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THE SURFACE AND MARINE TRANSPORT REGULATORY AUTHORITY (DRY PORT) REGULATIONS, 2016

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THE SURFACE AND MARINE TRANSPORT REGULATORY AUTHORITY ACT

(CAP. 413)

REGULATIONS

(Made under section 39)

THE SURFACE AND MARINE TRANSPORT REGULATORY AUTHORITY (DRY PORT) REGULATIONS, 2016

PART I PRELIMINARY PROVISIONS

Citation

1. These Regulations may be cited as the Surface and Marine Transport Regulatory Authority (Dry Port) Regulations, 2016.

Application

2. These Regulations shall apply to Dry Port operations in Tanzania Mainland.

Interpretation

3. In these Regulations, unless the context otherwise requires-

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- "Act" means the Surface and Marine Transport Regulatory Authority Act;
- "approved charges and rates" means rates and charges approved by the Authority;
- "Authority" means the Authority established under section 4 of the Act;
- "cargo" means goods, merchandize, items or materials accepted for commercial transportation by an ocean carrier including dry and liquid substances in loose form, aggregated or containerized;
- "central business district" means a geographical area surrounding a maritime-port-based city and

- identified by the Authority;
- "certificate of incorporation" means certificate of company registration issued by Business Registration and Licensing Agency in Tanzania;
- "cost of inspections" means the cost which the Authority will incur in conducting inspections of Dry Port;
- "Dry Port" means an inland common user facility which is directly linked to maritime port by road or railway, having appropriate infrastructure, equipment and storage facilities operating as a centre for transhipment of sea bound cargo and containers to and from inland destinations, and includes "Inland Clearance Depot" and "Empty Container Depot";
- "dwell time" means the average time which a cargo or container stays within the port terminal or Dry Port;
- "Empty Container Depot" or in its acronym"ECD" means a storage facility for empty containers of a shipping line which are designated by a shipping agentand licenced by the Authority;
- "inspection" means a regular or impromptu inspection conducted by the Authority on a Dry Port for ensuring and enforcing compliance with these Regulations and other regulatory instruments or requirements;
- "licensee" means a company issued with a licence under these Regulations;
- "Inland Clearance Depot" or in its acronym "ICD" means a common user facility under Customs control, licenced under these Regulations and is equipped with appropriate infrastructure, equipment and storage facilities for cargo handling and temporary storage of import and export cargo which is in loose form or in containers;
- "Director General" means the Director General of the

Authority appointed under section 13 of the Act; "Fair Competition Tribunal" means the Fair Competition Tribunal established under section 83 of the Fair Cap. 285 Competition Act; "fire safety certificate" means a certificate issued in accordance with the Fire and Rescue Force Act; Cap. 427 "Minister" means Minister for the time being responsible for the Authority; "periodical performance reports" means the performance reports submitted quarterly by the licensee to the Authority: Cap. 166 "port" means a port as defined in the Ports Act; G.N. No. "port terminal" has the meaning ascribed to it under the 132 of 2011 Marine Surface and Transport Regulatory Authority(Licencing of Port Terminal Operators) Regulations, 2011; G.N. No. "port terminal operator" has the meaning ascribed to it 132 of 2011 under the Surface and Marine Transport Regulatory Authority(Licencing of Port Terminal Operators) Regulations, 2011; "port extension" means an inland container depot which is contracted by a port terminal operator to work in part and under the instructions of the port terminal operator in accordance with these Regulations; "shipping documents" means the appropriate maritime transport documents supporting clearance of cargo through customs, ports and other authorities and includes a bill of lading and manifest; and "stuffing" means the process of loading cargo into a the container containerand sealing for transportationby an ocean carrier.

PART II OPERATIONS OF DRY PORTS

Dry Port operations and issuance of licence 4.-(1) A person shall not operate a Dry Port without a valid Licence issued under these Regulations.

Eligibility for issuance of a license

- 5.-(1) A The Authority shall issue a Dry Port license to a body corporate that-
 - (a) is incorporated under the Companies Act;
 - (b) has a minimum share capital of ten percent held by Tanzanian citizens;
 - (c) has Directors and shareholders who do not have any criminal record;
 - (d) is not declared bankrupt in accordance with the Bankruptcy Act;
 - (e) has no record of violation of local and international security and safety regulations in the regulated sectors; and
 - (f) has a facility for which a licence is sought which is located outside the central business district.
- (2) Subject to this regulation, a Dry Port licence shall not be issued to an individual.
- (3) The application for a Dry Prot licence shall be in the form set out in the First Schedule to these Regulations.
- (4) The Dry Port licence shall be in the Form as set out in the Third Schedule to these Regulations.

