

NO. 12 OF 2006

ENERGY ACT

SUBSIDIARY LEGISLATION

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[Subsidiary]

**ELECTRIC POWER (COMPLAINTS AND
DISPUTES RESOLUTION) RULES, 2006**

[L.N. 106/2006, L.N. 42/2012.]

Revoked by L.N. 42/2012, r. 22.

ELECTRIC POWER (ELECTRICAL INSTALLATION WORK) RULES, 2006

ARRANGEMENT OF RULES

Rule

1. Citation.
2. Application.
3. Interpretation.
4. Powers of the Board.
5. Electrical installation licences.
6. Grant and conditions of electrical installation licences.
7. Registration of electrical contractors.
8. Electrical installation work.
9. Failure to comply with licensing conditions.
10. Offences and penalties.
11. Offences by corporate bodies.
12. Appeals against decisions of the Board.
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SCHEDULE

[Subsidiary]

ELECTRIC POWER (ELECTRICAL INSTALLATION WORK) RULES, 2006

[L.N. 115/2006.]

1. Citation

These Rules may be cited as the Electric Power (Electrical Installation Work) Rules, 2006.

2. Application

These Rules shall apply to all premises and areas in Kenya.

3. Interpretation

In these Rules, unless the context otherwise requires—

“**Act**” means the Electric Power Act, 1997;

“**Board**” means the Electricity Regulatory Board established under section 119 of the Act;

“**electrical contractor**” means any person holding an electrical installation licence issued under these Rules to carry out any electrical installation work either individually or as a body corporate or incorporate for voluntary, business, training, or teaching purposes in the field either for gain or reward or for no charge at all;

“**electrical installation**” means the wires, machinery, apparatus, appliances, devices, material and equipment used or intended for use by a consumer for receipt, distribution or use of electrical power or energy;

“**electrical installation licence**” means any document or instrument in writing granted under these Rules to any person authorizing the carrying out of electrical installation work;

“**electrical installation work**” means the installation, alteration, or repair, wholly or partially, of electrical installation, but excludes—

- (a) work upon the system of a public electricity supplier or other licensee carried out by such public electricity supplier or servant of such public electricity supplier acting on his behalf;
- (b) any electric fencing and alarm circuits and equipment that are not directly connected to a supply of electricity and the voltage in any part of the system does not exceed 24 volts;
- (c) any telecommunication plant;

“**issuing officer**” means a person appointed in writing by the Board under rule 4 to be an issuing officer for the purposes of these Rules;

“**licensed electrician**” means a person holding an electrical installation licence, and any reference to electrician is reference to a licensed electrician;

“**registered**” means registered under rules 6 and 7, and “register” and “registration” have corresponding meanings;

“**telecommunications plant**” means any line, apparatus, equipment or thing used or intended to be used in connection with the transmission or reception of information by electrical means;

“**voltage**” means the effective difference of electrical potential between any two conductors, or between a conductor and the earth, and is said to be—

- (a) low when it does not exceed 1,000 volts under normal conditions, subject however to the percentage variation allowed by any rules made under the Act;

- (b) medium when it exceeds 1,000 volts under normal conditions, subject however to the percentage variation allowed by any rules made under the Act;
- (c) high when it exceeds 33,000 volts under normal conditions, subject however to the percentage variation allowed by any rules made under the Act.

4. Powers of the Board

(1) The Board shall have power—

- (a) to issue, vary, suspend or cancel licences for electricians and contractors in accordance with these Rules; and
- (b) to inquire into and resolve complaints against licensed electricians and contractors.

(2) The Board may in writing delegate such of its powers and duties under these Rules as it shall specify to one or more persons, who shall be issuing officers.

(3) No issuing officer shall be personally liable for any act or default done or omitted to be done in good faith in pursuance of these Rules.

5. Electrical installation licences

(1) The Board, may, on application being made to it, grant to the applicant one of the following classes of licences—

- (a) Class C-2, which shall entitle the holder to carry out electrical installation work for connection to a single phase supply at low voltage, restricted to up to two storey residential and commercial buildings not used as factories or places of public entertainment;
- (b) Class C-1, which shall entitle the holder to carry out electrical installation work as in Class C-2, and for connection to a three phase supply at low voltage, restricted to up to four storey buildings not used as factories or places of public entertainment;
- (c) Class B, which shall entitle the holder to carry out electrical installation work as in Class C-1, but without limitation as to number of storeys in the buildings and whether used as factories or places of public entertainment or otherwise, and for connection to supply metered at voltages not exceeding medium;
- (d) Class A-1, which shall entitle the holder to carry out all kinds of electrical installation work;
- (e) Class A-2, which shall entitle the holder to carry out specialized electrical installation work.

(2) An application for a licence shall be made to the Board in Form 1 set out in the Schedule, and such application shall specify the class of licence in respect of which the application is made and shall be accompanied by the following application fees—

<i>Class of Licence</i>	<i>Application Fee (KSh.)</i>
(a) Class C-2	250
(b) Class C-1	500
(c) Class B	750
(d) Class A-1	1,000
(e) Class A-2	1,000

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(3) The applicant shall furnish to the Board such evidence or particulars as may be required by the Board relating to the applicant's previous experience of electrical installation work.

(4) The Board may require and cause such applicant, for the purpose of ascertaining his ability to undertake, engage in or perform electrical installation work, to be examined, in such manner as it may determine, upon any matter or thing in connection with his application and upon the Act and the rules made thereunder.

6. Grant and conditions of electrical installation licences

(1) The Board may grant the applicant such type of licence as in its opinion he is qualified to hold, and the Board may refuse to grant any licence to any applicant, setting out in writing reasons therefor.

(2) The following fees shall be paid on the granting of the corresponding class of licence—

<i>Class of Licence</i>	<i>Application Fee (KSh.)</i>
(a) Class C-2	1,000
(b) Class C-1	2,000
(c) Class B	3,000
(d) Class A-1	5,000
(e) Class A-2	5,000

(3) The following fees shall be paid for a renewal of any class of licence on or before the 31st March in each year—

<i>Class of Licence</i>	<i>Application Fee (KSh.)</i>
(a) Class C-2	500
(b) Class C-1	750
(c) Class B	1,000
(d) Class A-1	2,000
(e) Class A-2	2,000

Provided that the fee for a licence renewed after the 31st March, shall be one and half times the fees specified in this paragraph.

(4) The Board shall maintain a register of all licensed electricians for the time being licensed under these Rules.

(5) Any licence issued under paragraph (1) which is not renewed for two consecutive years shall, unless the licence holder has before expiry of the licence informed the Board in writing of his intention and reasons not to renew the licence, be deemed to have been cancelled and shall not be considered for renewal.

7. Registration of electrical contractors

(1) No person shall carry out any electrical installation work unless he is registered by the Board as an electrical contractor.

(2) To be registered by the Board as an electrical contractor a person must—

- (a) be a licensed electrician; or

(b) have in his employ, a licensed electrician.

(3) An application for the registration of an electrical contractor shall be made to the Board in Form 2 set out in the Schedule, and such application shall specify the class of licence in respect of which the application is made and shall, depending on the class of licence applied for, be accompanied by the following application fees—

<i>Class of Licence</i>	<i>Application Fee (KSh.)</i>
(a) Class C-2	250
(b) Class C-1	500
(c) Class B	750
(d) Class A-1	1,000
(e) Class A-2	1,000

(4) The following registration fees shall be paid by every electrical contractor whose application for registration is approved by the Board depending on the type of licence he holds—

<i>Class of Licence</i>	<i>Application Fee (KSh.)</i>
(a) Class C-2	1,000
(b) Class C-1	2,000
(c) Class B	3,000
(d) Class A-1	5,000
(e) Class A-2	5,000

(5) Subject to paragraph (8), every registration shall remain in force until 31st December in the year in which it is granted and may, subject to such conditions as may be specified by the Board, be renewed.

