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THE MERCHANT SHIPPING ACT
(CAP. 165)

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RULES
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(Made under section 396)
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THE MERCHANT SHIPPING (ACCIDENT REPORTING AND
INVESTIGATION)
RULES, 2019

ARRANGEMENT OF RULES

Rule Title

PART I

PRELIMINARY PROVISIONS

1. Citation.
2. Application.
3. Interpretation.

PART II

OBJECTIVE OF SAFETY INVESTIGATIONS

4. Objective of safety investigation.

PART III

DUTY TO REPORT ACCIDENTS AND SERIOUS INJURIES

5. Notification of accident.
6. Preliminary assessments.
7. Safety investigation.
8. Subsequent or re-opened investigations.
9. Preservation of evidence.
10. Conduct of safety investigation.
11. Co-operation with other States.
12. Disclosure of records.

PART IV

SAFETY INVESTIGATION REPORT

13. Report of safety investigation.
14. Publications other than reports of safety investigations.
15. Recommendations by Registrar.
16. Extension of time.
17. Service of documents.

PART V

OFFENCES AND PENALTIES

18. Offences and penalties.
19. General penalty.
20. Power to compound offence.

PART V

GENERAL PROVISIONS

21. Evaluation and reporting.
22. Review.

SCHEDULES_

THE MERCHANT SHIPPING ACT
(CAP. 165)

RULES

(Made under section 396)

THE MERCHANT SHIPPING (ACCIDENT REPORTING AND
INVESTIGATION) RULES, 2019

PART I

PRELIMINARY PROVISIONS

- Citation 1. These Rules may be cited as the Merchant Shipping (Accident Reporting and Investigation) Rules, 2019.
- Application 2.-(1) These Rules shall apply to all accidents involving or occurring on board to-
- (a) any United Republic ship;
 - (b) any other ship within the United Republic or United Republic waters;
 - (c) any ship, which in the opinion of the Registrar, involves the substantial interests of the United Republic.
- Interpretation 3. In these Rules, except where the context requires otherwise-
- “access” means the process of embarking on or disembarking from a ship;
 - “accident” means-
 - (a) a marine casualty, which is an event or sequence of events that has resulted in any of the following and has occurred directly by or in connection with the operation of a ship-
 - (i) the death of, or serious injury to, a person;
 - (ii) the loss of a person from a ship;

- (iii) the loss, presumed loss or abandonment of a ship;
 - (iv) material damage to a ship;
 - (v) the stranding or disabling of a ship, or the involvement of a ship in a collision;
 - (vi) material damage to marine infrastructure external of a ship, that could seriously endanger the safety of a ship, another ship or any individual;
 - (vii) severe damage to the environment, or the potential for severe damage to the environment, brought about by the damage of a ship or ships, or
- (b) a very serious marine casualty, which is an event or sequence of events that has resulted in any of the following and has occurred directly by or in connection with the operation of a ship involving-
- (i) the total loss of a ship;
 - (ii) loss of life;
 - (iii) severe pollution; or
- (c) a serious marine casualty, which is an event or sequence of events that has occurred directly by or in connection with the operation of a ship but which does not qualify as a very serious marine casualty, that involves-
- (i) fire;
 - (ii) explosion;
 - (iii) collision;
 - (iv) grounding;
 - (v) contact;
 - (vi) heavy weather damage;
 - (vii) ice damage, or a suspected hull defect,
 - (viii) resulting in the immobilization of the main engines, extensive accommodation damage, severe structural damage including penetration of the hull underwater rendering the ship unfit to proceed, pollution or a break down that necessitates towage or shore assistance, or
- (d) a marine incident, which is an event or sequences of events other than those listed in paragraphs (a) to (c) which has occurred directly in connection with the operation of a ship that endangered, or if not corrected would endanger the safety of a ship, its occupants or any other person or the environment;

(e) an accident which does not include a deliberate act or omission with the intention to cause harm to the safety of a ship, an individual or the environment;

“Act” means the Merchant Shipping Act;

“high speed passenger craft” means a high speed craft as defined in RuleX/1of the 1974 SOLAS Convention, in its up-to-date version, that carries more than 12 passengers;

“IMO” means the International Maritime Organization;

