

ACT No. 3 OF 2009

AN ACT TO ESTABLISH
THE ZANZIBAR MARITIME
AUTHORITY AND PROVIDE FOR
OTHER MATTERS CONNECTED
THEREWITH AND INCIDENTAL
THERETO.



THE ZANZIBAR MARITIME AUTHORITY ACT NO. 3 OF 2009

ARRANGEMENT OF SECTIONS

SECTIONS	TITLE
PART I PRELIMINARY PROVISIONS	
1. Short title and commencement.	
2. Interpretation.	
PART II ESTABLISHMENT, FUNCTIONS AND POWERS OF AUTHORITY	
3. Establishment of the Authority.	
4. Jurisdiction of the Authority..	
5. Functions of the Authority.	
6. Power of the Authority.	
PART III ADMINISTRATION AND MANAGEMENT OF THE AUTHORITY	
7. Board of Director	
8. Director General	
9. Powers of the Minister	
10. Powers of the Board.	
11. Powers of the Director General	



**PART IV
PROVISIONS RELATING TO THE PERFORMANCE OF
AUTHORITY'S FUNCTIONS**

12. Inquiries in maritime accidents
13. Shipwrecks
14. Pollution of marine environment.
15. Safety of navigation.
16. Security of ships.
17. Safety management system.
18. Maritime search and rescue.

**PART V
FINANCIAL PROVISIONS**

19. Funds of the Authority
20. Rights in respect of services and facilities formerly provided by Ministry or any other institutions.
21. Transfer of certain assets to Authority.
22. Power to borrow money.
23. Financial year.
24. Annual and Supplementary Budget.
25. Accounts and audit.
26. Annual report.



PART VI **OFFENCES AND PENALTIES**

27. Damage to property of the Authority.
28. Unlawful operation of marine services or facilities.
29. Jeopardising navigation or vessel safety
30. Negligent, misstatement or false information.
31. Offences in connection with safety and security of vessel etc.
32. Obstruction or molestation.
33. Failure to comply with direction.
34. Discharge of pollutants
35. General Penalty.
36. Offences by body of persons.
37. Prescribing offences to be compounded
38. Presumption of jurisdiction
39. Saving of prosecutions under other laws
40. Power to compound offences
41. Fines to be paid to the Authority.



PART VII GENERAL PROVISIONS

42. Power to detain
43. Liability and indemnification of Authority
44. Performance of service and provision of other facilities by other persons.
45. Exemption property from distress and attachment.
46. Vessels guidance, assistance or direction.
47. Power to enter into lands or premises.
48. Evidence of Identity.
49. Ascertainment of compensation, damages and costs.
50. Regulations.
51. Powers of Minister to give directions.
52. Amendment of Act No. 5 of 2006.

SCHEDULE



ACT NO. 3 OF 2009

I ASSENT


{AMANI ABUID KARUME}
PRESIDENT OF ZANZIBAR
AND

CHAIRMAN OF THE REVOLUTIONARY COUNCIL

 30TH MARCH, 2009.

AN ACT TO ESTABLISH THE ZANZIBAR MARITIME
AUTHORITY AND PROVIDE FOR OTHER MATTERS
CONNECTED THERE WITH AND
INCIDENTAL THERETO

ENACTED by the House of Representatives of Zanzibar.

PART I
PRELIMINARY PROVISIONS

Short title 1. This Act may be cited as the Zanzibar Maritime Authority Act, 2009,
and and shall come into operation immediately after being assented to by the
commencement. President.

Interpretation. 2.(1) In this Act, unless the context otherwise requires-

"Authority" means the Zanzibar Maritime Authority established by section 3 of this Act;

"Board" means the Board of directors of the Authority provided for by section 7 of this Act;

"Chairperson" means the Chairperson of the Board and includes a person appointed to preside at meetings of the Board;



“Director General” means the Director General of the Authority appointed under section 8 of this Act;

“Dollar” means the currency of the United States of America;

“Government” means the Revolutionary Government of Zanzibar;

“Government ship” means a ship owned or operated by the Revolutionary Government of Zanzibar or Government of the United Republic of Tanzania;

“ISPS Code” means the International Ship and Port Facility Security Code;

“Levy” means the maritime development levy;

“Member” means a member of the Board and includes the Chairperson;

“Minister” means the Minister for the time being responsible for maritime affairs;

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

“Registrar” means a Registrar of ships appointed under the Maritime Transport Act, No. 5 of 2006;

“Surveyor” means a Surveyor of ships appointed under the Maritime Transport Act, No. 5 of 2006;

“Shilling” means the currency of the United Republic of Tanzania;

“Vessel” includes every description of watercraft including non-displaced craft and sea planes used or capable of being used as a means of transportation on water;



(2) In addition to the provision of subsection (1) of this section, if any other word or expression used in this Act is defined in the Maritime Transport Act No. 5 of 2006 such word or expression shall in this Act, unless the context otherwise requires, have the meaning assigned to it in the Maritime Transport Act, No. 5 of 2006.

PART II **ESTABLISHMENT, FUNCTIONS AND POWERS** **OF AUTHORITY**

Establish-
ment of
the
Authority.

3.-(1) There is hereby established an Authority to be known as the Zanzibar Maritime Authority and its acronym "ZMA".

(2) The Authority shall be-

- (a) a body corporate with perpetual succession and a common seal;
- (b) capable of suing and being sued;
- (c) capable of acquiring, holding and disposing of movable and immovable property.