(6) The following renewal fees shall be paid by every electrical contractor depending on the type of licence he holds—

<i>Class of Licence</i>	<i>Application Fee (KSh.)</i>
(a) Class C-2	1,000
(b) Class C-1	2,000
(c) Class B	3,000
(d) Class A-1	5,000
(e) Class A-2	5,000

Provided that for any registration for registration renewed after the 31st March, the fees specified in this paragraph for renewal shall be one and half times the fees specified in this paragraph.

(7) The Board shall maintain a register of all electrical contractors and their business names and, in the case of a business having more than one branch, separate registration shall be effected in respect of each branch.

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(8) The Board shall not register any electrical contractor who is unable to satisfy it that he carries on a business at premises constituting a permanent address.

(9) The registration of any business or branch thereof shall become void upon the expiration of thirty days from the date of any change in the ownership of such business or branch, or upon the business or branch being transferred from the premises in respect of which it is registered: Provided that where any issuing officer in writing, a copy of which shall forthwith be sent to the Board, approves such change of ownership or transfer from premises the registration shall not become void until the next meeting of the Board.

8. Electrical installation work

(1) An electrical contractor undertaking any electrical installation work shall submit a commencement notice in Form 3 set out in the Schedule to a public electricity supplier delivering the supply or to the Board where the supply is not delivered by a public electricity supplier.

(2) An authorized electrician of the electrical contractor or the electrical contractor, as the case may be, completing or directing the completion of the electrical installation work shall submit a completion certificate in Form 4 set out in the Schedule to a public electricity supplier delivering the supply or to the Board where the supply is not delivered by a public electricity supplier.

(3) Notwithstanding paragraphs (1) and (2), the commencement notice and the completion certificate for electrical installation work shall be submitted by the same electrical contractor unless a special permission is granted by the Board.

(4) Any person who fails to comply with this rule shall be guilty of an offence and liable to such punishment as provided for in rule 10.

(5) Any person who submits or causes to be submitted to a public electricity supplier or to the Board a completion certificate which he knows or has reason to believe is false in any material particular shall be guilty of an offence and liable to such punishment as provided for in rule 10.

9. Failure to comply with licensing conditions

(1) The Board may in its absolute discretion refuse to register or may vary, suspend or cancel the registration of any business or branch of a business unless it is satisfied that there is and shall continue to be employed in the business or branch on a full time basis, an electrician who holds a licence appropriate to the electrical installation work proposed to be undertaken by such business or branch and who is and shall continue to be available to direct all such work.

(2) An issuing officer may at any time by giving notice in writing to an electrical contractor, a copy of which shall forthwith be sent to the Board, suspend the registration of the business of such electrical contractor or of a branch thereof until the next meeting of the Board.

(3) Any electrical contractor who—

- (a) undertakes or carries out by himself, his servant, or agent any electrical installation work at any time whilst his business or any branch thereof is not registered or while the registration of such business or branch is suspended; or
- (b) undertakes or carries out, by himself, his servant or agent any electrical installation work except under the direction of a licensed electrician holding a licence of a type of appropriate to such work, shall be guilty of an offence and liable to such punishment as provided in rule 10.

(4) Any owner or occupant of any premises or any developer or main contractor of any premises under construction who causes or permits to be carried out upon the premises any electrical installation work in contravention of these Rules shall be guilty of an offence and liable to such punishment as provided for in rule 10.

(5) Any person who contravenes or fails to comply with any of the terms and conditions of any licence issued under these Rules or willfully gives false or misleading information under or for the purposes of these rules shall be guilty of an offence and liable to such punishment as provided in rule 10.

(6) Any person who undertakes or carries out any electrical installation work without being the holder of a licence then in force appropriate to the work undertaken or carried out or without being under the direction of such a licence holder shall be guilty of an offence and liable to such punishment as provided in rule 10.

- (a) The Board may vary, suspend or cancel the licence of any licensed electrician upon being satisfied that the licensed electrician has contravened any of the provisions of these Rules.
- (b) Where the Board suspends or cancels the licence of any licensed electrician it shall remove his name from the register of licensed electricians for the time being licensed under these Rules.
- (c) Upon the variation, suspension or cancellation of the licence of any licensed electrician under paragraph (a), the Board may by written notice to such licensed electrician, disqualify him from holding a licence or a particular type of licence for such period as the Board deems fit.
- (d) Before exercising its powers under paragraph (a), the Board shall by notice in writing afford the licensed electrician whose licence it is proposed to vary, suspend or cancel an opportunity of appearing or being represented before it to show cause why the Board should not exercise its power under these Rules.

(8) Every licence shall, unless previously suspended or cancelled under paragraph (7) remain in force until the 31st December, in the year in which it is granted and shall not be transferable but may subject to such conditions as may be specified by the Board, be renewed.

10. Offences and penalties

(1) Any person—

- (a) who undertakes or carries out any electrical installation work without being the holder of a licence then in force appropriate to the work undertaken or carried out or without being under the direction of a suitably licensed electrician;
- (b) who contravenes or fails to comply with any of the terms and conditions of any electrical installation licence granted under these Rules or willfully gives false or misleading information in relation to electrical installation work;
- (c) who fails to comply with rule 8;
- (d) who submits or causes to be submitted to a public electricity supplier or to the Board a completion certificate which he knows or has reason to believe is false in any material particular;
- (e) who, being an electrical contractor, undertakes or carries out by himself, his servant, or agent any electrical installation work at any time whilst his business or any branch thereof is not registered or while the registration of such business or branch is suspended or cancelled;
- (f) who, being an electrical contractor, undertakes or carries out, by himself, his servant or agent any electrical installation work except under the direction of a licensed electrician holding a licence of a type appropriate to such work; or

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- (g) who, being an owner or occupant of any premises or any developer or main contractor of any premises under construction, who causes or permits to be carried out upon the premises any electrical installation work in contravention of these Rules,

shall be guilty of an offence and shall be liable to a fine not exceeding thirty thousand shillings or a term of imprisonment not exceeding three months or both.

(2) Any person who contravenes or fails to comply with any of these Rules or fails to comply with any prohibition or order of the Board under any of these Rules shall, where no specific punishment is prescribed under paragraph (1) hereof, be guilty of an offence and shall be punishable with a fine not exceeding thirty thousand shillings or a term of imprisonment not exceeding three months or both.

11. Offences by corporate bodies

Where any offence under these Rules committed by a company, co-operative society or other corporate body is proved to have been committed with the consent or connivance of, or to have been facilitated by any director, chairman, manager, secretary or other officer thereof, he, as well as the company, co-operative society or other corporate body shall be guilty of the offence and liable to be prosecuted against and punished accordingly.

12. Appeals against decisions of the Board

(1) Any person aggrieved by any decision of the Board may within thirty days appeal to the Minister and an appeal against the Minister's decision shall be to the High Court.

(2) In cases where the Government is the appellant, the appeal shall be made to the High Court.

13. Sub. Leg

The Electric Power (Electricity Licensing Board) (Powers and Duties) Rules, are repealed.

14. Sub. Leg

The Electric Power (Electricity Licensing Board) Order, is repealed.

SCHEDULE

FORM 1

APPLICATION FOR ELECTRICAL INSTALLATION LICENCE

The Chairman
Electricity Regulatory Board
P.O. Box 42681-00100
NAIROBI

I, hereby apply to be licensed as an electrician in accordance with the Electric Power (Electrical Installation Work) Rules, 2006, for the following class* of licence—

Class C-2, to carry out electrical installation work for connection to a single phase supply at low voltage to up to two storey residential and commercial buildings not used as factories or places of public entertainment;

Class C-1, to carry out electrical installation work as in Class C-2, and for connection to a three phase supply at low voltage to up to four storey buildings not used as factories or places of public entertainment;

SCHEDULE—continued

Class B, to carry out electrical installation work as in Class C-1, but without limitation as to number of storeys in the buildings and whether used as factories or places of public entertainment or otherwise, and for connection to supply metered at voltages not exceeding medium;

Class A-1, to carry out all kinds of electrical installation work;

Class A-2, to carry out work specialized electrical installation work.

I promise to carry out all electrical installation works undertaken by me strictly in accordance with the Electric Power Act, (No. 11 of 1997) and any rules and by-laws for the time being in force thereunder.

