

THE MARITIME TRANSPORT ACT, NO. 5 OF 2006

THE CARRIAGE OF DANGEROUS GOODS REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATIONS

TITLE

PART ONE

PRELIMINARY PROVISIONS

1. Short title and commencement date.
2. Interpretation.

PART TWO

GENERAL DUTIES

3. Application.
4. Exemption.
5. Document of compliance, inspection and certification.
6. General duties of ship owner, employer and master.
7. General duties of employee aboard ship.
8. Conduct endangering the ship or persons aboard ship.
9. Duty to report certain incidents involving packaged dangerous goods.

PART THREE

CARRIAGE OF PACKAGED DANGEROUS GOODS

10. Declaration.
11. Preparation of goods for transport.
12. Packing Certificates.
13. List, manifest or stowage plan.

14. Marking and labeling.
15. Stowage
16. Carriage of explosives.

PART FOUR
CARRIAGE OF DANGEROUS GOODS IN BULK

17. Carriage in bulk.
18. Documentation.
19. List, manifest or stowage plan.

PART FIVE
ENFORCEMENT PROVISIONS

20. Power to detain.
 21. Penalties and defenses.
 22. Compounding of offences.
-

THE MARITIME TRANSPORT ACT, NO. 5 OF 2006

THE CARRIAGE OF DANGEROUS GOODS REGULATIONS

[Made under section 257]

IN EXERCISE of the powers conferred upon me under section 257 of the Maritime Transport Act, No. 5 of 2006, **I, DR. SIRA UBWA MAMBOYA**, Minister of responsible for Maritime Transport affairs, do hereby make the Carriage of Dangerous Goods Regulations as follows:

**PART ONE
PRELIMINARY PROVISIONS**

Short title and commencement date.

1. These Regulations may be cited as the Carriage of Dangerous Goods Regulations, 2018, and shall come into operation after being signed by the Minister and published in the Official Gazette.

Interpretation.

2. In these Regulations unless the context requires otherwise:

“Act” means the Maritime Transport Act, No. 5 of 2018;

“Authority” means the Zanzibar Maritime Authority established under Section 3 of the Zanzibar Maritime Authority Act, No.3 of 2009;

“BCH Code” means IMO Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk;

“Bulk Cargoes Code” means IMO Code of Safe Practice for Solid Bulk Cargoes;

“correct technical name” means a description of goods sufficient to identify their dangerous properties, including any proper shipping name described in the IMDG Code;

“dangerous goods” includes:

- (a) goods classified in the IMDG Code or in any other IMO publication referred to in these regulations as dangerous for carriage by sea, and any other substance or goods the properties of which might be dangerous if that substance or those goods were carried by sea;

(b) empty receptacles and residues in empty tanks or cargo holds that have been used previously for the carriage of dangerous goods, unless such receptacles, empty tanks or cargo holds have been cleaned and dried, purged, gasfreed or ventilated, as appropriate or, in the case of radioactive materials, both cleaned and adequately closed, but does not include goods forming part of the equipment or stores of the ship in which they are carried;

“dangerous goods declaration” means a certificate or declaration in writing, signed by the person making it that the shipment offered for carriage is properly classified, packaged, marked, labelled or placarded, as appropriate, in accordance with the IMDG Code and is in a proper condition for carriage by sea;

“durably marked” means marked so that the label or other marking in accordance with these regulations is such as to remain identifiable on packages surviving at least three months’ immersion in the sea; and “durable” has a corresponding meaning;

“employee” means any person, including a master but excluding dock workers or shore-based repair or other workers temporarily employed on board the ship, employed-

(a) in the deck, engine, radio, medical or catering department of a ship;
or

(b) in the provision of goods, services or entertainment on board;

“explosives” includes the articles and substances specified in Class 1 of the IMDG Code;

“flammable liquid” means a liquid the flash point of which is at or below 60 °C (closed cup) in respect of bulk cargoes and at or below 61 °C (closed cup) in respect of packaged dangerous goods;

