

SPECIAL ISSUE

1379

Kenya Gazette Supplement No. 147

23rd September, 2022

(Legislative Supplement No. 79)

LEGAL NOTICE NO. 174

**THE MERCHANT SHIPPING (KENYAN SEAFARERS' IDENTITY
DOCUMENT) REGULATIONS, 2022**

(No. 4 of 2009)

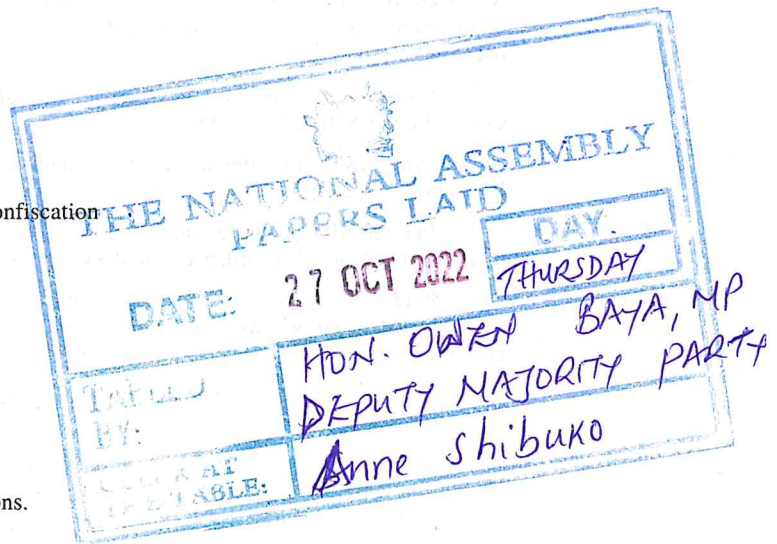
**THE MERCHANT SHIPPING (KENYAN SEAFARERS' IDENTITY
DOCUMENT) REGULATIONS, 2022**

ARRANGEMENT OF RULES

Rule

- 1—Citation
- 2—Interpretation
- 3—Objectives of the Regulations
- 4—Scope of application
- 5—Eligibility for a Kenyan SID.
- 6—Application for a Kenyan SID.
- 7—Form of Kenyan SID.
- 8—Validity of Kenyan SID
- 9—Suspension, withdrawal and confiscation
- 10—Review.
- 11—Renewal.
- 12—Replacement
- 13—Continuous possession.
- 14—Record of Kenyan SIDs.
- 15—Focal Point.
- 16—Quality Control and evaluations.
- 17—Recognition of Foreign SIDs.
- 18—Shore leave.
- 19—Transit and transfer.
- 20—Offences and penalty.

SCHEDULES



THE MERCHANT SHIPPING ACT, 2009

(No. 4 of 2009)

IN EXERCISE of the powers conferred by section 200 of the Merchant Shipping Act, 2009, the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works makes the following Regulations—

THE MERCHANT SHIPPING (KENYAN SEAFARERS' IDENTITY DOCUMENT) REGULATIONS, 2022

1. These Regulations may be cited as the Merchant Shipping (Kenyan Seafarers' Identity Document) Regulations, 2022. Citation.
2. In these Regulations, unless the context otherwise requires— Interpretation.
 - "Act" means the Merchant Shipping Act, 2009; No. 4 of 2009.
 - "certificate of proficiency" means a certificate, other than a certificate of competency, issued to a seafarer indicating the relevant requirements of training, competencies or seagoing service that have been met;
 - "Convention" means the Seafarers' Identity Documents Convention, No. 185 (Revised in 2003);
 - "data" has the meaning assigned to it under section 2 of the Data Protection Act, 2019; No. 24 of 2019.
 - "Foreign SID" means a valid seafarers' identity document issued by a Member State in accordance with the Convention;
 - "holder" in respect of a Kenyan Seafarer's Identity Document, means the person to whom the Kenyan Seafarer's Identity Document is granted in accordance with these Regulations;
 - "immigration officer" has the meaning assigned to it under the Kenya Citizenship and Immigration Act, 2011; No. 12 of 2011.
 - "Kenyan seafarer" means a citizen of Kenya employed, engaged or working in any capacity on board a vessel, including any person working on board commercial fishing vessels, engaged in international voyage;
 - "Kenyan SID" means a Kenyan Seafarer's Identity Document issued under these Regulations;
 - "Member State" means a State that is a signatory to the Convention;
 - "personal data" has the meaning assigned to it under section 2 of the Data Protection Act, 2019; and No. 24 of 2019.
 - "port officer" means an officer in a port empowered to enforce the legislation relating to public health, public safety, public order or national security, or any government officer assigned to perform any duty related thereto; and

“STCW safety training certificate” means a Standards of Training, Certification and Watchkeeping basic safety training certificate.

3. The purpose of these Regulations is to—

Objects of the Regulations.

 - (a) give effect to the provisions of the Seafarers’ Identity Documents Convention, No. 185 (Revised in 2003); and
 - (b) provide for the application, production, issuance and administration of Kenyan identity documents.
4. (1) These Regulations shall apply to—

Scope of application.

 - (a) Kenyan seafarers;
 - (b) seafarers on board ships in Kenyan waters; and
 - (c) seafarers crossing Kenyan borders.

(2) Except as otherwise provided, these Regulations shall not apply to seafarers working on board a ship of war.

(3) These Regulations shall be read alongside and not in derogation of the Conventions and Rules annotating various provisions of the International Civil Aviation Organization Document 9303 and the Convention.

(4) The provisions of the Data Protection Act, 2019 relating to the rights of data subjects and responsibilities of data controllers and processors shall apply to these Regulations.

No. 24 of 2019.
5. (1) A person is eligible to apply for a Kenyan Seafarers’ Identity Document if that person—

Eligibility for a Kenyan SID.

 - (a) is a person to whom these Regulations apply; and
 - (b) meets the requirements under regulation 6.

(2) A Kenyan seafarer holding a valid continuous discharge certificate and record book, valid STCW safety training certificate and a valid Kenyan passport may apply for a Kenyan SID.
6. (1) An application for a Kenyan SID shall be—

Application for a Kenyan SID.

 - (a) made to the Authority in the form set out in the First Schedule;
 - (b) accompanied by—
 - (i) a national identity card of the applicant;
 - (ii) a valid Kenyan passport;
 - (iii) a continuous discharge certificate and record book;
 - (iv) a valid STCW safety training certificate; and
 - (v) proof of payment of the application fee specified in the Second Schedule.

(2) Upon receipt of an application under subregulation (1), the Authority shall consider the application and may, in writing, require such additional information, from the applicant, as may be necessary to determine the application.

(3) The Authority may, after considering an application under this regulation—

- (a) issue a Kenyan SID to a successful applicant in the form set out under regulation 7; or
- (b) in writing, reject the application where—
 - (i) the application does not meet the specified requirements;
 - (ii) the applicant gives false material information for the purpose of obtaining the Kenyan SID;
 - (iii) the applicant submits an incomplete application; or
 - (iv) the applicant does not respond to the request for additional information in accordance with subregulation (2), and within seven days from the date the decision, notify the applicant of the decision thereof.

7. (1) The Kenyan SID shall conform to the model set out in the Convention and, in particular, shall include the following details—

Form of Kenyan SID.

- (a) full name of the applicant;
- (b) the gender of the applicant;
- (c) the date and place of birth of the applicant;
- (d) the nationality of the applicant;
- (e) any special physical characteristics that may assist identification of the applicant;
- (f) digital and original photograph of the applicant; and
- (g) the signature of the applicant.