Name in full

(Block capitals, surname first)

Postal Address

Date of Birth Nationality

Name and address of present employer, (if any)

Name of present job

Experience and qualifications

(a) Details of educational qualifications and examinations passed

(b) Details of apprenticeship (if any)

(c) Subsequent experience in the work of an electrician or a wireman (Trade Test Certificate, if any)

Knowledge of Rules:

The regulations for the electrical equipment of buildings by the Institution of Electrical Engineers, Great Britain. Yes/No

The Factories (Electric Power) (Special) Rules, 1979. Yes/No

Rules made under section 115 of the Electric Power Act, (No. 11 of 1997). Yes/No

Local Supply System Tariffs. Yes/No

Details of electrical installation licence held (if any)

Licence No.

Issued on

Issued by

For the licence applied for I was at first interviewed on

I declare that the particulars given by me are true and correct.

Cheque or postal order No. dated

For KSh. being the application fee is enclosed.

Date

Signature of Applicant Referees

(The following details to be completed by two independent referees who must have known the applicant's ability very well, preferably in the trade)

1st Referee:

I declare that the particulars given by the applicant in this form are true and correct to the best of my knowledge.

[Subsidiary]

SCHEDULE—continued

Full Name:

(Block letters, surname first)

Occupation:

Postal address:

Electrical Installation licence No. (if any)

I have known the above person for years.

Position held at present

Date

Signature of 1st Referee

2nd Referee

I declare that the particulars given by the applicant in this form are true and correct to the best of my knowledge.

Full Name

(Block letters, surname first)

Occupation

Postal address

Electrical Installation licence No. (if any)

I have known the above person for years.

Position held at present

Date

Signature of 2nd Referee

* (Delete classes that do not apply)

FORM 2

APPLICATION FOR REGISTRATION OF ELECTRICAL CONTRACTOR, BUSINESS OR BRANCH

The Chairman
Electricity Regulatory Board
P.O. Box 42681-00100
NAIROBI

I/We,
hereby certify that I/we intend to conduct the business of Electrical Contractor at premises/branch
occupied by me/us situated at

Description of the premises:

Town

Location/name of the road

Name of the building

Whether it is a branch

Available office and storage area

Details of Business:

Business registration No. and date

Postal address

SCHEDULE—continued

Names of partners, their addresses and nationalities

..... Licensed electricians who will direct the electrical installation work:

Full name Licence No. Class

Areas where the business will operate

Previous experience in estimating and costing of electrical projects

Previous experience in electrical installation work

Capital available for operating the business KSh.

Name and address of bank(s) or financial institution(s) where the business account(s) is/are maintained

Details of the tools and measuring and testing instruments available:

(a) List of tools

(b) List of measuring and testing instruments

Description Make Serial No.

(I)

(II)

(III)

(IV)

(V)

(VI)

(VII)

I/We hereby apply for registration of the above mentioned Electrical Contractor Branch/Business in accordance with the Electric Power (Electrical Installation Work) Rules, 2006, and undertake to carry out all work undertaken by me/us strictly in accordance with Electric Power Act, (No. 11 of 1997) and any rules and by-laws for the time being in force thereunder.

I/We hereby, declare that the information I/we have provided in the application is true and correct.

Cheque or postal order No. dated for KSh

being the application fee is enclosed and agree to pay the inspection fee and the initial registration fee, as and when required.

Signature of Applicant

Date

[Subsidiary]

SCHEDULE—continued

Signature of Applicant

Date _____

Signature of Applicant

Date _____

Referees:

(The following details to be completed by two different and independent referees, who would vouch your competence to operate a business of contractor if registered, your technical ability having already been established. Persons who may not understand what is involved in running a business cannot be accepted as referees).

1st Referee

I certify that the information given in this form is true and correct to the best of my knowledge.

Full name

(Block letters, surname first)

Occupation

Postal address

Signature of 1st Referee

Date _____

2nd Referee

I certify that the information given in this form is true and correct to the best of my knowledge.

Full name

(Block letters, surname first)

Occupation

Postal address

Signature of 2nd Referee

Date _____

FORM 3

COMMENCEMENT OF WORK NOTICE

No.

To:

(Name and address of public electricity supplier or the Board)

In accordance with rule 8 (1) of the Electric Power (Electrical Installation Work) Rules, 2006.

I/we

(Name and address of Electrical Contractor)

hereby give notice that I/we propose to carry out the following work as under: for

(Name of consumer)

(Address of consumer)

at

(*Situation of property*)

SCHEDULE—continued

of land office reference No.

Nature of work: new Installation/addition/modification of an existing Installation.

(Delete where not applicable)

Proposed situation of meter-board(s) In case of a new installation or if the site of an existing board is to be changed will be

A service line is/is not required

I/we have Electrical Contractors Registration No.

Class validated for the current year.

Date _____

Signature of Electrical Contractor

Note.—Any person who submits a commencement of work notice which is false in any material particular is liable to prosecution under Rules 9 and 10 of the Electric Power (Electrical Installation Work) Rules, 2006.

FORM 4

COMPLETION CERTIFICATE

No.

(Name and address of public electricity supplier or the Board)

In accordance with rule 8 of the Electric Power (Electrical Installation Work) Rules.

I/we

(Name and address of Electrical Contractor)

Holding Licence No. class and a valid Electrical Contractor registration.

No. _____ class _____

hereby give notice that the under-mentioned work in connection with the installation of the premises of:

Name

Address

is now completed and ready for testing and connection. A service line is/is not required:

Details of installation (Stating if new, addition or modification)

The work has been carried out and tested and is strictly in accordance with the Electric Power Act, (No. 11 of 1997) and all rules and by-laws for the time being in force thereunder.

Name of licensed electrician in charge

Class of licence held Licence No.

Date _____

Signature of Licensed electrician in charge

Date _____

Signature of Electrical Contractor

Energy

[Subsidiary]

SCHEDULE—continued

Note—Any person who submits a completion certificate which is false in any material particular is liable to prosecution under Rules 9 and 10 of the Electric Power (Electrical Installation Work) Rules, 2006.

(For office use by the public electricity supplier)

Connection Order No.

ENERGY (PETROLEUM STRATEGIC STOCK) REGULATIONS, 2008

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation.
 2. Interpretation.
 3. Maintenance of Strategic Stock.
 4. Quantity of Strategic Stock.
 5. Procurement, storage and replenishment of Strategic Stock.
 6. Initial quantity of Strategic Stock.
-

[Subsidiary]

ENERGY (PETROLEUM STRATEGIC STOCK) REGULATIONS, 2008

[L.N. 43/2008.]

1. Citation

These Regulations may be cited as the Energy (Petroleum Strategic Stock) Regulations, 2008.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“**consumption**” means the quantity of petroleum products consumed at any given period; and

“**Strategic Stock**” means the petroleum Strategic Stock maintained in accordance with regulation 3.

3. Maintenance of Strategic Stock

(1) There shall be maintained a stock of petroleum products to be known as the petroleum Strategic Stock.

(2) The Strategic Stock shall be maintained in order to—

- (a) provide a strategic reserve of petroleum products in the country;
- (b) ensure continuity of supply of petroleum products in case of disruption of supply of the products; and
- (c) stabilise domestic prices of petroleum products.

4. Quantity of Strategic Stock

The Strategic Stock shall be maintained in respect of each of the following petroleum products, at a level equivalent to up to ninety days of consumption of each of these products, namely—

- (a) premium motor spirit;
- (b) illuminating kerosene;
- (c) jet fuel (kerosene);
- (d) automotive gasoil; and
- (e) liquefied petroleum gas.

5. Procurement, storage and replenishment of Strategic Stock

The Strategic Stock shall be procured by the National Oil Corporation of Kenya and stored by the Kenya Pipeline Company Limited, and, in case of consumption or draw down, shall be replenished accordingly to its optimal level.

6. Initial quantity of Strategic Stock

The initial quantity of the Strategic Stock shall be equivalent to thirty days of consumption to be funded by monies to be appropriated by Parliament in the 2008/2009 financial year, and additional procurement of additional stock, up to the optimal level of ninety days of consumption, shall be funded by monies to be appropriated by Parliament in subsequent financial years.

