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THE NATIONAL SHIPPING AGENCIES ACT, 2017

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SCHEDULE

NOTICE

This Bill to be submitted to the National Assembly is published for general information to the general public together with a statement of its objects and reasons.

Dar es Salaam,
22nd August, 2017

JOHN W.H. KIJAZI
Secretary to the Cabinet

A BILL
for

An Act to make provisions for the establishment of a shipping agencies corporation and for maritime administration to regulate ports, shipping services, maritime environment, safety and security and related matters.

ENACTED by the Parliament of the United Republic of Tanzania

PART I
PRELIMINARY PROVISIONS

Short title and
commencement

1. This Act may be cited as National Shipping Agencies Act, 2017 and shall come into operation on such date as the Minister may, by notice in the *Gazette*, appoint.

Application

2.-(1) This Act shall apply to shipping agencies, ports and shipping services at sea ports and inland waterways ports in Mainland Tanzania.

(2) Notwithstanding subsection (1), matters of maritime administration, maritime environment, safety and security shall apply to the United Republic of Tanzania.

Interpretation

3. In this Act unless the context otherwise requires-

“bill of lading” means a document issued by ocean carrier, or its agent or master of a ship on behalf of the carrier, to the shipper as a contract of carriage of specified goods and confirms receipt for cargo accepted on board for transportation by the carrier and signifies title to goods by the holder upon its presentation, at specified destination, to the carrier or its agent;

“Board” means the Board of Directors established under section 13;

“cargo discharge list” means a document prepared by a shipping agent summarizing goods carried on board a ship for discharge at a specified port, which is designed to facilitate a port terminal operator to identify cargo items with their locations on board ship, measurements and weight in order to plan the unloading work and it includes information of bills of lading number for each cargo item which is supposed to be discharged at the port;

“cargo loading list” means a document prepared by a shipping agent summarizing cargo booked for loading on board a ship at a specified port, which is designed to facilitate a port terminal operator and ship master to identify cargo items with their measurements or weight for planning the work of loading and stowing the cargo and it includes information of shipping orders number for each cargo item which is supposed to be loaded from the port;

“clearing and forwarding” means the function of processing

shipping documents for import or export cargo through customs control and port formalities and procedures for necessary approvals by relevant authorities and includes arrangement of physical delivery of cargo to consignee or ship master;

“code of conduct” means a set of rules outlining social norms and responsibilities or proper practices for an individual or Corporation;

“committee” means a committee of the Board established under section 16;

“consignee” means the party to whom goods accepted for carriage on board a ship are addressed and that party is named as such in the bill of lading;

“Corporation” means the National Shipping Agencies Corporation established under section 4;

“delivery order” means a document issued by a shipping agent, on behalf a carrier, to a named party approving a port terminal operator or dry port to undertake physical delivery of cargo under a specified bill of lading to the named party;

“Director General” means the Director General appointed under section 22;

“ferry” includes a boat or ship for conveying passengers and goods especially over a relatively short distance but does not include a boat or ship owned or operated by security forces;

Cap.166

“inland waterways port” shall have the meaning ascribed to it under the Ports Act;

“licence” means a permit issued by the Director General for carrying out maritime transport services under this Act;

“manifests” means a document providing complete list of cargo on board a named ship and includes information and details of each bill of lading covering all such cargo, name of master of the ship and the agent of the ship at a particular port of loading or discharge;

- “Minister” means the Minister responsible for maritime transport;
- “ports” means sea ports and inland waterways ports of Mainland Tanzania;
- “principal” means an ocean carrier for whom a shipping agent acts on his behalf in the business of shipping;
- “public register” means an official list of decisions, information and transactions which is required to be available to the public in accordance with section 45;
- Cap. 165 “registrar ” means the registrar of ships and seafarers appointed under section 23 of this Act;
- “regulated service provider” means a person providing regulated services; and
- “regulated service” means any services supplied or offered for supply in maritime transport sector and includes maritime environment, safety, security and environment services.
- Caps. 177 and 415 “repealed Acts” means the Tanzania Central Freight Bureau Act and the Shipping Agency Act;
- Cap.166 “sea port” shall have the meaning ascribed to it under the Ports Act;
- “ship tallying services” means commercial services for verifying and counting individual cargo units or items undertaken during loading or unloading on board ship or during stuffing of cargo into or de-stuffing from a container in relation to general cargo, dry bulk cargo, liquid bulk cargo, break bulk cargo, roll-on roll-off units, live animals, containerized cargo, or any cargo determined by the Corporation and includes preparation of statement of facts of a ship, submission of ship tally reports to relevant parties, and keeping records of accidents or incidents;
- “shipper” means a consignor of cargo named in the bill of lading as party responsible for initiating a shipment, and who is responsible for payment of freight cost or forming agreement with the carrier on how the freight cost has to be paid;

“shipping agent” means a Corporation or a Company engaged in providing shipping agency services for sea ports and inland waterways ports in accordance with this Act; and
“stowage plan” means a diagrammatical illustration prepared by the carrier, shipping agent or master of the ship, indicating locations of cargo relating to each bill of lading on board a ship and includes bay-plan in case of container ships.

PART II
NATIONAL SHIPPING AGENCIES CORPORATION

Establishment of Corporation

4.-(1) There is hereby established a Corporation to be known as National Shipping Agencies Corporation, known in its acronym NASAC.

(2) The Corporation established under subsection (1) shall be a body corporate with perpetual succession and a common seal and shall, in its own name be capable of-

- (a) suing and being sued;
- (b) acquiring, holding, investing and alienating movable or immovable property;
- (c) exercising the powers and performing the functions conferred upon it by or under this Act;
- (d) borrowing and lending;
- (e) entering into any contract or other transaction, and doing or endeavouring to do all such other acts and things which a body corporate may lawfully perform, do or endeavour to do.

(3) Notwithstanding subsection (1), the Attorney General shall have the right to intervene in any suit or matter instituted by or against the Corporation.

Cap.5

(4) Where the Attorney General intervenes in any matter pursuant to subsection (2), the provisions of the Government Proceedings Act, shall apply in relation to the proceedings of that

suit or matter as if it had been instituted by or against the Government.

(5) The Director General shall have a duty of notifying the Attorney General of any impending suit or intention to institute a suit or matter for or against it.

Objectives of Corporation

5. It shall be the underlying objective of the Corporation in carrying out its functions and exercising its powers provided for under this Act, to enhance the benefits of maritime transport in Mainland Tanzania by-

- (a) promoting effective management and operations of shipping agencies;
- (b) promoting effective operations of ports and shipping services;
- (c) maintaining cargo safety and security;
- (d) promoting and maintaining maritime environment, safety and security; and
- (e) entering into contractual obligations with other persons or body of persons in order to secure the provision of quality and efficient shipping agencies services, whether by means of concession, joint venture, public, private partnership or other means and to delegate its own functions of providing shipping agencies to one or more parties.