“forwarder” means the person by whom dangerous goods are delivered to a ship or its agent;

“Gas Carrier Code” means IMO Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk;

“Gas Carrier Code for Existing Ships” means IMO Code for Existing Ships Carrying Liquefied Gases in Bulk;

“handling” includes the operations of loading, unloading and transferring dangerous goods and cleaning, purging, gas freeing, ullaging, sounding, sampling and similar operations required for the carriage of such goods in a ship;

“IBC Code” means IMO International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk;

“IGC Code” means IMO International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk;

“IMDG Code” means IMO International Maritime Dangerous Goods Code as may be amended from time to time;

“IMO” means the International Maritime Organization;

“in bulk” means directly and without intermediate form of containment in a hold, tank or cargo space that is a structural part of or permanently attached to a ship;

“package” means a package or receptacle described in the IMDG Code and includes a freight container or a portable tank or tank container or tank vehicle or other vehicle or other cargo transport unit containing dangerous goods for shipment;

“ship owner” includes:

- (a) where the ship is chartered by demise, the demise charterer;
- (b) where the ship is managed by a ship management company, the manager;

“shipper” means a person who, whether as principal or agent for another, consigns dangerous goods for carriage by sea;

“UN number” means the number allocated to the dangerous substance or article by the United Nations Committee of Experts on the Transport of Dangerous Goods specified in the latest edition of the publication entitled Recommendations on the Transport of Dangerous Goods published by the United Nations Organization.

PART TWO GENERAL DUTIES

Application 3. These Regulations shall apply to every ship carrying dangerous goods in bulk or packaged loaded or to be discharge in any port in Zanzibar.

Exemption 4. The Authority may, with or without conditions, grant exemption from any provision of these Regulations for classes of cases or individual cases and may, subject to giving reasonable notice, amend or cancel any such exemption.

Document of compliance, inspection and certification 5.-(1) Dangerous goods shall not be taken on board a ship unless the ship has on board a document of compliance, issued by the Authority or the competent authority of the country in which the ship is registered or, in the absence of registration, whose flag it is entitled to fly, to the effect that the spaces in which the goods are to be carried comply with the provisions of these Regulations.

(2) Whenever dangerous goods are to be loaded at any port in Zanzibar, the ship-owner or master shall inform the Authority at the port of loading of the intention to load dangerous goods and shall furnish copies of all dangerous goods declarations relating to the goods to be loaded and a copy of the proposed special list, manifest or stowage plan detailing the location in the ship of any dangerous goods already on board, and to be loaded.

(3) The Authority, after taking into account the type, quantity and proposed stowage of the dangerous goods, may, but in the case of explosives shall, cause the ship to be inspected by a surveyor-

- (a) before loading to determine whether-
 - (i) the ship is equipped and in all other respects suitable to carry such goods;
 - (ii) the proposed stowage complies with these regulations; and
- (b) during loading and upon completion of loading to determine whether the goods are being and have been handled and stowed in accordance with these Regulations and whether all reasonable and necessary precautions are being and have

been taken to ensure the safety of the ship, its crew and other personnel during the voyage, and, in both cases, the surveyor must, if he is satisfied with the arrangements, issue the master with a certificate of inspection.

(4) If the ship owner or master fails to comply with this regulation commits an offence

General duties of ship owner, employer and master

6.-(1) Every ship-owner and employer of persons aboard a ship and every master of a ship must ensure, as far as is reasonably practicable, that when dangerous goods are being handled, stowed or carried in the ship nothing in the manner in which those goods are handled, stowed or carried is such as might pose a risk to the health or safety of any person.

(2) Without limiting the generality of the ship-owner's or employer's or master's duty under sub-regulation (1) of this regulation-

(a) the matters to which the duty of the ship owner and the employer extends include, in particular:

(i) the provision and maintenance of the ship's structure, fittings and equipment for handling, stowage and carriage of dangerous goods that is, as far as is reasonably practicable, safe and without risk to health;

(ii) the provision of such information, instruction, training and supervision as is necessary to ensure, as far as is reasonably practicable, the health and safety aboard ship of all employees in connection with the handling, stowage and carriage of dangerous goods in the ship; and

(b) the duty of a master of a foreign ship includes the matters specified in paragraph (a)(i) and (ii).

