

31st May, 2012

LEGAL NOTICE NO. 48

THE MERCHANT SHIPPING ACT, 2009
(No. 4 of 2009)

THE MERCHANT SHIPPING (LICENSING OF VESSELS) REGULATIONS, 2012

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THE MERCHANT SHIPPING ACT, 2009

IN EXERCISE of the powers conferred by sections 57 and 59 read with section 450 of the Merchant Shipping Act, 2009, the Minister for Transport makes the following Regulations:—

THE MERCHANT SHIPPING (LICENSING OF VESSELS) REGULATIONS 2012

Title.

1. These regulations may be cited as the Merchant Shipping (Licensing of Vessels) Regulations, 2012.

Interpretation.

2. (1) In these regulations, unless the context otherwise requires—

“Act” means the Merchant Shipping Act, 2009;

“proper officer” means a person authorised by the Registrar, and is for that purpose properly identified by and given identification card issued by the Authority;

“Registrar” means the Director-General of the Authority.

Application for licence.

3. (1) An application for a licence under section 57 of the Act or for the renewal of a licence shall be in accordance with Form 1 in the Schedule.

(2) An applicant for a licence under sub-regulation (1) above shall provide evidence that the applicant is the owner, or is authorized by the owner, of the vessel.

Form of licence.

4. A licence shall, where it does not form part of the relevant local safety certificate—

(a) be in accordance with Form 2 set out in the Schedule, and

(b) be endorsed on the local safety certificate of the vessel in respect of which it is issued.

Conditions of licence.

5. A licence issued under these regulations shall cease to be valid when the local safety certificate on which it is endorsed ceases to be valid.

Marking of vessels.

6. The owner of a vessel or the owner's representative shall ensure that the official number assigned to the vessel by the proper officer and the name of the vessel (if any) are inscribed and continued, in the manner directed by the proper officer, on such features of the vessel as the proper officer may direct.

Change of ownership of vessel.

7. (1) If during the period of validity of a licence issued under these regulations there is a change of ownership of the vessel to which that licence applies, the new owner of the vessel shall notify the proper officer accordingly in writing, as provided in section 58 (3) of the Act.

(2) Notification under sub-regulation (1) shall be dated and signed by the new owner of the vessel; or

(3) the owner's representative and shall specify—

(a) the official number, name and designation of the vessel;

(b) the full name and address of the previous owner;

(c) the full name and address of the new owner; and

(d) the date on which the change occurred.

(4) Where the owner of a licenced vessel or the owner's representative fails to comply with sub-regulation (1) the licence of the vessel shall be deemed to have been cancelled.

(5) The new owner or the owner's representative shall apply for a license in accordance with regulation 3 within seven (7) days of the notification of the change of ownership, or within such other time as may be allowed by the Director-General, and the new owner shall at the same time forward the applicable local safety certificate to the proper officer for issuance of new licence.

(6) The proper officer is to return the local safety certificate in respect of the vessel duly endorsed to the new owner of the vessel.

Change of name, designation or operation of vessel.

8. (1) If during the period of validity of a licence under these regulations there is a change in the name, designation or operation of the vessel to which that licence applies, the owner of the vessel shall notify the change, in accordance with sub-regulation (2), to the nearest proper officer within a period of seven (7) days or such longer period as may be allowed by the Director-General after the date on which the change occurred.

(2) Notification under sub-regulation (1) shall be dated and signed by the owner of the vessel and shall specify-

(a) the official number of the vessel;

(b) the previous name, designation or operation of the vessel;

(c) the new name, designation or operation of the vessel;

(d) the full name and address of the owner of the vessel; and

(e) the date on which the change occurred.

(3) Where there is a change of name, the owner shall at the time of notification forward the applicable local safety certificate to the proper officer for endorsement of the change.

(4) Where there is a change of designation or operation of a vessel, the owner shall apply for a license in accordance with regulation 3 within seven (7) days of notification of the change or within such other time as may be allowed by the Director-General, and the owner shall at the same time forward the appropriate local safety certificate to the proper officer for issuance of new licence.

Permanent relocation of a vessel, etc.

9. (1) If during the period of validity of a licence issued under these regulations, a vessel to which that licence relates—

(a) is permanently relocated from one port to another; or

(b) for any reason, ceases to be a vessel to which section 57 of the Act applies, the owner of the vessel shall report the relocation or the event contemplated in paragraph (b), as the case may be, in accordance with sub-regulation (2) to the nearest proper officer within a period of seven

(7) days from the date on which the relocation or event occurred.

