



THE ZANZIBAR SHIPPING CORPORATION ACT, 2013

ARRANGEMENT OF SECTIONS

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SCHEDULE



ACT NO. 3 OF 2013

I ASSENT

(DR. ALI MOHAMED SHEIN)
PRESIDENT OF ZANZIBAR

AND

CHAIRMAN OF THE REVOLUTIONARY COUNCIL

19th April, 2013

**AN ACT TO ESTABLISH THE ZANZIBAR SHIPPING
CORPORATION, ITS FUNCTIONS, POWERS AND
OTHER MATTERS CONNECTED THEREWITH
AND INCIDENTAL THERETO**

ENACTED by the House of Representatives Zanzibar.

PART I

PRELIMINARY PROVISIONS

Short title and
Commencement.

1. This Act may be cited as the Zanzibar Shipping Corporation Act, 2013 and shall come into operation on such date as the Minister may, by notice in the Gazette, appoint.

Interpretation.

2. In this Act, unless the context requires otherwise:-

“Board” means the Board of Directors of the Corporation established under section 10(1) of this Act;

“Chairperson” means the Chairperson of the Board appointed under section 10(2)(a) of this Act;

“Commissioner” means the Commissioner appointed under section 18 of the Public Investment Act, No. 4 of 2002;

“Corporation” means the Zanzibar Shipping Corporation established under section 3 of this Act;

“Charges” means all sums received or receivable, charge or chargeable for, in respect of any carriage of person or goods in the ship owned by the



Corporation or agency service charges or in respect of any other service performed or provided by the Corporation;

“crew” means a person other than master, employed by owner of a ship to work on board to the ship;

“Employee” means any person in the service of the Corporation;

“Managing Director” means the Managing Director of the Corporation appointed under section 12(1) of this Act;

“Government” means the Revolutionary Government of Zanzibar;

“Goods” include luggage, animals (whether alive or dead) and all other property of any description;

“Master” means a person other than a pilot having command or charge of a ship;

“Member” means member of the Board appointed under section 10(2) of this Act;

“Minister” means the Minister for the time being responsible for Shipping Corporation;

“President” means the President of Zanzibar and Chairman of the Revolutionary Council;

“passenger” means any person on board to the ship except a person employed or engaged in any other capacity or in the business of the ship;

“Rates” include all sums which may, under the provisions of this Act, be levied or in respect of, any person or goods carried by the Corporation or in respect of, any other service performed or facility provided by the Corporation;

“Ship” includes any vessel, tugs, lighters or boat of any kind whatsoever, whether propelled or otherwise towed.

PART II

ESTABLISHMENT, OBJECTS AND POWERS OF CORPORATION

Establishment of
the Corporation.

3.(1) There is hereby established a corporation to be known as the Zanzibar Shipping Corporation and by its acronym known as SHIPCO.

(2) The Corporation shall be a body corporate and shall:-

(a) have a perpetual succession and a common seal;



- (b) sue and being sued;
- (c) be capable to purchase, take, own and dispose of any property whether movable or immovable, and whether by way of investment or otherwise;
- (d) be capable to enter into any contracts as may be necessary or expedient for performance of its objects under this Act or any other written law; and
- (e) doing all such acts and perform such functions which a body corporate may lawfully perform.

Seal and emblem of the Corporation.

4.(1) There shall be a common seal of the Corporation which shall be of such form and manner as may be determined by the Board.

(2) The seal of the Corporation shall be kept by the Managing Director and shall be authenticated by the signature of the Managing Director or in his absence by any person acting on his behalf.

Head Office of the Corporation.

5. The head office of the Corporation shall be located at Zanzibar and there may be established sub-offices, agents or representatives within or outside Zanzibar at such places to be determined by the Board.

Objects of the Corporation.

6. The objects of the Corporation shall be:-

- (a) to operate and improve shipping services in order to met social, economic and commercial needs of Zanzibar community.
- (b) to provide and foster efficient shipping services in Zanzibar and other destinations.
- (c) to achieve economic viability through sea transport services
- (d) to carry out other activities as necessary, advantageous or proper for the development of shipping industry in Zanzibar.

Functions of the Corporation.

