

**KENYA MARITIME AUTHORITY ORDER, 2004**

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**KENYA MARITIME AUTHORITY ORDER, 2004**

[L.N. 79/2004.]

**1. Citation**

This Order may be cited as the Kenya Maritime Authority Order, 2004.

**2. Establishment of the Authority**

There is established a State Corporation to be known as the Kenya Maritime Authority (hereinafter called "the Authority") which shall be a body corporate in accordance with section 3 of the Act and which shall perform and exercise the duties, functions and powers specified in the Act and in this Order.

**3. Constitution of the Authority**

(1) There shall be a Board of Directors of the Authority which shall be the governing body of the Authority consisting of—

- (a) a chairman appointed by the President;
- (b) the Director-General of the Authority;
- (c) the following persons or their representatives—
  - (i) the Permanent Secretary in the Ministry for the time being responsible for matters relating to maritime transport;
  - (ii) the Permanent Secretary in the Ministry for the time being responsible for matters relating to finance; and
  - (iii) the Attorney-General;
- (d) six other persons with knowledge and experience in matters relating to the regulation of the shipping industry, pilotage service, maritime security, seafarers welfare, ports and harbours, appointed by the Minister.

(2) The Chairman and the Members of the Authority appointed under subparagraph (1) (d) shall hold office for a term of three years but shall be eligible for re-appointment.

(3) If a member of the Board appointed under subparagraph (1)(d)—

- (a) dies;
- (b) resigns;
- (c) gets his appointment revoked; or
- (d) ceases to be a member of the Board for any other reason other than the above,

the Minister may appoint another person to take the place of that member and the person so appointed shall hold office until the expiration of the term of office of the member in whose place he has been appointed.

(4) The Chairman shall notify the Minister as soon as a vacancy occurs in the membership of the Board, and the Minister shall appoint a member to fill such vacancy within one month of receiving the notice.

**4. Director-General**

(1) There shall be a Director-General of the Authority who shall be appointed by the Minister, from a list of persons, recommended by the Board of the Authority.

(2) No person shall be appointed under paragraph (1) unless, such person is a holder of at least a degree from a recognized university or its equivalent and has at least ten (10) years working experience in a relevant field, which in the opinion of the Board and that of the Minister, is sufficient to enable the person so appointed to carry out his or her duties as the Director-General.

(3) The Director-General shall hold office on such terms and conditions as shall be specified in the instrument of appointment.

(4) The Director-General shall be the chief executive of the Authority.

#### **5. Staff of the Authority**

The Authority may employ such staff or agents as it deems necessary for the discharge of its functions and duties under this Order upon such terms and conditions as it may determine.

#### **6. Corporation Secretary**

(1) There shall be a Corporation Secretary who shall be appointed by the Authority on such terms and conditions as the Authority may determine and who shall perform such duties as the Authority may, from time to time, assign.

(2) In the performance of his or her duties under this Order, the Corporation Secretary shall be responsible to the Director-General.

#### **7. Principal objects of Authority**

The principal objects of the Authority are to regulate, co-ordinate and oversee maritime affairs.

#### **8. Function of the Authority**

(1) The functions of the Authority are to carry out such activities as may be necessary to give effect to the objects specified in paragraph 7, and without prejudice to the generality of the foregoing the Authority shall have the power to—

- (a) co-ordinate the implementation of policies relating to maritime affairs and promote the integration of such policies into the national development projects;
- (b) advise the Government on legislative and other measures necessary for the implementation of relevant international conventions, treaties and agreements to which Kenya is a party;
- (c) undertake and co-ordinate research, investigation and surveys in the maritime field;
- (d) discharge flag State and port State responsibilities in an efficient and effective manner having regard to international maritime conventions, treaties, agreements and other international instruments;
- (e) develop, co-ordinate and manage a national oil spill contingency plan for both coastal and inland waters and shall in the discharge of this responsibility be designated as the “competent oil spill authority”;
- (f) maintain and administer a ship register;
- (g) deal with matters pertaining to maritime search and rescue and co-ordinate the activities of the Kenya Ports Authority, the Kenya Navy and any other body engaged during search and rescue operations;
- (h) enforce safety of shipping including compliance with construction regulations, maintenance of safety standards and safety navigation rules;

- (i) conduct regular inspection of ships to ensure maritime safety and prevention of maritime pollution;
- (j) oversee matters pertaining to the training, recruitment and welfare of Kenya seafarers;
- (k) plan, monitor and evaluate training programmes to ensure conformity with standards laid down in international maritime conventions;
- (l) conduct investigations into maritime casualties including wreck;
- (m) undertake enquiries with respect to charges of incompetence and misconduct on the part of the seafarers;
- (n) ensure in collaboration with such other public agencies and institutions, the prevention of marine source pollution, protection of the marine environment and response to marine environment incidents;
- (o) regulate activities with regard to shipping in the inland waterways including safety of navigation; and
- (p) perform such other functions as the Minister may, from time to time, assign to the Authority.

(2) For the purpose of the performance of its functions under this Order, the Authority may do anything and enter into any transactions which, in the opinion of the Authority is necessary or incidental to its functions, and in particular and without prejudice to the generality of the foregoing, the Authority may impose fees or charges as may be prescribed by the Minister from time to time for the use of any service provided by the Authority.

#### **9. Powers of the Authority**

The Authority shall—

- (a) have all powers necessary for the proper performance of its functions under this Order;
- (b) administer its assets and funds in such manner and for such purpose as shall promote the best interests of the Authority in accordance with the Order;
- (c) have power to receive gifts, donations, grants or other moneys and equipment and make legitimate disbursements therefrom; and
- (d) have power to enter into association with such other persons, bodies or organizations within or outside Kenya as the Authority may consider desirable and appropriate and in furtherance of the purposes for which the Authority is established.

#### **10. Authority to establish and control Fund**

(1) The Authority shall establish a Maritime Administration Fund (hereinafter called “the Fund”) into which all moneys received by the Authority shall be paid and out of which all payments made by the Authority shall be made.

(2) The Authority shall—

- (a) supervise and control the administration of the Fund;
- (b) open a banking account or banking accounts for the Fund;
- (c) invest any surplus funds in the manner approved by the Authority; and
- (d) if it deems fit, impose conditions as to any expenditure authorized by it or on its behalf, and such conditions may impose any reasonable prohibition, restrictions, suspension or requirements concerning such use or expenditure.

**11. Protection from personal liability**

No matter or any thing done by the chairman or any other member of the Authority or any officer, employee or agent of the Authority shall, if the matter or thing is done *bona fide* for the purpose of executing any provisions of this Order, render the chairman, member, officer, employee or agent or any person acting under the directions of those persons, personally liable to any action, claim or demand whatsoever.

**12. Liability for damages**

The provisions of this Order shall not relieve the Authority of the liability to pay compensation or damages to any person for any injury to him or his property or any of his interests caused by the exercise of any power conferred by this Order or by the failure, whether wholly or partially, of any action.

**13. Delegation by the Authority**

The Authority may, by resolution, either generally or in any particular case, delegate to a committee of the Authority or to any member, officer, employee or agent of the Authority the exercise of any of the powers or the performance of any of the functions or duties the Authority is authorized by this Order to exercise or perform.

**14. Finance**

In addition to any gifts, grants, donations, fees or other moneys which the Authority may receive, there shall be paid to the Authority by way of grants in every financial year, out of money appropriated by Parliament for the purpose of carrying out the functions of the Authority, such sum as the Minister may determine as being necessary to enable the Authority to carry out its functions, having regard to the estimate for the year approved under section 11 of the Act.

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