“IMO guidelines” means the Resolution and guidelines on fair treatment of seafarers in the event of a maritime accident;

“inspector” means an investigator or team of investigators of marine accidents appointed by the Registrar under rule11;

“Minister” means the Minister responsible for maritime transport;

“pleasure vessel” has the meaning ascribed to it under the Act;

“preliminary assessment” means a preparatory evaluation by the Registrar which is intended to establish the likely causes and circumstances of an accident with a view to deciding whether or not a safety investigation should be undertaken;

"proper officer" means any officer appointed to perform a certain duty or function when engaged on the Performance of that duty or function and includes a consular officer;

“Registrar” means the registrar appointed under section 31 of the Tanzania Shipping Agencies Act;

“SOLAS Convention” means the International Convention for the Safety of Life at Sea, 1974as amended;

“substantially interested state” means a state:

(a) which is the flag state of a ship involved in a marine casualty or marine incident;

(b) which is the coastal State involved in a marine casualty or marine incident;

(c) whose environment was severely or significantly damaged by a marine casualty (including the environment of its waters and territories recognized under international law);

- (d) where the consequences of a marine casualty or marine incident caused, or threatened serious harm to that state or to artificial islands, installations, or structures over which it is entitled to exercise jurisdiction;
- (e) where, as a result of a marine casualty, nationals of that state lost their lives or received serious injuries;
- (f) that has important information at its disposal that the marine safety investigating state consider useful to the investigation; or
- (g) that for some other reason establishes an interest that is considered significant by the marine safety investigating state

PART II

OBJECTIVE OF A SAFETY INVESTIGATION

Objective of safety investigation0

4.-(1) The sole objective of a safety investigation into an accident under these Rules shall be the prevention of future accidents through the ascertainment of its causes and circumstances.

(2) It shall not be the purpose of such an investigation to determine liability nor, except so far as is necessary to achieve its objective, to apportion blame.

PART III

DUTY TO REPORT ACCIDENTS AND SERIOUS INJURIES

Notification of accident

5.-(1) When an accident occurs the following persons associated with the ship shall notify the Registrar as soon as is practicable and by the quickest means available-

- (a) the master or, if the master has not survived, the senior surviving officer; and
- (b) the ship's owner unless he has ascertained to his satisfaction that the master or senior surviving officer has reported the accident.

(2) Any notification made under sub-rule (1) the owner or master of the ship shall, within twenty four hours after the occurrence of the accident or the causing of the damage or as

soon as practicable thereafter, transmit to a proper officer if the ship in a foreign port, or otherwise to the Registrar, a report of the accident or damage.

(3) Where an accident has occurred within or adjacent to the limits of any harbour, the harbour authority for that harbour shall be notified.

(4) A person making a notification in accordance with this rule shall, in so far as is practicable, include the information set out in the First Schedule.

(5) The person who makes the notification shall, in addition to making the notification, ensure that the circumstances of every accident are examined and that a report giving the findings of such examination, stating any measures taken or proposed to be taken to prevent a recurrence, are provided to the Registrar as soon as practicable.

(6) This rule shall not apply in relation to-

- (a) a pleasure vessel;
- (b) a recreational craft which is hired on a bareboat basis;
or
- (c) any other craft or boat, other than one carrying passengers, which is in commercial use in a harbour or on an inland waterway and is less than 4 metres overall in length unless, in the case of a craft or boat mentioned in paragraph (b) or (c), the accident involves any of the following-
 - (i) explosion;
 - (ii) fire;
 - (iii) death;
 - (iv) serious injury;
 - (v) capsize of a power-driven craft or boat; or
 - (vi) severe pollution.

Preliminary
assessments

6.-(1) In the case of a serious marine casualty, the Registrar shall carry out a preliminary assessment in order to determine whether or not to undertake a safety investigation.

(2) When carrying out a preliminary assessment, the Registrar must take into account-

- (a) the seriousness of the accident;
- (b) the type of vessel or cargo involved;
- (c) the potential for the findings of a safety investigation to lead to the prevention of future accidents;
- (d) any other relevant factor.

(3) Where the Registrar decides not to undertake a safety investigation into a serious marine casualty, he shall record the reasons for that decision and notify the Minister.

(4) For the purposes of preliminary assessment the powers in section 385 of the Act shall apply.