7.(1) The Corporation shall perform the following functions:-

- (a) to manage and operate ships of the Corporation in a professional and cost effective manner;
- (b) to perform the activities consistent with Government policies and to International Conventions to which the United Republic of Tanzania has obligation;
- (c) to offer shipping services for the transportation of goods and passengers by sea between Zanzibar islands and elsewhere;



- (d) to operate and maintain an orderly, efficient and safe merchant shipping services inside and outside Zanzibar;
- (e) to manage business as ship owner, ship operator, ship broker, shipping agent and other ancillary services;
- (f) to promote and enhance maritime transport industry through conduct of consultancies, research and development;
- (g) do all such other things as the Corporation may necessary incidental as conducive to the attainment of its objects.

(2) With the exception of the Corporation which has been given power under paragraph (e) of section 7 of this Act to exercise shipping agency activities, no person, company or institution shall be given licence or permission to act as shipping agent in Zanzibar without the prior written permission from the Minister.

(3) Person, company or institution, which will conduct shipping agency activities in Zanzibar contrary to sub section (2) of this section, commits an offence.

Power of the Corporation.

8.(1) The Corporation shall in the performance of its functions under this Act, exercise the following powers:-

- (a) to own, purchase, charter in or charter out, hold or acquire, mortgage, sell, exchange, let out on hire, or otherwise deal with in any manner any ship or vessel;
- (b) to establish and maintain shipping services and any other service incidental thereto;
- (c) determine, impose, and collect any rates, fares, charges, due or fees for or in respect of its services, and any penalties and interest in relation to those rates, fares, charges, due or fees, that the Corporation considers appropriate;

Power to impose fees and charges.

9.(1) The Corporation shall impose fees and charges for the shipping services provided by it, including service charges, current charge and all other charges of any nature;

(2) If the Corporation imposes fees and charges under subsection (1) of this section by distress and sale, the Corporation shall conduct the distress and sale in the same manner provided by the law in force.

(3) Any person receives services from the Corporation shall:-

- (a) pay the fees and charge determined for the provision of that service by the Corporation, and



- (b) subject to provisions of this Act comply with the terms and conditions determined for the provision of that service by the Corporation.

(4) Any person who fails to pay fees and charges imposed under subsection (3) of this section commits an offence and upon conviction shall be liable to pay fees and in addition shall be liable to pay 50% of the amount of fees or charges required to be paid as penalty.

PART III ADMINISTRATION AND MANAGEMENT OF THE CORPORATION

Board of Directors

10.(1) There shall be a Board of Directors of the Corporation which shall be responsible for the policy, control and supervision of the Corporation.

(2) The Board shall consist of the following members:-

- (a) Chairperson who shall be appointed by the President;
- (b) Managing Director;
- (c) one member from the Ministry responsible for Finance;
- (d) one member from the Ministry responsible for Shipping Affairs;
- (e) one member from Attorney General's Chambers; and
- (f) not more than two other members appointed by the Minister from private sectors.

(3) All members mentioned under paragraphs (c), (d) and (e) shall be appointed by the Minister upon consultation with the respective Institutions and such members shall have relevant working experience of not less than five years.

(4) A person shall not be eligible to be appointed as Chairperson unless he has at least diploma in a relevant knowledge and experience in maritime affairs or general management or public service.

(5) The provisions of the Schedule to this Act shall have effect as to the procedures and proceedings of the Board.

Power of the Board.

11.(1) The Board shall have a general supervisory powers in respect to the performance of the functions of the Corporation, and in particular shall have powers to:-



- (a) provide strategic guidance and formulate the policies for operation and management of the Corporation;
- (b) conducting managerial oversight and review the activities and performance of management of the Corporation;
- (c) make rules in respect of rates of fees and charge of service provided by the Corporation;
- (d) secure and ensure efficient use of resources, including approval of annual and supplementary budget of the Corporation;
- (e) make and supervise Staff Regulations and Financial Regulations for the Corporation;
- (f) determine organizational structure of the Corporation including assessment of the need to establish branches within and outside United Republic of Tanzania.

(2) The Board shall be the disciplinary authority of the Corporation and shall take disciplinary actions against any employee.

Appointment and
Power of the
Managing
Director.

12.(1) There shall be a Managing Director of the Corporation who shall be appointed by the President on such terms and conditions as may be determined.