(3) The seal of the Authority shall be-

- (a) of such form, manner and size as the Board may determine;
- (b) authorized by the signature of the Director General or any other officer of the Authority authorised by the Board in that behalf.

(4) The headquarter of the Authority shall be in Zanzibar and for the purposes of the smooth execution of its functions, the Authority may establish branches in any part within or outside Zanzibar.

Jurisdiction
of the
Authority.

4.-(1) The Authority shall exercise its functions –



- (a) within Zanzibar;
- (b) in relation to the following type and size of vessels, namely-
 - (i) vessels registered and licensed in Tanzania Zanzibar Registry;
 - (ii) ferry boats including pontoons;
 - (iii) safety of fishing vessels;
 - (iv) ships calling at any ports in Zanzibar;
 - (v) ships transiting within Zanzibar;
 - (vi) pleasure crafts;
 - (vii) offshore exploration rigs, production platforms and associated structures and crafts;
 - (viii) native vessels and small crafts.
- (c) in relation to the commercial of maritime services-
 - (i) regulating shipping freights;
 - (ii) regulating passenger fares;
 - (iii) regulating port services charges; and
 - (iv) regulating charges of any other maritime services.
- (d) in relation to port operations-
 - (i) regulating port security in accordance with the ISPS Codes and national security requirements; and
 - (ii) regulating safety operation of port services



(2) Unless it is expressly provided otherwise, the provision of this Section shall not apply to military vessels and military ports when they are used on non-commercial government mission.

Functions
of the
Authority.

5.—(1) The functions of the Authority shall be—

- (a) to generally administer the implementation and enforcement of the Maritime Transport Act No. 5 of 2006;
- (b) to operate and promote Tanzania Zanzibar Register of Shipping and Tanzania Zanzibar International Register of Shipping;
- (c) to administer ships registered in Zanzibar and generally superintend merchant shipping within Zanzibar maritime zone;
- (d) to register and licence merchant ships for the purpose of meeting national and international obligations, providing nationality, evidencing ownership and title, register mortgages and establishing identity of a vessel;
- (e) to licence and regulate small ships, native vessels, small crafts and ensure safety of fishing vessels;
- (f) to conduct initial, annual, periodic and intermediate surveys and inspections for purposes of registration, issuing of survey and inspection certificates and ensuring ships are maintained in accordance to national and international standards;
- (g) to exercise port state control of all foreign ships for purposes of improving safety of life at sea, prevention of pollution from ships and ensuring applicable standards of living and working conditions aboard the ship;



- (h) to inspect and detain unseaworthy or unsafe ships;
- (i) to restrain any ship by order of the Court;
- (j) to approve plans of ships under construction, reconstruction and maintain technical records of ships;
- (k) to approve plans, manuals, and other ship documents in accordance with international conventions;
- (l) to issue seafarer's identity cards and record books;
- (m) to approve marine safety equipments and marine equipment service providers and encourage local development and manufacture of marine safety equipments ;
- (n) to co-ordinate the work of classification societies, recognised organizations or agents to whom the function of surveying Tanzania Zanzibar ships has been delegated;
- (o) to regulate manning of ships and seafarers welfare, so as to ensure that –
 - (i) ships are properly and adequately manned in terms of competence, qualification, and number of crew;
 - (ii) crew welfare is adequately maintained in accordance with national standards for local ships and international standards for ocean going ships;
 - (iii) the engagement and employment of seafarers and other members of the mercantile marine are promoted and developed;
- (p) in collaboration with the relevant Authorities in the United Republic of Tanzania;



- (i) to monitor and enforce standards of training, examination and certification of seafarers in accordance with international standards in particular standards of training certification and Watch keeping (STCW) 1978, as amended;
 - (ii) to assist in co-ordination of maritime search and rescue operations and other related matters;
 - (iii) to take measures against piracy and any other unlawful acts;
 - (iv) to propose for designation and regulate sea lanes within Zanzibar;
 - (v) to propose for designation of Particularly Sensitive Sea Areas within Zanzibar and;
 - (vi) setting maritime standard for safety and security of ships registered in Zanzibar.
- (q) to conduct or cause to be conducted inquiries and investigations into maritime casualties in order to-
- (i) obtain relevant information;
 - (ii) ascertain facts of the case; and
 - (iii) determine as precisely as possible the cause of the casualty to enable the Government to take necessary preventive measures.
- (r) to deal with ship wrecks within Zanzibar;
- (s) in consultation with institutions responsible for environment to prevent, control and combat pollution of the marine environment from ships and land based sources and to coordinate efforts to combat any such pollution;



- (t) to ensure that Environmental Impact Assessment and Strategic Environmental Project Analysis are conducted on all projects or activities likely to have negative impact on the marine environment in consultation with institutions responsible for environment protection.
- (u) to advise the Government on maritime matters including those related to adoption and implementation of international maritime conventions, provision of marine, port services and facilities and other technical issues;
- (v) to promote and ensure the safe use of ports and approaches thereto;
- (w) to regulate shipping and port services;
- (x) to regulate the provision of marine and port services, Hydrography, Lighthouses and Navigational Aids ensuring that they are provided with safety in accordance with national and international standards.
- (y) to carry out research in matters relating to shipping safety, security and marine environment and establish a data bank for the same;
- (z) to promote and or facilitate-
 - (i) the development of maritime industry;
 - (ii) the improvement of the facilities and performance of ports;
 - (iii) maritime education to crew members of native vessels and small crafts;
- (aa) to disseminate navigational and other maritime information;



- (bb) to perform its functions in a manner consistent with the obligations of the Government;
- (cc) to ensure implementation and enforcement of all international conventions ratified/acceded by the United Republic of Tanzania;
- (dd) to levy fees and charges for services rendered as the Authority may consider appropriate; and
- (ee) to do other acts which are necessary and desirable for proper and better functioning of the Authority.