Categories of Dry Ports

6. The Authority shall, upon being satisfied with the application in sub regulation (4) and fulfilment of the requirements in regulation 11, issue the following

categories of Dry Port licences-

- (a) Inland Clearance Depot; or
- (b) Empty Container Depot.

Operations of Dry Port

- 7.-(1) A licensee of a Dry Port shall not perform operations other than those prescribed in the licence issued under these Regulations.
- (2) Without prejudice to the generality of subregulation (1), a licensee shall undertake the following operations-
 - (a) in the case of an Inland Clearance Depot:
 - (i) receive and deliver cargo;
 - (ii) transfer cargoes from port terminals to a Dry Port or from a Dry Port to the port terminal;

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- (iii) provide Customs clearance services as required by provisions of the East African Community Customs Management Act;
- (iv) provide for temporary storage of cargo and containers pending delivery to consignees and port terminals;
- (v) label, mark and number cargo;
- (vi) sort, pack and unpack cargo;

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- (vii) perform actions required of them by theEast African Community CustomsManagement Act
- (viii) carry out cargo handling within the designated area;
- (ix) weigh, measure and certify weight of cargoes handled in the facility;
- (x) cleaning and fumigation of containers;
- (xi) stuffing export cargo into containers for delivery to port terminals prior to

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- loading on board ship;
- (xii) de-stuffing of import cargo from containers for delivery to the consignee; and
- (xiii) perform any other function as the Authority may, by order or circular determine.
- (b) in the case of ECD to:
 - (i) receive and deliver empty containers on behalf of a shipping agent;
 - (ii) keep safe custody of empty containers on behalf of a shipping agent;
 - (iii) acquire and dispose empty containers;
 - (iv) carry out container cleaning and fumigation;
 - (v) carry out repair of containers;
 - (vi) regularly report to a shipping Agent and the Authority the stock levels of empty containers held by the depot at minimum requirements determined by the Authority; and
 - (vii) timely report to the Authority any development affecting or likely to affect ability of the licensee to perform his operations.

Modes of Dry Port operations

- 8. A licensee of an Inland Clearance Depot may carry out the following modes of Dry Port operations-
 - (a) port extension;
 - (b) shipper nomination; or
 - (c) port extension and shipper nomination.

Criteria for port extension

9.-(1) A licensee shall only carry out port extension operations upon entering into a port extension contract with

operations

a port terminal operator.

- (2) The licensee and port terminal operator shall ensure that the terms and conditions of the contract are:
 - (a) fair to all parties; and
 - (b) take into consideration the need to enhance thenational economy, support development of the shipping industry and enhance port competitiveness.
- (3) The licensee shall, within thirty days before commencing port extension operations, deposit a copy of the contract with the Authority.

Operating procedures

- 10.-(1) The terminal operator shall prepare standard operating procedures to be approved by the Authority.
- (2) The standard operating procedures in sub regulation (1) shall guide operations of the port extension mode prescribed under these Regulations.

Shipper's nomination

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11. A licensee shall carry out operations on the basis of shipper's nomination mode, where shipping documents are lodged with the Customs in conformity with the requirements of the East African Community Customs Management Act.

PART III APPLICATION FOR DRY PORT LICENCE

Requirements for application of a licence

- 12.-(1) An application for a licence shall be accompanied with-
 - (a) a certified copy of the certificate of incorporation or certificate of compliance as the case may be;
 - (b) a certified copy of Memorandum and Articles of Association;
 - (c) a certified copy of a valid business licence;