(2) A person shall be qualified to be appointed as Managing Director if:

- (a) he/she is a graduate from a recognized university or equivalent from a recognized institutions; and
- (b) he/she possesses experience in any of the field of law, management, administration, economic, finance or shipping related fields; and
- (c) he/she has sufficient knowledge, skills and experience of marine or shipping sector.

(3) The Managing Director shall be a Chief Executive Officer of the Corporation and responsible for day-to-day function and administration of the Corporation and shall report to the board.

(4) The Managing Director shall, subject to policies and directions set forth by the Board, undertake all financial, administrative and technical management of the Corporation.

Appointment of
Senior Officer.

13.(1) Subject to the provisions of Public Service Act, the Managing Director or in consultation and approval by the Board, shall employ senior officers of the Board and may appoint other staff of the Corporation.



(2) The Corporation may, for facilitating performance of its functions under this Act, establish such departments, units and sections to be headed by heads and other staff as may be determined by the Board.

Power of the Minister.

14. The Minister may:-

- (a) give the Board of Directors general or special directions as to the performance of the functions and the exercise of the powers of the Corporation and the Board shall give effect to such directions.
- (b) in consultation with the Minister responsible for Finance approve any major alterations in the tariffs, rates, fares and other charges made for the services provided by the Corporation;
- (c) give particular directions to the Board concerning any matter involving agreement with, or the interest of any country.
- (d) to approved budget, expenditure and regulations of the Corporation.

**PART IV
FINANCIAL PROVISIONS**

Authenticity of documents.

15.(1) The funds and resources of the Corporation shall consist of:-

- (a) capital from the Government;
- (b) money derived from shipping services;
- (c) money raised by way of loans, donations or grants from within and outside Zanzibar;
- (d) such sums of money or property which may become payable to or vested in the Corporation under this Act or any other law; or
- (e) in respect of any matter incidental to the carrying out of its functions.

(2) All income and moneys of the Corporation shall be deposited into the Bank account of the Corporation and shall only be withdrawn in accordance with the manner prescribed by the Board.

Estimates.

16.(1) The Managing Director shall, not later than three months before the end of each financial year, prepare and submit to the Board for its approval, estimates of its income and expenditure for the next ensuing year, which, upon approval, shall be forwarded to the Minister.



(2) The Managing Director may where the circumstances so requires submit to the Board a supplementary estimate for its consideration and upon approval the Board shall notify the Minister.

Account and
Audit.

17.(1) The corporation shall keep proper books of accounts and shall not later than three months after the end of each financial year prepare:-

- (a) a statement of income and expenditure during such financial year;
- (b) a statement of the assets and liabilities of the Corporation on the last day of that financial year;
- (c) any other such statements as may be required by any written law.

(2) The accounts of the Corporation shall in respect of each financial year be subject to audit by the Auditor General or an Auditor appointed by him.

(3) For the purpose of this section, "financial year" of the Corporation shall be a period not exceeding twelve consecutive months which conform to the financial year of the Government.

Investment of the
Corporation.

18. Subject to the provisions of the relevant laws relating to the Investment and Public Finance, Funds and resources of the Corporations not required to be expended in the discharge of any functions of the Corporation may be invested by the Board from time to time in any approved institutions within or outside Zanzibar.

Annual Report.

19.(1) The Board shall, not later than six months after the end of each financial year, submit to the Minister and the Commissioner an annual report of that year containing:-

- (a) a copy of the audited accounts of the corporation together with the auditor's report on those accounts;
- (b) a statement of all directions given under this Act by the Minister to the Corporation during that year;
- (c) a statement of activities and operation of the Corporation during that year; and
- (d) any other information as the Minister may by writing request.

(2) The Corporation may publish such other reports as it deems desirable in carrying out its objects and functions, and such reports shall be submitted to the Minister.



