

MARITIME LAW ASSOCIATION OF SOUTH AFRICA

PROPOSED AMENDMENTS TO THE ADMIRALTY JURISDICTION REGULATION ACT 105 OF 1983, AS AMENDED

NOTICE TO ALL MEMBERS

1. At the coming AGM during August 2010 a number of proposed amendments to the Admiralty Jurisdiction Regulation Act 105 of 1983 (the Act) will be tabled for consideration by the members of the MLA. Those proposed amendments approved by the members attending the AGM will be forwarded to the State Law Advisor as recommendations of the MLA with a view to being incorporated in future legislation.
2. The proposed amendments to the Act were originally dealt with by a Durban Committee consisting of Andrew Pike and Andrew Robinson and a Cape Committee consisting of Gys Hofmeyr, Peter Hazell, Mike Wragge and James Mackenzie. Subsequently these two committees were combined to form the present Committee under the chairmanship of Andrew Robinson. Proposals made by the Committees have from time to time been debated at meetings of the Durban and Cape Chapters and at AGMs.
3. The present Committee has finalised its recommendations. The various proposals that represent the majority view of the Committee and the thinking behind these proposals are set out in the Memoranda referred to below. In addition, a copy of the Act highlighting the proposed amendments annotated with reference to the Memoranda where these proposals are discussed, has been prepared.
4. Memoranda I, IV and V and Annexure A to Memorandum VII deal with the proposed amendment of section 6. Memorandum I deals with the

background to section 6 and the then Durban and Cape Committees' recommendation set out in Annexure A to Memorandum I. The Durban Chapter was not in favour of this recommendation and held the view that, except for a minor change, the section should be left as is. The motivation for this view, and the amendment proposed by the Durban Chapter, are set out in Memorandum IV. Gys Hofmeyr responded in Memorandum V disagreeing with the Durban Chapter's proposal and dealing in particular with the reasons furnished by the Durban Chapter for its view. The current Committee, for the reasons set out in Memoranda I and V, remains in favour of the amendment proposed by the then Durban and Cape Committees (Annexure A to Memorandum I) with the minor change set out in Annexure A to Memorandum VII.

5. Memorandum II sets out the various matters which at that date had not been the subject of agreement between the then Durban and Cape Committees.
6. Memorandum III sets out in section A the matters which were agreed by the then Durban and Cape Committees and section B set out certain proposals rejected by these Committees.
7. Memorandum IV from the Durban Chapter, apart from dealing with section 6, contains comments on other proposals set out in Memorandum II.
8. Memorandum VI is a response to Memorandum IV in so far as it deals with matters other than section 6.
9. Memorandum VII represents the recommendations of the present Committee to Exco. Annexure A to this Memorandum sets out the Committee's final recommendation in regard to the proposed amendment to section 6.

10. It should be noted that in regard to Memorandum III setting out in section A matters in respect of which agreement had been reached, agreement was, in some respects, conditional on the adoption of the proposed amendment to the definition of ~~maritime claims~~ set out in para 3 of Memorandum II.

11. It has been decided by Exco that the AGM this year will be held at Franschhoek over the period Friday 20 August to Sunday 22 August. On the Friday, commencing at 1.30pm. the proposed amendments will be debated and voted upon with a possible video link-up with members of the Durban Chapter unable to attend the AGM. All agreements and proposals are at this stage provisional and members are free to advance any comments for debate. In order to avoid suggestions being made for the first time without notice and to achieve finality, it has been decided that members should not furnish their comments in writing to the MLA secretary, Anisa Govender, (email address anisa@vanveldenpike.com) by **no later than Wednesday 11 August 2010**. In the absence of comment on any of the proposed amendments, it will be assumed that they are agreed and there will be no debate on the amendment in question. Those amendments will, without further debate, go forward as the recommendations of the MLA. In commenting, you are free to make proposals in regard to those recommendations or in regard to proposals that have been rejected, or to make proposals of your own. If any member has no specific proposal to make but nonetheless wishes to have a particular amendment debated, please let Anisa know in good time before the meeting. All amendments in respect of which comment is received will be debated on 20 August.

12. The amendment of the Act is a matter of considerable importance and we would ask you to give it your close consideration and we look forward to your input. In this regard we draw the attention of members to the fact that the most far-reaching proposals are those in respect of the amendment to section 6 (Memoranda I, IV and V and the

Annexures A to Memoranda I and VII) and the amendment of section 1 set out in para 3 of Memorandum II. Both affect practice fundamentally but are, at this stage, the subject of conflicting views.

13. All the documents referred to above will be emailed to you and placed on the MLA website. A further document has been prepared which includes, not only the above Memoranda, but other documents relating to proposed amendments which includes, inter alia, some early suggestions in regard to the amendment of section 6. This document will be made available if you direct your request to Anisa Govender.

14. We look forward to seeing you on Friday 20 August.

COMMITTEE MEMBERS

8 July 2010