

THE MARITIME TRANSPORT ACT, No. 5 OF 2006

THE INQUIRY OF CONDUCT OF SEAFARERS REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATIONS

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[Made under section 143(1)]

IN EXERCISE of the powers conferred upon me under section 143(1) of the Maritime Transport Act, No. 5 of 2006, I, **DR. SIRA UBWA MAMBOYA**, Minister responsible for Maritime Transport affairs do hereby make the Inquiry of Conduct Seafarers Regulations as follows:

**PART ONE
PRELIMINARY PROVISIONS**

Short title and commencement date. **1.** These Regulations may be cited as the Enquiry of Conduct of Seafarers Regulations, 2018, and shall come into operation after being signed by the Minister and published in the Gazette.

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

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

“Minister” means Minister responsible for maritime affairs;

"person appointed" means the person appointed by the Minister to hold an inquiry;

“Registrar of ships” means Registrar of Ships appointed under section 7 (2) of the Act.

**PART TWO
PROCEDURES FOR CONDUCTING AN ENQUIRY**

Notice of inquiry **3.-(1)** When the Minister or a Registrar of Ships causes an enquiry to be held under section 141 or section 139 of the Act as the case may be, he shall cause a notice to be served on the officer concerned who shall be made a party to the inquiry.

(2) Service of such a notice shall be effected at least 30 days before the date fixed for the inquiry either by serving the officer concerned

personally or by sending the notice to his last known address by registered post or by the recorded delivery service.

(2) The notice of inquiry shall state:

- (a) the facts giving rise to the inquiry;
- (b) the allegation made against the officer to whom the notice of inquiry is addressed and the ground therefore;
- (c) the time and date when and the place where the inquiry is to be held;
- (d) the officer's rights as set out in these Regulations.

Appointment of persons to conduct an enquiry

4.-(1) The Minister or a Registrar of Ships as the case may be, subject to sub-regulation (3) of this Regulation shall appoint a person to conduct an enquiry.

(2) The person appointed shall conduct it with the assistance of one or more assessors.

(3) The person appointed shall be either:

- (a) a Judge or a Magistrate; or
- (b) a person who have a qualifications to be appointed a Judge or a Magistrate.

(4) At least one of the assessors appointed shall have had experience in the same capacity and in the same type of ship as the officer concerned.

(5) The Registrar of Ships shall maintain a list of assessors and may add or withdraw the name to or from the list.

Holding of enquiry

5.-(1) At the time and the place appointed for holding the inquiry the person appointed may proceed with the inquiry whether the party upon whom the notice of inquiry was served, any other party, any person who has applied to become a party, or any of them, are present or not:

Provided that where the officer concerned has been served with the notice of inquiry by post the person appointed shall not proceed with the inquiry in his absence unless satisfied that the officer has been served in accordance with the requirements of Regulation 3(1).

(2) Any other person, not being the officer concerned, may, with the leave of the person appointed, become a party of the inquiry.

(3) The inquiry shall be held in public save for the extent to which the person appointed is satisfied that in the interests of justice, or for other good and sufficient reason in the public interest, any part of the evidence or any argument relating thereto should be heard in private.

Procedure at enquiry

6.-(1) The proceedings at the inquiry shall commence with the presentation on behalf of the Minister or a Registrar as case may be, of the case against the officer concerned.

(2) The officer concerned shall have the right:

- (a) to defend himself against the allegation, in person or otherwise;
- (b) to admit before or at any time after the commencement of the inquiry the allegation or any part of it made against him.

(3) Where more than one allegation is made against an officer his admission of an allegation or any part of it shall be without prejudice to his right to defend himself against any other allegation which he does not admit.

(4) Any party to the inquiry shall have the right in person or by a representative to make an opening statement, call witnesses, cross examine witnesses called by other parties, tender evidence other than oral evidence and address the person appointed in such order as the person appointed may direct.

(5) Where a party does not appear in person at the inquiry and is not represented by another person, he may make representation in writing to the person appointed and such written representation shall be read out at the inquiry by or on behalf of the person appointed.

(6) Without prejudice to the admission of documents as secondary evidence allowed by statute or otherwise, affidavits, depositions, declarations and other written evidence shall, unless the person appointed considers it unjust, be accepted as evidence at the inquiry.

(7) The person appointed may postpone or adjourn the hearing at the inquiry for such period as he thinks fit either of his own motion or upon the application of any party

Decision of person appointed

7.-(1) The person appointed shall, at the conclusion of the inquiry or as soon as possible thereafter, announce his decision in public and make a report on the case to the Minister or Registrar pursuant to section 139 or

section 141 of the Act.

(2) Each assessor shall either sign the report with or without reservations, or state in writing his dissent therefrom and his reasons for such dissent, and such reservations or dissent and reasons (if any) shall be forwarded to the Minister or Registrar of Ships with the report.

(3) The Minister or a Registrar of Ships as case may be, shall inform the officer concerned, in writing, of the decision of the person appointed if the officer was not present when that decision was announced, and shall make a copy of the report available to him.

(4) A copy of the report shall be made available to any party to the inquiry upon request to the Minister or a Registrar of Ships as the case may be.

SIGNED on this 12 day of February, 2019.

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