

MERCHANT SHIPPING ACT
(CAP 165)

REGULATIONS

Made under section 170(10)

THE MERCHANT SHIPPING (MARITIME EDUCATION AND TRAINING FUND)
REGULATIONS, 2011

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MERCHANT SHIPPING ACT
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REGULATIONS

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THE MERCHANT SHIPPING (MARITIME EDUCATION AND TRAINING FUND)
REGULATIONS, 2011

PART I
PRELIMINARY PROVISIONS

Citation

1. These Regulations may be cited as the Merchant Shipping (Maritime Education and Training Fund) Regulations, 2011.

Interpre-
tation
Cap. 165

2. In these Regulations, unless the context otherwise requires:-

“Act” means the Merchant Shipping Act;

“approved” means approved by the Party to the STCW Convention in accordance with the regulations contained in the Annex to the Convention;

“approved education and training” means education and training provided in a specific and relevant field including marine navigation and engineering in fulfilment of the STCW Convention conducted at a duly accredited training institution;

“Board” means the Board of Trustees appointed by the Minister pursuant to section 170(3) of the Act;

“certificate of competency” means a certificate named as such, issued and endorsed in accordance with the relevant provisions of the STCW Convention entitling the lawful holder thereof to serve in the capacity and perform the functions involved at the level of responsibility specified therein on a ship of the type, tonnage, power and means of propulsion concerned while engaged on the particular voyage concerned;

“fund” means the Maritime Education and Training Fund established under regulation 3;

“gross operating revenue” means all the revenues earned or realized from port or shipping operations or services;

- “leased port operator” means any person who, or body corporate which for the purposes of the Ports Act performs any duty as a lessee to carry out the functions of port operations;
- “levy” for the purposes of these Regulations means a charge imposed under the provisions of section 170 (2) (a) of the Act and contributed and collected in accordance with the provisions of regulations 6 and 7 of these Regulations;
- “long course” means an approved training programme in the relevant field including initial training of a duration of more than three months conducted at a duly accredited training institution within the United Republic or elsewhere;
- “maritime authority” means the Surface and Marine Transport Regulatory Authority (SUMATRA) established under section 4 of the Surface and Marine Transport Regulatory Authority Act; Cap. 413
- “maritime institute” means the Dar es Salaam Maritime Institute established under section 3 of the Dar es Salaam Maritime Institute Act; Cap. 253
- “Minister” means the Minister responsible for shipping;
- “National flag” means the national flag of Tanzania;
- “owner” in relation to a ship, or “ship owner” means in respect of a registered ship, the registered owner and includes a demise charterer and a managing owner or a managing agent;
- “port” means a place, whether proclaimed a harbour or not, and whether natural or artificial, to which ships may resort for shelter or to ship or unship goods or passengers;
- “port authority” means the Tanzania Ports Authority (TPA) established under section 4 of the Tanzania Ports Act; Cap. 166
- “seafarer” includes every person employed or engaged in any capacity on board a ship;
- “seagoing service” means service on board a ship including practical sea training relevant to the issue of a certificate of competency or other qualification;
- “ship” means a floating vessel which is self propelled and capable of carrying passengers or cargo;
- “short course” means an approved training programme in the relevant field of duration of not more than three months conducted at a duly accredited training institution within the United Republic or elsewhere;
- “STCW convention” means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 as amended;
- “Tanzanian training institution” means a tertiary institution registered in the United Republic or elsewhere and accredited by the appropriate national accreditation board conducting approved training programmes relevant to the maritime, shipping and port businesses;
- “vessel” includes any ship, boat, sailing vessel, or other vessel of any description used in navigation.

PART II

MARITIME EDUCATION AND TRAINING FUND

Establishment of the Maritime Education and Training Fund

3. There is hereby established a Fund to be known as the Maritime Education and Training Fund.

Administration and management of the Fund

4.—(1) The Board shall be responsible for the administration and management of the Fund.

(2) The Board shall consist of:—

- (a) Registrar of Ships who shall be the Chairman;
- (b) one member representing the ship owners;
- (c) the Principal of the Maritime Institute;
- (d) one member from the Maritime Administration in Tanzania Mainland;
- (e) one representative from a seafarers association/organization;
- (f) one representative from the East African Community Secretariat;
- (g) the Chief Executive of the Tanzania Harbours Authority;
- (h) two other members from the public.

(3) The members specified under paragraphs (b), (d), (e), f (1), (g) and (h) of sub-regulation (2) shall be appointed by the Minister.

(4) The Board shall:—

- (a) formulate and review strategies and procedures for the use of the Fund;
- (b) formulate mechanisms for repayment of money spent from the Fund by institutions, sponsored candidates or their parents or guardians;
- (c) formulate strategies for more efficient contribution mechanisms and recommend the same for approval by the Minister;
- (d) approve and prioritize courses to be supported by the Fund;
- (e) approve candidates qualifying for sponsorship under the Fund;
- (f) determine and approve relief from payment of the loan to the recipient;
- (g) evaluate and approve applications for funding;

- (h) employ the Manager of the Fund and other senior staff to manage the Fund on behalf of the Board of Trustees as appropriate;
- (i) prepare and submit for approval by the Minister an annual budget for training requirements and management of the Fund; and
- (j) ensure auditing of the Fund as per standing financial regulations.