(2) In the exercise of its functions under subsection (1) of this Section the Authority shall-

- (a) ensure that all vessels registered in Tanzania Zanzibar are insured with Protection and Indemnity in accordance with the provisions of the Maritime Transport Act No. 5 of 2006;
- (b) issue appropriate certificates or licences;
- (c) formulate code of conduct for seafarers and disciplinary procedures;
- (d) ensure that there are National Contingency Plans to respond to maritime disasters and that relevant bodies or institutions provide required assistance;
- (e) keep the Government abreast on the technical developments in the shipping industry.

Powers of
the
Authority.

6. - The Authority shall have power to-



- (a) give directions to any person in relation to a vessel licensed or registered under the Maritime Transport Act No. 5 of 2006 or any other written law;
- (b) formulate safety standards and codes to be observed by providers and users of marine and port services and facilities connected thereto;
- (c) levy fees and charges for the granting of licences, permits, approvals, consents, concurrence and for services and facilities provided by the Authority as may be appropriate;
- (d) regulate, coordinate and control clean up operations for oil spilling out within Zanzibar;
- (e) coordinate the use of vessels and appliances for the purposes of rendering assistance to any vessel or persons in distress within the Tanzania maritime zones or neighbouring maritime states;
- (f) raise funds and receive donations, grants, contributions and loans from any source;
- (g) generally superintend all safety matters relating to shipping and welfare of seafarers;
- (h) regulate seafarers engagement and prescribe the welfare of seafarers;
- (i) cancel or suspend any certificate or licence;
- (j) enter into contracts with other institutions or individuals;
- (k) let on hire plant, machinery, equipment or goods of the Authority not immediately required by the Authority; and
- (l) carry on such activities as may appear necessary to the Authority for the proper discharge of its functions under this Act or any other written law.



PART III ADMINISTRATION AND MANAGEMENT OF THE AUTHORITY

Board of
Directors.

7.—(1) There shall be a Board of Directors of the Authority which shall, subject to this Act, administer the business and affairs of the Authority.

(2) The Chairperson of the Board shall be appointed by the President.

(3) The composition, appointment, tenure of members and the procedures of the Board shall be as set out in the Schedule to this Act.

(4) The Board may appoint such number of management personnel or Senior Officers as may be necessary for the purpose of proper functioning of the Authority.

(5) The Minister in consultation with the Board may, by order published in the Gazette, amend, add to, vary, revoke or replace the provisions of the Schedule to this Act.

Director
General.

8.—(1) There shall be a Director General who shall be appointed by the President.

(2) A person shall be qualified to be appointed as Director General if he or she—

(a) is a Zanzibari;

(b) is a holder of at least first degree or its equivalent from a recognized institution in the field of Maritime or is a master mariner, chief engineer or naval architect; and

(c) possesses at least five years experience in Maritime Administration, Maritime Law or any other related field in maritime sector.

(3) The Director General shall be the chief executive officer of the Authority and shall be responsible to the Board for the management of the business and affairs of the Authority as well as for the execution of the decisions and directives of the Board.



(4) The Director General shall be appointed to serve on such terms and conditions as shall be set out in the letter of his appointment.

(5) The Director General may delegate the performance of any duties or his powers to any officer of the Authority as he may deem necessary and anything done by the delegate shall have the same effect as if done by the Director General.

(6) The Director General may appoint such number of staff as may be necessary and those officers shall exercise their powers and duties as directed by the Director General.

Powers of
the
Minister.

9. The Minister may:-

- (a) give directions of a general nature to the Board relating to the operation of the undertaking of the Authority;
- (b) approve annual and supplementary budgets of the Authority;
- (c) approve any major alteration in the tariffs, rates, fares and other charges made for the services provided by the Authority;
- (d) approve any major alteration in salaries, wages or other terms and conditions of service of employees of the Authority; and
- (e) give particular directions to the Board concerning any matter involving agreement with, or interest of the Authority or public.

Powers of
the Board.

10.- The Board shall have the following powers:-

- (a) approve any minor alteration in the tariffs, rates, fares and other charges;



- (b) approve any minor alteration in salaries, wages or other terms and conditions of service of employees of the Authority;
- (c) approve any individual capital work, for the purpose of the Authority;
- (d) establish among its members, committees for the purposes of the Authority and delegate functions thereto;
- (e) consider legislative proposals and recommend their enactment to the Minister;
- (f) approve any alteration in the organisation or establishment of the Authority other than an alteration referred to in section 11(d) of this Act; and
- (g) give directions to the Director General.

Powers of
the
Director
General.

11. Subject to the directions of the Board, the Director General may-

- (a) approve recurrent expenditure within limits determined by the Board;
- (b) approve any individual capital work of which the estimated cost does not exceed fifty million shillings or such other sum as the Minister may, from time to time fix;
- (c) approve any minor alteration in salaries, wages or other terms and conditions of service of employees of the Authority not involving expenditure in excess of the limits determined by the Board;
- (d) approve any alteration in the organisation or establishment of the Authority other than an alteration involving a major reorganisation or a substantial reduction in the number of employees; and
- (e) allocate functions to employees of the Authority.



