

GOVERNMENT NOTICE NO.8 published on. 10/1/2020

THE TANZANIA SHIPPING AGENCIES ACT,
(CAP. 415)

REGULATIONS

(Made under section 61(1))

THE TANZANIA SHIPPING AGENCIES (TARIFF) REGULATIONS, 2020

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**TANZANIA SHIPPING AGENCIES ACT,
(CAP. 415)**

REGULATIONS

(Made under section 61(1))

TANZANIA SHIPPING AGENCIES (TARIFF) REGULATIONS, 2020

**PART I
PRELIMINARY PROVISIONS**

Citation	1. These Regulations may be cited as the Tanzania Shipping Agencies (Tariff) Regulations, 2020.
Application	2.-(1) These Regulations shall apply in matters relating to tariff application, rate setting, approvals and enforcement in the regulated services in Mainland Tanzania and shall not apply to the Corporation when discharging exclusive mandate functions.
Interpretation Cap. No. 415	3. In these Regulations, unless the context otherwise requires- "Act" means the Tanzania Shipping Agencies Act; "authorised officer" means an employee of the Corporation or any person authorised by the Corporation to perform specified assignment; "Board" means the Board of Directors established under section 21 of the Act; "Corporation" means the Tanzania Shipping Agencies Corporation established under the Act; "consumer" means a person who purchases or offers to purchase regulated services; "discount scheme" means a systematic arrangement for tariff reduction; "dominant regulated service provider" means a regulated service provider who acting alone, may profitably and materially restrain or reduce competition in the market for a significant period of time and whose share of the market exceeds thirty five per cent; "inquiry" means a formal process of engaging stakeholders with a view to collecting their opinion for the purpose of tariff determination; "maritime transport service" includes port services, dry port services and shipping services; "rate table" means a schedule of tariff in a format of a table prepared by a regulated service provider; "rate of return" means the annual income from an asset expressed as a proportion usually a percentage of the initial asset; "receipt" means a document issued by service provider in hard or electronic form acknowledging amount of money received from a person therein named, for regulated service rendered;

“regulated service” means any service supplied or offered for supply in maritime transport sector and includes maritime environment, safety, security, port services, shipping agency, clearing and forwarding, cargo consolidation and deconsolidation, gross mass verification and miscellaneous port services;

“regulated service provider” means a person providing regulated services;

“revenue requirement” means the total amount of money a regulated service provider must earn from consumers in order to provide adequate service;

“special consumer group” means a consumer with special need including a low income, rural and disadvantaged consumer;

“tariff” means a charge, price or levy corresponding with terms and conditions applied by a regulated service provider;

“tariff book” means a book prepared by a regulated service provider prescribing approved tariff;

“Tariff Order” means a regulatory instrument issued by the Board communicating its decision with regard to tariff matter; and

“validation meeting” means a meeting convened by the Corporation involving a tariff applicant and other key stakeholders to review key observations, facts and findings established by the Corporation in relation to the tariff application prior to determination by the Board.

PART II

REGULATED SERVICES SUBJECT TO TARIFF REGULATION

Regulated services subject to tariff regulation	4. Subject to the provision of the Act, the Corporation shall regulate tariff of the regulated services in accordance with these Regulations.
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Regulated services not subject to tariff regulation	5.-(1) Notwithstanding the provision of regulation 4, the Corporation may not regulate tariff of a regulated service where the Corporation is of the opinion that there is effective competition among the regulated service providers.
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(2) Where the Corporation does not intending to subject a regulated service to tariff approval, the Corporation shall issue a notice in that regard and a regulated service provider shall not be obliged to apply for tariff approval.

(3) Notwithstanding subregulation (2), a regulated service provider shall file tariff to be charged for services rendered to the Corporation for noting and monitoring.

Restriction to charge unapproved tariff	6. A regulated service provider shall not set up or charge tariff which is not approved or no filing of tariff have been made by the service provider to the Corporation.
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PART III
TARIFF APPLICATION AND REVIEW PROCEDURES

Application for
new tariff

7-(1) A regulated service provider shall, prior to charging the service rendered submit a tariff application to the Corporation.

(2) An application under subregulation (1) shall be in a form prescribed in the First Schedule to these Regulations and shall be at least ninety days prior to the implementation of the proposed tariff.

