

GOVERNMENT NOTICE No. 482 published on. 21/7/2023

THE MERCHANT SHIPPING ACT,  
(CAP. 165)

REGULATIONS

*(Made under section 217 and 222)*

THE MERCHANT SHIPPING (ESTABLISHMENT AND OPERATION OF  
AIDS TO NAVIGATION) REGULATIONS, 2023

ARRANGEMENT OF REGULATIONS

*Regulation Title*

PART I  
PRELIMINARY PROVISIONS

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

PART II  
DESIGNATION AND ROLE OF THE REGISTRAR ON AIDS TO  
NAVIGATION

4. Power to designated aids to navigation.
5. Role of Registrar on aids to navigation.
6. Consultation on aids to navigation matters.

PART III  
MANAGEMENT OF AIDS TO NAVIGATION

7. Management of aids to navigation.
8. Powers and functions of Corporation in relation to aids to navigation.
9. Roles and functions of aids to navigation service providers.
10. Management of vessel traffic services.
11. Standards for establishment and operation of vessel traffic service.

12. Restrictions on activities which obstruct the operation of aids to navigation.

PART IV  
TRAINING AND CERTIFICATION

13. Person operating or working on aids to navigation and vessel traffic service to hold valid certificate.
14. Accreditation of training institutions.
15. Recognition of certificates of operating and working on aids to navigation and vessel traffic services issued by recognised institution.

PART V  
AIDS TO NAVIGATION DUES

16. Collection of aids to navigation dues.
17. Recovery of aids to navigation dues.
18. Refusal of port clearance.
19. Determination of dispute as to liability for payment.
20. Recoverable of unpaid aids to navigation dues at another port.
21. Exemption.
22. Refund of excess payment.

PART VI  
GENERAL PROVISIONS

23. Offences and penalties.
24. Marking and reimbursement for marking wrecks.
25. Power of Minister to advice on aids to navigation as heritage lighthouse.
26. Protection of action taken in good faith.
27. Publication of information relating to aids to navigation.
28. Evaluation and reporting.
29. Complaint handling.

THE MERCHANT SHIPPING ACT,  
(CAP. 165)

REGULATIONS

*(Made under section 217 and 222)*

THE MERCHANT SHIPPING (ESTABLISHMENT AND OPERATION OF AIDS TO  
NAVIGATION) REGULATIONS, 2023

PART I  
PRELIMINARY PROVISIONS

- Citation 1. These Regulations may be cited as the Merchant Shipping (Establishment and Operation of Aids to Navigation) Regulations, 2023.
- Application 2.-(1) These Regulations shall apply-
- Cap. 238 (a) in respect of giving effect to regulation 13 of Chapter V of the Safety Convention; and  
(b) to maritime zones as specified in the Territorial Sea and Exclusive Economic Zone Act.
- (2) Without prejudice to the generality of subregulation (1), these Regulations shall not apply to a vessel belonging to the Government of United Republic or Government of another State, which is not carrying cargo or passengers for freight or fares from the payment of aids to navigation dues.
- Interpretation 3. In these Regulations, unless the context otherwise requires-
- “aids to navigation dues” means the dues charged under regulation 16 of these Regulations;
- “proper officer” in relation to any functions to be performed under these Regulations, means any officer appointed to perform a certain duty or function when engaged in the performance of that duty or function and includes any person

Cap. 166

appointed by the Minister or Corporation to discharge the functions of a proper officer under these Regulations;

“port” has the meaning ascribed under the Ports Act;

“vessel” includes every description of water craft used or capable of being used in the marine environment, such as ship, boat, sailing vessel, fishing vessel, submersible, semi-submersible, hydrofoils, non-displacement crafts, amphibious crafts, wing-in-ground crafts, pleasure crafts, barges, lighters, mobile offshore drilling units or mobile offshore units;

“vessel traffic service” means a service implemented under these Regulations to improve the safety and efficiency of vessel traffic and to protect the environment; and

“IALA” means International Association of Marine Aids to Navigation and Lighthouse Authorities;

“Organisation” means the International Maritime Organisation;