Safety
investigation

7.-(1) The Registrar shall, upon carrying out a preliminary assessment in accordance with rule 6, undertake a safety investigation in relation to a serious marine accident.

(2) The safety investigation in relation to a serious marine accident shall include-

- (a) collection and analysis of evidence;
- (b) identification of causal factors; and
- (c) where appropriate, the making of safety recommendations.

(3) The Registrar shall, upon receipt of a notification or report under rule 6, determine whether or not a safety investigation should be carried out and shall publish details of that decision as soon as is reasonably practical, in such manner as he deems fit.

(4) In determining whether a safety investigation shall be carried out and the form it should take, he may obtain such information as he considers necessary concerning the accident and any remedial action taken as a result.

(5) An inspector may, for the purpose of this rule, request from a person who is in possession of information and that

person shall provide such information to the best of his ability and knowledge.

(6) The Registrar may not to carry out a safety investigation and may discontinue any safety investigation which has already been commenced if satisfied that there is occurrence of-

- (a) any loss of life resulted from suicide or natural causes;
- or
- (b) any serious injury resulted from attempted suicide.

(7) The Registrar shall issue a notice to the public in such manner as he may think fit indicating that a safety investigation has been commenced, and may invite any persons who so desire to present relevant evidence to an inspector in such a manner and within such a time as is specified in the notice.

(8) The Registrar shall, immediately upon occurrence of an accident and in any event no later than two months after the Registrar is notified of its occurrence, commence a safety investigation.

(9) A safety investigation may also be held under this rule into an accident involving or occurring on board a ship which is not a United Republic ship and which at the time of the accident was not within the United Republic or United Republic waters, if the Minister so determines.

Subsequent or re-opened investigations

8.-(1) Notwithstanding a decision not to investigate, the Registrar may at any subsequent time undertake a safety investigation-

- (a) upon being satisfied that there is a good reason in the interests of future safety to do so;
- (b) following its completion, new and important evidence is discovered which in his opinion could have a material effect on any safety recommendations made.

(2) Investigation undertaken under sub rule (1) may be in whole or as to any part of it and shall be subject to and

conducted in accordance with the provisions of these Rules.

Preservation
of evidence

9.-(1) Following an accident involving a ship to which rule 2 applies and is reportable under rule 5, master or as the case may be the senior surviving officer shall so far as is practicable ensure that all-

- (a) charts;
- (b) log books;
- (c) recorded information relating to the period preceding, during and after an accident, howsoever recorded or retained, including information from a voyage data recorder and video recorders.

(2) The Registrar shall ensure all documents that relates to the accident are kept and that no alteration is made to any recordings or entries in them.

(3) The master or as the case may be the senior surviving officer, and the ship's owner shall ensure that-

- (a) all information from a voyage data recorder or recording system relating to the circumstances of an accident is saved and preserved by taking steps, where necessary to prevent such information from being overwritten; and
- (b) any other equipment which might reasonably be considered pertinent to the investigation of the accident is so far as practicable left undisturbed.

(4) The duty under sub-rule (2) and (3) shall continue until-

- (a) the Registrar issues a notice that no safety investigation is to take place or that the investigation has been completed;
- (b) thirty days have passed since the Registrar received the report referred to in rule 5 and no notice has been published by the Registrar that it has been decided to investigate the matter; or
- (c) the Registrar or an inspector carrying out the investigation gives written notification that they are no longer required.

(5) Following an accident in United Republic waters involving a ship which is not a United Republic ship, the master, the senior surviving officer or as the case may be the ship owner shall comply with the requirements of this rule if required to do so by or on behalf of the Registrar.

(6) An inspector may, pending investigation, prohibit persons from gaining access to, or interfering with, any ship, ship's boat or other equipment involved in an accident.

(7) Following an accident, the Registrar may, if it is considered reasonably necessary for the collection or preservation of evidence in connection with any safety investigation, including a preliminary assessment, relating to the accident, require any of the master or, if the master has not survived, the senior surviving officer and the ship's owner to ensure that a ship is accessible to any inspector engaged in the investigation of such accident, until the process of collecting or preserving evidence has been completed to the Inspector's satisfaction.