(2) Notwithstanding subregulation (1), the Director-General may specify—

- (a) any other particulars that may be considered necessary;
- (b) additional biometric data to be incorporated in the Kenyan SID in line with the Convention.

8. A Kenyan SID shall be valid for a period of five years from the date of issue.

Validity of Kenyan SID.

9. (1) The Authority may suspend, withdraw or confiscate a Kenyan SID where the holder—

Suspension, withdrawal and confiscation.

- (a) knowingly permits another person to use his or her Kenyan SID;
- (b) is convicted of the offence of drug trafficking, money laundering, trafficking in persons and smuggling, an act of terrorism or any other international crime;

- (c) is involved in fraud or the forgery of documents or transnational crimes; or
- (d) the holder's continuous discharge certificate and record book or certificate of proficiency or certificate of competency is suspended or cancelled.

(2) Where a Kenyan SID is suspended, withdrawn or confiscated under these Regulations, the Authority—

- (a) shall, in writing and within seven days from the date of the decision, notify the holder indicating the reasons for the suspension, withdrawal or confiscation;
- (b) may require the holder to surrender the identification document in the case of withdrawal, suspension or confiscation; and
- (c) shall notify the Director of Immigration Services of such suspension, withdrawal or confiscation.

10. A person who is aggrieved by the decision of the Authority to suspend, refuse to issue, withdraw or confiscate their Kenyan SID may, within fourteen days of the receipt of written notice of such suspension, refusal to issue, withdrawal or confiscation, apply to the Authority for a review of their decision.

Review.

11. (1) Where a Kenyan SID expires, the holder may apply for a renewal of the Kenyan SID.

Renewal.

(2) An application under subregulation (1) shall be —

- (a) made in the form set out in the First Schedule;
- (b) accompanied by the fees specified in the Second Schedule; and
- (c) accompanied by the original copy of the expired document.

(3) Upon receipt of an application under this regulation, the Authority shall consider the application in the manner specified under regulation 6 and may issue a Kenyan SID to a successful applicant.

12. (1) Where a Kenyan SID is defaced, destroyed, mutilated or lost, the holder shall apply for a replacement of the Kenyan SID.

Replacement.

(2) An application under subregulation (1) shall be—

- (a) made in the form set out in the First Schedule;
- (b) accompanied by the fees specified in the Second Schedule; and
- (c) accompanied by—
 - (i) a sworn affidavit explaining the circumstances surrounding the loss, defacing, destruction or mutilation of the document; and
 - (ii) the defaced, destroyed or mutilated document.

(3) Where an application under this regulation is in respect of a lost or otherwise misplaced Kenyan SID—

- (a) the holder shall report the loss, theft or misplacement to—
 - (i) the nearest police station, where the Kenyan SID is lost or stolen while the holder is on land;
 - (ii) to the nearest Kenyan Mission, if the holder is resident outside the country; and
 - (iii) the master of the ship on which the seafarer is serving, where the Kenyan SID is lost or stolen at sea;
- (b) the application shall be accompanied by—
 - (i) a police abstract report; and
 - (ii) a signed handwritten letter explaining the circumstances surrounding the loss or misplacement of the document.

(4) Upon receipt of an application under this regulation, the Authority shall consider the application in the manner specified under regulation 6 and may issue a new Kenyan SID to a successful applicant.

(5) Upon replacement of a Kenyan SID under this regulation—

- (a) the defaced, destroyed, mutilated or lost Kenyan SID shall be cancelled; and
- (b) the Authority shall notify the Director of Immigration of the replacement.

13. A holder of a Kenyan SID shall, at all times, keep the Kenyan SID in his or her possession, except when, with the seafarer's written consent, the Kenyan SID is held for safekeeping by the master of the ship on which the seafarer is serving.

Continuous possession.

14. (1) The Authority shall maintain an electronic database of each Kenyan Seafarers' Identity Document issued, suspended or withdrawn under these Regulations.

Record of Kenyan SIDs.

(2) The Authority and all other respective institutions shall take all necessary measures to ensure that the database is free from interference or unauthorised access.

(3) The information contained in the record under this regulation shall be restricted to details which are essential for the purposes of verifying a Kenyan SID or the status of a seafarer and which are consistent with the seafarer's right to privacy and the data protection requirements specified in the Data Protection Act, 2019.

No. 24 of 2019.

(4) A person shall not exchange any data relating to photographs without the express written consent of the Authority which consent shall contain a mechanism to ensure that appropriate data protection and privacy standards are adhered to.

(5) The personal data on the electronic database shall not be used for any purpose other than verification of the Kenyan SID.

15. The Authority shall designate a focal point to address inquiries from the immigration authorities or other competent authorities of Member States to the International Labor Organisation relating to the authenticity and validity of a Kenyan SID.

Focal Point.

16. (1) The Director-General shall, in line with the Convention, the Act and these Regulations, oversee the implementation of processes and procedures for the issuance of Kenyan SID including quality control procedures.

Quality control and evaluation.

(2) The processes and procedures in subregulation (1) shall be subject to an independent evaluation every five years.

(3) The Director-General shall, subject to the removal of any confidential material, provide the reports of evaluations under this regulation to the Director-General of the International Labor Organisation and copied to the representative organizations of shipowners and seafarers in Kenya.

17. (1) A seafarer who holds a valid Foreign SID shall be recognised as a seafarer in Kenya unless there are reasonable grounds challenging the authenticity of that SID.

Recognition of Foreign SIDs.

(2) Where the recognition under subregulation (1) is in respect of a seafarer under regulation 18 or 19, the verification and inquiries undertaken thereto shall be—

(a) at no cost to the seafarer or shipowner;

(b) carried out in the shortest possible time:

Provided that reasonable advance notice of the holder's arrival into Kenya shall be given to the immigration officer.

18. (1) Where a seafarer seeking access to temporary shore leave presents a Foreign SID to an immigration officer, the immigration officer shall, in the shortest possible time, permit the seafarer entry into Kenya while the ship is in port unless—

Shore leave.

(a) there are reasonable grounds to challenge the authenticity of the Foreign SID presented;

(b) the formalities on arrival of the ship have not been fulfilled; or

(c) the port officers have reason to refuse entry on grounds of public health, public safety, public order or national security.

(2) A seafarer holding a valid Foreign SID shall not be required to acquire a visa for the purpose of temporary shore leave.

19. (1) An immigration officer shall, in the shortest possible time, permit the entry of a seafarer holding a valid Foreign SID accompanied by a valid passport, when the entry is requested for the purpose of—

Transit and transfer.

(a) joining a ship or transferring to another ship;

(b) passing in transit to join a ship in another country or for repatriation; or

(c) any other purpose approved by the relevant authorities of the Member State concerned.

(2) The entry under subregulation (1) shall not be allowed where—

- (a) clear grounds exist for challenging the authenticity of the Foreign SID; or
- (b) port officers have reason to refuse entry on grounds of public health, public safety, public order or national security.

(3) An immigration officer may, before permitting entry into Kenya for under subregulation (1), require satisfactory evidence, including documentary evidence, of a seafarer's intention and ability to carry out that intention.

(4) The immigration officer may also limit the seafarer's stay to a period considered reasonable for the purpose in question.

20. (1) A person who—

Offences and
penalty.