Functions of Corporation in relation to shipping agencies

6.-(1) Subject to the provisions of this Act, the functions of the Corporation in relation to shipping agencies shall be to-

- (a) represent the principal in shipping business services;
- (b) arrange for arrival or departure of ships;
- (c) arrange for provision of port services through port operators, customs and other Government or public

- institutions, firms or private companies or individuals;
- (d) carry out cargo documentation services including release of bills of lading, delivery orders and lodgment of manifest, cargo loading list or discharge list and stowage plans;
 - (e) carry out ship documentation including inward and outward ship clearance;
 - (f) arrange for procuring and processing of documents including production of bills of lading;
 - (g) perform activities required for dispatch of ships;
 - (h) arrange for provision of services pertaining to crew matters;
 - (i) arrange for provision of ship stores, supplies, ship repairing and any other related services;
 - (j) arrange for transshipment services and shipment of overlanded or short-shipped cargo;
 - (k) arrange for container stuffing and de-stuffing services;
 - (l) procure warehousing and cargo storage services;
 - (m) canvas for cargo and market shipping services of ships on behalf of ship owners, operators or charterers;
 - (n) provide information on booked cargo, level of utilisation of allotted space onboard the ship and statistics on cargo availability;
 - (o) attend claims on behalf of principals;
 - (p) provide regular reports to the principal on the position and performance of ship while in port;
 - (q) monitor, track and coordinate all activities concerning the movement of full and empty containers;
 - (r) keep proper record on any financial transaction in relation to shipping business of the principal including port disbursements;
 - (s) make payments for services and goods on behalf of the principals;

- (t) collect ocean freight and other moneys from shippers, consignees or other parties on behalf of the principal;
- (u) handle and monitor through bill of lading;
- (v) provide ship tallying services and keep record for all loaded, discharged, stuffed and de-stuffed cargo items;
- (w) provide or arrange for clearing and forwarding of cargo;
- (x) do or arrange for any other services related to shipping agency business, provided that such services do not contravene provisions of this Act;
- (y) superintend the conduct of shipping agents; and
- (z) carry out other activities as necessary, advantageous or proper for the development of shipping industry.

(2) In addition to the functions specified under this section the Corporation may undertake such other functions as the Minister may assign to it.

(3) For the purposes of this section the words “through bill of lading” means a bill of lading made for carrying goods covering more than one mode of transport including ocean, lake, river and land transport where necessary.

Sole mandates
of Corporation

7.-(1) The Corporation shall represent all principals in shipping business and may delegate the mandate to a shipping agent licensed in accordance with this Act.

(2) The Corporation shall have sole mandate as to the carrying out of -

- (a) clearing and forwarding functions relating to import and export of minerals, mineral concentrates, machineries, equipment, products or extracts related to minerals, live animals, Government trophies or any other goods as the Minister may by order published in the *Gazette* prescribe;
- (b) documentation in relation to shipping agency by receiving from the principal import and export cargo

documents including bills of lading and manifests and transmitting such documents to a shipping agent to which representation of a principal has been delegated; and

(c) ship tallying services.

(3) Any person who performs or facilitates performance of any function within sole mandate of the Corporation contrary to this section, commits an offence and shall upon conviction be liable to a fine of not less than twenty thousand United States dollar or its equivalence in Tanzania shillings or to imprisonment for a term of not less than two years or to both.

Power to obtain information, documents and evidence

8.-(1) Where the Corporation has reason to believe that a person is capable of supplying information, producing a document or giving evidence that may assist in the performance of any of its function, Corporation may, by summons signed by the Director General served on that person, require that person to-

- (a) furnish the information in writing signed by him or in the case of a body corporate, signed by a competent officer of the body corporate;
- (b) produce the document to the Corporation; and
- (c) appear before the Corporation to give evidence.

(2) A summons under this section shall specify the required time and manner of compliance.

(3) The Corporation may require that any evidence referred to under this section be given under oath or affirmation, and in that case, the Director General or any authorised officer of the Corporation may administer the oath or affirmation.

(4) A person shall not be excused from complying with summons under this section on the grounds that compliance may tend to incriminate the person or make the person liable to a penalty, save that information, documents and evidence provided in answer to a summons shall not be admissible in any proceeding

against the person other than proceedings under this Act.

(5) A person who without lawful excuse refuses or fails to comply with a summons under this section, commits an offence and is liable on conviction to a fine not exceeding three hundred thousand shillings, or imprisonment for a term not exceeding twelve months or to both, such fine and imprisonment.

(6) Where the Director General has reason to believe that a person, is in possession or control of any document that may assist it in the performance of any of its function the Director General or authorised officer of the Corporation may apply to a court of competent jurisdiction for grant of a warrant permitting the Corporation to enter into any premises at reasonable times to search or inspect the premises for documents in the possession or under the control of the person and make copies of, or take extracts from those documents.

(7) A person, who knowingly gives false, misleading information, or evidence in purported compliance with a summons under this section commits an offence.

(8) A person, who refuses, prevents, hinders or obstructs an authorised officer from entry to the premises to perform his duties under this section commit an offence.

Power to
suspend and
revoke licence

9.-(1) Where the Director General is of the opinion that, a person to whom a licence has been issued has contravened terms and condition of a licence to carry on the maritime transport services, the Director General may, by notice in writing, revoke or suspend the licence for any period specified in the notice.

(2) The Director General shall assign reasons for suspension or revocation of licence to a person whose licence has been revoked or suspended under this section.

(3) Where the Director General has suspended or revoked the licence of a shipping agent under subsection (1), the Corporation shall assume the functions of the private shipping

agent.

PART III
REGULATION OF MARITIME TRANSPORT SECTOR

Regulation of
maritime
environment,
safety and
security

10. The Corporation shall regulate maritime environment, safety and security matters in accordance with the provisions of this Act.

Regulation of
maritime
environment,
safety and
security

11. The functions of the Corporation in relation to regulation of maritime environment, safety and security shall be to-

- (a) administer the Merchant Shipping Act;
 - (b) exercise port state control of all foreign ships and flag state control of ship registered in Mainland Tanzania;
 - (c) regulate and approve marine services safety equipment's and marine services providers;
 - (d) regulate ferries;
 - (e) administer the Merchant Shipping Act;
 - (f) exercise port state control of all foreign ships and flag state control of ship registered in Mainland Tanzania;
 - (g) regulate and approve marine services safety equipment's and marine services providers;
 - (h) regulate ferries;
 - (i) coordinate maritime search and rescue operations;
 - (j) regulate and coordinate the protection and preservation of marine environment;
 - (k) disseminate information and create awareness on matters related to maritime environment, safety and security; and
 - (l) perform such other functions as may be conferred on the Corporation by this Act or any other written laws.
- (2) In addition to the functions specified under this section

Cap. 165

the Corporation may undertake such other functions as the Minister may assign to it.