PART IV

PROVISIONS RELATING TO THE PERFORMANCE OF AUTHORITY'S FUNCTIONS

Inquiries in
maritime
accidents

12. Any inquiry into a maritime accident shall be done first as a preliminary inquiry for the use by the Authority, and where the Minister is of the opinion that the accident requires further investigation, shall commission a judicial inquiry in the manner prescribed under Part XXIV of the Maritime Transport Act No. 5 of 2006.

Shipwrecks

13.-{(1)} Where as a result of an accident a shipwreck occurs, the Authority shall-

- (a) ensure the expeditious taking into custody of the wreck and its protection; and
- (b) issue a written notice by fax or mail or affix the notice to conspicuous parts of the wreck requiring the owner or agent of the wreck to remove or destroy the whole or any part of the wreck within a specified time or the wreck should be removed at the owner's expense.

(2) The Authority may appoint receivers of wreck and issue instructions and guidance in the exercise of their functions as receivers of wreck in accordance with the Maritime Transport Act No. 5 of 2006.

Pollution
of marine
environment.

14.-{(1)} In order to prevent, control and combat marine pollution, the Authority shall-

- (a) verify and ensure that ships, offshore exploration rigs, production platforms, associated structures and water crafts are safe and properly constructed, built, operated and maintained so as not to be a source of pollution;



- (b) ensure that a contingency plan for combating marine pollution is in place and relevant bodies cooperate in the clean up exercise;
- (c) ensure that port authorities and oil terminals provide adequate reception facilities;
- (d) ensure that recourse is available for prompt and adequate compensation or other relief for damage to marine environment;
- (e) bar to the extent that is possible, the discharge of pollutants into sea within Zanzibar;
- (f) in collaboration and consultation with similar national and international institutions prescribe the allowable quantity of pollutants, rate of discharge and conditions of receiving pollutants and discharges; and
- (g) ensure that pollution clean up operations are conducted in accordance to procedures laid down in international conventions.

(2) The Authority may-

- (a) designate discharge areas;
- (b) require any person to notify the Authority of any possible discharges or actual discharges from its operations;
- (c) board or detain vessels at any time or place for purposes of determining whether or not the vessel is a source of pollution;
- (d) enter a public or private onshore or offshore facility-
 - (i) immediately without notice when necessary or for the purpose of protecting evidence; and



- (ii) after reasonable notice has been given in order to determine whether or not the facility is a source of pollution to the water;

Safety of navigation. **15.**-(1) The Authority shall require all ships navigating within Zanzibar maritime zones to comply with the rules of the International Regulations for Preventing Collisions at Sea, 1972, as amended and any other rules prescribed by the Minister.

(2) The Minister, if thinks appropriate, may designate sea lanes and make regulations for the safe passage of ships within Zanzibar.

Security of ships. **16.**-(1) The Authority shall ensure that foreign ships entering within Zanzibar comply with the requirements of the ISPS Codes.

(2) Notwithstanding the provision of subsection (1), of this section the Authority may impose penalties or ban any ship entry into port located within Zanzibar if such ship is found not to comply with the ISPS Codes.

Safety management system. **17.**-(1) The Authority shall ensure that national ships and national shipping companies are operated with safety management system adopted by the Authority.

(2) The Authority when adopting the Safety Management System for the national ships and national shipping companies shall consider the International Safety Management Code (ISM Codes).

(3) A person shall not be appointed as a manager of a shipping company unless he is certified as qualified person under safety management system adopted by the Authority.

Maritime search and rescue. **18.**-(1) Any person or body of persons including vessels shall respond to search and rescue call when called.

(2) The Authority-

(a) in collaboration with other relevant bodies shall regularly review and update search and rescue plans and cause drills and exercises to be performed;



- (b) may require any other person or body of persons not referred in the search and rescue contingency plan to participate in search and rescue operations;
- (c) shall ensure that search and rescue operations are conducted in accordance with national, regional and international procedures and agreements.

(3) Any person who contravenes the provision of this section, commit an offence and upon conviction shall be liable to a fine of equivalent to ten thousand dollars in shillings or imprisonment for a term of not less than two years.

Funds of
the
Authority

PART V FINANCIAL PROVISIONS

19.-(1) The funds and resources of the Authority shall consist of –

- (a) fees or charges chargeable by the Authority for services rendered such as-
- (i) registration of ships;
 - (ii) surveying and inspection of ships;
 - (iii) certification of ships and companies
 - (iv) licensing of ships;
 - (v) licensing of native vessels, small crafts and fishing vessels;
 - (vi) licensing of harbour crafts;
 - (vii) licensing of shipping services such as bunkering, ship to ship operation outside port limits, ship chandling and port operations;
 - (viii) licensing of ferry operators;



- (ix) licensing of shipping agents and clearing and forwarding agents;
- (x) licensing of marine surveying companies;
- (xi) licensing of seafarers recruiting agencies;
- (xii) licensing of shipping agencies;
- (xiii) licensing for any offshore installations;
- (xiv) licensing for marine fumigation services;
- (xv) licensing for servicing fire appliances for ships;
- (xvi) licensing for servicing life saving appliances for ships;
- (xvii) licensing for ship and boat building;
- (xviii) licensing for installing waste reception facility;
- (xix) licensing of waste collection from ships;
- (xx) engagement of seamen, issuance of seamen record books and seafarers identity cards;
- (xxi) examination fees for boat masters and boat engineers licence;
- (xxii) measurement of ships for ascertaining tonnage;
- (xxiii) receiver of wrecks;
- (xxiv) collection of maritime safety development levy, search and rescue levy and maritime training fund from ship operators and other beneficiaries;
- (xxv) licensing of diving centres;



(xxvi) licensing of other safety equipment and marine service providers, site allocation of offshore installations and pleasure crafts.