- (a) makes, whether within or outside Kenya, a false declaration or statement, with knowledge or reasonable cause to believe to be false or misleading, for the purpose of obtaining or assisting another person to obtain a Kenyan SID;
- (b) forges, alters, destroys or wilfully defaces a Kenyan SID;
- (c) knowingly uses or possess' a forged or alter Kenyan SID;
- (d) knowingly possess' a Kenyan SID which he cannot reasonably account of its possession;
- (e) knowingly gives, sells or parts with the possession of a Kenyan SID to be used by another person;
- (f) without prior written approval of the Director-General, uses or in any manner publishes any name, description, title or symbol indicating, conveying or purporting to indicate or convey or leads other persons to infer that such action is carried on under or by virtue of the provisions of these Regulations;
- (a) presents a forged, altered or false document for the purposes of obtaining a Kenyan SID;
- (b) counterfeits a Kenyan SID;
- (c) without any lawful cause, confiscates, forcefully takes or detains a Kenyan SID issued to another person;
- (d) contravenes any requirement imposed under these Regulations relating to surrender of a Kenyan SID;
- (e) prints, publishes or possess' a document, card, booklet or paper, purporting, either by reason of the use of the word "Kenyan Seafarers' Identity Document", "Kenyan SID" or by reason of the contents thereof, to be a Kenyan SID, or a Foreign SID; or
- (f) uses a Kenyan SID issued to another person.

commits an offence and shall be liable, on conviction, to the penalty specified in section 412A of the Act.

FIRST SCHEDULE

(r. 6(1), 11(2); r. 12(2))

REPUBLIC OF KENYA

APPLICATION FOR A KENYAN SEAFARERS' IDENTITY DOCUMENT
(KENYAN SEAFARERS' IDENTITY DOCUMENT)*Issued in accordance with section 200 of the Merchant Shipping Act, 2009*

APPLICATION TYPE:

(where applicable)

First Application

Renewal

Replacement

WARNING TO APPLICANTS:

A false declaration may lead to legal proceedings

PART I

Surname.....

Given Names.....

Place of Birth..... Date of Birth DD/MM/YYYY

Nationality

I.D Card Number

Passport Number

CDC Number.....

Colour of eyes..... Height.....

Special peculiarities (If any)

Next of Kin (Relative / Guardian):

Name

Relationship.....

Place of Residence County.....

City..... Street Name..... House Number/Block

Address:

Telephone Number

Email Address

Next of kin ID Number

Next of Kin (Relative / Guardian):—

Name

Relationship.....
 Place of ResidenceCounty.....
 City..... Street Name.....House Number/Block
 Address:
 Telephone Number
 Email Address
 Next of kin ID Number

For replacement of expired / lost / stolen / defaced / destroyed / mutilated Kenyan Seafarers' Identity Document:

Defaced / Destroyed / Mutilated Kenyan Seafarers' Identity Document

1. Submit sworn affidavit explaining the circumstances
2. Submit defaced / destroyed / mutilated Kenyan Seafarers' Identity Document

Expired Kenyan Seafarers' Identity Document

1. Submit expired Kenyan Seafarers' Identity Document

Lost Kenyan Seafarers' Identity Document

1. Submit Police abstract report
2. Submit sworn affidavit explaining the circumstances
3. Submit hand written letter explaining the circumstances

PART II:

DECLARATION

I apply for the issue of a Kenyan Seafarer's Identity Document and certify that the particulars given are true. I declare that I am a Kenyan seafarer.

Signature of applicant

Date

PART III

For official use

Applicant MUST NOT WRITE here.

1. DULY FILLED KMA SID APPLICATION FORM ATTACHED
2. SCANNED COPY OF NATIONAL AND PASSPORT ATTACHED.
3. SCANNED COPY OF CDC
4. JPEG PASSPORT PHOTOGRAPH (Dimensions 50mm by 40mm)
5. SCANNED COPY OF BANK SLIP:
6. PRESCRIBED FEE FOR NEW/REPLACEMENT/ RENEWAL/LOST SID RENEWAL:

| | |
|-----------|--------------------------|
| NEW | <input type="checkbox"/> |
| RENEWAL | <input type="checkbox"/> |
| DEFACED | <input type="checkbox"/> |
| DESTROYED | <input type="checkbox"/> |
| MUTILATED | <input type="checkbox"/> |
| LOST | <input type="checkbox"/> |

Received by: Signature..... Date.....

Recommended for Issuance

Yes ☐ No ☐

Signature Date.....

Approved for issuance

Signature Date

Registrar of Seafarers

SECOND SCHEDULE
FEES

(r. 6(1); r. 11(2); r. 12(2))

| | ITEM | CHARGES (USD) |
|----|---|------------------|
| 1. | First application for Kenyan Seafarers' Identity Document | 20 |
| 2. | Renewal of a Kenyan Seafarers' Identity Document | 20 |
| 3. | Replacement Kenyan Seafarers' Identity Document | 25 |

Made on the 29th August, 2022.

JAMES MACHARIA,
*Cabinet Secretary for Transport, Infrastructure,
Housing, Urban Development and Public Works.*

**EXPLANATORY MEMORANDUM TO
THE MERCHANT SHIPPING (KENYAN SEAFARERS' IDENTITY
DOCUMENT) REGULATIONS, 2022
LEGAL NOTICE NO. 174**

PART I

| | |
|---|--|
| Name of the statutory instrument | : Merchant Shipping (Kenyan Seafarers' Identity Document) Regulations, 2022 |
| Name of the Parent Act | : Merchant Shipping Act, 2009 |
| Enacted pursuant to | : Section 200 of the Merchant Shipping Act, 2009 |
| Name of the Ministry/Department: | : Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works State Department for Shipping and Maritime |
| Gazetted on | : 23 rd September, 2022 |
| Tabled on | : |

PART II

1. The Purpose of the Merchant Shipping (Kenyan Seafarers' Identity Document) Regulations, 2022.

The purpose of these Regulations is to provide the procedure for:

- (a) Application for a Kenyan Seafarers' Identity Document (Kenyan SID);
- (b) Production and issuance, suspension or withdrawal of Kenyan SID;
- (c) Administration of Kenyan SID;
- (d) Maintenance of electronic record of each Seafarers' identity document; and
- (e) recognition of Foreign Seafarers' Identity Document from State Parties/by State Parties to the Convention

2. The Legislative Context

The process of developing the Merchant Shipping (Kenyan Seafarers' Identity Document) Regulations, 2022, started in the year 2022. The Regulations seek to give

effect to the minimum standards of the Seafarers' Identity Documents Convention, 185 (Revised, 2003) as amended (ILO Convention No. 185) (SID Convention); a Convention ratified by Kenya on 4th February, 2022 and entered into force in Kenya on 4th August, 2022. The Convention on Seafarers Identity Documents C185 is meant to facilitate entry by seafarers into the territory of Member States, for the purposes of shore leave, transit, transfer or repatriation.

Merchant Shipping (Kenyan Seafarers' Identity Document) Regulations, 2022 is developed under section 200 of the Merchant Shipping Act, 2009 and the development was guided by the following considerations:

- (a) Provision of a framework for the application, production, issuance and administration of the seafarers' identity document to facilitate shore leave, transit and transfer of seafarers.
- (b) Maintenance of a record of each seafarers' identity document issued, suspended or withdrawn stored in an electronic database.

3. Policy Background.

3.1 What is being done and why

Section 200 of the Merchant Shipping Act, 2009 (MSA) empowers the Minister to make regulations to provide a framework for the application, production, issuance and administration of Seafarers' Identity Document in Kenya:

- (a) **Oversight Role:** being the Regulator in the maritime industry, the Kenya Maritime Authority is mandated to oversee the welfare of seafarers and administer and enforce the provisions of the Merchant Shipping Act, 2009 which empowers the Minister in Section 200 to make regulations to provide a framework for the application, production, issuance and administration of Seafarers' Identity Document in Kenya
- (b) **Monitoring Role:** monitoring the domestication and implementation of the minimum standards of the Seafarers' Identity Documents Convention, 185 (Revised, 2003) as amended (ILO Convention No. 185) (SID Convention). This ensures that Kenya honours her international obligations arising from the SID Convention.
- (c) **Advisory Role:** advising Government on legislative and other measures necessary for the implementation of relevant international instruments to which Kenya is a party to.

