



THE UNITED REPUBLIC OF TANZANIA

THE SUMATRA (COMPLAINTS AND REVIEW PROCEDURE) RULES, 2008

[GN. No. 15 OF 2008]

**THE SUMATRA (COMPLAINTS
AND REVIEW PROCEDURE)
RULES, 2008**

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Sumatra (Complaints and Review Procedures)

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

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RULES

Made under section 38(1)

THE SUMATRA (COMPLAINTS AND REVIEW PROCEDURES) RULES, 2008

PART I
PRELIMINARY PROVISIONS

1. These Rules may be cited as the SUMATRA (Complaints and Review) Rules, 2008.

Citation

2. In these Rules unless the context requires otherwise;

"Act" means the Surface and Marine Transport Regulatory Authority Act;
"application" means any statement of dissatisfaction with a decision of the Consumer Complaints Unit, Division or the Authority, and the term "applicant" shall be construed accordingly;
"Authority" means the Surface and Marine Transport Regulatory Authority;
"authorized agent" means a person who represents a complainant or a service provider to the Consumer Complaints Unit, Division or Authority;
"Board" means the Board of Directors of the Authority;
"Consumer Complaint Unit" means a unit designated by the Authority to receive and follow up complaints from consumers of regulated goods or services;

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tation Cap.
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"Director General" means the Director General of the Authority;
"Division" has the meaning assigned to it in section 20 of the Act;

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"Internal Review Committee" means a Committee established under section 26 of the Act to review a decision made by the Division, member or an employee of the Authority:

"member" means a member of the Board and includes the Chairman and the Director-General;

"regulated goods" means goods produced, supplied or offered for supply or for use in the regulated sector and includes any goods the Authority declares as such under section 38(4) of the Act: .

"regulated supplier" means rail transport, ports and marine transport road transport and commercial road transport:

"regulated services" means services supplied or offered for supply in a regulated sector, and includes any person whom the Authority declares as such under section 38(4) of the Act:

"substantive decision" means a decision that is not made on the basis of procedural matters.

PART II

ROLE OF A REGULATED SUPPLIER AND CONSUMER COMPLAINTS UNIT

Role of a regulated supplier

3. A regulated supplier shall ensure that he-

- (a) provides safe, reliable and efficient regulated services or goods to consumers and that there are no false or misleading representation with respect to the price and standards of regulated goods or services:
- (b) plans and operates systems in a fashion that provides the consumers with satisfactory standards of services as set forth in the licence and other document supplemental to such licence:
- (c) submits self-assessment reports to the Authority as shall be required from time to time:
- (d) establishes, publishes and submits internal consumer complaint procedures the Authority for approval; and
- (e) Addresses the consumer complaints and complies with the procedure in paragraph (d).

Roles of the Consumer Complaints Unit

4.-(1) The Consumer Complaints Unit shall receive complaints submitted to the Authority through the Director General.

(2) The Consumer Complaints Unit shall-

- (a) evaluate a complaint and satisfy itself if the complainant has an interest in the matter to which the complaint relates, and that the complaint is not frivolous or vexatious; and
- (b) conduct investigations and attempt to resolve the complaint amicably.

PART III

POWERS OF THE BOARD

5.-(1) The Board shall, in each case, make a ruling to be carried out by the Division.

Procedures and powers of the Board

(2) The Board may make the following orders -

- (a) require a party to pay money;
- (b) require a party to supply goods or services for specified periods;
- (c) require a party to supply goods or services on specified terms and conditions;
- (d) require a party to pay costs of another party or of a person appearing at the hearing or producing documents: and
- (e) dismissing a complaint.

6.-(1) The Authority shall have power to conduct investigation on complaints referred to or otherwise comes to the attention of the Authority against a supplier of regulated goods or services in relation to any matter connected with the supply, possible supply or purported supply of the goods or services.

Powers to conduct investigations.

(2) The power to conduct investigation shall be exercised by the Authority where it appears to the Authority that-

- (a) the complainant has an interest in the matter to which the complaint relates: and
- (b) the complaint is not frivolous or vexatious.

PART IV

POWER OF INTERNAL REVIEW COMMITTEE

Powers of
Internal
Review
Comm-
tee

7.-(1) Powers of the Internal Review Committee shall be to consider application together with submissions received, and make a recommendation to the Board for its decision.

