

A BILL

for

An Act to amend the Shipping Agency Act with a view to make better provisions

ENACTED by the parliament of the United Republic of Tanzania

Citation

1. This Act may be cited as the Shipping Agency (amendment) Act, 2013 and shall be read as one with the Shipping Agency Act, 2002 herein referred to as the “principal Act.”

Amendment of
section 2
Cap 166

2. Section 2 of the principal Act is amended:
(a) in the definition of the term “port services or facilities” by deleting the phrase “Harbour Authorities Act,1977” and substituting for it the words “Ports Act”.

(b) by deleting the definition of the word “shipping agent” and substituting for it the following:

“shipping agent” means a company engaged in providing shipping agency services for sea ports and inland waterways ports;”

(c) by inserting in its appropriate alphabetical order the following new definition:

“authorized officer” means an official employed by the Authority or member of the Shipping Agency Committee directed to carry out an act on behalf of the Authority.

Cap 166
Cap 166

“sea port” shall have the meaning ascribed to it under the Ports Act;

“Inland waterways port” shall have the meaning ascribed to it under the Ports Act;

“Through Bill of Lading” means a bill of lading made for carrying goods covering more than one mode of transport including ocean, lake, river and land transport where necessary; and

“licensee” means a shipping Agent licensed under the Act.

Amendment of
section 3

3. Section 3 of the principal Act is amended :

(a) in paragraph (c) by deleting the words “and forwarding of cargo”;

(b) by adding immediately after paragraph (f) the following new paragraphs :

(g) representation of the principal in shipping business services;

(h) marketing shipping services of his principal;

(i) provision of information on booked cargo, level of utilization of allotted space in the ship and statistics on cargo availability;

(j) attending claims on behalf of his principal;

(k) provision of regular reports to the principal on the position of ship while in port;

(l) tracking and coordinating all activities concerning the movement of full and

- empty containers;
- (m) keeping a proper record on any financial transactions and port disbursements;
- (n) collection of ocean freight from shippers or consignees on behalf of the principal; and
- (o) handling and monitoring through bills of lading
- (p) any other related shipping agency services, provided that such services do not contravene specific provisions of this Act

Addition of new section 3A

4. The principal Act is amended by adding immediately after section 3 the following:

“Categories of shipping agents **3A.** For the purposes of carrying out shipping agency services ,there shall be two categories of shipping agents:
 (a)shipping agents for sea ports; and
 (b) shipping agents for inland waterways ports.”

Amendment of Section 5

5. Section 5 of the principal Act is amended:

- (a) deleting subsection (2); and
- (b) redesignating section 5(1) as section 5.

Amendment of section 6

6. The principal Act is amended by deleting section 6.

Amendment of Section 7

7. Section 7(b) of the principal Act is amended by deleting the word “fifty” and substituting for it the word “sixty”.

Addition of new section 7A

8. The principal Act is amended by adding immediately after section 7 the following :

“Local employees, Cap. 366 **7A.** (1) Shipping Agents shall employ Tanzanian citizens in all positions in accordance with the Employment and Labour Relations Act.

(2) Employment of staff at all levels of Management shall reflect majority shareholding of shipping agents.

Amendment of Section 9

9. Section 9 of the principal Act is amended :

- (a) In subsection (1) by inserting the words “a level” between the words “maintain” and “of” ;and
- (b) deleting subsection (3)

Amendment of Section 10

10. Section 10 of the principal Act is amended by:

- (a) deleting sub section (2);
- (b) redesignating section 10(1) as section 10.

Amendment of section 11

Section 11 of the principal Act is amended:

(a) in subsection (1) by deleting and substituting for it the following:

“ (1) A person intending to carry on the business of shipping agency shall make an application to the Authority and pay the prescribed fee”;

(b) in subsection 2 by:

- (i) adding in between the words “the applicant” and the full stop, appearing in

the last line, words “in accordance with the licence category indicated by the applicant.”

(ii) inserting immediately after subsection 2 the following:

“(3) An applicant issued with a shipping agency licence for seaport shall conduct shipping agency services only at seaports.

