

GOVERNMENT NOTICE No. 851 published on 09/10/2020

THE MERCHANT SHIPPING ACT
(CAP. 165)

THE MERCHANT SHIPPING (SHIP AND PORT FACILITY SECURITY) (AMENDMENT)
REGULATIONS, 2020

ARRANGEMENT OF REGULATIONS

<i>Regulation</i>	<i>Title</i>
-------------------	--------------

- | | |
|-----|--|
| 1. | Citation. |
| 2. | General amendments. |
| 3. | Amendment of regulation 2. |
| 4. | Amendment of regulation 3. |
| 5. | Amendment of heading of PART II. |
| 6. | Amendment of regulation 5. |
| 7. | Addition of PART IIA. |
| 8. | Amendment of regulation 14. |
| 9. | Addition of PART IIB. |
| 10. | Addition of regulations 43, 44 and 45. |

GOVERNMENT NOTICE No. 851 published on 09/10/2020

THE MERCHANT SHIPPING ACT
(CAP. 165)

REGULATIONS

(Made under sections 342(8))

THE MERCHANT SHIPPING (SHIP AND PORT FACILITY SECURITY) (AMENDMENT)
REGULATIONS, 2020

- | | |
|---------------------------|--|
| Citation | 1. These Regulations may be cited as the Merchant Shipping (Ship and Port Facility Security) (Amendment) Regulations, 2020 and shall be read as one with the Merchant Shipping (Ship and Port Facility Security) Regulations, 2004 hereinafter referred to as the “principal Regulations”. |
| G.N. No. 213 of 2004 | |
| General amendments | 2. The principal Regulations are amended by deleting the words “of ships” after the word “Registrar” wherever they appear under these Regulations. |
| Amendment of regulation 2 | 3. The principal Regulations are amended by deleting regulations 2 and substituting for it the following: |
| Applicati
on | 2.-(1) Subject to subregulation (6), Part 1 of these Regulations shall apply to: <ul style="list-style-type: none">(a) ships engaged on international voyages such as:<ul style="list-style-type: none">(i) passenger ships, including high speed passenger craft;(ii) cargo ships of chemical, gas, oil including high-speed craft, of 500 gross tonnage or upwards;(iii) mobile offshore drilling units;(b) ships not engaged on international voyages, but may, occasionally be required, to serve ships arriving or departing on international voyages;(c) ships engaged on domestic voyages frequently carrying foreign passengers; |

- (d) port facilities serving ships engaged on international voyages;
- (e) other port facility specified in a Notice issued by the Registrar;
- (2) Regulations 21, 23 and 24 shall equally apply to a port facility referred to in subregulation (2)(d) and (e).
- (3) A Notice referred to in subregulation 2(e) shall not be issued a certificate without a port facility security assessment of that port facility being made in accordance with section 15 of Part A of the ISPS Code specifying extent of application of this Part and relevant sections of Part A of the ISPS Code to the facility.
- (4) A Notice issued under these Regulations shall not compromise the entire level of security provided in Chapter XI-2 or Part A of the ISPS Code.
- (5) This Part does not apply to:
 - (a) warships;
 - (b) naval auxiliaries; and
 - (c) other ships owned or operated by Contracting Parties to the Safety of Life at Sea Convention, 1974 and used only on Government non-commercial services.

Amendment of
regulation 3

3:

4. The principal Regulations are amended in regulation

- (a) by deleting the definitions of the terms “authorised person”, “ISM Code” “Minister”, “Registrar of Ships” and respectively replacing for them with the following:
 - “authorised person” means the person designated as such in writing by the Registrar for the purposes of these Regulations;”
 - “ISM Code” means an International Safety Management Code for the Safe Operation of Ships and for Pollution Prevention adopted by the Organization by Resolution A.741(18);
 - “Minister” means the Minister responsible for maritime transport;”

- Cap. 415 “Registrar” means the Registrar as appointed under section 31 of the Tanzania Shipping Agencies Act;
- (b) inserting in the appropriate alphabetical order the following new definitions-
- Cap. 415 “Corporation” means the Tanzania Shipping Agencies Corporation established by section 4 of the Tanzania Shipping Agencies Act;
- “IGC Code” means an International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk as adopted by the Maritime Safety Committee of the Organization by Resolution MSC.5(48);
- “oil tanker” means a ship constructed or adapted to carry oil in bulk in its cargo spaces and includes combination carriers which means a ship designed to carry either oil or solid cargoes in bulk;”.

Amendment of heading of PART II

5. The principal Regulations are amended in the heading of PART II by:
- (a) adding the word “GENERAL” immediately before the word “MEASURES”; and
 - (b) deleting the sub-heading “(a) General” appearing immediately after the heading.

Amendment of regulation 5

- 5: 6. The principal Regulations are amended in regulation
- (a) by adding at the end of subregulation (1) the words “established by the Minister.”;
 - (b) in subregulation (2):
 - (i) by deleting the word “compose” and substituting for it the word “composed”;
 - (ii) by deleting the word “Police” appearing in paragraph (b) and substituting for it the words “Tanzania Police Force - Marine Unit”;
 - (iii) in paragraph (g) by inserting the word “maritime” between the word “for” and “transport”;
 - (iv) in paragraph (i) by deleting the word “and” appearing at the end of that paragraph;
 - (v) by adding immediately after paragraph (j) the

following new paragraphs:

“(k) the representative of the Prime Minister’s Office;

(l) a representative of the Ministry responsible for foreign affairs;

(m) the representative of the Offices of the Attorney General;

(n) the representative of the maritime authorities;

(o) the representative of the Ministries responsible for fisheries; and

(p) the representative of the Drug Control and Enforcement Authority.

(c) by adding immediately after subregulation (2) the following new subregulation:

(3) The Corporation shall provide secretariat services to the Committee.

Addition of
PART IIA

7. The principal Regulations are amended by adding immediately after regulation 13 the following new Part:

“PART IIA

SPECIAL MEASURES FOR SHIPS TO ENHANCE
MARITIME SECURITY”

Addition of
PART IIB

8. The principal Regulations are amended by deleting the sub-heading “(b) Control and Compliance Measures” appearing between regulations 22 and 23 and substituting for it following:

“PART IIB

CONTROL AND COMPLIANCE MEASURES”

Addition of
regulations 43,
44 and 45

9. The principal Regulations are amended by adding immediately after regulation 42 the following new regulations:

"General Penalty

43. A person who commits an offence under these Regulations, for which no specific penalty is provided, shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars one thousand or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Power to
compound
offences

44.-(1) Notwithstanding the provisions of these Regulations relating to penalties, where a person admits in writing that he has committed an

offence under these Regulations, the Registrar or an authorised person 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 sub regulation (1) shall:

- (a) be reduced into writing and shall be attached to it the written admission and request referred to in the provision to the said sub regulation and a copy of such order shall be given if he so requests, to the person who committed the offence; and
- (b) 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 at the rate of ten percent compounded monthly or part thereof, on the principal amount; 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.

Review

G.N. No.
338 of 2018

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

Dodoma,
18th September, 2020

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