

GOVERNMENT NOTICE NO. 358 published on 23/11/2012

THE MERCHANT SHIPPING (DANGEROUS GOODS AND MARINE  
POLLUTANTS) REGULATIONS, 2012

MERCHANT SHIPPING ACT  
(CAP.165)

REGULATIONS

*(Made under section 376)*

THE MERCHANT SHIPPING (DANGEROUS GOODS AND MARINE POLLUTANTS)  
REGULATIONS, 2012

ARRANGEMENT OF REGULATIONS

PART I  
PRELIMINARY PROVISIONS

1. Citation and Commencement.
2. Interpretation.
3. Application.

PART II  
EXEMPTION AND GENERAL DUTIES

4. Exemption.
5. General duties of operators and employees.
6. General duties of operators and employers.
7. Misconduct endangering a Tanzanian Ship or persons aboard.

PART III  
CARRIAGE OF PACKAGED GOODS

8. Declaration.
9. Preparation of goods for transport.
10. Documentation by electronic data processing or electronic data interchange.

*Merchant Shipping (Dangerous Goods and Marine Pollutants)*

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GN. No. 358 (contd.)

11. List, manifest or stowage plan.
12. Marking and Labeling.
13. Stowage on board ship.
14. Cargo securing documentation.
15. Operational requirements.

PART IV

DANGEROUS GOODS OR MARINE POLLUTANTS IN BULK

16. Carriage of Dangerous Goods or Marine Pollutants in Bulk.
17. Documentation.

PART IV

SPACE FOR THE CARRIAGE OF DANGEROUS GOODS

18. Space for the carriage of packaged goods.

PART V

OFFENCES AND PENALTIES

19. Power to detain.
20. Offences and penalties.
21. Power to Compound.

MERCHANT SHIPPING ACT  
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THE MERCHANT SHIPPING (DANGEROUS GOODS AND MARINE POLLUTANTS)  
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PART I

PRELIMINARY PROVISIONS

Citation and  
Commencement

1. These Regulations may be cited as the Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations, 2012 and shall come into operation on the date of publication.

Interpretation

2.-(1) In these Regulations, unless the context otherwise requires:

Cap.413

"Authority" means the Surface and Marine Transport Regulatory Authority (SUMATRA) established under section 4 of the Surface and Marine Transport Regulatory Authority Act;

"BCH Code" means the 1993 edition of the IMO Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk;

"Bulk Cargoes Code" means the 2001 Edition of the IMO Code of Safe Practice for Solid Bulk Cargoes;

"cargo transport unit" means a road freight vehicle, railway freight wagon, freight container, road tank vehicle, a railway tank wagon and a portable tank;

"classify" means to determine whether goods are dangerous goods or a marine pollutant for the purposes of sea transport;

"correct technical name" means a description of the goods sufficient to identify their dangerous or polluting

characteristics;

"dangerous goods declaration" means a certificate or declaration in writing, signed by the person making it, certifying that the shipment offered for carriage is properly classified, packaged, marked, labelled and placarded, in accordance with the IMDG Code and is in proper condition for carriage by sea;

"dangerous goods" means goods classified in the IMDG Code or in any other IMO publication referred to in these regulations as dangerous for carriage by sea, and any other substance or article that the shipper has reasonable cause to believe might meet the criteria for such classification and it also includes:

- (a) residues in empty receptacles, empty tanks or cargo holds which have been used previously for the carriage of dangerous goods unless such receptacles, empty tanks or cargo holds have been cleaned and dried, purged, gas freed or ventilated as appropriate or, in the case of radioactive materials, have been both cleaned and adequately closed; and
- (b) goods labeled, marked or declared as dangerous goods;

For the purpose of these Regulations dangerous goods shall not include goods forming part of the equipment or stores of the ship in which they are carried;

"declarations" means dangerous goods declaration and marine pollutant declaration;

"employee" means the master or any person employed on board the ship in the deck, engine, radio, medical or catering department of a ship, or in the provision of goods, services or entertainment on board, excluding workers, shore – based repair or other workers temporarily engaged;