(3) If a ship-owner or employer or master fails to comply with this regulation commits an offence.

(4) It is a good defence to a charge under this regulation in relation to the handling of dangerous goods for a person to show that such handling was carried out in accordance with these Regulations.

General duties of employee aboard ship

7.-(1) Every employee aboard ship must:

(a) take reasonable care regarding the health and safety of himself or herself and of other persons who may be affected by his or her acts or omissions in connection with the handling, stowage and carriage of dangerous goods in the ship; and

- (b) as regards any duty or requirement imposed on his or her ship owner or employer by the Act with regard to the health and safety of persons aboard a ship to which these Regulations apply, co-operate with the ship owner or employer as far as is necessary to enable that duty or requirement to be performed or complied with in connection with the handling, stowage and carriage of dangerous goods in the ship.

(2) If an employee aboard ship carrying dangerous goods fails to comply with sub- regulation (1) of this regulation commits an offence.

Conduct endangering the ship or persons aboard ship

8.-(1) A person shall not, in connection with the handling, stowage and carriage of dangerous goods in a ship, knowingly or recklessly interfere with or misuse anything provided on or disobey instructions displayed on a ship in the interests of health or safety in pursuance of these Regulations.

(2) Any person carrying dangerous goods on-board a ship fails to comply with this regulation commits an offence.

Duty to report certain incidents involving packaged dangerous goods

9.-(1) Where an incident occurs in relation to a ship involving the loss or likely loss overboard of packaged dangerous goods into the sea, the master of the ship must, without delay, notify the appropriate authority giving such particulars in relation to the incident as that authority requires, and if the appropriate authority is not so notified the master is guilty of an offence.

(2) The appropriate authority is-

- (a) in relation to ships of Tanzania Zanzibar, the nearest proper officer and, where a foreign country is the nearest coastal state to the place where the incident occurred, the government of that foreign country;
- (b) in relation to any other ship, the nearest proper officer.

(3) It is a good defence to a charge under sub-regulation (1) of this regulation for a person to show that he was unable to comply with the sub-regulation in relation to the incident concerned.

PART THREE CARRIAGE OF PACKAGED DANGEROUS GOODS

Declaration of goods to be carriage

10.-(1) Packaged dangerous goods shall not be offered for carriage or taken on board a ship unless a dangerous goods declaration has been furnished to the ship-owner or master.

(2) Such declaration shall indicate the following:

- (a) the proper shipping name,
- (b) the class and division according IMDG Code where applicable as prescribed in the Schedule to these Regulations;
- (c) the United Nations (UN) number where allocated by the IMDG Code,
- (d) where relevant, the packaging or packing group,
- (e) the number and kind of packages;
- (f) the total quantity of dangerous goods or net explosive mass of the contents;
- (g) the words MARINE POLLUTANT where appropriate; and
- (h) if appropriate, the class of ship needed for any packaged irradiated nuclear fuel, plutonium and high level radioactive wastes carried as cargo in accordance with Class 7 Schedules 10 to 13 to the IMDG Code and the quantities of such goods; and
- (i) any other information required by the IMDG Code.

(3) Where there is doubt as to the appropriate classification of dangerous goods such goods must be classified by an approved classification authority.

(4) Such declaration must include a statement to the effect that the goods are packaged in accordance with these Regulations.

(5) The shipper must furnish the ship-owner or master with a declaration required by this regulation, unless he does not deliver the goods to the ship or its agent, in which case the shipper must furnish the forwarder with such a declaration.

(6) Where the shipper does not deliver the goods to the ship or its agent, the forwarder must furnish the ship-owner or master with the declaration.

(7) If a shipper or a forwarder fails to furnish a declaration required by this regulation, or furnishes a declaration that he knows or ought to know to be false or misleading in a material particular, commits an offence.

