

GHANA SHIPPERS' AUTHORITY REGULATIONS, 2012 (L.I. 2190)

ARRANGEMENT OF REGULATIONS

Regulation

1. Purpose
2. Registration of shippers
3. Membership list of shipping service providers
4. Platform for mutual consultations
5. Negotiation of charges
6. Agreement on service standards, administrative measures and procedures
7. Cargo manifests
8. Administration of service charge
9. Advanced shipment information
10. Resolution of complaints of shippers
11. Interpretation
12. Revocation
13. Transitional provisions

SCHEDULES

GHANA SHIPPERS' AUTHORITY REGULATIONS, 2012

IN exercise of the power conferred on the Minister responsible for Transport by section 16 of the Ghana Shippers' Authority Act, 1974 (N.R.C.D. 254) these Regulations are made this 13th day of August 2012.

Regulation 1—Purpose

The purpose of these Regulations is to provide

- (a) for consultation between the Authority and shipping service providers who operate along the logistics chain in the transport industry in respect of international trade;
- (b) for the negotiation of
 - (i) charges in relation to shipment and clearance of cargo from a port,
 - (ii) minimum standards and quality of shipping services to be rendered to shippers, and

(iii) any other related matters; and

(c) information to shippers in Ghana through the use of advanced shipment information, with the aim to protect and represent the interests of shippers as provided for by the Act.

Regulation 2—Registration of shippers

(1) A shipper other than a shipper of personal effects shall

(a) register with the Ghana Shippers' Authority by filing with the Authority the registration particulars specified in the First Schedule; and

(b) pay the registration fee specified in the Fourth Schedule.

(2) The Authority shall issue a shipper who is registered under these Regulations with

(a) a certificate of registration in a manual or electronic format, and

(b) a registration number which shall be quoted by the shipper in any dealings of the shipper with the Authority and with shipping service providers.

(3) The certificate of registration shall be renewed annually on payment of the fee specified in the Fourth Schedule.

(4) A recognised association of shippers may submit a list of the members in good standing of the association for the purpose of registration.

(5) The Board of the Authority shall review the fee periodically.

(6) The Authority shall publish the name of a registered shipper in the Shipper's Bulletin and other relevant media.

Regulation 3—Membership list of shipping service providers

(1) The associations of the following shipping service providers shall supply their membership lists to the Authority to facilitate consultation and negotiations between the Authority and the service providers:

(a) freight forwarders;

(b) shipowners, shipping lines and agents;

(c) freight consolidators;

(d) hauliers;

(e) terminal operators;

(f) receipt and delivery operators;

(g) custom house agents; and

(h) other recognised associations of shipping service providers.

(2) Where no such association or body exists, the identifiable shipping service provider shall for purposes of negotiations furnish their particulars with the Authority as specified in the Second Schedule.

Regulation 4—Platform for mutual consultations

(1) The Authority shall provide a platform for mutual consultations among

- (a) shippers,
- (b) shipowners,
- (c) shipping lines and agents,
- (d) ports,
- (e) railways,
- (f) terminal operators,
- (g) freight forwarders,
- (h) custom house agents,
- (i) receipt and delivery operators,
- (j) freight consolidators,
- (k) hauliers, and
- (l) airline carriers and agents

whose activities impact on shippers.

(2) The Authority shall, at least once in three months, provide a platform for consultation between the Authority and the various shipping service providers along the logistics chain in the transport industry in respect of international trade.

(3) The consultation shall deal with issues which affect the transport and logistics chain in relation to

- (a) shippers,
- (b) trade and industry associations,
- (e) commodity associations, and
- (d) other ancillary shipping service providers

and it is to ensure competitiveness in the international trade and transport industry of this country.

Regulation 5—Negotiation of charges

(1) The Authority shall negotiate on behalf of shippers with associations of shipping service providers

(a) charges of shipowners, shipping lines and agents;

(b) port charges;

(c) terminal and shore handling charges;

(d) charges of freight consolidators;

(e) charges for receipt and delivery operations;

(f) charges of freight forwarders;

(g) charges of custom house agents;

(h) charges of hauliers of international cargoes; and

(j) other charges of allied service providers.