"forwarder" means the person by whom the dangerous

goods declaration or marine pollutants declaration and packing certificate are received, and any person responsible for packing the goods into a cargo transport unit, for eventual delivery to the ship or its agent;

"Gas Carrier Code for Existing Ships" means the 1976 edition of the IMO Code for Existing Ships Carrying Liquefied Gases in bulk as amended from time to time;

"Gas Carrier Code" means the 1983 edition of the IMO Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk;

"handling" includes the operations of loading, unloading and transferring dangerous goods or marine pollutants and cleaning, purging, gasfreeing, ullaging, sounding, sampling and similar operations required for the carriage of such goods in a ship; and cognate expressions shall be construed accordingly;

"IBC Code" means the 1998 Edition of the IMO International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk;

"IGC Code" means the 1993 edition of the IMO International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk;

"IMDG Code" means the IMO International Maritime Dangerous Goods Code;

"IMO Recommendations" means current edition Recommendations on the Safe Transport of Dangerous Cargoes and Related Activities in Port Areas;

"IMO" means the International Maritime Organisation;

"in bulk" means directly and without intermediate form of containment in a hold, tank or cargo space, which is a structural part of or permanently attached to a ship;

"marine pollutant" means a substance classified as such in

the IMDG Code, or as a noxious liquid substance in the IBC Code or as defined in Annex I to the MARPOL Convention, excluding bunkers and ship's stores and any other substance, material or article that the shipper has reasonable cause to believe might meet the criteria for such classification;

"marine pollutants declaration" means a certificate or declaration in writing, signed by the person making it, that the shipment offered for carriage is properly classified, packaged and marked in accordance with the IMDG Code and is in a proper condition for carriage to minimize the hazard to the marine environment;

"merchant shipping notice" means a notice, issued by the Authority;

"operator" in relation to a ship includes any owner, charterer, manager and agent of the ship;

"Minister" means the Minister responsible for shipping;

"package" means an individual package or receptacle described in the IMDG Code an intermediate bulk container;

"packaged goods" means packaged dangerous goods or packaged marine pollutants;

"shipper" means a person who, whether as principal or agent for another, consigns for carriage by sea dangerous goods or marine pollutants;

"SOLAS" means the International Convention for the Safety of Life at Sea 1974, and its 1978 Protocol, as amended;

"Tanzanian ship" means a ship registered or licensed under the provisions of the Act at a port in the United Republic;

"the MARPOL Convention" means the International Convention for the Prevention of Pollution from Ships 1973 and its 1978 Protocol;

"UN number" means the number allocated to a dangerous substance, article or material by the IMDG Code or in any other IMO publication referred to in

these Regulations;

“cargo ship” means a ship, which is not a passenger ship;

“packing certificate” means a container or vehicle packing certificate;

“Tanzanian waters” means the sea or other waters within the seaward limits of the territorial sea of Tanzania.

Application

3. These Regulations shall apply to:

(a) Tanzanian ships; or

(b) other ships while they are within Tanzanian waters carrying dangerous goods in bulk or packaged form or marine pollutants in packaged form.

## PART II

### EXEMPTION AND GENERAL DUTIES

Exemption

4. The Minister may grant exemption from all or any of the provisions of these Regulations for classes of dangerous goods or individual cases on such terms as may be specified and subject to giving reasonable notice, amend or revoke any such exemption.

General duties of operators and employers

5.-(1) It shall be the duty of every operator, employer of persons aboard a ship and master of a ship to ensure that when dangerous goods are being handled, stowed or carried on board a ship, such that nothing in the manner in which those goods are handled, stowed or carried as the case may be, creates a significant risk to the health and safety of any person.

(2) Without prejudice to the generality of the operator's, employer's or master's duty referred to under sub regulation (1), the duty of the operator and employer shall include matters relating to:

(a) the provision and maintenance of ship's structure, fittings and equipment for the handling, stowage and carriage of dangerous goods; and

*Merchant Shipping (Dangerous Goods and Marine Pollutants)*

*GN. No. 358 (contd.)*

- (b) the provision of such information, instruction, training and supervision to all employees in connection with the handling, stowage and carriage of dangerous goods.

