

ANNEX 15

OFFENCES IN TERMS OF THE MERCHANT SHIPPING ACT 51 OF 1957

The following examples are a compilation of the most common contraventions and offences related to boating and do not replace the actual Act or Regulations which should still be consulted, especially where court action is intended.

Enforcement is never a popular activity and SAMSA would advise regulating bodies to train their enforcement officers on boating in general so that they are seen to exercise their powers in a fair and informed manner. SAMSA would be glad to assist with such training where invited to do so.

1. OFFENCES IN TERMS OF THE MERCHANT SHIPPING ACT 51 OF 1957

	MERCHANT SHIPPING ACT AMENDED AS IT APPLIES ON INLAND WATERS	Prescribed maximum fine	Agreed amount by Magistrate
Section 9(2)	<p>Every person -</p> <p>(a) Shall upon demand assist to the best of his ability any officer or other person or court in the exercise of any of the powers conferred by subsection (1);</p> <p>(b) Summoned under paragraph (iii) of subsection (1) whose reasonable expenses have been paid or offered to his shall attend at the time and place specified, and remain in attendance until excused by the officer or other person or court from further attendance;</p> <p>(c) Shall take under oath administered to him by any officer or other person or court under paragraph (iv) of subsection (1);</p> <p>(d) Shall answer fully and satisfactorily, to the best of his ability, all questions lawfully put to him by any officer or other person or court under paragraph (i) or (iv) of subsection (1), and, upon being required to do so, produce any book, document or thing in his possession or under his control: Provided that in connection with interrogation of any such person by, or the production of any such book, document or thing to any such officer or other person or court, the law relating to privilege, as applicable to a witness summoned to give evidence or produce any book, document or thing before a court of law shall apply; and</p> <p>(e) Upon being required to do so, shall subscribe to declaration of the truth of any statement made by him;</p>	R10000-00, or imprisonment for a period not exceeding six months	
Section9(3)	Any person who, after being sworn by an officer or other person or court in the exercise of the said powers, gives a false answer to any question put to him, or make a false statement on any matter, knowing that answer or statement to be false, shall be deemed to be guilty of perjury.	R40000-00, or imprisonment for a period not exceeding 2 years	

Section 10(1)	Every person who at the coming into operation of this section is building, or after such coming into operation intends to build, a vessel which when completed will be registered or licensed in the Republic, shall within sixty days of such coming into operation or before beginning to build the vessel, as the case may be, furnish to the proper officer at the port where the vessel will be registered or licensed or to the Authority such written particulars of the vessel as may be prescribed.	R5000.00 or imprisonment for a period not exceeding three months	
Section 68(1)	The owner or the master of a vessel which is not registered in the Republic or elsewhere and which operates on declared inland waters, shall be in possession of a licence issued to him in terms of this Act by a proper officer. <i>[NOTE: This section refers to the requirement for vessels not used solely for sport or recreation to be licensed by SAMSA]</i>	R10000.00, or imprisonment for a period not exceeding six months	
Section 72	No person shall use a vessel which in terms of section 68 is required to be licensed, for any purpose whatsoever, unless the owner or master of the vessel holds a valid and current licence issued in respect thereof.	R10000.00, or imprisonment for a period not exceeding six months	
Section 72A	(1) No vessel of less than three meters in length shall go to sea from any port in or from anywhere else on the coast of the Republic.	R5000.00, or imprisonment for a period not exceeding three months	
Section 73(1)	Subject to the provisions of this section, the owner and the master of every ship operating on declared waters shall ensure that there is employed on board that ship, in their appropriate capacities, the number of officers and other persons, duly certificated as prescribed by regulation, or deemed to be so certificated.	R20000.00 or imprisonment for a period not exceeding one year.	
Section 73 (6)	No person shall for the purpose of subsection (1) employ a master, ship's officer or rating as such without first ascertaining that he is duly certificated, or deemed to be so certificated, in terms of this Act.	R5000.00, or imprisonment for a period not exceeding three months	

