

*Surface and Marine Transport Regulatory Authority (Licensing of Port
Terminal Operators)*

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THE SURFACE AND MARINE TRANSPORT REGULATORY
AUTHORITY ACT

CAP 413

REGULATIONS

(Made under section 39)

THE SURFACE AND MARINE TRANSPORT REGULATORY AUTHORITY (LICENSING OF PORT
TERMINAL OPERATORS) REGULATIONS, 2011

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GN. No. 132(contd.)

THE SURFACE AND MARINE TRANSPORT REGULATORY AUTHORITY
ACT
(CAP 413)

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(Made under section 39)

THE SURFACE AND MARINE TRANSPORT REGULATORY AUTHORITY (LICENCING OF PORT TERMINAL OPERATORS) REGULATIONS, 2011

PART I
PRELIMINARY PROVISIONS

- | | |
|---------------------------|---|
| Citation and Commencement | 1. These Regulations may be cited as the Surface and Marine Transport Regulatory Authority (Licensing of Port Terminal Operators) Regulations, 2011 and shall come into operation on the date of publication in the <i>Gazette</i> . |
| Application | 2. These Regulations shall apply to Port Terminal Operators in Sea Ports and Inland Lake Ports on Mainland Tanzania. |
| Interpretation
Cap 413 | 3. In these Regulations, unless the context otherwise requires—
“Act” means Surface and Marine Transport Regulatory Authority (SUMATRA) Act;
“approved area of business” means an area where a port terminal operator is legally allowed to offer port terminal services;
“Authority” means the Surface and Marine Transport Regulatory Authority established under section 4 of the Act;
“annual inspections” means inspections which will be conducted by SUMATRA on a Port Terminal Operator’s premises once a year;

“Certificate of Incorporation” means a certificate of company registration issued by the Business Registration and Licensing Agency (BRELA) in Tanzania;
“cost of inspection” means the cost which SUMATRA will incur in conducting inspection of Port or Terminal operator’s facilities;
“Director General” means the Director General of the Authority appointed under section 13 of the SUMATRA Act;
“Fair Competition Tribunal” Means the Fair Competition Tribunal |

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- established under Section 83 of the Fair Competition Act;
- “Fire Safety Certificate” means a certificate issued by the Commissioner General of Fire and Rescue Force; Cap 283
- “General cargo” means non-bulk and non-containerized cargo composed of miscellaneous goods, cases, bundles of steel, crates, bags, loose pieces, etc.;
- “land lord” for purpose of these regulations means the Tanzania Ports Authority;
- “level of solvency” means the financial status whereby a person or company is able to pay all debts;
- “Licence” for purposes of these regulations means a Port Terminal Operator’s Licence issued under these Regulations;
- “Licencee” means a company licenced by the Authority to provide port terminal services;
- “major inland waterways ports” means inland waterways ports listed in category II of the Second Schedule to these Regulations;
- “Major Sea Port” means Sea port listed in Category I of the Second Schedule to these Regulation;
- “Merchant Shipping Act” means the Merchant Shipping Act; Cap 165
- “Minister” means the Minister for the time being responsible for the Authority;
- “Ports Act” means the Ports Act; Cap 166
- “Shipping Agency Act” means the Shipping Agency Act; Cap 415
- “port performance indicators and benchmarks” refers to a set of standards and benchmarks relating the level of performance targets of ports in the Fourth Schedule of these Regulations;
- “Port terminal” means a link in the transport chain at the port where interchange facilities exist amongst different modes of transport;
- “Port Terminal Operator” means a body corporate which, for the purpose of these Regulations performs any duty as a contractor, agent or a lessee carrying out the functions of port operations in the port terminal;
- “port terminal, operator’s licence” means a licence issued by SUMATRA allowing a Port Terminal Operator to carry out the business of port operations;

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“Port terminal operations” include loading and unloading of goods on board vessels, shore handling of goods, handling of passengers carried on vessels and handling of crude or refined petroleum products, edible oils, and natural or liquidified gases on vessel;

“small inland waterways ports” means inland waterways ports listed in category IV of the Second Schedule to these Regulations;

Cap 166

“Small sea port” means sea ports listed in category III of the Second Schedule to these Regulations;

“port” means sea ports or inland waterways port as declared under the Ports Act.