PART V GENERAL PROVISIONS

Tariff Book.	20. The Corporation may prepare and publish from time to time as the Board may think appropriate, tariff book containing details of shipping service provided under this Act and their respective rates, charges, fares or fees thereto.
Transfer or Ownership of the Ship.	21.(1) The ownership of the ships and vessels to which the Corporation operates immediately before the date of commencement of this Act, shall be deemed to have been transferred to the Corporation on such date without further assurance.
Vesting of Property.	<p>22.(1) All land, buildings and other property of every kind whatsoever, including things in action, vested immediately before the date of commencement of this Act in the Corporation shall be deemed to have vested in the Corporation under the provisions of this Act without further notice.</p> <p>(2) All rights, privileges and advantages and all liabilities and obligations to which immediately before the date referred to in subsection (1) of this section the Corporation was entitled or subject, shall be deemed to have been conferred or assumed on that date by the Corporation for the purpose of this Act.</p>
Good in Possession of the Corporation.	<p>23.(1) In the event of goods are in possession of the Corporation have not been claimed by its owner or any other person appearing to the Corporation to be entitled thereto, the Corporation shall, if such owner or person is recognized, take all reasonable steps to cause a notice to be served upon him requiring him to collect the goods in the manners which the Corporation thinks fit.</p> <p>(2) If:-</p> <ul style="list-style-type: none"> (a) the owner of any goods are in the possession of the Corporation is not known and no any person appears to be entitled thereto; or (b) the notice referred to in subsection (1) of this section cannot for any reason be served; or (c) there have been a non-compliance with the provision of any notice served under subsection (1) of this section, the Corporation may, within a reasonable time or not less than three months, sell the goods and dispose of the proceeds of sales thereof in accordance with the Public Finance and Disposal of Public Assets Act.
Holder of Office, Contract.	24. The service of any employee or staff of a Corporation and all contracts and agreements entered by the Corporation before the commencement of this Act, shall be deemed to be continuous with the Corporation.



Code of Conduct.	<p>25.(1) The Corporation shall develop a code of conduct prescribing standard of behavior to be observed by the members and employees of the Corporation in the performance of their duties.</p> <p>(2) After developing a code of conduct, the Corporation shall publish in the Official Gazette.</p>
Offence and Penalty.	<p>26. Any person who:-</p> <p>(a) without reasonable cause contravenes or fails to comply with any provisions of the regulations made there in;</p> <p>(b) hinders, obstructs, or interferes on any manner with any servant or agent of the Corporation or any other person in the lawful execution of his powers or duties under this Act, commits an offence and upon conviction is liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding six months or both such fine and imprisonment.</p>
Offence by Board Corporate.	<p>27. (1) Where any offence under this Act or regulations made under this Act is committed by a body corporate any person who, at the time of the commission of the offence was concerned with the management of the affairs of the body corporate as a director or an officer, commits an offence and is liable to be proceeded against and punished accordingly unless he proves to the satisfaction of the court that he had no knowledge and could not by the exercise of reasonable diligence have had knowledge of the commission of the offence.</p> <p>(2) Where an offence under this Act is committed by a body corporate, that body corporate shall be liable on conviction to a fine of not less than twenty million shillings.</p>
General Offences and Penalty.	<p>28. Any person who commits an offence under this Act or regulations thereof for which no penalty is expressly provided shall, upon conviction be liable to a fine not exceeding one million shillings or to a term of imprisonment of not less six months, or both fine and imprisonment.</p>
Power to make Regulations.	<p>29. The Minister may make regulations for better carrying out the provisions of this Act.</p>
Repeal of Legal Notice No. 3 and Saving.	<p>30.(1) The Legal Notice No.3 published in the Official Gazette VOL.XCII, No. 5341 dated at 24th September of 1983 is hereby repealed.</p> <p>(2) Notwithstanding the repeal of the said Legal notice, anything done under the repealed Legal Notice which is in force on the effective date shall be deemed to have been done in accordance with the provisions of this Act.</p>



(3) On the date of coming into force of this Act, all disciplinary proceedings that have been instituted by the Corporation against any of its employees, such proceedings shall, whatever stage they have reached, continue as if they have been instituted by the Corporation.

(4) On the date of coming into force of this Act, all penalties that has been imposed to any employees of the Corporation from disciplinary proceedings against them, such penalties shall continue to be served as if they had been imposed by the Corporation under the provisions of this Act

SCHEDULE **[Under Section 10]**

Tenure of
members.

1.(1) The Chairperson and members of the Board, other than the Managing Director, shall unless his appointment is sooner terminated or ceases in other way, hold office for a period of three years and shall be eligible for reappointment for another term of three years only.

(2) Any member, other than the Chairperson and Managing Director, may at any time resign from his office by notice in writing addressed to the Minister and from the date of the receipt by the Minister of such notice, such member shall cease to be a member of the Board.