ENERGY (MINIMUM OPERATIONAL STOCK) REGULATIONS, 2008

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation.
2. Interpretation.
3. Maintenance of minimum operational stock.
4. Determination of minimum operational stock.
5. Exemption from minimum operational stock.
6. Determination of consumption levels.
7. Forwarding of local annual sales.
8. Inspection of premises and facilities.
9. Offence and penalty.

SCHEDULE

ENERGY (MINIMUM OPERATIONAL STOCK) REGULATIONS, 2008

[L.N. 44/2008.]

1. Citation

These Regulations may be cited as the Energy (Minimum Operational Stock) Regulations, 2008.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“**Commission**” means the Energy Regulatory Commission established under section 4 of the Act;

“**consumption**” means the quantity of petroleum products consumed within Kenya;

“**minimum operational stock**” means the minimum operational stock to be maintained in accordance with regulation 3; and

“**quarter**” means a period of three months, with January to March, both inclusive, being the first quarter.

3. Maintenance of minimum operational stock

(1) All importers of petroleum products intended for use in Kenya shall maintain at all times physical operational stock, to be known as the minimum operational stock, in quantities not less than the minimum amounts specified in the Schedule.

(2) The minimum operational stock shall be maintained in order to ensure short term supply of petroleum products in the event of disruption of supply of the products.

4. Determination of minimum operational stock

(1) In determining the minimum operational stock to be maintained in accordance with regulation 3, the following shall be taken into account—

- (a) petroleum products yield from crude oil processing at the Kenya Petroleum Refineries Limited, of—
 - (i) a maximum ten days consumption, for liquid petroleum products; or
 - (ii) a maximum five days consumption or production,

whichever is higher, for liquid petroleum gas:

Provided that the crude oil shall be physically present at the Kenya Petroleum Refineries Limited or at any petroleum company within a harbour in Kenya;

- (b) finished petroleum products at the storage tanks of the Kenya Petroleum Refineries Limited on individual account of any petroleum company;
- (c) refined petroleum products belonging to any petroleum company stored at the storage tanks of the Kenya Pipeline Company Limited in any part of the country;
- (d) refined petroleum products at the Kipevu Oil Storage Facility on individual account of any petroleum company; and
- (e) petroleum products belonging to any petroleum company, stored at the company's own storage depot.

(2) In determining petroleum product yield from crude processing for purposes of subregulation (1)(a), the latest issue of the Kenya Petroleum Refineries Limited data book on product yields from crude oil shall be used.

5. Exemption from minimum operational stock

The minimum operational stock shall not include—

- (a) petroleum products in the Kenya Pipeline Company Limited's pipeline;
- (b) foreign financed stock held by any petroleum company;
- (c) petroleum products or crude oil in the high seas;
- (d) off-specification petroleum products;
- (e) petroleum products stock in any petroleum company's retail network, that is, service and filling stations;
- (f) petroleum products stock in consumer depots; and
- (g) petroleum products in transit from one depot to another.

6. Determination of consumption levels

In determining consumption levels for purposes of regulation 2 and the Schedule, the consumption figures for the previous two quarters of the year shall be used to ensure compliance by every petroleum company.

7. Forwarding of local annual sales

For purposes of regulation 6, all petroleum companies shall forward to the Commission their local annual sales volumes by products by the end of January in each year.

8. Inspection of premises and facilities

(1) Any authorised officer of the Commission may, at any time, and pursuant to section 24 of the Act, conduct unscheduled checks at the premises or facility of any petroleum company to ensure compliance with the provisions of these Regulations, and every petroleum company shall grant such officer access to such premises or facility used for storage of petroleum products in order to facilitate inspection of such premises or facility.

(2) The Commission may issue directions from time to time for purposes of carrying out the provisions of these Regulations.

9. Offence and penalty

Any person who contravenes the provisions of these Regulations commits an offence and shall be liable, on conviction, to a fine not exceeding two million shillings, or to imprisonment for a term not exceeding two years, or both.

SCHEDULE

<i>Type of Fuel Product</i>	<i>Minimum Operational Stock (days' consumption)</i>
Liquefied petroleum gas	15
Petroleum motor spirit	20
Automotive gasoil	25
Illuminating kerosene	20

Energy

[Subsidiary]

SCHEDULE—continued

Type of Fuel Product	Minimum Operational Stock (days' consumption)
Jet fuel (kerosene)	30
Industrial diesel oil	20
Heavy fuel oil (boiler/furnace oil)	25
Aviation gasoline	20

ENERGY (PETROLEUM REGULATION LEVY) ORDER, 2008

[L.N. 91/2008, L.N. 109/2008, L.N. 157/2014.]

Deleted by L.N. 157/2014.

ENERGY (RURAL ELECTRIFICATION PROGRAMME FUND) ORDER, 2008

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation and commencement.
 2. Interpretation.
 3. Imposition of levy.
 4. Collection of levy.
 5. Establishment of the Fund.
 6. Object and purpose of the Fund.
 7. Source of the Fund.
 8. Establishment of an account.
 9. Payments out of the Fund.
 10. Annual approval of budget.
 11. Surplus funds.
 12. Administration of the Fund.
 13. Revocation of L.N. 96/1998.
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**ENERGY (RURAL ELECTRIFICATION
PROGRAMME FUND) ORDER, 2008**

[L.N. 92/2008.]

1. Citation and commencement

This Order may be cited as the Energy (Rural Electrification Programme Fund) Order, 2008, and shall come into operation on 1st July, 2008.

2. Interpretation

In this Order, unless the context otherwise requires—

“**Authority**” means the Rural Electrification Authority established under section 69 of the Act;

“**Board**” means the Board of Directors of the Authority established under section 68 of the Act;

“**Fund**” means the Rural Electrification Fund established by paragraph 5;

“**levy**” means the Rural Electrification Programme Levy imposed under paragraph 3; and

“**licensed distributor**” means a person licensed by the Energy Regulatory Commission in accordance with the requirements of section 27 of the Act.

3. Imposition of levy

There is imposed a levy to be known as the Rural Electrification Programme Levy which shall comprise five per cent of all electricity consumed in the country.

4. Collection of levy

(1) A licensed distributor shall be a remitter for purposes of collecting the levy.

(2) A licensed distributor shall, on or before the last day of each month, remit to the Authority, the amount received by way of the levy during the immediately preceding month.

(3) A licensed distributor shall maintain or cause to be maintained a monthly record of the sales of electrical energy and levy received in respect thereof and make available for inspection by the Authority in accordance with paragraph 12.

(4) If a licensed distributor fails to remit any amount due and payable by way of the levy on or before the date prescribed in subparagraph (2) a sum equal to three per cent of the amount shall be added to the amount due for each month or part thereof during which any amount due remains unpaid.

5. Establishment of the Fund

There is established a Fund to be known as the Rural Electrification Programme Fund.

6. Object and purpose of the Fund

The object and purpose for which the Fund is established shall be to finance provision of electricity to—

- (a) rural areas; and
- (b) other areas considered economically unviable for electrification by licensees.

7. Source of the Fund

The sources of the Fund are as provided under section 79(2) of the Act.

8. Establishment of an account

The Authority shall open a special account into which all monies due to the Fund shall be paid.

9. Payments out of the Fund

There shall be paid out of the Fund such monies as the Board may, from time to time, approve for purposes of the programme and for the design, construction, equipment for rural electrification projects, to a licensed distributor or to such other contractor as the Board may consider appropriate for the area in which the project is carried out.

10. Annual approval of budget

The activities or undertakings financed by the Fund shall be on the basis of annual work programmes and cost estimates which shall be prepared by the Authority and approved by the Board.

11. Surplus funds

All receipts, savings and accruals to the Fund and the balance of the Fund at the end of each year shall be retained for the purposes for which the Fund was established.

12. Administration of the Fund

The Authority shall—

- (a) administer the Fund;
- (b) inspect the records of the sales of electrical energy and levy maintained by a licensed distributor in accordance with paragraph 4(3);
- (c) keep books of account and other books and records in relation to the Fund of all the various activities and undertakings financed from the Fund; and
- (d) cause regular audits of such books and records to be undertaken.

