

THE MARITIME TRANSPORT ACT, NO.5 OF 2006

STOWAWAY REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATIONS

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THE MARITIME TRANSPORT ACT, NO.5 OF 2006

STOWAWAY REGULATIONS
[Made under section 386(2)]

IN EXERCISE of the powers conferred upon me under section 386(2) of the Maritime Transport Act, No. 5 of 2006, **I, DR. SIRA UBWA MAMBOYA**, Minister responsible for Maritime Transport Affairs, do hereby make the Stowaway Regulations as follows:

PART ONE
PRELIMINARY PROVISIONS

Short Title and commencement **1.** These Regulations **may** be cited as Stowaway Regulations of 2018 and shall come into operation after being signed by the Minister and published in Official Gazette.

Interpretation. **2.** In these Regulations, unless the context requires otherwise:

“Act” means the Maritime Transport Act, No. 5 of 2006;

“attempted stowaway” means a person who is secreted on a ship, or in cargo which is subsequently loaded on the ship, without the consent of the ship owner or the master or any other responsible person, and who is detected on board the ship before it has departed from the port;

“Government” means the Revolutionary Government of Zanzibar;

“Minister” means the Minister responsible for maritime transport affairs in Zanzibar;

“port” means any port, terminal, offshore terminal, ship and repair yard or roadstead which is normally used for the loading, unloading, repair and anchoring of ships, or any other place at which a ship can call;

“public authority” means any government body responsible for application and enforcement of the Act and these Regulations;

“Registrar of Ships” has the same meaning as stipulated in the Act;

“security measures” means any precaution effort made by the government or any measure developed and implemented in accordance with international agreements to improve security on board ships, in port areas, facilities and of goods moving in the international supply chain to detect and prevent unlawful acts includes stowaway incident;

“ship owner” means a person who owns or operates a ship or a person acting on behalf of the owner or operator on the ship;

“stowaway” means a person who is secreted on a ship, or in cargo which is subsequently loaded on the ship, without the consent of the ship owner or the master or any other responsible person and who is detected on board the ship after it has departed from a port, or in the cargo while unloading it in the port of arrival, and is reported as a stowaway by the master to the relevant authority.

Application

3. These Regulations shall apply to Tanzania Zanzibar ships or all other ships while in any port in Zanzibar or any other port out of Zanzibar territorial sea.

Purpose of Regulations

4. The purpose of these Regulations is to take all reasonable precautions to prevent stowaways gaining access to vessels and in case of stowaway’s incident occurred shall be treated with regard to humanitarian guidelines.

**PART TWO
PREVENTIVE MEASURES AGAINST STOWAWAY
INCIDENT**

Prohibition on stowaway incident

5.-(1) For the purpose of these Regulations, stowaway’s incident is prohibited.

(2) The master or agent of any ship shall take all reasonable measures to avoid any situations where stowaways stay on board ships indefinitely.

(3) Any person who attempt to be secreted on a ship, or in cargo which is subsequently loaded on the ship, without the consent of the ship owner or the master or any other responsible person, and who is detected on board the ship before it has departed from the port or help stowaway on board, commits an offence.

Preventive
measures
against
stowaways

6.-(1) The Registrar of **Ships** in collaboration with port authority shall arrange security plan for the purpose of preventing persons attempting to stowaway on board ships from gaining access to port installations and to ships.

(2) Without prejudice sub regulation (1) of this regulation, the Registrar of ship shall ensure a regular patrolling of port areas includes warehouses and cargo storage is conducted before any ship embarks from the port.

Role of master

7.-(1) The master shall keep an adequate security arrangement on his vessel in order to prevent stowaways from getting aboard the ship and detect them before the ship leaves port or arrives at the next port of call.

(2) Where the master seems there is risk of stowaway embarkation is obliged to:

- (a) lock doors, hatches, store and any means of access which are not used during the ship's stay in port;
- (b) keep security in all access points to the ship and seaward areas;
- (c) watch deck clearly;
- (d) maintain means of communication effectively;
- (e) light inside and along the hull at night; and
- (f) take any reasonable measure which he seems necessary for preventing stowaway incident on his ship.

fumigation

8. The master shall not permit or cause to be permitted fumigation to take place on his ship or sealing to carry out until a thorough search of the areas to be fumigated or sealed has taken place in order to ensure that stowaways are not present in those areas.

Found
stowaway on
ship

9.-(1) Where the master of the ship which finds any stowaways on board shall be responsible to make every effort for:

- (a) determining immediately the port of embarkation of the stowaway;

- (b) establishing the identity, including the nationality, citizenship and the right of residence of the stowaway;
- (c) providing security, general health, welfare and safety of the stowaway until disembarkation, including accommodation, proper medical attention and sanitary facilities; and
- (d) ensuring such stowaway is presented to the appropriate authorities at the next port of call.

(2) Subject to the provisions of this regulation, the master shall notify the Registrar of ship and any relevant authority details information on stowaway incident occurred in his ship.

(3) When a stowaway declares himself to be a refugee, this information shall be treated as confidential to the extent necessary for the security of the stowaway.