(8) If a ship-owner or master accepts for carriage, or takes or receives on board any packaged dangerous goods for which a declaration required by this regulation has not been furnished, commits an offence.

Preparation of goods for transport

11.-(1) The shipper shall not offer packaged dangerous goods for carriage unless:

- (a) all the conditions specified in the IMDG Code have been complied with in relation to their declaration, classification, marking, packaging, labelling, placarding and prior notification to competent authority or consignee, as appropriate; and
- (b) in the case of goods in a portable tank or tank container or vehicle the goods have been properly and safely prepared for carriage by sea by complying with the applicable tank requirements for international voyages in accordance with the IMDG Code.

(2) In preparing any goods for shipment it shall be the duty of the shipper to identify and classify dangerous goods in order to ensure that the proper precautions and preparations can be made for transport as required by these Regulations.

(3) Declaration required by regulation 10 of these Regulations shall not be signed by the shipper unless sub-regulations (1) and (2) of this regulation have been complied with.

(4) Any contravention of sub regulation (1) to (3) of this regulation shall be an offence by the shipper.

(5) A ship owner or master shall not accept for carriage, or take or receive on board any packaged goods where he has reasonable cause to suspect that the goods are not in compliance with sub-regulation (1) of this regulation.

(6) Any contravention of sub-regulation (5) of this regulation commits an offence.

Packing Certificates

12.-(1) Where packaged dangerous goods have been packed into a freight container or into or onto a vehicle the person responsible for packing such goods therein shall:

- (a) ensure that the stowage, segregation and securing of the goods is adequate and in accordance with the IMDG Code;
- (b) provide the operator or master or shipper or forwarder, with

a signed packing certificate in accordance with the requirements of the IMDG Code, indicating the cargo transport unit, cargo unit, identification number or numbers and identifying the place and date of the operation, the name of the person responsible for the packing and his status, and company or organisation.

(2) If the person responsible for packing such goods contravenes sub-regulation (1) of this regulation commits an offence.

(3) A ship owner or his agent or the master shall not knowingly accept on any ship any freight container or vehicle containing dangerous goods in it without a signed packing certificate and if a ship-owner or his agent or the master fails to comply with this sub-regulation, commits an offence.

(4) If the shipper or forwarder fails to provide the ship owner or master of the ship with the signed packing certificate, commits an offence.

List, manifest or stowage plan

13.-(1) The master of a ship carrying packaged dangerous goods must cause a special list, manifest or stowage plan to be carried on board ship:

(a) setting out details, obtained from the shipping documents submitted by the shipper, of the packaged dangerous goods on board, including the correct technical name of the goods, their classification in accordance with the regulation 10(2) of these Regulations and their mass or volume; and

(b) showing details of the location in the ship where the goods are stowed.

(2) The master must also carry on board ship any additional special documents required by the IMDG Code for the carriage of packaged dangerous goods.

(3) Any such list, manifest or stowage plan and any additional special documents required for the acceptance of such goods for carriage in a ship must be kept available and accessible for reference or inspection on board the ship until the goods have been discharged from the ship.

(4) If the master of a ship carrying packaged dangerous goods fails to cause a list, manifest or stowage plan or additional special documents required by sub-regulation (2) of this regulation to be carried in the ship or kept available as required by sub-regulation (3) of this regulation, commits an offence.

Marking and labeling

14.-(1) A ship owner or master shall not knowingly take packaged dangerous goods or packaged goods on any ship for carriage in that ship unless the following conditions are met:

- (a) packages containing dangerous goods must be durably marked in accordance with the IMDG Code and provided with labels or stencils of labels or placards where specified in the Code;
- (b) the method of marking the correct technical name and of affixing labels or applying stencils of labels or placards or marine pollutant marks, as appropriate, on packages containing dangerous goods must be such that the information marked, affixed or applied will remain legible after the package has been immersed in the sea for three months or, if the package itself disintegrates before the end of that period, for as long as the package will last; and
- (c) where the outer material of the package is such that it will not survive at least three months' immersion in the sea, any inner receptacles that will survive such immersion must be durably marked by any suitable means, including an IMDG Code Class symbol or marine pollutant mark or both, of an appropriate size, to indicate the nature of the danger to which the goods give rise.