13. Revocation of L.N. 96/1998

The Electric Power (Rural Electrification Programme Levy) Order, 1998 is revoked.

ENERGY (LIQUEFIED PETROLEUM GAS) REGULATIONS, 2009

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation.
2. Interpretation.
3. Application.
4. Licence for LPG business.
5. Powers of inspection.
6. Reporting of accidents and fires.
7. Permission by LPG cylinder or brand owner.
8. Licence for importation of LPG.
9. Licence for bulk LPG storage.
10. Licence for filling LPG into cylinders.
11. Licence for wholesale trade of LPG in cylinders.
12. Licence for retail in LPG cylinders.
13. Licence for transportation of LPG.
14. LPG Exchange Pool.
15. Standard capacities of LPG cylinders.
16. Responsibilities of licensee.
17. Appeal against a decision of the Commission.
18. General penalty.
19. Repeal of the Petroleum Rules under Cap. 116.

SCHEDULE —

FORMS

ENERGY (LIQUEFIED PETROLEUM GAS) REGULATIONS, 2009

[L.N. 121/2009.]

1. Citation

These Regulations may be cited as the Energy (Liquefied Petroleum Gas) Regulations, 2009.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“**bulk LPG**” means LPG contained in a receptacle of a capacity exceeding eighty kilograms;

“**cylinder or brand owner**” means a licensed person who has introduced cylinders into the market through his network of wholesalers or retailers, by purchasing or importing from a manufacturer or acquiring the cylinders or brand from another licensee;

“**import route**” means the designated or prescribed import route under the East African Community Customs Management Act, 2004 (No. 1 of 2005);

“**Kenya Standard**” means the specification or code of practice declared by the National Standards Council under section 9 of the Standards Act (Cap. 496);

“**licensee**” means the holder of a licence issued under these Regulations;

“**LPG**” means liquefied petroleum gas;

“**LPG cylinder exchange pool**” means a body established under regulation 14;

“**LPG storage**” means the storing of LPG in premises consisting of one or more tanks in transit or for sale;

“**port of entry**” means a place, whether on the coast or elsewhere, appointed by the Council by notice in the *Gazette*, subject to any limitations specified in the notice, to be a port for the purposes of the East African Community Customs Management Act, 2004 (No. 1 of 2005);

“**premises**” includes any?

- (a) vehicle, vessel aircraft or hovercraft; or
- (b) installation on land, foreshore or land intermittently covered by water, any offshore installation or any other installation whether floating, or resting on seabed or the subsoil, or resting on other land covered with water or the subsoil;

“**retail in LPG**” means a form of distribution of LPG by which the LPG is customarily sold to consumers other than for the purpose of resale;

“**standard capacity cylinder**” means a LPG cylinder of one, three, six or thirteen kilograms fitted with the unified valves;

“**unified valve**” means the unified valve specified in the Kenya Standard, KS 201:2007; and

“**wholesale trade**” means a form of distribution of LPG by which LPG is customarily sold for the purpose of resale.

3. Application

These Regulations shall not apply to LPG imported, exported, kept, stored or transported by the Armed Forces.

4. Licence for LPG business

A person shall not import, export, store, wholesale, retail, transport or fill LPG except in accordance with the Act and the terms and conditions of a valid licence issued by the Commission.

5. Powers of inspection

(1) The Commission or any authorized person acting on its behalf may enter and inspect any vehicle, premises or facility that he reasonably believes is involved in the business of importation, exportation, wholesale, retail, storage, filling or transportation of LPG.

(2) Subject to paragraph (1), the Commission may give directions to the owner, occupier, driver or a person in charge of a vehicle, premises, installation or facility as it considers necessary.

(3) The Commission may, call upon a licensee, by a notice in writing and within such time as the Commission may indicate in the notice, to execute any repairs to the licensed premises.

6. Reporting of accidents and fires

A licensee shall, in writing and within forty eight hours, report to the Commission—

- (a) any accident involving LPG or the transportation of LPG which causes injury to an employee or any other person or damages property;
- (b) an accidental release of LPG; or
- (c) any fire in which LPG is involved.

7. Permission by LPG cylinder or brand owner

(1) A person shall not fill LPG in cylinder without the permission of the cylinder or brand owner.

(2) A person shall not alter the branding, deface, damage, repair or submit for maintenance an LPG cylinder without the authority of the brand owner.

8. Licence for importation of LPG

(1) A person shall not import LPG into Kenya except in accordance with the Act and the terms and conditions of a valid licence issued by the Commission.

(2) A person who wishes to import LPG shall make an application for a licence to the Commission in Form LPG No.1 set out in the Schedule.

(3) The application under paragraph (2), shall be accompanied by—

- (a) a declaration to adhere and conform to the specifications contained in KS 03 – 91 on the Specifications for Liquefied Petroleum Gases; and
- (b) a declaration of compliance with the Imports, Exports and Essential Supplies (Control of Essential Supplies) Order, 2003 (L.N. 60/2003).

(4) A licensee shall import LPG through the import routes specified in the licences.

[Subsidiary]

(5) The licence issued under paragraph (2), shall be in Form LPG No. 2 set out in the Schedule and shall state the conditions of the licence.

(6) A person shall not import LPG into Kenya unless the means of transport used to import the LPG meets the Kenya Standard and where no standard exists, the relevant international standards approved by the Kenya Bureau of Standards.

(7) A person shall not import LPG into Kenya by sea or land unless such person has—

- (a) an oil clean-up plan in compliance with the national oil policy; and
- (b) subscribed to membership to the Oil Spill Mutual Aid Group or any other body approved by the Commission.

[L.N. 60/2003.]

9. Licence for bulk LPG storage

(1) A person shall not operate a bulk LPG storage facility except in accordance with the Act and the terms and conditions of a valid licence issued by the Commission.

(2) A person who wishes to operate a bulk LPG storage facility shall make an application for a valid licence to the Commission in Form LPG No.1 set out in the Schedule.

(3) The application under paragraph (2), shall be accompanied by—

- (a) an Environmental Impact Assessment Licence issued in accordance with the Environmental Management and Co-ordination Act, 1999 (Act No. 8 of 1999) for a new facility or an Environmental Audit for an existing facility;
- (b) proof that the storage facility complies with the Occupational Safety and Health Act, 2007 (Act No. 15 of 2007) and the Public Health Act (Cap. 242);
- (c) a certificate of compliance issued in accordance with the Physical Planning Act, 1996 (Act No. 60 of 1996);
- (d) a copy of approved drawings in accordance with the Local Government Act (Cap. 265), with specifications and plans in duplicate indicating—
 - (i) the facility to be licensed, giving particulars of the materials and construction;
 - (ii) the position of the facility in relation to adjoining property including the distances from neighbouring buildings;
 - (iii) in the case of an installation, the position and capacity of all tanks, storage sheds and filling stations, the position of all buildings, structures or other works within the installation, and the manner in which the LPG is to be stored;
 - (iv) all lighting arrangements including the position of electric cables, switches and fuse boxes, drainage system, water connections, fire hydrants and fire-fighting appliances;
- (e) a clearance certificate from the Chief Fire Officer in accordance with the Local Government Act (Cap. 265); and
- (f) a declaration of the intended use of the LPG that is to be stored in the facility;
- (g) a copy of certificate of adherence to the KS 1938 (Part 1 – 5) on the Handling, Storage and Distribution of Liquefied Petroleum Gas in Domestic, Commercial and Industrial Installations.

(4) The Commission shall not issue a licence for bulk LPG storage which is for non-commercial use and in quantities not exceeding eighty kilograms.

(5) A licensee shall, at all times, ensure that LPG is contained in a secure cylinder that conforms to Kenya Standard—

- (a) KS ISO 4706 on Refillable Welded Steel Gas Cylinders; and
- (b) KS 1938 (Part 1 – 5) on Handling, Storage and Distribution of Liquefied Petroleum Gas in Domestic, Commercial and Industrial Installations.