Section 83(1)	<p>(1) A master or a ship's officer who holds a valid certificate of competency or service granted to him by a competent authority in another country shall not be engaged as such on a ship operating on declared waters, except as authorised under subsection (2) or by regulations; and while any such authorization remains in force, and if the conditions under which it was granted are complied with, the person so engaged shall be deemed to be duly certificated under this Act in respect of such ship, provided his certificate is of a grade appropriate to his station in such ship, or of a higher grade.</p> <p>(2) If the Authority is satisfied that a certificate referred to in subsection (1) is of corresponding value to any certificate of competency or service granted under this Act, it may, with or without conditions, permit the engagement on a ship operating on declared inland waters of a person who is the holder of such a certificate, and who possesses a knowledge of an official language of the Republic sufficient to enable him to communicate effectively in the performance of his duties.</p>	R5000-00, or imprisonment for a period not exceeding three months	
Section 201	<p>Carrying persons in excess-</p> <p>No master or owner of any vessel registered or licensed in the Republic shall anywhere, and no master of any vessel not registered or licensed in the Republic or the territorial waters thereof, permit persons to be on board or on or in any part of the vessel in excess of the number permitted by the vessel's local safety certificate, unless the Authority has given permission for the purpose of enabling persons to be moved from any place in consequence of a threat to their lives, authorize more persons to be carried on board a ship than are permitted by the said certificate or memorandum; and the carriage of persons in accordance with such authority shall not constitute a contravention of the provisions of this section.</p>	R5000-00 or imprisonment for a period not exceeding three months and, in addition, for every passenger in excess of the number permitted a fine of double the highest fare payable by any passenger on board.	
Section 203 (9)	<p>No person, including the owner or master of the ship referred to in subsection (8), shall cause or permit that ship to operate on declared inland waters, unless there is on board and in respect of that ship a local general safety certificate.</p>	R10000-00, or imprisonment for a period not exceeding six months	
Section 221(1)	<p>The owner and the master of every ship operating on declared inland waters shall ensure that, in addition to the ship's officers and other persons which in terms of section 73 must be employed on board that ship, there are employed as crew the number and description of persons prescribed.</p>	R20000-00, or imprisonment for a period not exceeding one year.	

Section 228 (1)	The master of every ship shall ensure that the compasses on board that ship are properly adjusted from time to time, in accordance with regulations.	R10000-00, or imprisonment for a period not exceeding six months	
Section 232 (1)	<p>(1) The master of a vessel operating on declared inland waters shall not use or display or cause or permit any person under his authority to use or display;</p> <p>(a) Any signal which by regulation is declared to be a signal of distress, except in the circumstances and for the purpose prescribed;</p> <p>(2) Any person convicted of contravening subsection (1) shall be liable, in addition to any penalty imposed under section <i>three hundred and thirteen</i>, to pay compensation for any labour undertaken, risk incurred or loss sustained in consequence of the signal used or displayed having been taken to be a signal of distress.</p> <p><i>[Note: This section refers to the illegal use of flares and such items]</i></p>	R10000-00, or imprisonment for a period not exceeding six months	
Section 240	No person, including the owner or master, shall cause or permit a vessel to be operated on inland waters in an unseaworthy state.	For vessels less than 25GT R10000-00, or imprisonment for a period not exceeding six months. For vessels of 25GT and over but less than 100GT, R20000-00, or imprisonment for a period not exceeding one year.	

Section 259(1)(c)	<p>Report to proper officer of accidents to and on board ships</p> <p>(1) The owner or master of any ship - (c) on which any casualty resulting in loss of life or serious injury to any person or an accident has occurred, shall within 24 hours after the event occurred, report the event to the nearest proper officer in the form prescribed, stating the nature of the event and of the probable cause thereof, the name of the ship, her official number, the port to which she belongs, the place where the event occurred and the place where the ship then is, and giving all other available relevant information: Provided that any event resulting in loss of life or serious injury shall forthwith be so reported by the fastest means of communication available.</p>	R60000-00 or imprisonment for a period not exceeding three years.	
Section 314	<p>Bribery - No person shall, in respect of a matter relating to this Act -</p> <p>(a) Not being authorised so to do, give or promise to give, directly or indirectly, any reward to an officer or a person who is employed by the Government, or upon whom any duty is imposed or to whom any function is entrusted by or under this Act, in respect of the performance or non-performance, by any such officer or person, of his employment, duty or function; or</p> <p>(b) Agree with or propose to any such officer or person to do, or permit anything in contravention or permit anything in contravention or evasion of this Act, or</p> <p>(c) Being an officer or a person referred to in paragraph (a) -</p> <p>(i) Demand or receive except from or through the Government or in accordance with the provisions of this Act, any reward in respect of the performance or non-performance of his employment, duty or function; or</p> <p>(ii) By any wilful act, neglect or default do or permit or agree to do or permit anything in contravention or evasion of this Act.</p>	R40000-00, or imprisonment for a period not exceeding 2 years	