“aid to navigation” means a device, system or service, external to vessels, designed and operated to enhance the safe and efficient navigation of individual vessels on the water, but shall not be construed to include a reference to vessel traffic services, unless otherwise specified;

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

“ship” includes a sailing vessel;

“Safety Convention” means the International Convention for the Safety of Life at Sea, 1974 and its Protocols of 1978 and 1988, together with such amendments thereof, or replacements therefore as may be in effect in respect of Tanzania;

“owner” means the owner of a vessel including its registered owner, a person to whom a share in the vessel belongs, bareboat charterer, manager and operator of the vessel;

“heritage lighthouse” means an aid to navigation designated as such under regulation 25 of these

- Regulations;
- Cap. 415 “Registrar” means the Registrar appointed under section 31 of the Tanzania Shipping Agencies Act;
- “aids to navigation service provider” means a person who operates a port, cargo terminal, marina, jetty, marine farm or other maritime facilities;
- “vessel traffic service provider” means the vessel traffic service provider authorised under regulation 7 of these Regulations;
- Cap. 165 “Act” means the Merchant Shipping Act;
- Cap. 415 “Corporation” means the Tanzania Shipping Agencies Corporation established under section 4 of the Tanzania Shipping Agencies Act;
- “accredited training institute” means any institute which is accredited by the Corporation under regulation 16;
- “availability” means the probability that an aid to navigation or a system of aids to navigation, is performing its specified function at any randomly chosen time, expressed as a percentage of total time; and
- “Minister” means the Minister responsible for maritime transport.
- (2) Words and expressions used but not defined in these Regulations, and defined in the Act, shall have the same meanings respectively assigned to them in the Act.

## PART II DESIGNATION AND ROLE OF THE REGISTRAR ON AIDS TO NAVIGATION

- Power to designate aids to navigation
- 4.-(1) The Registrar may, by Merchant Shipping Notice, designate aids to navigation.
- (2) The Corporation and any other aids to navigation service provider shall adhere to the IALA Buoyage System A in design, establishment and management of aids to navigation in Tanzanian waters.
- (3) The aids to navigation are mainly buoys and beacons including-

- (a) lighthouses;
- (b) lateral marks identifying channels and routes;
- (c) cardinal marks to show safe water related to the points of the compass;
- (d) isolated danger;
- (e) safe water and special marks;
- (f) marks to designate water-ski, marine farm and other reserved areas;
- (g) virtual marks using the Automatic Identification System (AIS);
- (h) warning signs and notifications including speed restrictions, marking cables, marine reserves etc.);
- (i) radio, fog signals or other aids not carried on board any ship;
- (j) all buildings, moorings and other associated facilities.

(4) The aids to navigation may be owned and maintained by the Corporation or operators of aid to navigation facilities.

Role of Registrar  
on aids to  
navigation

5.-(1) Subject to section 213 of the Act, the Registrar shall, when exercising general supervision over aids to navigation, comply with the requirements and provisions of these Regulations, recommendations and guidelines of IALA and SN/Circ.107-Maritime Buoyage System.

(2) The Registrar shall advise the Minister on matters relating to aids to navigation and perform such other duties as may be directed by the Minister under these Regulations or in any other law.

Consultation on  
aids to navigation  
matters

6.-(1) The Corporation shall make arrangements for consultation among aids to navigation stakeholders on matters relating to-

- (a) the establishment or positioning of aids to navigation or of any works appertaining thereto;
- (b) additions to or the alteration or removal of, any aid to navigation;
- (c) variations to any aid to navigation or of the

- mode of use thereof;
- (d) the cost of any proposal relating to aids to navigation; or
  - (e) issuance or alteration of guidelines or rates or charges of aids to navigation.
- (2) The stakeholders referred to under subregulation (1) may include-
- (a) the President's Office;
  - (b) Prime Minister's Office;
  - (c) the Ministry responsible for finance-Customs;
  - (d) the Ministry responsible for defence-Navy;
  - (e) the Ministry responsible for maritime transport;
  - (f) the Ministry responsible for home affairs-Police;
  - (g) the Ministry responsible for lands-Surveys and Mapping;
  - (h) the Ministry responsible for local government authorities;
  - (i) the Corporation;
  - (j) the Tanzania Ports Authority;
  - (k) the Tanzania Civil Aviation Authority; and
  - (l) Dar es Salaam Maritime Institute.