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- (d) a certified copy of fire safety certificate issued under the Fire and Rescue Forces Act;
- (e) a certified copy of a certificate issued under the Occupational Safety and Health Administration Act;
- (f) a certified copy of the lease agreement or proof of occupancy of land where the Dry Port facility is to be located;
- (g) proof of availability of cargo handling equipment, working gear and tools;
- (h) a certified copy of the Environmental and Social Impact Assessment Certificate issued under the Environmental Management Act;
- (i) certification from the relevant authority for compliance with the town planning;
- (j) a layout plan for control of vehicle traffic inside and outside the dry port compound; and
- (k) proof of information and communication technology applications in the Dry Port facility.
- (2) Notwithstanding subsection (1), an applicant for a licence shall-
 - (a) in the case of an application for Inland Clearance Depot licence, provide the Authority with a certified copy of the licence for operating a customs ICD issued under East African Community Customs Management Act;
 - (b) in the case of an application for licence to handle dangerous and hazardous cargo, provide the Authority with a certified copy of a licence or permit from the relevant authority to handle cargo determined under International Maritime Dangerous Goods Code as "dangerous and hazardous cargo"; and
 - (c) submit the application form to the Authority, accompanied with an application fee as

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prescribed in the Second Schedule to these Regulations.

Issuance or renewal of licence

- 13. The Authority shall issue or renew a Dry Port Licence upon-
 - (a) being satisfied with the requirements for application of the licence and conditions of licence under these Regulations have been complied with; and
 - (b) payment of licensing fees prescribed in the Second Schedule to these Regulations.

Refusal to issue licence

- 14.-(1) The Authority may refuse to issue a license to an applicant where-
 - (a) he fails to comply with the requirements for licence or is ineligible for licence in terms of regulation 4;
 - (b) the applicant does not fulfil conditions for licence provided in these Regulations.
- (2) The Authority shall not issue a Dry Port licence unless the facility for which the licence is applied is located at least thirty kilometres from a portterminal which the dry port is intended to serve or unless its operations are confined to stuffing of export containers.
- (3) The provisions of sub regulation (2) shall not apply to Empty Container Deports.

PART IV CONDITIONS, VALIDITY AND RENEWAL OF DRY PORT LICENCE

Conditions of

15.-(1) A licensee shall-

licence

- (a) maintain a level of solvency of the amount which the Authority may prescribe from time to time;
- (b) apply tariff or charges approved by the Authority;
- (c) carry out twenty four hour operations, including on weekends and public holidays;
- (d) maintain a performance efficiency level that conforms to performance indicators and benchmarks set by the Authority;
- (e) establish a customer care system through which customers may make enquiries and lodge complaints;
- (f) furnish the Authority with quarterly performance reports with details and in a format which to be prescribed by the Authority;
- (g) abide by principles of fair competition as provided for under the Fair Competition Act;
- (h) comply with the port safety and security requirements as provided for under national, international laws and ratified conventions;
- (i) maintain books of accounts;
- maintain a register of incidents and accidents related to services rendered as shall be prescribed by the Authority;
- (k) abstain from fraudulent practices;
- (l) carry out operations within its approved holding capacity;
- (m) observe any professional conduct as may be prescribed by the Authority; and
- (n) employ at least two staff, each with diploma or its equivalent in:
 - (i) transport logistics;
 - (ii) maritime transport; or
 - (iii)ports and shipping.
- (2) The licensee shall ensure that the proposed location for a dry port is linked to all-weather passable road

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or railway transport infrastructure.

G.N. No. 291 of 2005

(3) A licensee shall pay annual levy in accordance with Surface and Marine Transport Authority (Levy and Fess) Rules, 2005 and the non-payment of such levy shall constitute a breach of conditions of licence.

Validity of licence

16. A licence shall be valid for a period of five years commencing from the date of its issuance.

Renewal of licence

- 17.-(1) A licensee may, upon expiry of a licence, apply for renewal of the licence for another term of fiveyears.
- (2) An application for renewal of a license shall be made in the prescribed form as set out in the First Schedule to these Regulations.

Requirements

18.-(1)An application for renewal of a license shall be accompanied by the following-

- (a) a certified copy of a valid business licence;
- (b) in relation to a licence under Inland Clearance Depot, a certified copy of the licence for operating a Customs bonded warehouse issued under East African Community Customs Management Act;
- (c) a certified copy of fire safety certificate issued under the Fire and Rescue Act;
- (d) a certified copy of the certificate issued under the Occupational Health and Safety Act;
- (e) a certified copy of lease agreement or proof of occupancy of land where the Dry Port facility is located: and

for renewal of licence

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1 of 2005

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- (f) any other document which the Authority may require.
- (2) Where the operator of a Dry Port who qualifies for renewal, has submitted an application for renewal of a licence one month after expiry of the previous licence, the operator shall, in addition to the pay prescribed licence fee, pay fifty per cent penalty of applicable licence fee and ten per cent for every subsequent month on accrued balance.

