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THE MERCHANT SHIPPING ACT,
(CAP. 165)

REGULATIONS

(Made under section 427)

THE MERCHANT SHIPPING (ENTRY INTO ENCLOSED SPACES)
REGULATIONS, 2023

ARRANGEMENT OF REGULATIONS

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PART I
PRELIMINARY PROVISIONS

- Citation 1. These Regulations may be cited as the Merchant Shipping (Entry into Enclosed Spaces) Regulations, 2023.
- Application 2.-(1) These Regulations shall apply to Tanzanian ships, wherever they may be and other ships whilst in a Tanzanian water.
(2) Without prejudice to the generality of sub regulation (1) these Regulations shall not apply to-
(a) pleasure craft;
(b) ship in which there is no master or crew or watchman;
(c) warship or naval auxiliary;
(d) vessel owned or operated by the Government on non-commercial service; and
(e) vessels of not less than 24 metres length or 50 gross tonnage.
(3) For the purpose of this regulation “pleasure craft” means a vessel primarily used for sport or recreation.
- Interpretation 3. In these Regulations, unless the context otherwise requires-
“enclosed space” means a space which is not designed for continuous worker occupancy and has either or both of the following characteristics:

- (a) limited openings for entry and exit; and
- (b) inadequate ventilation;

“Code” means the Code of Safe Working Practices for Merchant Seafarers of 2015 Edition as amended in 2022;

“gas carrier” means a ship constructed or adapted for the carriage in bulk of any liquefied gas or other products listed in the table Of Chapter 19 of the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk or in its acronym known as “IGC Code”;

“tanker” means any ship constructed or adapted for the carriage of oil or chemicals in bulk;

“Tanzanian ship” means a ship registered or licensed under the provisions of the Act at a port in the United Republic;

Cap. 415 “Registrar” means the Registrar appointed under section 31 of the Tanzania Shipping Agencies Act;

“employer” means, in relation to a ship, the person for the time being employing the seafarer;

“master” includes any person except a pilot having command or charge of a ship, seaplane or other crafts when it is on or in close proximity to the water;

“Merchant Shipping Notice” means a Notice described as such issued by the Registrar;

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;

“tons” means gross tons, and the gross tonnage of a ship having alternative gross tonnages shall be taken to be the larger of those tonnages; and

“Minister” means the Minister responsible for shipping.

PART II

REQUIREMENTS FOR ENCLOSED SPACES

Persons on
whom duties are
imposed

4.-(1) It shall be the duty of every employer to comply with the provisions of these Regulations, except

where that duty is imposed on any other person.

(2) Where a person on whom a duty is imposed by any provision of these Regulations does not have control of the matter to which the regulation relates because he does not have responsibility for the operation of the ship, then any duty imposed by that regulation shall also extend to any person who has control of that matter.

Entrances to
enclosed spaces

5. A master of a ship shall ensure that all entrances to unattended enclosed spaces on the ship are either kept closed or otherwise secured against entry, except when necessary for entry thereto.

Entry into
enclosed spaces

6.-(1) Shipowner, employer and any other person referred to under regulation 5 shall ensure that-

(a) systems of work provided and maintained on board ship, relating to health and safety at work, include systems for entry into and working in enclosed spaces; and

(b) assessments of the risks of entry into and working in enclosed spaces are made.

(2) A master shall ensure that the systems of work referred to in sub regulation (1)(a) are observed on board the ship.

(3) A person shall not enter or remain in an enclosed space, except in accordance with the systems of work referred to in subregulation (1)(a).

(4) The shipowner, employer and any other person referred to under regulation 5, in fulfilling their duties under this regulation, shall take full account of the principles and guidance contained in Chapter 10 of the Code.

Drills

7.-(1) A master shall ensure that seafarers whose responsibilities include entry into or rescue from enclosed spaces on board that ship participate in drills which comply with the provisions of subregulation (3).

(2) The drills referred to under subregulation (1) shall be recorded in the official logbook.

- (3) Drills shall-
 - (a) be held on board the ship at intervals not exceeding two months;
 - (b) be planned and conducted in a safe manner, having regard to the guidance in Chapter 15 of the Code;
 - (c) include-
 - (i) the checking and use of-
 - (aa) personal protective equipment required for entry;
 - (bb) communication equipment and procedures;
 - (cc) the equipment prescribed under regulation 8;
 - (dd) rescue equipment and procedures; and
 - (ii) instructions in first aid and resuscitation techniques.