- (b) such sums as may be provided for the purpose of the Authority from other sources by way of fees, gifts, grants, loans, contributions or otherwise;
- (c) such sums as the Board may, subject to the approval of the Minister borrow for the purpose of the Authority;
- (d) such sum as may in any manner become payable to or vested in the Authority either under the provisions of this Act or incidental to the carrying out of its functions;
- (e) a fee in respect of a matter referred to in regulations or orders made under the provisions of the Maritime Transport Act No. 5 of 2006;
- (f) collection of administrative fines punishable under regulations or orders made under the provisions of the Maritime Transport Act No. 5 of 2006;

(2) The initial start up funding for the establishment of the Authority including salaries and allowances of the staff for the transition period shall be rendered by the Government.

(3) Notwithstanding the provisions of subsection (1) of this section the sources of revenue shall be derived from such fees and charges for services which shall be rendered by the Authority, fines and penalties, maritime safety development levy, and any other sources proposed by the Authority and as may be authorized by the Board.

(4) For the purpose of this Act “transition period” means the period of not exceeding 3 years from the date of which this Act come into operation.



Rights in
respect of
services
and
facilities
formerly
provided by
Ministry or
any other
institu-
tions.

20.—(1) Where, immediately before the commencement of this Act, in respect of a function of the Authority which was formerly performed by the Ministry or any other institutions, a right of the Government existed, arising out of a debt, liability or obligation of any other person in favour of the Government in respect of a service or facility provided by the Ministry or any other institutions in the performance of that function, the right of the Government is transferred to the Authority to the extent that the Minister determines in writing having regard to the objectives of the Authority.

(2) Where, immediately before the commencement of this section, proceedings relating to such a debt, liability or obligation were pending in a court, the proceedings, to the extent that they so relate, may be continued by the Authority and, if the Authority does so, the Authority must replace the Government in those proceedings

Transfer of
certain
assets to
Authority.

21.—(1) Where, immediately before the commencement of this Act:-

- (a) a function of the Authority was being performed by the Ministry or any other institutions; and
- (b) an asset was held or used by the Ministry in connection with or any other institutions the performance of that function, the Minister shall cause the asset to be transferred to the Authority.

(2) After this Act come into operation, all assets previously used by the Registrar of Ships shall vest to the Authority by virtue of this Act and without further conveyance.

Power to
borrow
money.

22.—With the prior approval of the Board, the Authority may borrow moneys by way of loan or overdraft, and upon such security and such terms and conditions relating to the repayment of the principal and payment of interest as, subject to any directions by the Minister, the Board may deem fit.

Financial
year.

23.—(1) The financial year of the Authority shall run from the 1st day of July in each year.



(2) The first financial year of the Authority shall commence on the date of commencement of this Act and may be of a period shorter than twelve months.

(3) Not less than two months before the beginning of every financial year (other than the first financial year) the Board shall, at a meeting, pass an annual budget of each year-

- (a) expected to be received; and
- (b) expected to be disbursed, by the Authority during that financial year, and whenever circumstances so require, the Board may pass a supplementary budget in any financial year.

Annual
and
Supplementary
Budget.

24. (1) There shall be an annual and supplementary budget of the Authority which shall be in such form and include such details as the Minister may approve.

(2) Forthwith upon passing any annual or supplementary budget, the Board shall submit to the Minister for approval.

(3) The Minister shall, upon receipt of annual or supplementary budget, approve or disapprove or may approve subject to such amendment as he may consider fit.

(4) Where the Minister approves any annual or supplementary budget with or without amendment, the approved budget, shall be binding to the Board which subject to subsection (5), of this section shall confine the disbursements of the Authority within the items and amounts contained in the relevant budget as approved by the Minister.

(5) The Board may-

- (a) with the sanction in writing of the Minister, make a disbursement notwithstanding that such disbursement is not provided for in any budget;



- (b) adjust expenditure limits to take account of circumstances not reasonably foreseeable at the time the budget was prepared, subject to submitting a supplementary budget to the Minister within two months of the alteration of the expenditure becoming necessary.

Accounts
and audit.

25. –(1) The Board shall cause to be provided and kept proper books of accounts and records with respect to—

- (a) the receipt and expenditure and other financial transactions of the Authority;
- (b) the assets and liabilities of the Authority, and shall cause to be made out for every financial year a balance sheet allowing the details of the income and expenditure of the Authority and all its assets and liabilities.

(2) Within six months of the close of every financial year the accounts including the balance sheet of the Authority in respect of that financial year shall be audited by any authorised auditor appointed by the Controller and Auditor General.

(3) Every audited balance sheet shall be placed before a meeting of the Board and, if adopted by the Board, shall be endorsed with a certificate that it has been adopted.

(4) As soon as the accounts of the Authority have been audited, and in any case not later than nine months after the close of each financial year, the Board shall submit to the Minister a copy of the audited statement of accounts together with copies of the report, if any, on that statement made by the auditors.

Annual
report.

