPER OFFICER

.....  
.....  
.....

Port .....

.....

Signature of proper officer

OFFICIAL DATE STAMP

\* In the case of a radio officer, the type of radio installation on the ship must also be inserted.