(4) The Registrar of ship, upon receiving such stowaway's information may order ship owner to cover any applicable costs relating to the removal, detention, care and disembarkation of the stowaway in accordance with the legislation of the States which may be involved.

PART THREE
TREATMENT AND REMOVAL OF STOWAYS ON
BOARD SHIP

Stowaway on
board

10.-(1) The stowaway shall be kept on board in safe custody under the supervision and control of the master.

(2) Where after sailing a ship the master or any person responsible on ship discover a stowaway on board, the all information in relation to stowaway incident and personal detail of such stowaway shall be entered in the official log book includes:

- (a) full names of stowaway;
- (b) date and place of birth;
- (c) name of town or village in a country of origin;
- (d) nationality and citizenship;
- (e) nature of any identification documents, if any;
- (f) last address before stowing away;

- (g) name of next-of-kin and last known address; and
- (h) reasons thereof of stowaway.

Fairly
treatment

11.-(1) The stowaway shall be treated fairly and humanely whilst on board and his human rights must be respected by the master and the crew at all times of the ship.

(2) Withstand the provisions of sub regulation(1) of this regulation, fairly and humane treatment may include:

- (a) checks on a stowaway's physical and mental health;
- (b) provision of suitable food and lodging; or
- (c) avoidance of actions or behavior that might intimidate.

Emergency
training to
stowaway

12.-(1) The master shall provide or cause to be provided a basic training to a stowaway in case of emergency such as fire or abandon ship.

(2) The master shall ensure the stowaway has got a lifejacket and has been allocated an emergency roster in case of abandon ship.

(3) For the purpose of this regulation, the master or any person responsible on ship shall not allowed to force a stowaway to work by any means and if he wishes to work the basic training is given to a stowaway on accident prevention and his remuneration and liability shall be resolved.

Compliance
with
international
instruments

13. The Registrar of ships shall ensure a master, crew, ship owner or any person responsible on ship shall comply with the United National Declaration on Human Rights and Safety to Life at Sea Convention whilst dealing with stowaway incident.

Condition for
removal of
stowaway

14. The master and ship owner in collaboration with respective authority, before commencement of stowaway removal on his ship shall take into consideration the following conditions not limited to:

- (a) ensure the stowaway has valid and recognized travel document which facilitate to travel;
- (b) provide a security bond for issuance of special pass to repatriate stowaway;
- (c) take full responsibility for all costs for the repatriation and maintenance of the stowaway;

- (d) proof of satisfactory transport and security escort arrangement for the stowaway throughout the duration of the transit;
- (e) engage authorized security staff to escort the stowaway throughout the repatriation process until he reaches the home country;
- (f) confirm air ticket to the intended stowaway destination to be provided thereof;

(2) Without prejudice sub regulation (1) of this regulation where the removal of stowaway is unsuccessful, the master and ship owner shall arrange to transfer the stowaway back to its vessel within seven working days and the Registrar of ships may call on the security bond to the ship owner to effect stowaway removal.

Stowaway
escapes

15.-(1) Where the stowaway escapes from the custody of the master or any person responsible on ship, the Registrar of ship shall call on the security bond the sum is ten thousand dollars or equivalent to shillings per stowaway subject to variation depending on the risk level.

(2) The Registrar of ships shall not execute the provisions under sub regulation (1) of this regulation, if he satisfied that escaping of stowaways does not result to the fault of the master or ship owner.

(3) The Registrar of ships shall reserve the right not to allow the repatriation of stowaway to a national that have been known to create trouble while being repatriated or his human rights will be jeopardizes.

Stowaway
notification

16.-(1) Where the master or ship owner confirm the removal of stowaway has been undertaken successful shall notify in writing the Registrar of ship by filling a Stowaway's check list as provided under the Schedule to these Regulations.

(2) The Registrar of ship, upon receiving such notification made under sub regulation (1) of this regulation, shall forward such notification accompany with his observations to the International Maritime Organization.

thousand dollars in shillings.

Obstruction of Registrar **23.** Any person denies access to or obstructs the Registrar of ships to inspect any vessel which he has believed to carry stowaway commits an offence and upon conviction shall be liable to a fine not less than the equivalent of five thousand dollars in shillings or imprisonment for a term not less than three months.

Delaying to notify Registrar **24.** A master or ship owner who delays to notify the Registrar of ship the information in relation to stowaways incident occurred in his ship commits an offence and upon conviction shall be liable to a fine of not less than the equivalent of five thousand dollars in shillings or imprisonment for a term not less than three months.

Offence in relation to false statement **25.** Any person who makes or causes to be made any false statement or information used for the purpose of compliance with these Regulations, or fail or refuse to answer any question put to him by the relevant authority or Registrar of ship exercising his functions under the Act or these Regulations commits an offence and upon conviction shall be liable to a fine of not less than the equivalent of five thousand dollars in shillings or imprisonment for a term not less than six months.

PART FIVE GENERAL PROVISIONS

Detention of a stowaway **26.** The detention of a stowaway shall not be deemed illegal, if for no longer period than is reasonably necessary for the purpose of handing such person over to the Police or lawful custody.