(3) A tariff application shall be made in accordance with the tariff application guidelines to be prepared by the Corporation and supported with the following documents:

- (a) a certified copy of valid regulated service provider's licence or a receipt of payment of application fee for a licence;
- (b) an updated and relevant business plan;
- (c) proposed tariff;
- (d) worksheet of workings leading to the proposed tariff;
- (e) proposed special tariff for special consumer group;
- (f) a statement on the role of tariff in promoting efficient use of resources; and
- (g) any other supporting document that may be required by the Corporation.

Application for
review of tariff

8-(1) A regulated service provider who wishes to review a rate of tariff shall apply to the Corporation for such review.

(2) An application for review under subregulation(1) shall be in form prescribed in the Second Schedule to these Regulations and shall be supported with the following documents:

- (a) a certified copy of a valid regulated service provider's licence;
- (b) proposed tariff for review;
- (c) justifications for tariff review including how the industry will benefit from such review;
- (d) a statement of financial implications to the applicant where the requested tariff review is not approved;
- (e) worksheet of workings leading to the proposed tariff;
- (f) tax clearance certificate;
- (g) audited financial statements for the immediate preceding three years or less depending on the age of the company;
- (h) provisional financial statements where the audited statements are not ready;
- (i) performance report and financial analysis for the past five years or less depending on the age of the company in accordance with the tariff application guidelines to be prepared by the Corporation;
- (j) implementation report of regulatory directives, if any, contained in the previous tariff order issued to the applicant; and
- (k) any other supporting document as may be required by the Corporation.

(3) A regulated service provider may apply for a tariff review after a period of at least two years from the previous review.

(4) Notwithstanding the provisions of these Regulations, an

	application for review of tariff may be done when-
	(a) allowed rate of return on investment is below a threshold set by the Corporation from time to time; or
	(b) changes in any other factor necessitate tariff review.
Tariff review initiated by consumer	9-(1) A consumer of regulated service may initiate tariff review by making a submissions to the Corporation. (2) The Submission under subregulation (1) shall be accompanied by- (a) proposed tariff; (b) justifications for tariff review including how the industry will benefit from such review; (c) worksheet of workings leading to the proposed tariff; and (d) any other supporting document as may be required by the Corporation.
Tariff application under directive of Corporation	10-(1) The Corporation may direct a regulated service provider to file an application to the Corporation for tariff review in accordance with regulation 8(2) within the prescribed time. (2) Subject to subregulation (1), the Corporation shall state reasons for giving the directive for requiring the regulated service provider to file an application for tariff review.
Withdrawal of application	11-(1) Any applicant for tariff approval or review may withdraw his application any time but not later than seven days after public inquiry. (2)The withdrawal of an application from the Corporation shall be made in writing giving reasons for the withdrawal.
Corporation's own motion to review tariff	12.-(1) The Corporation may on its own motion initiate an inquiry to review a tariff of any regulated service where- (a) there are changes in circumstances that require tariff review; (b) tariff charged by a regulated service provider was not regulated by the Corporation; (c) the applicable assumptions used to determine the tariff have significantly changed; or (d) the regulated service provider has failed to submit tariff review application to the Corporation within time to be determined by the Corporation. (2) A person shall be obliged to submit information required by the Corporation when exercising its powers under subregulation (1).
Internal verification	13. Before determination of the application for new or review of tariff, the authorised officer shall fill in the prescribed form under the Third Schedule to these Regulations for prior verification of the Corporation of such submitted application
Confidentiality	14.-(1) Any information submitted to the Corporation for tariff application or review shall be presumed not to be confidential and shall become a matter of public record, scrutiny and inquiry. (2) Notwithstanding the provision of subregulation (1), any person may request the Corporation not to disclose specific data or information that he has provided to the Corporation, provided that, only the

Corporation shall determine whether such information is confidential.

(3) Subject to subregulation (2), a person shall not disclose information declared by the Corporation to be confidential.

PART IV

TARIFF SETTING METHODOLOGY

Determination of
revenue
requirement

15-(1) The Corporation shall use a Revenue Requirement Methodology in determining tariff for regulated services.

(2) The Revenue Requirement Methodology shall be determined on the principles that revenues of the regulated service provider have to cover operating and maintenance expenses, depreciation, taxes and shall ensure a fair return on assets employed in rendering regulated services in accordance with the tariff application guidelines to be prepared by the Corporation.

