

Merchant Shipping (Compulsory Insurance for Third Party Liabilities)

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THE MERCHANT SHIPPING ACT

(CAP 165)

REGULATIONS

(Made under section 430)

THE MERCHANT SHIPPING (COMPULSORY INSURANCE FOR THIRD PARTY LIABILITIES)
REGULATIONS, 2011

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THE MERCHANT SHIPPING (COMPULSORY INSURANCE FOR THIRD PARTY LIABILITIES)
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Citation and commencement	1. These Regulations may be cited as the Merchant Shipping (Compulsory Insurance for Third Party Liabilities) Regulations, 2011.
Application	2. These Regulations shall apply to a Tanzanian ship registered under the Act wherever it may be and to a licensed foreign vessel engaged in the local trade in Tanzanian waters, but shall not apply to Government ships.
Interpretation Cap 165	3. In these Regulations unless the context requires otherwise – “Act” means the Merchant Shipping Act; “Authority” means the Surface and Marine Transport Regulatory Authority established under section 4 of the Surface and Marine Transport Regulatory Authority Act;
Cap 413	“certificate” means a certificate issued by the Registrar of Ships under the provisions of regulation 7 of these Regulations; “Government ship” means any ship owned by the Government of any State or held by any person on behalf of or for the benefit of the Government of any State other than for commercial purposes; “proper officer” means any officer engaged or appointed to perform a certain duty or function and includes a consular officer; “owner” means in respect of a registered ship, the registered owner and includes a demise charterer and a managing owner or managing agent;

“ship” for the purpose of these Regulations means a floating vessel which is self propelled registered under the Act and capable of carrying passengers or cargo or a foreign ship licensed to engage in the local trade in Tanzanian waters.

Insurance or security to be in force

4.-(1) Every owner or master of a ship shall ensure that there is a valid insurance contract for third party liabilities in respect of his ship while in service.

(2) Notwithstanding the provisions of sub-regulation (1) the owner may put in force other scheme of security for third party liabilities in lieu of compulsory insurance contracts.

(3) Without prejudice to any provisions of the Act on the contract of insurance and limited liability, the contract of insurance and security may be limited in the manner set out under part XVIII of the Act.

Liability to be covered

5. The liabilities to be covered by the contract of insurance or security shall cover –

- (a) any liability under section 11 of the Act;
- (b) any liability for the costs of any operation to remove or render harmless the ship or any article which has been on the ship taken under the powers conferred by sections 320 or 321 of the Act or under corresponding powers of any statutory provision of local application;
- (c) any liability for payment of salvage awards under section 322 of the Act; and
- (d) any liability for the cost of providing relief to and of repatriating seamen left behind or shipwrecked.

Contracts of insurance and other security

6. A contract of insurance or other security shall be sufficient if it satisfies the requirements specified in regulations 4 and 5 of these Regulations.

Issuance of Certificate

7.-(1) The Registrar of Ships shall issue a certificate to an owner of a ship if is satisfied that a contract of insurance or other security meets the requirements under regulations 4 and 5 of these Regulations.

(2) The Registrar of Ships may refuse to issue the certificate if he is not satisfied with the details of the contract and shall assign reasons for such refusal.

(3) An applicant for the certificate shall pay a fee of Tanzania Shillings equivalent to US Dollars twenty five.

Availability of Certificate

8.-(1) Any Tanzanian ship other than a Government ship shall not arrive at or leave a terminal in the territorial sea of the United Republic, arrive or leave a port in any other country or a terminal in the territorial sea of any other country, unless it has in force a valid certificate in respect of the ship and meet the requirements of insurance as provided under section 11 of the Act.

(2) A foreign ship licenced to engage in the local trade in Tanzanian waters, shall not arrive at or leave at terminal in the territorial sea of the United Republic, unless it has in force a valid certificate in respect of the ship and meet the requirements of insurance as provided for under section 11 of the Act.

(3) A master or any other officer on a ship shall produce on demand a certificate for verification to any of the following-

- (a) surveyor of ships;
- (b) any Tanzanian consular officer;
- (c) the Registrar of Ships; and
- (d) Registrar of Seafarers.

Cancellation and surrender of certificate

9.- (1) Where a person to whom the certificate has been issued ceases to be the owner of the ship, shall surrender the certificate to the Registrar of Ships or to a proper officer for cancellation.

(2) Where, in any legal proceedings the contract of insurance or other security is declared to be invalid, the certificate shall be surrendered to the Registrar of Ships for

cancellation.

(3) Where, circumstances arise in relation to the ability of guarantor or insurer named in the certificate to discharge the insurance liabilities, the Registrar of Ships may cancel the certificate.

Power to
detain a ship

10. In any case where a ship does not comply with the requirements of these Regulations, the ship shall be liable to be detained, and the provisions of section 409 of the Act shall apply.

Offences and
Penalties

11.-(1) If a master of ship or owner allows a ship to enter or leave, or attempts to enter or leave a port or arrive at or leave, or attempt to arrive at or leave a terminal in contravention of regulation 8(1) or (2) of these Regulations commits an offence and shall be liable upon conviction to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars ten thousand or to imprisonment for a term not exceeding five years or to both.

(2) A master or owner of a ship who fails to produce a certificate commits an offence and shall be liable upon conviction 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 such fine and imprisonment.

(3) Any person who fails to comply with any requirements under these Regulations commits an offence and shall be liable upon conviction to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars one thousand.

Power to
compound
offence

12.-(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 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:

Provided that the Registrar of Ship shall not exercise his 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 Registrar of Ship compounds an offence under this regulation, the order referred to in sub-regulation (1) –

- (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-regulation 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.

(3) 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.

Dar es Salaam
11th April, 2011

HON. OMARI NUNDU,
Minister for Transport