Issuance of checklist **27.** The Registrar of ships shall provide stowaway check list to all ships which provisions of the Act or these Regulations apply.

Confine of stowaway **28.**-(1) The Master shall confine the stowaway in a lockable room to prevent escape, taking into consideration the followings factors:

- (a) the stowaway shall not be confined in a hospital or dispensary;
- (b) the room, window for confinement shall be locked; and
- (c) the security and health of the stowaways shall be considered.

Watch system on stowaway **29.**-(1) The master shall organize twenty four hours periodical watch system whilst stowaway is confined.

(2) Where the stowaway is taken outside the confinement room for exercise or otherwise humanitarian issues, the master shall call his crew to escort such stowaways at all time, if necessary to do so.

Search on
stowaway

30. For the purpose of discharge duty provided under these Regulations, the master shall conduct re-search in order to find other stowaways as the case may be, especially in vicinity areas where the stowaway was found.

Powers of the
Registrar

31. Without prejudice the powers given under the Act, the Registrar of ship may without warrant shall have powers to:

- (a) require to any person the information of stowaway;
- (b) stop and inspect any ship or a ship in the area within the Zanzibar waters which he is believed that such ship contravenes the provisions of these Regulations; or
- (c) enter and search any premises which is used as dwelling place which he is believed that stowaways are kept.

Compounding
of offences

32.-(1) Notwithstanding any other law, where a ship or master violates any provision of these Regulations, the Registrar of Ships may serve on that ship or master a notice in the specified form, calling upon such ship or master to pay in respect of the offence, the amount of fines so specified with the offence alleged to have been committed.

(2) The notice under sub regulation (1) of this regulation, shall specify:

- (a) name and registration number of the ship;
- (b) the offence alleged to have been committed;
- (c) place and time upon which the offence has occurred;
- (d) actual amount of fine so specified for that offence;
- (e) time and manner in which the fine should be paid; and
- (f) any other particular or information relating to that offence when the Registrar of Ship may think necessary.

(3) The ship or master served with a notice under sub regulation (1) of this regulation shall, within seven days from the date in which the notice has been delivered to him, pay the amount of fine to the Authority.

(4) Where a ship or master has been served with a notice under sub regulation (1) of this regulation, fails to pay such a fine within the time limit specified in the notice, the Authority shall proceed with criminal action against such a ship or master.

(5) When the ship or master pay the amount of fine so specified in the notice, no further criminal actions relating to the same offence shall be taken against the ship or master.

SCHEDULE

APPENDIX

FORM OF STOWAWAY DETAILS REFERRED TO IN RECOMMENDED PRACTICE 4.6.2 OF THE CONVENTION ON FACILITATION OF INTERNATIONAL MARITIME TRAFFIC 1965, AS AMENDED

SHIP DETAILS	<i>Date of birth:</i>
<i>Name of ship:</i>	<i>Place of birth:</i>
<i>IMO number:</i>	<i>Claimed nationality:</i>
<i>Flag:</i>	<i>Home address:</i>
<i>Company:</i>	<i>Country of domicile:</i>
<i>Company address:</i>	<i>ID-document type, e.g. Passport No.:</i>
<i>Agent in next port:</i>	<i>ID Card No. or Seaman's Book No.:</i>
<i>Agent address:</i>	<i>If yes, When issued:</i>
<i>IRCS:</i>	<i>Where issued:</i>
<i>INMARSAT number:</i>	<i>Date of expiry:</i>
<i>Port of registry:</i>	<i>Issued by:</i>
<i>Name of Master:</i>	<i>Photograph of the stowaway:</i>
STOWAWAY DETAILS <i>Date/time found on board:</i> <i>Place of boarding:</i> <i>Country of boarding:</i> <i>Date/time of boarding:</i> <i>Intended final destination:</i> <i>Stated reasons for boarding the ship:</i> <i>Surname:</i>	<div style="border: 1px solid black; width: 100px; height: 60px; margin: 0 auto; display: flex; align-items: center; justify-content: center;"> <i>Photograph if available</i> </div> <i>General physical description of the stowaway:</i>
<i>Given name:</i> <i>Name by which known:</i> <i>Gender:</i> <i>First language:</i> <i>Spoken:</i> <i>Read:</i> <i>Written:</i>	<i>Other languages:</i> <i>Spoken:</i> <i>Read:</i> <i>Written:</i>

** If the stowaway declares himself to be a refugee or an asylum seeker, this information shall be treated as confidential to the extent necessary to the security of the stowaway.*

Other details:

- 1) *Method of boarding, including other persons involved (e.g. crew, port workers, etc.),*

and whether the stowaway was secreted in cargo/container or hidden in the ship:

2) *Inventory of the stowaway's possessions:*

3) *Statement made by the stowaway:*

4) *Statement made by the master (including any observations on the credibility of the information provided by the stowaway):*

Date(s) of interview(s):

Stowaway's signature:

Master's signature:

Date:

Date:

SIGNED on this 12 day of February, 2019.

(DR. SIRA UBWA MAMBOYA)
MINISTER OF INFRASTRUCTURE, COMMUNICATION
AND
TRANSPORTATION