

## CHAPTER 172

### THE INLAND WATER TRANSPORT ACT

#### [PRINCIPAL LEGISLATION]

#### ARRANGEMENT OF SECTIONS

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## CHAPTER 172

### THE INLAND WATER TRANSPORT ACT

An Act to make provision for the control, co-ordination and development of inland water systems of transport.

[1st December, 1938]

Ords. Nos.

1 of 1938

5 of 1956

Acts Nos.

48 of 1962

6 of 1966

### PART I

#### PRELIMINARY PROVISIONS (ss 1-2)

[PCh172s1]1. Short title and application Act No. 5 of 1965 s. 2

(1) This Act may be cited as the Inland Water Transport Act.

(2) This Act shall apply to that part of Lake Victoria which lies within the boundaries of Tanzania and may be applied by the President, by proclamation, to that part of Lake Tanganyika which lies within the boundaries of Tanzania and to such other inland water as he may deem necessary or expedient.

(3) The President may, before making any proclamation under subsection (2), give such notice of the intended proclamation as he may consider desirable.

[PCh172s2]2. Interpretation

In this Act, unless the context otherwise requires—

"goods" includes goods or burden of any description;

"inland waters" means those inland waters of Tanzania to which this Act is made applicable;

"licence" means a licence granted under this Act;

"Minister" means the minister responsible for communications;

"public interest" means the interests and convenience of the inhabitants of Mainland Tanzania as a whole and the interests of such inhabitants includes the prevention of uneconomic competition with transport by the Tanzania Harbours Authority;

"ship" means every description of vessel used in navigation not propelled by oars.

PART II

LICENSING (ss 3-9)

[PCh172s3]3. Licensing authority Act No. 48 of 1962 s. 21

The licensing authority shall be the Transport Licensing Authority constituted in accordance with section 3 of the Transport Licensing Act \*.

[PCh172s4]4. Licensing of inland water transport

No person shall, except under and in accordance with the terms of a licence, convey upon inland waters by means of any ship—

- (a) any goods or any person for hire or reward, or

(b) any goods for or in connection with any trade or business carried on by him.

[PCh172s5]5. Using ship in contravention of Act

(1) If any person uses a ship in contravention of section 4 he commits an offence.

(2) The person acting as the master of a ship is the user of the ship for the purpose of subsection (1).

[PCh172s6]6. Act not to apply to certain ships

This Act shall not apply to any ship owned by the Government.

[PCh172s7]7. Duration of licence

(1) Except as provided in subsection (2) every licence shall, unless revoked, continue in force for one year from the date on which it is expressed to take effect:

Provided that if on the date of the expiration of a licence proceedings are pending before the licensing authority on an application for the grant of a new licence in substitution for an existing licence held by the applicant, the existing licence shall continue in force until such application is disposed of.

(2) With a view to enabling any ship to be used temporarily—

- (a) for the purpose of a seasonal business;
- (b) for the purpose of the execution of a particular piece of work; or
- (c) for any other purpose of limited duration,

a short-term licence may be granted for a period not exceeding three months.

[PCh172s8]8. Licence not transferable

No licence shall be transferable except with the licensing authority's written consent endorsed on such licence.

[PCh172s9]9. Protection of public interest

(1) It is hereby declared that, save as expressly provided in this Act, nothing in this Act is to be treated as conferring on the holder of a licence any right to the continuance of any benefits arising from the provisions of this Act, or from a licence, or from any conditions attached to a licence.

(2) The grant of a licence under this Act shall not relive the holder from complying with the provisions of any law in force relating to ships.

### PART III

#### APPLICATION FOR AND GRANTING OF LICENCES (ss 10-12)

[PCh172s10]10. Procedure on application for licence

(1) Every person applying for a licence for the carriage of passengers or goods by ship upon the inland waters of Tanzania shall submit to the licensing authority—

- (a) particulars of the type of every ship to be used;
- (b) particulars of the construction and motive power of such ship;
- (c) the total number of crew to be carried in such ship;
- (d) the number of passengers such ship is intended to carry;
- (e) the places between which such ship is intended to be navigated including, if such be the case, places outside Tanzania, and the services to be provided thereby;

(f) such other particulars as the licensing authority may reasonably require for the discharge of its duty in relation to the application.

(2) Where the applicant states in his application that he intends to carry passengers or goods over any route which includes a portion of the inland waters of Kenya or Uganda the licensing authority shall, before adjudicating upon such application, take such steps as may appear to it to be necessary to ascertain the views of any licensing authority appointed in those countries.

[PCh172s11]11.       Objection to application for licence

(1) The licensing authority shall publish in the prescribed manner notice of an application for licence specifying the time within which, and the manner in which, objections may be made to the grant of the application.

(2) It shall be the duty of the licensing authority on an application to take into consideration any objections to the application which may be made by persons who are already providing transport facilities for the carriage of goods or passengers for hire or reward between the same places which the applicant intends to serve.

[PCh172s12]12.       Discretion of the licensing authority

(1) Except as provided by subsections (2) and (4) the licensing authority shall have full power in its discretion either to grant or to refuse any application for a licence or to grant any licence subject to such conditions as the licensing authority may, in the exercise of its discretion, lawfully attach to any licence issued under this Act.

(2) The licensing authority shall not refuse an application for a licence in respect of any ship not mechanically propelled, if the applicant states in his application that the places

between which such ship is intended to be navigated do not include places outside Tanzania, unless the applicant is the holder of a licence which has been suspended or unless a licence previously held by him has been revoked.