Testing
equipment

8. In respect of a ship which there is an accessible enclosed space on board, the shipowner and the employer shall ensure that-

- (a) the ship carries appropriate portable atmosphere testing equipment that enables a seafarer to measure any concentration within that space of oxygen, flammable gases or vapours, hydrogen sulphide and carbon monoxide before any seafarer enters that space;
- (b) the equipment referred to in paragraph (a) is-
 - (i) maintained in good working order; and
 - (ii) where applicable, regularly serviced and calibrated according to the manufacturer's recommendations.

Exemptions

9.-(1) The Corporation may, on such terms if any, grant exemptions under regulations 7 and 8 for an individual ship or class of ships which-

- (a) is less than 500 gross tons;
- (b) is not a SOLAS ship or class of SOLAS ships;

- and
- (c) satisfies the conditions set out under subregulation (2).
- (2) The conditions referred under subregulation (1) are-
 - (a) the ship or class of ships shall be operated in accordance with-
 - (i) a schedule that requires a return to a port at intervals not exceeding 72 hours; and
 - (ii) a procedure which ensures that no seafarer on board a ship enters any enclosed space whilst that ship is at sea;
 - (b) not reasonably practicable to comply with regulation 7(3)(a) in consequence of either-
 - (i) the pattern of operation of the ship or class of ships; or
 - (ii) the arrangements for crewing the ship or class of ships; and
 - (c) no enclosed spaces on the ship or class of ships to which a seafarer might reasonably be expected to require entry, other than in exceptional circumstances.
- (3) Where an exemption is granted to a ship or class of ships on satisfaction of the conditions set out in subregulation (3)(b) or (c), the shipowner and the employer shall ensure that-
 - (a) seafarers participate in drills equivalent to those prescribed under regulation 7(3)(b) and (c)-
 - (i) in the case of subregulation (3)(b), in such other manner and intervals as may be reasonably practicable; and
 - (ii) in the case of subregulation (3)(c), where entry is required in exceptional circumstances, before entry is effected.
 - (b) the drills referred to under regulation 7(2) of these Regulations, are recorded in the official log book.

(4) The Registrar may, on giving reasonable notice, alter or cancel any exemption granted under this regulation.

(5) An exemption, alteration or cancellation granted under this regulation shall-

- (a) be in writing;
- (b) specify the date on which it takes effect; and
- (c) in the case of an exemption, specify the terms, if any, on which it is given.

(6) The requirement that an exemption, alteration or cancellation granted under this regulation be in writing shall be satisfied where the text of the exemption is-

- (a) transmitted by electronic means;
- (b) received in legible form; and
- (c) capable of being used for subsequent reference.

PART III OFFENCES AND PENALTIES

Offences and
penalties

10.-(1) A master of a ship who fails to comply with any of the requirements of regulation 5 or 7(1) 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 Tanzanian shillings or to imprisonment for a term not exceeding six months or to both.

(2) A shipowner, an employer or any other person referred to in regulation 4 of these Regulations who fails to comply with any of the requirements of regulation 6(1) 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 Tanzanian shillings or to imprisonment for a term not exceeding six months or to both.

(3) A shipowner or an employer who fails to comply with any of the requirements of regulation 8 or 9(3) 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 Tanzanian shillings or

to imprisonment for a term not exceeding six months or to both.

General
penalties

11. A master of a ship who fails to comply with any of the requirements of regulation 5 or 7(1) 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 Tanzanian shillings or to imprisonment for a term not exceeding six months or to both.

PART IV GENERAL PROVISIONS

Detention

12.-(1) A ship which does not comply with the requirements of these Regulations may be detained.

(2) Where the ship is detained under subregulation (1), the provisions of section 409 of the Act shall apply, except the provisions provided under subsection (7).

(3) Where a ship is liable to be detained under this regulation, the person detaining the ship shall serve on the master a detention notice which-

- (a) states the grounds of the detention; and
- (b) requires the terms of the notice to be complied with until the ship is released by any person referred to under section 409(1) of the Act.

(4) Where a ship other than a Tanzanian ship is detained, the Corporation shall immediately inform the ship's flag administration in writing.

(5) Where it is not possible to inform the ship's flag administration in accordance with subregulation (4), the Corporation shall inform the Consular of the State of the flag administration, or in the absence of a Consular, the nearest diplomatic representative of the State of the flag administration.

(6) For the purposes of sub regulations (4) and (5), "flag administration" in relation to a ship means the administration of the State whose flag the ship is entitled to fly.

Evaluation and

13.-(1) The Registrar shall-

reporting

- (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.

Complaints
handling
GN. No.
338 of 2018

14. 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,
28th June, 2023

MAKAME M. MBARAWA,
Minister for Works and Transport