Factors for
consideration

16. The Corporation shall determine tariff for regulated service upon considering the following-

- (a) costs of efficiently making, producing and supplying the goods or services;
- (b) desire to promote competitive rates and attract the market;
- (c) any relevant local, regional or international benchmarks for prices, costs and return on assets in comparable industries;
- (d) financial implications of the determination;
- (e) consumer and investors interest;
- (f) fair return on assets in the regulated service;
- (g) need to induce effective consumption of regulated services;
- (h) need to attain price stability;
- (i) any other relevant sector written laws; and
- (j) any other factors that the Corporation considers relevant.

PART V

TARIFF DETERMINATION

Procedure for
determination of
tariff

17.-(1) Upon receipt of a tariff application, review or submission from an applicant in accordance with these Regulations, the Corporation shall within sixty days carry out the review and determine the tariff.

(2) Where the Corporation is not satisfied with the details of the submitted tariff application, it may require further information or any other evidence as it may consider necessary.

Notification on
tariff application
or review

18. The Corporation shall notify the public of the tariff application or review process through a widely circulated newspaper and call for-

- (a) a stakeholders' meeting; and
- (b) stakeholders' written submissions within fourteen days from the date of publication of the notice.

Validation
meeting

19.-(1) The Corporation shall hold a validation meeting with a tariff applicant to review key observations, facts and findings of the Corporation in relation to the tariff application prior to determination by the Board.

(2) The Corporation may invite the Ministry responsible for

maritime transport and any other stakeholders to participate in the validation meeting as deemed necessary.

(3) The Board shall review the outcome of the validation meeting while determining the tariff application or review.

Further consultations

20. The Corporation may further consult selected stakeholders prior to determination of the tariff application or review.

Approval or rejection of tariff application

21-(1) Where the Corporation is satisfied that all relevant information has been provided, it may, through Tariff Order-

(a) approve or vary the tariff application with or without specifying conditions thereof; or

(b) reject the tariff application and give reasons for its rejection.

(2) Subject to paragraph (a) of subregulation (1) the regulated service provider shall report implementation of specified conditions as may be directed in the Tariff Order.

Approval of tariff through competitive bidding

22. Where a tariff for service offered through a state owned facility is obtained by way of a competitive bidding, the Corporation shall regard such tariff as being the approved tariff if-

(a) a contracting party submits to the Corporation evidence from the regulatory authority responsible for public procurement that the tender was competitive; or

(b) prior to awarding the tender to the successful bidder, the procuring entity furnishes proof that the proposed contract is in compliance with the regulatory requirements related to tariff matters including-

(i) a need to comply with regulatory process of reviewing tariff in accordance with these Regulations in case of tariff change during a contract period; or

(ii) performance criteria which are commensurate with proposed tariff.

Limitations of approved tariff through competitive bidding

23. Where tariff has been approved in accordance with regulation 23 such tariff shall apply to relevant contract only.

Submission of tariff book

24. A regulated service provider shall prepare and submit tariff book or rate table to the Corporation prior to its implementation to ascertain whether a regulated service provider has correctly translated the approved tariff.

Availing of approved tariff to consumers

25. A regulated service provider shall ensure that the approved tariff is availed to consumers as may be prescribed in the Tariff Order or directed by the Corporation.

Issuance of receipt for a service rendered

26.-(1) A regulated service provider shall issue a receipt to a consumer as evidence of payment made for services rendered.

(2) The receipt may be inspected by the Corporation to ensure conformity with the approved tariff and conditions of service.

Tariff discount
scheme

27.-(1) Any regulated service provider offering a discount scheme on tariff shall inform the Corporation of any scheme available to consumers prior to its application.

(2) A regulated service provider shall ensure that every discount scheme-

(a) provide terms, conditions and details of the discount scheme; and

(b) are not anti-competitive.

(3) The Corporation may discontinue a discount scheme that does not comply with this regulation and shall state the reasons for its decision.

Preventive tariff

28. A dominant regulated service provider shall not prevent market entry or distant competition by applying a tariff below the cost of providing a service.

