

GOVERNMENT NOTICE NO. 67 published on 25/1/2019

THE TANZANIA SHIPPING AGENCIES ACT
(ACT NO. 14 OF 2017)

REGULATIONS

*(Made under section
61)*

THE TANZANIA SHIPPING AGENCIES (PORT STATE CONTROL) REGULATIONS,
2019

ARRANGEMENT OF REGULATIONS

Regulation Title

PART I

PRELIMINARY PROVISIONS

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

PART II

OBLIGATION TO CONDUCT INSPECTION

4. Inspection commitment.
5. Initial inspections and more detailed inspections.
6. Expanded inspection of certain ships.
7. Report of inspection to the master.
8. Professional profile of and identification of inspectors.

PART III

RECTIFICATION AND DETENTION OF A SHIP

9. Rectification and detention..
10. Power to permit prohibited ships to enter port.
11. Prohibition on detained ships requiring repair from entering port.
12. Power to permit detained ships to proceed to repair yard.

13. Costs.

PART IV
DUTIES OF PILOTS AND PORT AUTHORITIES

14. Duty of pilots and port authorities to report anomalies.
15. Duty on port authorities to report ship arrivals
and departures, etc.

PART V
COMPLAINT HANDLING BY THE REGISTRAR

16. Complaints.

PART VI
OFFENCES AND PENALTIES

17. Offences and Penalties.
18. General Penalty.
19. Power to compound.

PART VII
GENERAL PROVISIONS

20. Evaluation and reporting.
21. Familiarity of crew with operational procedures.
22. Review.

SCHEDULES

THE TANZANIA SHIPPING AGENCIES ACT
(ACT NO. 14 OF 2017)

REGULATIONS

(Made under section 61)

THE TANZANIA SHIPPING AGENCIES (PORT STATE CONTROL)
REGULATIONS, 2019

PART I
PRELIMINARY PROVISIONS

- Citation 1. These Regulations may be cited as the Tanzania Shipping Agencies (Port State Control) Regulations, 2019.
- Application 2.-(1) These Regulations shall apply to any ship and its crew calling at a port or anchorage in the United Republic to engage in a ship or port interface.
(2) Notwithstanding subregulation (1), these Regulations shall not apply to-
- (a) a Tanzanian ship;
 - (b) a fishing vessel;
 - (c) a warship;
 - (d) a naval auxiliary;
 - (e) a wooden ship of primitive build;
 - (f) any foreign government ship used for non-commercial purposes; or
 - (g) a pleasure yacht not engaged in trade.
- (3) An inspector shall, when exercising functions in respect of a ship below 500 gross tonnage-
- (a) have regard to Annex II of the IOMOU;
 - (b) to the extent a Convention applies to the ship, apply the requirements of that Convention; and
 - (c) to the extent a Convention does not apply to the ship,

take such action as may be necessary to ensure that the ship is not clearly hazardous to safety, health or environment.

(4) An inspection of a ship in the United Republic, while not in a port, is considered an inspection for the purposes of these Regulations.

(5) Where-

- (a) a ship is detained under a Convention enactment; or
- (b) the master of such a ship is served with a detention notice under such convention, section 409 of the Merchant Shipping Act shall apply in relation to the ship as if any reference to proceeding to sea were a reference to proceeding contrary to the detention notice and references to sending or taking to sea were construed accordingly.

Cap.165

Interpretation

Act No.
14 of 2017

3. In these Regulations, unless where the context requires otherwise-

“Act” means the Tanzania Shipping Agencies Act;

“classification certificate” means a certificate confirming compliance with Chapter II-1, Part A-1, Regulation 3-1 of SOLAS 74;

“Conventions” mean-

- (a) the International Convention for the Safety of Life at Sea, 1974, (SOLAS 1974);
- (b) the International Convention on Load Lines, 1966 (LL1966);
- (c) the International Convention for the Prevention of Pollution from Ships, 1973, in its acronym “MARPOL” as modified by the 1978 and 1997 Protocols,
- (d) the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, in its acronym “ST CW 1978”;
- (e) the International Convention on Tonnage Measurement of Ships, 1969 (TONNAGE 1969);
- (f) the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (COLREG 1972);
- (g) the International Convention on Civil Liability for Oil

Pollution Damage, 1969(CLC 1969);

- (h) the Protocol of 1992 to amend the International Convention on Civil Liability for Oil Pollution Damage, 1969 (CLC PROT 1992);

“complaint” means information submitted by a member of the crew, a professional body, an association, a trade union or any person with an interest in the safety of the ship, including an interest in the safety or health hazards to its crew;

“Convention enactment” means-

- (a) the Act; and
(b) subsidiary legislation made under the Act which implement the Conventions;

“Corporation” means the Tanzania Shipping Agencies Corporation established under section 4 of the Tanzania Shipping Agencies Act;

