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THE MERCHANT SHIPPING ACT
(CAP 165)

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RULES
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(Made under section 179)
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THE MERCHANT SHIPPING (INQUIRIES ON SEAFARERS) RULES, 2011

ARRANGEMENT REGULATIONS

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| Citation and commencement | 1. These Rules may be cited as the Merchant Shipping (Inquiries on Seafarers) Rules, 2010. |
| Application | 2. These Rules shall apply to an inquiry on fitness and conduct of seafarer and any re-hearing of such inquiry which is not held by the Court. |
| Interpretation | 3.-(1) In these Rules unless the context otherwise requires – |
| Cap. 165 | “Act” means the Merchant Shipping Act;
“allegation” means claim by the Registrar of Seafarers that a certificate holder is unfit to be the holder of such certificate, whether by reason of incompetence or misconduct or for any other reason, within the meaning of section 176 of the Act;
“certificate holder” means the holder of a certificate of competency issued under section 162 of the Act;
“inquiry” means any inquiry or re-hearing of an inquiry on fitness and conduct of seafarer to which these Regulations apply;
“inquiry officer” means a person appointed by the Minister under section 177 of the Act to hold an Inquiry;
“Minister” means Minister responsible for shipping;
“Registrar of Seafarers” means a person appointed as a Registrar of Seafarers under Section 7 of the Act. |
| Notice of intention to suspend or cancel a certificate | 4.-(1) The Registrar of Seafarers may issue a notice of intention to suspend or cancel a certificate stating-
(a) reasons for suspension or cancellation.
(b) manner and period within which the certificate holder may make representation. |

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(2) The Registrar of Seafarers shall, after considering the representations made under sub-regulation (1), issue a notice of his decision to the certificate holder.

(3) Where the Registrar of Seafarers decides to suspend or cancel a certificate, he shall issue a notice to the certificate holder indicating the effective date and period for which the suspension or cancellation shall take effect.

Initiating
Inquiry
proceedings

5.-(1) A seafarer may, before the effective date of cancellation or suspension of certificate, write to the Minister requiring his case to be dealt with by way of an Inquiry.

(2) The requisition letter to the Minister shall contain brief facts of the matter and decision of the Registrar of Seafarers.

(3) The Minister shall, upon receipt of the requisition letter, cause an inquiry to be held by one or more persons appointed by him.

Persons to
conduct
inquiry

6.-(1) The Minister may appoint any person to be an inquiry officer for the purposes of conducting an inquiry under these Regulations.

(2) The inquiry officer shall conduct an inquiry with assistance of one or more assessors appointed by the Minister.

(3) A person appointed to be an assessor shall be qualified to assess the competence of a seafarer to discharge the duties and responsibilities commensurate with his certificate.

Notice of
Inquiry

7.-(1) The inquiry officer shall, where an inquiry is to be held, serve a written notice of inquiry on the certificate holder and the Registrar of Seafarers.

(2) The service of a notice of inquiry shall be effected at least fourteen days before the date fixed for the inquiry by serving the parties personally or by sending the notice to their last known addresses by registered post or by recorded delivery service.

- (3) The notice of inquiry shall include-
- (a) facts giving rise to the inquiry;
 - (b) allegation made against the certificate holder;
 - (c) grounds for inquiry and a copy of the Registrar of seafarers' decision issued;
 - (d) time and the place where the inquiry is to be held.

Holding
of the
inquiry

8.-(1) Where the certificate holder and the Registrar of Seafarers have been duly served with the notice of inquiry, the inquiry officer may proceed with the inquiry in the absence of either party.

(2) Where the inquiry officer is satisfied that the certificate holder has not been duly served with the notice of inquiry, he shall not proceed with the inquiry and order re-service of the notice.

(3) Any person not being the certificate holder may with the leave of the inquiry officer become a party to the inquiry.

(4) The inquiry shall be held in public except to the extent to which the inquiry officer is satisfied that in the interest of justice or for other good cause and sufficient reason in the public interest, any part of the evidence or argument be heard in camera.

Procedure
of inquiry

9.-(1) The proceedings at the inquiry shall commence with a presentation by the Registrar of Seafarers.

- (2) The certificate holder may –
- (a) before or at any time after the commencement of the inquiry, admit the allegation or any part of it, or
 - (b) defend himself against the allegation.

(3) Where more than one allegation is made against a certificate holder his admission of an allegation or any part of it pursuant to sub-regulation (2) shall be without prejudice to his right to defend himself against any other allegation which he does not admit.

(4) Any party to the inquiry shall have the right to make an opening statement, call witnesses, cross-examine witnesses called by the other party, tender evidence other than oral evidence and address the inquiry in such order as the inquiry officer may direct.

(5) Any party to the inquiry may seek leave of the inquiry officer to make representations in writing and such written representations shall be read out at the inquiry by the inquiry officer.

(6) Without prejudice to the admission of documents as secondary evidence allowed by statute or otherwise, affidavits, depositions, statutory declarations and other written evidence shall, unless the inquiry officer considers it unjust, be accepted as evidence at the inquiry.

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(7) The inquiry officer may adjourn the hearing of the inquiry for such period as he thinks fit either of his own motion or upon application by any party.

Decision
of the
Inquiry

10.-(1) The decision of inquiry shall be made by the inquiry officer after seeking opinion from the assessors.

(2) The inquiry officer shall, at the conclusion of the inquiry or on any date deemed fit and not later than two weeks from the date of conclusion of the inquiry, pronounce before the parties his written decision in accordance with the provisions of Section 177(3) of the Act and assign reasons for the decision.

(3) The inquiry officer shall prepare a report on the inquiry and submit it to the Minister.

(4) Even assessor shall sign the decision of the inquiry with or without reservations.

(5) Where any assessor has a dissenting opinion, he shall put his reasons in writing and such reasons shall be forwarded to the Minister with the report.

(6) The Minister may upon requisition, issue a copy of the report to a party who has requested for a copy.

Re-
hearing of
the
Inquiry

11. Re-hearing of the inquiry may be conducted in accordance with the provisions of Section 178 of the Act.

Cost of
Inquiry

12. Costs of inquiry shall be incurred by the Registrar of Seafarers save for the cost of the certificate holder and his witnesses which shall be born by the certificate holder.

Dar es Salaam
11th April, 2011

HON. OMARI R. NUNDU (MP),
Minister for Transport