Regulation of
maritime
transport
services

12.-(1) The functions of the Corporation in relation to regulation of maritime transport services shall be to-

- (a) issue, renew and cancel licences;
- (b) establish standards for regulated goods and regulated services;
- (c) establish standards for the terms and conditions of supply of the regulated goods and sources;
- (d) regulate rates and charges;
- (e) monitor the performance of the regulated service provider;
- (f) facilitate the resolution of complaints and disputes;
- (g) monitor the conduct and practices of shipping lines and other regulated service providers;
- (h) monitor freight rates and surcharge agreement so as to ensure there is correct application during the period of their validity;
- (i) call for, register and appraise freight rates, currency and bunker adjustment factors and other charges or surcharges in relation to maritime transport services;
- (j) require all ships loading or discharging cargo in Mainland Tanzania ports to submit to the Corporation-
 - (i) ship particulars;
 - (ii) freight rates;
 - (iii) copies of cargo freighted manifest and charter parties for both import and export;
 - (iv) copies of operational or service agreements;
 - (v) notification of any imposition of new charges;
 - (vi) condition of services; and
 - (vii) any other relevant information; and

- (k) register shippers, shipping agents and clearing and forwarding agents;
 - (l) register shippers, shipping agents and clearing and forwarding agents;
 - (m) disseminate information about matters relevant to the functions of the Corporation; and
 - (n) perform such other functions as may be conferred on the Corporation by this Act or any other written laws.
- (2) In addition to the functions specified under this section the Corporation may undertake such other functions as the Minister may assign to it.

PART IV BOARD OF THE CORPORATION

Establishment of Board

13.-(1) There shall be a Board of Directors which shall be responsible for overseeing the business and affairs of the Corporation.

(2) The Board shall consist of-

- (a) a Chairman who shall be a non-executive, appointed by the President; and
- (b) six other members who shall be appointed by the Minister from amongst persons of qualifications and experience in ports and shipping, legal, engineering, business administration, management, finance and accounts as shall enable members to perform the functions of the Board.

(3) The composition, tenure, quorum proceedings and meetings of the members of the Board, shall be as provided for in the Schedule to this Act.

Functions of Board

14.-(1) The Board shall oversee and supervise the management in the performance of the functions of the

Corporation, and shall ensure adherence to the governing laws and procedures.

(2) Without prejudice to the generality of subsection (1), the Board shall-

- (a) provide strategic guidance and formulate policies for operation and management of the Corporation;
- (b) conduct managerial oversight and review the activities and performance of management of the Corporation;
- (c) secure and ensure efficient use of resources, including approval of annual work plan, annual budget and supplementary budget;
- (d) approve strategic and investment plans and operations manual;
- (e) evaluate the performance of the entire management team and take necessary measures;
- (f) appoint senior management staff;
- (g) approve performance reports of the Corporation including report on disciplinary matters of staff;
- (h) exercise disciplinary powers over senior management staff;
- (i) approve the organisation structure and scheme of service including assessment on the need to establish branches including within and outside Mainland Tanzania;
- (j) approve management reports on quarterly basis;
- (k) approve any changes in salaries and conditions of service for employees;
- (l) approve code of conduct and procedures;
- (m) approve and supervise financial regulations and staff rules;
- (n) approve the appropriation of surplus funds generated;
- (o) approve any pension schemes for employees;
- (p) approve the disposal of capital items; and

- (q) perform such other functions as may deem fit for the achievement of the objectives of the Corporation.

Powers of Board

15.-(1) The Board shall, in respect of the performance of the functions have powers to-

Cap. 410

- (a) approve project subject to Public Procurement Act for the purpose of the Corporation, not included within a programme or annual work plan and budget; and
- (b) consider legislative proposal relating to shipping services and recommend their enactment to the Minister.

(2) The Board may give directives to the Director General in relation to the carrying out of any of the functions of the Corporation.

(3) The Board may co-opt any person whose presence is in its opinion desirable to attend and to participate in the deliberation of a meeting of the Board or committee and such person shall have no vote.

Committees of Board

16.-(1) The Board may form and appoint from among its members, such number of committees as it deems necessary for purposes which, in the opinion of the Board, would be better administered through committees.

(2) The Board may appoint a member to a committee who may or may not be a member of the Board and such member shall hold office for such period as the Board may determine.

(3) The Board may, subject to such conditions or restrictions as it deems necessary, delegate to any committee or employee of the Corporation any functions or powers vested in it by this Act or any other written law, except for powers to prescribe fees, charges and commissions, borrow or lend money.

(4) Any power or function so delegated shall be exercised or performed by the committee in the name and on behalf of the Board.

(5) The Board may exercise any power conferred upon it or perform any function under this Act or any other written law, notwithstanding the delegation of the power or function made.

Undue influence

17. A person shall not be qualified for appointment as a member of the Board if, owing to the nature of the office he holds, is likely to exert undue influence on any matter to which the Corporation is responsible.

Conflict of interest

18.-(1) A member of the Board or an employee of the Corporation shall be considered to have a conflict of interest for the purpose of this Act, if he has or acquires any pecuniary or other interests that would conflict with the proper performance by that person of his functions or exercise of powers as a member of the Board or employee of the Corporation.

(2) Where at any time a member of the Board or employee of the Corporation has a conflict of interest in relation to-

(a) any matter before the Corporation for consideration or determination; or

(b) any matter which the Corporation would reasonably expect to be likely to come before it for consideration or determination, that member or employee shall immediately declare the interest held by him to the members of the Board or the Director General and refrain from taking part or any further part, in the consideration and, determination of the matter.

(3) Upon the Board becoming aware of any conflict of interest, it shall make a determination as to whether that conflict is likely to interfere with the proper and effective performance of the functions of the Board and the member or employee who holds conflict of interest shall not vote on the matter under consideration.

(4) When the Board determines that the conflict of interest is likely to interfere significantly with member's proper and

effective performance, such member shall resign.

Fees and allowances

19. The Chairman and members of the Board shall be paid fees and such remuneration as shall be set out in their letters of appointment or as may be determined by the relevant authority.

Power to set rates and charges

20.-(1) The Board shall have the powers to establish, set, review rates and charges.

(2) When exercising its powers under subsection (1), the Board shall have regard to-

- (a) the costs of making, producing and supplying the goods or services;
- (b) the desire to promote competitive rates and attract the market;
- (c) any relevant benchmarks including international benchmarks for prices, costs and return on assets in comparable industries;
- (d) the financial implications of the determination;
- (e) the consumer and investor interest;
- (f) the return on assets in the maritime transport industry;
- (g) any other relevant sector legislation; and
- (h) any other factors the Board considers relevant.

(3) The Corporation shall by order, publish in the *Gazette* the rates tariffs and charges determined by the Board.

Power to conduct inquiry

21.-(1) The Board may conduct an inquiry where it considers it necessary or desirable for the purpose of carrying out its functions.

(2) The Board shall conduct an inquiry before exercising powers to-

- (a) grant, renew or cancel a licence;
 - (b) regulate any rate or charge; and
 - (c) adopt a code of conduct.
- (3) The Minister may direct the Board by notice in writing to conduct an inquiry and specify the subject matter.
- (4) Subject to subsection (3), the Minister may specify time within which the Board shall submit a report.
- (5) The Board shall give notice of inquiry by-
- (a) publishing a notice in the widely circulated newspapers specifying the purpose of the inquiry, the time within which submission may be made to the Board, the form in which submission shall be made, the matter subject of the inquiry, and in the case of an inquiry conducted at the directive of the Minister, the terms reference thereof;
 - (b) sending written notice of the inquiry including the information in paragraph (a), to-
 - (i) regulated service providers, known to the Corporation whose interests the Corporation considers are likely to be affected by the outcome of the inquiry;
 - (ii) industry and consumer organisations which the Corporation consider may have an interest in the matter;
 - (iii) the Minister and institutions having responsibilities relevant to the functions of the Corporation.
- (6) The Minister shall, by order published in the *Gazette* make rules for conducting inquiries under this section.