General duties of employees

- 6. An employee aboard a ship shall:
  - (a) take reasonable care for his health and safety and that of other persons who may be affected by his acts or omissions in connection with the handling, stowage and carriage of dangerous goods; and
  - (b) have regard to any duty or requirement imposed on the operator, or the employee's employer by the Act or any Regulation or Rule with regard to the health and safety of persons aboard a ship to which these Regulations apply, cooperate with the operator or employer so far as is necessary to enable that duty or requirement to be performed or complied with in connection with the handling, stowage and carriage of dangerous goods.

Misconduct endangering a Tanzanian ship or persons aboard

- 7. A person shall not intentionally or recklessly interfere with or misuse anything provided on or disobey instructions displayed on the ship in the interest of health or safety in accordance with the Act, Regulations or Rules made thereunder.

PART III

CARRIAGE OF PACKAGED GOODS

Declaration

- 8.-(1) A shipper of packaged goods shall not offer for carriage or take on board any ship, any packed goods, unless a dangerous goods declaration or a marine pollutants declaration, or a combined dangerous goods and marine pollutants declaration, is provided by the shipper to the master or operator.



(2) The declaration referred to in sub regulation (1) shall consist of the following details-

- (a) the company or organisation on whose behalf the signatory acts;
- (b) the postal address, email address, telephone number and facsimile number of the person from whom detailed information about the packaged goods in question may be obtained;
- (c) the name of the signatory;
- (d) the status of the signatory within the company or organisation; and
- (e) the date on which the declaration was prepared.

(3) Without prejudice to regulation 11(2), packaged goods shall not be offered for carriage or taken on board any ship unless the master or operator has been provided with a document including the following details:

- (a) the proper shipping name;
- (b) the class and division where applicable;
- (c) the United Nations (UN) numbers where allocated by the IMDG Code;
- (d) where relevant, the packaging or packing group;
- (e) the number and kind of packages;
- (f) the total quantity of dangerous goods or net explosive mass of the contents;
- (g) the words "MARINE POLLUTANT" where appropriate;
- (h) if appropriate, the class of ship needed for any packaged irradiated nuclear fuel, plutonium and high level radioactive wastes carried as cargo in accordance with class of 7<sup>th</sup>, 10<sup>th</sup> and 13<sup>th</sup> Schedules to the IMDG Code and the quantities of such goods; and
- (i) any other information required by the IMDG Code.

*Merchant Shipping (Dangerous Goods and Marine Pollutants)*

*GN. No. 358 (contd.)*

(4) The declaration referred to in sub regulation (2) shall be combined with the document referred to in sub regulation (3).

(5) In consigning the goods for carriage by sea, the shipper shall make proper provision to ensure the onward delivery of the declaration and documents to the ship or its agent.

(6) In case the goods are not delivered by the shipper to the ship or its agent, but are provided to another person for onward delivery of the goods or for the consolidation of the goods with other goods or cargoes for eventual delivery, responsibility for providing the document and declaration shall rest upon the forwarder and each person responsible for onward transfer and delivery.

(7) Responsibility for providing the documents and declaration shall not extend to those persons who are solely engaged in the loading of the goods onto the ship or moving the goods around the port or terminal.

Preparation of  
goods for  
transport

9.-(1) A shipper shall not offer packaged goods for carriage unless-

(a) all the conditions specified in the IMDG Code have been complied with; and

(b) in the case of goods in a portable tank or tank container or vehicle, the goods have been properly and safely prepared for carriage by sea in compliance with applicable tank requirements in accordance with the IMDG Code.

(2) In preparing any goods for shipment it shall be the duty of the shipper to identify and classify dangerous goods or marine pollutants in order to ensure that the proper precautions and preparations are made.

(3) A shipper shall not sign a declaration unless sub-regulations (1) and (2) are complied with.

(4) An operator or master shall not accept for carriage, or take or receive on board any packaged goods where he has reasonable cause to suspect that the goods are not in compliance with sub regulation (1).