Act No.
14 of 2017

“detention” means intervention action taken by the port state when the condition of the ship or its crew does not correspond substantially with the relevant conventions to ensure that the ship will not sail until it can proceed to sea without presenting a danger to the ship or persons on board, or without presenting an unreasonable threat of harm to the marine environment;

“expanded inspection” means an inspection which includes the items listed in part 3 of the IOMOU Port State Control Manual;

“fishing vessel” means a vessel used for catching fish, whales, seals, walrus or other living resources of the sea;

“flag administration” in relation to a ship means the administration of the state whose flag the ship is entitled to fly;

“IMO” means the International Maritime Organization;

“IOMOU” means the Memorandum of Understanding on Port State Control for the Indian Ocean Region accepted on 20th January 1999, in its up-to-date version;

“initial inspection” means a visit on board a ship by an inspector in order to check compliance with the relevant Conventions including the checks set out in Part 3 of the IOMOU;

“inspection database” means the information system

contributing to the implementation of the port state control system within the IOMOU Region and concerning the data related to inspections carried out in the IOMOU region;

“inspector” means a person duly authorised by the Registrar to carry out inspections under by these Regulations and includes port state control officer;

“merchant shipping notice” means a notice issued by the Corporation and includes any document amending or replacing that notice which is considered by the Registrar to be relevant and is specified in a merchant shipping notice;

“more detailed inspection” means an inspection conducted when there are clear grounds for believing that the condition of the ship, its equipment or its crew does not correspond substantially to the particulars of the certificates;

“more detailed inspection” means an inspection where the ship, its equipment and crew as a whole or parts thereof are subjected, in the circumstances specified in part 3 of the IOMOU Port State Control Manual to an in-depth examination covering the ship’s construction, equipment, manning, living and working conditions and compliance with on-board operational procedures;

“owner” in relation to a ship means the registered owner and includes a demise charterer and a managing owner or a managing agent;

Cap.166

“port Corporation” means the Tanzania Ports Corporation established under section 4 of the Ports Act;

“Port State Control Officer (PSCO)” means a person duly authorized by the Registrar to carry out port state control inspections;

“recognized organization” means An organization which meets the relevant conditions set forth in the Code for Recognized Organizations (RO Code) (MSC.349(92) and MEPC.237(65)), and has been assessed and authorized by the flag state Administration in accordance with provisions of the RO Code to provide the necessary statutory services and certification to ships entitled to fly its flag;

“Registrar” means the registrar of ships, seafarers, wrecks,

maritime environment, safety and security matters of the Corporation appointed under section 31 of the Act;

“ship” means a seagoing vessel to which one or more of the Conventions applies and includes hovercraft;

“Ship or port interface” means the interactions that occur when a ship is directly and immediately affected by actions involving the movement of persons or goods or the provision of port services to or from the ship;

“ship at anchorage” means a ship in a port or another area within the jurisdiction of a port, but not at berth, carrying out a ship or port interface;

“stoppage of an operation” means a formal prohibition against a ship to continue an operation due to an identified deficiency or deficiencies which, singly or together, render the continuation of such operation hazardous;

“statutory certificate” means a certificate issued by or on behalf of a flag state in accordance with Conventions;

“substandard” means a condition whereby a ship’s hull, machinery, equipment or operational safety is substantially below the standards required by the relevant convention or where crew is not in conformance with the safe manning document;

“Tanzanian ship” has the meaning ascribed to it under section 2 of the Merchant Shipping Act;

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

“valid certificate” means a certificate that has been issued, electronically or on paper, directly by a party to a relevant convention or on its behalf by a recognized organization and contains accurate and effective dates, meets the provisions of the relevant convention and to which the particulars of the ship, its crew and its equipment correspond.

PART II

OBLIGATION TO CONDUCT INSPECTION

Inspection
commit-
ment

4.-(1) The Corporation shall, in each calendar year, carry out inspection of at least 10% of foreign merchant ships which

entered Tanzanian ports during the previous calendar year.

(2) For the purpose of this regulation of foreign merchant ships an inspection of foreign merchant ships include-

- (a) initial inspection;
- (b) a more detailed inspection; or
- (c) an expanded inspection.

(3) The Registrar shall provide information to the Secretariat of the IOMOU on inspections under the IOMOU and their results in accordance with the procedures specified in Annex 8 of the IOMOU.

(4) The information to be supplied by the Registrar under subregulation (3) shall include the following-

- (a) number of PSCOs working on their behalf on port state inspections; and
- (b) number of individual ships entering their ports during the calendar year.

(5) The Corporation shall arrange for the exchange of inspection information with other regional organizations working under similar memorandum of understanding.

