

Navigating the United Republic of Tanzania: Maritime liability limitation regime

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Introduction

The United Republic of Tanzania is a sovereign state that was founded in 1964 by the Union of two independent states, Tanganyika and Zanzibar. Before the Union, Zanzibar was recognized as the People's Republic of Zanzibar and Tanganyika as the Republic of Tanganyika.

The United Republic of Tanzania has obligations as a Member State of the International Maritime Organization (IMO). In that regard, all maritime issues that need international attention, including adoption, ratification, accession, or denunciation of IMO Instruments, are practically dealt with at the Union level. However, in domestication and implementation of such international instruments, the United Republic of Tanzania has its own legal procedure while Tanzania Zanzibar applies its own procedure in its legal framework.

The 1976 Convention on Limitation of Liability for Maritime Claims (LLMC) serves as the cornerstone of the maritime liability regime. However, its application is nuanced due to the dual

legal systems of Tanzania Mainland and Zanzibar.

In Tanzania, the Merchant Shipping Act, 2023 (MSA) and the Maritime Transport Act, 2006 (MTA) are two major statutes governing the maritime sector, both were enacted in response to the need for updated regulations to align with international maritime conventions, ensure safety at sea and promote efficient maritime trade. The MSA is designed to apply in the Tanzania mainland while the MTA is designed to apply in Tanzania Zanzibar.

Consequently, the existence of dual laws governing maritime affairs within the United Republic of Tanzania has been holding back the proper implementation of its obligations as International Maritime Organization IMO Member State. Among other things, there are two maritime authorities operating within the United Republic of Tanzania: the Tanzania Shipping Agency Corporation (TASAC) established under the Tanzania Shipping Agencies Act, 2017; and Zanzibar Maritime Authority (ZMA) established under the Zanzibar Maritime Authority Act, 2009. Both authorities operate independently without any clear statutory provision to connect one with the other.

Tanzania mainland: the Merchant Shipping Act, 2023

The Tanzania Mainland primary legislation is the Merchant Shipping Act, 2023 (Chapter 165). While Tanzania has historically operated under the 1976 LLMC limits, in recent years there has been a significant shift towards the 1996 Protocol to reflect modern commercial realities.

Persons entitled to limit liability

The right to limit liability is not restricted solely to the shipowner according to the Act:

- Shipowners and salvors may limit their liability for claims defined under section 347 of MSA. The shipowner includes the owner, charterer, manager and operator of a seagoing ship.
- Liability of agents or employees, where a claim is brought against any person for whose act, neglect, or default the shipowner or salvor is responsible, that person is also entitled to benefit themselves of the same limitation of liability.
- An insurer of liability for claims subject to limitation is entitled to the benefits to the same

extent as the assured themselves.

Claims subject to limitation

Section 347 of the MSA specifies that liability may be limited for the following claims, regardless of the basis of liability:

1. Personal injury and property damage, including the claims for loss of life, personal injury, or loss of or damage to property (including harbor works, basins, waterways, and aids to navigation) occurring on board or in direct connection with the operation of the ship or with salvage operations.
2. Loss resulting from delay, the claims for loss resulting from delay in the carriage by sea of cargo, passengers or their luggage.
3. Infringement of rights, the claims for other loss resulting from the infringement of rights other than contractual rights, occurring in direct connection with the operation of the ship or salvage operations.
4. Wreck removal and damage mitigation, these include the claims related to the raising, removal, destruction, or rendering harmless of a ship which is sunk, wrecked, stranded, or

abandoned, as well as claims for measures taken to avert or minimize loss.

Claims excluded from limitation

Under section 349 of MSA, the limitation regime does not apply to the following claims:

1. Claims for salvage or contribution in general average.
2. Claims for oil pollution damage within the meaning of the International Convention on Civil Liability for Oil Pollution Damage (CLC).
3. Claims subject to any international convention or national legislation governing or prohibiting limitation of liability for nuclear damage.
4. Claims by servants of the shipowner or salvor whose duties are connected with the ship or the salvage operations, if the relevant contract of service is governed by a law that does not permit limitation for such claims.

Calculation of limits (units of account)

The Act under section 352 of MSA applies the Special Drawing Right (SDR) as defined by the International Monetary Fund (IMF) as the unit of account.

General Limits, for claims other than passenger claims, are outlined in section 352 and based on the ship's tonnage.

For passenger claims, that is, claims for loss of life or personal injury to passengers, there is a limit which is calculated as an amount of 46,666 Units of Account multiplied by the number of passengers which the ship is authorized to carry according to its certificate. This total is capped at 25 million Units of Account.