In execution of the above mandate, the Kenya Maritime Authority faces the following challenges:

- (a) Kenyan seafarers not being accorded pertinent rights including access to shore leave in some countries and non- facilitation of transfer and transit through some countries due to lack of Kenyan Seafarers' Identity Document.
- (b) Difficulty joining their ship or transferring to another ship as visa applications may take long;
- (c) The current document that Kenyan seafarers are issued for identification and recording sea service does not meet the requirements of Convention C185 and therefore Kenyan seafarers are often denied the right of shore leave or passage unless they have a valid visa for the countries the ship is passing through.

3.2 Consolidation

It is on this basis that the Merchant Shipping (Kenyan Seafarers' Identity Document) Regulations, 2022 seeks to provide a framework for the application, production, issuance and administration of Seafarers' Identity Document and maintenance of a record of each seafarers' identity document issued, suspended or withdrawn which record will be stored in an electronic database ensuring compliance with Kenya's international obligations.

Some of the salient features of these Regulations include:

1. Regulations 6 empowers the Director General to issue the Kenyan Seafarers' Identity Document and provides for the application procedure.
2. Regulation 7 provides the form of the Kenyan SID.
3. Regulation 14 provides for the National Electronic Database to be maintained by the Authority recording each Kenyan SID issued, suspended or withdrawn
4. Regulation 15 provides for the designation of a permanent focal point for responding to inquiries, from the immigration or other competent authorities of other ILO Member States, concerning the authenticity and validity of the Kenyan seafarers' identity document issued by the Authority.
5. Regulation 16 empowers the Director General to develop and implement processes and procedures for the issuance of Kenyan SID, including quality control procedures in line with the Convention.
6. Regulation 18 provides for the recognition of a valid Foreign SID for the purpose of shore leave.
7. Regulation 19 provides for the recognition of a valid Foreign SID for the purpose of transit or transfer.

8. Regulation 20 creates offences and penalties for contravention of the regulations by any person.

4. Consultation outcome

The Merchant Shipping (Kenyan Seafarers' Identity Document) Regulations, 2022 have taken into account the views of key stakeholders including the Seafarers Union of Kenya, International Transport Workers' Federation (ITF), Department of Immigration, Recruitment and Placement Agencies, Kenya Ports Authority, Shipping Lines and Shipping Agents, Maritime Institutions and the general public.

The outcome of these consultation is herein attached.

5. Guidance

The Kenya Maritime Authority will sensitize stakeholders including Seafarers Union of Kenya, ITF, Department of Immigration, Recruitment and Placement Agencies, Kenya Ports Authority, Shipping Lines and Shipping Agents, Maritime Institutions and the general public, on the provisions of the Merchant Shipping (Kenyan Seafarers' Identity Document) Regulations 2022, application procedure, issuance, suspension or withdrawal of Kenyan SID, roles of a focal point, maintenance of an electronic database, quality control procedures and recognition of valid Kenyan SID.

6. Impact

6.1 Impact on fundamental rights and freedom

These Regulations do not limit fundamental rights and freedoms as enshrined in the Constitution.

6.2 Impact on the private sector

Kenyan Seafarers will be required to obtain the prescribed Kenya Seafarer Identification Document which when used with the Kenyan passport will facilitate their access to shore leave and aid in their transfer and transit through State parties to the Convention.

6.3 Impact on the public sector

The introduction of Kenyan SID as a travel document to be used hand in hand with Kenyan passport and recognition of Seafarers' Identity Documents from other State parties to facilitate the embarkation and disembarkation of Seafarers on or from vessels.

6.4 An impact assessment statement

A regulatory impact assessment report has not been prepared for these Regulations since, the Regulations—

6.4.1 contains only matters arising under the Merchant Shipping Act, 2009 transposition of the international instrument already ratified by Kenya which is substantially uniform and complementary with other legislation.

6.4.2 shall not cause any disadvantage to any person by—

- (a) decreasing the person's rights; or
- (b) imposing liability on the person, as per section 9 of the Statutory Instruments Act, 2013.

7. Monitoring and Review

The Kenya Maritime Authority shall monitor the application of the Merchant Shipping (Seafarers' Identity Document) Regulations 2022 and ensure compliance with the set ILO standards.

It is important to note that the Regulations shall apply from the commencement date of these Regulations. In this respect, a review thereof will be done by the Cabinet Secretary with the approval of Parliament in line with section 200 of the Merchant Shipping Act and the Statutory Instruments Act.

8. Contact Person.

The Department in charge of Policy Direction is the State Department for Shipping and Maritime

Amb. Nancy Karigithu, CBS

Principal Secretary

State Department for Shipping and Maritime

Email: ps@shippingmaritime.go.ke

The Implementing Authority for the Regulations is the Kenya Maritime Authority

John Omingo

Ag. Director General

Kenya Maritime Authority

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**REPORT ON THE DEVELOPMENT OF REGULATIONS¹ UNDER THE
MERCHANT SHIPPING ACT, 2009 (LAMU COUNTY)**

¹ Merchant Shipping (Collision Prevention) Regulations;
Merchant Shipping (Load Line) Regulations;
Merchant Shipping (Tonnage Measurement) Regulations;
Merchant Shipping (Recognized Organizations) Regulations;
Merchant Shipping (Maritime Labour) Regulation and
Merchant Shipping (Kenyan Seafarers' Identity Document) Regulations.

1.0 INTRODUCTION

The Kenya Maritime Authority Act, 2006 mandates the Kenya Maritime Authority (hereinafter the Authority) to administer the Merchant Shipping Act, 2009 which empowers the Cabinet Secretary for Transport in consultation with the Authority to make Regulations to give effect the provisions of the Merchant Shipping Act (hereinafter referred to as the Act).

To operationalize the Act, the Cabinet Secretary in consultation with the Authority and Kenya Law Reform Commission (KLRC) has developed the following Regulations to domesticate ratified international instruments to meet Kenya's international obligations under the International Maritime Organization (IMO):

- 1) Merchant Shipping (Collision Prevention) Regulations;
- 2) Merchant Shipping (Load Line) Regulations;
- 3) Merchant Shipping (Tonnage Measurement) Regulations;
- 4) Merchant Shipping (Recognized Organizations) Regulations;
- 5) Merchant Shipping (Maritime Labour) Regulations *and*
- 6) Merchant Shipping (Kenyan Seafarers' Identity Document) Regulations.

In line with the constitutional imperative of public participation and pursuant to the provisions of Section 5 of the Statutory Instruments Act, 2013, which obligates a regulation making Authority to undertake appropriate consultations with the persons who are likely to be affected by the proposed instrument; Kenya Maritime Authority continuously engaged with her stakeholders to deliberate on the provisions of the Draft Regulations. Consequently, a Report on the outcome of the consultations from February 2022 to April 2022 is presented.

2.0 BACKGROUND

Kenya is a member State of the IMO which is a specialized Agency of the United Nations having submitted the Instrument of Acceptance of the Convention on the International Maritime Organization, 1948 on 22nd August 1973. IMO is the global standard-setting Authority for safety, security and environmental performance of international shipping. Owing to the global nature of shipping, its main role is to create a regulatory framework for the shipping industry that is fair and effective, universally adopted and implemented.

Following the International Maritime Organization Member State Audit (IMSAS) conducted for Kenya in 2018, it was revealed that the Kenya had lagged behind in effecting proper transposition and implementation of IMO instruments.