(2) For the purpose of negotiations, an association representing shipping service providers that provides services to shippers, shall notify the Authority three months before the beginning of each calendar year of the level and structure of the charges that the shipping service provider intends to administer.

(3) A shipping service provider who is not a member of any association shall negotiate with the Authority or charge the rates agreed upon between the relevant association and the Authority.

(4) The Authority and the shipping service provider or the association of shipping service providers shall conclude negotiations for the charge to be effected for the ensuing year.

(5) Where arising out of an exigency there is a need to review rates and charges, the relevant shipping service provider shall notify the Authority of the necessary review and the Authority shall within seven days of the notification call for a meeting between the Authority and the relevant shipping service provider to discuss the proposed rates.

(6) Where negotiations are not concluded

(a) within a period of thirty days after the commencement of negotiations under subregulation (4),
or

(b) within a period of thirty days after the notification to the Authority of the necessary review required under subregulation (5)

the parties to a disagreement or dispute that arises out of the negotiations may appoint an expert and the two parties may mutually agree to appoint an umpire for the determination of the dispute.

(7) Where the parties are unable to resolve the dispute through the mechanism under subregulation (6), the dispute shall be referred to a panel of experts to arbitrate in the matter.

(8) The Minister shall constitute the panel of experts which consists of

- (a) one representative of the Ministry of Transport;
 - (b) one representative of a recognised professional body in the transport and logistics industry in respect of international trade; and
 - (c) three experts from the transport and logistics industry.
- (9) A decision of the panel of experts is binding between the parties but does not prejudice the right of either of the parties to seek legal redress.
- (10) The Authority shall publish the negotiated charges in the Shippers' Bulletin and in at least two daily newspapers of national circulation for the benefit of shippers and shipping service providers.
- (11) A shipping service provider that administers a charge for a service that the shipping service provider renders to a shipper without having negotiated that charge with the Authority shall pay to the Authority an administrative penalty of not more than two hundred penalty units and in the case of a continuing action an additional administrative penalty of ten penalty units for each day during which the action continues after written notice has been served on the offender by the Authority.
- (12) A shipping service provider that administers a charge above the negotiated charge shall, upon a report to the Authority, be made to refund the excess amount to the shipper and pay an administrative penalty of ten penalty units for each day that the action continues.
- (13) The Authority shall, upon the failure of a shipping service provider to refund the excess charge and to pay the fine within thirty days, treat the amount outstanding as a debt and take legal action to recover the amount.

Regulation 6—Agreement on service standards, administrative measures and procedures

- (1) A shipping service provider or an association of shipping service providers shall negotiate with the Authority on behalf of the members of the association of shipping service providers where applicable on the minimum standard and quality of service to be rendered to shippers in conformity with the international transport industry and international trade practice.
- (2) The Authority shall for the benefit of shippers and shipping service providers publish the negotiated service standards periodically in the Shippers' Bulletin and other media.
- (3) Where there is a stalemate, there shall be a panel of experts to mediate as provided in regulation 5 (7).
- (4) A shipping service provider shall, before introducing a new procedure, measure or administrative directive that requires compliance by shippers, notify the Authority of the new procedure, measure or administrative directive.
- (5) The Authority shall within fourteen days upon receipt of notification of a new procedure, measure or administrative directive, communicate the response of the Authority to the service provider.

(6) Where the Authority fails to provide its response within fourteen days the new procedure, measure, or administrative directive shall take effect fourteen days after the Authority has been duly notified.

(7) Where the new procedure, measure or administrative directive involves a new charge, the new charge is subject to negotiation as specified in regulation 5.

(8) A shipping service provider that

(a) fails to meet the agreed minimum standards, or

(b) fails to notify the Authority on a new procedure, measure or administrative directive that requires compliance by shippers,

shall pay to the Authority an administrative penalty of one hundred penalty units and shall pay an amount of ten penalty units for each day that the default in payment continues after written notice has been served on the offender by the Authority.