Conduct barring limitation

The right to limit liability is not absolute. Section 361 MSA states that a person shall not be entitled to limit their liability if it is proved that the loss resulted from their personal act or omission, committed with the intent to cause such loss, or recklessly and with knowledge that such loss would probably result.

Constitution of the limitation fund

To invoke the limitation, any person alleged to be liable may constitute a fund with the High Court as provided under section 360 MSA.

The fund must consist of the amount calculated, plus interest from the date of the occurrence giving rise to the liability until the date of the constitution of the fund. A fund constituted in this manner is only available for the payment of claims for which limitation of liability can be invoked.

Once a limitation fund has been constituted, any person having a claim against the fund is barred from exercising any right against any other assets of the person who constituted the fund according to section 361 MSA. Any ship or property belonging to that person that has been attached or arrested for a claim which may be settled by the fund must be released by order of the Court.

Zanzibar: The Maritime Transport Act, 2006

Zanzibar operates under its own Maritime Transport Act, No 5 of 2006, which is managed by the Zanzibar Maritime Authority (ZMA). The limitation of liability is split into two primary regimes, one specifically for passengers and luggage, and a general regime for other maritime claims.

Liability for passengers and luggage (Part XXI)

This section applies to international carriage where the ship is registered in, or the contract is made in Zanzibar. The carrier is liable for damage resulting from the death of or personal injury to a passenger, as well as loss of or damage to luggage, if the incident occurred during the carriage and was due to the carrier's fault or neglect.

The limits of liability for claims provided under section 423 shall be calculated as follows:

Claim type	Liability limit (SDR)
Death or personal injury	46,666 SDR per carriage (unless otherwise agreed)
Cabin luggage	833 SDR per passenger
Vehicles (including luggage in/on them)	3,333 SDR per vehicle
Other luggage	1,200 SDR per passenger

The carrier is not liable for valuables (monies, gold, jewelry, etc.) unless they were deposited with the carrier specifically for safe-keeping and the actions for damages are time barred after two years as provided under section 421 of MTA.

Limitation of liability for maritime claims

This general regime allows shipowners (including charterers, managers, and operators) and salvors to limit their liability for a wide range of claims.

Liability can be limited for claims including:

- loss of life or personal injury occurring on board or in direct connection with the operation of the ship;
- loss of or damage to property, including harbor works, basins, and aids to navigation;
- loss resulting from delay in the carriage of cargo, passengers, or luggage;
- claims for raising, removing, or destroying a sunk, wrecked, or abandoned ship.

Conduct barring limitation

A person cannot limit their liability if it is proven that the loss resulted from their personal act or omission, committed with intent to cause such loss, or recklessly and with knowledge that such loss would probably result.

General limitation calculations (SDR)

Zanzibar uses Special Drawing Rights (SDR) as the unit of account. The limits are calculated based on the ship's tonnage.

For Personal Injury or Loss of Life Claims under section 423 of MTA:

1. Ships not exceeding 300 tons: 166,667 SDR.
2. Ships 301 to 500 tons: 333,000 SDR.
3. Larger Ships: Additional SDR amounts are added for each ton over 500 (eg, +500 SDR per ton for 501-3,000 tons).

Other Property Claims under section 424 of the MTA:

1. Ships not exceeding 300 tons: 83,333 SDR.
1. Ships 301 to 500 tons: 167,000 SDR.
2. Larger Ships: Additional SDR amounts are added for each ton over 500 (eg, +167 SDR per ton for 501-30,000 tons).

For passenger claims, section 429 of the MTA provides that for distinct occasions, the limit for loss of life or personal injury to passengers is 175,000 SDR multiplied by the number of passengers the ship is authorized to carry.

The limitation fund

As provided under section 432 of MTA, any person seeking to limit liability may constitute a fund with the High Court of Zanzibar. The fund is established by depositing the calculated limit amount plus interest from the date of the occurrence. Once the fund is constituted, claimants are barred from exercising rights against any other assets of the person who established the fund as provided under section 434 of MTA.

If a ship or property was arrested in connection with the claim, the Court shall order its release once the fund is established.

Conclusion

Both regimes follow the international standard where shipowners and salvors may limit their liability unless it is proved that the loss resulted from a personal act or omission committed with intent or recklessly with knowledge of probable loss.

Despite modern statutes, challenges remain including overlapping mandates between agencies like TASAC and TPA on the Tanzania mainland.

The Tanzanian maritime liability regime provides a controlled and predictable framework rooted in international conventions designed to encourage investment and protect the shipping industry from crippling financial exposure. However, the strategic utility of Dar es Salaam and Zanzibar as logistics hubs depends on ongoing legislative reforms to close the implementation gap and streamline the dual-regulatory oversight.

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