PART II

APPLICATION AND GRANT OF A PORT TERMINAL OPERATIONS LICENCE

Prohibition of unlicensed port terminal operators
Application for a licence

4. A person or body of persons shall not perform port terminal operations without a valid licence issued by the Authority.

5.- (1) Any person or company intending to carry out port terminal operations shall apply to the Authority for a licence.

(2) The Authority shall issue a port terminal operator's licence to a company registered in Tanzania.

Types of Licence

6. The Authority shall issue the following port terminal operator's licences:

- (a) general Cargo licence;
- (b) containerized Cargo Licence;
- (c) general and containerized cargo licence;
- (d) petroleum product, edible oils, natural or liquefied gases licence;
- (e) passenger services licence; and
- (f) any other category of port operations licence as may be prescribed by the Authority.

Procedure of application or renewal of a licence

7.- (1) An Application for or renewal of port terminal operators licence shall be submitted in the form prescribed in First Schedule to these Regulations together with the following documents:

- (a) a certificate of incorporation;
- (b) a certified copy of valid insurance cover for third party liability;
- (c) Fire Safety Certificate;

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- (d) Lease, Concession, proof of ownership or any other contractual arrangement between the Port Terminal Operator and the Land Lord;
- (e) Clearance from Customs Department for suitability to run customs bonded facility;
- (f) Clearance from National Environmental Management Council on Compliance with environmental requirements;
- (g) Any other document which the Authority may require.

(2) The applicant for port terminal operator's licence shall disclose the following:

- (a) proposed rates and charges;
- (b) names of three key staff, their nationalities and qualifications;
- (c) a list of cargo and passenger handling equipment and information and communication technology facilities for port operations; and
- (d) key performance indicators targeted by the port terminal operator which shall not be below the port performance indicators and benchmarks as specified in the Fourth Schedule to these Regulations.

8. The licence shall be granted upon compliance and/or satisfaction of the conditions of applications for the license.

9.-(1) In the case of a refusal to grant a licence, the Authority shall notify the applicant within 14 days from the date of receipt of the application assigning reasons thereof.

(2) Any applicant who is dissatisfied by the decision of the Authority under these Regulation may seek a review in accordance with the SUMATRA (Complaints and Review Procedure) Rules, 2008.

10. A Port Terminal Operator's Licence shall indicate the following:

- (a) name and address of the licensee;
- (b) type of licence;
- (c) duration of the licence;
- (d) nature of business; and
- (e) conditions of licence.

11. The validity of the Licence for a Port Terminal Operator shall be for a term of ten years for major sea ports and for a term of five years for major inland waterways ports.

Grant of licence

Refusal to grant licence

Particulars of port terminal operator's licence

Validity of Licence

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| Licence not transferable | 12. No Licence issued under these Regulations shall be transferable without the consent of the Authority. |
| Renewal of Licence | 13.-(1) A port terminal operator shall apply for renewal of a licence before expiration of licence period.
(2) In submission of an application for renewal of licence, the licensee shall file a statement in relation to port performance benchmarks stipulated in the Fourth Schedule to these regulations. |
| Safety measures | 14. A ports terminal operator shall in respect of services performed, maintain and take measures to safeguard life and property and the environment in general. |
| Establishment of customer care services | 15. Every port terminal operator shall establish a customer care system through which customers may make inquiries and lodge complaints. |
| Level of solvency | 16. A port terminal operator shall at all times, while carrying on such business, maintain a level of solvency of current ratio of 2:1. |
| Licence fee and other charges | 17.-(1) A port terminal operator shall pay to the Authority, fees in respect of a Licence as prescribed in the Second Schedule.
(2) All fees and other charges payable under sub regulation (1) shall be paid to the Authority and shall be acknowledged by a receipt. |

