

**THE TANZANIA SHIPPING AGENCIES
(COMPLAINTS HANDLING) REGULATIONS,
G.N. NO. 338 OF 2018**

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THE TANZANIA SHIPPING AGENCIES ACT
(ACT NO.14 OF 2017)

REGULATIONS

(Made under section 59(3) and 61(2)(c))

THE TANZANIA SHIPPING AGENCIES (COMPLAINTS
HANDLING) REGULATIONS, 2018

PART I
PRELIMINARY PROVISIONS

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

PART II
ROLE OF A REGULATED SERVICE PROVIDER AND THE
CORPORATION

4. Role of service provider.
5. Role of Corporation.

PART III
MANAGEMENT OF COMPLAINTS BY THE CORPORATION

6. Persons who may lodge complaints.
7. Complaints not to be dealt with.
8. Time limit for lodging complaint.
9. Demand notice.
10. Institution of complaint.
11. Complainant to file particulars on affidavit if required.
12. Explanation filed by service provider.
13. Examination and response.

Tanzania Shipping Agencies (Complaints Handling)

G.N. No. 338 (contd.)

14. Preliminary hearing.
15. Notice to admit facts.
16. Corporation's action on completion of inquiry.
17. Summons.

PART IV
APPEAL TO THE MINISTER

18. Appeal to the Minister.
19. Service of memorandum and record of appeal.
20. Proof of service of documents.
21. Power to order for report.
22. Powers of the Minister to confirm, reverse or vary orders.
23. Withdrawal of appeal.

THE TANZANIA SHIPPING AGENCIES ACT
(ACT NO.14 OF 2017)

REGULATIONS

PART I
PRELIMINARY PROVISIONS

- Citation 1. These Regulations may be cited as the Tanzania Shipping Agencies (Complaints Handling) Regulations, 2018.
- Application 2. These Regulations shall apply to regulated services providers and regulated services in Mainland Tanzania.
- Interpretation 3. In these Regulations unless the context requires otherwise:
- Act No. 14 of 2017 “Act” means the Tanzania Shipping Agencies Act;
“authorized agent” means a person who represents a complainant or a service provider to the Corporation;
“Corporation” means the Tanzania Shipping Agencies Corporation established under section 4 of the Act;
“Minister” means the Minister responsible for maritime transport;
“regulated service” includes any service supplied or offered for supply in maritime transport sector and includes maritime environment, safety, security, port services, dry port services, shipping agency, clearing and forwarding, cargo consolidation and deconsolidation, gross mass verification and miscellaneous port services; and
“regulated service provider” means a company providing regulated services.

PART II
ROLE OF A REGULATED SERVICE PROVIDER AND THE CORPORATION

Role of regulated service provider

4. A regulated service provider shall ensure that he-
- (a) provides safe, reliable and efficient regulated services or goods to consumers and that there are no false or misleading representation with respect to the price and standards of regulated goods or services;
 - (b) plans and operates systems in a manner that provides the consumers with satisfactory standards of services as set forth in the licence;
 - (c) submits assessment reports to the Corporation as shall be required by the Corporation;
 - (d) establishes, publishes and submits internal consumer complaint procedures to the Corporation for approval; and
 - (e) addresses consumer complaints in accordance with laws and procedures.

Role of Corporation

shall-

5. The Corporation
- (a) receive complaints from consumer, regulated service provider or a person who is affected or likely to be affected by the act, omission or decision of a regulated service provider;
 - (b) evaluate complaints and satisfy itself if the complainant has an interest in the matter to which the complaints relates and that the complaint is not frivolous or vexatious; and
 - (c) resolve the complaints.

PART III
MANAGEMENT OF COMPLAINTS BY THE CORPORATION

Persons who
may lodge
complaints

- by-
6. A complaint may be lodged to the Corporation
- (a) a person who receives or has received services from a regulated service provider;
 - (b) a person who is affected or likely to be affected by the act, omission or decision of a regulated service provider; or
 - (c) a regulated service provider.

Complaints not
to be dealt with

7. The Corporation shall not deal with the following complaints in accordance with these Regulations-

- (a) a complaint which is made orally and is resolved amicably to the complainant's satisfaction not later than seven days after the day on which the complaint was made;
- (b) a complaint, the subject matter of which is the same as that of a complaint that has previously been made by the same complainant and resolved in accordance with these Regulations; and
- (c) a complaint not communicated in writing to the Director General.

Time limit for
lodging
complaint

8.-(1) Except as provided in sub-regulation (2), a complaint shall be lodged not later than twelve months after-

- (a) the date on which the matter which is the subject of the complaint occurred; or
- (b) the date on which the matter which is the subject of the complaint came to the notice of the complainant.

