

Merchant Shipping (Disqualification of Holder of Seafarers' Certificates)

GOVERNMENT NOTICE No. 410 published on 17.10.2014

THE MERCHANT SHIPPING ACT

THE MERCHANT SHIPPING (DISQUALIFICATION OF
HOLDER OF SEAFARERS' CERTIFICATE)
REGULATIONS, 2014

ARRANGEMENT OF REGULATIONS

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THE MERCHANT SHIPPING ACT
(CAP. 165)

REGULATIONS

(Made under Section 176(6))

THE MERCHANT SHIPPING (DISQUALIFICATION OF HOLDER OF
SEAFARERS' CERTIFICATES) REGULATIONS, 2014

PART I
PRELIMINARY PROVISIONS

1. These Regulations may be cited as the Merchant Shipping (Disqualification of Holder of Seafarers' Certificates) Regulations, 2014.

Citation.

2. In these Regulations unless the context requires otherwise—

Interpre-
tation.

“Act” means the Merchant Shipping Act;

Cap. 165.

“Certificate” means a Certificate for Seafarers issued under the Act;

“Minister” means the Minister responsible for Shipping;

“Notice” means a notice of cancellation of seafarer's certificate issued under section 176 of the Act; and

“Registrar” means, a person appointed as a Registrar of Ships, Registrar of Seafers or Registrar of Wrecks under section 7 of the Act.

PART II
SUSPENSION AND CANCELLATION OF CERTIFICATE

3. The Registrar may suspend or cancel a certificate where he is satisfied that the person is unfit for reason of incompetence, misconduct or any other reason.

Suspen-
sion or
cancel-
lation of
certificate

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G.N. No. 410 (contd.)

Issuance
of Notice
of
intention

4.-(1) Where the Registrar intends to cancel or suspend a Certificate he shall issue a Notice of cancellation or suspension to the holder of the certificate.

to suspend
or cancel a
certificate

(2) The Notice under sub regulation (1) shall—

(a) contain reason for intention to suspend or cancel a certificate;
and

(b) be in the form set out in the First Schedule.

(3) Service of notice shall be effected either directly to the holder of the certificate, by leaving it at his last known address or by registered mail.

Hearing

5.—(1) A holder of a certificate shall, within thirty days from the date of receipt of the notice or such longer period as the Registrar may allow, reply in writing or inform the Registrar of his intention to appear in person or be represented in the hearing.

(2) Where the holder of the certificate intends to appear in person or be represented, the Registrar shall, within forty five days from the date of issuance of the notice, set a suitable date and place for hearing.

Failure to
reply or
to appear

6. Where the holder of the certificate fails to reply or to appear in person or to send a representative within forty five days without reasonable cause, the Registrar shall cancel or suspend the Certificate.

Notice of
suspension
or
cancellation
of
certificate

7.—(1) The decision by the Registrar to suspend or cancel under these Regulations shall be in the form set out in the Second Schedule.

(2) The Registrar shall serve the notice of the decision to suspend or cancel the Certificate to the holder of the certificate by leaving it at his last known address or by sending it by post.

Surrender
of
certificate
upon
cancellation
or
suspension

8.—(1) Where the Registrar cancels or suspends a certificate under these Regulations, he shall issue a notice to the holder of the certificate informing him that he has—

(a) ceased to be a Seafarer;

(b) to surrender the certificate to the Registrar within seven days from the date of cancellation; and

(c) comply with all requirements stipulated in the notice.

(2) Where the Registrar suspends or cancels the certificate, he shall-

- (a) state reasons for the cancellation or suspension; and
- (b) within seven days, publish the cancellation of the certificate in a widely circulating newspaper.

9. Upon cancellation or suspension of the certificate under these Regulations, the Registrar shall, serve a copy of the notice of his decision to the certificate holder and the employer of the Seafarer.

Service
of notice

10. A person whose license is cancelled by the Registrar under these Regulations may apply for a new certificate after the expiration of two years from the date of cancellation of the certificate.

New
applica-
tion upon
cancel-
lation

11. A holder of any certificate for seafarers shall not be hired or employed in any vessel during the suspension or cancellation of his certificate.

Restric-
tion on
engage-
ment

PART III OFFENCES AND PENALTIES

12. A person who contravenes these Regulations, commits an offence and is liable, on conviction, to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars five thousand or to imprisonment for a term not exceeding three years or to both.

Offence
and
penalties

13.-(1) Notwithstanding the provisions of these Regulations relating to penalty, where a person has committed any offence under these Regulations, the Registrar of ships may, at any time prior to the commencement of hearing by any court of any charge in relation to that offence, compound such offence and order such person to pay a sum of money, not exceeding the equivalent in Tanzanian shillings of the United States dollars two thousand five hundred.

Power to
compound
offences

(2) The Registrar shall not exercise his powers under these regulations unless the person concerned admits in writing that he has committed such offence.

(3) Where the Registrar compound the offence under this regulation the order under sub-regulation (1) shall:

- (a) be reduced in writing and attached with the written admission and the request referred under sub-regulation (2);

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(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;

(c) be final and not be subject to any appeal to any court.

(4) A copy of an order for compound of the offence that issued under this regulation shall, on request, be given to the person who committed the offence.

(5) The order referred under 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:

PART IV

APPEALS

Appeals

14. Any person who is aggrieved by the decision of the Registrar under these Regulations may appeal to the Minister.

FIRST SCHEDULE

(Made under Regulation 4(2))

Part A

NOTICE OF INTENTION TO SUSPEND OR CANCEL CERTIFICATE

1.0 Notice is given in respect of—

(specify the type of certificate) No.

2.0 The Registrar has reason to believe that you are unfit to be the holder of certificate No. for the following reasons—

.....
.....
.....

3.0 Following the grounds under paragraph 2.0, the Registrar intends to—

(a) suspend certificate No.

(b) Within days of receipt of this Notice you are required to inform the Registrar of your intention to make written or oral representations by completing and returning Part B of this Notice. If at the end of that period you have not informed the Registrar, the matter will be decided without consideration of your presentations.

4.0 All communication concerning this notice shall be addressed to:

The Registrar of Seafarers,

Surface and Marine Transport Regulatory Authority,

P.O. Box 3093,

Dar es Salaam.

Tanzania.

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Part B

To be completed by a holder of certificate

I acknowledge receipt of the Notice for.....

dated concerning the proposed
suspension/cancellation of my certificate No.....

and hereby inform you that: (Tick where appropriate)

[.....] I intend to make written representations.

[.....] I intend make oral representations.

[.....] I do not intend to make any representations.

Name:

Signature:

Date:

SECOND SCHEDULE

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4.0 You are required to submit certificate No. not later than..... to the following address: The Registrar of Seafarers, Surface and Marine Transport Regulatory Authority, P. O. Box 3093, Dar es Salaam, Tanzania.

5.0 Failure to comply with paragraph 5.0, your matter shall be dealt with by way of inquiry in accordance with section 177 of the Merchant Shipping Act, 2003.

6.0 If you require your matter to be dealt with by way of inquiry, you are required to notify the Authority through the address stated in paragraph 5.0. Date.....

.....
Registrar

Dar es Salaam,
29th August, 2014

HARRISON G. MWAKYEMBE,
Minister for Transport