(8) The Registrar shall not require a ship to which these Rules apply to remain in United Republic waters any longer than is necessary for the collection or preservation of the evidence and shall take all reasonable steps to ensure that such evidence is collected or preserved expeditiously.

(9) No requirement under sub-rule (7) shall be made unless the Registrar has reasonable grounds for concern that if a ship to which rule 2 applies leaves United Republic waters, access to it, to any member of the crew, or to any evidence on board relating to the investigation may subsequently be denied to the Registrar or any inspector conducting such investigation.

(10) Notwithstanding any other provisions to the contrary, rules 5, 9(1), 9(2) or 9(3) shall apply in relation to such a ship, to which these Rules apply, if-

- (a) it is within the jurisdiction of a harbour master appointed or required to be appointed, under any enactment;
- (b) it is employed in carrying passengers to or from a port in

the United Republic or a place mentioned in subparagraph (i); or

- (c) an inspector, or other person acting on behalf of the Registrar, requires that any of the evidence mentioned in rule 9(1) or 9 (2) be preserved.

Conduct of
safety
investigation

10.-(1) Where the Registrar determines that a safety investigation has to be carried out, the investigation shall be undertaken by one or more inspectors at such times and places and in such manner as appear to them most conducive to achieving the objective of investigation under these Rules.

(2) Where inspectors appointed under the Act are not conveniently available or where the persons appointed have no special qualifications or experience, the Registrar may, appoint one or more persons for the purpose of carrying out an investigation in circumstances and such persons will have the powers conferred on an inspector by section 385 of the Act.

(3) Where the Registrar is of the opinion that an event or circumstance is relevant to future safety, a safety investigation may extend to cover-

- (a) all events and circumstances preceding the accident together with subsequent events and circumstances;
- (b) issues involving salvage and pollution connected with the accident;
- (c) the conduct of search and rescue operations;
- (c) any other related event or circumstance.

(4) Any person, not being a legal adviser acting solely on behalf of the person required to attend, who has been allowed by an inspector to be present or has been nominated to be present by a person required to attend at a witness interview before an inspector, may at any time be excluded from being present by the inspector with the agreement of the Registrar, if both the inspector and Registrar have substantial reason to believe that the person's presence would hamper the investigation.

(5) In relation to any preliminary assessment which the Registrar has conducted under rule 6 the Registrar must

decide, having regard to the objective set out in rule 4, whether it is appropriate in the circumstances to conduct a safety investigation leading to the publication of a report.

(6) Subject to subrule (9), the Registrar may subsequently decide to discontinue a safety investigation of any accident at any time and must make any reasons publicly available.

(7) Sub rule (8) shall not apply to the safety investigation of an accident that is-

- (a) a very serious marine casualty; or
- (b) a serious marine casualty, where following a preliminary assessment undertaken in accordance with rule 6 a decision is made to conduct a safety investigation.

(8) The Registrar shall, when conducting a safety investigation into an accident, take into account the International Maritime Organisation guidelines on the fair treatment of seafarers in the event of a maritime accident.

(9) An inspector may record a witness interview of any person who is assisting a safety investigation carried out in accordance with these Rules in any manner that the Registrar considers reasonable.

(10) When the Minister is requested to assist another state in a safety investigation in which the United Republic is not involved, the costs of any such assistance provided shall be agreed between the Corporation and the respective member state.

Co-operation
with other
States

11.-(1)A safety investigation commenced by the Registrar under rule 7 shall, where appropriate, be conducted in co-operation with-

- (a) another member State; or
- (b) another substantially interested State.

(2) Subject to sub-rule (5), a substantially interested state may participate in a safety investigation led by the Registrar at any stage of that investigation by mutual agreement.

(3) Where a safety investigation is commenced under sub-rule (1), the Registrar and any other states involved shall agree in the shortest possible time-

- (a) which of them shall lead the safety investigation; and
- (b) the procedures to be adopted for the purposes of such an investigation.

(4) For the purposes of this rule a substantially interested State-

- (a) has equal rights and access to witnesses and evidence involved in a safety investigation; and
- (b) any representations that it may make to the lead investigating state shall be taken into consideration for the purposes of the safety investigation.

(5) Where a substantially interested State is allowed to participate in a safety investigation and no agreement in accordance with subrule (3) has occurred then the Registrar and such other member States or substantially interested States, or both shall-

- (a) conduct parallel safety investigations;
- (b) exchange evidence and information with each other for the purposes, as far as possible, of reaching shared conclusions.