Guided by Section 8, 120, 131, 145, 148 (8), 165, 168, 177, 181, 194, 198, 199, 200, 201, 203, 204, 216, 204 and 450 of the Merchant Shipping Act, 2009 the Authority embarked on preparing Draft Regulations in April and October 2021 with a Committee comprising of KMA Officers, State Department for Shipping and Maritime and the Kenya Law Reform Commission (KLRC).

3.0 CONSULTATIVE PROCESS

In developing the Regulations, extensive consultations were undertaken with various stakeholders, both internal and external and this culminated in a sensitization forum held on 31st May, 2022 in Lamu County. To this end the Authority invited comments from the Agencies and members of the public.

In addition to the physical stakeholders' engagement, the Authority by way of newspaper advertisement on 15th February, 2022 sought to receive comments on the Draft Regulations that had been published on the Authority's Website and has been collating the comments received. Further, the Regulations were also sent to the Authority's mapped out stakeholders by way of Email and responses collated.

4.0 OVERVIEW OF STAKEHOLDER COMMENTS ON THE DRAFT REGULATIONS, 2022

The Stakeholders welcomed the proposed Merchant Shipping (Maritime Labour) Regulations and Merchant Shipping (Kenyan Seafarers' Identity Document) Regulations and commended the Authority for the work they are doing to improve Seafarers' welfare in the Country noting that it will alleviate the challenges that the Seafarers experience in terms of their welfare, remuneration, onboard conditions and ease of movement.

Taking cognizance of the commencement of operations of the Lamu port, the stakeholders noted that the Merchant Shipping (Collision Prevention) Regulations, Merchant Shipping (Load Line) Regulations and Merchant Shipping (Tonnage Measurement) Regulations would enhance safety and security in water transport in Lamu County.

Further the Stakeholders acknowledged and appreciated the in-depth knowledge of the functions of the Recognized organization and the pivotal role it plays in supporting maritime administrations.

The stakeholders' also raised the issue of the small vessel licensing fee being exorbitant as it is currently at KES 5000. In response to that the Authority informed them that the Authority was in the process of reviewing the Merchant

Shipping (Fees) Regulations with the aim of reducing the fees payable as a strategy to encourage safety compliance.



REPORT ON THE DEVELOPMENT OF REGULATIONS¹ UNDER THE MERCHANT SHIPPING ACT, 2009

¹ Merchant Shipping (Collision Prevention) Regulations;
Merchant Shipping (Load Line) Regulations;
Merchant Shipping (Tonnage Measurement) Regulations;
Merchant Shipping (Recognized Organizations) Regulations; and
Merchant Shipping (Kenyan Seafarers' Identity Document) Regulations.

1.0 INTRODUCTION

The Kenya Maritime Authority Act, 2006 mandates the Kenya Maritime Authority (hereinafter the Authority) to administer the Merchant Shipping Act, 2009 which empowers the Cabinet Secretary for Transport in consultation with the Authority to make Regulations to give effect the provisions of the Merchant Shipping Act (hereinafter referred to as the Act).

To operationalize the Act, the Cabinet Secretary in consultation with the Authority and Kenya Law Reform Commission (KLRC) has developed the following Regulations to domesticate ratified international instruments to meet Kenya's international obligations under the International Maritime Organization (IMO):

- 1) Merchant Shipping (Collision Prevention) Regulations;
- 2) Merchant Shipping (Load Line) Regulations;
- 3) Merchant Shipping (Tonnage Measurement) Regulations;
- 4) Merchant Shipping (Recognized Organizations) Regulations; *and*
- 5) Merchant Shipping (Kenyan Seafarers' Identity Document) Regulations.

In line with the constitutional imperative of public participation and pursuant to the provisions of Section 5 of the Statutory Instruments Act, 2013, which obligates a regulation making Authority to undertake appropriate consultations with the persons who are likely to be affected by the proposed instrument; Kenya Maritime Authority continuously engaged with her stakeholders to deliberate on the provisions of the Draft Regulations. Consequently, a Report on the outcome of the consultations from February 2022 to April 2022 is presented.

2.0 BACKGROUND

Kenya is a member State of the IMO which is a specialized Agency of the United Nations having submitted the Instrument of Acceptance of the Convention on the International Maritime Organization, 1948 on 22nd August 1973. IMO is the global standard-setting Authority for safety, security and environmental performance of international shipping. Owing to the global nature of shipping, its main role is to create a regulatory framework for the shipping industry that is fair and effective, universally adopted and implemented.

Following the International Maritime Organization Member State Audit (IMSAS) conducted for Kenya in 2018, it was revealed that the Kenya had lagged behind in effecting proper transposition and implementation of IMO instruments.

Guided by Section 8 and 450 of the Merchant Shipping Act, 2009 the Authority embarked on preparing Draft Regulations in April 2021 with a Committee

comprising of KMA Officers, State Department for Shipping and Maritime and the Kenya Law Reform Commission (KLRC).

3.0 CONSULTATIVE PROCESS

In developing the Regulations, extensive consultations were undertaken with various stakeholders, both internal and external. To this end the Authority invited comments from the Agencies and members of the public. Stakeholders' comments were collated, reviewed and considered.

The consultative process formally began on 8th June, 2021. Subsequently a series of other stakeholders' engagements were held as tabulated in the table below:

| S.No. | Period | Venue | Activity |
|--------------|--|--------------------------------------|--|
| 1. | 8 th – 10 th June, 2021 | Southern Palms Beach Hotel, Diani | Consultation with internal stakeholders |
| 2. | 14 th April, 2022 | Sarova Whitesands Hotel, Mombasa | Public stakeholders' engagements |
| 3. | 27 th – 4 th May, 2022 | Online | Validation with external stakeholders |

In addition to the physical stakeholders' engagement, the Authority by way of newspaper advertisement on 15th February, 2022 sought to receive comments on the Draft Regulations that had been published on the Authority's Website and has been collating the comments received. Further, the Regulations were also sent to the Authority's mapped out stakeholders by way of Email and responses collated.

OVERVIEW OF STAKEHOLDER COMMENTS ON THE DRAFT REGULATIONS, 2021

The comments received on the Draft Regulations sought clarity on the definition of terms, the application of the Regulations and whether the Regulations were in tandem with the provisions of the Act and Convention. The Authority responded to some of the issues which needed clarifications while the other comments were recorded in a matrix format for further deliberation.

ANALYSIS OF STAKEHOLDER COMMENTS

The comments received on the Draft Regulations were considered and resolved in the manner presented in the annexed matrix.