PART V
ADMINISTRATION AND MANAGEMENT OF THE CORPORATION

Director
General

22.-(1) There shall be the Director General of the Corporation who shall also be the chief executive officer responsible to the Board for the proper administration and management of the functions and affairs of the Corporation.

Cap. 298

(2) The Director General shall be appointed by the President through competitive procedures in accordance with the Public Service Act on such terms and conditions as provided for in the scheme of service.

(3) The Corporation shall meet from its own funds all such expenses incurred in the course of recruitment process of the Director General.

(4) A person shall not be qualified for appointment as Director General unless he-

- (a) is a holder of at least a post graduate degree from a recognised university or its equivalent; and
- (b) possesses at least eight years' experience in senior managerial position in one or more of the field of management, maritime management, port operations, law, economics, finance, engineering, business administration.

(5) The Director General shall be appointed to serve for a term of five years renewable once on such terms and condition as shall be set out in the letter of his appointment or as may be determined by the Board upon approval of the Minister.

(6) The Director General shall subject to the policy and directives set-forth by the Board, undertake all financial, administrative and technical management of the Corporation.

(7) The Director General shall be the Secretary to the Board.

Registrar

23.-(1) There shall be a Registrar who shall be responsible for maritime environment, safety and security matters of the Corporation.

Cap. 298

(2) The Registrar shall be appointed by the Minister through competitive procedures taking into account the Public Service Act on such terms and conditions provided for in the scheme of service.

(3) A person shall not be eligible for appointment as Registrar unless he-

(a) is a holder of at least a post graduate degree from a recognised university or its equivalent in any of the field of nautical science, maritime safety, engineering, naval architecture, maritime law and policy, maritime transportation, marine environmental management;

(b) is a Master or Chief Engineer Officer, Standard Training, Certification and Watchkeeping (STCW Reg. II/2 or III/2) with seagoing service;

(c) possesses at least eight years of working experience, five years of which shall be at senior management post in a maritime sector.

(2) In the performance of functions under this section, the Registrar shall be accountable to the Minister.

Establishment
of
departments,
units and
sections

24.-(1) The Board may, for facilitating performance of its functions establish departments, units and sections as may be determined by the Board.

(2) There shall be employed by the Board departmental directors each with responsibilities for a particular function.

(3) The Board shall appoint a person as departmental director only if he has provable knowledge of at least post graduate degree and appropriate experience of at least eight years in relation to the relevant function.

(4) A departmental director appointed under subsection (3) shall serve a Corporation for a term of five years and may be

reappointed for such term or terms as the Board may deem fit.

Officers and
other staff of
Corporation

25.-(1) There shall be employed by the Board such number of officers, staff and employees of the Corporation in such categories and levels as may be necessary for the efficient discharge of the functions of the Corporation and upon such terms and conditions as may be determined by the Board.

(2) The Corporation may appoint consultants and experts of the Corporation in various disciplines on such terms and conditions as the Corporation may determine.

(3) The Corporation shall comply with the competitive selection procedures in appointing employees, consultant or experts.

Delegation of
powers

26.-(1) The Director General may, by the instrument of delegation and subject to subsection (3) authorise an officer of the Corporation, to perform any of his powers.

(2) Subject to the provisions of subsection (1), the delegated power shall be exercised in accordance with the instrument of delegation.

(3) Notwithstanding the powers conferred to the Director General under this section, the Director General shall not delegate the powers to grant, renew or cancel a licence.

PART VI FINANCIAL PROVISIONS

Funds of
Corporation

27.-(1) The funds and resources of the Corporation shall consist of-

- (a) moneys appropriated by Parliament;
- (b) fees, charges, levies or commissions;
- (c) all other payments or property due to the Corporation in respect of any matter incidental to its functions;

- (d) such sums of money or property which may become payable to or vested in the Corporation under this Act or any other written laws; and
 - (e) any grants, donations, bequests, money derived from loans and other payment or property due to the Corporation in respect of any matter incidental to its functions.
- (2) All income and moneys of the Corporation shall be deposited into the bank account of the Corporation.

Application
of revenue

28.-(1) The revenue of the Corporation for any financial year shall be applied in defraying the following charges-

- (a) working and establishment expenses and expenditure on, or provision for the discharge of the functions of the Corporation;
- (b) the salaries, fees, remuneration, pensions, superannuation, allowances and gratuities of the officers, agents, employees, experts and consultants of the Corporation;
- (c) the remuneration, fees and allowances of the members of the Board and committees;
- (d) interest on any loan raised by the Corporation;
- (e) sums required to the Government or to any other public authority towards repayment of any loan made by the Government or by any other public body to the Corporation;
- (f) sums required to be transferred to a sinking fund or otherwise set aside for the purpose of making provision for the repayment of borrowed money;
- (g) such sums as may be deemed appropriate to be set aside in respect of depreciation or renewal of the property of the Corporation, having regard to the amounts set aside out of revenue under paragraphs (a) and (f);
- (h) sums required to be transferred to a maintenance fund for

the purpose of making provision for the proper and regular maintenance of basic and operational infrastructure and buildings;

- (i) the cost, or any portion thereof, of any works, vehicles, facilities and machinery;
- (j) equipment or appliances not being a renewal of the property of the Corporation;
- (k) such sums by way of contribution, for the purposes associated with the objects of this Act as the Corporation may determine; and
- (l) any other expenditure authorised by the Corporation and properly chargeable to revenue account.

(2) The balance of the revenue of the Corporation shall be applied to the creation of general reserve and such other reserves as the Corporation may deem fit.

(3) All profits and losses of business entities shall be separately shown in the audited accounts of the Corporation.

Financial year

29. The financial year of the Corporation shall be the period of one year ending on the 30th June.

Budget

30.-(1) The Corporation shall, before the end of each financial year prepare a budget of the following financial year showing estimates of its receipts and expenditure for the following year.

(2) The Corporation shall, subject to subsection (1), submit to the Minister the annual budget and every supplementary budget for approval.

(3) The Minister may require the Corporation to revise the budget if in his opinion the budget does not represent a fair and reasonable projection of income and expenditure.

Accounts and
audit

31.-(1) The Corporation shall keep proper books of account and maintain proper records of its operation in accordance with

commercial accounting standards.

(2) The accounts of the Corporation may at any time and shall, at the end of each financial year, be audited by the Controller and Auditor General or any other person appointed by him.

(3) The Corporation shall cause to be kept all proper books and audit records of accounts of the income, expenditure and assets of the Corporation.

(4) Within a period of three months after the end of each financial year, the Corporation shall submit to the Controller and Auditor-General the accounts of the Corporation together with-

- (a) a statement of financial performance during the year;
- (b) a statement of the financial position of the Corporation on the last day of that year;
- (c) a statement of change in equity during the year; and
- (d) a statement of cash flow for the year.

