

MERCHANT SHIPPING (MARITIME SERVICE PROVIDERS) REGULATIONS, 2011

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MERCHANT SHIPPING (MARITIME SERVICE PROVIDERS) REGULATIONS, 2011

[L.N. 112/2011.]

PART I – PRELIMINARY

1. Citation

These Regulations may be cited as the Merchant Shipping (Maritime Service Providers) Regulations, 2011.

2. Application

(1) These Regulations shall apply to—

- (a) the maritime service providers specified in the First Schedule whilst performing any of the services set out in that Schedule; and
- (b) such other maritime service providers as the Minister may *gazette* under section 2 of the Act.

(2) A licence granted to a clearing and forwarding agent under section 145 of the East African Customs Community Management Act, 2004, shall, in so far as it provides services in respect of maritime cargo, be deemed to be a licence under these Regulations and the provisions of regulations 5, 6, 8, 9 and 10 shall not apply to clearing and forwarding agents.

3. Interpretation

In these Regulations, except where the context otherwise requires—

“**bill of lading**” means a document signed by an ocean carrier or his representative and issued to a shipper that evidences the receipt of goods for shipment, contract of carriage and ownership or title of goods;

“**cargo consolidator**” means a person who accepts less than container load shipments from individual shippers, and then combines them for delivery to the carrier as a full container load container for shipment;

“**cargo manifest**” means a document that lists in detail all the bills of lading issued by a carrier or its agent or master for a specific voyage or a detailed summary of total cargo loaded on board a vessel;

“**charterer**” means a person, firm or company hiring a vessel for the carriage of goods or other purposes;

“**clearing and forwarding agent**” means any person licensed to act as an agent under section 145(1) of the East African Community Customs Management Act, 2004;

“**Commissioner**” has the same meaning as in the East African Community Customs Management Act, 2004;

“**consignee**” means an agent, company or person receiving an import consignment;

“**consignor**” means an agent, company or person sending or exporting a consignment;

“**container**” means a metallic container for stuffing cargo in transit and which conforms to standards set by the International Standards Organization;

“**container freight station**” means a common user facility with cargo handling facilities licensed to offer services for handling and temporary storage of import laden containers, and motor vehicles under customs control;

“**container handling facility**” means a container freight station or an empty container handling and storage depot;

“**freight manifest**” means a manifest which shows particulars of freight and charges;

“**goods**” includes all kinds of articles, wares, merchandise, livestock and currency;

“**licence**” means a licence issued under these Regulations;

“**pad**” means the addition by a ship’s agent of extra charges to an invoice to make it higher than the appropriate charge;

“**port service provider**” means a person, in Kenya, engaged in the business of providing services of port facility, quay side, warehouse or other terminal facilities in connection with a common carrier or a water carrier;

“**principal**” means a person on whose behalf, another person acts as an agent in the business of maritime service provision;

“**register**” means the register maintained by the Authority under regulation 4(e);

“**restrictive trade practices**” means the restrictive trade practices described under the Competition Act, 2010 or any other law for the time being in force in Kenya;

“**service level agreement**” means an agreement made in writing between a maritime service provider and a party which formally defines the level of service, performance and commitment by the parties to the terms thereof;

“**shipper**” means a consignor, exporter, or seller using shipping services to transport and deliver goods, or a non vessel owning common carrier that accepts responsibility for payment of all applicable charges under the service level agreement;

“**shipping line**” means any person who provides sea transport using his own or chartered vessels or hires slots or space from other vessels in operation or managing the business of shipping;

“**ship’s agent**” means a person licensed by the Authority and appointed by a ship operator, including a ship owner or charterer, to act as its agent in Kenya in providing any of the services specified under regulation 2;

“**tariff**” means the actual rates, charges and surcharges applied by a maritime service provider in providing the transportation service.

PART II – LICENSING

4. Role of the Authority

The functions of the Authority shall be to—

- (a) license maritime service providers;
- (b) promote fair competition among maritime service providers;
- (c) promote and enforce high standards of professional and ethical conduct;
- (d) formulate and promote the attainment of the highest standards of competence, and qualifications among respective maritime service providers;

- (e) maintain a register for persons licensed to practice as maritime service providers, the various categories of maritime service providers and to publish from time to time information relating to such register;
- (f) provide for a framework for consultations on the cost and quality of maritime transport services;
- (g) monitor the standards of infrastructure, equipment, facilities and services as the Authority may specify by notice in the *Gazette*, and

perform such other functions as specified under section 8(2)(h) of the Act.

