

*Merchant Shipping (Licensing of Seafarer Recruitment
and Placement Service)*

GOVERNMENT NOTICE No. 143 published on 22/4/2011

THE MERCHANT SHIPPING ACT
(CAP 165)

REGULATIONS

Made under section 430

THE MERCHANT SHIPPING (LICENSING OF SEAFARER RECRUITMENT AND
PLACEMENT SERVICE) REGULATIONS, 2011

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THE MERCHANT SHIPPING (LICENSING OF SEAFARER RECRUITMENT AND PLACEMENT
SERVICE) REGULATIONS, 2011

PART I
PRELIMINARY PROVISIONS

- Citation 1. These Regulations may be cited as the Merchant Shipping
(Licensing of a Seafarer Recruitment and Placement Service)
Regulations, 2011.
- Interpre- 2.–(1) In these Regulations, unless the context otherwise
tation requires –
- Cap. 165 “Act” means the Merchant Shipping Act;
 “licence” means a Seafarer Recruitment and Placement Service
 Licence issued under these Regulations;
 “licencee” means a person, company, institution, agency or
 organization on licenced by the Authority as seafarer
 recruitment and placement service;
 "port state control administration" means the competent
 administration of a member State of the International
 Maritime Organisation responsible for enforcement of
 international standards for ship safety, pollution prevention
 and shipboard living and working conditions;
 “Registrar of Ships” means a person appointed as Registrar of
 Ships under Section 7 of the Act;
 “responsible person” means a person who shall answer for the
 Seafarer Recruitment and Placement Service;
 “Seafarer” for purposes of these Regulations includes every
 person employed or engaged in any capacity on board a ship;
 "seafarer employment agreement" includes both a contract of

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employment and articles of agreement;

"seafarer recruitment and placement service" means any person, company, institution, agency or other organization, in public or the private sector, which is engaged in recruiting seafarers on behalf of shipowners or placing seafarers with shipowners;

"ship" means a floating vessel which is self propelled and capable of carrying passengers or cargo;

"shipowner" means the owner of the ship or another organization or person, such as the managing owner, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over duties and responsibilities imposed on shipowners in accordance with Part VII of the Act, regardless of whether any other organization or persons fulfill certain duties or responsibilities on behalf of the shipowner;

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

PART II

QUALIFICATIONS AND LICENCING OF SEAFARER
RECRUITMENT AND PLACEMENT SERVICE

Qualifica-
tion for
licencing of
seafarer
recruitment
and
placement
service
Cap. 212

3.-(1) A person shall not after coming into operation of these Regulations be licenced as a Seafarer Recruitment and Placement Service unless that person –

- (a) a Tanzanian registered company;
- (b) is a foreign company registered in Tanzania under the Companies Act;
- (c) is an institution established by an Act of Parliament;
- (d) fulfills the criteria set out in the Schedule to these Regulations.

Licencing
procedures

(2) Any person shall not carry out the business of a seafarer recruitment and placement service unless he is licenced to do so.

(3) Any person intending to provide seafarer recruitment and placement services shall submit an application to Surface and

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Marine Transport Regulatory Authority on a prescribed form and pay the prescribed fee.

(4) The application for a seafarer recruitment and placement service licence shall be accompanied by:

- (a) a certified copy of the certificate of incorporation; or
- (b) if it is a body corporate incorporated by virtue of an Act of Parliament, a Charter granted by the President or an Act or Ordinance, providing sufficient proof to satisfy the Registrar of Ships, of its incorporation.

Class of
Licence

4.-(1) The Surface and Marine Transport Regulatory Authority shall, issue the following class of licences:-

- (a) a Seafarer Recruitment and Placement Service Licence Class A for engaging seafarers for vessels operating on international voyages; and
- (b) a Seafarer Recruitment and Placement Service Licence Class B for engaging seafarers for vessels operating on coastal and inland waterway voyages.

(2) An application for a Seafarer Recruitment and Placement Service Licence may be for Class A or Class B or both.

(3) An Applicant for a Class A licence shall be required to provide evidence of his ability to establish and maintain a communication network with foreign and international maritime organizations.

(4) An Applicant for a Class B licence shall be required to provide evidence of his ability to establish and maintain a communication network with maritime organizations within the East African region.

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PART III

APPLICATION, ISSUANCE OF LICENCE AND DUTIES OF A SEAFARER
RECRUITMENT AND PLACEMENT SERVICE

Condi- 5.-(1) A licence may be issued after a seafarer recruitment and
tions of placement service has fulfilled all the conditions of licence.
issuance
of a
licence

Appoint- 6.-(1) Every seafarer recruitment and placement service shall
ment of a appoint a senior officer to be the responsible person for seafarer
respon- recruitment and placement services.
sible
person

(2) The responsible person appointed under sub regulation
(1) shall have proven experience in matters related to seafarers'
affairs.