(2) The time limit in sub-regulation (1) shall not apply if the Corporation, upon written application by the complainant, is satisfied that the complainant had good

Tanzania Shipping Agencies (Complaints Handling)

G.N. No. 338 (contd.)

reasons for not lodging the complaint within the time limit.

Demand notice

9.-(1) A person who intends to lodge a complaint under these Regulations shall issue a twenty one days demand notice to a party who is subject of the complaint.

(2) The demand notice shall include the following particulars:

- (a) the name, description and place of residence of a person who intends to lodge a complaint;
- (b) the name, description and place of residence of the person against whom a complaint is lodged, so far as they can be ascertained;
- (c) the facts constituting the matter and when it arose; and
- (d) the relief claimed.

Institution of complaint

10.-(1) A complaint against a regulated service provider may be-

- (a) initiated by the Corporation on its own motion; or
- (b) instituted in writing and addressed to the Director General.

(2) A complaint referred to the Corporation shall contain the following:

- (a) date, name, address and signature of the complainant;
- (b) statement in precise manner explaining the complaint and relief claimed;
- (c) information as to whether the complaint has previously been referred to any other authority for adjudication; and
- (d) any other information necessary for determination of the complaint.

(3) The Corporation shall keep and maintain a register of complaints lodged in accordance with these Regulations.

Complainant to file particulars

11.-(1) The Corporation may require the complaint or any part thereof to be verified by affidavit.

Tanzania Shipping Agencies (Complaints Handling)

G.N. No. 338 (contd.)

on affidavit if
required

(2) Upon receipt of a complaint against a service provider, the Corporation shall notify the service provider complained against, giving the grounds of the complaint.

(3) The complaint shall be forwarded to the service provider under cover of registered letter and sent to his last known address.

Explanation
filed by service
provider

12. The Corporation may call upon a regulated service provider whose conduct is complained to file, within fourteen days upon receipt of the complaint, an explanation in writing as response to the complaint and may require such explanation to be verified by affidavit.

Examination
and response

13.-(1) Upon receipt of the complaint, the Corporation shall-

- (a) examine the complaint in a manner appropriate to resolve it speedily and efficiently; and
- (b) during the examination, keep the complainant informed, as far as reasonably practicable, as to the progress of the examination.

(2) As soon as reasonably practicable after completing the examination, the Corporation shall send to the complainant in writing a response, signed by the responsible person, which includes-

- (a) a report which includes the following matters-
 - (i) an explanation of how the complaint has been examined; and
 - (ii) the conclusion reached in relation to the complaint, including any matters for which the complaint specifies, or the Corporation considers that remedial action is needed; and
- (b) confirmation as to whether the Corporation is satisfied that any action needed in consequence of the complaint has been taken or is proposed to be taken.

Hearing of

14.-(1) In the course of hearing, the Director

Tanzania Shipping Agencies (Complaints Handling)

G.N. No. 338 (contd.)

- parties General may-
- (a) require any further explanation;
 - (b) cause further examination to be made;
 - (c) cause any further evidence to be adduced; and
 - (d) obtain such advice and assistance as he thinks fit.
- (2) Upon completion of hearing, the Director General shall determine whether or not to hold an inquiry.
- Notice to admit facts 15. The complainant and the regulated service provider may, at any time prior to the date of holding the inquiry, serve upon the other party a notice in writing asking him to admit in writing any facts or produce any document specified in the notice, material to the complaint.
- Corporation's action on completion of inquiry 16. The Corporation, having inquired into the alleged misconduct of a regulated service provider may-
- (a) take no further action;
 - (b) caution the regulated service provider;
 - (c) impose a fine payable to the Corporation; or
 - (d) Direct suspension or removal of his name from the register.
- Summons 17. When a complaint has been duly lodged, the Corporation may issue a summons to the regulated service provider-
- (a) to appear and answer the complaint on a day to be specified in the summons; or
 - (b) to file a reply to the complaint:
- Provided that no summons shall be issued under this regulation when the regulated service provider has appeared at the presentation of the complaint, has proved his identity to the satisfaction of the Corporation and has admitted the complainant's claim.
- (2) At any time after a complaint is lodged either party may apply to the Corporation for the issue of summons to a person whose attendance is required either to give evidence or to produce documents.
- (3) A summons issued by the Corporation under

this regulation shall be in the manner prescribed in the Schedule with such variations as circumstances may require.