(3) The Chairperson may at any time resign his office by notice in writing addressed to the President and such resignation shall take effect as from the date of the receipt of such notice by the President.

(4) Where a person ceases to be a Chairperson or member of the Board for any reason before expiration of his term of the office, the President or Minister as the case may be, shall appoint another person in his place and the person so appointed shall hold office for the remainder of the terms of office of his predecessor.

Vice Chairperson.

2. The Board shall appoint from its own members a Vice Chairperson of the Board.

Meeting of the
Board.

3.(1) The Board shall, for discharging of its functions meet at least once after every three months but in case of any emergency may meet at any time.

(2) The Chairperson shall preside the meetings of the Board but in his absence the Vice Chairperson shall preside the meetings and if both Chairperson and Vice Chairperson become absent, the members present shall elect one member amongst them to preside the meeting.



(3) The Chairperson or in his absence, the Vice-Chairperson shall convene a special meeting of the Board upon request in writing signed by not less than four members of the Board and shall cause such meeting to be held within twenty one days after receiving such request.

Co-opt of the person.

4. The Board may co-opt any person to attend any deliberations of the meeting of the Board as an expert but such person shall not have right to vote in any deliberation of the Board.

Decision of the Board.

5.(1) The Board shall make its decision by consensus and in the event of disagreement, the decision shall be reached by voting and in case of any equality of votes the Chairperson shall have a casting vote.

(2) Notwithstanding subparagraph (1) decisions may be made by the Board by circulation of papers to the members whereby each member shall express his views in writing provided that any member may require that any such decision be deferred for discussion at a full meeting of the Board.

(3) A circular resolution in writing signed by all members or not less than five members, shall be a decision of the Board as if it was made at a meeting provided that a member may require the matter to be brought in the next meeting of the Board.

Quorum of the meeting

6. More than half of the total number of members of the Board shall constitute a quorum at any meeting of the Board.

Effect of the vacancy as to member.

7. Subject to the provisions of this Schedule relating to quorum, the Board may act notwithstanding any vacancy in the members thereof and no act or proceedings of the Board shall be invalid by reason only of some defect in the appointment of a person who purports to be a member thereof.

Declaration of interest.

8. A member who directly or indirectly interested in any matter being deliberated by the Board, shall declare the nature of his interest to the Board and shall refrain from participating in the deliberation of the matter.

Remuneration of members.

9. The Chairperson and other members of the Board shall be entitled to be paid allowances and fees at the rates as the Minister may determine .

Secretary of the Board.

10.(1) There shall be a Secretary of the Board who shall be appointed by the Board and shall be responsible for administrative matters of the Board.

(2) A person shall be eligible to be appointed as Secretary if he possesses at least a first degree of law and be a staff of the Corporation.



(3) The Secretary shall be accountable to the Board and shall be specifically responsible for ensuring:-

- (a) the accurate minutes of meetings of the Board are taken and approved;
- (b) the correct and sufficient records of the Board are maintained as required by law;
- (c) up to date Regulations of the Corporation are available at all meetings of the Board;
- (d) proper notification is given to members of the Board as specified;
- (e) any other matter as the Board may direct.

Minutes of meeting.

11. The Board shall cause to be recorded and kept minutes of all proceedings of its meetings and the minutes of each meeting of the Board shall be confirmed by the Board at its next meeting and signed by the Chairperson of the meeting and Secretary.

Procedure of the meeting.

12. Subject to the provisions of this Schedule, the Board shall have power to regulate its own procedures in respect of meetings and the proper conduct of its business.

Committees of the Board.

13. The Board may on such terms and conditions as it may determine appoint such committees, as it may consider necessary to perform such functions as the Board may direct.

Termination of members.

14. If a Chairperson or member:-

- (a) is absent, without reasonable excuse, for three consecutive meetings of the Board, or
- (b) misbehaves or becomes physically or mentally incapable to perform the function of the Board, or
- (c) is convicted for an offence involving dishonesty, fraud or moral turpitude, the President or Minister as the case may be, shall terminate the appointment of Chairperson or such member and appoint another person in his place and the provisions relating to tenure as provided under section 1(4) of this Schedule shall apply.

PASSED by the House of Representatives 22nd day of January, 2013.

YAHYA KHAMIS HAMAD
Clerk of the House of Representatives
Zanzibar