(5)(a) Where packaged goods are to be packed or shipped in or on a cargo transport unit, the person responsible for packing such goods shall -

- (i) ensure that the stowage, segregation and of the goods is adequate and in accordance with the IMDG Code; and
- (ii) provide the operator, master, shipper or forwarder with a packing certificate in accordance with the requirements of the IMDG Code;
- (b) this sub regulation shall not apply to goods packaged within a portable tank, road tank vehicle, rail tank wagon or tank container.
- (c) an operator or the master shall not accept on any ship any cargo transport unit with goods in it without a packing certificate.

Documentation  
by electronic  
data processing

10. A dangerous goods declaration, a marine pollutant declaration, a packing certificate or any accompanying documentation may be submitted directly to the master or operator in the form of a paper document or by electronic methods.

List, manifest  
or stowage plan

11.-(1) The master of any ship carrying packaged goods shall cause a list, manifest or stowage plan to be carried in the ship.

(2) The list, manifest or stowage plan shall set out details, obtained from the shipping documents submitted by the shipper of the packaged goods on board including the correct technical name of the goods, their classification in accordance with the IMDG Code and their mass or volume and details of the location in the ship where the goods are stowed.

(3) The information required by sub regulations (1) and (2) may be contained in a combined list, manifest or stowage plan relating to both packaged dangerous goods and packaged marine pollutants, or in two such lists, manifests or stowage plans, relating to dangerous goods

and the other to marine pollutants.

(4) Where a combined document is used it shall clearly show which goods are dangerous goods and which are marine pollutants.

(5) The master shall carry in the ship any additional special documents where required by the IMDG Code for the carriage of packaged dangerous goods.

(6) Any such list, manifest or stowage plan and any additional special documents required for the acceptance of goods for carriage in the ship shall be made available for reference or inspection on board the ship all the while until the time the goods have been discharged from the ship.

Marking and labeling

12. Packaged goods shall not be taken on board any ship for carriage in that ship unless they are marked, labeled, placarded, and they display a fumigation warning sign, as appropriate and specified in the IMDG Code.

Stowage on board a ship

13.- (1) Packaged goods shall not be accepted on board if their stowage on board is prohibited by the IMDG Code.

(2) Packaged goods shall not be accepted on board unless any necessary additional safety equipment is provided in accordance with the IMDG Code.

(3) Packaged goods shall be adequately stowed, segregated and secured on board ship in accordance with the IMDG Code.

(4) Where any ship carries a cargo securing manual, cargo transport units, including containers, it shall be loaded, stowed and secured throughout any voyage in accordance with the cargo-securing manual.

Cargo securing documentation

14.- (1) On and after 31<sup>st</sup> December 2012 packaged goods shall not be carried on:

- (a) all ships engaged in international voyages;
- (b) passenger ships engaged in voyages other than international voyages; and
- (c) cargo ships of 500 gross tons or over engaged on voyages other than international

voyages,  
without carrying a Cargo Securing Manual drawn up to a standard contained in the IMO Maritime Safety Committee Circular MSC/Circ. 745.

Operational requirements

15. The operator and master shall ensure that all employees are familiar with the essential actions to be taken in an emergency involving such packaged goods as are carried on board the ship.

#### PART IV

#### DANGEROUS GOODS OR MARINE POLLUTANTS IN BULK

Carriage of dangerous goods or marine pollutants in bulk

16.-(1) Where an operator has any cause to believe that dangerous goods or marine pollutants can not be handled or carried in bulk safely in that ship he shall ensure that:

- (a) where the dangerous goods or marine pollutants are listed in Chapter VI of the BCH Code, Chapter 17 of the IBC Code, Chapter XIX of the Gas Carrier Code for Existing Ships, Chapter XIX of the Gas Carrier Code, or in Chapter 19 of the IGC Code, or are classified dangerous goods listed in Appendix B of the Solid Bulk Cargoes Code, they are handled and carried in accordance with the requirements of appropriate code; and
- (b) where the dangerous goods or marine pollutants, in question consist of a liquid chemical or a liquefied gas which is not listed in the Codes mentioned in paragraph(a), they shall be handled and carried in accordance with the approval of the Authority specifying the date on which it takes effect and the condition in which it is given.