ANNEXES

Annex 1: Report on Consideration of Comments on the draft Regulations under the Merchant Shipping Act received from stakeholders

Annex 1

Key

| | |
|--|--|
| | |
| | |
| | |

Means the comment/submission has been adopted and incorporated in the Regulations

Means the comment/submission has not been adopted with sufficient reason

Means the comment does not require an amendment to the Regulations

| S.NO | REGULATION | ISSUE/COMMENT/SUBMISSION | STAKEHOLDER | ACTION TAKEN/RESPONSE |
|---|-------------------|--|---|--|
| MERCHANT SHIPPING (SEAFARERS' IDENTITY DOCUMENT) REGULATIONS | | | | |
| 1. | 2—Interpretation. | <p>Define the term “Competent Authority”</p> <p>Delete definition of “Data Protection Act and Immigration Act</p> <p>Delete definition of “Seafarer”</p> <p>Define Certificate of Proficiency, Certificate of Competency or Continuous Discharge Certificate and Record Book</p> | <p>Technical University Mombasa</p> <p>of</p> | <p>Adopted.</p> <p>Define the Competent Authority as the Kenya Maritime Authority</p> <p>Reference to Certificate of Proficiency and Certificate of Competency shall be as defined in the Training and</p> |

| <i>SNO</i> | <i>REGULATION</i> | <i>ISSUE/COMMENT/SUBMISSION</i> | <i>STAKEHOLDER</i> | <i>ACTION TAKEN/RESPONSE</i> |
|------------|--|---|---------------------------|--|
| | | Continuous Discharge Certificate and Record Book not defined | | Certification Regulations, 2016. Continuous Discharge Certificate and Record Book to be defined as |
| 2. | 4(4) - Power to issue the Kenya Seafarer Identity Document | Eligibility conditions are sufficient. The DG ought not to have too much discretion | Khalfan Baya | Matter clarified The Director General draws this mandate from the Act and the KMA Act |
| 3. | 5- Application for KSID | Whether permanent residents will be issued with KSID | Kenya Coast Guard Service | Not adopted. It will only be issued to Kenyan Citizens in line with the Kenya Citizenship and Immigration Act, 2011 |
| 4. | 6—Refusal to issue, suspension or withdrawal of KSID | Need for a clear appeals procedure in the event of refusal to issue, suspension and withdrawal of KSID. | Kenya Coast Guard Service | The provisions on reviews and appeals procedure have been provided for in the proposed Maritime Laws (Amendment) Bill |

| <i>SNO</i> | <i>REGULATION</i> | <i>ISSUE/COMMENT/SUBMISSION</i> | <i>STAKEHOLDER</i> | <i>ACTION TAKEN/RESPONSE</i> |
|------------|-------------------|---|---------------------------------|---|
| | 13- Focal point | Whether there were interventions in place for Seafarers making applications outside the country | Technical University of Mombasa | The same procedures as per the Kenyan Citizenship and Immigration Act 2011 shall be used. An application can be made through the Kenyan Foreign Missions. |
| 5. | 18- Offences | Change the marginal note to read 'Offences and penalties'. Cross- reference the penalty to Section 412A of the Merchant Shipping Act, 2009 | Kenya Reform Law | Adopted |
| 6. | 19- Penalty | Delete Regulation 19 | Kenya Reform Law | Adopted. The penalties ought not to surpass the penalties in the Statutory Instruments Act, 2013 |
| 7. | General Comments | What is the tentative cost of issuance of KSID? | Stephen Owaki (Seafarer) | Matter clarified The Merchant Shipping (Fees) Regulations will provide for the charges. |

| <i>S.NO</i> | <i>REGULATION</i> | <i>ISSUE/COMMENT/SUBMISSION</i> | <i>STAKEHOLDER</i> | <i>ACTION TAKEN/RESPONSE</i> |
|-------------|--|---|---------------------------------|---|
| | | When will the implementation of KSID begin? | Stephen Owaki (Seafarer) | Matter clarified The process is ongoing. |
| | | How does KSID work? | Kenya Coast Guard Service | Matter clarified |
| 8. | First schedule- Part III | Delete 'alien ID' | Khalfan Baya | Adopted The KSID to be issued to Kenyan nationals only |
| 9. | MERCHANT SHIPPING (TONNAGE MEASUREMENT) REGULATIONS | | | |
| 10. | 2—Interpretation | Define term 'Certifying Authority' to mean KMA as used in regulation 17 | Technical University of Mombasa | Not adopted Not used in the Regulations |
| | | Define term 'enclosed spaces' | | Not adopted Defined in the Regulations |

| <i>S.NO</i> | <i>REGULATION</i> | <i>ISSUE/COMMENT/SUBMISSION</i> | <i>STAKEHOLDER</i> | <i>ACTION TAKEN/RESPONSE</i> |
|-------------|-------------------|--|---------------------------------|---|
| | | Define term 'surveyor' to mean that appointed by the DG under the Act | | Not adopted Defined in the Regulations |
| | | Define 'Kenyan waters' | | Not adopted Defined in the Act |
| | | Define 'pleasure craft' | | Not adopted Defined in the Act |
| | | Define 'Act' | | Not adopted Defined in the Act |
| | | Under Regulation 3 (1) and (2), are fishing vessels included? | Technical University of Mombasa | Matter clarified Ship as defined in the Merchant Shipping Act, 2009 will include fishing vessels |
| | | Regulation 3 (1) (b) delete 'Unregistered ships flying the flag of Kenya' and replace with vessels | K. Baya | Adopted |
| 11. | 3—Application | | | |

| <i>S.NO</i> | <i>REGULATION</i> | <i>ISSUE/COMMENT/SUBMISSION</i> | <i>STAKEHOLDER</i> | <i>ACTION TAKEN/RESPONSE</i> |
|-------------|---|---|---------------------------------|--|
| | | licensed under section 57 of the Merchant Shipping Act. | | |
| 12. | 5—Determination of tonnage | Define the measurement of Novel Craft under this Regulation | Technical University of Mombasa | Not adopted The same measurement standard will be applied to novel crafts. |
| 13. | 13— Measurement of tonnage for ships below 24metres | Insert new sub-regulation (3) to read as follows 'the net tonnage shall be estimated by the formula $NT=0.3GT$ | KMA | Adopted Regulation 5 provides that all ships shall have gross and net tonnage |
| 14. | 16—offences | Insert Regulation 16 (c) as follows "a Shipowner or Master who allows the carriage of goods or stores in spaces not included in the net tonnage commits an offence and shall be liable to the penalty stipulated under section 60 (2) (c) of the Act. | KLRC/KMA team | Adopted |

| <i>SNO</i> | <i>REGULATION</i> | <i>ISSUE/COMMENT/SUBMISSION</i> | <i>STAKEHOLDER</i> | <i>ACTION TAKEN/RESPONSE</i> |
|---|-------------------|---|---|---|
| | | Change the marginal note to read 'Offences and penalties'. | | |
| 15. | 17—Penalty | Delete Regulation 17 | KLRC | Adopted |
| MERCHANT SHIPPING (RECOGNIZED ORGANIZATIONS) REGULATIONS | | | | |
| 16. | General comment | Regulation 5,6 and 7 are similar | Alpha Logistics/ Southern Engineering | Matter clarified Regulations not similar |
| | General comment | Regulation 8, 12, 13, 14(2) and 15 left out nominated surveyor | Alpha Logistics/ Southern Engineering | Adopted Regulation 4 (3) amended accordingly. Replaced 'requirements' with 'provisions' |
| | -General comment | Proposition that the Regulations also cover independent Surveyors | Capt. Twalib | Not adopted |

| S.NO | REGULATION | ISSUE/COMMENT/SUBMISSION | STAKEHOLDER | ACTION TAKEN/RESPONSE |
|--|---|---------------------------------|---|---|
| | | | | The relationship between the independent Surveyor and the Shipowner is contractual and not in the purview of the RO Code. |
| | 17—Fees | Delete Regulation 17 | Khalfan KMA Baya | Adopted To be provided for in the Merchant Shipping (Fees) Regulations |
| MERCHANT SHIPPING (LOAD LINES) REGULATIONS | | | | |
| | | | | Adopted |
| 2 — Interpretation | There is need to duplicate the following terms in the regulations: a) Freeboard b) Loadline c) Waterline; and d) Deckline | Technical University of Mombasa | Introduced new Regulations 9 and 10 on deck line and load line mark and introduced schedule 1 to provide for the load line and deck line marks (see below) Defined freeboard and load line as per the Merchant Act | |