Annual report

32.-(1) The Corporation shall on or before the 30th September of each year, prepare an annual report in respect of financial year up to immediately preceding 30th June, and submit the report to the Minister who shall lay it before the National Assembly.

(2) The annual report shall consist of-

- (a) detailed information regarding the physical and financial performance of the Corporation during the year to which it relates;
- (b) a copy of the audited accounts of the Corporation together with the auditor's report; and
- (c) any other information as the Corporation may be required to provide under this Act.

(3) The provisions of the Public Corporation Act shall apply to the Corporation with respect to annual reports, accounts, audit, financial supervision and lying of reports before the National Assembly.

PART VII
LIABILITY OF THE CORPORATION

Exclusion of liability of Corporation

33. Subject to section 40, where the Corporation outsources services or goods from a contractor, subcontractor, concessionaire or agent in the course of discharging its functions, the Corporation shall not be liable in any circumstances for any loss, damage, injury or cost sustained by any person as a result of any default, negligence, breach or other wrongful act or omission of contractor, subcontractor, concessionaire, agent or employee of such contractor, subcontractor, concessionaire or agent.

Liability for released equipment

34. Subject to section 40, where the Corporation releases to a shipper, consignee or any other person equipment belonging to a principal with specific, general or implied mandate from the principal for such release, the Corporation shall not be liable for any loss or damage to the equipment.

Liability for directive of a principal

35.-(1) Where the principal has directed the Corporation to do or not to do an action pertinent for fulfilling its duty as agent, the Corporation shall not be liable for any loss, damage or cost occasioned by doing or not doing the action as directed by the principal.

(2) The shipper, consignee or any other person suffering from the action in subsection (1) shall claim for loss, damage or cost directly from the principal.

Liability of body of persons

36. Where an offence is committed by a body of persons, a person who at the time of the commission of the offence was a Chairman, Member, Director General, or an employee of the Corporation shall be deemed to have committed that offence unless that person proves that the offence was committed without his knowledge or connivance and that he exercised all due diligence to prevent the commission of the offence having regard to the nature of

his functions and all other circumstances.

**PART VIII
GENERAL PROVISIONS**

Directives by
Minister

37.-(1) The Minister may give to the Board directives in relation to the discharge of the functions and the exercise of the powers of the Board under this Act.

(2) Without prejudice to subsection (1), the Minister may under his hand, give directives relating to-

- (a) the occurrence of any emergency, in the interest of public or relations with the Government of another country; or
- (b) discharge or facilitate the discharge of an obligation binding the Government by virtue of its being a member of an international organisation or a party to an international agreement.

(3) The Board shall give effect to any directive given by the Minister, save that, the Government may-

- (a) pay compensation for damage caused to the Corporation by reason of its compliance with the directives of the Minister; or
- (b) make grants to the Corporation for defraying or contributing towards loss which it may sustain by reason of compliance with the directives of the Minister.

Licensing of
private
shipping agents

38.-(1) Any person intending to provide port and shipping services shall make an application to the Director General in the prescribed form and pay the prescribed fee.

(2) The Director General shall not issue a licence to any applicant if-

- (a) the applicant is a ship owner, ship operator, charterer, inland container depot operator or clearing and forwarding agent;

- (b) the applicant does not possess the prescribed qualifications for the proper carrying on of the business of shipping agency;
- (c) the applicant has a known criminal record inside or outside the country; or
- (d) the provisions of this Act or regulations made under this Act have not been complied with.

Corporation not to provide services in certain circumstances

39. The Corporation shall not provide to any person, services gratuitously or at a rate or charge which is insufficient to meet the cost involved in the provision of such services unless the person concerned undertakes to make good the amount of the loss incurred.

Engagement of contractor, subcontractor and supplier

40.-(1) The Corporation shall not arrange, outsource or engage a contractor, subcontractor or supplier for procuring services or goods in the course of performing its functions unless the contractor, subcontractor or supplier is licenced or registered by a proper authority or institution.

(2) Any person who contravenes subsection (1), commits an offence and on conviction shall be liable to a fine of not less than twenty million shillings.

Inconsistency
Cap. 165

41. Where there is any inconsistency between the provisions of this Act and the provisions of the Merchant Shipping Act, the provisions of this Act shall prevail and the Merchant Shipping Act shall be read down to the extent of such inconsistency.

Emblem, design or representation of Corporation

42.-(1) The Corporation shall have the exclusive right to the use of such emblem, design or representation as it may select or devise and thereafter display or exhibit it in connection with its activities or affairs.

(2) Any person who uses an emblem, design or

representation identical with that of the Corporation or which so resembles the emblem, design or representation as to deceive or cause confusion or to be likely to deceive or cause confusion, commits an offence.

Maintenance of records

43. The Corporation shall maintain proper records related to finance, operations, human resources and all other functions performed by the Corporation.

Confidentiality

44.-(1). For the purposes of this Act, any person who discloses any material to the Corporation, whether under compulsion of law or otherwise, that person may claim confidentiality in respect of the whole or any part of the material.

(2) Any person who discloses confidential information otherwise than as authorised by the Corporation commits an offence.

Public Register

45.-(1) There shall be a Public Register kept by the Corporation at its principal office, which shall be available for public inspection at all times during business hours.

(2) There shall be kept at the sub offices of the Corporation copies of the Public Register which shall be accessible for inspection by members of the public.

(3) The Minister shall from time to time upon the advice of the Corporation, determine the categories of decisions and information which would be placed on the Public Register.

(4) The Corporation shall exclude from the Public Register any document or part of a document which is confidential.

(5) The Corporation shall ensure that where possible the Public Register shall be accessible to the public by internet.

General offence

46. Where a person contravenes any of the provisions of this Act, for which no specific penalty is provided, commits an offence and on conviction, shall be liable to a fine of not less than twenty

million shillings but not exceeding forty million shillings or to imprisonment for a term of not less than two years but not exceeding five years or to both.

Offences in relation to shipping agency

- 47.** Any person who in relation to shipping agency business-
- (a) furnishes any return, written information or explanation containing any particulars which to his knowledge are false or incorrect;
 - (b) fails to disclose information; or
 - (c) acts in contravention of any provision of this Act commits an offence and on conviction shall be liable to a fine not less than twenty thousand US dollars but not exceeding forty thousand US dollars or its equivalent in Tanzania shillings or to imprisonment for a term of not less than three years but not exceeding five years or to both.

Compounding of offences

48.-(1) Notwithstanding the provisions of this Act relating to penalties, where a person admits in writing that he has committed an offence under this Act, the Director General or a person authorised by him in writing may, at any time prior to the commencement of the proceedings by a court of competent jurisdiction compound such offence and order such person to pay sum of money, not exceeding one half of the amount of the fine to which such person would otherwise have been liable to pay if he had been convicted of such offence.

(2) Where an offence is compounded in accordance with subsection (1) and proceedings are brought against the offender for the same offence, it shall be a good defence for the offender to prove to the satisfaction of the court that the offence with which the offender is charged has been compounded under subsection (1).