(9) The Authority shall

(a) take legal action against the offender upon failure of the offender to pay the administrative penalty within thirty days, and

(b) claim the money as a debt due to the Authority.

Regulation 7—Cargo manifests

(1) The agent of a shipping line or an airline carrier in a port shall send copies of cargo manifests to the Authority not later than

(a) three days after the arrival of a ship or aircraft in a port; and

(b) five days after the departure of a ship or aircraft from a port.

(2) The agent of a shipping line or an airline carrier that contravenes subregulation (1) shall pay to the Authority an administrative penalty of one hundred penalty units and an additional administrative penalty of ten penalty units for each day that the default continues.

(3) The Authority shall

(a) take legal action against the offender upon failure of the offender to pay the administrative penalty within thirty days; and

(b) claim the money as a debt due to the Authority.

Regulation 8—Administration of service charge

(1) The Authority shall levy a service charge of two per cent of the gross freight value of a shipment to or from this country on a shipping line that operates in this country.

(2) The Authority shall remit to the Ghana Maritime Authority fifty per cent of the total annual service charges received by the Authority.

(3) A representative or an agent of a shipping line that operates in this country shall pay the service charge within a period of fourteen days after the receipt of the requisite invoice issued by the Authority.

(4) Where the service charge imposed is not paid within the specified period, beginning on the day on which the service charge became due, the representative or agent of the shipping line shall pay to the Authority a penalty of ten percent of the unpaid amount of the service charge for every thirty days that the amount remains unpaid.

(5) The Authority shall institute legal proceedings to recover the unpaid service charges and penalties as debts due and owed to the Authority.

(6) Any recoveries from unpaid service charges shall be shared equally between the Authority and the Ghana Maritime Authority after a deduction of costs incurred in the recovery.

(7) The Board of the Authority may for a stated reason grant an exemption in respect of the payment of the service charge or waive the payment of the service charge as the Board considers necessary.

(8) The provisions of sub-regulation (1) to (5) do not apply to

(a) cargo for the Armed Forces;

(b) cargo for a Diplomatic or Consular Mission in this country;

(c) transit cargo; and

(d) other exemptions in accordance with relevant legislation or directives.

Regulation 9—Advanced shipment information

(1) A shipper or a representative or agent of a shipper shall file advanced shipment information with the Authority that

(a) is in a format specified in the Third Schedule,

(b) is administered at a fee specified in the Fifth Schedule, and

(c) discloses the shipment particulars of the cargo to be shipped before the shipper effects a shipment to or from this country.

(2) The fee specified in the Fifth Schedule is not applicable to

(a) cargo for the Armed Forces;

(b) cargo for a diplomatic or consular mission in this country;

(c) transit cargo; and

(d) other exemptions in accordance with relevant legislation or directives.

(3) The Board of the Authority shall review periodically, the required shipment particulars and the fee as specified in the Third and Fifth Schedules respectively.

(4) The Authority may appoint an agent or a representative in the respective import or export ports in the discharge of the duties of the Authority under sub-regulation (1).

(5) The Authority shall publish the names of the agents of the Authority in the port of shipment in at least two daily newspapers of national circulation for the benefit of shippers and shipping service providers.

(6) A shipper or a representative or agent of a shipper shall provide shipment particulars to an agent of a shipping line to be furnished to the Authority where the Authority does not have an agent or representative.

(7) The Authority may appoint an agent or a representative to

(a) the ports that the Authority considers necessary, and

(b) operate a foreign account that the Authority considers appropriate.

(8) The advanced shipment information is a requirement for cargo clearance through customs.

(9) A shipping line shall quote a valid advance shipment information number on its bill of lading and cargo manifests issued in respect of cargo shipped to or from the ports of Ghana.

(10) A shipper who

(a) ships cargo to or from this country, and does not provide the advanced shipment information to the Authority, and

(b) is not exempted from the provision of the advanced shipment information to the Authority

is liable to the payment of a pecuniary penalty equivalent to fifty percent of the gross freight cost of the cargo to the Authority

(11) A shipping line that carries cargo that is not covered by advanced shipment information to a port in this country shall pay to the Authority a pecuniary penalty equivalent to the gross freight cost of the cargo.