| <i>S.NO</i> | <i>REGULATION</i> | <i>ISSUE/COMMENT/SUBMISSION</i> | <i>STAKEHOLDER</i> | <i>ACTION TAKEN/RESPONSE</i> |
|-------------|-------------------|---|--------------------|--|
| | 15 — Inspections | Regulations uses <i>authorized person</i> whereas the Act uses <i>authorized officer</i> | Capt. Twalib | Adopted Regulation 15(1) amended to read 'the Director General or any person authorized by him/her' |
| | 20—Offences | Delete Regulation 20 and insert a new Regulation with marginal note 'offences and penalties' as follows: (1) Where the owner or Master of a ship proceeds to sea in contravention of Regulation 9 and 11 he or she commits an offence and shall be liable, upon conviction to the penalty stipulated under section 264 (2) of the Act. (2) An Owner or Master who alters or modifies a ship contrary to these Regulations commits an offence and shall be liable upon conviction to the | KLRC | Adopted Offence and penalty provided for as per the Act |

| S.NO | REGULATION | ISSUE/COMMENT/SUBMISSION | STAKEHOLDER | ACTION TAKEN/RESPONSE |
|--|----------------|--|---|--|
| | | penalty stipulated in section 412A of the Act. | | |
| | 21 — Penalty | Delete Regulation 21 | KLRC | Adopted |
| MERCHANT SHIPPING (COLLISION PREVENTION AND DISTRESS SIGNALS) REGULATIONS | | | | |
| | 3— Application | Vessel is in singular Change water in 3(b) to waters Replace 3 (a) to read 'all Kenya vessels wherever they may be' Delete the word 'registered' in 3 (b) | Alpha Logistics/ Southern Engineering | Adopted. Regulations amended accordingly. |

| S.NO | REGULATION | ISSUE/COMMENT/SUBMISSION | STAKEHOLDER | ACTION TAKEN/RESPONSE |
|------|--------------------------|--|---------------------------------|---|
| 17. | 7— Inspection | Regulations uses authorized person whereas the Act uses authorized officer | Capt. Twalib | Adopted Regulation 7(1) amended to read 'the Director General or any person authorized by him/her' |
| 18. | —General comment | How do we ensure that the regulations meet the needs of small vessels? | Technical University of Mombasa | Matter clarified Provided for in the Merchant Shipping (Small Vessels Safety) Regulations, 2012 |
| 19. | 9 — Offences and penalty | Delete regulation 9(2) | KLRC | Adopted Offences provided for in the Act |

'Load line' means a mark on the ship indicating the maximum depth to which a ship may be loaded

'freeboard' means the distance measured vertically downwards amidships, from the upper edge of the deck line to the upper edge of the related loadline

deck line

(1) The deck-line shall consist of a horizontal line 300 millimetres in length and 25 millimetres in width and shall be marked amidships on each side of the ship so as to indicate the position of the freeboard deck.

(2) Subject to sub-regulation (3), the deck-line shall be marked in such a position on the side of the ship that its upper edge passes through the point amidships where the continuation outwards of the upper surface of the freeboard deck, or of any sheathing of that deck, intersects the outer surface of the shell of the ship as shown in Figure 1.

(3) Where the design of the ship, or other circumstances, render it impracticable to mark the deck-line in accordance with sub-regulation (2) the Director General may direct that it be marked by reference to another fixed point as near as practicable to the position described in sub-regulation (2).

Load line mark

The load line mark as shown in Figure 2 shall consist of a ring 300 millimetres in outside diameter and 25 millimetres wide, intersected by a horizontal line 450 millimetres long and 25 millimetres wide the upper edge of which passes through the centre of the ring. The centre of the ring shall be marked amidships vertically below the deck-line so that, except as otherwise provided in the convention, the distance from the centre of the ring to the upper edge of the deck-line is equal to the summer freeboard assigned to the ship.

Schedule 1

Deck line

The deck line is a horizontal line 300 mm in length and 25 mm in breadth. It shall be marked amidships on each side of the ship, and its upper edge shall normally pass through the point where the continuation outwards of the upper surface of the freeboard deck intersects the outer surface of the shell (as illustrated in figure 1), provided that the deck line may be placed with reference to another fixed point on the ship on condition that the freeboard is correspondingly corrected. The location of the reference point and the identification of the freeboard deck shall in all cases be indicated on the International Load Line Certificate

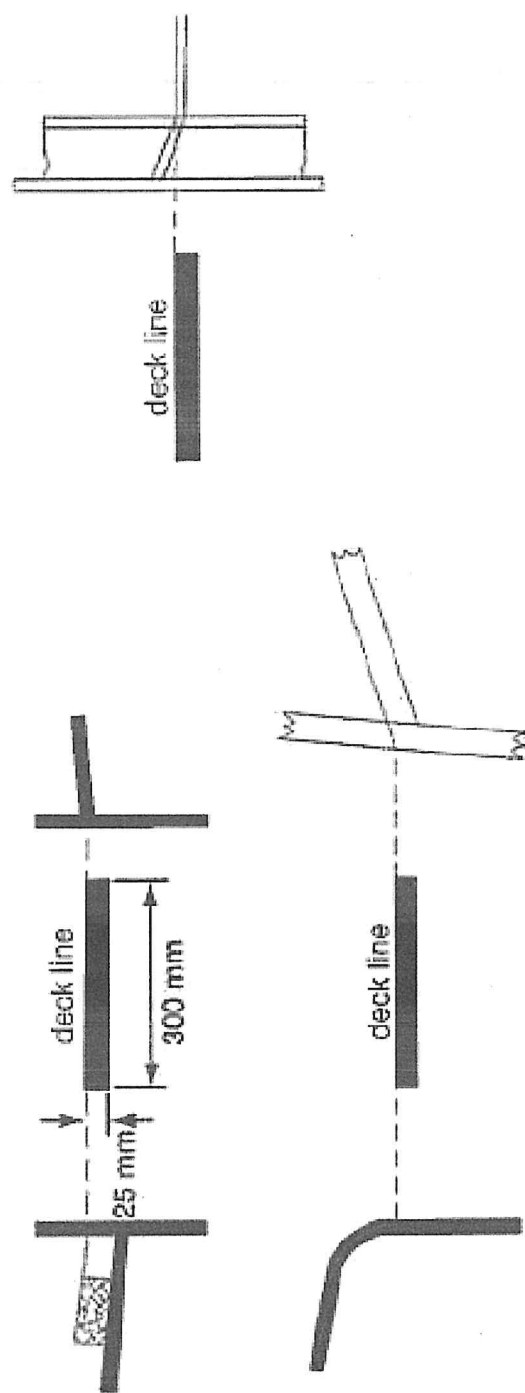


Figure 1

Lines to be used with the load line mark

(1) The lines which indicate the load line assigned in accordance with these regulations shall be horizontal lines 230 mm in length and 25 mm in breadth which extend forward of, unless expressly provided otherwise, and at right angles to, a vertical line 25 mm in breadth marked at a distance 540 mm forward of the centre of the ring (as illustrated in figure 2).

