

GOVERNMENT NOTICE NO.116 Published On 4/3/2022

THE TANZANIA SHIPPING AGENCIES ACT,  
(CAP. 415)

**REGULATIONS**

*(Made under section 61(1))*

THE TANZANIA SHIPPING AGENCIES (PERFORMANCE BENCHMARKS)  
REGULATIONS, 2022

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THE TANZANIA SHIPPING AGENCIES ACT,  
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PART I  
PRELIMINARY PROVISIONS

|                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Citation                   | 1. These Regulations may be cited as the Tanzania Shipping Agencies (Performance Benchmarks) Regulations, 2022.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Application                | 2. These Regulations shall apply to regulated service providers in Mainland Tanzania.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Interpretation<br>Cap. 415 | 3. In these Regulations, unless the context otherwise requires-<br>“Act” means the Tanzania shipping Agencies Act;<br>“benchmark” means a level of achievement and excellence that is superior, acceptable and achievable in accordance with these Regulations;<br>“best practice” means a process that delivers a level of performance which is commonly accepted or set as being correct or most efficient in the maritime industry;<br>“Corporation” means the Tanzania Shipping Agencies Corporation established under section 4 of the Act;<br>“performance benchmark” means standard set under these Regulations for the purpose of determining the level of achievement and excellence of a service provider;<br>“public register” means an official list of decisions, information and transactions which is required to be available to the public in accordance with the Act;<br>“regulated service” includes 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; and<br>“regulated service provider” means a person providing regulated services. |

PART II  
SETTING OF PERFORMANCE BENCHMARKS

|                                            |                                                                                                                                                                                                                                                                                                     |
|--------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Powers to set<br>performance<br>benchmarks | 4. The Corporation shall, for the purpose of gauging performance of regulated service providers and ensuring reliable mechanism of enhancing efficiency, have powers to-<br>(a) set performance benchmarks for regulated service; and<br>(b) monitor the performance of regulated service provider. |
|--------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Services subject to benchmarking 5.-(1)The Corporation shall set performance benchmarks for a regulated service where there exists a dominant regulated service provider.

(2) Notwithstanding the provisions of subregulation (1), the Corporation may set performance benchmarks for a regulated service other than where there exists a dominant regulated service provider:

Provided that, the setting of performance benchmarks is aimed at-

- (a) expediting resolution of consumer complaints or complaints amongst service providers;
- (b) enhancing quality of regulated services;
- (c) regulating the conduct of the regulated service provider;
- (d) effective facilitation of trade; and
- (e) generally achieving the purposes of these Regulations.

(3) For the purpose of this regulation, “dominant regulated service provider” means a regulated service provider-

- (a) who, by acting alone, may profitably and materially restrain or reduce competition in the market for a significant period of time; and
- (b) whose market share exceeds thirty five percent.

### PART III

#### PROCEDURE TO SET PERFORMANCE BENCHMARKS

Initiation of performance benchmarking process 6.-(1) Subject to regulation 5, the Corporation may, on its own motion, initiate the process of setting performance benchmarks for regulated service and invite stakeholders for consultation.

(2) Notwithstanding the provisions of subregulation (1), an association representing interests of regulated service provider or consumer of regulated service, a regulated service provider or consumer of regulated service may propose performance benchmark for a regulated service to the Corporation for approval by filling the Form prescribed in the First Schedule to these Regulations.

Adoption of contractual benchmarks 7. Where a regulated service provider has contractual performance benchmark with a Government institution, the Corporation may adopt such benchmark, with or without condition:

Provided that, the contractual performance benchmark is equal or superior to the approved benchmark under these Regulations.

Notification of review of contractual performance benchmarks 8. A regulated service provider shall notify the Corporation of any review of a contractual performance benchmark in writing within sixty days from the date of such change:

Provided that, the reviewed contractual performance benchmark shall be subject to the compliance requirements under regulation 7.

Stakeholders’ consultation 9.-(1) The Corporation shall hold stakeholders’ consultation for comments on the proposed performance benchmarks under regulation 6 prior to determination and approval by the Corporation.

(2) The requirements for consultation under subregulation (1) shall not apply to contractual performance benchmarks.

### PART IV

APPROVAL AND REVIEW OF PERFORMANCE BENCHMARKS

Approval of  
performance  
benchmarks

10.-(1) Where the Corporation is satisfied that all relevant factors have been considered, it may-

- (a) approve the proposed performance benchmarks with or without variation; or
- (b) disapprove the proposed performance benchmarks.