(6) Where two member states conduct parallel safety investigations, the Registrar shall notify the Minister of the reasons for doing so.

(7) The Registrar may delegate the whole or any part of a safety investigation to another IMO member State by mutual agreement with that member State.

Disclosure of records

12.-(1) Subject to other provisions of this rule, the names, addresses or other details of a person who has adduced evidence to an inspector shall not be disclosed.

(2) Subject to sub rules (4) and (7) the following documents or records shall not be made available for purposes

other than a safety investigation, unless a Court orders otherwise:

- (a) all declarations or statements taken from persons by an inspector or supplied to an inspector in the course of an investigation, together with any notes or recordings of witness interviews;
- (b) medical or confidential information regarding persons involved in an accident;
- (c) any report made under rule 5(4);
- (d) copies of the report other than the final report except as mentioned in rule 13(4)(a), (5), or (12);
- (e) all correspondence received by the Registrar from parties involved in a safety investigation;
- (f) evidence from voyage data recorders;
- (g) notes, recording and photographs made by an inspector or person appointed under rule 10(2);
- (h) all communications between persons having been involved in the operation of the ship or ships; and
- (i) inspector's opinions expressed in the analysis of information.

(3) A person who has given a declaration or statement to an inspector in the course of a safety investigation may make available a copy of their statement or declaration to another person as they deem fit.

(4) Any independent technical analysis commissioned by the Registrar and opinions expressed in such analysis may be made publicly available if the Registrar considers it appropriate to do so.

(5) Subject to sub-rule (6), no order must be made under sub-rule (2) unless the Court is satisfied, having regard to the views of the Registrar, that the interests of justice in disclosure outweigh any prejudice, or likely prejudice, to-

- (a) the safety investigation into the accident to which the document or record relates;
- (b) any future accident safety investigation undertaken in the United Republic; or
- (c) relations between the United Republic and any other state or international organisation.

(6) The provisions of this rule shall be without prejudice to any rule of law which authorises or requires the withholding of any document or record or part thereof on the ground that disclosure of it would be injurious to the public interest.

(7) Copies of information obtained from a voyage recorder or from other recording systems, pertinent to the accident, including voice recordings (other than any recordings mentioned in sub-rule (2)(a)), video recordings and other electric or magnetic recordings and any transcripts made from such information or recordings, may be provided at the discretion of the Registrar to the relevant authority.

PARTIV

SAFETY INVESTIGATION REPORT

Report of
safety
investigation

13.-(1) Subject to sub-rule (4), the Registrar shall submit to the Minister a report of any safety investigation conducted in accordance with rule 10.

(2) The Registrar shall ensure that a report of safety investigation is publicly available in the shortest possible time or within twelve months of the date of an accident being notified to the Registrar.

(3) Where the safety investigation report cannot be produced within the time prescribed in sub-rule (2), the Registrar shall publish an interim report within twelve months of the date of the accident being notified to the Registrar.

(4) A report under this rule shall include-

- (a) the information set out in the Second Schedule;
- (b) conclusions relating to the facts of the evidence;
- (c) where the facts cannot be clearly established, analysis and professional judgement to determine the probable facts;
- (d) recommendations for future safety where appropriate.

(5) A report of safety investigation shall not be made publicly available until the Registrar has-

- (a) served a notice under this rule upon any person who, or organisation which, could be adversely affected by the report or, if that person is deceased, upon such person as appear to the Registrar, at the time it is proposed to serve notice in accordance with this paragraph, as best to represent the interests and reputation of the deceased in the matter;
- (b) considered the representations relating to the facts or analysis contained in the report which may be made to the Registrar in accordance with-
 - (i) sub-rule (6) by or on behalf of the persons served with such notice, or
 - (ii) sub-rule (7), and the report shall be amended in such manner as the Registrar thinks fit.

(6) The notice referred to in sub-rule (5) (a) shall be accompanied by a draft copy of the report.

(7) The representations referred to in sub-rule (5)(b) must be in writing and must be served on the Registrar within thirty days of service of the notice referred to in sub-rule (5)(b) or within such further period as may be allowed under these Rules.