Initial
inspections
and more
detailed
inspections

5.-(1) An inspector shall, in carrying out an inspection of a ship, as a minimum carry out an initial inspection where-

- (a) after inspection carried out in compliance with section 1.4 of Resolution A.1119(30) adopted on 6 December 2017, deficiencies to be rectified in the ship's next port of call have been recorded in the inspection database; and
- (b) that next port of call is in the United Republic;

(2) An inspector shall, in carrying out an inspection under subregulation (1), minimum and where appropriate, verify whether outstanding deficiencies found during the previous inspection carried out by a State signatory to the IOMOU have been rectified.

(3) A more detailed inspection shall be carried out when there are clear grounds for believing, after an initial inspection, that the condition of a ship or of its equipment or crew does not substantially meet the relevant requirements of a Convention.

(4) For the purposes of this regulation, clear grounds exist

when the inspector finds evidence which in his professional judgement warrants a more detailed inspection of the ship, its equipment or its crew.

(5) Facts regarded as “clear grounds” are set out in Annex 3 of IOMOU Port State Control Manual.

Expanded
inspection
of certain
ships

6.-(1) This regulation applies to ships in the following categories-

- (a) ships with a high risk profile;
- (b) passenger ships, oil tankers, gas or chemical tankers or bulk carriers, older than twelve years of age;
- (c) ships with a high risk profile or passenger ships, oil tankers, gas or chemical tankers or bulk carriers, older than twelve years of age, in cases of overriding or unexpected factors.

(2) Where a ship which is eligible for an expanded inspection is to call at a port or anchorage in the United Republic, its owner or master shall-

- (a) notify the Registrar of that intention;
- (b) include in that notification the information set out in the First Schedule;
- (c) use electronic means whenever possible to make that notification;
- (d) make that notification-
 - (i) at least three days before the expected time of arrival at the port or anchorage; or
 - (ii) before leaving the previous port or anchorage if the voyage to the port or anchorage is expected to take less than three days.

(3) An expanded inspection may include a more detailed inspection whenever there are clear grounds for believing that the condition of a ship or of its equipment or crew does not substantially meet the relevant requirements of a Convention, as described in regulation 5.

(4) The ship's owner or master shall ensure that sufficient time is available in the operating schedule to allow the expanded inspection to be carried out.

(5) Without prejudice to control measures required for

security purposes, the ship shall not leave the port or anchorage until the inspection is completed.

(6) On receipt of the notification by the Registrar, if an expanded inspection of the ship will not be carried out, an inspector shall notify the ship's master or owner of that ship.

Report of
inspection
to the
master

7. On completion of an initial inspection, a more detailed inspection or an expanded inspection, the inspector shall prepare a report in accordance with the Second Schedule to these Regulations and shall provide the ship's master with a copy of the report.

Professional
profile of
and
identification
inspectors

8.-(1) Inspections under these Regulations shall be carried out by persons who fulfil the qualification criteria specified in Annex 4 of the IOMOU.

(2) Notwithstanding subregulation (1), where an inspector with the required professional expertise cannot be provided by the Registrar, the inspector may be assisted by any person with the required professional expertise.

(3) An inspector and any person assisting an inspector shall-

- (a) have no commercial interest either in the port of inspection or in the ships inspected; or
- (b) not be employed by, or undertake work on behalf of, non-governmental organizations which issue statutory and classification certificates or which carry out surveys necessary for the issue of those certificates to ships.

(4) The Corporation shall provide port state control officers with identity cards containing at least the following information:

- (a) name of issuing corporation;
- (b) full name of the holder of the identity card;
- (c) an up-to-date picture of the holder of the identity card;
- (d) the signature of the holder of the identity card;
- (e) a statement to the effect that the holder of the identity card is authorised to carry out inspections in

- accordance with national legislation;
- (f) if the main language used on the identity card is not English, it shall include a translation into that language.

PART II

RECTIFICATION AND DETENTION OF SHIPS

Rectification
and
detention

9.-(1) A ship's owner shall satisfy the Registrar that any deficiencies which are confirmed or revealed by an initial inspection, more detailed inspection or expanded inspection, are rectified in accordance with the Conventions.

(2) Where the deficiencies are clearly hazardous to safety, health or the environment, the inspector shall detain the ship, or require the stoppage of the operation in the course of which the deficiencies have been revealed, using powers of detention in Convention enactments or issuing a prohibition notice under section 388 of the Merchant Shipping Act, as the case may be.

(3) A detention notice issued under sub regulation (2) may-

- (a) include a direction that a ship shall remain in a particular place, or shall move to a particular anchorage or berth; and
- (b) specify circumstances when the master of the ship may move that ship from a specified place for reasons of safety or prevention of pollution.

(4) Measures imposed by an inspector in the circumstances described in sub regulation (2) shall not be lifted until the Registrar has established that the ship can, subject to any necessary conditions, proceed to sea or the operation be resumed without risk to the safety and health of passengers or crew, or risk to other ships, or without there being an unreasonable threat of harm to the marine environment.