(6) An applicant shall attach to the application Form a copy of the specification and plan.

(7) The applicant shall ensure that the site plan is drawn to a scale of not less than 1/500th of an inch to one foot and the detail plan to a scale of not less than 1/16th of an inch to one foot.

(8) A licensee shall not alter the licensed facility or the method of bulk LPG storage shown in the licence or specification and plan attached to the licence without the authority of the Commission.

(9) Where the Commission approves any alterations under paragraph (8), it shall incorporate the alterations in the licence.

(10) A licensee shall not operate a bulk LPG storage facility in a building constructed using inflammable material.

(11) A licensee shall not offer, release or part with possession of bulk LPG to a person, unless that person has a valid bulk LPG storage licence issued by the Commission under these Regulations.

(12) A licence for bulk LPG storage shall be in Form LPG No. 2 attached in the Schedule and shall state the conditions of the licence.

10. Licence for filling LPG into cylinders

(1) A person shall not fill LPG into cylinders except in accordance with the Act and the terms and conditions of a valid licence issued by the Commission.

(2) A person who wishes to conduct the business of filling of LPG into cylinders shall make an application for a licence to the Commission in the Form LPG No.1 set out in the Schedule.

(3) The application under paragraph (2), shall be accompanied by—

- (a) an environmental impact assessment licence, issued in accordance with the Environmental Management and Co-ordination Act, 1999 for a new facility or an Environmental Audit for an existing facility or proof that the filling facility complies with environmental standard set out in the Environmental Management and Co-ordination Act, 1999 (No. 8 of 1999);
- (b) a certificate of compliance issued in accordance with the Physical Planning Act, 1996 (No. 6 of 1996);
- (c) a copy of an approved drawings in accordance with the Local Government Act (Cap. 265) with specifications and plans in duplicate indicating—
 - (i) the facility to be licensed, giving particulars of the materials and construction;
 - (ii) the position of the facility in relation to adjoining property including the distances from neighbouring buildings;
 - (iii) in the case of an installation, the position and capacity of all tanks, storage sheds and filling stations, the position of all buildings, structures or other works within the installation, and the manner in which the LPG is to be stored;

[Subsidiary]

- (iv) all lighting arrangements including the position of electric cables, switches and fuse boxes, drainage system, water connections, fire hydrants and fire-fighting appliances;
 - (d) a clearance certificate from the Chief Fire Officer in accordance with the Local Government Act;
 - (e) a copy of a certificate of adherence to the KS 1938 (Part 1 – 5) on the Handling, Storage and Distribution of Liquefied Petroleum Gas in Domestic, Commercial and Industrial Installations.
- (4) A person shall not fill the standard capacity cylinder unless that cylinder conforms to—
- (a) KS 201 – 2007 on Unified Valves for Liquefied Petroleum Gas Cylinders for Domestic Use – Specification (Third Edition); and
 - (b) KS 06-896 on the Specification for Periodic Inspection, Testing and Maintenance of Transportable Gas Containers (excluding dissolved acetylene containers).
- (5) A licence for filling of LPG into cylinders shall be in Form LPG No. 2 set out in the Schedule and shall state conditions of the licence.

[Act No. 6 of 1996, Act No. 8 of 1999.]

11. Licence for wholesale trade of LPG in cylinders

(1) A person shall not conduct a business of wholesale trade in LPG in cylinders except in accordance with the Act and the terms and conditions of a valid licence issued by the Commission.

(2) A person shall not conduct a business of wholesale trade in LPG in cylinders without the authority of the brand owner.

(3) A person who wishes to conduct the business of wholesale trade of LPG in cylinders shall make an application for a licence to the Commission in Form LPG No.1 set out in the Schedule.

(4) An application under paragraph (3) shall be accompanied by—

- (a) an environmental impact assessment licence issued in accordance with the Environmental Management and Co-ordination Act, 1999 (No. 8 of 1999) for a new facility or an Environmental Audit for an existing facility;
- (b) a certificate of compliance issued in accordance with the Physical Planning Act, 1996 (No. 6 of 1996);
- (c) a copy of approved drawings in accordance with the Local Government Act (Cap. 265) with specifications and plans in duplicate indicating—
 - (i) the facility to be licensed, giving particulars of the materials and construction;
 - (ii) the position of the facility in relation to adjoining property including the distances from neighbouring buildings;
 - (iii) in the case of an installation, the position and capacity of all tanks, storage sheds and filling stations, the position of all buildings, structures or other works within the installation, and the manner in which the LPG is to be stored;
 - (iv) all lighting arrangements including the position of electric cables, switches and fuse boxes, drainage system, water connections, fire hydrants and fire-fighting appliances;
- (d) a clearance certificate from the Chief Fire Officer in accordance with the Local Government Act (Cap. 265);

- (e) a copy of a certificate of adherence to the KS 1938 on the Handling, Storage and Distribution of Liquefied Petroleum Gas in Domestic, Commercial and Industrial Installations;
- (f) a copy of a certificate of adherence to the KS 1938 on the Handling, Storage and Distribution of Liquefied Petroleum Gas in Domestic, Commercial and Industrial Installations.

(5) A person licensed to conduct a business of wholesale trade in LPG in cylinders shall not buy or sell LPG in cylinders from an unlicensed person.

(6) A licence for wholesale trade in LPG in cylinders shall be in Form LPG No.2 as set out in the Schedule hereto and shall state conditions of the licence.

12. Licence for retail in LPG cylinders

(1) A person shall not conduct a business of retail in LPG in cylinders except in accordance with the Act and the terms and conditions of a valid licence issued by the Commission.

(2) A person who wishes to conduct the business of retail in LPG in cylinders shall make an application for a licence to the Commission in Form LPG No.1 set out in the Schedule.

(3) An application under paragraph (2), shall be accompanied by—

- (a) a copy of approved drawings in accordance with the Local Government Act (Cap. 265); and
- (b) a copy of a valid supply agreement with a person licensed to undertake wholesale business in LPG.

(4) A person licensed to conduct a business of retail in LPG in cylinders shall not purchase LPG in cylinders from an unlicensed person.

(5) A person dealing with LPG cylinders in a retail outlet shall not store the cylinders in an enclosed area.

(6) Every retailer selling LPG shall have a properly calibrated weighing instrument in accordance with the Weights and Measures Act (Cap. 513) for the verification of the net contents of LPG cylinders.

(7) A licence for retail in LPG in cylinders shall be in Form LPG No. 2 as set out in the Schedule hereto and shall state the conditions of the licence.

13. Licence for transportation of LPG

(1) A person shall not transport LPG by road, except in accordance with the Act and the terms and conditions of a valid licence issued by the Commission.

(2) The provisions of paragraph (1), shall not apply to LPG in a private vehicle transported by a consumer in standard capacity cylinder not exceeding an aggregate quantity of forty kilograms.

(3) A person who wishes to transport or conduct the business of transportation of LPG shall make an application for a licence to the Commission in Form LPG No.1 set out in the Schedule.

(4) An application under paragraph (3), shall be accompanied by—

- (a) a copy of certificate certifying that the vehicle meets the applicable Kenya Standard for vehicles transporting LPG;

[Subsidiary]

- (b) a valid vehicle inspection report;
- (c) a valid clearance certificate from the Chief Fire Officer in accordance with the Local Government Act (Cap. 265).

(5) A licence to transport LPG by road shall authorize the transportation of LPG in the vehicle within the area or route specified in that licence.

(6) A licensee shall not transport in his vehicle LPG from an unlicensed person or discharge from his vehicle LPG to a person who is not licensed under these Regulations.

(7) A licensee shall not—

- (a) transport in his vehicle LPG from a person not licensed to possess through storage LPG in bulk quantities; or
- (b) having so received LPG into his vehicle, discharge or cause to be discharged such LPG to a person who is not licensed to store LPG in bulk.