- (2) The Internal Review Committee may make recommendation to(a)
 - dismiss the application;
 - (b) set aside the original decision and make a different decision; or
 - (c) vary or set aside the decision and delegate the matter to a Division or one or more members or officers of the Authority for a fresh decision without direction as to ways in which that decision will be made.

Internal
Review
Committee
to hear
complaint

8.-(1) The Internal Review Committee shall determine any complaint referred to it by any person aggrieved by substantive decision of the Division, member or employee of the Authority.

(2) Notwithstanding the provision of sub-rule (1) of rule 6, no decision shall be referred to the Internal Review Committee unless such decision has been made by the Division, member or employee of the Authority.

(3) Complaint referred to the Internal Review Committee shall be against a substantive decision made by a Division, member or employee of the Authority but shall not include non- regulated matters.

(4) With the prior leave of the Internal Review Committee, an applicant may be allowed to address the Committee on evidence which was not previously referred during the hearing of a Complaint

PART V

PROCEDURE FOR HANDLING COMPLAINTS AND REVIEW

(a) Regulated Supplier

Regulated
supplier's
procedure
for handling
complaint

9. -(1) Where a person or a consumer representative is dissatisfied by an act or omission by the regulated supplier, he shall refer his complaint to the regulated supplier for consideration.

(2) The regulated supplier shall determine a complaint within twenty-one days of receipt of the complaint.

(3) Where the regulated supplier rejects the complaint he shall state reasons for the rejection.

10.-(1) Where a complainant is not satisfied with the determination by the regulated supplier, he may refer the complaint to the Authority within forty five days from the date he received a decision of the regulated supplier.

Complaints
to the
Authority

(2) A reference of a complaint to the Authority shall be made in writing and the Authority shall submit a complaint to the Division for determination.

(3) A complaint referred to the Authority shall contain the :

- (a) date, name, address and signature of the complainant;
- (b) statement in precise form explaining the complaint and relief claimed;
- (c) information as to whether the complaint has previously been referred to any other authority for adjudication; and
- (d) any other information necessary for determination of the complaint.

(4) A complaint shall not be entertained if the same complaint or part of it is pending before any court, tribunal, arbitrator, judicial or quasi-judicial body or it was previously determined by any court, tribunal, arbitrator, judicial or quasi-judicial body.

(5) Notwithstanding the provision of sub-rule (I), the Authority may, for good cause, extend the time prescribed for making reference of a complaint.

(b) Consumer Complaints Units

11. Subject to sub-rule (2) of rule 9, before the Authority submits a complaint to the Division, may request the parties to appear before the Consumer Complaints Unit on the day and time fixed for the purpose of determination of a complaint.

Parties
before the
Consumer
Complaints
Unit

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Hearing of a
complaint

12. In circumstances where the Authority directs the parties to appear before the Consumer Complaint Unit for hearing of a complaint, it shall, by notice of not less than fourteen days, advise the parties in writing as to the date, time and place of appearance.

Determina-
tion of a
complaint

13. The Consumer Complaints Unit shall within twenty one days after receipt of the complaint resolve the complaint.

Settlement
by
Consumer
Complaint
Unit

14. Amicable settlement by the Consumer Complaints Unit may be by reference of the complaint to the regulated supplier with a request that the supplier should consider or reconsider the complaint and advise the Authority in writing stating measures taken to resolve the complaint within thirty days from the date the supplier is requested to consider or reconsider to deal with the complaint.

Failure to
settle a
complaint
by
Consumer
Complaint
Unit

15. Where the Consumer Complaint Unit fails to settle the complaint amicably within twenty one days, the complainant may, in writing signed by him, request the Authority to refer the complaint to a Division of the Authority for decision.

Reference
of the
complaint to
the Division

16. Upon reference of, a complaint to the Division, the complainant and the regulated supplier shall be parties to the reference.

(c) Internal Review Committee

Procedure
for applying
for Review

17.-(1) Any party who is aggrieved by the decision of a Division, member or the employee of the Authority may apply for review to the Internal Review Committee as provided in section 26 of the Act and serve a copy of the application on any interested party.

(2) The application for review shall be made to the Director General within fourteen days from the date on which the decision was made and a copy shall be served on the interested party within fourteen days from the date of filing of the application.