5. Qualifications for licensing

(1) A person shall be eligible to be licensed as a maritime service provider if such person is a citizen of Kenya, or is a company incorporated under the Companies Act Cap. 486) in which not less than fifty-one per cent of the share capital is held directly by a citizen of Kenya.

(2) Notwithstanding paragraph (1) any company which holds a licence to operate as a maritime service provider shall within eighteen months from the date of commencement of these Regulations, comply with the provisions of that paragraph.

(3) The maritime service provider referred to in paragraph (2) may, at any time within eighteen months from the date of commencement of these Regulations, apply for, and upon satisfying the requirements of regulation 11, be entitled to the grant of a licence under these Regulations.

(4) A ship's agent or cargo consolidator shall be eligible to be licensed under these Regulations if such agent or consolidator, is of good standing and its reputation as evidenced by a letter of recommendation from the principal.

(5) A container handling facility shall be eligible for licensing if it is located in an area where it does not inhibit accessibility to other users.

(6) A person shall in addition to the foregoing paragraphs, be eligible for licensing if the person—

- (a) has complied with the requirements of regulations 7 and 11; and
- (b) is financially sound evidenced by—
 - (i) financial resources adequate to its business evidenced by references from banks, financial institutes, auditors and reputable credit reference companies, to the satisfaction of the Authority; and
 - (ii) a minimum paid-up share capital as may be specified under paragraph (7).

(7) The Authority shall specify by notice in the *Gazette*, the minimum paid-up share capital to be maintained by a maritime service provider that is a body corporate.

(8) A maritime service provider shall, whenever requested to do so by the Authority, demonstrate that it has complied with paragraph (1).

- (9) A person shall be not eligible for a licence or any renewal thereof if such person—
- (a) has been convicted of corruption, an economic crime or other criminal offence that amounts to a felony under the law of Kenya; or
 - (b) has not complied with any of the provisions of this Act or any other law.

(10) Paragraphs (1), (5), (6), (7) and (8) shall not apply to shipping lines.

6. Application for licence

(1) An application for a licence as a maritime service provider shall be made to the Authority in the form set out in the Second Schedule.

(2) The Authority may approve or reject an application and shall notify the applicant of its decision together with reasons within sixty days from the date of receipt of the application.

(3) Where the Authority approves an application for a licence or the renewal of a licence, the Authority shall, upon payment of such standard fee as it may determine, issue to the applicant the appropriate licence or renewal of the licence.

(4) A licence issued under these Regulations shall—

- (a) be in the form set out in the Third Schedule;
- (b) be valid for one year and shall, in any case, expire on the 31st of December, of each year;
- (c) be limited exclusively to use by the named licensee and shall not be transferred to any other person without prior approval of the Authority; and
- (d) be issued upon such other conditions as may be specified by the Authority in the license.

(5) Any person who carries on the business of a maritime service provider without a valid licence commits an offence and shall be liable on conviction to a fine not exceeding ten million shillings or imprisonment for a term not exceeding three years, or both such fine and imprisonment.

7. Membership to registered associations

(1) A maritime service provider, other than a shipping line, who is licensed under Regulation 6 shall within sixty days of the issuance of the licence apply to join an association.

(2) For purposes of paragraph (1), an association shall be approved by the Authority if such association has filed with the Authority certified copies of its—

- (a) constitution;
- (b) certificate of registration;
- (c) register of members;
- (d) disciplinary procedures; and
- (e) details of registered office.

(3) An Association shall have the primary responsibility of providing and monitoring a code of conduct and standards of competence for the particular category of maritime service providers through service level agreements and the Authority may revoke its recognition if in its opinion the Association is not carrying out its primary responsibility.

(4) This regulation shall come into operation after the expiration of twelve months after the commencement of these Regulations.

8. Renewal of licence

(1) Any person who holds a licence may apply for its renewal subject to the requirements set out under this regulation.

(2) The application under paragraph (1) shall—

- (a) be made not later than sixty days before the date of expiry of the licence;

- (b) be accompanied by a non-refundable application fee as may, by notice in the *Gazette*, be specified by the Authority; and
- (c) be in the form set out in the Second Schedule.

(3) The Authority may approve or reject the application for the renewal of a license and shall notify the licensee of its decision before the expiry of sixty days from the date of lodging the application.