(8) A person shall not drive a vehicle or engage a driver for the purposes of transporting LPG unless such driver—

- (a) has a valid driving licence;
- (b) is certified in accordance with section 80(4);
- (c) notwithstanding subparagraph (b), has attended a prescribed basic training course providing appropriate knowledge of LPG and petroleum products and in defensive driving;
- (d) in the case of bulk LPG transportation vehicles, has driven that class of vehicle for a minimum of four years or in the case of packaged LPG cylinders has driven that class of vehicle for two years; and
- (e) is of optimal health and fitness.

(9) A licence for transportation of LPG shall be in Form LPG No.2 set out in the Schedule and shall state the conditions of the licence. Licence for transportation of LPG.

14. LPG Exchange Pool

(1) There is established an LPG Cylinder Exchange Pool to regulate the exchange of LPG cylinders among the LPG marketing companies.

(2) The management of the LPG Cylinder Exchange Pool shall be vested in the LPG Cylinder Exchange Pool Committee.

(3) The membership of the LPG Cylinder Exchange Pool Committee shall consist of—

- (a) one representative from the Ministry of Energy;
- (b) one representative from the Kenya Bureau of Standards;
- (c) six representatives from LPG marketing companies.

(4) The LPG Cylinder Exchange Pool Committee shall, with the approval of the Commission, draw an LPG Cylinder Exchange Pool Agreement to govern the relationships among the LPG marketing companies and the operations of the Pool.

(5) A person shall not conduct a business of filling and wholesaling of LPG in cylinders unless such a person is a member of the LPG Cylinder Exchange Pool.

(6) A member of the LPG Cylinder Exchange Pool shall accept or recognize for exchange a cylinder belonging to another member.

(7) A person who is desirous of joining the membership of the LPG Cylinder Exchange Pool shall make an application to the Commission in the Form LPG No.1 set out in the Schedule.

(8) An application under paragraph (7), shall be accompanied by—

- (a) a copy of certificate of ownership of a minimum of five thousand cylinders of a particular brand conforming to KS 201 – 2007 on Unified Valves for Liquefied Petroleum Gas Cylinders for Domestic Use – Specification (Third Edition);
- (b) a copy of a valid licence from the Commission; and
- (c) a copy of certificate of adherence to KS 06-896 on the Specification for Periodic Inspection, Testing and Maintenance of Transportable Gas Containers (excluding dissolved acetylene containers).

15. Standard capacities of LPG cylinders

(1) The standard capacities of cylinders for filling with LPG shall be one, three, six and thirteen kilograms and the cylinders shall be fitted with unified valves.

(2) A person shall not import into Kenya or manufacture an LPG cylinder that does meet the standard capacities and fitted with unified valves.

(3) A cylinder owner shall ensure that all LPG cylinders existing immediately before the commencement of these Regulations are fitted with unified valves.

(4) The Commission shall not allow any cylinder not in the categories specified in paragraph (1), to be filled with LPG after 1st October 2010. Standard capacities of LPG cylinders.

16. Responsibilities of licensee

A licensee shall take all reasonable and proper steps to ensure that—

- (a) the provisions of these Regulations and the conditions of the licence are known to, and observed by, all persons employed in or about the licensed premises; and
- (b) unauthorized persons do not have access to the licensed premises.

17. Appeal against a decision of the Commission

Any person aggrieved by an order or decision of the Commission made under these Regulations may, within thirty days of receipt of such order or decision appeal to the Tribunal.

18. General penalty

(1) A person who contravenes any of the provisions of these Regulations commits an offence and, shall on conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

(2) In any case where the person who contravenes any of the provisions of these Regulations is licensed under these Regulations, the Commission may suspend or revoke his licence.

19. Repeal of the Petroleum Rules under Cap. 116

The Petroleum Rules are hereby repealed.

[Subsidiary]

SCHEDULE

FORM: LPG No. 1

(r. 8, 9, 10, 11, 12, 13 & 14)

APPLICATION FORM FOR LICENCE

(A separate application form must be completed in respect of each separate business establishment)

1. Name of business/applicant
2. Details of applicant
- (a) Income Tax Personal Identification Number(s)
- (b) Postal address
- (c) Location of business premises:
 - Plot No. Building Name
 - Street/Market
 - Town/District
3. Give full details of proprietors or partners owning business or directors/shareholders of the company, as the case may be.

Name	Nationality	(Where applicable	No. of shares held)
.....
.....
.....
.....

(any additional information should be submitted on a separate sheet of paper.)

4. Full description of the business(es) for which the licence is required.
5. (a) Indicate the number and date of issue of any licence previously held under the Act.
6. State if you are or any of your partners/directors is an un-discharged bankrupt. (If so indicate the names).
7. (a) Has any previous application for a licence been rejected under the Act? (If so, give details)
 -
 -
 -
- (b) Has any previous licence been cancelled under the Act?
8. (1) Certified copies of the following documents should be submitted with the application for a licence—
 - (i) if the applicant is a Kenyan, a copy of both sides of ID card or if a non-Kenyan current work permit together with copies of pages 1 and 5 of the passport;
 - (ii) relevant entry permit(s) for non-citizens;
 - (iii) either copies of business name registration certificate or certificate of Incorporation and memorandum and articles of association in case of a company (whichever is applicable);
 - (iv) lease agreement or letter from landlord confirming tenancy;
 - (v) PIN and VAT certificates;
 - (vi) applicable documents specified under these regulations;
 - (vii) the specific documents required for each type of LPG licence under the regulations.
- (2) A person who wishes to renew his licence shall only submit a photocopy of the current licence.
9. Conditions for importing and Marketing Petroleum Products in Kenya
 1. Crude Oil Processing

Companies importing petroleum products for the Kenyan market shall participate in the processing of base load crude oil at the Kenya Petroleum Refineries Ltd (KPRL) and also undertake their imports through the open tender system.

SCHEDULE—continued

2. Minimum Operational Stocks

Companies importing petroleum products for marketing in Kenya shall maintain minimum operational stocks in accordance with Legal Notice No. 44 dated 10th April, 2008. (The requirement for LPG is 15 days of sales.)

3. Submission of Sales Data

Companies marketing petroleum products in Kenya shall submit monthly sales data.

DECLARATION

1. I/We have read and understood the relevant sections of the Energy Act, (Cap. 314) and the regulations there under and agree to abide with them.
2. I/We hereby certify that the information given above is to my/our knowledge true and accurate.
3. I/We understand that it is an offence to give false information in an application for a licence.
4. I/We understand that it is a serious offence to divert into the Kenyan market petroleum products destined for export.
5. I/We understand that any person or company found diverting export petroleum products to the Kenyan market, either directly or indirectly shall have the their licence revoked.
6. I/We understand that I/We should conduct an honest petroleum business and shall ensure that my/our Company shall not promote the diversion of export petroleum products into the Kenyan market either directly or indirectly.
7. I/We hereby confirm that our Company/Business shall abide by the above terms and conditions with regard to importation and marketing of petroleum products in Kenya. I/We also understand conditions.

Name of Company

Name and ID of

Person signing

The Declaration:

Designation and telephone No.

Signature & Stamp:

Date:

FOR OFFICIAL USE ONLY

1. Date application received
2. Date of meeting of Petroleum Licensing Committee
3. Decision of Petroleum Licensing Committee

Members present:

Signature

1.

2.

3.

4.

(a) If application is deferred or rejected, date of letter advising applicant accordingly.

4. Date of review of application

Decision of Committee

Members present:

Signature

1.

2.

3.

4.

[Subsidiary]

SCHEDULE—continued

5. Licence details:

Number

Date issued

Expiry date

FORM No. 2

(r. 8, 9, 10, 11, 12, 13)

PETROLEUM BUSINESS LICENCE

Licence is hereby granted to
 of P.O. Box to carry on the following
 petroleum business
 on premises situated at Plot No.
 Building
 Street/Market
 Town/District
 This licence expires on
 Dated

Signature

(SEAL)

.....
 Director-General
 Energy Regulatory Commission

**ENERGY (BLENDING OF POWER ALCOHOL
WITH MOTOR GASOLINE) REGULATIONS, 2010**

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation.
2. Interpretation.
3. Blending of motor gasoline.