(5) The Manager of the Fund shall be responsible for:-

- (a) ensuring timely implementation of the decisions and directives of the Board;
- (b) maintaining records of the decisions of the Board and other matters related to the implementation of Part VII of the Act;
- (c) preparing detailed plans for the raising of funds and submitting the same to the Board for approval;
- (d) proposing the structure and manning levels required for better performance of the functions/objectives of the Fund;
- (e) appointing on behalf of the Fund other staff as may be required for the efficient performance of the activities of the Fund;
- (f) preparing the budget of the Fund and submitting the same to the Board of Trustees for approval.

Sources
of the
Fund

5. The sources of the Fund shall be as follows:-

- (a) annual contribution from the Maritime Authority for such sums not less than 0.1% of its gross operating revenue;
- (b) annual contributions from the Port Authority and/or leased port operator for such sums not less than 0.07% of its gross operating revenue;
- (c) annual contribution of US\$ 0.5 per Gross Tonnage per vessel from owners of national flag ships or foreign flag ships licensed to engage in the local trade in Tanzanian waters or licensed to engage in commercial fishing in Tanzanian controlled waters;
- (d) annual contribution of USD 1000 per offshore installation engaged in the exploitation of gas or petroleum contributed by each operator of each facility;
- (e) annual contributions from accredited training institutions providing training directly relevant to port, shipping and offshore installations operations and cargo handling for such sums not less than 0.5% of its operating budget;

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- (f) annual contributions from regulated and licensed suppliers as specified in the schedule to these regulations;
- (g) such sums as may be paid to the Fund by way of grants or donations from any source within or outside the United Republic;
- (h) such sums as may be appropriated by the Parliament;
- (i) any other moneys received or made available to the Fund for the purposes of performing its functions under the Act.

Use of
the Fund

6. The Fund shall be used for financing by way of loan or grant for:-

- (a) training of Tanzanians in marine navigation, pilotage, marine engineering and related engineering disciplines, shipping agency, maritime law, maritime economics, cargo handling, cargo clearing and freight forwarding, maritime safety and security and marine environment professions;
- (b) short course programmes for Tanzanian seafarers aimed at promoting compliance to national and international standards in order to improve shipping and port performance and to enhance maritime safety and security and protection of the marine environment;
- (c) acquisition of approved seagoing service relevant to the issue of a certificate of competency or other qualification;
- (d) acquiring training facilities and learning resources for Tanzanian training institutions;
- (e) administration costs and expenses for managing the Fund;
- (f) discharging liabilities arising out of implementation of Part IV of the Act; and
- (g) promotion of business, economic and trade opportunities and local entrepreneurship in the maritime sub-sector.

Collection
and
payment
into the
Fund

7. -(1) Every organization required to contribute to the Fund shall do so on or before six months after the closure of books of accounts for the respective financial year.

(2) The contributions shall be as specified in the Schedule to these Regulations.

(3) Every owner shall contribute to the Fund for each ship during the vessel's annual safety surveys.

(4) Every offshore facility owner shall contribute to the Fund for each offshore installation during the facility's annual safety surveys.

(5) Every shipping agent or clearing and forwarding company shall contribute to the Fund during the annual licensing period.

(6) Any person who fails or neglects to contribute to the Fund shall be liable to pay a penalty of 5% of the unpaid amount for every thirty (30) days or part thereof during which the moneys continue to be unpaid into the Fund. Such penalty shall apply seven months after the closure of books of accounts for the respective financial year.

8. -(1) A candidate being a natural person shall be eligible for funding if he meets the following selection criteria:-

Eligibility
for
funding

- (a) be a Tanzanian citizen; and
- (b) meet the training or course entry qualifications and any other specified requirements.

(2) A training institution shall be eligible for funding if it-

- (a) is a Tanzanian registered institution;
- (b) is accredited by the relevant national accreditation body;
- (c) conducts education and training courses relevant to-
 - (i) maritime safety and security;
 - (ii) shipping and port business operations; and
- (d) has contributed to the Fund as stipulated in regulation 6.

PART III

MARITIME EDUCATION AND TRAINING COMMITTEE

9. -(1) For transparent, efficient and effective operation of the Fund, the Board shall establish a Maritime Education and Training Committee which shall consist of-

Maritime
Education
and
Training
Commit-
tee

- (a) two members from the Board; and
- (b) three members from the list of contributors to the Fund.

(2) A member of the Board shall chair the proceedings of the Committee for one year in turns.

(3) The person acting as the Manager of the Fund shall be the Secretary of the Committee and shall convene the committee meetings in consultation with the Chairman of the Committee.

(4) The committee shall meet as when need arises but at least two times a year.

(5) The quorum at the meeting of the Committee shall be the majority of the members in office.

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(6) The Committee shall be responsible for assessment of effectiveness of the Fund in meeting the objectives of its establishment and make recommendations the Board.