Documentation

17.-(1) The shipper of any dangerous goods, marine pollutants or goods listed in Appendix B of the

Bulk Cargoes Code to be carried in bulk shall provide the operator or the master with a notification in writing giving notice and quantity of the goods.

(2) The notification in sub regulation (1) shall contain details of the postal address, email address, telephone number and facsimile number of the person from whom the detailed information about the packaged goods may be obtained.

(3) The master of a ship carrying dangerous goods or marine pollutants in bulk shall cause a specific list, manifest or stowage plan to be kept in the ship for the voyage on which it is currently engaged.

(4) The specific list, manifest or stowage plan to be carried in the ship for the voyage shall:

(a) set out details, obtained from the shipping documents including the correct technical name of the goods, their mass or volume and, where the dangerous goods are shown in Appendix B of the Bulk Cargoes Code, the classification in accordance with the IMDG Code; and

(b) show details of the location in the ship where the goods are stowed.

(5) The master shall carry in the ship any additional special documents which may be required by the Bulk Cargoes Code, the BCH or IBC Codes or the IGC or Gas Carrier Codes for the carriage of dangerous goods or marine pollutants.

(6) Any such list, manifest or stowage plan and any additional special document required for the acceptance of such goods for carriage in the ship shall be made available for reference or inspection on board the ship all the while until the goods have been discharged from the ship.

#### PART IV

#### SPACE FOR THE CARRIAGE OF DANGEROUS GOODS

Space for

18. - (1) This part shall apply to:

carriage of  
packaged  
goods

- (a) passenger ships constructed on or after 1st September of 1984;
- (b) cargo ships of 500 tons or over, constructed on or after 1<sup>st</sup> of September 1984; and
- (c) cargo ships of less than 500 tons constructed on or after 1<sup>st</sup> of February 1992.

(2) Packaged goods or solid dangerous goods in bulk shall not be taken on board or accepted for carriage or carried on any ship unless the spaces in which they are to be carried or are carried, complies with the provisions of Regulation 54 in Chapter II-2 of SOLAS whether or not the ship is engaged on international voyages.

(3) In the case of a ship engaged on international voyages, packaged goods or solid dangerous goods in bulk shall not be taken on board, or carried, unless the ship has on board a document of compliance issued by or on behalf of the Minister or the competent authority of the State in which it is registered.

## PART V

### OFFENCES AND PENALTIES

Power to detain

19. Where a ship does not comply with the requirements of these Regulations, it shall be detained in accordance with the provisions of section 409 of the Act.

Offences and  
penalties

20.-(1) Any employer, operator or master who fails to comply with regulation 5, commits an offence and shall on conviction, be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States Dollars fifty thousand or to imprisonment for a term not exceeding twelve years or to both.

(2) Any employee aboard a ship carrying dangerous goods who fails to comply with regulation 6, commits an offence and shall on conviction, be liable 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.

(3) Any person aboard a ship carrying dangerous goods who fails to comply with regulation 7, commits an offence and, shall on conviction, be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States Dollars fifty thousand or to imprisonment for a term not exceeding three months or to both.

(4) If a shipper, a forwarder, or other person:

- (a) fails to provide the operator or master of the ship with the required document and declaration; or
- (b) provides a declaration or document which he knows to be false or reckless or makes a false declaration,

commits an offence and shall on conviction, be liable 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 six years or to both.

(5) An operator or master who accepts for carriage, takes or receives on board any packaged goods for which a document and declaration is required and none has not been provided, commits an offence and shall on conviction, be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States Dollars fifty thousand or to imprisonment for a term not exceeding twelve years or to both.

(6) Any person who contravenes regulation 9(1), commits an offence and shall on conviction, be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States Dollars fifty thousand or to imprisonment for a term not exceeding ten years or to both.

(7) A master or operator who contravenes regulation 9(4), commits an offence and shall, on conviction, be liable to a fine of not less than fifty thousand United States Dollars or imprisonment for a term not exceeding twelve years or to both.