9. Fine, suspension or revocation of licence

- (1) A maritime service provider who—
 - (a) fails to comply with the terms and conditions of the grant of the licence;
 - (b) ceases to hold any of the qualifications specified in these Regulations;
 - (c) fails to renew the licence within the period specified under regulation 8; or
 - (d) fails to meet any of the standards specified in these Regulations,

commits an offence and shall be liable on conviction to a fine of not more than three million shillings.

(2) If despite the fine imposed under paragraph (1), a maritime service provider continues committing the offences mentioned in paragraph (1), the Authority may, subject to these Regulations, suspend or revoke the licence.

(3) Where the Authority suspends or revokes a licence issued under these Regulations, the Director-General shall notify the licensee of the decision of the Authority within fourteen days of the date of the decision.

10. Appeals

(1) Any person whose application for a licence or renewal has been denied or whose licence has been suspended or revoked may, within twenty one days of receipt of the notice of such refusal, suspension or revocation, appeal to the Minister.

(2) Any person aggrieved by the Minister's decision may within fourteen days of such decision, make a further appeal to the High Court.

11. Professional staff

(1) A maritime service provider other than a shipping line shall have among its staff professionals qualified in accordance with paragraph (2).

- (2) A person shall be deemed to be professionally qualified, if such person—
 - (a) demonstrates competence in executing the tasks related to their area of maritime service; and
 - (b) has passed such professional examinations relevant to the maritime service as offered by a professional institution of national or international repute as the Authority may from time to time publish in the *Gazette*.

(3) A maritime service provider shall, within five years from the date of its first licensing under these Regulations, ensure that at least sixty per cent of its management staff have successfully sat and passed the professional examinations referred to in paragraph (2).

PART III – DISCIPLINE

12. Professional misconduct

- (1) It shall be professional misconduct for any maritime service provider—
 - (a) to fail to abide by a code of conduct set out by the recognized association;

- (b) to fail to apply a standard of competence set by the maritime providers association and approved by the Authority;
- (c) to fail to observe all laws and other regulations relevant to his duties;
- (d) to fail to exercise due diligence to guard against fraudulent and corrupt practices;
- (e) to engage in restrictive trade practices;
- (f) to fail to discharge his duties to his clients or customers with honesty, integrity and impartiality;
- (g) to fail to exercise due care when handling cargo on behalf of the customers or shippers;
- (h) to fail to exercise due care when handling monies on behalf of his principal;
- (i) to attempt to influence the conduct of any official of the port, customs or any other person in any matter pending before such official or person or his subordinates by the use of threat, false accusation, duress or the offer of any inducement or promise of advantage or by the bestowing of any gift or favour or other thing of value;
- (j) to attempt to bribe or provide other illegal benefits to influence the behaviour of port, container freight station, customs personnel or functions of customs officers;
- (k) to fail to observe any other professional conduct as may be prescribed by the Authority.

(2) The Authority may, where it deems appropriate, suspend the licence of any person charged with a criminal offence pending the outcome of the proceedings.

13. Changes in companies

(1) Whenever a company holding a licence undergoes any change in its directors, company name, location or its shareholding, such a change shall be communicated by the company to the Authority within fourteen days of such change:

Provided that any change in shareholding shall be subject to regulation 5(1).

(2) The provisions of this regulation shall not apply to a shipping line.

(3) A person who contravenes the provisions of this regulation commits an offence and shall be liable, on conviction, to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding three years, or both.

(1) A service level agreement for a maritime service provider under these Regulations shall contain the minimum standard terms specified in the Fourth Schedule.

(2) A service level agreement may, where necessary, in addition to the matters specified in paragraph (1), contain an undertaking as to the minimum facilities and equipment necessary for the delivery of maritime services in line with the service provider's operations.

15. Obligations of maritime service providers

(1) A maritime service provider shall—

- (a) provide its services in accordance with the relevant written laws and international standards pertaining to the maritime service;
- (b) observe business ethics and professional integrity;

- (c) inform the Authority in writing of any changes in the information provided in the application form, annexes thereto or authorization certificates within thirty days of the date of such change; and
- (d) have in place adequate liability insurance to cover all its professional liabilities.

(2) A person who contravenes the provisions of this regulation commits an offence and shall be liable on conviction to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding three years, or both.