(2) A report under sub-regulation (1) shall be dated and signed by the owner of the vessel and shall specify the official number, name and designation of the vessel and—

(a) in the case of a vessel which has been permanently relocated from one port to another—

(i) the previous home port of the vessel;

(ii) the new home port of the vessel; and

(iii) the date on which the relocation occurred; or

(b) in the case of a vessel which, for any reason, has ceased to be a vessel to which section 57 of the Act applies—

(i) the home port of the vessel;

(ii) the date on which the cessation occurred; and

(iii) the reason for the cessation.

Regulations on small vessel safety.

10. For matters contemplated under section 59 (a) to (h) of the Act, the provisions of the regulations relating to the safety of small vessels shall apply to the extent that the provisions of those Regulations cover those matters.

Offences and penalties.

11. A person who contravenes, or fails or refuses to comply with, regulations 6, 7(1), 8 (1) or 9 (1) commits an offence and shall be liable on conviction to a fine not exceeding three hundred thousand shillings, or to imprisonment for a period not exceeding six months, or to both.

Director General may impose penalty upon admission of guilt.

12. (1) If any person—

(a) admits to the Director-General that that person has contravened any provision of the Act or these Regulations, or that has failed to comply with any such provision with which it was his/her duty to comply;

(b) agrees to abide by the decision of the Director-General; and

(c) deposits with the Director-General such sum as may be required of not exceeding the maximum fine which may be imposed upon conviction for the contravention or failure in question, the Director-General may, after such enquiry as the Director-General deems necessary, determine the matter summarily and may, without legal proceedings, order by way of a penalty the whole or part of the said deposit to be forfeited.

(2) The imposition of a penalty under sub-regulation (1) shall not be deemed to be a conviction of a criminal offence, but no prosecution for the relative offence shall thereafter be competent.

(3) Nothing in this regulation shall in any way affect liability to forfeiture of vessels, shares therein or goods.

Licences issued before commencement of regulations.

13. A licence issued under section 57 of the Act before the commencement of these regulations shall be deemed to have been issued under these Regulations, and, subject to the terms and conditions of its issue, is valid for the period

for which it was issued.

Applications made before commencement of Regulations

14. An application for a licence under section 57 of the Act or for the renewal of a licence under the Act, being an application made, but not finally dealt with, before the commencement of these regulations, shall be deemed to have been made under these regulations.

SCHEDULE (R.3)

FORM 1

REPUBLIC OF KENYA

KENYA MARITIME AUTHORITY

MERCHANT SHIPPING ACT

APPLICATION FOR LICENCE

(Section 57 and 58)

I hereby apply for a licence for the vessel the particulars of which are furnished in this form.

I declare that the particulars as furnished hereunder are true and correct to the best of my knowledge and belief, true and correct:

PARTICULARS

(a) Name of Applicant.....

(b) Name of Vessel

(c) Full names and address of owner of vessel

(d) Particulars of the Vessel:

Official No. Year of Registry.....

Port of Registry..... Year Built

Length Breadth..... Depth

(e) Full Name and address of ship builder

(f) Expiry date of previous Licence (if any).....

(g) Intended Operational area of the vessel

Signature of Applicant..... Date.....

Before Me: Commissioner for Oaths/Notary Public)

) Signature of Applicant (in case of an individual)

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) Company Seal and Signature of two directors or

) a director and the Company Secretary (in case of a
) company) FOR OFFICIAL USE ONLY
Entry in Register made on
...../...../..... (DD/MM/YYYY)
At..... (time)
Issuing Officer (print name).....

FORM 2 (r.4)

REPUBLIC OF KENYA
KENYA MARITIME AUTHORITY
MERCHANT SHIPPING ACT, 2009
VESSEL LICENCE

ISSUED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 57 OF THE
MERCHANT SHIPPING ACT, NO.4 OF 2009

Name of Vessel
Owner
Owner's Address.....
Length.....Breadth.....Depth.....Girth.....
Type
Engine.....HP.....
Trade.....
Maximum Number of Persons
Tonnage
Fee Paid Date.....
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Registrar of Ships and Seafarers

Dated the 21st May, 2012.

AMOS KIMUNYA,
Minister for Transport.