26. –(1) The Board shall cause to be prepared and submitted to the Ministers within nine months after the close of each financial year an annual report dealing generally with the activities and operations of the Authority during that year.



(2) The report shall include-

- (a) a statement of all directions given under this Act by the Minister during that year;
- (b) such other information as the Minister may, by writing, request.

(3) The Board shall also submit to the Minister such other reports on its financial affairs as the Minister may by writing request from time to time.

PART VI OFFENCES AND PENALTIES

Damage to
property
of the
Authority.

27. –(1) Any person who wilfully removes, destroys or damages any property belonging to or in the custody or possession of the Authority or prevents such property from being used or operated in the manner in which it is intended, commits an offence and upon conviction shall be liable to a fine of the equivalent of five thousand dollars in shillings or imprisonment for not less than one year and shall make good any loss, destruction or damage.

Unlawful
operation
of marine
services or
facilities.

(2) Any person may apprehend another person whom within his view commits an offence under this section and shall on such apprehension, without unreasonable delay hand the person so apprehended over to a police officer.

Jeopardising
navigation
or vessel
safety

28. Any person who establishes, installs, maintains or operates any marine service or facility without approval or licence from the Authority, commits an offence and upon conviction shall be liable to a fine of the equivalent of five thousand dollars in shillings but not exceeding the equivalent of ten thousand dollars in shillings or to imprisonment for a period of not less than one year or to both the fine and imprisonment.

29. Any person who wilfully destroys or obstructs anything that jeopardises navigation or vessel safety, commits an offence and upon conviction shall be liable to a fine of not less than the equivalent of twenty thousand dollars in shillings or to imprisonment for a period of not less than two years or to both the fine and imprisonment.



Negligent,
misstate-
ment or
false
infor-
mation.

Offences in
connection
with safety
and
security of
vessel etc.

30. Any owner, agent or master of a vessel entering or leaving or is within the port or the approaches thereto who makes any negligent misstatement or gives false information of the type of vessel, its draught, length, beam, height or any other misleading information to the Authority commits an offence and upon conviction shall be liable to a fine of not less than the equivalent of ten thousand dollars in shillings or to imprisonment for a term not exceeding one year or to both the fine and imprisonment.

31. (1) Any person who-

- (a) by an act or omission on board any vessel in the port causes fire on board such vessel;
- (b) uses a vessel or permits a vessel to be used in the port when such vessel is in such a state that by reason of the defective condition of its hull, equipment or machinery or by reason of under manning or otherwise, the life of any person is likely to be endangered;
- (c) makes or causes sabotage on port facilities, or ship, or uses a vessel or causes a vessel to be used as a weapon to threaten the life of people or to damage security of people and property;

commits an offence, and upon conviction shall be liable to a fine of not less than the equivalent of fifty thousand dollars in shillings or to imprisonment for a term of not less than one year or to both the fine and imprisonment.

(2) Any person who-

- (a) uses a vessel or permits a vessel to be used in the port when such vessel is loaded with goods or passengers or both as to
 - (i) exceed the number of passengers allowed by the vessel's safety certificate to be carried or received on the vessel; and
 - (ii) submerge the appropriate subdivision load line on each side of the vessel when the vessel has no list;
- (b) refuses to apply safety management system adopted by the Authority for ships or shipping companies;



- (c) in contravention of the regulation thereby endangers the life of any person,

commits an offence, and upon conviction shall be liable to a fine of not less than the equivalent of fifteen thousand dollars in shillings or to imprisonment for a term of not less than one year or to both the fine and imprisonment.

Obstruction or molestation.

32. - Any person who-

- (a) at any time hinders, obstructs or molests the Authority or any of its employees, agents or contractors in the performance and execution of their duty or of anything which they are required to do under this Act; or
- (b) removes any mark set up for the purpose of indicating any level of direction necessary to the execution of works authorised under this Act,

commits an offence and upon conviction shall be liable to a fine of not less than, the equivalent of two thousand five hundred dollars in shillings or to imprisonment for a term of not less than six months or to both the fine and imprisonment.

Failure to comply with direction.

33. -(1) Any person or ship that fails to comply with the direction of a pollution prevention officer commits an offence and upon conviction shall be liable to a fine of not less than the equivalent of two thousand five hundred dollars in shillings or to imprisonment for a term of not less than six months or to both the fine and imprisonment.

(2) Where a pollution prevention officer believes on reasonable grounds that an offence under this section has been committed by or in respect of a ship, he may recommend a detention order to the Registrar of Ships in respect of the ship.

(3) A detention order made under subsection (2) of this section shall be in writing and addressed to any port authority in Zanzibar, which empowered to give port clearance in respect of that ship.

(4) Where a detention order is made under subsection (2) of this section notice shall be served on the master of that ship.



(5) Where, during the term of a detention order made against a ship, the master or owner of that ship gives an order for the ship to depart from any place within Zanzibar, commits an offence and upon conviction shall be liable to a fine of not less than the equivalent of fifty thousand dollars in shillings or to imprisonment for a term of not less than five years or to both the fine and imprisonment.

Discharge
of
pollutants.

34.—(1) Any person or ship that discharges a pollutant in contravention of any regulation made under this Act commits an offence and upon conviction shall be liable to a fine not less than the equivalent of five thousand dollars in shillings or to imprisonment for a term of not less than one year or to both the fine and imprisonment.

(2) Any polluter shall have an obligation to make compensation for any loss, destruction or damage caused to the marine environment thereof.