(2) Where the Corporation approves the proposed performance benchmarks, it shall issue and publish a public notice of approved performance benchmarks in a widely circulated newspaper.

(3) Where the Corporation disapproves the proposed performance benchmarks, it shall notify the relevant stakeholder with reasons within thirty days from the date of disapproval.

Review of  
performance  
benchmarks

11.-(1) The Corporation may review a performance benchmark upon any of the following occurrences:

- (a) change in technology which is relevant for the performance of the regulated service provider;
- (b) acquisition of new or additional equipment;
- (c) improvement of infrastructure;
- (d) improvement of best practices in the maritime industry;
- (e) changes in expectations of consumer or the Corporation regarding performance standard; or
- (f) any other significant change affecting performance of the regulated service provider.

(2) An association representing interests of regulated service provider or consumer of regulated service, a regulated service provider or consumer of regulated service may submit to the Corporation a proposal to review performance benchmark on the basis of the circumstances provided in subregulation (1) by filling the Form prescribed in the First Schedule to these Regulations.

(3) Notwithstanding subregulation (1), the Corporation may review a performance benchmark after three years from the date of its approval.

PART V  
ASSESSMENT OF PERFORMANCE BENCHMARKS

Submission of  
performance  
benchmarks  
data and  
information

12.-(1) A regulated service provider shall submit to the Corporation such data or information as may be required for purposes of assessment of the approved performance benchmarks.

(2) Submission of data or information shall be made electronically or manually in a submission plan in the format prescribed in the Second Schedule to these Regulations.

(3) Where the regulated service provider submits the required data or information to a common electronic system to which the Corporation has access, the regulated service provider shall be deemed to have submitted the data or information to the Corporation.

(4) Without prejudice to the requirements of subregulation (3), the Corporation may issue a summons requiring the regulated service provider to-

- (a) submit data or information as may be required;
- (b) appear before the Corporation for further clarification.

(5) A regulated service provider shall not submit data or information which is false or misleading.

Assessment of  
regulated  
service  
providers

13.-(1) The Corporation shall assess performance of a regulated service provider with regard to the performance benchmark issued under a public notice.

(2) The Corporation shall-

- (a) conduct performance assessment at least once after every six months; and
- (b) issue the assessed regulated service provider results of the performance assessment and post the results to the public register.

Assessment of  
shipping  
business  
services  
provided by  
Corporation

14.-(1) The performance of the Corporation in rendering shipping business services shall be assessed at least twice annually.

(2) Subject to the provision of subregulation (1), the Minister shall appoint three persons to undertake performance assessment of the Corporation.

(3) The persons appointed under subregulation (2) shall serve for a period of three years.

(4) The results of the performance assessment of the Corporation shall be submitted to the Minister for his guidance on the corrective measures to be taken.

PART VI  
COMPLIANCE WITH PERFORMANCE BENCHMARKS

|                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|----------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Compliance with performance benchmark              | 15. A regulated service provider shall be required to meet the minimum performance benchmarks issued under these Regulations.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Issuance of notice to comply                       | 16. Where a regulated service provider fails to meet the minimum performance benchmarks, the Corporation shall issue a notice as prescribed in the Third Schedule to these Regulations requiring a service provider to comply with the performance benchmark within a prescribed period.                                                                                                                                                                                                                                                                                                                                                                                      |
| Commitment statement by regulated service provider | <p>17.-(1) A regulated service provider shall, within fourteen days upon being issued with the notice for compliance, submit to the Corporation a commitment statement in writing that specifies-</p> <ul style="list-style-type: none"><li>(a) actions to be taken;</li><li>(b) resources to be used; and</li><li>(c) time frame within which to comply with the performance benchmarks.</li></ul> <p>(2) A regulated service provider may, upon receipt of the compliance notice and not later than the period of submission of commitment statement as specified under subregulation (1), request the Corporation for extension of the period of notice of compliance.</p> |
| Determination of commitment statement              | 18. The Corporation shall, upon receipt of the commitment statement or request for extension of period of notice of compliance, make determination and communicate its decision in writing to the regulated service provider.                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