(3) Where the person fails to comply with the compounding order issued under this section within the prescribed period, the

authority may-

- (a) in addition to the sum ordered, require the person to pay an interest at the rate prescribed in the regulations; and
- (b) enforce the compounding order in the same manner as a decree of a court for the payment of the amount stated in the order.

Appeals

49.-(1) Where a person is not satisfied with the services regulated under this Act may complain to the Board within thirty days from the date of the decision.

(2) Where a person is aggrieved by a decision of the Board may appeal to the Minister within twenty one days from the date of such decision.

(3) Subject to the provision of this Act, the manner and conditions to handle complaints, disputes and appealed shall be prescribed by the Minister.

International obligations

50.-(1) Where the United Republic of Tanzania is a party to an international or regional agreement or convention relating to maritime transport services, maritime environment, safety and security the Minister shall, in consultation with the Corporation-

- (a) initiate and prepare legislative proposals for purposes of implementing the agreements; and
- (b) identify appropriate measures necessary for the implementation of the agreements.

(2) Where the Government is involved in negotiation of an international agreement or convention on matters relating to maritime transport services, maritime environment, safety and security, the Minister shall, prior to submission for ratification of agreement or convention by the National Assembly, communicate to the other relevant institutions with a view to assessing the likely impact on the other sectors.

(3) The Minister from time to time by notice in the *Gazette*,

may publish ratified international agreement or convention relating to maritime transport services, maritime environment, safety and security including amendments and other international instruments which apply to the United Republic of Tanzania, the reservations, if any, entered by the United Republic of Tanzania as well as international convention including amendments and replacements or other international instruments which ceases to apply to the United Republic of Tanzania.

(4) The Corporation shall keep a register of all international agreements or conventions relating to the maritime transport services, maritime environment, safety and security to which the United Republic of Tanzania is a party.

(5) International or regional agreements or conventions related to maritime administration, maritime environment, safety and security shall apply to the United Republic of Tanzania.

Regulations

51.-(1) The Minister may make regulations for the better carrying out or giving effect to the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may in consultation with the Corporation make regulations-

- (a) prescribing the conditions and terms upon which any specified facilities or services or categories of facilities or services within the scope of the function of the Corporation shall be provided to the public;
- (b) related to business terms and conditions to be observed by shippers and consignee and the prohibition of acts or omissions in contravention of such business terms and conditions;
- (c) prescribing the procedure for management of complaints and dispute resolution;
- (d) prescribing procedures for appeals under this Act;
- (e) prescribing the minimum paid up share capital to be maintained by shipping agent;

- (f) prescribing the method of calculating the asset and liabilities and the amount of solvency to be maintained by the shipping agent;
- (g) prescribing procedures for regulation of –
 - (i) maritime safety, security and environment; and
 - (ii) maritime transport services regulation including dry port, clearing and forwarding agency, miscellaneous port services, cargo consolidation and de-consolidation and shipping agency;
- (h) in consultation with the Corporation prescribing procedures relating to freight bookings; and
- (i) providing for any matter which, in the opinion of the Corporation, is necessary for the efficient performance of its functions.

(3) The Minister may, for the purpose of this Act make such rules and orders as may be required for effective performance of the functions under this Act.

(4) The regulations, rules, code of conduct or orders made under this section shall be published in the *Gazette*.

Power to make internal rules

52. The Board may make internal rules in respect of its functions and operations within the framework of the provisions of this Act.

Notification of orders

53. Where any order, directive or requirement made or given by the Board or the Minister under this Act, is not required to be published in the *Gazette*, the order, directive or requirement shall be brought to the notice of persons affected or likely to be affected by it in any manner, determined by the Board or the Minister.

Continuation
of business
after operation
of the Act

54. Any person who immediately before the commencement of this Act, was a holder of a licence authorising him to carry on the services regulated under this Act, may upon payment of prescribed licence fees, be authorised to continue carrying on such services for a period to be determined by the Minister, by order published in the *Gazette*.

Repeal of
Caps. 177 and
415,

55.-(1) The Tanzania Central Freight Bureau Act and the Shipping Agency Act are hereby repealed.

(2) Notwithstanding the repeal of the Tanzania Central Freight Bureau Act and the Shipping Agency Act, any contract, document, licence, permission or resolution prepared, made, granted, or approved under the repealed Act or any other written laws, shall so far as it is not inconsistent with the provisions of this Act or any other written laws, continue to be deemed to have been prepared, made, granted or approved under the corresponding provisions of this Act until revoked, replaced or rescinded.

(3) Any subsidiary legislation and all exemptions made or given under the provisions of the repealed Act or any other written laws, which were in force immediately before the commencement of this Act shall, so far as it is not inconsistent with the provisions of this Act, until revoked, replaced or rescinded remain in force as if they were made under this Act.

(4) All members of Licensing Committee appointed pursuant to the provisions of the repealed Act to perform the functions specified under the Act shall be deemed to be members appointed under this Act until the appointment is revoked.

Caps. 177 and
415

(5) The repeal of the Tanzania Central Freight Bureau Act and the Shipping Agency Act, shall not affect any public right, interest, title, power established or exercisable or any status or capacity existing prior to the repeal or affect any duty, obligation, liability or burden of proof imposed, created or incurred prior to the repeal or affect any investigations, legal proceeding or remedy in

respect of any right, interest, power, duty, obligation, liability or otherwise.

Transfer of
staff and their
rights

56.-(1) As from the effective date of the Act, every employee and staff of the Surface and Marine Transport Regulatory Authority who are necessary for the purpose of the Corporation shall be, as the case may be, deemed to have been employed or transferred to the Corporation on the terms and conditions not less favourable than those applicable to them immediately before the effective date.

(2) Where any employee or staff of the Surface and Marine Transport Regulatory Authority related to maritime transport industry is not absorbed by the Corporation, he may be transferred to any other Ministry or public institution, and his service shall be deemed to be continuous and if he was a member of any statutory, voluntary pension or any other superannuation scheme, such employee shall continue to be governed by the same laws and regulations governing such scheme and the employer shall contribute to such scheme accordingly.

(3) Nothing in this section shall operate so as to prevent any employee of the Surface and Marine Transport Regulatory Authority related to maritime transport industry from resigning or being terminated from employment.

(4) Every employee and staff of the Surface and Marine Transport Regulatory Authority related to maritime transport industry whose service is not deemed to have been employed or transferred to the Corporation or is not transferred to any other Ministry or public institution shall be paid terminal benefits in accordance with the laws and regulations governing the terms and conditions of its service immediately before the termination.

(5) Where any person who is transferred to the Corporation under subsection (1) is a member of any statutory, voluntary pension fund or any other superannuation scheme he shall, for the purposes of this Act, continue to be governed by the same laws under those

funds or schemes as if he had not been transferred to the service of the Corporation and, for the purposes of the laws governing those funds or schemes, his service shall be deemed to be the service of the Corporation.

Rights of a person in an undertaking

57. This Act shall not operate so as to affect in a prejudicial way the rights of any person under any undertaking or licence granted in connection with maritime transport industry prior to the effective date of this Act or any undertaking entered into prior to the effective date of this Act.