(3) In exercising its discretion as aforesaid the licensing authority shall have regard to the following matters—

(a) the extent to which the proposed service is necessary or desirable in the public interest;

(b) the extent to which it is necessary in the public interest to prevent uneconomic competition with other transport services;

(c) the extent to which the needs of the routes proposed to be served are already met;

(d) the desirability of encouraging the provision of adequate, suitable and efficient services;

(e) the desirability of eliminating and preventing the growth of unnecessary or unremunerative services;

(f) the co-ordination of all forms of passenger and goods transport;

(g) the interest or interests of those requiring as well as those providing facilities for transport;

(h) the applicant's reliability, financial stability and the facilities at his disposal for carrying out the proposed services;

(i) the number and type of ships intended to be used under the licence.

(4) If on an application for a licence of a kind which the licensing authority may refuse under the provisions of subsection (1), made not later than such date as the licensing authority may appoint, the applicant shows to the satisfaction of the licensing authority that during the year beginning on the 1st day of January, 1936, or on such later date as the President may, in any case, appoint, he carried on either wholly or mainly the business of a carrier of goods or passengers for hire or reward the licensing authority shall, unless it is satisfied that having regard to the previous character of the applicant as such carrier he is not a fit person to receive a licence, grant to the applicant a licence in respect of the ships employed by him during the said year on business:

Provided that the licensing authority may, if it thinks fit, permit the applicant to substitute for the said ships employed by him as aforesaid ships of a similar type.

#### PART IV

#### CONDITIONS, VARIATION, REVOCATION AND SUSPENSION OF LICENCES, APPEALS AND PENALTIES (ss 13-17)

[PCh172s13]13. Conditions of licences

(1) It shall be a condition of every licence issued under this Act—

- (a) that any licensed ship is maintained in a fit and serviceable condition;
- (b) that the provisions of any law for the time being in force relating to limits of weight, laden and unladen, the loading of ships and the number of passengers to be carried are complied with in relation to any licensed ship.

(2) Except as provided in subsection (3), the licensing authority may, in its discretion, attach to a licence all or any of the following conditions—

(a) a condition that the licensed ship shall or shall not be used in specified area or over specified routes;

(b) a condition that certain classes or descriptions of goods shall or shall not be carried;

(c) a condition specifying the charges or the maximum or minimum charges to be made for the carriage of goods;

(d) a condition specifying the maximum laden weight of any licensed ship;

(e) a condition specifying the number and type of ships to be used;

(f) such other conditions as may be prescribed in the public interest or with a view to preventing uneconomic competition.

(3) No condition shall be attached under subsection (2) to a licence granted in respect of a ship not mechanically propelled if the applicant states in his application that such ship is only to be used within the inland waters of Tanzania.

(4) If the applicant has stated in his application for a licence that the ship to which the application relates is only to be used within the inland water of Tanzania, it shall be a condition of the licence granted upon such application that the ship shall not be used outside the inland water of Tanzania.

(5) The licensing authority may cancel or vary any of the conditions attached to a licence in pursuance of subsection (2).

(6) Any person who fails to comply with any condition of the licence held by him commits an offence against this Act.

[PCh172s14]14. Power to revoke or suspend licences

(1) A licence may be revoked or suspended by the licensing authority on the ground that any of the conditions of the licence have not been complied with.

(2) In any case where a licence is revoked or suspended the licensing authority shall, if requested by the licence holder, state in writing the grounds for the revocation or suspension.

[PCh172s15]15. Appeals Act No. 6 of 1966 s. 9

Any person who—

(a) being an applicant for the grant or variation of a licence, is aggrieved by the decision of the licensing authority on the application;

(b) having duly made an objection to any such application as aforesaid, being an objection which the licensing authority is bound to take into consideration, is aggrieved by the decision of the licensing authority; or

(c) being the holder of a licence, is aggrieved by the revocation or suspension, may appeal to the Minister under section 37 of the Transport Licensing Act \* and any such appeal shall be made, heard and disposed of in accordance with the provisions of that Act and the regulations made thereunder relating to the making, hearing and disposal of appeals.

[PCh172s16]16. Arrest

A police officer having reasonable grounds for believing that any person has committed an offence against this Act and that such person will not attend the court in answer to any process which may be issued against him may arrest such person without a warrant.

[PCh172s17]17. Penalties

Any person guilty of an offence under this Act shall be liable, in the case of a first conviction, to a fine of four hundred shillings and, in the case of a second and subsequent conviction, to a fine of one thousand shillings.

## PART V

### MISCELLANEOUS PROVISIONS (ss 18-20)

[PCh172s18]18. Financial provisions

All fees payable under this Act and all fines imposed in respect of offences under this Act or the rules made thereunder shall be paid into the general revenue of Tanzania.

[PCh172s19]19. Fees

Such fees as the Minister may prescribe shall be charged by the licensing authority in respect of the grant or variation of licences.

[PCh172s20]20. Rules

The Minister may make rules for any purpose for which rules may be made under this Act and for prescribing anything which may be prescribed under this Act and generally for the purpose of carrying this Act into effect, and, in particular, but without prejudice to the generality of the foregoing provisions, may make rules with respect to any of the following matters—

(a) the forms to be used and the particulars to be furnished for any of the purposes of this Act;

(b) the procedure on application for and the determination of questions in connection with the grant, variation, suspension and revocation of licences;

(c) the issue of licences, and the issue of copies of licences;

(d) the means by which ships are to be identified, whether by plates, marks or otherwise, as being licensed under this Act;

(e) the custody of licences, the production, return and cancellation of licences on expiration, suspension or revocation, and the custody, production and return of documents and plates;

(f) the notification to the licensing authority of ships which have ceased to be used under a licence;

(g) the records to be kept and the returns to be made by licensees.