

Merchant Shipping (Survey, Inspection and Certification) (Amendment)

GOVERNMENT NOTICE NO. 66 published on 25/1/2019

THE MERCHANT SHIPPING ACT
(CAP. 165)

REGULATIONS

ARRANGEMENT OF REGULATIONS

<i>Regulation</i>	<i>Title</i>
1.	Citation.
2.	Amendment of regulation 2.
3.	Amendment of regulation 3.
4.	Adding new regulation 12A.
5.	Adding new Part II.
6.	Adding new Part V.

THE MERCHANT SHIPPING ACT
(CAP. 165)

REGULATIONS

(Made under section 222)

THE MERCHANT SHIPPING (SURVEY, INSPECTION AND CERTIFICATION)
(AMENDMENT) REGULATIONS, 2019

- Citation
GN. No.
408 of 2014
1. These Regulations may be cited as the Merchant Shipping (Survey, Inspection and Certification) (Amendment) Regulations, 2019 and shall be read as one with the Merchant Shipping (Survey, Inspection and Certification) Regulations, 2014 hereinafter referred to as the “principal Regulations”.
- Amend-
ment of
regulation 2
2. The principal Regulations are amended in regulation 2 by adding the words “or vessels to which the Merchant Shipping (Small Ships, Local Cargo Ship Safety, Small Ship Safety, Surveys and Inspections for Vessels Engaged on Local and Coastal Voyages, Inland Waters) Regulations, 2006 apply” at the end of that regulation.
- Amend-
ment of
regulation 3
3. The principal Regulations are amended in regulation 3 by:
- (a) deleting the definition of the words-
“Authority”;
 - (b) inserting in its appropriate alphabetical order the following new definitions:
“Corporation” means the Tanzania Shipping Agencies Corporation established under section 4 of the Tanzania Shipping Agencies Act;
“small ship” means a ship of less than 24 meters in length or less than 50 gross tonnage;
“Certifying Authority” means the Minister or any person authorised by the Minister;
 - (c) deleting the words “of ships” appearing in the definition of “surveyor” immediately after the word “Registrar”;
 - (d) deleting the definition of the words “Registrar” and substituting for it the following:
“Registrar” means the Registrar appointed under section 31 of

Tanzania Shipping Agencies Act.

Adding new
regulation
12A

4. The principal Regulations are amended by adding immediately after regulation 12 the following new regulation:

“Respon-
sibilities of
owner and
master of ship

12A.-(1) The owner and master of ship to which these Regulations applies shall ensure that—

- (a) the ship and its equipment is maintained so as to ensure that the ship in all respects remains fit to proceed to sea without danger to the ship or persons on board;
- (b) after any survey of the ship required by these Regulations has been completed, no change shall be made in the structural arrangements, machinery, equipment or other items covered by the survey, without the approval of the certifying authority, except by direct replacement; and
- (c) whenever an accident occurs to a ship or a defect is discovered, either of which affects the safety of the ship or the efficiency or completeness of its life-saving appliances or other equipment-
 - (i) it is reported at the earliest opportunity to the certifying authority, or a proper officer, and
 - (ii) if an accident or defect occurs to a United Republic ship while in a port outside the United Republic, it is also reported to the appropriate authority of the country in which the port is situated.

(2) Where following a report made under sub-regulation (1)(c)(i), the Certifying Authority or proper officer determines that a survey is necessary, it shall require the survey to be carried out.

(3) Where the survey referred to in sub regulation (2) shows that repairs are required, or if any important repairs or renewals are otherwise made to the ship or its equipment, a further survey shall be carried out on the completion of those repairs or renewals.

(4) This regulation applies to:

- (a) Tanzanian ships, and

- (b) except as regards sub regulation (1)(a), other ships which have been surveyed pursuant to these Regulations.

Addition of new Part IA 5. The principal Regulations are amended by adding immediately after Part I the following new Part:

“PART IA
APPOINTMENT OF SURVEYORS

Classes of surveyors 3A. There shall be two classes of appointed surveyors, as follows:
(a) surveyor; and
(b) surveyor (small ship).

Qualification of surveyor 3B.-(1) Surveyor shall have a minimum qualification and appropriate theoretical knowledge and practical experience of ships and their operation, the provisions of the relevant national and international instruments necessary to perform their duties as appointed surveyors and shall keep updated in technical knowledge and training.

(2) Subject to sub-regulation (1), depending on the function to be performed, the qualifications of an appointed ship surveyor shall encompass:

- (a) knowledge of applicable international and national rules and regulations for ships, their companies, their crew, their cargo and their operation;
- (b) knowledge of the procedures to be applied in survey, certification, control, investigative and oversight functions;
- (c) understanding of the goals and objectives of the international and national instruments dealing with maritime safety and protection of the marine environment, and of related programs;
- (d) understanding of the processes both on board and ashore, internal as well as external;
- (e) possession of professional competency necessary to perform the given tasks effectively and efficiently;
- (f) safety awareness in all circumstances, also for one’s own safety, and;

(g) training or experience in the various tasks to be performed and, preferably, also in functions to be assessed.