Licence not transferable

19. The licence issued to any person by the Authority for the purpose of the Dry Port operations under these Regulations shall not be transferable to any person whatsoever who is not carrying out the same business for which the licence was issued.

PART V SUSPENSION AND REVOCATION OF DRY PORT LICENCE

Grounds for suspension or revocation

- 20. The Authority may suspend or revoke a Dry Port licence where the licensee-
 - (a) fails to comply with the conditions of the licence;
 - (b) ceases to be eligible for licence in accordance with regulation 4;
 - (c) fails to maintain the requirements for which the licence was issued; or
 - (d) fails to comply with the Act, these Regulations or any directives issued by the Authority.

Inspection to ensure compliance

- 21.- (1)The Authority shall conduct an annual inspection of a Dry Port in order to monitor compliance with the licensing conditions or any other relevant matter.
- (2) Notwithstanding subregulation (1), the Authority may conduct an extra inspection with or without

prior notice to the licensee, where it deems necessary.

(3) The Authority may, when conducting inspection, require a licensee to produce information, records, statements or documents relating to the Dry Port operations.

Notice of rectification

- 22.-(1) Where, during inspection, the Authority notices an anomaly or non-compliance of a Dry Port with the license conditions or other provisions of these Regulations, the Authority shall issue a notice requiring the operator of the Dry Port to rectify the anomaly within the time specified therein.
- (2) The notice in sub regulation (1) shall be copied to the port terminal operators and the Commissioner for Customs and Excise.
- (3) Where a licensee fails to rectify the anomaly pointed out under this regulation, the Authority may issue a fourteen days' written notice to the licensee to show cause as to why the license should not be suspended or revoked.

Notice of suspension or revocation

- 23.-(1) The Authority shall, where it intends to suspend or revoke a licence, issue a thirty days written notice of such suspension or revocation.
 - (2) A notice of suspension or revocation shall-
 - (a) assign reasons for suspension or revocation of the licence; and
 - (b) in the case of suspension, specify the period of suspension or the condition upon whose fulfilment shall lead to uplifting of the suspension.
- (2) The notice of suspension or revocation of a licence shall be considered to have been dully served to the licensee where it is:
 - (a) served upon the licensee or his authorized

representative;

- (b) legible and conspicuously affixed at the registered premises of business of the licensee; or
- (c) e-mailed to a registered e-mail address of the licensee.
- (3) Where the Authority is not satisfied with reasons given pursuant to a written notice required under regulation 21, the Authority shall suspend or revoke the licence.

Liability of licensee

24. Where an employee of the licensee commits an act or omission in violation of these Regulations, it shall be deemed to be an act or omission of the licensee unless it is proven otherwise.

PART VI OFFENCES AND PENALTIES

Offences

- 25. Any person who-
- (a) carries on the business of Dry Port Operations without a valid license;
- (b) in relation to an application for a license, knowingly makes any false statement;
- (c) furnishes to the Authority a record, statement, declaration, written or oral information or explanation which to his knowledge is false or incorrect;
- (d) fails to produce a licence upon being required to do so:
- (e) hinders or obstructs an officer of the Authority, or any other officer in the performance of their duties under the Act and these Regulations;
- (f) fails to comply with any conditions of license;

or

(g) contravenes any provisions of these Regulations,

commits an offence and is liable, on conviction, to a fine of not less than two million Tanzanian shillings, but not exceeding three million Tanzanian shilling or to imprisonment for a term of not less than one year or both.

Power to Compound offences 26.-(1) Notwithstanding the provisions of these Regulations relating to penalty, where a person commits an offence under these Regulations, the Authority may, at any time prior to the commencement of the hearing by any court of any charge, compound such offence and order the person to pay sum of money, not exceeding half of the amount of the fine to which the person would otherwise have been liable if he had been convicted of such offence:

Provided that the Authority shall not exercise its powers under this Regulation unless the person concerned admits in writing to have committed such offence.

- (2) Where the Authority compounds an offence, the order referred to in sub- Regulations (1)-
 - (a) shall be reduced into writing and there shall be attached to it the written admission and request referred to in subregulation(1) and a copy of such order shall be given, if he so requests, to the person who committed the offence;
 - (b) shall specify the offence committed, the sum of money ordered to be paid and the date on which payment is to be settled;
 - (c) shall be final; and
 - (d) may be enforced in the same manner as a

decree of a court for the payment of the amount stated in the order.