PART III
CONDITIONS OF LICENCE

- | | |
|-----------------------|---|
| Conditions of licence | 18. Every licensee shall be bound by the following conditions:
(a) to apply for tariff or charges approved by the Authority;
(b) not to transfer or assign the licence without the Authority's consent;
(c) to maintain records of passengers and cargo handled;
(d) to demonstrate good reputation, competence and efficiency in carrying out the business;
(e) for major sea and inland waterways ports: |
|-----------------------|---|

- (i) to submit reports in compliance with port performance indicators set out in the Fourth Schedule to these Regulations;
- (ii) to attain performance benchmarks specified in the Fourth Schedule to these Regulations; and
- (f) to maintain the margin of solvency of current ratio of 2:1;
- (g) to appoint a person with proven knowledge and experience in matters related to port operation services to manage the port terminal;
- (h) to establish a system of resolving complaints and disputes;
- (i) to furnish the Authority with periodic port terminal performance reports;
- (j) carry out consultations with port users with a view to enhancing efficiency;
- (k) in collaboration with Land Lord, to ensure that the systems of fire control, waste management and pollution control are established and maintained;
- (l) to maintain a register of damaged or lost cargo; and
- (m) to Pay to the Authority annual levy fees as prescribed in the SUMATRA (Levies and Fees) Rules, 2005.

19.-(1) In order to ensure compliance with the licence conditions, the Authority shall conduct annual inspections on the port terminal operator's premises.

Annual inspections

(2) The Authority may, when conducting an inspection, require the port terminal operator to produce any book, record, statement or other document relating to the business for inspection or for the purpose of obtaining copies of or extracts therefrom.

20.-(1) Where the Authority identifies an anomaly rendering the port terminal operator non-compliance with the licensing conditions, the Authority shall issue a requiring the port terminal operator to rectify the anomaly within a specified period.

Rectification Notice

(2) The rectification notice shall be copied to the landlord.

21. Where a licensee fails to rectify any anomaly pointed out in the rectification notice issued under Regulation 20, the Authority may issue a Notice to the licensee to show cause as to why the licence should not be suspended or revoked.

Notice to show cause

22.-(1) The Authority may, by notice, revoke or suspend a licence on the ground that any of conditions of the licence have not been complied with.

Revocation or Suspension of Licence

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(2) In the event of a revocation or suspension of a licence, the Authority shall assign reasons for such revocation or suspension.

(3) Where a licence is revoked or suspended the port terminal operator shall within thirty days after receipt of the Notice, cease to operate.

(4) In the case of a suspended licence, the Authority shall lift suspension of a licence upon expiry of suspension period and on fulfillment of the requirement as may be stipulated in the Notice of Suspension.

PART IV

PORT CATEGORIES AND PERFORMANCE INDICATORS AND BENCHMARKS

power to
set or
amend
port
performance
benchmarks

23.-(1) The Authority shall have power to review port performance bench marks for ports in all categories as set out in the Third Schedule to these Regulations.

(2) The port performance benchmarks set under sub-regulation (1) may be for a category or for a specific port.

(3) Where the Authority sets port performance benchmarks in accordance with sub-regulations (1) and (2) a port terminal operator operating in the respective port shall apply for a port terminal operator's licence in accordance with these Regulations;

PART V

APPEAL

Appeal

24. Where any person is aggrieved by a decision of the Authority on any matter regarding issuance of licences under these Regulations he may apply for a review under the SUMATRA (Complaints and Review Procedure) Rules, 2008.