Transfer of assets and liabilities

58.-(1) As from the effective date, all assets, interests, rights, privileges, liabilities or obligations vested in the Surface and Marine Transport Regulatory Authority related to maritime transport industry shall be transferred to and be vested in the Corporation without further assurance.

(2) Where any question arises as to whether any particular property, or any particular asset, interest, right, privilege, liability or obligation has been transferred to or vested in accordance with provisions of subsection (1), a certificate under the hand of the Minister shall be conclusive evidence that the property, asset, interest, right, privilege, liability or obligation was or was not so transferred or vested.

Transfer of maritime sector regulatory functions

59. From the effective date of this Act, the maritime sector regulatory functions formerly performed by the Surface and Marine Transport Regulatory Authority shall be transferred and performed by the Corporation.

Continuation and completion of disciplinary proceedings

60.-(1) Where on the effective date of this Act, any disciplinary proceeding was pending against any employee of the Surface and Marine Transport Regulatory Authority related to maritime transport industry who has joined the Corporation, such

proceeding shall be carried on and completed by the Corporation and, where on the effective date any matter was in the course of being heard or investigated or had been heard or investigated by Surface and Marine Transport Regulatory Authority related to maritime transport industry but no order or decision had been rendered, the Corporation shall complete the hearing or investigation and such order, ruling or directives as it could have been made by the Corporation under which the proceedings or matter were or was vested before the effective date.

(2) Any order, ruling, or finding made or given in relation to any proceedings or investigation pursuant to subsection (1), shall be treated as an order, ruling or finding of the Corporation and have the same force or effect as if it had been made or given by the Surface and Marine Transport Regulatory Authority related to maritime transport industry before the effective date.

(3) For the purpose of this Part, “effective date” means the date on which this Act comes into operation.

SCHEDULE

(Made under section 13(3))

Appointment,
composition
and tenure of
the office of
the Board

- 1.-(1) The Board shall consist of-
- (a) the Chairman who shall serve for a term of four years renewable once;
 - (b) a representative of the Revolutionary Government of Zanzibar with experience in maritime sector;
 - (c) a senior officer from Customs and Excise Department of Tanzania Revenue Authority;
 - (d) a senior officer from Tanzania Ports Authority;
 - (e) a senior State Attorney from the Attorney General’s Chambers;
 - (f) a senior member from the Ministry responsible for shipping matters;
 - (g) a representative of the private sector who shall serve for a term of two years renewable once and shall have a minimum of five years of

experience in Ports and shipping industry; and

- (h) a representative of the general public who shall serve for two years renewable once and shall have a minimum of five years of experience in trade and commerce.
- (2) A member appointed under subparagraphs (1) (b),(c), (d), (e) and (f) -
 - (a) shall, unless his appointment is sooner terminated by the appointing authority or he ceases in any other way to be a member, hold office for a period of three years but shall be eligible for re-appointment once; and
 - (b) may at any time resign from office by giving notice in writing addressed to the Minister, and from the date specified in the notice or, if no date is so specified from the date of the receipt of the notice by the Minister, he shall cease to be a member.

Vice
Chairman

2. Members of the Board shall elect from among themselves a Vice Chairman of the Board who shall, subject to his continuing to be a member, hold office for a term of one year from the date of his election, but shall be eligible for re-election.

Board
meetings

3.-(1) The Board shall ordinarily meet quarterly at times and places as it deems necessary for the transactions of its business as required under this Act.

(2) The Chairman, or in his absence, the Vice Chairman, may at any time call an extraordinary meeting of the Board, and may call an extraordinary meeting upon a written request by majority of the members in office.

(3) The Chairman or in his absence the Vice Chairman shall preside at every meeting of the Board.

(4) In absence of both the Chairman and Vice Chairman, a member delegated in writing by the Chairman or in his absence, the Vice Chairman shall preside over the meeting.

Quorum

4. The quorum at any meeting of the Board shall be one half of the members.

Decision of
the Board

5.-(1) Subject to subparagraph (2), matters proposed at a meeting of the Board shall be decided by a majority of votes of members present and voting, and in the event of an equality of votes, the person presiding shall have a casting vote in addition to his deliberative vote.

(2) A decision may be made by the Board without a meeting, by circulation of the relevant papers among the members and the subject matter be considered at a meeting of the Board.

Minutes of the meetings	<p>6.-(1) The Board shall cause to be recorded and kept the details of all business conducted or transacted at its meetings, and the minutes of each meeting of the Board shall be read and confirmed, or amended and confirmed, at the next meeting of the Board signed by the person presiding at that meeting.</p> <p>(2) Any minutes purporting to be signed by the person presiding at a meeting of the Board shall, in the absence of proof of error, be deemed to be a correct record of the meeting.</p>
Vacancies not to invalidate proceedings	<p>7. The validity of any act or proceeding of the Board shall not be affected by any vacancy among its members or by any defect in the appointment of any of them.</p>
Proof of document	<p>8. Any document purporting to be a document duly executed or issued under the seal of the Corporation or on behalf of the Corporation shall be received in evidence and be deemed to be a document so executed or issued without further proof unless the contrary is shown.</p>
Appointment of temporary member	<p>9. When any member of the Board, other than the Director General, is by reason of absence from the country, illness or other sufficient cause unable to perform his duties as a member of the Board, the appointing authority may appoint a temporary member in his place, and the temporary member shall hold office until the resumption of duty of the substantive member or until the term of office of the substantive member expires, whichever occurs first.</p>
Board to regulate its own proceedings	<p>10. Subject to the provisions of this Schedule, the Board may regulate its own proceedings.</p>

OBJECTS AND REASONS

The Bill is intended to provide for an enactment of the National Shipping Agencies Act, 2017 with a view to establishing National Shipping Agencies Corporation, which shall be a body corporate mandated to carry out functions of

shipping agencies and exercise powers related to regulation of maritime environment, safety and security and maritime transport services in order to enhance performance of maritime transport sector and other matters connected thereto.

The Bill is divided into Eight Parts.

Part I contains preliminary provisions which include short title, commencement date, application and interpretation of various terms and phrases used in the proposed Bill.

Part II contains provisions relating to the establishment of the National Shipping Agencies Corporation, its objectives, powers and functions. It also provides the Corporation with sole mandate to carry out functions of ship tallying and clearing and forwarding of minerals, mineral concentrates, live animals, Government trophies and related goods.

Part III covers provisions relating to regulation of maritime transport sector including regulation of maritime environment, safety and security and economic regulation on maritime transport services.

Part IV covers provisions relating to the establishment and functions of the Board, powers of the Board to appoint committees, observance of impartiality, conflict of interest, payment of fees and allowances. Some of the Board's functions are to provide strategic guidance, formulate policies for the operation and management of the Corporation, approve work plan, annual budget and reports. Also the Board is expected to conduct general oversight, secure and ensure efficient use of resources. The Chairman of the Board will be appointed by the President whereas Board Members will be appointed by the Minister.

Part V provides for the Administration and Management Provisions. It contains provisions relating to the appointment of Director General, Registrar of Ships and Seafarers, Departmental Directors and other Employees. Under this Part

the Director General is to be the accounting officer of the Corporation appointed by the President and shall have minimum knowledge of a post graduate degree and eight years' experience in senior managerial position.