Complaints handling

27. Where there is a dispute between service providers involved in the operations related to these Regulations the parties may, jointly or severally, refer the matter to the Authority for resolution.

PART VII GENERAL PROVISIONS

Appeals G.N. No. 15 of 2008

28. A person who is aggrieved by the decision of the Authority under these Regulations may appeal in accordance with the SUMATRA (Complaints and Review Procedure) Rules, 2008.

Reporting of fraudulent practices or crime 29. Where, in the course of its operations, a licensee becomes aware of an incident or practice of fraud or of facilitation of a crime involving any party or person, it shall take immediate measures to report the matter to the Authority and any other relevant authority.

Change of contact address

30. A licensee shall notify the Authority of changes of its contact and physical address, shareholders and top management not later than seven days from the date of such changes.

Transition and savings provision

31.-(1) Any person carrying out the business of Empty Container Depot or holding a Customs licence for Inland Clearance Depot shall continue with operation for the period of six months upon commencement of these Regulations, there after such person shall be required to apply for licence to the Authority as provided under these Regulations.

(2) Notwithstanding regulation 15(2), a person operating an Inland Container Depot within thirty kilometres from the port terminal and holding valid Customs license at the time of coming into force of these Regulations, may continue carrying out the business of Inland Clearance Depot within thirty kilometres from the Port Terminal for a period of not more than three years or for such other extended time to be determined by the Authority.

FIRST SCHEDULE

 $(Made\ under\ Regulations\ 4(3))$

APPLICATION FOR A LICENSE OR RENEWAL OF LICENCE TO OPERATE A DRY PORT							
TY	PE OF OPERATIONS: CFS ICD ICDV ECD						
1.	Name of Applicant:						
2.	Postal Address						
	Tel. No.:						
	Fax No.:						
	Email Address						
3.	Certificate of Incorporation No: Date of Issue:						
4.	Physical Address of Place of Business:						
	Street: Building/FloorNo:						
	Plot No: District: Region:						
5.	Type of License: New Renewal						
6.	Previous License No. Year:						
7.	Particulars of Current Shareholders						

NO.	NAME	NATIONALITY	ADDRESS	SHARE PERCENTAGE

Surface And Marine Transport Regulatory Authority (Dry Port) G.N. No. 198 (contd.)

9.	Particulars of Current Management & other Key Staff :									
S/N	FULL NAME	DESIGNATION/ POSITION	CITIZENSHIP	AGE	QUALIFIC ACADEMIC	CATION PROFESSIO NAL	YEARS OF EXPERIENCE	DATE OF APPOINTMENT TO PRESENT POSITION		
1.										
2.										
3.										
4.										
5.										
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7.										
8.										
9.										
10.										
in the share Name Posit	nis application is application in full: ion/Designation/Designation	on are tru I locationtion:	of bus	l corre	owledge and believet. I/We undertooremises. Date:	ake to notify a	any cha	nges in the		

Surface And Marine Transport Regulatory Authority (Dry Port) G.N. No. 198 (contd.)

	(Stamp or Seal)
FOR OFFICIAL USE ONLY	
	<u>Approval</u>
Comments:	
Start Date:	Expiry Date:
Name:	Designation:
Signature:	Date:

SECOND SCHEDULE

 $(Made\ under\ Regulation\ 12(2)(c))$

PRESCRIBED FEES FOR DRY PORT

	AMOUNT (USD)**				
TYPE OF DRY PORT	Application Fees	License Fees			
CFS	20.00	3,000.00			
ICD	20.00	3,000.00			
ICDV	20.00				
ECD	20.00	2,500.00			

^{**}Payments may be made in United States Dollars (USD) or its equivalent in Tanzania Shillings (TZS).

THIRD SCHEDULE

 $(Made\ under\ regulation\ 4(4)$



Surface and Marine Transport Regulatory Authority Mamlaka ya Udhibiti Usafiri wa Nchi Kavu na Majini

Licence N	lo.:	

LICENCE TO CARRY ON THE BUSINESS OF DRY PORT

DR	Y PORT	ΓNO.	:								
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Thi	s licence	shall	be val	id for a peri	od fro	om		 to			
				-				of			
									Dire	ctor Ger	ieral
									(R	ubber St	amp)
							•••••				

Dar es Salaam, 9th June, 2016 MAKAME M. MBARAWA

Minister for Works, Transport and

Communications