Section 315	<p>Forgery and other fraudulent acts - No person shall -</p> <p>(a) Forge any document issued under this Act; or</p> <p>(b) Make any false representation for the purpose of procuring the issue of any document under this Act, or for the purpose of inducing any person to do any act which by this Act he is authorised to do; or</p> <p>(c) Produce or otherwise put off any forged document purporting to be a document issued under this Act, which he knows to be forged; or</p> <p>(d) Knowingly produce or otherwise use any document issued under this Act which has been cancelled or suspended or which has expired or to which he is not entitled; or</p> <p>(e) Make in any document, produced or delivered to any person authorised to receive it under this Act, any statement which he knows is untrue in any particular; or</p> <p>(f) Produce or deliver any document which contains any statement which he knows is untrue in any particular to any person authorised to receive it under this Act; or</p> <p>(g) Lend to any person who he knows it not entitled thereto a document issued under this Act or allow any such document to be used by any such person.</p>	R40000-00, or imprisonment for a period not exceeding 2 years	
Section 316	<p>No person shall-</p> <p>(a) damage, destroy, conceal or dispose of any vessel or goods to prevent the detention, forfeiture or seizure thereof under this Act; or</p> <p>(b) rescue, damage or destroy any vessel or goods detained, forfeited or seized under this Act, or</p> <p>(e) being the master of the vessel proceeding to sea, wrongfully take to sea any officer authorised to detain the vessel or any surveyor or other officer when on board the vessel in the execution of his duty; or</p> <p>(f) insult, resist, hinder or mislead any person or court upon whom any duty is imposed or any power is conferred or to whom any function is entrusted by or under this Act, in the discharge of that duty or the exercise of that power or the performance of that function, refuse or fail to give all reasonable assistance, when called upon to do so, to any such person or court in such discharge, exercise or performance, when called upon to do so, to any such person or court in such discharge, exercise or performance, or hinder or prevent any other person from assisting any such person or court in such discharge, exercise or performance; or</p> <p>(g) hinder or prevent any witness from attending in obedience to any summons issued under this Act, or</p> <p>(h) hinder or prevent the service of any document under this Act.</p>	R20000-00 or imprisonment for a period not exceeding one year.	
Section 316(c)	<p>Obstructing administration of Act - No person shall-</p> <p>(c) Being the owner or master of a vessel which has been detained under this Act, or any other person under the control of either of them, cause or permit the vessel to proceed to sea [operate] without the permission of the proper officer</p>	R40000-00, or imprisonment for a period not exceeding 2 years	

Section 316(d)	<p>Obstructing administration of Act No person shall - (a) Knowingly receive or have in his possession any vessel or goods forfeited under this Act</p>	<p>Fine, of treble the value of the ship or goods received or had in possession, or R12 000-00, whichever is the greater, or imprisonment for a period not exceeding three years.</p>	
Section 320	<p>Obstruction of navigation of ship - No person shall without reasonable excuse do anything to obstruct or injure any of the equipment of any ship wherever registered, or obstruct, impede or molest any of the crew in the navigation and management of the ship or otherwise in the execution of their duties about the ship.</p>	<p>R20000-00, or imprisonment for a period not exceeding one year.</p>	

2. OFFENCES IN TERMS OF THE MERCHANT SHIPPING (LICENSING OF VESSELS) REGULATIONS 2002

	LICENSING OF VESSEL REGULATIONS 2002	(Prescribed maximum fine for all is 3 months or R5000) Suggested AG fine	Agreed amount by Magistrate
REG 6	Failure of the owner of a licensed vessel to ensure that the official number (marking) assigned to the vessel is inscribed and continued as directed by the proper officer.	R1000-00	
REG 7(1)	Failure of the new owner to report the change of ownership to the nearest proper officer within 21 days and forward the local safety certificate for endorsement.	R1000-00	
REG 8(1)	Failure of the owner to report any changes in the name, designation or operation of the vessel to which that licence applies	R1000-00	