(5) Without prejudice to any other requirement in the Convention enactments, when exercising professional judgement as to whether or not a ship should be detained, the inspector shall apply the criteria set out in the Third Schedule.

(6) A ship shall be detained if it is not equipped with a functioning voyage data recorder system, when its use is

Cap 165

compulsory.

(7) Where the deficiency mentioned in sub regulation (6) cannot readily be rectified in the port of detention, the inspector may-

- (a) allow the ship to proceed to the appropriate repair yard nearest to the port of detention where it is capable of being rectified and is to be so rectified; or
- (b) require that the deficiency be rectified within a maximum period of thirty days.

(8) Where the overall condition of a ship is substandard, the inspector may, in addition to detaining the ship, suspend the inspection of that ship until the responsible parties have taken the steps necessary to ensure that it complies with the relevant requirements of the Conventions.

(9) Where a ship is detained following an initial inspection, a more detailed inspection or an expanded inspection, the Registrar shall immediately inform, in writing the-

- (a) ship's flag administration or, if this is not possible Consul of the State of the flag administration or, in the Consul's absence nearest diplomatic representative of the State of the flag administration; and
- (b) all relevant nominated surveyors or recognized organizations responsible for the issue of classification certificates or statutory certificates.

(10) The information referred to in sub regulation (9) shall set out all the circumstances relating to the decision to detain the ship and shall include the report of inspection.

(11) The provisions of these Regulations shall not prejudice the additional requirements of the Conventions concerning notification and reporting procedures related to port state control.

(12) When carrying out an inspection under these Regulations, the inspector shall make all possible efforts to avoid a ship being unduly detained or delayed.

(13) The risk of port congestion shall not be a consideration in a decision to detain a ship or to release a ship from detention.

Power to
permit
prohibited
ships to
enter port

10. Notwithstanding regulation 12, the Registrar may allow a ship access to a specific port or anchorage in the United Republic where he-

- (a) considers that force majeure, overriding safety considerations, the need to reduce or minimise the risk of pollution, the need to have deficiencies rectified applies in relation to the ship; and
- (b) is satisfied that adequate measures to ensure safe entry have been implemented by the owner or master of the ship.

Prohibition
on detained
ships
requiring
repair from
entering
port

11.-(1) A ship that proceeds to sea from any port or anchorage in the United Republic-

- (a) without complying with the conditions determined by the Registrar in the port of inspection; or
 - (b) without calling into the indicated repair yard, shall not enter any port or anchorage within the United Republic until the owner has provided evidence to the satisfaction of the Registrar that the ship fully complies with all applicable requirements of the Conventions.
- (2) A ship falls within this sub regulation if it-
- (a) was detained in a port in the IOMOU region after an inspection revealed deficiencies clearly hazardous to safety, health or the environment; or
 - (b) was so detained and was allowed by the competent Corporation of the relevant State to proceed to the appropriate repair yard nearest to the port of detention.

Power to
permit
detained
ships to
proceed to
repair yard

12.-(1) Where deficiencies referred to in regulation 9 cannot be rectified in the port of inspection, an inspector may allow the ship to proceed without undue delay to the appropriate repair yard nearest to the port of detention, as chosen by the master and authorities concerned, where follow-up action can be taken, provided that the conditions determined by the competent corporation of the flag administration and agreed by the inspector are complied with.

- (2) The conditions agreed by the inspector under sub

regulation (1) shall ensure that the ship can proceed without risk to the safety and health of passengers or crew, or risk to other ships, or without there being an unreasonable threat of harm to the marine environment.

Costs

G N No.
293 of 2005

13.-(1) Where an inspection establishes deficiencies warranting detention of a ship, all costs relating to inspections subsequent to the initial inspection shall be covered by the ship owner or the operator.

(2) The detention under this regulation shall not be lifted until any fees payable under the Merchant Shipping (Fees) Regulations has been made or a sufficient guarantee has been given for the reimbursement of the costs.

PART IV

DUTIES OF PILOTS AND PORT AUTHORITIES

Duty of
pilots and
port
authorities
to
Report
anoma-lies

Cap.166

14.-(1) This regulation applies to a pilot who is-

- (a) engaged in the berthing or unberthing of a ship to which these Regulations apply in the United Republic; or
- (b) engaged on such a ship bound for a port in the United Republic or in transit through United Republic waters.
- (c) is authorised under the Ports Act or the pilot boards the ship in the United Republic.