Regulation 10—Resolution of complaints of shippers

(1) The Authority shall create a forum for relevant parties for the resolution of complaints received from

(a) shippers against shipping service providers, and

(b) shipping service providers against shippers.

(2) In the event of a stalemate, the matter shall be referred to a panel of experts constituted by the Minister under regulation 5 (8) to mediate.

Regulation 11—Interpretation

In these Regulations, unless the context otherwise requires,

“ancillary shipping service provider” includes

- (a) a bank;
- (b) an insurance company, and
- (c) an individual, agency or body corporate that provides an indirect service to a shipper;

“bulk trade” means the transportation of large quantities of loose, unpacked cargo or cargo that is not placed in a container and that is loaded into a hold or tank of a ship;

“CFS/CFS” means container freight station-to-container freight station and refers to the packing of cargo into a container at the port of origin and the unpacking of the cargo at the port of destination at the risk and expense of the carrier;

“custom house agent” means a person licensed by the appropriate governmental agency to provide customs clearance service to a shipper;

“CY/CY” means a container yard-to-container yard and refers to a container service whereby a container is

- (a) packed by a shipper off the premises of the carrier,
- (b) delivered by the shipper to the container yard of the carrier,
- (c) accepted by the consignee at the container yard of the carrier, and
- (d) unpacked by the consignee off the premises of the carrier, at the risk and expense of the shipper;

“FCL” means full container load;

“F.O.B” means Free-On-Board and requires that the seller must load the goods on board the ship nominated by the buyer, with the cost and risk divided at the rail of the ship;

“freight consolidator” means a freight forwarder who assembles several smaller shipments and ships them together to take advantage of economies of scale;

“freight forwarder” means a person who arranges for the transportation of cargo and assumes responsibility for cargo until it reaches its destination in exchange for compensation;

“haulier” means a person or company engaged in the transportation of goods by motor trucks;

“INCOTERMS” means International Commercial Terms which are a series of international sales terms published by the International Chamber of Commerce and widely used in international commercial transactions;

“LCL” refers to less than container load;

“port” means seaport, inland port, airport or airfield;

“receipt and delivery operator” means a shipping service provider that

(a) takes charge of cargo at a quay and delivers the cargo at the appropriate terminal, or

(b) takes charge of cargo at a terminal and delivers the cargo at a quay

in accordance with the contract of carriage;

“RO/RO” means to roll-on, roll-off and refers to a type of ship designed to load and discharge cargo which rolls on wheels or tracks;

“Shippers’ Bulletin” means a periodical of the Authority in which important information, activities, plans and programmes of the Authority are published;

“shipping agent” means a licensed agent in a port who transacts the business of a ship including

(a) the preparation of shipping documents,

(b) the arrangement of shipping space and insurance and

(c) dealing with customs requirements on behalf of a shipping line;

“shipping line” means an owner, a lessee or a charterer of a ship or a vessel, that is engaged in the business of transportation of goods by water;

“shipping service provider” includes

(a) a shipping line,

(b) a shipping agency that operates in this country,

(c) a freight forwarder,

(d) a customs house agent,

(e) a freight consolidator,

(f) a terminal operator,

(g) a receipt and delivery operator,

(h) a haulier, and

(i) an individual, agency or body corporate that provides a direct service to a shipper by way of transporting, handling or delivering the international trade cargo of the shipper at any point in the transport chain from the consignor to the consignee;

“terminal operator” means an operator who provides terminal services;

“TEU” means twenty-foot equivalent unit; and

“transport industry” means economic activity that deals with the movement of goods or persons from one location to another through various modes of carriage.

Regulation 12—Revocation

(1) The Ghana Shippers' Council (Cargo Sharing) Regulations, 1987 (L.I. 1347) are revoked.

(2) Despite the revocation of L.I. 1347, the provisions that relate to the filing of the Shipment Notification Form under the revoked Regulations and in force immediately before the commencement of these Regulations shall be considered to have been made under these Regulations and shall continue to have effect until the implementation of the Advanced Shipment Information provided for in regulation 9.