REG 9(1)	<p>Failure of the owner of a licensed vessel to inform the Authority when a vessel:</p> <ul style="list-style-type: none"> ~ Is permanently transferred from one place to another; ~ Ceases to be a licensed vessel in terms of section 68 of the MSA; Within 21 days 	R1000-00	
----------	---	----------	--

3. OFFENCES IN TERMS OF THE MERCHANT SHIPPING (SMALL VESSEL SAFETY) REGULATIONS 2007

		(Prescribed maximum fine for all is 1 Year or R20000) Suggested AG fine	Agreed amount by Magistrate
Reg 6 (3)	<p>It is an offence to sell a vessel that does not comply with the construction requirements of these regulations except where accompanied by a letter or certificate detailing the extent to which the vessel does not or cannot comply.</p> <p><i>NOTE : A seller must produce a proper buoyancy certificate, however, a seller may sell a non-compliant vessel if they make a full declaration of the non-compliance at the time of sale.</i></p>	R2000-00	
	Regulation 7 - Safety Appliances and Equipment		
REG 7 (1) (a)	Failure to provide and maintain safety appliances and equipment on board a vessel in accordance with the requirements of Annexure 2.	R200-00 PER ITEM	
REG 7 (1) (b)	Failure to comply with other requirements of Annexure 2 in relation to the vessel. (Maintenance requirements of liferafts, fire extinguishers, EPIRB, marking of equipment and trailer)	R200-00	
REG 7 (2) (c)	Operating a commercial vessel of less than 7 meters in length within 1 nautical mile from shore while failure to wear an approved buoyancy aid or life jacket of the kind required by these regulations.	R500-00	
REG 7 (2) (d)	Failure of the skipper of any vessel to ensure that every child under 12 years of age on deck at all times wears an approved buoyancy aid or lifejacket of the kind required by these regulations whilst the vessel is underway. (i.e. Not at anchor or made fast to the shore or aground)	R500-00	
REG 7 (2) (f)	Failure to wear an approved buoyancy aid or life jacket of the kind required by these regulations whenever the vessel is launched, or operated in the surf, or otherwise operates in rough sea or water conditions.	R500-00	

REG 7 (5)	Failure of the skipper or any person operating any power driven vessel of more than 15 horse power and of 9 meters or less in length to attach an operational kill switch to the operator. Sub Regulation (5) does not apply to vessels operating through a surf zone.	R500-00	
Regulation 8 - Safety of Navigation			
REG 8 (1) (a)	Failure of the skipper to operate the vessel in accordance with the Collision Regulations. (i.e. the "Rule of the Road") MERCHANT SHIPPING (COLLISION AND DISTRESS SIGNALS) REGULATIONS, 2005	R2000-00	Agreed amount by Magistrate
REG 8 (1) (b)	Failure of the skipper to operate the vessel in accordance with the conditions and limitations specified in the Local Safety Certificate or Certificate of Fitness issued in respect of the vessel	R2000-00	
REG 8 (1) (c)	Failure of the skipper of a vessel to operate in accordance with the conditions and limitations specified in the skippers certificate of competence	R2000-00	
REG 8 (1) (d)	Failure of the skipper to adhere to the instructions and specifications of the manufacturer of the vessel	R1000-00	
REG 8 (1) (e)	Failure of the skipper to operate in accordance with the law in force in the area in which the vessel is being operated	R2000-00	
REG 8 (1) (g)	Failure of the skipper operating in sheltered waters to operate the vessel accordance with the rules (if any) issued by a regulating authority and governing vessel operations in those waters. (Tidal Lagoons or tidal rivers, inside ports and on inland waters)	R2000-00	
REG 8 (2)	Any person operating a vessel in a careless manner, without reasonable consideration for other persons or without due care and attention, taking into account: (a) Weather conditions; (b) Visibility; (c) The presence of persons or vessels in the body of water including the concentrations of persons and vessels in the immediate vicinity of the vessel; (d) The speed and manoeuvrability of the vessel with special reference to stopping distance and turning capability in the prevailing conditions; (e) Light conditions including the presence of back ground light from shore lights or from backscatter of the vessel's own lights; (f) Water conditions, currents and the proximity of navigational hazards; (g) Any other hazards that could adversely affect the safety of persons or property	R1000-00	