### PART III MANAGEMENT OF AIDS TO NAVIGATION

Management of  
aids to  
navigation

7.-(1) The Corporation shall have the overall authority for aids to navigation in Tanzanian waters and adjacent areas.

(2) For the purposes of subregulation (1), the Corporation may authorise any person as aids to navigation service provider or vessel traffic service provider upon application except where the mandate emanates under another law.

(3) The manner for application to operate as aids to navigation service provider or vessel traffic service provider shall be specified in a Merchant Shipping Notice.

Powers and functions of Corporation in relation to aids to navigation

8.-(1) The Corporation shall have powers and functions to-

- (a) establish and maintain aids to navigation;
- (b) add, alter, vary or remove any aid to navigation;
- (c) authorise inspection of aids to navigation which may affect the safety of navigation;
- (d) authorise entrance to any property, whether public or private, for the purposes of inspection of aids to navigation
- (e) transport, or cause to be transported, goods through any property, whether public or private, for any purpose in connection with the establishment and maintenance of any aid to navigation;
- (f) authorise aids to navigation service provider who shall establish and maintain aids to navigation within an authorised area;
- (g) acquire land for the purposes of establishing and maintenance of aids to navigation;
- (h) direct a port operator to provide, replace or remove aids to navigation and if necessary seek reimbursement for costs incurred;
- (i) ensure consistency with international guidance on aids to navigation;
- (j) ensure international obligations are met through having a formal approval process.

(2) A person who intends to erect, place, alter or remove an aid to navigation shall seek approval from the Registrar.

(3) The Corporation may authorise a proper officer in writing to exercise its powers under subregulation (1).

Roles and functions of aids to navigation service provider

9.-(1) Aids to navigation service provider shall be responsible for the establishment, maintenance and management of aids to navigation within his area.

(2) Subject to subregulation (1), aids to navigation service provider shall-

- (a) add to, alter, vary or remove any aid to navigation within his area;
- (b) cause any floating, submerged, or stranded object that is considered to be a hazard to navigation within their area to be moored, unmoored, anchored, secured, unsecured, placed, or removed;
- (c) obtain approval from the Registrar to establish, position or alter an aid to navigation; and
- (d) inform the Corporation once an aid to navigation has been erected, placed, altered or removed.

(3) Aids to navigation service provider shall charge fees approved by the Corporation in respect of function, services or other matters it performs in relation to any aid to navigation.

Management of vessel traffic services

10. The Corporation shall have the powers relating to the development, maintenance and management of vessel traffic services including to-

- (a) declare and authorise vessel traffic services provider to operate a vessel traffic service within an authorised area;
- (b) accredit and approve vessel traffic services training and certification;
- (c) establish and operate vessel traffic services, where it deems necessary; and
- (d) add to or alter or require any person to add to or alter any aspect of a vessel traffic services.

Standards for establishment and operation of vessel traffic services

11. The standards for establishing and operating vessel traffic services in the United Republic shall be as specified in a Merchant Shipping Notice considering the guidelines on vessel traffic services adopted by the Organisation.

Restrictions on activities which obstruct operation of aids to navigation

12.-(1) The Corporation may, by notification through a Merchant Shipping Notice, specify restrictions on activities which interfere with or obstruct the operation of any aid to navigation within the specified

distance of such aid to navigation.

(2) Notwithstanding anything contained in any other law, where the functioning of any aid to navigation or vessel traffic services is being obstructed, directly or indirectly, the Corporation may, where it deems necessary, issue directions for the removal or alteration of such obstruction.

#### PART IV TRAINING AND CERTIFICATION

Person operating or working on aid to navigation and vessel traffic service to hold valid certificate

13.-(1) A person shall not operate or work on aid to navigation or vessel traffic service including ancillary activities, unless he holds a valid certificate issued or recognised by the Corporation certifying that such person has been trained in the operation of such aid to navigation or vessel traffic services.