PART VI

OFFENCES

Offences

25.-(1) Any person who-

- (a) carries on the business of port terminal operations without a valid licence; or
- (b) in relation to an application for a licence, makes any statement which is false in any material particular;

- (c) furnishes to the Authority a record, statement, declaration, written information or explanation containing any particulars which to his knowledge are false or incorrect;
- (d) fails to exhibit a licence granted to him under these regulations;
- (e) fails to produce or surrender a licence upon being required to do so under these regulations;
- (f) hinders or obstructs an officer of the Authority, or any other authorized officer in the performance of their duties under the Act and these Regulations;
- (g) fails to comply with any conditions of a licence;
- (h) with intent to evade payment of fees does or omits to do any act or thing;
- (i) makes, or has in possession of any document, plate, or mark so closely resembling a license, or any such document, plate or mark, which is calculated to deceive or alters an entry in a record made under these Regulations,
commits an offence and shall upon conviction:
 - (i) for major sea and inland water ways ports, be liable to a fine of Tanzania shillings three million or to imprisonment for a term not exceeding five years or both; and
 - (ii) for small sea and inland waterways ports be liable to a fine of Tanzania shillings one million or to imprisonment for a term of not exceeding three years or to both.

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FIRST SCHEDULE

(Made under regulation 7)

APPLICATION FORM FOR PORT TERMINAL OPERATOR'S LICENCE

1. Name of Applicant
2. Postal Address:
Telephone No.:
Fax No.:
E-Mail Address
3. Number of Certificate of Incorporation.....
Date of Issue
4. Physical registered place of business.
Land Plot No.:
District Region
5. State the intended port operation business to be offered
6. Type of Licence: New Renew
7. Previous Licence No..... Date
8. Particulars of current shareholders:

Full Name	Nationality	Address	Percentage of shareholding

9. Any other business carried on by the Company

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10. Particulars of current Management staff.

	Full Name	Designation or Position	Citizenship	Age	Qualification		Years of Experience	Date of Appointment to present position
					Academic	Professional		

11. Company Work Force:

Total Number of Employees.....
 Foreign Employees
 Local Employees

12. Submit current Audited Accounts and Bank Statement:

.....

13. State Investment available in terms of working port equipment and facilities to carry out the business.

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14. State past experience to run similar business. Where and When?

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15. Any other information relevant to this application.

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.....
.....

I /We declare to the best of my our knowledge and belief that all the statements contained in this application are true and correct.

Name in full

Position/Designation

Signature..... Date

(Stamp or seal)

FOR OFFICIAL USE ONLY

Approval/Disapproval

Comments

.....

Licence No:

Validity period from to.....

Name Designation

Signature Date

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SECOND SCHEDULE

(Made under regulation 17)

LICENCE FEES

S/N	TYPE OF LICENCE	FEES IN U.S. DOLLARS			
		Category I (Major Sea Port)	Category II (Major Inland Water Ways Ports)	Category III (Small Sea Ports)	Category IV (Small Inland Water Ways Ports)
1	Petroleum Products, edible oils, natural or liquefied gases Licence	3000	2000	500	500
2	Containerized Cargo Licence	2000	1000	--	--
3	General & Containerized Cargo Licence	2000	1000	--	--
4	General Cargo Licence	1000	500	250	250
5	Passenger Service Licence	500	250	150	150

THIRD SCHEDULE

(Made under regulation 23)

PORT CATEGORIES

CATEGORY	I	Dar es Salaam, Tanga and Mtwara.
CATEGORY	II	Mwanza South, Mwanza North, Kigoma, Bukoba, Kamando bay, Musoma, Nansio, Kasanga, Itungi, Manda, Liuli, Mbambabay.
CATEGORY	III	Bagamoyo, Kwale, Kilwa Kivinje, Kilwa Masoko, Lindi, Mikindani, Pangani, Mafia and Songosongo.
CATEGORY	IV	Shirati, Kinesi, Maisome, Kome Bukondo, Kahunda, Chato, Nyamirembe, Nkome, Muharamba, Buchosa, Solima, Karumo, Tongwe, Kirando, Kalya, Kapalamsenga, Ikola, Mtanga, Kagunga, Karema, Sigunga, Kipili, Msamba, Ninde, Kala, Wampembe, Lagosa and Kibwesa, Matema, Lundu, Lupingu, Ifungu, Mkifi, Njambe, Ndumbi, Ujiji, Ukara, Nyakalifo, Mgambo, Kyankwikwi and Buchenzi