PART VII  
GENERAL PROVISIONS

|                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|----------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Failure to comply with summons               | 19. A person who without lawful excuse refuses or fails to comply with the summons issued under regulation 12(4) commits an offence under section 9(5) of the Act.                                                                                                                                                                                                                                                                                                                                                                                                            |
| General penalty                              | <p>20.-(1) Where a person contravenes any provision of these Regulations for which no specific penalty is provided shall be deemed to have failed to comply with the conditions of a licence under the Act and respective Regulations governing the regulated service provider.</p> <p>(2) Notwithstanding subregulation (1), a regulated service provider who violates the provisions of these Regulations, where Regulations governing regulated service provider do not provide specific penalties, shall be deemed to have committed a general offence under the Act.</p> |
| Complaint handling<br>GN. No.<br>338 of 2018 | 21. 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.                                                                                                                                                                                                                                                                                                                                                                                    |



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



FIRST SCHEDULE

*(Made under regulations 6(2) and 11(2))*

**FORM FOR PROPOSAL OR REVIEW OF PERFORMANCE BENCHMARK**  
*(to be completed for a particular type of regulated service)*

- A. TYPE OF REGULATED SERVICE  
Mention type of regulated service for proposed performance benchmark: .....
- B. PARTICULARS OF PROPOSING STAKEHOLDER
1. Category of the proposing stakeholder (please tick appropriate):  
    - (a) Regulated service provider
    - (b) Consumer of regulated service
    - (c) Association of regulated service provider
    - (d) Association of consumers of regulated service
  2. Name of the proposing stakeholder: .....
  3. Type of regulated service rendered: .....
  4. Regulator's licence/registration number.....Date of Issue.....
  5. Contact Details:  
Postal Address .....  
Office Telephone No: .....  
Mobile Phone: .....  
Fax No:.....  
E-mail: .....  
Region: ..... District: .....  
Street: .....Plot No: .....Block No:.....  
Building /House Name:.....



C. PROPOSAL FOR PERFORMANCE BENCHMARK(S)

1. List proposed performance benchmark(s):  
.....  
.....  
.....  
.....
2. State the objective(s) or rationale of the proposed performance benchmark(s) (details may be attached):  
.....  
.....  
.....  
.....
3. Suggest required data and sources of such data to construct the proposed performance benchmark(s) (details may be attached).  
.....  
.....  
.....

D. PROPOSAL FOR REVIEW OF PERFORMANCE BENCHMARK(S)

1. List performance benchmark(s) proposed for review:  
.....  
.....  
.....  
.....
2. State reasons for the proposed review of the performance benchmark(s) (details may be attached).  
.....  
.....  
.....  
.....  
.....  
.....

E. DECLARATION

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

Signature: .....

Name: .....

Director General

Official Seal

Date: .....

F. RECEIVED BY:

Signature: .....

Name: .....

Official Seal

Date: .....

Note:

- (a) Initial each page.
- (b) Change of particulars provided in this form must be communicated to TASAC.
- (c) The Corporation may require more information and documents where it deems necessary.
- (d) Making a false statement is an offence punishable under these Regulations.



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



SECOND SCHEDULE

(Made under regulation 12(2))

DATA SUBMISSION PLAN

| S/<br>N | REQUIRED<br>DATA        | Tick (✓) as appropriate  |                          |                          |                          |                          |
|---------|-------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
|         |                         | WEEKL<br>Y               | MONTHL<br>Y              | QUARTER<br>LY            | SEMI-<br>ANNUALL<br>Y    | ANNUALL<br>Y             |
| 1.      | Performance Benchmark 1 |                          |                          |                          |                          |                          |
|         | Indicator 1             | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|         | Indicator 2             | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|         | Indicator ...           | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.      | Performance Benchmark 2 |                          |                          |                          |                          |                          |
|         | Indicator 1             | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|         | Indicator 2             | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|         | Indicator ...           | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3.      | Performance Benchmark.. |                          |                          |                          |                          |                          |
|         | Indicator 1             | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|         | Indicator 2             | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|         | Indicator ...           | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |



**THE UNITED REPUBLIC OF TANZANIA  
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TANZANIA SHIPPING AGENCIES  
CORPORATION  
TASAC**



COMPLIANCE NOTICE

To: M/s .....

Licence/Registration No.....

Pursuant to the provisions of the Tanzania Shipping Agencies (Performance Benchmark) Regulations, 2022, I hereby notify you that on the expiry of .....days from the date of receipt of this notification, you are required to improve your performance in order to comply with following performance benchmark(s):

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

Signature: .....  
Name: .....  
Director General  
Date: .....

Official Seal

RECEIVED BY:  
Signature: .....  
Name: .....  
Designation: .....  
Date: .....

Official Stamp

Dodoma,  
17<sup>th</sup> february, 2022

MAKAME M. MBARAWA  
*Minister for Works and Transport*