(2) Without prejudice to the conditions specified under sub regulation (1) of this regulation, where the goods are contained in a freight container, vehicle, portable tank or tank container, the cargo transport unit in which the goods are contained must bear conspicuously on its exterior distinctive placards or other appropriate marking in accordance with the IMDG Code.

(3) Any breach of this regulation relating to the marking, labelling or placarding of packaged dangerous goods is an offence on the part of the shipper of those goods.

(4) If a ship-owner or master accepts dangerous goods to be taken on board ship in any package that has not been marked and labelled or placard in accordance with this regulation, commits an offence.

Stowage.

15.-(1) Packaged dangerous goods must be stowed, segregated and secured in accordance with the IMDG Code.

(2) Where packaged dangerous goods are shipped in or on a vehicle or freight container that was loaded after those goods left the premises or control of the shipper, it is the duty of the person responsible for loading that vehicle or freight container to ensure that the stowage, segregation and securing of those goods in the vehicle or freight container is adequate and complies with the IMDG Code.

(3) If a ship-owner or master or the person responsible for packing dangerous goods in a freight container or vehicle or for stowing the dangerous goods in a ship fails to comply with this regulation, commits an offence.

Carriage of explosives

16.-(1) Explosives that a ship-owner or master knows or ought to know pose a serious risk when carried in a ship shall not be taken on board a ship unless:

- (a) such explosives are stowed in a compartment in which any electrical apparatus and cables are so designed and used as to minimise the risk of fire or explosion;
- (b) detonators are effectively segregated from all other explosives;
- (c) the stowage and segregation of explosives complies with the IMDG Code; and
- (d) where such explosives are required to be stowed in a magazine:
 - (i) such magazine has been approved; and
 - (ii) such magazine is kept securely closed while the ship is at sea.

(2) If a ship-owner or master fails to comply with this regulation commits an offence.

PART FOUR

CARRIAGE OF DANGEROUS GOODS IN BULK

Carriage in bulk

17.-(1) Dangerous goods shall not be handled or carried in bulk in any ship if the ship-owner has reason to believe that such goods may not be so handled or carried in bulk safely in that ship.

(2) Without limiting the generality of sub-regulation (1) of this regulation:

- (a) where the dangerous goods in question are goods listed in Chapter VI of the BCH Code, or in Chapter 17 of the IBC Code, or in Chapter XIX of the Gas Carrier Code for Existing Ships, or in Chapter XIX of the Gas Carrier Code, or in Chapter 19 of the IGC Code, or are classified dangerous goods listed in Appendix 1 of the Bulk Cargoes Code, they must be handled and carried in accordance with the requirements of whichever of the codes is appropriate; or
- (b) Where the dangerous goods in question consist of a liquid chemical or a liquefied gas that is not listed in the codes specified in paragraph (a), they must be handled and carried in accordance with an approval given by the Authority,

Provided that such approval must be given in writing and must specify the date on which it takes effect and the conditions if any on which it is given.

(3) If there is any breach of sub-regulation (1) or (2) of this regulation, the ship-owner and the master shall each commits an offence.

Documentation

18.-(1) The shipper of dangerous goods to be carried in bulk must furnish the ship-owner or the master with notification in writing stating the nature of the goods and, in the case of liquid goods with a flashpoint at or below 60 °C (closed cup), specifying the flashpoint of those goods.

(2) The notification provided in sub-regulation (1) of this regulation, must specify:

- (a) the correct technical name of the goods;
- (b) their UN number (if any); and
- (c) for dangerous goods carried in solid form in bulk, their classification in accordance with regulation 10(2) of these Regulations.

(3) If a shipper of dangerous goods in bulk fails to furnish the ship-owner or master with such notification in writing, or furnishes notification that he knows or ought to know to be false or misleading in a material particular commits an offence.