(8) (a) A the person responsible for packing goods and who contravenes sub regulation 11(1), commits an offence and shall on conviction, be liable to a fine of not



less than the equivalent in Tanzanian shillings of the United States Dollars fifty thousand or to imprisonment for a term not exceeding twelve years or to both.

(b) A shipper or forwarder who fails to provide the operator or master of the ship with the signed packing certificate commits an offence and shall on conviction, be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States Dollars fifty thousand or to imprisonment for a term not exceeding twelve years or to both.

(9) An operator or master who contravenes regulation 11(5), commits an offence and shall on conviction, be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States Dollars fifty thousand or to imprisonment for a term not exceeding twelve years or to both.

(10) A master of a ship carrying packaged goods who fails to cause a list, manifest or stowage plan or additional special documents to be kept in the ship or made available, commits an offence and shall on conviction, be liable 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 six years or to both.

(11) A shipper who contravenes regulation 12, commits an offence and shall on conviction, be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States Dollars fifty thousand or to imprisonment for a term not exceeding twelve years or to both.

(12) An operator or a master who accepts on board ship packaged goods in contravention of regulation 13(1) or 13(2), commits an offence and shall on conviction, be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States Dollars fifty thousand or to imprisonment for a term not exceeding twelve years or to both.

(13) An operator or a master who fails to comply

with the provisions of regulation 13(3), commits an offence and shall on conviction, be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States Dollars fifty thousand or to imprisonment for a term not exceeding twelve years or to both.

(14) An operator or a master who fails to comply with regulation 13(4), commits an offence and shall on conviction, be liable 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.

(15) An operator or a master who fails to comply with regulation 14, commits an offence and shall on conviction, be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States Dollars fifty thousand or to imprisonment for a term not exceeding twelve years or to both.

(16) An operator or master of a ship who fails to comply with regulation 15, commits an offence and shall on conviction, be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States Dollars fifty thousand or to imprisonment for a term not exceeding twelve years or to both.

(17) A shipper of any dangerous goods or marine pollutants in bulk who:

- (a) fails to provide the operator or the master with a notification in writing, or
- (b) provides a notification which he knows to be false or recklessly,

shall be guilty of an offence and shall on conviction, be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States Dollars fifty thousand or to imprisonment for a term not exceeding twelve years or to both.

(18) A master of a ship carrying dangerous goods or marine pollutants in bulk who fails to cause a list or stowage plan or any additional special documents to be kept in the ship or made available commits an offence and shall on conviction, be liable to a fine of not less than the

equivalent in Tanzanian shillings of the United States Dollars twenty thousand or to imprisonment for a term not exceeding ten years or to both.

(19) An operator or master who carries, packaged goods or dangerous goods in solid form in bulk:

- (a) on a ship in which the spaces in which they are to be or are carried in, does not comply with regulation 18; or
- (b) in a case of a ship engaged in international voyages, which does not have on board a document of compliance as required by regulation 18,

commits an offence and shall on conviction, be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States Dollars fifty thousand or to imprisonment for a term not exceeding twelve years or to both.

Power to  
Compound

21.-(1) Notwithstanding the provisions of these Regulations relating to penalties, where any person commits an offence under these Regulations, the Registrar of Ships may, at any time prior to the commencement of hearing by any court, 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 Ships shall not exercise his powers under this regulation unless person concerned admits in writing that he has committed such offence and requests that it be compounded.

(2) Where the Authority compounds an offence, the order referred to in sub-regulation (1):

- (a) shall be reduced into writing and there shall be attached to it the written admission and the request referred to in sub-regulation (1) and a copy of such order shall be given if so requested to the person who committed the offence;

*Merchant Shipping (Dangerous Goods and Marine Pollutants)*

*GN. No. 358 (contd.)*

- (b) shall specify the offence committed, the sum of money ordered to be paid and the date or dates of 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 such of money under sub-regulation (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,  
05<sup>th</sup> October, 2012

HARRISON G. MWAKYEMBE  
*Minister for Transport*