

CHARTING A NEW COURSE: THE MERCHANT SHIPPING BILL AND ITS WITHDRAWAL

South Africa's maritime sector is a cornerstone of its trade and economic infrastructure. The Merchant Shipping Bill, tabled in Parliament in May 2023, aimed to align domestic maritime law with international standards and national policy objectives. It was introduced to modernise South Africa's maritime legal framework, replacing the outdated Merchant Shipping Act of 1951. However, its legislative journey was abruptly halted with its withdrawal in October 2025.

The Merchant Shipping Bill sought to address several critical areas in the maritime industry, namely:

1. **Safety and Enforcement:** The Bill provides for the powers and duties of the Minister and the South African Maritime Safety Authority involving inspecting vessels, investigating marine casualties and enforcing safety protocols.
2. **Labour rights of seafarers:** It provides for the application of South African labour laws incorporating the employment conditions of seafarers, their health and well-being and protection against abandonment and exploitation.
3. **International compliance:** The Bill includes maritime conventions into domestic law in order to ensure that South Africa meets its obligations under treaties ratified through the International Maritime Organization.
4. **Cabotage Regulations:** The Bill states that foreign-owned vessels will not be permitted to transport cargo between South African ports unless they are flagged or owned locally.

Although the Bill promised a shift toward greater regulatory control and domestic sovereignty, there were issues raised by industry players, labour unions and legal experts. Freight forwarders and exporters were concerned with the cabotage regulations as it has been argued that restricting foreign vessels could lead to logistical challenges, increased costs and reduced efficiency. The new systems required by the cabotage provisions would require more stages, thus increasing complexity and delays which could ultimately result in the rejection of perishable cargo from South Africa. Furthermore, legal analysts and commentators have noted that the Bill contains ambiguities in licensing and enforcement mechanisms raising concerns about regulatory uncertainty.

The main point of contention was raised by COSATU who criticised the Department of Transport for bypassing NEDLAC (National Economic Development and Labour Council), the statutory forum for labour and business consultation. The NEDLAC Act 35 of 1994 requires all Bills impacting on labour

rights to be tabled at NEDLAC prior to Parliament. This essentially led to Cabinet approving the withdrawal of the Bill from Parliament on 15 October 2025. The Department of Transport will now have more time to finalize the required NEDLAC engagement, which includes submitting the draft legislation for review and receiving a formal report to be presented to Parliament.

The Merchant Shipping Bill represented a bold attempt to reform South Africa’s maritime law however its withdrawal highlights the importance of procedural integrity and inclusive policy-making. As the Department of Transport revisits the Bill, legal practitioners, industry stakeholders and policymakers must remain engaged to ensure that future legislation balances regulatory modernization with economic pragmatism.

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