List, manifest or stowage plan

19.-(1) The master of a ship carrying dangerous goods in bulk must cause a special list, manifest or stowage plan to be carried on board ship:

- (a) setting out details, obtained from the shipping documents submitted by the shipper, of the dangerous goods carried aboard the ship for the voyage on which it is currently engaged, including the correct technical name of the goods, their mass or volume and, where the dangerous goods appear in Appendix 1 of the Bulk Cargoes Code, their classification in accordance with regulation 10(2) of these Regulations; and
- (b) showing details of the location in the ship where the goods are stowed.

(2) The master must also carry in the ship any additional special documents required by the Bulk Cargoes Code, the BCH or IBC Codes, or the IGC or Gas Carrier Codes for the carriage of dangerous goods.

(3) Any such list, manifest or stowage plan and any additional special documents required for the acceptance of such goods for carriage in a ship must be kept available for reference or inspection on board the ship until the goods have been discharged from the ship.

(4) If the master of a ship carrying dangerous goods in bulk fails to cause a list, manifest or stowage plan or additional special documents required for the acceptance of such goods for carriage to be carried in the ship or kept available as required by sub-regulation (3) of this regulation, commits an offence.

PART FIVE ENFORCEMENT PROVISIONS

Power to detain

20. A ship that fails to comply with these regulations, including any condition imposed thereunder, may be detained in accordance with the provisions of the Act or these Regulations.

Penalties and defences

21.-(1) A person guilty of an offence under these regulations shall be liable to a fine not less than the equivalent of ten thousand dollars or to imprisonment for a period not less than six months.

(2) It is a good defence to a charge under these regulations for a person to show:

- (a) that he took all reasonable steps to ensure compliance with these regulations;

- (b) that he did not know nor ought to have known nor had reasonable grounds for suspecting the goods to be dangerous goods;
- (c) that the goods were handled and carried in accordance with the provisions of the IMDG Code, where applicable;
- (d) if the person charged is the ship-owner or master, in the case of goods packed in a freight container or vehicle, that before the freight container or vehicle was taken on board the ship the person responsible for packing the goods into the freight container or vehicle had furnished the ship-owner or master of the ship with a signed packing certificate certifying that the goods had been properly packed in the freight container or vehicle;
- (e) that the goods, being solid dangerous goods in bulk, were handled and carried in accordance with the Bulk Cargoes Code;
- (f) that the goods, being liquid chemical or gaseous dangerous goods in bulk, were handled and carried in accordance with the relevant requirements of the BCH Code, the IBC Code, the Gas Carrier Code, the Gas Carrier Code for Existing Ships and the IGC Code.

Compounding of offences

22.-(1) Notwithstanding any other law, where a ship or master violates any provision of these Regulation, the Authority 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 Authority 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
Classes of Dangerous Goods
[Made under regulation 10(2) (b)]

Class	Type of Goods
Class 1	Explosives
Class 2	Gases compressed, liquefied or dissolved under pressure, subdivided into three categories: 2.1 Flammable gases 2.2 Non-flammable gases, being compressed, liquefied or dissolved, but neither flammable nor poisonous 2.3 Poisonous gases
Class 3	Flammable liquids, subdivided into three categories: 3.1 Low flashpoint group of liquids having a flashpoint below -18/C, closed cup test 3.2 Intermediate flashpoint group of liquids having a flashpoint of -18 /C up to but not including 23 /C, closed cup test 3.3 High flashpoint group of liquids having a flashpoint of 23 /C up to and including 61 /C, closed cup test
Class 4	4.1 Flammable solids 4.2 Substances liable to spontaneous combustion 4.3 Substances that, in contact with water, emit flammable gases
Class 5	5.1 Oxidising substances (agents) 5.2 Organic peroxides
Class 6	6.1 Poisonous (toxic) substances 6.2 Infectious substances
Class 7	Radioactive materials
Class 8	Corrosives
Class 9	Miscellaneous dangerous substances and articles that pose a danger not covered by other classes

SIGNED on this 12day of February, 2019.

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