General
Penalty.

35. Any person who commits an offence under this Act or regulations made thereof for which no penalty is expressly provided shall, in addition to the forfeiture of any article seized, be liable upon conviction to a fine not exceeding the equivalent of two thousand five hundred dollars in shillings or to a term of imprisonment of not less than six months or to both the fine and imprisonment.

Offences
by bodies
of persons

36. Where an offence under this Act or regulations has been committed by a company, firm, society or other body of persons, a person who at the time of the commission of the offence was a director, manager, secretary or other similar officer or a partner of the company, firm, society or other body of persons or was purporting to act in such capacity commits an offence and upon conviction shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his consent, connivance or privity and that he exerted all such diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.



Prescribing
offences to
be
com-
pounded

Presump-
tion of
jurisdiction

Saving of
prosecu-
tions under
other laws

Power to
compound
offences

Fines to be
paid to the
Authority

Power to
detain

37. The Authority may, with the approval of the Minister make regulations providing for offence and prescribing offences which may be compounded.

38. If, in any legal proceedings under this Act or the regulations made thereof, a question arises as to whether or not any vessel or person is within the provisions of this Act or the regulations, the vessel or person shall be taken to be within those provisions unless the contrary is proved.

39. Nothing in this Act shall prevent any person from being prosecuted under any other written law for any act or omission which constitutes an offence under this Act or the regulations, or from being liable under that other written law to any penalty higher or other than that provided by this Act or regulations thereof, but a person shall not be punished twice for the same offence.

40. Any employee of the Authority specially authorised by name in that behalf by the Director General, may compound any offence under this Act or regulations prescribed as being an offence which may be compounded by collecting from the person reasonably suspected of having committed the offence, a sum not exceeding the equivalent of five hundred dollars in shillings.

41. All fines imposed for any offence under this Act or regulations thereof and all sums collected under section 40 of this Act shall be paid to the Authority.

PART VII **GENERAL PROVISIONS**

42. -(1) The Authority may detain a ship in the prescribed manner in respect of which a due levy, charge or related penalty has not been paid.

(2) A Port officer may not grant a certificate of clearance or transire under the Zanzibar Ports Corporation Act, 1997 in respect of a ship liable to detention under subsection (1) of this section.



(3) For the purpose of this Section “Port Officer” means an Officer of Zanzibar Ports Corporation who is responsible for issuing certificate of clearance or transire for ships, native vessels and small crafts.

Liability and indemnification of Authority

43. –(1) The Authority, its officers and any person or body acting on its authority are not liable for any loss or damage suffered by any person by reason of anything done or not done in good faith in the carrying out of the Authority’s functions referred to in section 5 of this Act.

(2) The Government indemnifies the Authority, its officers and any person or body acting on its authority in respect of any civil liability they may incur for loss or damage suffered by any person by reason of anything done or not done in the carrying out of the Authority’s functions referred to in section 5 of this Act, as may be determined by the Minister.

Performance of service and provision of other facilities by other persons.

44. The Authority may enter into agreement with any person including any company or association or body of persons corporate or incorporate, for the performance or the provision by that person of any of the services or the facilities which may be performed or provided by the Authority and thereupon such person shall have not greater liability to any third party than that which the Authority would have had to such third party under the provisions of this Act.

Exemption property from distress and attachment.

45. When any apparatus, fixture or fitting belonging to the Authority is placed in or upon any premises not being in the possession of the Authority for the functions of the Authority, such apparatus, fixture or fitting shall not be subject to distress nor be taken in execution under process of any court or any proceedings against the person in whose possession it is.

Vessels guidance, assistance or direction.

46. Where the Authority provides for any service for the guidance, assistance or direction of any vessel, neither the Authority nor any of its employees or agent shall be liable for any loss or damage suffered by any person-

(a) by an act or omission of the Authority, its employee or agents which is done in good faith and in the ordinary course of discharging the duties of those employees or agents; or



- (b) if the loss or damage is a result of any defect or breakdown in the service of any equipment used for provision of such services or for the receipt of provision of such information and not as a result of any act or omission of the Authority.

Power to enter into lands or premises.

47. –(1) The Authority may, for the purpose of this Act, by its employees, agents or contractors, enter at all reasonable time into and upon any building or land for the purpose of executing any work authorised by this Act to be executed by them without being liable to any legal proceedings or molestation on account of the entry of the building or land.

(2) The Authority shall not enter into any dwelling house in actual occupation, unless with the consent of the occupier and with six hours' previous notice to that occupier.

Evidence of Identity.

48. –(1) Any employee of the Authority or any police officer who reasonably believes that a person has committed an offence under this Act or regulations, may require that person to furnish evidence of his identity.

(2) Any person who refuses to furnish any information required under this section by an employee of the Authority or a police officer or wilfully produce false information, commits an offence and upon conviction shall be liable to a fine of not less than the equivalent of one hundred dollars in Shillings.

Ascertainment of compensation, damages and costs.

49. –(1) Except as otherwise provided in this Act, in all cases in which damages, expenses, the cost of making good or other costs, are by this Act directed to be paid, the amount and any question of liability shall be summarily ascertained and determined by court.

(2) If the amount of money directed to be paid by the party liable to pay is not paid within fourteen days of the demand, that amount may be reported to court and shall be recovered in the same way as if it were a fine imposed by that court.