16. Disciplinary proceedings

(1) Whenever the Authority—

- (a) is of the opinion that a marine service provider has committed a professional misconduct; or
- (b) receives a complaint or allegation that a marine service provider has committed an act of misconduct,
- (c) the Authority shall commence an inquiry by issuing a notice in writing to that maritime service provider.

(2) The notice issued by the Authority under paragraph (1) shall—

- (a) state the Authority's opinion, or the complaint or allegation of misconduct received, as the case may be; and
- (b) require the maritime service provider to submit, within such time not being longer than thirty days, as may be specified in the notice, a response in writing.

(3) Upon receipt of the written response, or where no such a response has been received, within the time limit set out under paragraph (2)(b), the Authority shall inquire into the grounds set out in its notice under paragraph (1) or such of the grounds not admitted, as the case may be.

(4) The Authority may, in the course of the inquiry, consider such documentary evidence and take such oral evidence as may be relevant or material to the inquiry, and may put any questions to any person tendering evidence for or against the maritime service provider.

(5) The maritime service provider shall be entitled to cross examine any person on the grounds forming the basis of the proceedings but where the Authority declines to examine any person on the ground that his or her evidence is irrelevant or immaterial, it shall record its reasons in writing.

(6) At the conclusion of the inquiry, the Authority shall prepare a report of its findings with appropriate orders.

(7) The Authority shall subject to paragraph (9) furnish the maritime service provider with a copy of its report and the maritime service provider shall within a period of not more than thirty days from the date of receipt of the report, submit, in writing, any representations which it may have against the findings.

(8) The Authority, in making the report under paragraph (6), may—

- (a) caution the maritime service provider; or
- (b) suspend the licence of the maritime service provider; or
- (c) revoke the licence of the maritime service provider; or
- (d) if there is a finding of an offence as provided in regulation 9(2), apply the sanctions provided thereunder.

(9) Where the maritime service provider is a clearing and forwarding agent, the Authority shall make such recommendations as may be appropriate to the Commissioner.

(10) The Authority may make any such order as to payment by any party of any costs or witness expenses and of the expenses of the Authority or the members thereof in connection with the hearing of any complaint as it may think fit.

(11) Any maritime service provider aggrieved by any decision or order of the Authority, may appeal to the Minister, with a further appeal to the High Court.

PART IV – MISCELLANEOUS PROVISIONS

17. Tariffs

(1) The Authority may require a maritime service provider to file with the Authority its tariffs showing the actual rates, charges and surcharges applied in providing all services rendered and the maritime service provider shall comply with such requirement within seven days of such requirement being made.

(2) A maritime service provider shall not amend the tariff as provided under paragraph (1) without notifying the Authority.

(3) No maritime service provider shall pad customs or other statutory fees charged to customers.

(4) Charges for services delivered locally shall be raised and paid for in Kenyan currency.

(5) Any person who contravenes the provisions of this regulation commits an offence and shall be liable on conviction to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding three years, or both.

18. Submission of information

(1) The Authority may require or order any maritime service provider to file with it any report, cargo manifest, freight manifest, answers to questions, documentary material or other information that the Authority finds appropriate; and may require the response to such order to be made in such form and within such time as may be specified by the Authority.

(2) A maritime service provider shall submit copies of annual returns to the Authority within one month after the deadline for the filling of the annual reports.

(3) A maritime service provider who fails to file a report or document when required to do so by the Authority under paragraph (1) or who contravenes paragraph (2) commits an offence and shall be liable on conviction to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding three years, or both.

19. Inspection of premises

(1) The Authority may inspect the premises of a maritime service provider for the purposes of promoting commitment to the advancement of excellence, professionalism as well as ethical standards of trade in all aspects of the business of the maritime service provider.

(2) Such visits shall focus on standards of customer care, complaints handling, supervision and management of the maritime service provider's facility.

(3) The maritime service provider shall allow free entry and exit to the premises of the maritime service provider and access to all records pertinent to the handling of cargo, ledgers, details of complaints received, copies of the maritime service provider's complaints procedure, terms of business, details of any risk management measures, contract documents and any other details which may be relevant for the visit.

(4) At the end of every visit, the Authority shall meet with the maritime service provider and summarize its findings.

(5) The Authority shall keep records of each visit undertaken under this regulation, which shall include the particulars, description and recommendations made after each visit.