(2) The Corporation shall, through a Merchant Shipping Notice, specify ancillary activities relating to aids to navigation and ancillary activities relating to vessel traffic service.

(3) The Merchant Shipping Notice referred to under subregulation (2) shall include the form of a certificate, validity and course content to be covered in the training.

Accreditation of training institutions

14.-(1) Training on aids to navigation and vessel traffic services shall be conducted by accredited or recognised training institute.

(2) The Corporation shall accredit a training institute and program for conducting training or assessment in the operation of aid to navigation or vessel traffic services.

GN. No. 243 of 2016

(3) The institute referred to under subregulation (2) shall meet the accreditation criteria specified in the Merchant Shipping (Training, Certification and Manning) Regulations.

Recognition of certificate issued by other recognised

15.-(1) An applicant for recognition of a certificate for operating or working on aid to navigation or vessel traffic services issued by other recognised

institution                      institution shall-

- (a) submit course content; and
  - (b) certified copy of the certificate held.
- (2) The Corporation shall upon being satisfied and payment of prescribed fee by the applicant, issue a certificate of recognition of award.

PART V  
AIDS TO NAVIGATION DUES

Collection of  
aids to  
navigation dues  
GN. No.  
293 of 2005

16.-(1) There shall be charged and collected the aids to navigation dues, at such rates, as may be specified in the Merchant Shipping (Fees) Regulations.

(2) The aids to navigation dues charged under subregulation (1) shall be collected by the Corporation or aids to navigation service provider in respect of every ship arriving at or departing from any port in the United Republic, from such person and in a manner as may be specified in a Merchant Shipping Notice.

(3) For purposes of charging aids to navigation dues, the gross tonnage of a vessel shall be reckoned.

(4) In order to ascertain the gross tonnage of a vessel for the purpose of charging aids to navigation dues, the proper officer may, if deemed fit, require the production of document, the appearance of a person and the inspection of a vessel.

Recovery of aids  
to navigation  
dues

17. Where a vessel owner refuses or neglects to pay the amount of aids to navigation dues payable under these Regulations in respect of the vessel, the proper officer may deny the vessel clearance from port.

Refusal of port  
clearance

18. The officer vested with the duty to grant a port clearance for a vessel shall not grant such port clearance until-

- (a) the amount of aids to navigation dues is paid;
- (b) a fine imposed thereunder has been paid; or
- (c) security for the payment thereof has been given to his satisfaction.

Determination of disputes as to liability for payment

19. Where any dispute arises as to whether aids to navigation dues, expenses or costs are payable in respect of any ship under these Regulations or as to the amount of such dues, expenses or costs, such dispute shall, on an application made in this behalf by either of the disputing parties, be heard and determined by the court having jurisdiction at the place where the dispute arose.

Recoverable of unpaid aids to navigation dues at another port

20.-(1) Where a master of a vessel in respect of which aids to navigation dues is payable at a port causes the vessel to leave such port without having paid such dues, the proper officer at that port may require in writing the proper officer at any other port in the United Republic to which the ship may proceed, to recover the aids to navigation dues remaining unpaid.

(2) A proper officer to whom the requisition referred to under subregulation (1) is directed, shall proceed to charge such sum as if it were payable under these Regulations, at the port at which he is the proper officer.

Exemption

21. The Minister may, by notice, exempt any vessel, or classes of ships or ships performing specified voyages, from the payment of aids to navigation dues either wholly or to such extent as may be specified in that notice.

Refund of excess payments

22. Where aids to navigation dues has been paid in respect of any ship in excess of the amount payable under these Regulations, no claim to refund of such excess payment shall be admissible, unless it is made within twelve months from the date of such payment.

## PART VI GENERAL PROVISIONS

Offences and penalties

23.-(1) A person who intentionally performs any act or omits to do any act, resulting in obstruction, reduction or limitation of the effectiveness of an aid to

navigation or vessel traffic service, commits an offence and upon conviction shall be liable to a fine of not less than the United States Dollars one thousand five hundred or its equivalent in Tanzania shillings or to imprisonment for a term not exceeding six months or to both.