(8) Where the Registrar is of the view that a safety investigation will not have the potential to lead to the prevention of future accidents, he may publish a simplified report in such manner as he thinks fit.

(9) For the purposes of rule 13(2) a report may be published in such manner as the Registrar sees fit.

(10) Subject to any Court order under rule 12, no person shall disclose any information-

- (a) which has been furnished to them in accordance with this rule; or
- (b) which has otherwise been furnished to them by or on behalf of the Registrar in advance of the publication of a

- report and whose confidentiality is protected by rule 12; or
- (c) permit such information to be disclosed, except with the prior consent in writing of the Registrar, to any other person, except to such advisers as are necessary in order to make representations to the Registrar referred to in sub-rule (5) (b), and those advisers must be similarly be subject to the duty not to disclose the information or permit it to be disclosed.

(11) When a substantially interested state requests the Registrar to supply it with a draft safety investigation report, the Registrar must not do so unless that State has agreed, in writing to comply with the following provisions:

- (a) subject to paragraphs (b) and (c), where it is requested, the marine safety investigating state shall send a copy of a draft report to a substantially interested state to allow the substantially interested state to make comment on the draft report;
- (b) marine safety investigating state is only bound to comply with paragraph;
- (c) where the substantially interested state receiving the report guarantees not to circulate, nor cause to circulate, publish or give access to the draft report, or any part thereof, without the express consent of the marine safety investigating state or unless such reports or documents have already been published by the marine safety investigating state;
- (d) the marine safety investigating state is not bound to comply with paragraph (a) if:
 - (i) the marine safety investigating state request that the substantially interested state receiving the report to affirm that evidence included in the draft report will not be admitted in civil or criminal proceedings against a person who gave the evidence; and
 - (ii) the substantially interested state refuses to provide such an affirmation.

(12) A copy of the report when made publicly available must be given by the Registrar to-

- (a) any person who has been served with a notice in accordance with sub-rule (5)(a);
- (b) those persons or bodies to whom recommendations have been addressed in that report;
- (c) the Minister;
- (d) the IMO;
- (e) any person or organisation whom the Registrar considers may find the report useful or of interest.

(13) Where a formal investigation is to be held following an accident which has been subject to a safety investigation, a draft report may be made available to the Board holding a formal investigation under section 393 and 394 of the Act.

Publications
other than
reports of
safety
investigations

14.-(1) The Registrar may from time to time publish collective short reports of accidents which have not been the subject of a report published under rule 13(1).

(2) The Registrar may submit a report to the Minister on any matter arising from the Registrar's analysis of marine accident investigations.

Recommendations
by
Registrar

15.-(1) The Registrar may at any time make recommendations to persons who, in his opinion are most fitted to implement them, as to how future accidents may be prevented.

(2) The recommendations by the Registrar under this rule shall be made publicly available if the Registrar considers that the publication is in the interests of safety or preventing pollution.

(3) Any person to whom a recommendation is addressed in accordance with this rule shall, as soon as is reasonably practical-

- (a) take that recommendation into consideration;
- (b) send to the Registrar-
 - (i) details of the measures, if any, that they have taken or propose to take to implement recommendations, and

- the timetable for securing that implementation; or
- (ii) an explanation within 30 days following receipt of the recommendation as to why the recommendation is not to be the subject of measures to be taken to implement it; and
 - (c) give notice to the Registrar if at any time any information provided to the Registrar in accordance with paragraph (3)(b)(i) concerning the measures they propose to take or the timetable for securing their implementation is rendered inaccurate by any change of circumstances.

(4) Subject to sub-rules (5) and (6) the Registrar shall, annually or at such other intervals as he deems fit, make information publicly available in respect of the matters, including any explanation, mentioned in sub rule (3) (b) and (c) which have been communicated to the Registrar and shall inform the Minister of those matters.

(5) The Registrar shall not publish information under sub rule (4) unless notification has been sent to all persons mentioned in the information and the Registrar has considered any representations relating to the information which may have been made in accordance with sub rule (6) by or on behalf of any person so notified, and amended the information in such manner as the Registrar thinks fit.

(6) Any representations made in accordance with sub-rule (5) shall be in writing and must be served on the Registrar within thirty days of receipt of the notification referred to in that paragraph or within such further period as may be allowed under rule 16.