(2) Where a pilot discovers, in the course of their normal duties, that there are apparent anomalies which may prejudice the safe navigation of the ship, or which may pose a threat or harm to the marine environment, the pilot shall immediately inform-

- (a) if the pilot falls within sub regulation (1)(a), the port corporation which authorised the pilot;
 - (b) in any other case, the Registrar.
- (3) A port corporation shall-
- (a) upon receipt of information from a pilot in accordance with sub regulation (2)(a); or
 - (b) upon becoming aware, in the course of its normal duties that a ship within its port has apparent anomalies which may prejudice the safety of the ship

or poses an unreasonable threat of harm to the marine environment;

shall immediately inform the Registrar.

(4) The information provided in accordance with sub regulation (3) shall, as far as practicable, be in electronic format and shall include-

- (a) the ship's name, IMO number and call sign;
- (b) the flag under which the ship is sailing;
- (c) the previous port of call;
- (d) the port of destination; and
- (e) a description of the apparent anomalies.

Duty on
port
authorities
to report
ship
arrivals and
departures,
etc

15.-(1) A port Corporation shall provide the information in respect of each ship calling at its port or anchorage to the Registrar, in a reasonable time and, whenever possible, in electronic format.

(2) The information under this regulation shall include-

- (a) the identifier of the port concerned;
- (b) the ship's name, IMO number and call sign; and
- (c) the ship's actual time of arrival or departure, where appropriate.

(3) A port corporation shall, in addition, provide the Registrar with information in its possession about a ship which has been denied entry or expelled from port on security grounds.

PART V

COMPLAINT HANDLING BY THE REGISTRAR

Complaints

16.-(1) Where a complaint relating to a ship is submitted to the Registrar, the Registrar shall make an assessment of it as quickly as possible to determine whether it is justified.

(2) Where the Registrar determines that the complaint-

(a) is justifiable, the Registrar shall-

- (i) inform the complainant of that conclusion and of any follow-up action taken with regard to the complaint;
- (ii) ensure that any person directly concerned by

- that complaint can make their views known;
- (iii) take such action as the Registrar considers necessary;
- (iv) inform the administration of the ship's flag state and the International Labour Organization if appropriate, of the complaint and action taken.
- (b) is determined to be not justified, the Registrar shall inform the complainant of the reasons for this conclusion.
- (3) The Registrar or inspector shall, in determining the complaint under this regulation, not reveal the identity of the complainant to the master or owner of the ship concerned.
- (4) An inspector interviewing any members of the crew of the ship concerning the complaint shall-
 - (a) ensure confidentiality during such interviews; and
 - (b) report such interviews to the Registrar.

PART VI

OFFENCES, PENALTIES AND REVIEW

Offences
and
penalties

17.-(1) Subject to regulation 13, where there is any contravention of a direction made pursuant to regulation 9(3) in respect of a ship, the owner and master of the ship shall commit an offence and shall be liable upon conviction to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars ten thousand or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

- (2) Where a ship-
 - (a) enters a port or anchorage in breach of regulation 12;
 - (b) is permitted to leave a port pursuant to regulation 13(1) but fails to proceed to the repair yard specified; or
 - (c) to which regulation 9(7) applies-
 - (i) fails to proceed to the repair yard specified; or
 - (ii) fails to comply with the requirement that the deficiency be rectified within 30 days;

the owner and master of the ship shall each commit an offence and shall be liable upon conviction to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars ten thousand or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(3) Where a ship-

- (a) fails to give notification in breach of regulation 6(2);
- (b) leaves a port or anchorage in breach of regulation 6(5);

the owner and master of the ship shall each commit an offence and shall be liable upon conviction to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars five thousand or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(4) A person who obstructs an inspector or any person assisting the inspector commits an offence and is liable upon conviction to a fine of not less than the equivalent in Tanzanian shillings of United States dollars two thousand and five hundred or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

(5) A pilot who contravenes regulation 14(3) commits an offence and is liable upon conviction to a fine of not less than the equivalent in Tanzanian shillings of United States dollars one thousand and five hundred or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(6) A port authority which contravenes regulation 14(4) or 15 commits an offence and is liable upon conviction to a fine of not less than the equivalent in Tanzanian shillings of United States dollars five thousand.

General
penalty

18. A person who commits an offence for which no penalty has been stipulated in these Regulations shall, on conviction, 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.

Power to
compound
offence

19.-(1) Notwithstanding the provisions of these Regulations relating to penalty, where a person has committed any offence under these Regulations the Registrar 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 one half of the amount of the fine to which such person would otherwise have been liable if he had been convicted of such offence:

Provided that, the Registrar of Ship shall not exercise his powers under this regulation unless the person concerned admits in writing that he has committed such offence and requests that it be compounded.

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

- (a) shall be reduced to writing and there 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;
- (b) shall specify the offence committed, the sum of money ordered to be paid and the date or dates on which payment is to be settled;
- (c) shall be final and shall not be subject to any appeal to any court;

may be enforced in the same manner as a decree of a court for the payment of the amount stated in the order.

(3) 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.