(4) Witness expenses shall be at the rate currently in force for witnesses in the High Court, and where-

- (a) the witness is called by and on behalf of the Corporation, such expenses shall be paid by the Director General;
- (b) the witness is called by or on behalf of the complainant, such expenses shall be paid by the complainant; and
- (c) where the witness is called by or on behalf of a regulated service provider, such expenses shall be paid by the regulated service provider.

PART IV

APPEAL TO THE MINISTER

Appeal to the
Minister

18.-(1) Subject to section 59 of the Act, a person who is aggrieved by the decision of the Corporation may, within twenty one days of the decision, appeal to the Minister.

(2) An appeal to the Minister shall be made in writing and shall contain-

- (a) date, name, address and signature of the appellant;
- (b) statement in prescribed form explaining the application and relief sought;
- (c) statement in concise form containing grounds of dissatisfaction which is to be reviewed and relief sought; and
- (d) any other information which is necessary for resolving the appeal.

(3) The Minister shall determine his own procedure and shall not be bound by rules of evidence and procedure.

Tanzania Shipping Agencies (Complaints Handling)

G.N. No. 338 (contd.)

- Service of memorandum and record of appeal
19. The appellant shall, within seven days after lodging the memorandum and record of appeal, serve copies on each respondent and to other parties to the original proceedings.
- Proof of service of documents
- 20.-(1) Where any document is required to be served on any person, such document may be sent by hand or registered post.
(2) Notice of the date fixed for hearing or delivery of decision shall be given by telephone or electronic means.
- Power to order for report
21. In dealing with any appeal, the Minister-
(a) may order the Corporation or any other relevant body to submit a report on any matter that relates to the proceedings;
(b) shall determine the procedure and shall not be bound by rules of evidence and procedure.
- Powers of the Minister to confirm, reverse or vary orders etc.
22. The Minister may, in dealing with an appeal -
(a) confirm, reverse or vary the decision of the Corporation;
(b) remit the proceedings to the Corporation with such directions as may be appropriate;
(c) order the Corporation to conduct fresh proceeding; and
(d) make any necessary incidental or consequential order.
- Withdrawal of appeal
- 23.-(1) The appellant may, at any time after instituting the appeal, lodge with the Minister a notice that he does not intend further to proceed with the appeal.
(2) Upon receipt of the notice, the Minister shall mark the appeal or application withdrawn.
(3) No fresh appeal shall be brought by the same appellant in relation to the decision which is the subject of the withdrawn appeal.

THE TANZANIA SHIPPING AGENCIES (COMPLAINTS HANDLING) REGULATIONS, 2018



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



SCHEDULE

(Made under Regulation 17)

WITNESS SUMMONS

To:

WHEREAS your attendance is required to give evidence/ the production of the books and/or documents listed below, on behalf of in an inquiry to be held by the Tanzania Shipping Agencies Corporation in accordance with regulation 18 of the Tanzania Shipping Agencies (Complaints Handling) Regulations, 2018 you are hereby required-

- * (a) personally to appear before the Corporation in on the day of 20..... at o'clock in the noon; and
- * (b) to produce to the Director General of the Tanzania Shipping Agencies Corporation, on or before o'clock in the noon of the day of 20....., the following books or documents, which are stated to be in your possession:.....

Witness expenses will be paid to you as follows-
.....
.....

in accordance with the Tanzania Shipping Agencies (Complaints Handling) Regulations, 2018. If you fail to comply with this order without lawful grounds you will be subject to the

Tanzania Shipping Agencies (Complaints Handling)

G.N. No. 338 (contd.)

consequences of non-attendance laid down in the Tanzania Shipping Agencies (Complaints Handling) Regulations, 2018 and the Act.

A duplicate copy of this summons is enclosed. The original summons if not served personally must be signed by you and returned by registered post to the Director General of the Tanzania Shipping Agencies Corporation, without delay.

Given under my hand at..... this day of 20.....

.....
Director General
Tanzania Shipping Agencies Corporation

I hereby acknowledge receipt of a duplicate of this summons.

Signature

Date

The affidavit of

I, make oath/affirm and state as follows:

I am the process server of the Tanzania Shipping Agencies Corporation. on the day of 20....., I received a summons issued by the Director General of the Tanzania Shipping Agencies Corporation dated the day of 20....., for service on The said was at the time personally known to me and I served the said summons on him on the day of 20....., at o'clock in theforenoon, by tendering a copy thereof to him and requiring a signature from him to the original summons.

The said signed this summons in the presence of

Signature of process server

Sworn/affirmed by the said at

this day of 20.....,

Before me,

Commissioner for oaths

*Strike whichever does not apply

Dodoma,
18th July, 2018

ISACK A. KAMWELWE
Minister for Works, Transport and Communication