(3) Notwithstanding sub-rule (2), the Internal Review Committee may for good cause extend the time for filing an application.

(4) Every application for review to the Authority shall be made in writing and shall contain-

- (a) date, name, address and signature of the applicant;
- (b) statement in prescribed form explaining the application and relief claimed;
- (c) information as to whether the applicant has previously been referred to Court or to any other authority for adjudication;
- (d) statement in concise form containing grounds of dissatisfaction which is to be reviewed and relief sought; and
- (c) any other information which is necessary for resolving the application.

18. -(1) The Authority shall advise all parties in writing of the date, time and place of the hearing of application, and shall issue notice to all parties of not less than fourteen days prior to such hearing.

Hearing of
application

(2) Where a party to the proceedings or authorized agent fails to appear on the date fixed for hearing of the application before the Internal Review Committee without good cause, the Internal Review Committee may proceed to determine the application in the manner it thinks fit.

(3) The Internal Review Committee may request all parties to file their submissions in writing to support or oppose the application for review depending on the circumstances of the application.

(4) Any party who is likely to be affected by the application for review or its decision may seek leave of the Internal Review Committee to be joined as a party

Summons

19. Where a party is summoned to appear before the Authority, may appear either in person or by duly authorized agent on the day and time fixed for hearing.

20. -(1) Prior to hearing and determining the application for review, the Internal Review Committee shall send by registered post a copy of

Powers of
the Internal
Review
Committee

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the application for review and a written invitation to make submission on the application to the following persons-

- (a) the Minister;
- (b) all persons who made submissions to the Authority in relation to the decision under review or who have otherwise indicated to the Authority an interest in the decision;
- (c) the Consumer Consultative Council;
- (d) any other person whom the Internal Review Committee considers should receive notice of the application

(2) The Internal Review Committee shall allow not less than twenty one days for submission to be made in relation to the application for review.

(3) The Internal Review Committee shall determine its own procedure and shall not be bound by rules of evidence and procedure

(4) For the purposes of determining any matter, the decision of the Internal Review Committee shall be reached by majority of its members.

(5) In any event where any member of the Internal Review Committee has dissenting opinion, the Internal Review Committee shall record the: opinion of such member or members and reasons' for disagreement.

Withdrawal
of
application

21. An applicant may withdraw the application for review at any time by written notice or oral application before the Internal Review Committee has determined the matter.

Recommen-
dation by
the Internal
Review
Committee

22. The Internal Review Committee shall make its recommendation in writing and submit the same to the Board within twenty one days from the date of the hearing.

Determi-
nation by
the Board

23. The Board shall make a determination on the recommendation by the Internal Review Committee by a vote of majority of its members and may either confirm, vary or dismiss the decision subject to review.

24. Any party who is aggrieved by the decision of the Board may prefer an appeal to the Fair Competition Tribunal on grounds stipulated in the Act.

Appeal
from the
Decision of
the
Authority
Cap.285

PART VI

MISCELLANEOUS PROVISIONS

25-(1) A person lodging a complaint shall serve a copy of all the complaint documents on all other such persons who shall be entitled to appear on the hearing of the complaint as if they were parties thereto.

Copy of
complaint
documents

(2) A hearing of the complaint shall be in public unless a party to the proceedings otherwise applies and the Complaint Unit or the Internal Review Committee decides that the proceedings or part of it be heard in camera.

26-(1) Evidence before the Board may be given orally or through affidavits or in such other manner as the Board or Complaint Unit may deem fit.

Evidence

(2) A person summoned to attend and give evidence by the Complaint Unit or Internal Review Committee and is not a witness of any party to the complaint or review Committee, shall be paid allowances and expenses at the rates specified by the Board.

27. Members of the Internal Review Committee shall be entitled to remuneration as may be determined by the Board.

Remunera-
tion

28-(1) The costs of, and incidental to, any complaint or review shall be in the discretion of the Board, and the Board shall have full power to determine whom out of what property and to what extent such costs are to be paid.

Costs of
Complaint

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(2) Each party to the complaint or review, as the case may be, shall bear the costs of his witnesses.

Dar es Salaam,
17th January, 2008

P.C. BAKILANA
Chairman of the Board