



Ship Type: All Trade Area: South Africa

Bulletin 500 - 12/06 - National Ports Act 12/2005 - South Africa

Members are alerted to a new Act in South Africa causing concern with regard to pilot's liability being shifted to the owner or master, and possible changes to the collection of cargo dues.

The State President in a Government Gazette published recently, declared that The National Ports Act 12 of 2005 (NP Act) came into operation on 26th November 2006.



Of particular concern to the industry is the threatened change to the collection of cargo dues, where it seems the NPA will seek to pass the obligation for the collection of dues onto the shipping lines and presumably via them onto the ships agents. That this should in the interests of transparency, if it is to be formally proposed, have been part of an amended tariff provision or new regulations, submitted, aired, debated and resolved by the Port Regulator and if necessary thereafter on review to the Courts, seems obvious. But it seems that the Authority is seeking to avoid that route.

What is notable with immediate effect however, is a change in the position of the pilot, who to date has been the servant of the NPA and for whose gross negligence the Administration was liable:

Section 76 of the new Act provides that neither the Authority nor the pilot is liable for loss or damage caused by anything done or omitted by the pilot in good faith whilst performing his or her functions in terms of the Act. Further, notwithstanding any other provision of the Act, the pilot is deemed to be the servant of the owner or master of the vessel under pilotage and such owner or master is liable for the acts or omissions of the pilot.

Members wishing to know more about the Act and its many far reaching provisions can use the link below to download a general memo on the Act, prepared by the Club's legal correspondents in Durban.

<http://www.wylie.co.za/}uploads/MEMO%20ON%20NP%20ACT%20ANISA%2011.12.2006.doc>

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