PART VII GENERAL PROVISIONS

Evaluation
and
reporting

20.-(1) The Registrar shall from time to time-

- (a) carry out an evaluation of these Regulations;

- (b) prepare a report of the evaluation process; and
- (c) submit the report to the Minister;
- (2) The report under this regulation shall-
 - (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;
 - (b) assess the extent to which those objectives are achieved; and
 - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

Familiarity
of crew
with
operational
procedures

21.-(1) Ships when in ports in the United Republic, and in the case of United Republic ships when elsewhere, are subject to inspection for the purpose of checking that the master and crew are familiar with essential procedures and operations relating to the safety of the ship.

(2) Section 384 of the Merchant Shipping Act applies in relation to a ship in a port in the United Republic as if, in subsection (1), after “articles on board” there were inserted “the familiarity of the crew with essential procedures and operations relating to the safety of the ship”.

Review

GN No.
338 of
2018

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

SCHEDULES



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



FIRST SCHEDULE

NOTIFICATION

(Made under regulation 6(2))

The information listed below shall be submitted to the port Corporation or body or to the Corporation or body designated for that purpose at least three days before the expected time of arrival in the port or anchorage or before leaving the previous port or anchorage if the voyage is expected to take fewer than three days:

- (a) ship identification (name, call sign, IMO identification number or MMSI number);
- (b) planned duration of the call;
- (c) for tankers:
 - (i) configuration: single hull, single hull with Segregated Ballast Tanks(SBT), double hull;
 - (ii) Condition of the cargo and ball attacks: full, empty, Inserted;
 - (iii) Volume and nature of the cargo;
- (d) planned operations at the port or anchorage of destination (loading, unloading or other operations).
- (e) planned statutory survey inspections and substantial maintenance and repair work to be carried out whilst in the port of destination;
- (f) date of last expanded inspection in the IOMOU region.



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



SECOND SCHEDULE

INSPECTION REPORT

(Made under regulation 7)

The inspection report shall contain atleast the following items:

A. General Information

1. Competent Corporation that wrote the report.
2. Date and place of inspection.
3. Name of the ship inspected.
4. Flag.
5. Type of ship (as indicated in the Safety Management Certificate).
6. IMO identification number.
7. Callsign.
8. Tonnage (GT).
9. Dead weight tonnage (where relevant).
10. Year of construction as determined on the basis of the date indicated in the ship's safety certificates.
11. Classification society and any other organization, where relevant, which has issued classification certificates to the ship, if any.
12. Recognized organization or any other party which has issued ship certificates to the ship in accordance with the applicable Conventions on behalf of the flag state.
13. Name and address of the owner.
14. Name and address of the charterer responsible for the selection of the ship and type of charter in the case of ships carrying liquid or solid cargoes in bulk.
15. Final date of writing the inspection report.
16. Indication that detailed information on an inspection or a detention may be subject to publication.

B. Information relating to inspection

1. Certificates issued in application of the relevant Conventions, Corporation or organization that issued the certificate in question, including the date of issue and expiry.
2. Parts or elements of the ship that were inspected (in the case of more detailed or expanded inspection).

3. Port and date of the last intermediate or annual or renewal survey and the name of the organization which carried out the survey.
 4. Type of inspection (inspection, more detailed inspection, expanded inspection).
 5. Nature of the deficiencies.
 6. Measures taken.
- C. Additional information in the event of detention
1. Date of detention order.
 2. Date of lifting the detention order.
 3. Nature of the deficiencies warranting the detention order (references to Conventions, if relevant).
 4. Indication, where relevant, of whether the recognized organization or any other private body that carried out the survey has a responsibility in relation to the deficiencies which, alone or in combination, led to detention.
 5. Measures taken.



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



THIRD SCHEDULE

CRITERIA FOR DETENTION OF A SHIP

(Made under regulation 9(5))

1.0 INTRODUCTION

Detention as port state action shall only be taken on the grounds laid down in the relevant instruments.

Before determining whether deficiencies found during an inspection warrant detention of the ship involved, the inspector shall apply the criteria mentioned below in paragraphs 1 and 2.

Paragraph 3 includes examples of deficiencies that may for themselves warrant detention of the ship involved (see Article 19(4)). Where the ground for detention is the result of accidental damage suffered on the ship's voyage to a port, no detention order shall be issued, provided that:

- (a) Due account has been given to the requirements contained in Regulation I/11(c) of SOLAS 74 regarding notification to the flag state administration, the nominated surveyor or the recognized organization responsible for issuing the relevant certificate;
- (b) Prior to entering a port, the master or ship-owner has submitted to the port state control Corporation details on the circumstances of the accident and

- the damage suffered and information about the required notification of the flag state administration;
- (c) Appropriate remedial action, to the satisfaction of the Corporation, is being taken by the ship; and
- (d) The Corporation has ensured, having been notified of the completion of the remedial action, that deficiencies which were clearly hazardous to safety, health or the environment have been rectified.

