

(Legislative Supplement No. 35)

LEGAL NOTICE NO. 88

THE MERCHANT SHIPPING ACT

(No. 4 of 2009)

THE MERCHANT SHIPPING (CO-OPERATION WITH SEARCH  
AND RESCUE SERVICES) REGULATIONS, 2014

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THE MERCHANT SHIPPING ACT, 2009

(No. 4 of 2009)

IN EXERCISE of the powers conferred by sections 8, 232 and 450 of the Merchant Shipping Act, 2009, the Cabinet Secretary for Transport and Infrastructure makes the following Regulations –

THE MERCHANT SHIPPING (CO-OPERATION WITH SEARCH  
AND RESCUE SERVICES) REGULATIONS, 2014

1. These Regulations may be cited as the Merchant Shipping (Co-operation with Search and Rescue Services) Regulations, 2014.

Short Title and  
Commencement .

2. (1) In these Regulations –

Interpretation.

“appropriate search and rescue services” means, in relation to a ship, the search and rescue services responsible for the initiation and co-ordination of all search and rescue activity for the area of operation of the ship;

“Authority” has the same meaning under these regulations as in section 2 of the Kenya Maritime Authority Act, 2006;

"owner" includes, in relation to a ship, any operator, manager, charterer or agent of the ship;

“passenger ship” means any ship certified to carry more than 12 passengers;

“regular scheduled service” means an advertised service which provides for the carriage of passengers at specified intervals along specified routes through or within Kenyan waters.

(2) Where a ship is managed by a person other than the owner (whether on behalf of the owner, of some other person or on his own behalf), a reference in these Regulations to the owner shall be construed as including a reference to that person.

(3) Any approval given pursuant to these Regulations shall be given in writing and shall specify the date on which it takes effect and the conditions, if any, on which it is given.

3. These Regulations shall apply to all ships registered under the Merchant Shipping Act, 2009, and— Application.

(a) Kenyan passenger ships wherever they may be; and

(b) other passenger ships operating on regular scheduled services while they are within Kenyan waters.

4. (1) The owner of a ship to which these Regulations apply shall prepare a plan in respect of the ship, setting out the steps to be taken by those on board for co-operating with the appropriate search and rescue services if the ship requires the assistance of those search and rescue services. Duty to prepare a plan.

(2) In preparing the plan referred to in sub-regulation (1) above the owner of the ship shall consult the Authority.

5. (1) The plan referred to in regulation 4(1) above shall include provision for the performance of periodic exercises, to be conducted at reasonable intervals, by the ship and the appropriate search and rescue services in order to test the effectiveness of the plan. Periodic testing of plan.

(2) The periodic exercises under subregulation (1) shall be undertaken only with the prior agreement of the appropriate search and rescue services.

6. (1) The owner of the ship shall submit the plan prepared pursuant to regulation 4(1) above in respect of the ship to the Director-General for approval. Approval of plan.

(2) The Director-General may either—

(a) reject the plan; or

(b) approve the plan with or without modifications.

7. Ships to which these Regulations apply shall carry on board a plan approved in accordance with regulation 6. Ships to carry plan.

8. Where there is a breach of regulation 7 in relation to a ship the owner and master of the ship shall each be guilty of an offence and liable on conviction to a fine not exceeding five hundred thousand shillings or imprisonment for a period not exceeding three years, or to both such fine and imprisonment. Penalties.

9. In any case where a ship does not comply with the requirements of these Regulations the ship shall be liable to be detained and section 435 of the Act, shall have effect in relation to the ship. Power to detain.

10. (1) If any person — Director-General may impose penalty upon

- (a) admits to the Director-General that he has failed to comply with any provision of these regulations, or that he has failed to comply with any such provision with which it was his duty to comply; admission of guilt.
- (b) agrees to abide by the decision of the Director-General; and
- (c) deposits with the Director-General such sum as may be required of him, but not exceeding the maximum fine which may be imposed upon conviction for the failure to comply in question,

the Director-General may, after such an enquiry as it deems necessary, determine the matter summarily and may, without legal proceedings, order by the way of a penalty the whole or any part of the said deposit to be forfeited.

(2) The imposition of a penalty under sub-regulation (1) shall not be deemed to be a conviction of a criminal offence, but no prosecution for the relative offence shall thereafter be competent.

(3) Nothing in this regulation shall in any way affect liability to forfeiture of ships, shares therein or goods.

Dated the 22nd May, 2014.

M. S. M. KAMAU,  
*Cabinet Secretary for Transport and Infrastructure.*