REG 8 (3)	Failure of the skipper of any power driven vessel to carry a sufficient quantity of fuel for its intended voyage together with as reserve of not less than 25 percent of that quantity	R1000-00	
REG 8 (4)	Any person operating a vessel under 3 meters at sea, outside of an area designated for that use by a regulating authority or more than 1000 meters offshore	R1000-00	
Regulation 10 - Operational Limits			
REG 10 (1)	Any person operating a vessel beyond the maximum distance from shore as prescribed in the local general safety certificate or certificate of fitness issued in respect of the vessel, subject to sub regulation (2)	R2000-00	
REG 10 (2)	Any person operating a passenger vessel more than 5 nautical miles from shore and 15 nautical miles from a safe haven in the Republic.	R4000-00	
Regulation 11 - Carrying persons in excess			
REG 11(1)	Except in an emergency, either the owner or skipper has operated a vessel while the number of passengers, including crew members, exceeded the number determined by the certifying authority and specified in the Local Safety Certificate or Certificate of Fitness issued in respect of the vessel.	R500-00 per person	
Regulation 14 - Crewing: Responsibilities of owner			
REG 14 (1)	Failure of the owner of a vessel to ensure that the vessel is operated by or under the constant guidance of a skipper who is physically able and of sound mental health and who, in the case of (a) A small commercial vessel, or (b) A Pleasure vessel that is either a sailing vessel of 9 m or more in overall length or a power driven vessel with propulsion power exceeding 15 horse power; holds a valid certificate of competence issued by a certifying authority	R2000-00	

	Regulation 15 - Crewing: Special endorsements for passenger vessels and dive vessels		
REG 15 (1)	Operating a Commercial Small Vessel that is a passenger vessel without an appropriate endorsement on his / her certificate of competence	R2000-00	
REG 15 (2)	Operating a Commercial Small vessel that is a dive support vessel or dive charter vessel without an appropriate endorsement on his / her certificate of competence.	R1000-00	
	Regulation 17 - Crewing: Physical and mental fitness		
17 (1)	Any person operating a vessel where they are not physically able to do so and not of sound mental health	R1000-00	
17 (2)	Any person operating a vessel or any of the vessel's equipment or machinery while under the influence of intoxicating liquor or a drug having narcotic effect to such an extent that his/her capacity to fulfil his/her responsibilities are impaired.	R2000-00	
REG 17(3)	(a) Any person operating a vessel or any of a vessel's equipment or machinery while the concentration of intoxicating liquor in any specimen of blood taken from any part of his or her body is 0,05Grams or more per 100 millilitres; or (b) While the concentration of intoxicating liquor in any specimen of breath exhaled by such person is 0,24 milligrams or more per 1000 milliliters	No AG	
REG 17(5)	Any person refusing to give a specimen of blood or a specimen of breath.	R2000-00	
	Regulation 18 - Crewing: Age limitations		
REG 18 (1)	Any person operating a commercial small vessel while under the age of 18 years	R1000-00	

REG 18 (2)	<p>Any person under the age of 16 operating a power driven pleasure vessel having a propulsion power exceeding 15 horse power unless:</p> <p>(a) Under the guidance and constant supervision of a person who is the holder of a valid certificate of competence;</p> <p>(b) In the case of a single handed vessel that person does so under the guidance and supervision of an Authorised Agency or a person referred to in (a); or</p> <p>(c) That person is certified by an Authorised Agency to be a competent person engaged in training for competitive sport.</p>	R1000-00	
Regulation 19 - Crewing: Unauthorised liquor or illicit drugs			
REG 19(2)	<p>Note that this regulation applies only to commercial vessels!</p> <p>(a) Any person taking unauthorised liquor or drugs on board a vessel;</p> <p>(b) Any person on board a vessel in possession of unauthorised liquor or drugs;</p> <p>(c) Any person allowing another person to take on board or have in his/her possession on board a vessel unauthorised liquor or drugs;</p> <p>(d) Any person intentionally obstructing another person in the exercise of powers conferred on that person by sub-regulation (3) (i.e. Enforcement Officers)</p>	R2000-00	
Regulation 21 - Special provisions for unregistered pleasure vessels: Recording and Marking of vessels			
REG 21(1)	Owner and/or skipper of a pleasure vessel has caused the vessel to be operated without a valid 'approved marking'	R1000-00	
21(4)	Failure of the 'owner' of the vessel to display the approved marking as directed	R500-00	
21(5)	Failure of the owner to notify the Authority or relevant agency of any change of ownership or change in particulars of the owner within 14 days after the change occurs	R500-00	
21(6)	Failure of the owner to notify the Authority or relevant agency that the vessel has been permanently withdrawn from service, or stolen, or has been abandoned lost or destroyed, within 14 days after the change occurs	R500-00	
21(8)	Failure to remove the approved marking from a vessel after receiving instructions to that effect from the Authority or the relevant agency.	R500-00	