(6) Where any recommendations are made under this regulation, the Authority may within such time and in such manner as it shall specify, require the maritime service provider concerned to implement or cause to be implemented the recommendations contained in the record of visit.

(7) The Authority may suspend a maritime service provider's licence for any failure to implement a requirement as contained in paragraph (6) above.

(8) Any person who—

- (a) obstructs or hinders the Authority in the exercise of its powers or performance of its duties under this regulation; or
- (b) furnishes information or makes a statement to the Authority which he or she knows to be false or misleading; or
- (c) without good and reasonable excuse fails to implement the recommendations made pursuant to this regulation,

commits an offence and shall be liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three years, or both.

20. Marine cargo movement mechanism

(1) The movement of cargo into any container freight station shall, subject to paragraph (2), be in accordance with the instructions of the shipper as contained in the bill of lading.

(2) The relevant port authority shall nominate the container freight station for movement of cargo where the bill of lading does not contain the instructions of the shipper.

(3) The nomination under paragraph (2) shall have due regard to an equitable, transparent and fair distribution of cargo, and the port authority shall, before making the nomination, take steps to ensure that the receiving container freight station has the capacity to receive the cargo having regard to space, personnel and equipment.

(4) Any person who contravenes this regulation commits an offence and is liable, on conviction, to a fine not exceeding five million shillings and shall in addition be liable to the affected cargo owners for all losses, fines, penalties, demurrage, storage charges or any other charges arising from such failure to comply.

21. Authority may impose penalty upon admission of guilt

If a maritime service provider—

- (a) admits to the Authority that he has contravened any provisions of these Regulations or the Act, or that he has failed to comply with any provision with which it was his duty to comply;
- (b) agrees to abide by the decision of the Authority; and
- (c) deposits with the Authority such sum as may be required of him, but not exceeding the maximum fine which may be imposed upon a conviction for the contravention or failure in question,

the Authority may, after such enquiry as it deems necessary, determine the matter upon such enquiry and may, without legal proceedings, order by way of a penalty the whole or any part of the said deposit to be forfeited.

22. Transitional provisions

(1) Any action or thing done in respect of licensing of a maritime service provider immediately before the coming into force of these Regulations, shall be deemed to have been done under the corresponding provisions of these Regulations.

(2) Every person who immediately before the commencement of these Regulations, was a holder of a licence authorizing him to carry on the business of a maritime service provider shall, upon payment of the prescribed licence fees, continue carrying on such business for a period of six months from the date of commencement of these Regulations.

(3) The maritime service provider referred to in paragraph (2) may, any time within six months from the date of commencement of these Regulations, apply for, and upon satisfying the requirements of regulation 5 be entitled to the grant of a licence under these Regulations.

(4) Any person carrying on the business of a maritime service provider pursuant to paragraph (1) who elects not to apply for a licence or having applied for a licence has not satisfied the requirements of regulation 5 shall cease to carry on the business of a maritime service provider on the expiration of the period referred to in paragraph (2).

FIRST SCHEDULE

[Regulation 2(1)(a).]

MARITIME SERVICE PROVIDERS AND THEIR SCOPE OF SERVICE

1. Ships agent services shall include—

- (a) all procedures relating to a vessel's entry and departure, pilotage and berthing;
- (b) the provision of port services through port operators, customs and other government agencies, firms or private individuals;
- (c) the procurement and processing of documents and activities required for the dispatch of cargo;
- (d) marine surveys, provision of ship stores, supplies, fresh water, cleaning of cargo holds, fumigation, supply of bunkers, ship repairs and other related services;
- (e) import and export shipments;
- (f) signing bills of lading, contracts of affreightment and issuing documents relevant to handling of cargo;
- (g) booking international sea passages and formalities for passenger's or tourist's embarkation or disembarkation;
- (h) attendance to marine casualties and arranging for salvage;
- (i) purchasing or forwarding ship's spare parts and stores;
- (j) collecting freight or charter hire where appropriate and all related financial matters;
- (k) customs and cargo documentation and forwarding of cargo;
- (l) procuring, processing the documentation and performing all activities required related to dispatch of cargo;
- (m) supply of services to a ship while in port; and
- (n) such other services as the Authority may from time to time specify.