(2) A person who negligently performs any act or omits to do any act, resulting in obstruction, reduction or limitation of the effectiveness of any aid to navigation or vessel traffic service commits an offence and upon conviction shall be liable to a fine of not less than the United States Dollars five hundred or its equivalent in Tanzania shillings or to imprisonment for a term not exceeding three months or to both.

(3) A person who intentionally performs any act or omits to do any act, resulting to damage or destruction of any aid to navigation or vessel traffic service, commits an offence and upon conviction shall be liable to a fine of not less than the United States Dollars two thousand or its equivalent in Tanzania shillings or to imprisonment for a term not exceeding twelve months or to both

(4) A person who performs any act or omits to do any act, resulting in damage or destruction of any heritage lighthouse commits an offence and upon conviction shall be liable to a fine of not less than the United States Dollars one thousand or its equivalent in Tanzania shillings or to imprisonment for a term not exceeding six months or to both.

(5) A ship owner or master who evades or attempts to evade the payment of aids to navigation dues, expenses or costs payable in respect of the ship under these Regulations, commits an offence and upon conviction shall be liable in addition to the amount of the sum so payable to a fine of not less than the United States Dollars one thousand dollars or its equivalent in Tanzania shillings or to imprisonment for a term not exceeding six months or to both.

(6) A ship owner or master, who fails to comply with any direction issued by a vessel traffic service provider relating to a vessel traffic service under these Regulations commits an offence and upon conviction shall be liable to a fine of not less than the United States Dollars one thousand or its equivalent in Tanzania shillings or to imprisonment for a term not exceeding six months or to both.

(7) A person who operates or works on aids to navigation and vessel traffic services including ancillary activities without holding a valid certificate issued or recognised by the Corporation commits an offence and upon conviction shall be liable to a fine of not less than the United States Dollars one thousand or its equivalent in Tanzania shillings or to imprisonment for a term not exceeding six months or to both.

Marking and reimbursement for marking wrecks

24.-(1) The Registrar may give directions to a proper officer to mark any wreck in such manner as may be specified.

(2) It shall be the responsibility of any maritime facility or port operator and owner of wrecked ship to mark the wreck of such a ship endangering safety of navigation.

(3) The cost for marking a wreck shall be borne by or recovered from the owner or the operator of such vessel.

Power of Minister to advise on aid to navigation as heritage lighthouse

25. The Minister may advise the Minister responsible for protection of antiquities to designate an aid to navigation as a heritage lighthouse.

Protection of action taken in good faith

26. A suit shall not lie against the Corporation or a proper officer under these Regulations for anything done under these Regulations purported to be done in good faith.

Publication of information

27.-(1) The Corporation shall publish information relating to aids to navigation and be made

relating to aids to navigation

available to the maritime community.

(2) Subject to subregulation (1), changes in the transmissions of position fixing systems which may adversely affect the performance of receivers fitted in a vessel shall be avoided and may be effected after timely and adequate notice has been promulgated.

Evaluation and reporting

28.-(1) The Registrar shall-

- (a) carry out an evaluation of the regulatory provision contained in these Regulations;
- (b) prepare a report setting out the conclusions of the evaluation; and
- (c) submit the report to the Minister.

(2) The first report under this regulation shall be published before the fifth anniversary of the date on which these Regulations come into force.

(3) Subsequent reports shall be published at the intervals not exceeding five years.

(4) The report prepared and submitted under this regulation shall, in particular-

- (a) set out the objectives intended to be achieved by the regulatory provisions referred to under subregulation (1)(a);
- (b) assess the extent to which those objectives are achieved;
- (c) assess whether those objectives remain appropriate; and
- (d) where the objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

Complaint  
handling  
GN. No.  
338 of 2018

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

Dodoma,  
28<sup>th</sup> June, 2023

MAKAME M. MBARAWA,  
*Minister for Works and Transport*