(4) An applicant issued with a shipping agency licence for inland waterways port shall conduct shipping agency services only at inland waterways ports”.

(c) in subsection (3) by:

(i) deleting paragraph (a) and substituting it for the following:

“(a) the applicant is a ship owner, an operator, a charterer or the applicant is a port terminal operator;

(ii) by inserting immediately after the word “applicant” appearing in paragraph (c) , the phrase “or any of the shareholders”;

Amendment of
section 13

11. Section 13 of the principal Act is amended by deleting and substituting for it the following:

“Suspension or
cancellation

13. (1) Subject to subsections (2) and (3), where the Authority is of the opinion that a shipping agent has contravened any of the licensing conditions, the Authority may, by notice in writing, suspend the licence for any period specified in the notice or cancel the licence.

(2) The suspension or cancellation under subsection (1)”

(a) shall not be made against a shipping agent without a prior written notice requiring the shipping agent to show cause, within a period of fourteen days, as to why the license should not be suspended or cancelled;

(b) shall not be effected without prior notice requiring the shipping agent within a specified time to take specific measures to remedy any contravention of the licensing conditions or procedure.

(3) Where a licence is revoked or suspended the shipping agent shall within thirty days upon receipt of notice of suspension or cancellation, cease to operate.

(4) The Authority shall lift the suspension after fulfilment of the requirements stipulated by the Authority in the suspension notice.

(5) Notwithstanding cancellation of a licence under sub section (1), the shipping agent may re-apply for a licence after the period of one year from the date of cancellation.

Amendment of section 17

12. Section 17(1) of the principal Act is amended by inserting the phrase “Chairman of the Board or was employed as” between the words “a” and “director” appearing in the second line.

Amendment of section 19

13. Section 19 of the principal Act is amended :

(a) in paragraph (a) by deleting the word “furnished” and substituting for it the word “furnishes” ;

(b) in paragraph (b) by adding the words “of not less than US \$5,000 and” between the phrase “to a fine of” and the phrase “not more than US \$20,000”.

Addition of new section 19A

15 The principal Act is amended by adding immediately after section 19 the following:

“Power to compound offences

19A (1) Notwithstanding the provisions of this Act relating to penalties, where a person commits an offence under this Act the Authority may, at any time prior to the commencement of hearing by a court of competent jurisdiction, compound such offence and order the person to pay a sum of money, not exceeding one half of the amount of the fine to which such person would otherwise have been liable to pay if he had been convicted of such offence:

Provided that the Authority shall not exercise its powers under this section unless the person concerned admits in writing to have committed the offence.

(2) Where a person is aggrieved by the order under sub-section (1), he may within thirty days from the date the order was made, appeal to the High Court.

Cap 20

(3) The provisions of the Criminal Procedure Act shall apply to every appeal as if it were an appeal against sentence passed by a district court in the exercise of its original criminal jurisdiction.

(4) Where the Authority compounds an offence under this section, the order in sub-section (1):

(a) shall be reduced into writing and accompanied by the written admission together with the request referred to in the proviso to the said sub-section 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 amount of money ordered to be paid and the date on which payment is to be made;

(c) shall be final and shall not be subject to the provisions of sub-section (3) or to any appeal; and

(d) may be enforced in the same manner as a decree of a court.

Amendment of Part VIII **16.** Part VIII of the principal Act is amended in the heading by deleting and substituting for it the heading “Part VII”.

Amendment of Section 20 **17.** Section 20 of the principal Act is amended in by deleting the words “Division Director” and substituting for them word “Authority”.

Amendment of Section 21 **18.** Section 21 of the principal Act is amended:
(a) in subsection (1) by deleting and substituting for it the following:
“ (1) The Authority or any other authorised officer may:”
(b) in subsection (2) by deleting the words “Division Director or any prescribed officer ” and substituting for them the phrase “Authority or any other authorized officer”.