2. Cargo consolidator services shall include—

- (a) the purchasing of transportation services from a carrier and offering such services for resale to other persons;
- (b) the paying of port-to-port or multimodal transportation charges;
- (c) entering into affreightment agreements with underlying shippers;
- (d) the issuing bills of lading or equivalent documents;
- (e) arranging for inland transportation and paying for inland freight charges on through transportation movements;
- (f) the paying of lawful compensation to ocean freight forwarders;
- (g) the leasing of containers; or
- (h) entering into arrangements with origin or destination agents.

3. Container freight station services shall include—

- (a) the storage of containerized and non-containerized cargo, empty containers, imported motor vehicles;
- (b) the stuffing and stripping of containers;
- (c) the loading and unloading of containers onto and off trailers;
- (d) the receiving and delivering of containers; and
- (e) any other operations relevant to the activities of a container freight station, as may be approved by the Authority.

4. Shipping line services shall include—

- (a) the offering of scheduled liner services for cargo carriage;
- (b) availing of containers for export of cargo;
- (c) the delivery of shipments to designated consignees, in as good condition as when received;
- (d) ensuring of the issuance of bills of lading to all cargo shipped on board his vessel;
- (e) offering of seaworthy and well manned vessel at any given time of ship's voyage.

5. Empty container depot services shall include the—

- (a) receipt and temporary storage of empty containers;
- (b) issuance and delivery of empty containers;
- (c) inspection of returned containers' conditions;
- (d) estimation of container damage costs;
- (e) issuing of interchanges for containers received and issued; and
- (f) submission of daily reports of container movement to respective shipping lines through their agents.

6. Port facility operator services shall include—

- (a) vessel traffic service;
- (b) provision of pilotage;
- (c) provision of navigational aids along the coast of the Republic and within ports;
- (d) provision of tug boat services;

- (e) provision of berthing facilities;
- (f) stevedoring;
- (g) cargo handling;
- (h) terminal operations;
- (i) storage of cargo within a port;
- (j) tug services;
- (k) floating crane services;
- (l) berthing services;
- (m) fire fighting;
- (n) security;
- (o) radio and radar services;
- (p) waste disposal;
- (q) vessel repairs;
- (r) any other services provided within a port which are designated as such by the Authority by notice in the *Gazette*.

7. Clearing and forwarding agent services shall include—

- (a) receiving advance notification of shipments, or other documents to banks, shippers or consignees as required;
- (b) preparing and processing of import and export declarations;
- (c) clearance and handling of shipments in accordance with the Kenya government import and export regulations;
- (d) arranging for warehousing of the goods;
- (e) arranging dispatch of goods as per the directions of the customer; and
- (f) handling freight and other monies advanced by customers for purposes of clearance of the shipments.

SECOND SCHEDULE

[Regulation 6(1).]

APPLICATION FOR A LICENCE AS A MARITIME SERVICE PROVIDER

- 1. Maritime service for which license is sought
- 2. Name of applicant
- 3. Postal address
- 4. Email address
- 5. Registration under Companies Act
Company Registration No.
Date
- 6. Physical Address
Street: Plot No.: Building:
Telephone No. Telex No. Fax No.
- 7. Particulars of foreign shareholding
- 8. Paid-up capital

SECOND SCHEDULE—continued

9. What business other than that of a maritime service provider is carried on by the applicant?
10. Particulars of directors and shareholders
- Full Names
- Designation/Position
- Nationality
- Postal address
- Academic qualifications
- Professional qualifications
- Years of experience
11. Particulars of previous registration
- Registration No. Year
12. Has applicant or any of the applicant's partners, officers, directors, or shareholders ever—
- (a) been found in violation of any provisions of the Merchant Shipping Act?
 Yes No or paid penalty in settlement for such violation?
 Yes No
- (b) filed or been involved in a bankruptcy proceeding, other than as a claimant, been declared bankrupt, been subjected to a tax lien, or had legal judgment rendered for a debt?
 Yes..... No
- (c) been arrested, charged, convicted of, or forfeited collateral for any felony, misdemeanour or other violation?
 Yes No
- If the answer is 'yes' give details including the number and type of offence(s) committed, place and date of offence(s), outcome(s) and (where appropriate) name of the convicting court(s)
13. Please provide full details of the regular shipping service's activities (including ports concerned, names of vessels assigned to the service, volume of traffic, shipping line's timetable, turnaround time of vessels, etc.).
- Declaration and undertaking
- (a) I declare that to the best of my knowledge and belief the information I have provided in this application form and the attached is accurate and any accompanying documents are authentic.
- (b) I undertake that the registration issued will be carried on board the vessel and presented on request to the competent customs authorities.
- (c) I undertake to notify the Authority of any changes in the shareholding and location of business premises.
- Name in full:
- Position/Designation:
- Signature: Date:

