

Tanzania

Tanzania Shipping Agencies (Performance Benchmarks) Regulations, 2022

Government Notice 116 of 2022

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Tanzania Shipping Agencies (Performance Benchmarks) Regulations, 2022 (Government Notice 116 of 2022)

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Tanzania Shipping Agencies (Performance Benchmarks) Regulations, 2022

Government Notice 116 of 2022

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[Made under section 61(1)]

Part I – Preliminary provisions

1. Citation

These Regulations may be cited as the Tanzania Shipping Agencies (Performance Benchmarks) Regulations, 2022.

2. Application

These Regulations shall apply to regulated service providers in Mainland Tanzania.

3. Interpretation

In these Regulations, unless the context otherwise requires—

“**Act**” means the Tanzania shipping Agencies Act;

“**benchmark**” means a level of achievement and excellence that is superior, acceptable and achievable in accordance with these Regulations;

“**best practice**” means a process that delivers a level of performance which is commonly accepted or set as being correct or most efficient in the maritime industry;

“**Corporation**” means the Tanzania Shipping Agencies Corporation established under section 4 of the Act;

“**performance benchmark**” means performance level set under these Regulations for the purpose of determining the level of achievement and excellence of a service provider;

[definition of "performance benchmark" amended by section 2 of [Government Notice 472 of 2024](#)]

“**public register**” means an official list of decisions, information and transactions which is required to be available to the public in accordance with the Act;

“**regulated service**” includes any service supplied or offered for supply in maritime transport sector and includes maritime environment, safety, security, port services, shipping agency, clearing and forwarding, cargo consolidation and deconsolidation, gross mass verification and miscellaneous port services; and

“**regulated service provider**” means a person providing regulated services.

[Cap. 415]

Part II – Setting of performance benchmarks

4. Powers to set performance benchmarks

The Corporation shall, for the purpose of gauging performance of regulated service providers and ensuring reliable mechanism of enhancing efficiency, have powers to—

- (a) set performance benchmarks for regulated service; and
- (b) monitor the performance of regulated service provider.

5. Services subject to benchmarking

- (1) The Corporation shall set performance benchmarks for a regulated service where there exists a dominant regulated service provider.
- (2) Notwithstanding the provisions of subregulation (1), the Corporation may set performance benchmarks for a regulated service other than where there exists a dominant regulated service provider:

Provided that, the setting of performance benchmarks is aimed at—

- (a) expediting resolution of consumer complaints or complaints amongst service providers;
 - (b) enhancing quality of regulated services;
 - (c) regulating the conduct of the regulated service provider;
 - (d) effective facilitation of trade; and
 - (e) generally achieving the purposes of these Regulations.
- (3) For the purpose of this regulation, “dominant regulated service provider” means a regulated service provider—
 - (a) who, by acting alone, may profitably and materially restrain or reduce competition in the market for a significant period of time; and
 - (b) whose market share exceeds thirty five percent.

Part III – Procedure to set performance benchmarks

6. Initiation of performance benchmarking process

- (1) Subject to regulation 5, the Corporation may, on its own motion, initiate the process of setting performance benchmarks for regulated service and invite stakeholders for consultation.
- (2) Notwithstanding the provisions of subregulation (1), an association representing interests of regulated service provider or consumer of regulated service, a regulated service provider or consumer of regulated service may propose performance benchmark for a regulated service to the Corporation for approval by filling the Form prescribed in the First Schedule to these Regulations.

7. Adoption of contractual benchmarks

Where a regulated service provider has contractual performance benchmark with a Government institution, the Corporation may adopt such benchmark, with or without condition:

Provided that, the contractual performance benchmark is equal or superior to the approved benchmark under these Regulations.

8. Notification of review of contractual performance benchmarks

A regulated service provider shall notify the Corporation of any review of a contractual performance benchmark in writing within sixty days from the date of such change:

Provided that, the reviewed contractual performance benchmark shall be subject to the compliance requirements under regulation 7.

9. Stakeholders' consultation

- (1) The Corporation shall hold stakeholders' consultation for comments on the proposed performance benchmarks under regulation 6 prior to determination and approval by the Corporation.
- (2) The requirements for consultation under subregulation (1) shall not apply to contractual performance benchmarks.

Part IV – Approval and review of performance benchmarks

10. Approval of performance benchmarks

- (1) Where the Corporation is satisfied that all relevant factors have been considered, it may—
 - (a) approve the proposed performance benchmarks with or without variation; or
 - (b) disapprove the proposed performance benchmarks.
- (2) Where the Corporation approves the proposed performance benchmarks, it shall issue and publish a public notice of approved performance benchmarks in a widely circulated newspaper.
- (3) Where the Corporation disapproves the proposed performance benchmarks, it shall notify the relevant stakeholder with reasons within thirty days from the date of disapproval.