Amendment of Section 22 **19.** Section 22 of the principal Act is amended by deleting the word “prescribed” and substituting for it the phrase “directed by the Authority”.

Dar es Salaam,
.....2013

Harrison Mwakyembe
Minister for Transport

THE SHIPPING AGENCY, ACT

(CAP 415)

REGULATIONS

(Made under section 24)

THE SHIPPING AGENCY (AMENDMENT) REGULATIONS, 2012

Citation
GN.NO 338 Of 2002

1. These Regulations may be cited as the Shipping Agency (Amendment) Regulations, 2012 and shall be read as one with the Shipping Agency Regulation, 2002 herein referred to as the “principal Regulations”.

Amendment of the
citation clause

2. The principal Regulations is amended in the citation clause by deleting the phrase “8, 9 and” and substituting for it the figure “24”.

Amendment of
regulation 2

3. Regulation 2 of the principal Regulations is amended in by inserting, in its appropriate alphabetical order, the following new definition:

“miscellaneous port services” includes trimming, lashing, unlashng, watchman, cleaning and lining.

Amendment of
regulation 3

4. Regulation 3 of the principal Regulations is amended:

(a) in the marginal note by inserting the letter “a” between the words “for” and “licence”;

(b) in sub regulation (1):

(i) by deleting the word “form” appearing in paragraph (a) and substituting for it the word “forms;

(ii) by deleting the figure “20” appearing in paragraph (c) and substituting for it the figure “50”;

(c) in sub regulation (2):

(i) by inserting the words “a license or” between the words “for” and “renewal” appearing in the first line;

(ii) by adding immediately after paragraph (d) the following new paragraphs:

“(e) paid up share certificate of the declared shareholders;

(f) furnish the Authority with proof of the paid up share”

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

“(3) Any application for a renewal made after the period prescribed under sub regulation 2(b) shall be subjected to a penalty of 25% of the licence fee.”

Amendment of
regulation 5

5. Regulation 5 of the principal Regulations is amended by:

(a) designating regulation 5 as 5(1);

(b) deleting in the designated sub regulation 5(1) the word “form” and substituting for it the word “forms”; and

(c) inserting immediately after sub regulation (1) the following new sub regulation :

“(2) Notwithstanding the provisions of sub regulation (1), the Authority may review the validity period of licences from time to time.”

Amendment of
regulation 6

6. Regulation 6 of the principal Regulation is amended:

(a) in sub regulation (1), by deleting and substituting for it the following:

“(1) The annual fee for a license as specified under regulation 5, shall be, for the case of:

(a) a sea port agent ,US \$ three thousand five hundred or its equivalent in Tanzanian shillings; and

(b) a waterways port agent, US \$ five hundred or its equivalent in Tanzanian shillings.”

(b) in sub regulation (2) by inserting the words “for the first time” between the words “granted” and “on”

Amendment of
Regulation 8

7. Regulation 8 of the principal Regulation is amended:

(a) in the marginal note by deleting the words “Ensurance in the”.

(b) in sub regulation (1) by deleting the phrase “ “Miscellaneous port services” includes trimming, lashing, unlashng, watchmanship, cleaning and lining” and substituting for it the phrase “ “auxiliary shipping services” includes tallyng services, ship chandling and miscellaneous port services.”

(c) In sub regulation (2) by deleting the phrase “Miscellaneous port services, tallyng services and ship chandling” and substituting for it the phrase “auxiliary shipping services”.

Amendment of
Regulation 9

8. Regulation 9 of the principal Regulation is amended by:

(a) designating regulation 9 as 9(1);

(b) adding immediately after the designated regulation 9(1) the following new sub regulation:

“(2) A shipping agent shall provide short and long term training to its staff in shipping discipline”

Amendment of
Regulation 11

- 9.** Regulation 9 of the principal Regulation is amended :
- (a) in paragraph (b) by inserting the word “or any other shipping line subject to notification to the Authority” after the word “licence.” ; and
 - (b) by adding immediately after paragraph (h) the following:
“(i) not to engage in the business of terminal operator.”