Regulations Powers of Minister to

50. The Minister may make regulations generally with respect to the services performed and the functions provided by the Authority for the maintenance of order in any harbours or on any ship or vehicle of the Authority,



and in particular, but without prejudice to the generality of the description of this power, the Minister may make regulations with respect to-

- (a) the proper control and management of foreshores, harbours, and their approaches, the prevention and removal of obstructions in the foreshores and harbour and the regulation of any work, service or facility approved or provided at the foreshores and harbours;
- (b) subject to the provisions of any law relating to merchant shipping-
 - (i) the taking of measures for the prevention of ships from leaving any harbour if found overloaded, improperly loaded, insufficiently manned or without qualified officers or engineers or with a number of passengers in excess of the number that can be carried with reasonable safety or if unseaworthy for any other reason;
 - (ii) the examination and certification of masters and engineer officers and other crew of native vessels or small crafts engaged in local and unlimited trade, tugs, dredgers, fishing vessels and any other water crafts, and the charges and licence fees payable in respect of any of those matters;
- (c) conducting inquiries into any case where damage has been caused to or by a vessel;
- (d) regulating standards of harbour crafts and their riggings for safety of personnel;
- (e) regulating traffic within ports and their approaches;



- (f) regulating the keeping, placing and maintenance of waterways, buoys, light houses, beacons and other aids to navigation;
- (g) providing conditions and requirements for constructing, life saving appliances and fire fighting apparatus.
- (h) procedure for prevention of pollution to the marine environment and measures for making good any damage to the environment therefore..

give
directions
Amendments
of Act No.

51. The Minister may from time to time give the Board such general directions not inconsistent with the provisions of this Act or any regulations made thereunder, on the policy to be pursued in administration of this Act as he may consider necessary, and the Board shall forthwith take such steps as are necessary or expedient to give effect thereto.

5 of 2006

52.-(1) Section 5 of the Maritime Transport Act, No.5 of 2006 is hereby repealed.

(2) The words “established in accordance with the preceding section” appeared in section 6 of the Maritime Transport Act No. 5 of 2006 are hereby deleted.

(3) The words “Zanzibar Maritime Safety Administration” in the Maritime Transport Act No. 5 of 2006 deleted and replaced by the words “Zanzibar Maritime Authority”.

(4) The word “General” is added after the word “Director” wherever appeared in the Maritime Transport Act No. 5 of 2006.

(5) The Registrar of Ships and Ship Inspectors appointed under the Maritime Transport Act No. 5 of 2006 shall be accountable to the Director General.



SCHEDULE CONSTITUTION AND PROCEEDINGS OF THE BOARD [Made under section 7(3)]

- Composition of Board.** 1.-(1) The Board of Directors of the Authority shall consist of-
- (a) Chairperson;
 - (b) Director General of the Authority;
 - (c) five other members appointed by the Minister, as he deems fit.
- (2) The Board shall appoint Legal Officer of the Authority to be the Secretary to the Board.
- Tenure of office.** 2. Subject to the provisions of this Schedule every member of the Board shall hold office for a period of three years from the date of his appointment but may be eligible for re-appointment for one further term.
- Resignation.** 3. A member may resign from his appointment at any time by giving notice in writing to the Minister.
- Vacation of office.** 4. The office of a member shall become vacant-
- (a) on his death;
 - (b) if he, without sufficient cause fails to attend three consecutive meetings of the Board;
 - (c) if he becomes in any manner disqualified from membership of the Board;
 - (d) if he becomes incapacitated by reasons of physical or mental health ceases to perform his duties.
- Filling of Vacancies.** 5. If a member dies, resigns or his appointment terminated or otherwise vacates the office before the expiry of the term for which he has been appointed,



the Minister may subject to the provisions of paragraph 1 of this Schedule, appoint another person to fill the vacancy for which the vacating member was appointed.

Meetings.

6.—(1) The Board shall meet ordinarily at least once in every three months and meet extra ordinarily at any time for the discharge of business at such places as the Board may from time to time appoint.

(2) At every meeting of the Board, four members shall form a quorum.

(3) In the absence of the Chairperson, at any meeting of the Board, the members present may, from amongst their number elect a temporary Chairperson who shall preside at that meeting.

(4) A decision at a meeting shall be adopted by a simple majority of the members present and voting.

(5) The Chairperson, or temporary Chairperson presiding at any meeting, shall, in the event of an equality of votes, have a casting vote in addition to the deliberative vote.

(6) Notwithstanding the provisions of subparagraph (4) decisions may be made by the Board by circulation of the relevant papers among the members and the expression of the views of the majority in writing.

Procedure
at
meetings.

7. Subject to the provisions of this Act, the Board may make rules to regulate its own procedure generally and in particular regarding the holding and proceedings of meetings, notice of such meetings, keeping of minutes and the custody, production and inspection of the minutes.

Vacancy of
membership.

8. Subject to the provisions of paragraph 6(2) the Board may act notwithstanding any vacancy in its membership.

Validity of
proceedings.

9. Subject to the provisions of paragraph 6(2) the validity of any proceedings of the Board shall not be affected by any defect in the appointment of any members.



Allowances. **10.** There shall be paid to the members out of the funds of the Authority such fees and allowances as the Minister may from time to time determine.

PASSED in the House of Representatives of Zanzibar on 28th day of January, 2009.

A handwritten signature in blue ink, appearing to read "Ibrahim Mzee Ibrahim".

{IBRAHIM MZEE IBRAHIM}
CLERK OF THE HOUSE OF REPRESENTATIVES
ZANZIBAR.