11. Review of performance benchmarks

- (1) The Corporation may review a performance benchmark upon any of the following occurrences:
 - (a) change in technology which is relevant for the performance of the regulated service provider;
 - (b) acquisition of new or additional equipment;
 - (c) improvement of infrastructure;
 - (d) improvement of best practices in the maritime industry;
 - (e) changes in expectations of consumer or the Corporation regarding performance level; or
[paragraph (e) amended by section 3 of Government Notice 472 of 2024]
 - (f) any other significant change affecting performance of the regulated service provider.
- (2) An association representing interests of regulated service provider or consumer of regulated service, a regulated service provider or consumer of regulated service may submit to the Corporation a proposal to review performance benchmark on the basis of the circumstances provided in subregulation (1) by filling the Form prescribed in the First Schedule to these Regulations.
- (3) Notwithstanding subregulation (1), the Corporation may review a performance benchmark after three years from the date of its approval.

Part V – Assessment of performance benchmarks

12. Submission of performance benchmarks data and information

- (1) A regulated service provider shall submit to the Corporation such data or information as may be required for purposes of assessment of the approved performance benchmarks.
- (2) Submission of data or information shall be made electronically or manually in a submission plan in the format prescribed in the Second Schedule to these Regulations.
- (3) Where the regulated service provider submits the required data or information to a common electronic system to which the Corporation has access, the regulated service provider shall be deemed to have submitted the data or information to the Corporation.
- (4) Without prejudice to the requirements of subregulation (3), the Corporation may issue a summons requiring the regulated service provider to—
 - (a) submit data or information as may be required;
 - (b) appear before the Corporation for further clarification.
- (5) A regulated service provider shall not submit data or information which is false or misleading.

13. Assessment of regulated service providers

- (1) The Corporation shall assess performance of a regulated service provider with regard to the performance benchmark issued under a public notice.
- (2) The Corporation shall—
 - (a) conduct performance assessment at least once after every six months; and
 - (b) issue the assessed regulated service provider results of the performance assessment and post the results to the public register.

14. Assessment of shipping business services provided by Corporation

- (1) The performance of the Corporation in rendering shipping business services shall be assessed at least twice annually.
- (2) Subject to the provision of subregulation (1), the Minister shall appoint three persons to undertake performance assessment of the Corporation.
- (3) The persons appointed under subregulation (2) shall serve for a period of three years.
- (4) The results of the performance assessment of the Corporation shall be submitted to the Minister for his guidance on the corrective measures to be taken.

Part VI – Compliance with performance benchmarks

15. Compliance with performance benchmark

A regulated service provider shall be required to meet the minimum performance benchmarks issued under these Regulations.

16. Issuance of notice to comply

Where a regulated service provider fails to meet the minimum performance benchmarks, the Corporation shall issue a notice as prescribed in the Third Schedule to these Regulations requiring a service provider to comply with the performance benchmark within a prescribed period.

17. Commitment statement by regulated service provider

- (1) A regulated service provider shall, within fourteen days upon being issued with the notice for compliance, submit to the Corporation a commitment statement in writing that specifies—
 - (a) actions to be taken;
 - (b) resources to be used; and
 - (c) time frame within which to comply with the performance benchmarks.
- (2) A regulated service provider may, upon receipt of the compliance notice and not later than the period of submission of commitment statement as specified under subregulation (1), request the Corporation for extension of the period of notice of compliance.

18. Determination of commitment statement

The Corporation shall, upon receipt of the commitment statement or request for extension of period of notice of compliance, make determination and communicate its decision in writing to the regulated service provider.

Part VII – General provisions

19. Failure to comply with summons

A person who without lawful excuse refuses or fails to comply with the summons issued under regulation [12\(4\)](#) commits an offence under section 9(5) of the Act.

20. General penalty

- (1) Where a person contravenes any provision of these Regulations for which no specific penalty is provided shall be deemed to have failed to comply with the conditions of a licence under the Act and respective Regulations governing the regulated service provider.
- (2) Notwithstanding subregulation (1), a regulated service provider who violates the provisions of these Regulations, where Regulations governing regulated service provider do not provide specific penalties, shall be deemed to have committed a general offence under the Act.

21. Complaint handling

A person aggrieved by a decision of the Corporation made under these Regulations may seek redress in accordance with the Tanzania Shipping Agencies (Complaints Handling) Regulations.

[GN. No. 338 of 2018]

First Schedule (Made under regulations 6(2) and 11(2))

Form for proposal or review of performance benchmark

[Editorial note: The form has not been reproduced.]

Second Schedule (Made under regulation 12(2))

Data submission plan

[Editorial note: The form has not been reproduced.]