**2.0 MAIN
CRITERIA**

When exercising his professional judgement as to whether or not a ship should be detained the inspector shall apply the following criteria:

- (a) Timing:
Ships which are unsafe to proceed to sea shall be detained upon the first inspection irrespective of how much time the ship will stay in port.
- (b) Criterion:
The ship is detained if its deficiencies are sufficiently serious to merit an inspector returning to satisfy himself that they have been rectified before the ships sails.
The need for the inspector to return to the ship is a measure of the seriousness of the deficiencies. However, it does not impose such an obligation for every case. It implies that the Corporation shall verify one way or another, preferably by a further visit, that the deficiencies have been rectified before departure.

3.0 APPLICATION OF MAIN CRITERIA

When determining whether the deficiencies found in a ship are sufficiently serious to merit detention the inspector shall assess whether:

- (a) The ship has relevant, valid documentation;
- (b) The ship has the crew required in the Minimum Safe Manning Document.

During inspection the inspector shall further assess whether the ship or crew is able to:

- (a) navigate safely throughout the forthcoming voyage;
- (b) safely handle, carry and monitor the condition of the cargo throughout the forthcoming voyage;
- (c) operate the engine room safely throughout the forthcoming voyage;
- (d) maintain proper propulsion and steering throughout the forthcoming voyage;
- (e) fight fires effectively in any part of the ship if necessary during the forthcoming voyage;
- (f) abandon ship speedily and safely and effect rescue if necessary during the forthcoming voyage;
- (g) prevent pollution of the environment throughout the forth coming voyage;
- (h) maintain adequate stability throughout the forthcoming voyage;
- (i) maintain adequate water tight integrity throughout the forthcoming voyage;
- (j) communicate in distress situations if necessary during the forthcoming voyage;
- (j) provide safe and healthy conditions on board throughout the forthcoming

voyage;

- (k) provide the maximum of information in case of accident.

If the answer to any of these assessments is negative, taking into account all deficiencies found, the ship shall be strongly considered for detention. A combination of deficiencies of a less serious nature may also warrant the detention of the ship.

4.0 LIST OF DEFICIENCIES

To assist the inspector in the use of these guidelines, there follows a list of deficiencies, grouped under relevant Conventions and codes, which are considered of such a serious nature that they may warrant the detention of the ship involved. This list is not intended to be exhaustive.

4.1. General

The lack of valid certificates and documents as required by the relevant instruments. However, ships flying the flag of states not party to a relevant Convention or not having implemented another relevant instrument, are not entitled to carry the certificates provided for by the Convention or other relevant instrument. Therefore, absence of the required certificates should not by itself constitute reason to detain these ships; however, in applying the 'no more favourable treatment' clause, substantial compliance with the provisions is required before the ship sails.

4.2. Areas under SOLAS 74

- (a) failure of the proper operation of propulsion and other essential machinery, as well as electrical installations;
- (b) insufficient cleanliness of engine room, excessive amount of oily-water mixtures in bilges, insulation of piping, including exhaust pipes in engine room contaminated by oil, improper operation of bilge pumping arrangements;
- (c) failure of the proper operation of emergency generator, lighting, batteries and switches;
- (d) failure of the proper operation of the main and auxiliary steering gear;
- (e) absence, insufficient capacity or serious deterioration of personal life-saving appliances, survival craft and launching arrangements;
- (a) absence, non-compliance or substantial deterioration of fire detection system, fire alarms, firefighting equipment, fixed fire-extinguishing installation, ventilation valves, fire dampers, quick-closing devices to the extent that they cannot comply with their intended use;
- (b) absence, substantial deterioration or failure of proper operation of the cargo deck area fire protection on tankers;
- (c) absence, non-compliance or serious deterioration of lights, shapes or sound signals;
- (d) absence or failure of the proper operation of the radio equipment for distress and safety communication;
- (e) absence or failure of the proper operation of navigation equipment, taking the provisions of SOLAS 74, Regulation V/16.2 into account;
- (f) absence of corrected navigational charts, and/or all other relevant nautical publications necessary for the intended voyage, taking into account