Part VI provides for financial provisions. It contains provisions relating to funds of the Corporation, application of the revenue, financial year, budget, accounts and audits and annual report. Under this Part, the Corporation is required to prepare annual reports in respect of each financial year and submit the same to the Minister who shall lay the report before the National Assembly.

Part VII covers liability of the Corporation. It contains provisions relating to exclusion of liability of the Corporation for any loss or damage where the Corporation outsources services or goods from other players, who fail to perform, liability for the released equipment, liability for action ensuing from the directive of a principal and liability of body of persons.

Part VIII contains general provisions which includes directives by the Minister, restrictions to the Corporation to provide services gratuitously, exclusive emblem or representation of the Corporation, maintenance of records, general penalty, compounding of offences, regulations and orders, powers to make rules, complaints and appeal procedures, notification of orders, continuations of the business after operationalisation of this Act and repeal of Tanzania Central Freight Bureau Act (Cap.177) and the Shipping Agency Act (Cap. 415).

The Bill further provides for the manner of transfer of staff of the Surface and Marine Transport Regulatory Authority who will be necessary to the Corporation immediately before its commencement, under terms and conditions not less favourable than those offered by SUMATRA. Furthermore, the Bill proposes to transfer of maritime regulatory functions from SUMATRA to the Corporation. The Bill also provides for the procedures and eligibility for issuance of licences to private shipping agents.

Further, the Bill proposes to retain for some time the contracts, documents, licences, permission or resolutions made to continue and be deemed to have been prepared, made or granted under the Act, subsidiary legislation, exemptions also given or made before the commencement of this Bill shall remain in force until revoked, replaced or rescinded.

MADHUMUNI NA SABABU

Muswada huu unapendekeza kutunga Sheria mpya ya Shirika la Uwakala wa Meli Tanzania. Madhumuni ya kuanzisha Shirika la Uwakala wa Meli Tanzania litakalotekeleza majukumu mbalimbali ya uendeshaji wa biashara ya Uwakala wa Meli na udhibiti wa mazingira, usalama na ulinzi wa vyombo vya majini pamoja na udhibiti wa huduma za usafiri wa majini, hivyo kuimarisha udhibiti wa sekta ndogo ya usafiri wa majini.

Muswada huu umegawanyika katika Sehemu Nane.

Sehemu ya Kwanza ya Muswada huu inahusu utangulizi ambao unaainisha jina la Muswada, tarehe ya kuanza kutumika kwa Sheria, matumizi yake na ufafanuzi wa maneno na misemo iliyotumika katika Sheria inayopendekezwa.

Sehemu ya Pili inapendekeza kuanzishwa kwa Shirika la Uwakala wa Meli Tanzania na madhumuni ya kuanzishwa kwake. Vilevile Sehemu hii ina ainisha majukumu ya Shirika, mamlaka yake. Majukumu ya Shirika ni pamoja na uhakiki wa shehena inayoingia na kutoka kupitia bandari za Tanzania Bara, uondoshaji shehena za madini, makinikia, wanyama, nyara za Serikali na bidhaa zinazotokana na madini na udhibiti wa watoa huduma katika sekta ya usafiri wa meli na usalama wa meli na mazingira ya bahari.

Sehemu ya Tatu inahusu udhibiti wa mazingira, usalama na ulinzi wa vyombo vya majini pamoja na udhibiti wa huduma za usafiri wa majini.

Sehemu ya Nne inahusu kuanzishwa kwa Bodi ya Wakurugenzi, mamlaka na majukumu ya Bodi, uteuzi wa Mwenyekiti, wajumbe na kamati za Bodi ya Wakurugenzi, masuala yatakayopelekea kuwepo kwa mgongano wa kimaslahi dhidi ya Mwenyekiti na wajumbe wa Bodi pamoja na stahili za Bodi ya Wakurugenzi. Baadhi ya majukumu ya wajumbe wa Bodi ni kupitisha sera ya uendeshaji wa Shirika, kusimamia matumizi bora ya rasilimali za Shirika, kupitisha mpango kazi, bajeti na taarifa za fedha za mwaka.

Sehemu ya Tano inaweka masharti kuhusu utawala wa Shirika, uteuzi wa Mkurugenzi Mkuu, Msajili wa Meli na Mabaharia, Wakuu wa Idara na Watumishi wengine. Aidha, Sehemu hii imeainisha kuwa Mkurugenzi Mkuu ndiye atakuwa Afisa masuuli wa Shirika, atateuliwa na Rais kwa njia ya ushindani kwa kuzingatia Sheria za Utumishi wa Umma. Aidha, Mkurugenzi Mkuu atatakiwa kuwa na stahabada, uzoefu usiopungua miaka nane na uzoefu wa masuala ya uongozi.

Sehemu ya Sita inahusu masuala ya fedha. Sehemu hii ina vifungu vinavyohusu, vyanzo vya mapato, mwaka wa fedha, bajeti, mahesabu na ukaguzi wa mahesabu pamoja na taarifa ya utendaji ya mwaka. Aidha, taarifa ya mwaka ya utendaji itawasilishwa kwa Waziri na Bungeni.

Sehemu ya Saba ina vifungu vinavyohusu kinga dhidi ya Shirika kutokana na madai, kuharibika au kupotea kwa vifaa vya kampuni za meli au hasara zitakazosababishwa na maelekezo ya wenye meli. Aidha, Sehemu hii inatoa kinga kwa Shirika dhidi ya hasara zitakazotokana na vitendo vya viongozi wa Shirika akiwemo Mwenyekiti wa Bodi na Mtendaji Mkuu.

Sehemu ya Nane inahusu masuala ya ujumla kama vile, maagizo ya Waziri, mazingira ambayo Shirika haitatakiwa kutoa huduma, mgongano wa Sheria, nembo ya Shirika, utunzaji wa nyaraka, makosa ya jumla, makubaliano ya kulipa faini nje ya mahakama, kanuni na agizo, mamlaka ya kutunga kanuni na kuendelea kwa Sheria, utaratibu wa malalamiko na rufaa, Kanuni na leseni zilizopo wakati wa mpito na kufutwa kwa sura ya 177 na sura ya 415.

Vilevile Sehemu hii inatoa utaratibu wa kuhamisha watumishi muhimu kutoka idara zinazosimamia usafiri wa majini ndani ya Mamlaka ya Udhhibiti Usafiri wa Nchi Kavu na Majini. Watumishi hao watahamia kwenye Shirika kwa kuzingatia masharti na vigezo vya ajira visivyo chini ya masharti na vigezo vya ajira zao. Vilevile, muswada huu unapendekeza kuhamisha majukumu ya udhibiti wa usafiri wa majini kutoka SUMATRA kwenda katika shirika jipya. Pia, Muswada huu unaainisha taratibu na sifa za kampuni binafsi inayostahili kupewa leseni ya uwakala wa meli.

Dodoma,
21 Agosti, 2017

MAKAME M. MBARAWA
Waziri wa Ujenzi, Uchukuzi na Mawasiliano