(7) Without prejudice to sub rule (1) if the Registrar is of the view that at any stage of a safety investigation, urgent action is required to be taken so as to prevent the risk of further accidents occurring then the Registrar may inform the Minister as soon as possible as regards what urgent action should be taken.

Extension of
time

16.-(1) The Registrar may extend the period of thirty days

prescribed in rule 13(7), if the Registrar considers that there are good reasons to do so having regard to the requirements in rule 13 (2) for a report of a safety investigation to be made available in the shortest time possible.

(2) The Registrar may extend the period of thirty days prescribed in rule 15 (3) where the Registrar considers it appropriate to do so.

(3) The powers under this rule may be exercised notwithstanding that the prescribed period has expired.

Service of documents

17. Any notice or other document required or authorised by any provision of these Rules to be served on or given to any person may be served by-

- (a) physical delivery to that person;
- (b) leaving it at their usual or last-known residence or place of business, whether in the United Republic or elsewhere;
- (c) sending it to the person by post at that address; or
- (d) sending it to the person by facsimile, or other means which produces a document containing a text of the communication, or by electronic mail in which event the document shall be regarded as having been served when it is sent and delivered.

PART V

OFFENCES AND PENALTIES

Offences and penalties

18.-(1) A person commits an offence if-

- (a) being a person mentioned in rule 5(1)(a) or (b) or (2), fails without reasonable cause to report an accident as required by rule 5; or
- (b) being a person referred to in paragraph (a), fails without reasonable cause to provide information as required by rule 5(3); or
- (c) he falsely claims to have any additional information or new evidence pertaining to any accident, is liable upon conviction to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars two thousand and five hundred or to

imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

(2) A person who fails without reasonable cause to comply with any requirement, duty or prohibition in rule 9(1), (2), (6) or (7), commits an offence and is liable upon conviction to a fine of not less than the United States dollars two thousand and five hundred or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

(3) A person who without reasonable cause discloses or permits to be disclosed any information in contravention of rules 12(1) or makes available any documents or records in contravention of rule 12(2), shall be guilty of an offence and liable upon conviction to a fine of not less than the United States dollars two thousand and five hundred or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

General
penalty

19. A person who commits an offence for which no penalty has been stipulated in these Rules shall, on conviction, be liable to a fine of not less than the equivalent in Tanzanian Shillings of the United States Dollars one thousand or to imprisonment for a term not exceeding six months or to both.

Power to
compound
offence

20.-(1) Notwithstanding the provisions of these Rules relating to penalty, where a person has committed any offence under these Rules, the Registrar 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 such sum of money, not exceeding one half of the amount of the fine to which such person would otherwise have been liable if he had been convicted of such offence:

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

is to be settled;

- (c) shall be final and shall not be subject to any appeal to any court;
- (d) may be enforced in the same manner as a decree of a court for the payment of the amount stated in the order.

(2) On the payment of any sum of money under subsection (1)-

- (a) the person who committed the offence in respect of which the payment has been made shall, if in custody, be discharged;
- (b) any ship detained in respect of such offence shall be released; and
- (c) no further proceedings shall be taken against such person or ship in respect of such offence.

PART VI

GENERAL PROVISIONS

Evaluation and reporting

21-(1) The Registrar shall from time to time-

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

(2) The report under this rule shall-

- (a) set out the objectives intended to be achieved by the regulatory system established by these Rules;
- (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 rule.

Review

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



THE UNITED REPUBLIC OF TANZANIA
MINISTRY OF WORKS, TRANSPORT AND COMMUNICATION
TANZANIA SHIPPING AGENCIES CORPORATION
(TASAC)



—————
FIRST SCHEDULE
—————

MARINE CASUALTY OR INCIDENT NOTIFICATION DATA
—————

(Made under rule6)
—————

- (a) Name of ship and IMO, official or fishing vessel number including flag of the country of registration;
- (b) Type of ship;
- (c) Date and time of the accident;
- (d) Latitude and longitude or geographical position in which the accident occurred;
- (e) Name and port of registry of any other ship involved;
- (f) Number of people killed or seriously injured and associated type or types of casualty;
- (g) Brief details of the accident including ship, cargo or any other damage ;
- (h) If the ship is fitted with a voyage data recorder , the make and model of the recorder;
- (i) Ports of departure and destination;
- (j) Traffic separation scheme if appropriate;
- (k) Place on board;
- (l) The nature of any pollution that occurs as a result of an accident.