PART VI OFFENCES AND PENALTIES

Offences

29. Subject to the provision of the Act any person who-

- (a) fails to issue a receipt for a rendered regulated services;
- (b) set up or charge tariff which is not approved or no filing of tariff is made by the service provider to the Corporation;
- (c) applies unapproved tariff;
- (d) fails to avail approved tariff to a consumer;
- (e) fails to report implementation of specified conditions as directed in the Tariff Order;
- (f) fails to submit tariff book or rate table to the Corporation;
- (g) refuses or fails to comply with a summons to provide information;
- (h) hinders or obstructs an authorised Officer of the Corporation in the performance of his duty under these Regulations;
- (i) discloses information declared to be confidential by the Corporation; and
- (j) furnishes to the Corporation any document, information or statement, which to his knowledge are false, or
- (k) acts in contravention of any provision of these Regulations.

commits an offence and upon conviction shall be liable to a fine of not less than twenty million shillings but not exceeding forty million shillings or imprisonment for a term of not less than two years but not exceeding five years or both.

Power
compound
offences

30.-(1) Notwithstanding the provisions of these Regulations relating to penalties and subject to the provision of the Act, where a person admits in writing that he has committed an offence under these Regulations, the Director General or a person authorised by him in writing may, at any time prior to the commencement of the proceedings by a court of competent jurisdiction compound such offence and order such person to pay sum of money, not exceeding one half of the amount of the fine to which such person would otherwise have been liable to pay if he had been convicted of such offence.

(2) Where the Corporation compounds an offence under this regulation, the order referred to in subregulation (1)-

- (a) shall be reduced into writing and shall be attached to it the written admission and request referred to in the provision to the said subregulation and a copy of such order shall be given if he so requests, to the person who committed the offence; and
- (b) shall specify the offence committed, the sum of money ordered to be paid to the Corporation and the date on which payment is to be settled.

(3) Where an offence is compounded in accordance with sub regulation (1) and proceedings are brought against the offender for the same offence, it shall be a good defence for the offender to prove to the satisfaction of the court that the offence with which the offender is charged has been compounded under sub regulation (1).

(4) Where the person fails to comply with the compounding order issued under this regulation within the prescribed period, the Corporation may-

- (a) in addition to the sum ordered, require the person to pay an interest of five per centum of the accrued amount after every thirty days; and
- (b) enforce the compounding order in the same manner as a decree of a court for the payment of the amount stated in the order.

PART VII GENERAL PROVISIONS

Review of Tariff
Order

31.-(1) A person aggrieved by the Tariff Order made under these Regulations may, within fourteen days from the date of issuance of the approved tariff, apply to the Corporation for review provided the grounds for review shall indicate that-

- (a) there is a mistake or error apparent on the face of the records; or
- (b) there is a discovery of new and important matter or evidence which after the exercise of due diligence was not within the applicant's knowledge or could not be produced by him at the time when the order was made.

Complaint
handling

32. A person aggrieved by a decision of the Corporation made under these Regulations may seek redress in accordance with the Tanzania Shipping Agencies (Complaints Handling) Regulations.

G.N. No. 338 of
2018

Transition and
savings

33. All orders, notices, directives or instructions in relation to tariff in the regulated services made or given before coming into operation of these Regulations, shall remain in force until such orders, tariffs, notices, directives or instructions have been reviewed or revoked.



**THE UNITED REPUBLIC OF TANZANIA
MINISTRY OF WORKS, TRANSPORT
AND COMMUNICATION
TANZANIA SHIPPING AGENCIES
CORPORATION**



FIRST SCHEDULE

(Made under regulation 7(2))

APPLICATION FOR NEW TARIFF

A. PARTICULARS OF AN APPLICANT

1. Name of the Applicant:.....

(in BLOCK LETTERS)

2. Type of Regulated Service:

3. Number of Certificate of Incorporation Date of
..... Issue.....

4. Postal Address

Office Telephone No:

.....

Office Mobile Phone:

Fax

No:.....

E-mail:

.....

5. Physical Address:

Street: Plot No: Office
..... No:.....

Name of the House/Building

House/Building:..... No:.....

6. Brief description of the Application:

.....
.....
.....
.....
.....