Stamp or Seal

The following must accompany the Application Form—

The application for registration should be accompanied by certified copies of the following documents for locally incorporated companies—

- (a) Certificate of Incorporation;
- (b) Tax Compliance Certificate issued by the Kenya Revenue Authority,
- Provided that this requirement shall not apply to a company incorporated within a period of less than twelve months preceding the date of lodging an application for a license under this Regulation;

SECOND SCHEDULE—continued

- (c) a company profile;
- (d) copies of the Memorandum and Articles of Association;
- (e) copies of Personal Identification Number certificate of the company and directors;
- (f) copies of Identity card or passport of all directors;
- (g) recent passport photographs of all the directors duly certified by a notary public;
- (h) agency agreement submitted in confidence between the agency and principal;
- (i) proof of office premises and communication facilities;
- (j) proposed tariff;
- (k) proof of a liability insurance cover.

THIRD SCHEDULE

[Regulation 6(4)(a).]

LICENCE TO PRACTISE AS ARITIME SERVICE
PROVIDER KENYA MARITIME AUTHORITY

ANNUAL LICENCE TO PRACTICE AS A MARITIME SERVICE PROVIDER

.....
.....

(Name and Address)

is hereby licensed to practice as (specify category of
maritime service provider) in accordance with the Merchant Shipping Act, 2009.

Name of Premises

Plot No. Road Town

Given at on the day of of the
year 20

(Director-General, Kenya Maritime Authority)

This license expires on the 31st December, 20.....

(See overleaf for conditions)

FOURTH SCHEDULE

[Regulation 14(1).]

MINIMUM TERMS FOR SERVICE LEVEL AGREEMENTS

1. Ships Agents—

- (a) submission of manifest or bay plan to Kenya Ports Authority and other statutory bodies with minimum delay and within the time stipulated in any relevant law for the time being in force;
- (b) registration of manifest with Kenya Revenue Authority within the time required by the relevant local law;

- (c) processing of container deposit refunds and other related charges;
- (d) key performance indicators;
- (e) issuance of cargo release documents for importers and/ or shipping orders to exporters; or
- (f) such other standards as may be set by the Authority with the aim of securing the fastest release of cargo.

2. Shipping Lines—

- (a) period for transmission of manifests to local agents;
- (b) treatment of ship related delays such as waiting for export cargo at ship's request, changing crew, bunkering, documentation problems or others, if they impact on cargo operations;
- (c) key performance indicators;
- (d) any other activity as may be notified from time to time.

3. Container Freight Stations—

- (a) period for transfer of container from the port to the container freight stations;
- (b) key performance indicators;
- (c) period for release of cargo from the container freight station to the consignee; and
- (d) any other activity as may be notified from time to time.

4. Empty Container Depots—

- (a) period of receiving container to the depot from shippers;
- (b) period for release of empty container to shippers;
- (c) period of repatriation of empty containers to shipping lines;
- (d) key performance indicators;
- (e) any other activity as may be notified from time to time.

5. Clearing and Forwarding Agents—

- (a) preparation and lodging of entries for cargo clearance;
- (b) releasing of cargo from the shipping lines;
- (c) processing of port clearance documents;
- (d) key performance indicators;
- (e) other activities as may be prescribed.

6. Port Service Operators—

An undertaking on the following key performance indicators—

- (a) ship turn-round time;
- (b) ship waiting time;
- (c) berth occupancy rate;
- (d) import dwell time;
- (e) gang productivity;
- (f) ship productivity;
- (g) moves per crane-hour;

- (h) terminal throughput (teus and dwt);
- (i) other activities as may be prescribed.

7. Cargo Consolidators—

- (a) submission of house manifest to Kenya Revenue Authority and other statutory bodies;
 - (b) registration of house manifest with Kenya Revenue Authority;
 - (c) submission of C11 to Kenya Revenue Authority and Kenya Ports Authority;
 - (d) issuance of arrival notices and house bill of lading;
 - (e) stuffing and de-stuffing of shipments;
 - (f) booking of cargo;
 - (g) key performance indicators;
 - (h) other activities as may be prescribed.
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