Regulation 13—Transitional provisions

A contract entered into before the commencement of these Regulations in respect of the shipment of cargo shall remain in force for a period of three months after the commencement of these Regulations.

SCHEDULE

FIRST SCHEDULE

(regulation 2(1)(a))

SHIPPER REGISTRATION FORM

- 1. Name of shipper
- 2. Address
- 3. Tel No..... Telex/Fax.....E-mail.....
- 4. Business Registration No.
- 5. Tax Identification Number (TIN)
- 6. Location of Business.....

7. Type of shipment: Import Export Both

IMPORT EXPORT

- a. Principal Commodities
- b. Countries of Origin/Destination
- c. Volume of Cargo (Freight Tons)/Number of Containers (TEUs) per annum
- d. Annual Frequency of Shipment

e. State whether usual Carrier Service is Liner or Tramp

I/We hereby declare that the information given herein is correct to the best of my/our knowledge. I/We therefore apply to be registered with the Ghana Shippers' Authority in accordance with its Shipper Registration Scheme.

.....

.....

Name/Designation

Signature, Stamp, Date

FOR USE BY GHANA SHIPPERS' AUTHORITY ONLY

Category of Shipper: Receipt Number:

Amount Due as Registration: Approved By:

Registration No. Valid Till

SECOND SCHEDULE

(regulation 3(2))

SHIPPING SERVICE PROVIDER REGISTRATION FORM

1. Registered Name

2. Postal Address

3. Tel Mobile No

4. E-mail Fax.....

5. Location of Office

6. Date of EstablishmentBusiness Reg. No.

7. Tax Identification Number (TIN)

8. Nature of Service (e.g. Booking Agency, Clearing and Forwarding, Liner Operations, Chartering, Freight Consolidation, Coaster Services)

.....

9. Type of vessel handled (Conventional, Container, Ro/Ro, Tanker, etc)

.....

10. Major Shareholders

(i)

(iii)

(ii)

(iv)

11. Average annual volume of cargo handled by the Agency for the last two years

.....

12. Name and Address of Principals

.....

.....

13. Which Association are you affiliated to?

.....

14. Do you own warehousing facilities? Yes No

15. Remarks

.....

I/We hereby declare that information given herein is correct to the best of my/our knowledge. I/We therefore apply to be registered with the Ghana Shipper's Authority in accordance with the Ghana Shippers' Authority Act, 1974 (N.R.C.D. 254).

.....

.....

Name of Agent/Manager

Signature/Date

FOR GHANA SHIPPERS' AUTHORITY OFFICE USE ONLY

Registration No.:

Receipt No.:

Valid Till:

Approved by:

Date:

THIRD SCHEDULE

(regulation 9(1)(a), and 9(3))

ADVANCED SHIPMENT INFORMATION

FOURTH SCHEDULE

(regulation 2(1)(b) and 2(3))

Shippers' Registration and Renewal Fees

Gold Category

A shipper whose annual shipment is two thousand metric tons and more or one hundred TEUs and more in the liner trade, or a shipper whose annual shipment is five thousand metric tons and more in the bulk tradeGH¢100.

Silver Category

A shipper whose annual shipment is below two thousand metric tons or below one hundred TEUs in the liner trade, or a shipper whose annual shipment is below five thousand metric tons in the bulk tradeGH¢50.00

FIFTH SCHEDULE

(regulation 9(1)(b), 9(2) and (3))

Advanced Shipment Information Fee

Import:

Bulk cargo: EURO 5.00 per 300 metric tons per bill of lading

Conventional cargo EURO 5.00 per 100 metric tons per bill of lading

Containerized cargo EURO 5.00 per 4 TEUs per bill of lading

Vehicles (less than 5 metric tons) EURO 5.00 per 3 units per bill of lading

Vehicles (5 metric tons or more) EURO 5.00 per unit per bill of lading

Export:

All cargoes: GH¢5.00 per transaction

HON. ALHAJI COLLINS DAUDA (MP)

Minister responsible for Transport

Date of Gazette Notification: 15th August, 2012.

Entry into force: 29th September, 2012