B. DOCUMENTS TO BE PROVIDED DURING APPLICATION

1. Document attached:

- (a) a certified copy of valid regulated service provider's licence or proof of application for a licence;
- (b) an updated and relevant business plan;
- (c) proposed tariff;
- (d) worksheet of workings leading to the proposed tariff;
- (e) proposed special tariff for special consumer group;
- (f) a statement on the role of tariff in promoting efficient use of resources; or
- (g) any other supporting document that may be required by the Corporation.

2. The Corporation may require more information and documents at any time.

C DECLARATION

I hereby declare that to the best of my knowledge and belief all the information provided in this application is true.

Full name: Signature:.....
.....

Designation: Date:.....
.....

FOR OFFICIAL USE ONLY

Designation:
Official Stamp:
Date :

CAUTION:

- (a) initial each page;
- (b) making a false statement for the purpose of obtaining the tariff is an offence under these Regulations is punishable by fine or imprisonment or both; and
- (c) change of particulars provided in this form must be communicated to TASAC.



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



SECOND SCHEDULE

(Made under regulation 8(2))

APPLICATION FOR REVIEW OF TARIFF

A. PARTICULARS OF AN APPLICANT

1. Name of the Applicant:

.....
.....

(in BLOCK LETTERS)

2. Type of Regulated Service:.....

3. Number of Certificate of Incorporation..... Date of Issue.....

4. Postal Address

Office Telephone No:

Office Mobile Phone:

Fax

No:.....

E-mail:

.....

5. Physical Address:

Street: Plot No: Office No:.....

.....

Name of the House/Building:.....House/Building

No:.....

6. Brief description of the review:

.....

.....

.....

.....

B. DOCUMENTS TO BE PROVIDED DURING APPLICATION

1. Document attached-

- | | |
|---|--|
| (a) a certified copy of a valid regulated service provider's licence; | |
| (b) proposed tariff for review; | |
| (c) justifications for tariff review including how the industry will benefit from such review; | |
| (d) financial implications to the applicant if the requested tariff review is not approved; | |
| (e) worksheet of workings leading to the proposed tariff; | |
| (f) tax clearance certificate; | |
| (g) audited financial statement for the immediate preceding three years or less depending on the age of the company; | |
| (h) provisional financial statement where the audited statement are not ready; | |
| (i) performance report and financial analysis for the past five years or less depending on the age of the company in accordance with the Tariff Application Guidelines to be prepared by the Corporation; | |
| (j) implementation report of regulatory directives, if any, contained in the previous tariff order issued to the applicant; or | |
| (k) any other supporting document as may be required by the Corporation. | |

2. The Corporation may require more information and documents at any time.

C. DECLARATION

I hereby declare that to the best of my knowledge and belief all the information provided in this application is true.

Full Name:	Signature:
.....	
Designation:	Date:
.....	

FOR OFFICIAL USE ONLY

Designation:	Official Stamp
.....	

Received

Date:

.....

CAUTION:

- (a) initial each page.
- (d) making a false statement for the purpose of obtaining the tariff is an offence under these Regulations is punishable by fine or imprisonment or both.
- (e) change of particulars provided in this form must be communicated to TASAC.



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



THIRD SCHEDULE

(Made under regulation 13)

INTERNAL VERIFICATION OF APPLICATION FOR NEW OR REVIEW OF TARIFF

PART I: VERIFICATION BY A SENIOR OFFICER

Name of applicant:.....

Address:.....

Tel. No:.....

Requirements for Verification:

- (i) ATTACH DULLY FILLED IN APPLICATION FORM.
- (ii) FOR NEW APPLICANT, ATTACH INSPECTION REPORT FORM.

Remarks:

.....
.....

Name:..... Signature:..... Date:.....

.....

.....

.....

PART II: RECOMMENDATION BY MANAGER RESPONSIBLE FOR TARIFF
REGULATION

This applicant is ☐ recommended ☐ not recommended

Remarks:

.....
.....

Name:..... Signature:..... Date:.....

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PART III: RECOMMENDATION BY DIRECTOR, ECONOMIC REGULATION

This applicant is ☐ recommended for issuance ☐ not recommended for issuance

Tanzania Shipping Agencies (Tariff)

GN. No. 8 (Contd.)

Remarks:

.....

PART IV: APPROVAL BY DIRECTOR GENERAL

This applicant is ☐ approved ☐ not approved

Remarks:

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Dodoma,
20th December, 2019

ISACK A. KAMWELWE
*Minister for Works, Transport
and Communication*