Amendment of
Regulation 12

- 10.** Regulation 12 of the principal Regulation is amended:
- (a) by deleting the phrase “including the following disciplinary measures” appearing in the second line and substituting for them the phrase “take disciplinary measures including the following:”; and
 - (b) in paragraphs (c) and (d) by deleting the words “authorization to operate as a shipping agent” and substituting for them the word “licence” respectively.

Amendment of
regulation 16

- 11.** Regulation 16 of the principal Regulation is amended by deleting and substituting for it the following:

“composition 16(1) The Shipping Agency Committee shall be constituted by five members from the Authority, excluding the Secretary, and:

- (a) one representative from the Ministry responsible for shipping matters;
- (b) one representative from the Ministry responsible for industry and trade;
- (c) one representative from the Attorney General’s Chambers;
- (d) one representative from the Ministry responsible for Home Affairs – Immigration Department;
- (e) one representative from Tanzania Revenue Authority – Customs Department; and
- (f) one representative from the Law Reform Commission of Tanzania.

(2) The Divisional Director responsible for shipping shall be the Chairman of the Committee.

(3) The Authority shall provide for the Secretariat of the Committee.

(4) The Committee shall have two bi-annual ordinary meetings.

(5) – Notwithstanding sub-regulation (4), the Committee Chairman may convene an extra-ordinary meeting as may be deemed necessary to perform the functions of the committee.”

Amendment of
regulation 17

- 12.** Regulation 17 of the principal Regulation is amended by deleting and substituting for it the following:

“17. The functions of the Committee shall be:

- (a) to advise the Authority on the issuance of licences and registration of shipping agents;
- (b) to provide assistance and advice to the Authority on compliance of shipping agents to pertinent matters related to responsibilities carried out under other government institutions including but not limited to Tanzania Revenue Authority, Ministry of Transport, Ministry of Industry and Trade, and Immigration Department.
- (c) to advise the Authority on matters related to shipping agency.”

Amendment of regulation 18

13. The principal Regulations are amended by deleting regulation 18.

Amendment of regulation 22

14. Regulation 22 of the principal Regulation is amended:

- (a) in paragraph (b) by deleting the word “issue – to be verified” appearing in the beginning of the sentence;
- (b) in paragraph (h) by deleting and substituting for it the following:
 “(h) hinders or obstructs the Authority, the Committee or any other authorised officer in the performance of their duties under the Act and these Regulations”;
- (c) in the proviso by deleting the words “five hundreds” appearing in the second line and substituting for them the words “one thousand”;
- (d) in the closing statement by deleting the word “and” and substituting for it the words “and not” after the word “months”.

Dar es salaam
2013

Harrison Mwakyembe (MP)
 Minister for Transport

THE SHIPPING AGENCY, ACT

(CAP 415)

ORDER

(Made under sections 8 and 9)

THE SHIPPING AGENCY (PRESCRIBED CAPITAL)(AMENDMENT) ORDER,2013

Citation **1.**This Order may be cited as the Shipping Agency (Amendment) Order, 2013 and shall be read as one with the Shipping Agency Order,2002 herein referred to as the “principal Order”

Amendment of order 2 **2.**The principal Order is amended by deleting paragraph 2 and substituting for it the following :

“Required capital **2.**The amount of capital required by a shipping agent to establish a shipping agency business shall be:

(a) in case of sea ports :

(i) not less than US dollars ten thousand or its equivalent in Tanzanian shillings for a company wholly owned by Tanzanian citizens; or

(ii) not less than US dollars one hundred thousand or its equivalent in Tanzanian shillings for a company owned by Tanzanian citizens and foreigner; and

(b) in case of an inland water ways port:

(i) not less than US dollars two thousand or its equivalent in Tanzanian shillings for a company wholly owned by Tanzanian citizens; or

(ii) not less than US dollars twenty five thousand or its equivalent in Tanzanian shillings for a company owned by Tanzanian citizens and foreigner.”

Dar es salaam,
.....2013

Harrison Mwakyembe
Minister for Transport