THE UNITED REPUBLIC OF TANZANIA
MINISTRY OF WORKS, TRANSPORT AND COMMUNICATION
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SECOND SCHEDULE

SAFETY INVESTIGATION REPORT CONTENT

(Made under rule 13(4)(a))

Foreword

This identifies the sole objective of the safety investigation and indicates that a safety recommendation shall in no case create a presumption of liability or blame and that there port has not been written, in terms of content and style, with the intention of it being used in legal proceedings.

(There port should make no reference to neither witness evidence nor link anyone who is referred to in the report to a person who has given evidence during the course of the safety investigation.)

1.0 SUMMARY

This part outlines the basic facts of the marine casualty or incident: what happened, when, where and how it happened; it also states whether any deaths, injuries, damage to the ship, cargo, third parties or environment occurred as a result.

2.0 FACTUAL INFORMATION

This part includes a number of discrete sections, providing sufficient information that the investigating body interprets to be factual, substantiate the analysis and ease understanding. These sections include, in particular, the following information:

- 2.1. Ship particulars Flag/register, Identification,
 - (a) Main characteristics,
 - (b) Owner ship and management,
 - (c) Construction details,
 - (d) Minimum safe manning,
 - (e) Authorised cargo.
- 2.2. Voyage particulars
 - (a) Ports of call,
 - (b) Type of voyage,
 - (c) Cargo information,
 - (d) Manning.
- 2.3. Marine casualty or incident information
 - (a) Type of marine casualty or incident,

GN. No. 61 (contd.)

- (b) Date and time,
 - (c) Position and location of the marine casualty or incident,
 - (d) External and internal environment,
 - (e) Ship operation and voyage segment, Place on board,
 - (f) Human factors data,
 - (g) Consequences (for people, ship, cargo, environment, other).
- 2.4. Shore authority involvement and emergency response
- (a) Who was involved, Means used,
 - (b) Speed of response, Actions taken, Results achieved.

3.0 NARRATIVE

This part reconstructs the marine casualty or incident through a sequence of events, in a chronological order leading up to, during and following the marine casualty or incident and the involvement of each actor (i.e. person, material, environment, equipment or external agent). The period covered by the narrative depends on the timing of those particular accidental events that directly contributed to the marine casualty or incident. This part also includes any relevant details of the safety investigation conducted, including the results of examinations or tests.

4.0 ANALYSIS

This part includes a number of discrete sections, providing an analysis of each accidental event, with comments relating to the results of any relevant examinations or tests conducted during the course of the safety investigation and to any safety action that might already have been taken to prevent marine casualties.

These sections should cover issues such as:

- (a) accidental event context and environment,
- (b) human erroneous actions and omissions, events involving hazardous material, environmental effects, equipment failures, and external influences,
- (c) contributing factors involving person-related functions, shipboard operations, shore management or regulatory influence.

The analysis and comment enable the report to reach logical conclusions, establishing all of the contributing factors, including those with risks for which existing defences aimed at preventing an accidental event, and/or those aimed at eliminating or reducing its consequences, are assessed to be either inadequate or missing.

5.0 CONCLUSIONS

This part consolidates the established contributing factors and missing or inadequate defences (material, functional, symbolic or procedural) for which safety actions should be developed to prevent marine casualties.

6.0 SAFETY RECOMMENDATIONS

When appropriate, this part of the report contains safety recommendations derived from the analysis and conclusions and related to particular subject areas, such as legislation, design, procedures, inspection, management, health and safety at work, training, repair work, maintenance, shore assistance and emergency response.

The safety recommendations are addressed to those that are best placed to implement them, such as ship owners, managers, recognized organisations, maritime authorities, vessel traffic services, emergency bodies, international maritime organizations and European institutions, with the aim of preventing marine casualties.

Merchant Shipping (Accident Reporting and Investigation)

GN. No. 61 (contd.)

This part also includes any interim safety recommendations that may have been made or any safety actions taken during the course of the safety investigation.

Dodoma,
14th January, 2019

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