
NOTICE 440 OF 2006

Draft Merchant Shipping (Safe Containers Convention) Bill and Regulations: For comment

South African Maritime Safety Authority

Draft Merchant Shipping (Safe Containers Convention) Bill and Regulations: For comment

The South African Maritime Safety Authority (SAMSA) publishes for public comment the proposed measures set out in the accompanying Schedule. Written submissions should reach SAMSA on or before **12 May 2006** (**Note:** late submission may be disregarded). These should be addressed to the Chief Executive Officer (for the attention of Mr C Briesch) and may be either:

- hand-delivered to SAMSA, 161 Lynnwood Road, Brooklyn 0181, Pretoria; or
- mailed to SAMSA, PO Box 13186 Hatfield 0028; or
- faxed to (012) 366 2601; or
- emailed to cbriesch@samsa.org.za.

Telephonic enquiries should be directed to Mr C Briesch at (012) 366 2624. Attention is invited to the explanatory memorandum accompanying the Bill in Part 1 of the Schedule.

Schedule

Contents

| | |
|---------------|---|
| Part 1 | Draft Merchant Shipping (Safe Containers Convention) Bill, 2006 |
| Part 2 | Draft Merchant Shipping (Safe Containers Convention) Regulations, 2006 |

Draft Merchant Shipping (Safe Containers Convention) Bill and Regulations: For comment

3.11 The 1991 amendments were adopted on 17 May 1991 and entered into force on 1 January 1993. These amendments include the addition of a new Chapter V to Annex I concerning regulations for the approval of modified containers.

3.12 The 1993 amendments were adopted on 4 November 1993 and have yet to enter into force. These amendments concern the information contained on the safety approval plate. They also amend certain test loads and testing procedures required by the Convention.

4 Overview of Bill

4.1 The Bill proposes to re-assign functions related to the implementation and administration of the Convention, from the Minister and Department of Trade and Industry to the Minister of Transport and the South African Maritime Safety Authority. This will ensure that the functions are assigned to the appropriate authorities having responsibility for transport and related safety matters.

4.2 The Bill declares certain provisions of the Convention to have the force of law (clause 5) and empowers the Minister of Transport (clause 6) to make regulations for carrying out and giving effect to those provisions. The regulations will, for example, establish requirements for the approval, maintenance, repair, inspection, detention and disposal of containers.

4.3 The text of the Convention is set out in Part 1 of the Schedule to the Bill and incorporates several amendments to the Convention, adopted in 1981, 1983 and 1991, that were not incorporated in the 1985 Act.

4.4 Part 2 of the Schedule sets out the text of the amendments adopted in 1993, which have yet to enter into force. It is proposed that Part 2 enter into force only after the 1993 amendments have entered into force internationally, and after their acceptance by South Africa in accordance with Article IX of the Convention.

4.5 The administration and enforcement of the proposed measures are entrusted to the South African Maritime Safety Authority, which, in addition to powers conferred by regulation, is empowered to designate inspectors (clause 7), and to direct inquiries (clause 10) into certain accidents and incidents.

Part 2 **Draft Merchant Shipping (Safe Containers Convention) Regulations, 2006**

1 Title and commencement

- (1) These regulations are called the *Merchant Shipping (Safe Containers Convention) Regulations, 2006*.
- (2) These regulations commence on <<date>>.

2 Definitions

- (1) In these regulations, unless the context indicates otherwise, an expression given a meaning by the Act has the given meaning, and—

"Annex I" or "Annex II" means Annex I or Annex II to the Convention;

"authorised organisation" means an organisation authorised under regulation 7(1);

"the Act" means the *Merchant Shipping (Safe Containers Convention) Act, 2006* (Act No. <<>> of 2006).

- (2) Unless the context indicates otherwise, an expression used in these regulations and in the Convention (whether or not a particular meaning is given to it by the Convention) has, in these regulations, the meaning it has in the Convention.

3 Application

These regulations apply to new and existing containers used in international transport, except containers specially designed for air transport.

4 Approval

- (1) The owner of a container must ensure that it is approved and examined in accordance with Annex I and Annex II and has affixed to it, at a readily visible place, adjacent to any other approval plate given for official purposes, and where it will not easily be damaged, a Safety Approval Plate that conforms to the specifications set out in Annex I and contains the information, in at least the English language, specified in that Annex.

Merchant Shipping (Safe Containers Convention) Bill and Regulations: For comment

- (2) For subregulation(t), a container **may** be approved by—
 - (a) the government of a Contracting State;
 - (b) **an** organisation authorised by the government of a Contracting State;
 - (c) the Authority; or
 - (d) **an** authorised organisation.
- (3) The owner of **a** container must ensure that the Safety Approval Plate on the container is removed if—
 - (a) the container **has** been modified in a manner that would void the original approval and the information shown on the Safety Approval Plate;
 - (b) the container is removed from service and is not being maintained in accordance with regulation **5**; or
 - (c) the approval of the container has been revoked.

5 Maintenance

- (1) The owner of a container must ensure that it is maintained in a safe condition.
- (2) The owner of an approved container must ensure that it is examined in accordance with Annex **1**.
- (3) The owner of a container who, in the case of a corporation, has its head office in the Republic or, in the case of an individual, his or her domicile in the Republic must submit in writing to the Authority for approval the procedure the owner proposes to use in respect of periodic examination of containers and must set out in the submission the following information:
 - (a) the number and type of containers owned;
 - (b) the date of manufacture of the containers that are to be examined;
 - (c) the trade in which the containers that are **to** be examined are engaged;
 - (d) the name of the person who will be carrying out the examinations and that person's relevant experience;
 - (e) the examination procedure to be used;
 - (f) the maximum proposed period between two consecutive examinations, which period may not exceed 30 months;
 - (g) the method to be used to mark the date by which the next examination will be carried out;
 - (h) **any** other information that the Authority may request to enable it to decide whether to give its approval to the proposed procedure.
- (4) If the Authority—