	Regulation 22 - Special provisions for unregistered pleasure vessels: Vessel not to be used without Certificate of Fitness		
REG 22 (1)	Owner and/or skipper operating a vessel anywhere in the republic without a valid Certificate of Fitness on board in respect of that vessel	R2000-00	
	Regulation 27 - Special provisions for unregistered pleasure vessels: Surrender of expired or cancelled Certificate of Fitness		
REG 27(1)	Failure to surrender upon demand to the Authority or Agency any Certificate of Fitness which has been cancelled or expired.	R1000-00	
	Regulation 28 - Special provisions for unregistered pleasure vessels: Custody and production of Certificate of Fitness		
REG 28	Failure to ensure that the original certificate of fitness issued in respect of a vessel, or a certified copy thereof, is kept available on board the vessel for inspection at all reasonable times	R500-00	
	Regulation 29 - Special provisions for unregistered pleasure vessels: Maintenance of condition after inspection		
REG 29	Failure of the owner and skipper to maintain the condition of the vessel and it's equipment structure, appliances, arrangements and materials so as to comply with the regulations	R1000-00	
	Regulation 36 - Additional special provisions: Supplementary requirements for water-skiing		
REG 36(2)	No person may water-ski: (a) In waters other than those indicated by the regulating authority; (b) Between the hours of dusk and dawn; (c) Under the influence of liquor or drugs	R1000-00	

REG 36(3)	Water skiers: (a) Must wear a suitable flotation aid as prescribed in Annex 1; (b) Must have knowledge of standard hand signals as prescribed by Marine Notice; (c) May not purposefully let go of the rope in a congested area; (d) Must conduct themselves in such a way as not to create a nuisance or danger to other water users	R500-00	
REG 36(4)	Owner or skipper using a steel or other metallic rope or wire to tow a water skier	R500-00	
REG 36(5)	Failure of the skipper of the towing vessel to ensure that there is a competent person in the vessel to observe the water skier.	R500-00	
REG 36 (6)	Failure of the skipper of the towing vessel to carry a 500 millimetre square red flag in the vessel and cause it not to be clearly exhibited when the vessel is engaged in picking up a water-skier or dragging a tow rope	R500-00	
REG 36(7)	Failure of the skipper after have dropped the tow to either move to the nearest safe place, stop and pull in the tow, or reduce speed and immediately return to pick up the water-skier.	R500-00	
REG 36 (8)	The skipper of a vessel may not follow closer than 100 meters in the wake of another vessel towing a person, water skier or a tow-able aquatic or airborne device	R500-00	
	Regulation 37 - Additional special provisions for personal watercraft, power driven vessels not exceeding 15HP, sailing vessels of less than 7 metres in overall length, and rowing or paddling vessels		
REG 37(1)	Failure to enter sheltered waters from those areas or places permitted by the regulating authority; or Failing to operate as directed in any areas under the jurisdiction of a regulating authority	R1000-00	
REG 37 (2)	Personal watercraft or jet-skis under 3 metres failing to operate in demarcated areas specifically set aside by the regulating authority or having proceeded more than 1000m offshore (in the sea).	R1000-00	
REG 37 (3)	Failure of power driven vessels not exceeding 15HP, sailing dinghies and non-power driven vessels of less than 7m in overall length to have sufficient buoyancy to keep the vessel afloat when completely swamped; or Failure to carry the safety equipment provided for. (Mainly a Life Jacket, especially on inland waters)	R1000-00	