(3) For the purpose of this regulation, an appointed ship surveyor is required to have:

- (a) an appropriate qualification from a marine or nautical institution and relevant seagoing experience as a certified ship officer holding or having held a valid STCW II/2 III/2 certificate of competency and have maintained their technical knowledge of ships and their operation since gaining their certificate of competency; and served for a period of not less than three years at sea as an officer in the deck or engine department, or;
- (b) a relevant university degree from a tertiary institution as a naval architect, mechanical engineer or an engineer related to the maritime fields and worked in that capacity for at least five years; or
- (c) accreditation as a surveyor through a formalized training programme that leads to the same standard of surveyor's experience and competency as that required in paragraphs (i) and (ii).

(4) Appointed ship surveyor shall have, immediately preceding their appointment, relevant experience for at least three years on ships of more than 24 metres in length provided that where the appointment is restricted to ships of under 24 metres in length this period shall be at least one year on ships of more than 4 metres in length.

Experience

3C.-(1) An appointment undertaken competitively of a ship surveyor who is not a permanent employee of the Corporation shall be valid for a period of five years.

(2) Notwithstanding sub-regulation (1), subsequent appointment may be renewed for other five-year periods on such conditions as the Registrar may deem fit.

(3) The Registrar may undertake a performance review before an appointment is renewed.

(4) The Registrar may withdraw an appointment

at any time, regardless of any end date specified in the letter of appointment.

Mode of undertaking the assignment

3D. Appointed ship surveyor during his appointment, shall:

- (a) not be commercially engaged in the manufacture, equipping, repair or operation of ships;
- (b) only undertake assignments for which he is qualified by virtue of experience and/or training;
- (c) discharge his professional responsibilities with integrity and at all times act and report in a fair and factual manner;
- (d) be independent of all parties cannot carry out survey on board ships where there is personal or family link to the ship owner or operator;
- (e) ensure that records are maintained demonstrating achievement of the required standard in items covered by the services performed;
- (f) ensure confidentiality of information required by the Administration;
- (g) be prepared to provide relevant information to the administration;
- (h) carry out his work without in any way harming the intellectual property rights of shipyards, equipment suppliers and ship owners and, under no circumstances may he pass on or divulge commercially relevant data obtained in the course of his work of inspecting, checking and monitoring ships under construction or repair;
- (i) have an extensive knowledge of the particular type of ship on which he is carry out his work as relevant to the particular survey to be carried out and of the relevant applicable requirements.

Performance verification

34E.-(1) The Corporation shall verify whether the appointed ship surveyor effectively carry out his functions in accordance with the provisions of these Regulations, the Act and international Instruments and other written laws.

(2) The Corporation may perform planned and/or random audits and inspections to verify

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whether functions delegated to the appointed ship surveyor is being effectively and appropriately carried out.

Deletion of regulation 15 6. The principal Regulations are amended by deleting regulation 15.

Addition of new Part IIIA 7. The principal Regulations are amended by adding immediately after Part III the following new Part:

“PART IIIA
GENERAL PROVISIONS

Power to compound offence

15.-(1) Notwithstanding the provisions of these Regulations relating to penalty, where a person has committed any offence under these Regulations, the Corporation may, at any time prior to the commencement of hearing by any court of any charge in relation thereto, compound such offence and order such person to pay a sum of money, not exceeding one half of the amount of the fine to which such person would otherwise have been liable to pay if he had been convicted of such offence:

Provided that the Corporation shall not exercise its powers under this regulation unless the person concerned admits in writing that he has committed such offence and requests that it be compounded.

(2) Where the Corporation compounds offence under this regulation the order referred to in sub-regulation (1) shall:

- (a) be reduced to writing and attached to it the written admission and request referred to in sub-regulation (1) and a copy of such order shall be given to the person who committed the offence if he so requests;
- (b) specify the offence committed, the sum of money ordered to be paid and the date or dates on which payment has to be settled;

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(3) The order referred to in sub regulation (1) may be enforced in the same manner as a decree of a court for the payment of the amount stated in the order.

Provided that there shall be no compounding for any subsequent offence.

Evaluation
and reporting

15A.-(1) The Registrar shall from time to time-

- (a) carry out an evaluation of these Regulations;
- (b) prepare a report of the evaluation process; and
- (c) submit the report to the Minister;

(2) The report under this regulation shall-

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

Review
G.N. No.
338 of 2018

15B. Any person who is aggrieved by the decision made under these Regulations may apply to the Corporation for review, in accordance with the Tanzania Shipping Agencies (Complaints Handling) Regulations.”

Dodoma,
14th January, 2018

ISACK A. KAMWELWE,
*Minister for Works, Transport
and Communications*