- that a type approved electronic chart display and information system (ECDIS) operating on official data may be used as a substitute for the charts;
 - (g) absence of non-sparking exhaust ventilation for cargo pump rooms;
 - (h) serious deficiency in the operational requirements, as described in Section 5.5 of Annex 1 to the Paris MOU;
 - (i) number, composition or certification of crew not corresponding with the safe manning document;
 - (j) failure to carry out the enhanced survey programme in accordance with SOLAS 74, Chapter XI, Regulation 2.
 - (k) areas under the IBC Code;
 - (l) transport of a substance not mentioned in the certificate of fitness or missing cargo information;
 - (m) missing or damaged high-pressure safety devices;
 - (n) electrical installations not intrinsically safe or not corresponding to code requirements;
 - (o) sources of ignition in hazardous locations;
 - (p) contraventions of special requirements;
 - (q) exceeding of maximum allowable cargo quantity per tank;
 - (r) insufficient heat protection for sensitive products.
- 4.3. Areas under the IGC Code**
- (a) transport of a substance not mentioned in the Certificate of Fitness or missing cargo information;
 - (b) missing closing devices for accommodation or service spaces;
 - (c) bulkhead not gastight;
 - (d) defective air locks;
 - (e) missing or defective quick-closing valves;
 - (f) missing or defective safety valves;
 - (g) electrical installations not intrinsically safe or not corresponding to code requirements;
 - (h) ventilators in cargo area not operable;
 - (i) pressure alarms for cargo tanks not operable;
 - (j) gas detection plant or toxic gas detection plant defective;
 - (k) transport of substances to be inhibited without valid inhibitor certificate.
- 4.4. Areas under LL66**
- (a) significant areas of damage or corrosion, or pitting of plating and associated stiffening in decks and hull affecting seaworthiness or strength to take local loads, unless proper temporary repairs for a voyage to a port for permanent repairs have been carried out;
 - (b) a recognised case of insufficient stability;

- (c) the absence of sufficient and reliable information, in an approved form, which by rapid and simple means, enables the master to arrange for the loading and ballasting of his ship in such a way that a safe margin of stability is maintained at all stages and at varying conditions of the voyage, and that the creation of any unacceptable stresses in the ship's structure are avoided;
 - (d) absence, substantial deterioration or defective closing devices, hatch closing arrangements and watertight doors.
 - (e) overloading;
 - (f) absence of draft mark or draft mark impossible to read.
- 4.5.** Areas under MARPOL 73/78, Annex I
- (a) absence, serious deterioration or failure of proper operation of the oily-water filtering equipment, the oil discharge monitoring and control system or the 15 ppm alarm arrangements;
 - (b) remaining capacity of slop and/or sludge tank insufficient for the intended voyage;
 - (c) Oil Record Book not available;
 - (d) unauthorised discharge bypass fitted;
 - (e) survey report file missing or not in conformity with Regulation 13G(3)(b) of MARPOL 73/78;
 - (f) areas under MARPOL 73/78, Annex II;
 - (g) absence of the P&A Manual;
 - (h) cargo is not categorised;
 - (i) no cargo record book available;
 - (j) transport of oil-like substances without satisfying the requirements or without an appropriately amended certificate;
 - (k) Unauthorised discharge by pass fitted.
- 4.6.** Areas under MARPOL 73/78, Annex V
- (a) absence of the garbage management plan;
 - (b) no garbage record book available;
 - (c) ship's personnel not familiar with disposal/discharge requirements of garbage management plan;
- 4.7.** Areas under the STCW 78/95
- (a) failure of seafarers to hold a certificate, to have an appropriate certificate, to have a valid dispensation or to provide documentary proof that an application for an endorsement has been submitted to the flag state administration;
 - (b) evidence that a certificate has been fraudulently obtained or the holder of a certificate is not the person to whom that certificate was originally issued;
 - (c) failure to comply with the applicable safe manning requirements of the flag state administration;
 - (d) failure of navigational or engineering watch arrangements to conform

to the requirements specified for the ship by the flag state administration;

- (e) absence in a watch of a person qualified to operate equipment essential to safe navigation, safety radio communications or the prevention of marine pollution;
- (f) failure to provide proof of professional proficiency for the duties assigned to seafarers for the safety of the ship and the prevention of pollution;
- (g) inability to provide for the first watch at the commencement of a voyage and for subsequent relieving watches persons who are sufficiently rested and otherwise fit for duty.

4.8. Areas under the ILO Conventions

- (a) insufficient food for voyage to next port;
- (b) insufficient potable water for voyage to next port;
- (c) excessively unsanitary conditions on board;
- (d) no heating in accommodation of a ship operating in areas where temperatures may be excessively low;
- (e) insufficient ventilation in accommodation of a ship;
- (f) excessive garbage, blockage by equipment or cargo or otherwise unsafe conditions in passageways/accommodations.
- (g) clear evidence that watchkeeping and other duty personnel for the first watch or subsequent relieving watches are impaired by fatigue.

4.9. Other Areas

- (a) Areas which may not warrant a detention, but where, e.g. cargo operations have to be suspended.
- (b) Failure of the proper operation (or maintenance) of inert gas system, cargo-related gear or machinery are considered sufficient grounds for stopping cargo operation.

Dodoma,
14th January, 2019

ISACK A. KAMWELWE
*Minister for WorksTransport and
Communications*