(7) The tenure of the committee members shall be three years and shall be eligible for re-appointment once.

Accounts
and
financial
audits

10. - (1) The Maritime Institute shall maintain with such bank or banks as the Board may approve, a designated account or accounts into which shall be paid the levy proceeds and all the other money accruing to the Fund.

(2) The Board of Trustees shall cause to be provided and to be kept proper books of account of the payment made into and out of the Fund.

(3) The accounts relating to the Fund shall be audited annually by such authorized auditor as appointed by Controller and Audit General Office.

(4) The Board of Trustees shall within six months after the close of every financial year of the Maritime Institute cause to be prepared and submitted to the Minister, a report of the activities and operations of the Maritime Institute during that year together with-

- (a) statement of the Maritime Institute's income and expenditure during the financial year; and
- (b) statement of the auditors report on the accounts.

(5) The Minister shall, as soon as practicable and in any case not later than twelve months after the closing of the financial year of the Maritime Institute, lay before the National Assembly as required by section 170 (9) of the Act-

- (a) a copy of the annual report of the Maritime Institute;
- (b) statement of the Maritime Institute's income and expenditure during the financial years; and
- (c) statement of the audited report.

(6) Subject to the provisions of the Act and these Regulations, the Board may authorize expenditure of the monies from the Fund to cover cost expenses of-

- (a) the administration of the Board and staff employed to manage the Fund including training;
- (b) the Fund assisted projects and programmes, and
- (c) any other activity or activities which, in the opinion of the Board, is or are beneficial to the aims and objectives of the Fund.

11. -(1) The shall advertise in the local media stating the required entry qualifications and other requirements related to the course giving a period not exceeding 28 days from the date of advertisement for the applicants to respond.

Applica-
tion for
Funding

(2) Tanzanian training institutions shall submit to the Board applications for grants or loans for funding educational and training programmes, projects or special needs which are directed towards enabling or assisting the institution to-

- (a) raise the quality of education and training;
- (b) increase opportunities of access to and equality in education and training;
- (c) promote maritime education and training in line with overall national plans and policies for social-economic development; and
- (d) provide resources and facilities for learning.

12. -(1) The recipient of the funding shall enter into agreement with the Board of Trustees to repay the money spent on training or training facilities as the case may be.

Repay-
ment of
loan

(2) Failure to repay the loan as agreed and as required by the regulation shall attract a penalty in accordance with the provisions of any written law or with the order of court of competent jurisdiction.

13. The Board shall ensure that sponsored candidates undertake education courses and training at institutions that meet the required standards and are appropriately accredited.

Training
institu-
tions

PART IV

OFFENCES

14. -(1) Any person who contravenes any provision of these Regulations commits an offense and is liable upon conviction to a fine not less than two million Tanzanian shillings and or imprisonment of a term not less than one year.

Offences
and
penalties

(2) Any unpaid loan, contribution or interest payable under these Regulations, may be recovered as civil debt in the Court of the Resident Magistrate at the instance of the Board.

(3) A member of Board or employee of the Fund shall not, in his personal capacity, be liable in civil or criminal proceedings in respect of any act or omission done or made in good faith in the performance of his functions.

Merchant Shipping (Maritime Education and Training Fund)

G.N. No. 184 (contd.)

SCHEDULE

Regulation 7(2)

DETERMINATION OF SMALL, MEDIUM AND LARGE REGULATED SERVICE PROVIDERS FOR THE PURPOSE OF CONTRIBUTION TO THE MARITIME EDUCATION AND TRAINING FUND AND AMOUNT OF THE CONTRIBUTION IN % OF THE OPERATING BUDGET

SN	Type of Operators	Determining Criteria and Contribution					
		Small		Medium		Large	
		Criteria	Contribution	Criteria	Contribution	Criteria	Contribution
1	Clearing and forwarding company	(1) Number of Employees: 5 – 50 (2) Capital Investment (TShs.) in Millions: 51 – 200 (3) Turn over (TShs.) in Millions: 150.	0.3%	(1) Number of Employees: 51 – 100 (2) Capital Investment (TShs.) in Millions: 201 – 800 (3) Turn over (TShs.) in Millions: 151 – 300	0.2%	(1) Number of Employees: 101 – and above (2) Capital Investment (TShs.) in Millions: above 800 (3) Turn over (TShs.) in Millions: above 300	0.1%
2	Shipping Agent	(1) Number of Employees: 5 – 50 (2) Capital Investment (TShs.) in Millions: 51 – 200 (3) Turn over (TShs.) in Millions: 150.	0.3%	(1) Number of Employees: 51 – 100 (2) Capital Investment (TShs.) in Millions: 201 – 800 (3) Turn over (TShs.) in Millions: 151 – 300	0.2%	(1) Number of Employees: 101 – and above (2) Capital Investment (TShs.) in Millions: above 800 (4) Turn over (TShs.) in Millions: above 300	0.1%

Dar es Salaam,
14th April, 2012

OMARI R. NUNDU,
Minister for Transport