Margin of 7. A Seafarer recruitment and placement service shall, at all
solvency times while providing services, maintain a level of solvency of not
less than the amount which the Authority shall publish from time to
time.

Condi- 8. A Seafarer recruitment and placement service shall –
tions and (a) comply with the relevant provisions of the Act
duties of relating to engagement and welfare of Tanzanian
a seafarer seafarers and the minimum criteria for seafarer
recruit- recruitment and placement service as stipulated in the
ment and schedule to these regulations.
place- (b) maintain registers of engaged and disengaged
ment seafarers.
service (c) provide Surface and Marine Transport Regulatory
Authority with periodic reports on engaged and dis-
engaged seafarers including their qualification,
position and character reports of disengaged seafarers.
(d) ensure that blank copies of watchkeeping forms are
provided to seafarers for recording sea service in
foreign or Tanzanian ships.
(e) ensure that there is a seafarers' employment
agreement signed by both the seafarer and the
shipowner or a representative of the shipowner
providing them with decent working and living
conditions on board the ship as required by the Act.

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Minimum age 9.-(1) A person of the age below eighteen years shall not be employment, engagement or work on board a ship, unless such person is engaged as part of his training and in accordance with the provisions of the Employment and Labour Relations Act.

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(2) A person of the age below eighteen years shall not be night work of seafarers.

Medical certificate

10.-(1) Any seafarer shall, prior to recruitment and placement on board ship hold a valid medical certificate attesting that he is medically fit to perform the duties he is to carry out at sea.

(2) The medical certificate stated in sub-regulation (1) shall be issued by a duly qualified medical practitioner.

Training and qualifications

11. (1) A seafarer shall prior to recruitment and placement on board ship be trained or certified as competent or otherwise qualified to perform his duties.

(2) Any Seafarer shall not be recruited for placement on board ship unless he has successfully completed training for personal safety on board ship.

(3) Training and certification in accordance with the mandatory instruments adopted by the International Maritime Organization shall be considered as meeting the requirements of sub-regulations (1) and (2).

PART IV

SUSPENSION AND REVOCATION OF LICENCES

12. The Authority, may by notice of intent, suspend or revoke a licence for non compliance with the provisions of these Regulations.

(2) The notice issued under sub-regulation (1) shall state reasons for the intended suspension or cancellation and require the licensee to rectify any anomalies or comply with the licensing conditions within a timeframe given.

(3) Where a licensee fails or neglects to rectify or comply with the requirement of the notice issued under sub-regulation (2), the Authority may suspend or revoke the licence.

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(4) Where a licence is suspended or revoked, the crewing agent shall, within fourteen days after receipt of suspension or revocation notice cease to operate.

(5) The Registrar of Ships shall lift the suspension of licence upon expiry of suspension period and on fulfillment of the requirement as may be stipulated in the notice.

PART V
OFFENCES AND PENALTIES

- Offences 13.-(1) Any person who –
- (a) uses a class of licence which is not approved by the Authority;
 - (b) furnishes to the Authority or the Registrar of Ships any record, statement, declaration, written information or explanation containing any particulars which to his knowledge is false or incorrect;
 - (c) provides services of a crewing agent contrary to the provisions of these Regulations;

commits an offence and is, upon conviction, liable to a fine of the equivalent in Tanzanian shillings of the United States Dollars five hundred or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Power to compound offences 14.-(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 the equivalent in Tanzanian shillings of United States dollars two thousand five hundred.

- (2) 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.

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- (3) On the payment of any sum 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.

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SCHEDULE
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Made under Regulation 3

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MINIMUM CRITERIA FOR SEAFARER RECRUITMENT
AND PLACEMENT SERVICE

1. The crewing Agent must be able to document extensive experience in the operations and or manning requirements for a wide range of merchant vessels.
2. The crewing agent must have specific technical, managerial and support staff commensurate to the tasks.
3. The Crewing Agent should have comprehensive procedures and guidelines for the engagement of seafarers, reviewed and improved as necessary.
4. The Crewing Agent should have two registers one for engaged and the other for non engaged seafarers.
5. The register for non engaged seafarers shall contain their names and addresses.
6. The Crewing Agent shall have:
 - (a) ability to work with government agencies and trade unions and other relevant bodies.
 - (b) ability to cross over geographical territories and to satisfy multiple flag requirements as appropriate.
 - (c) an office which is sufficiently equipped with office facilities including a computer, telephone, email and fax connections.
7. The organization is managed and administered in such a way as to ensure the confidentiality of seafarer information.
8. The Crewing Agent's management has defined and documented its policy and objectives for, and committed to, quality and has ensured that this policy is understood, implemented and maintained at all levels in the organization.
9. The Crewing Agent shall develop, implement and maintain internal procedures, to ensure quality of services.
10. The crewing agent shall be independent of trade unions, shipowners, other persons or institutions engaged in the engagement of seafarers.

Dar es Salaam
11th April, 2011

HON. OMARI NUNDU (MP),
Minister for Transport