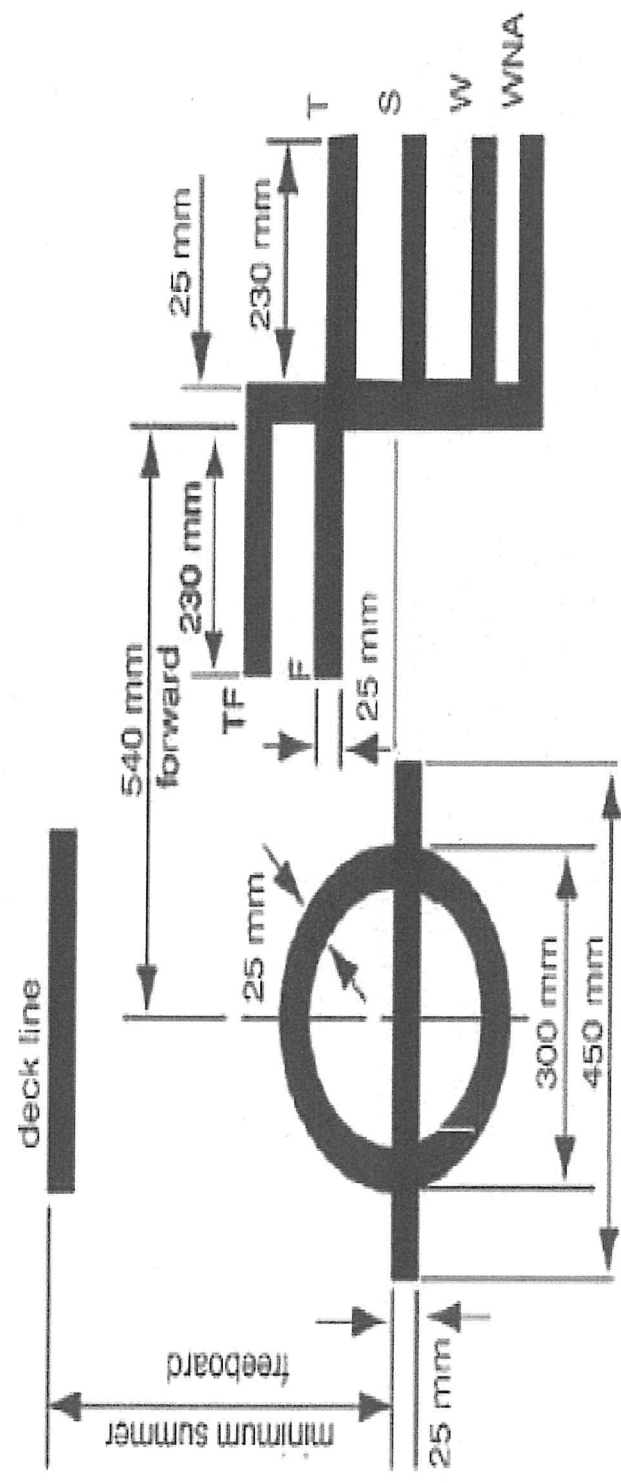


Figure 2

(2) The following load lines shall be used:

- (a) The Summer Load Line indicated by the upper edge of the line which passes through the centre of the ring and also by a line marked S.
 - (b) The Winter Load Line indicated by the upper edge of a line marked W.
 - (c) The Winter North Atlantic Load Line indicated by the upper edge of a line marked WNA.
 - (d) The Tropical Load Line indicated by the upper edge of a line marked T.
 - (e) The Fresh Water Load Line in summer indicated by the upper edge of a line marked F. The Fresh Water Load Line in summer is marked abaft the vertical line. The difference between the Fresh Water Load Line in summer and the Summer Load Line is the allowance to be made for loading in fresh water at the other load lines.
 - (f) The Tropical Fresh Water Load Line indicated by the upper edge of a line marked TF and marked abaft the vertical line.
- (3) If timber freeboards are assigned in accordance with these regulations, the timber load lines shall be marked in addition to ordinary load lines. These lines shall be horizontal lines 230 mm in length and 25 mm in breadth which extend abaft unless expressly provided otherwise, and are at right angles to, a vertical line 25 mm in breadth marked at a distance 540 mm abaft the centre of the ring (as illustrated in figure 3).

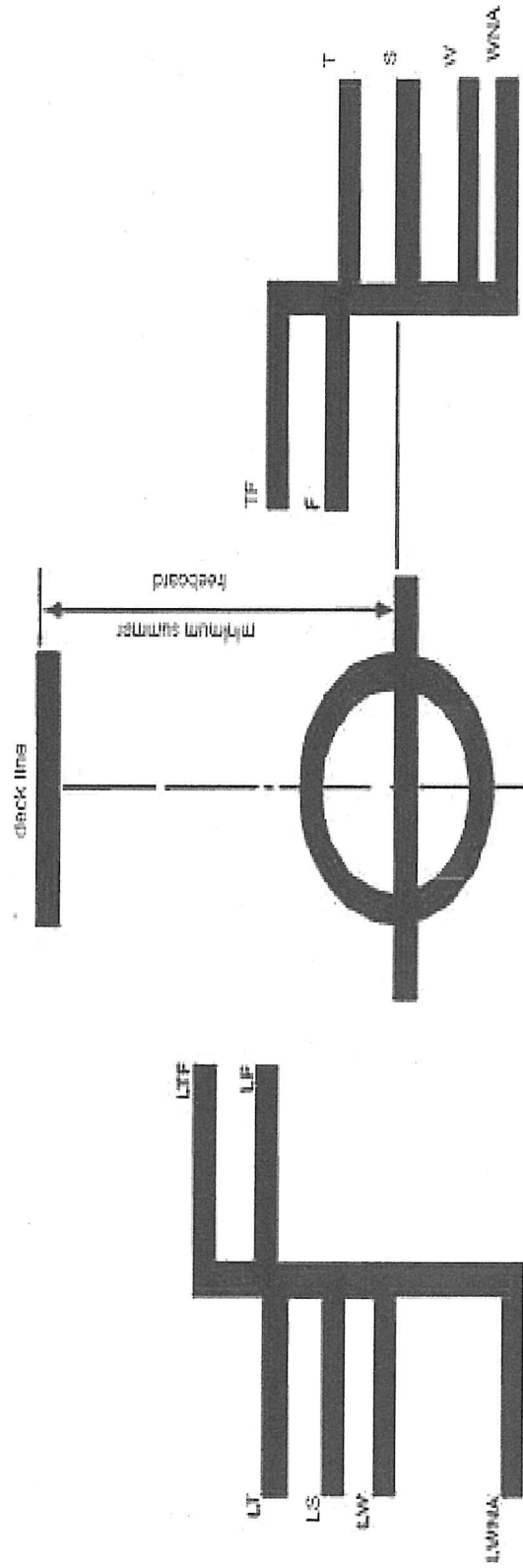


Figure 3

- (4) The following timber load lines shall be used:
 - (a) The Summer Timber Load Line indicated by the upper edge of a line marked LS.
 - (b) The Winter Timber Load Line indicated by the upper edge of a line marked LW.
 - (c) The Winter North Atlantic Timber Load Line indicated by the upper edge of a line marked LWNA.
 - (d) The Tropical Timber Load Line indicated by the upper edge of a line marked LT.
 - (e) The Fresh Water Timber Load Line in summer indicated by the upper edge of a line marked LF and marked forward of the vertical line. The difference between the Fresh Water Timber Load Line in summer and the Summer Timber Load Line is the allowance to be made for loading in fresh water at the other timber load lines.
 - (f) The Tropical Fresh Water Timber Load Line indicated by the upper edge of a line marked LTF and marked forward of the vertical line.

- (5) Where the characteristics of a ship or the nature of the ship's service or navigational limits make any of the seasonal lines inapplicable, these lines may be omitted.
- (6) Where a ship is assigned a greater than minimum freeboard so that the load line is marked at a position corresponding to, or lower than, the lowest seasonal load line assigned at minimum freeboard in accordance with the present Protocol, only the Fresh Water Load Line need be marked.
- (7) Where a Winter North Atlantic Load Line is identical with the Winter Load Line corresponding to the same vertical line, this load line shall be marked W.
- (8) Alternative/additional load lines required by other international conventions in force may be marked at right angles to and abaft the vertical line specified in paragraph (1).

Continuous Discharge Certificate and Record Book means a continuous record of a seafarers' sea service.