

REGULATION FOR THE EXERCISE OF THE ACTIVITY OF SHIPPING AGENCY, CARGO AND COMPLEMENTARY SERVICES

DECREE NO. 40/2024, OF 12 JUNE



July 2024

Decree No. 40/2024 of 12 June was published, approving the Regulation for the Exercise of the Activity of Shipping Agency, Cargo and Complementary Services, and revokes the Decree No. 53/2006 of 26 December.

The present regulation establishes a more detailed legal regime that is more up-to-date with the practical reality of this sector of activity.

Scope

This Decree applies to the following activities:

- Shipping agency;
- Cargo agency; and
- Complementary services.

Among the changes introduced by this Decree, we highlight the following:

Responsibility of shipping agents

In addition to the responsibilities of the shipping agent already listed in the previous regulation regarding entry, stay, departure, collection and payment of expenses for services rendered and due compensation, this Decree introduces additional responsibilities, namely:

- Responsibility for the ship's manoeuvres;
- Change of crew;
- Fuelling of ships and bunkering;
- Berthing and unberthing requests;
- Legal provisions with harbours;
- Making the vessel available for inspection as part of Port State Control;
- Payment of shipping aid fees for the vessels operated by it to the licensing body;
- Hiring vessels to assist the ships that it manages;
- Presentation of the cargo manifest and the cargo stowage plan on board the ship; and
- Damage to quays and their equipment, maritime signalling buoys and other equipment caused by vessels, platforms and the like calling at a national port.

Responsibility of cargo agents

With regard to the cargo agents (referred to as goods agents under the previous decree), they are now subject to the following obligations:

- Cargo chartering;
- Consolidation and deconsolidation of cargo;
- Freight for transporting the cargo to its destination;
- All expenses related to the payment of tariffs, fees, emoluments and others for the services provided; and
- Issuing guarantees for cargo in transit, as required by customs regulations.

Complementary Services

Under this Decree, the following are designated as complementary services:

- Cargo chartering;
- Conference;
- Expertise and oversight;
- Supply of guards on board ships (lookout);
- Storage;
- Auxiliary stowage services;
- Stowaways services;
- Shipchandling; and
- Hiring of vessels to assist ships.

Qualifications required to employees of companies engaged in activities of shipping agency, cargo and complementary services

Shipping agents are required to have on their staff at least one national employee with a degree in nautical or harbour sciences and at least five years' experience in the sector.

As for cargo agents, their staff must be made up of at least one national employee with a degree in international trade, management or equivalent and five year's experience.

With regard to organisations carrying out conference, expert and superintendence activities, they must have all the equipment required to carry out their activities properly.

Exclusivity of agency activity

The activity of shipping agency, cargo and complementary services is carried out by duly licensed national companies engaged in this sector of activity, thus excluding the entities/individuals listed below:

- Importers and exporters;
- Shipowners, ship operators;
- Customs brokers;
- Port, railway and road operators;
- Customs transit warehouse operator; and
- Cargo terminals.

It should be noted that industries and factories can only carry out storage activities as provided for in this Decree.

Licensing

In order to carry out the activity of shipping agency and its complementary services, companies must now be: (i) registered with ITRANSMAR, IP; and (ii) registered in each port in which they carry out their activity.

In addition to the activities already established in the previous regulation, the following will also be subject to licensing:

- Shipchandling;
- Supply of guards on board ships (lookout);
- Stowaways services; and
- Hiring of vessels to assist ships.

The Decree also lays down specific requirements for the licensing of companies set up by nationals, on the one hand, and foreigners, on the other.

Validity of licences

The licence will now be granted for a maximum period of 2 (two) years to entities applying for it for the first time, with the possibility of renewing it once for the same period (with the exception of licences relating to the activities of shipchandling, supplying guards on board ships (lookouts) and stowaways, which will be valid for 1 (one) year). Also under the terms of the Decree, after the first 4 (four) years, renewal shall be every 5 (five) years.

Licenses attributed under the previous regulation will be renewed for a period of 5 (five) years, the licensed entities having to comply with the provisions of this Decree.

The fees due for issuing licences and renewing them are set out in this Decree.



Obligations of the licensed entities

The following new obligations are introduced for licensed entities:

- Ensure that the company has staff trained in the areas set out in this regulation;
- Notify the licensing body or its representative of the start of the activity;
- Ensure that the vessels agencied receive maritime clearance from ITRANSMAR, IP;
- Allow the access of the licensing authority's agentes to the company's premises for inspection purposes; and
- Start business within 90 (ninety) days of the date on which the licence is issued.

With regard to the penalties provided for in the previous regulation, the present Decree introduces a prohibition on setting up a new agency and complementary services company for directors and managers who have been held responsible for the previous declaration of bankruptcy or insolvency.

Entry into force

The Decree comes into force on 12 August, repealing Decree No. 53/2006 of 26 December and all other provisions that contradict it.

Contacts



MOZAMBIQUE@VDALEGALPARTNERS.COM