SCHEDULE —

PETROLEUM STORAGE AND LOADING
DEPOTS WHERE GASOHOL BLENDING
SHALL BE UNDERTAKEN

**ENERGY (BLENDING OF POWER ALCOHOL
WITH MOTOR GASOLINE) REGULATIONS, 2010**

[L.N. 69/2010.]

1. Citation

These Regulations may be cited as the Energy (Blending of Power Alcohol with Motor Gasoline) Regulations, 2010.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“**gasohol**” means the fuel produced from blending of power alcohol with motor gasoline to conform to the Kenya Standard KS 03–515: 1990 or any revisions thereon;

“**Kenya standard**” means the specification or code of practice declared by the National Standards Council under section 9 of the Standards Act (Cap. 496);

“**motor gasoline**” means fossil fuel that conforms to Kenya Standard KS 2060 or any revision thereon.

3. Blending of motor gasoline

All motor gasoline loaded from the petroleum storage and loading depots set out in the Schedule herewith, for sale in Kenya, shall be blended with power alcohol to produce gasohol.

SCHEDULE

[Regulation 3.]

PETROLEUM STORAGE AND LOADING DEPOTS WHERE GASOHOL BLENDING
SHALL BE UNDERTAKEN

<i>Owner/Operator</i>	<i>Depot</i>	<i>Plot Numbers</i>
Kenya Pipeline Company	(a) KPC Kisumu Depot	Kisumu/Kogony/3867
	(b) KPC Eldoret Depot	Eld. Mun-Block XI/190
	(c) KPC Nakuru Depot	Kiambogo 2/37, 39, 41, 43

**ENERGY (IMPORTATION OF PETROLEUM PRODUCTS)
(QUOTA ALLOCATION) REGULATIONS, 2010**

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation.
2. Interpretation.
3. Petroleum products quota allocation.

SCHEDULE —

PETROLEUM PRODUCTS IN THE QUOTA
ALLOCATION

[Subsidiary]

**ENERGY (IMPORTATION OF PETROLEUM PRODUCTS)
(QUOTA ALLOCATION) REGULATIONS, 2010**

[L.N. 96/2010, L.N. 25/2012.]

1. Citation

These Regulations may be cited as the Energy (Importation of Petroleum Products) (Quota Allocation) Regulations, 2010.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“**import requirements**” means the quantities of crude oil and various petroleum products imported for consumption in Kenya in any given year;

“**Petroleum products quota allocation**” means the percentage of petroleum import requirements, allocated for importation by the National Oil Corporation of Kenya and the Kenya Petroleum Refineries Limited, as established under regulation 3 of these Regulations.

[L.N. 25/2012, r. 2.]

3. Petroleum products quota allocation

(1) There is established a percentage of the import requirements to be known the petroleum products quota allocation.

(2) The petroleum products quota allocation shall be imported by the National Oil Corporation of Kenya and the Kenya Petroleum Refineries Limited.

(3) The petroleum products Quota Allocation shall be as set out in the Schedule hereto.

[L.N. 25/2012, r. 3.]

SCHEDULE

[Regulation 3(3), L.N. 25/2012, r. 4.]

PETROLEUM PRODUCTS IN THE QUOTA ALLOCATION

<i>Petroleum products</i>	<i>Percentage allocation</i>	<i>Importing company</i>
Petroleum crude oil	100	Kenya Petroleum Refineries Limited
Jet fuel (Kerosene)	30	National Oil Corporation of Kenya
Automotive gas oil	30	National Oil Corporation of Kenya

ENERGY (PETROLEUM PRICING) REGULATIONS, 2010

[L.N. 196/2010.]

1. These Regulations may be cited as the Energy (Petroleum Pricing) Regulations, 2010.

2. In these Regulations, unless the context otherwise requires—

“**maximum retail pump price**” means the maximum prices of petroleum products at a retail dispensing site;

“**maximum wholesale price**” means the maximum prices of petroleum products at a wholesale depot;

“**petroleum**” includes petroleum crude, natural gas and any liquid or gas made from petroleum crude, natural gas, coal, schist, shale, peat or any other bituminous substance or from any product of petroleum crude, natural gas, and condensate;

“**petroleum business**” means a concern carrying on the importation, refining, storage, transportation or sale of petroleum;

“**petroleum products**” means super petrol, regular petrol, kerosene and automotive diesel;

“**retail dispensing site**” means premises where petroleum is stored in bulk in one or more tanks and dispensed to consumers for their own use, and includes filling and service stations;

“**wholesale depot**” means the petroleum receipt, storage and truck loading facilities owned by companies carrying on petroleum business in Mombasa and Nairobi and by the Kenya Pipeline Company (KPC) in Nakuru, Eldoret and Kisumu.

3. (1) The maximum wholesale prices and the retail pump prices of petroleum products at a wholesale depot or retail dispensing site shall be determined in accordance with the formula set out in regulation 4.

(2) The prices determined using the formula set out in regulation 4 of these Regulations shall be the maximum wholesale and retail pump prices of petroleum products which a person carrying on petroleum business shall sell at a wholesale depot or a retail dispensing site.

(3) The maximum determined prices shall become effective on the 15th day of every calendar month and shall remain in force until the 14th day of the following calendar month.

4. The maximum wholesale and retail pump prices of petroleum products in shillings per litre shall be determined as follows—

(a) Wholesale Prices

For super petrol, regular petrol, kerosene or automotive diesel, the formula shall be—

$$P_w = C_u (1 + L_p + L_d) + K(1 + L_d) + m_w$$

Where —

P_w = the maximum wholesale price for super petrol, regular petrol, kerosene or automotive diesel;

C_u = the weighted average cost in shillings per litre ex the Kenya Petroleum Refineries Limited (KPRL) and ex Kipevu Oil Storage Facility (KOSF);

K = the transportation cost from Mombasa to the nearest wholesale depot, which is made up of x percent of pipeline tariff (K_{pt}) and $(100 - x)$ percent of road bridging cost (K_{rd}) as set out in the First Schedule;

L_p = the allowed losses in the pipeline as set out in the Second Schedule;

L_d = the allowed losses in the depot as set out in the Second Schedule;

[Subsidiary]

m_w = the allowed oil marketing company's gross wholesale margin as set out in the Third Schedule.

(b) Retail Pump Prices

For super petrol, regular petrol, kerosene or automotive diesel, the formula shall be—

$$P_r = P_w + m_r + z$$

Where,

P_r = the maximum retail pump price of super petrol, regular petrol, kerosene or automotive diesel applicable, in shillings per litre;

m_r = the allowed maximum retail gross margin as set out in the Third Schedule;

z = the delivery rate from the nearest wholesale depot to a retail dispensing site in shillings per litre as set out in the First Schedule.

5. The weighted average cost in shillings per litre ex the Kenya Petroleum Refineries Limited (KPRL) and ex the Kipevu Oil Storage Facility (KOSF) (C_u) shall be calculated using the following formula—

$$C_u = \frac{\sum V_{irp}(C_{irp} + T + F) + \sum V_{crp}(C_{crp} + T - S_d)}{\sum (V_{irp} + V_{crp})}$$

Where —

V_{irp} = the volume, in litres, of a cargo of a refined petroleum product imported through the open tender system and discharged at the port of Mombasa from the 10th day of the previous month to the 9th day of the pricing month;

C_{irp} = the unit cost of a cargo of a refined petroleum product imported through the open tender system and discharged at the port of Mombasa from the 10th day of the previous month to the 9th day of the pricing month, in shillings per litre;

V_{crp} = the volume, in litres of petroleum product yield per month from crude refined at Kenya Petroleum Refineries Limited for the previous one calendar month;

C_{crp} = the calculated unit cost of a petroleum product yielded from crude refined at the Kenya Petroleum Refineries Limited per month for the previous one calendar month in shillings per litre;

T = the total taxes and levies for petroleum products in shillings per litre which shall be calculated as follows—

$$T = (t_{ed} + t_{rml} + t_{pdl} + t_{prt})$$

Where —

t_{ed} = Excise Duty;

t_{rml} = Road Maintenance Levy;

t_{pdl} = Petroleum Development Levy;

t_{prl} = Petroleum Regulation Levy;

F = Kipevu Oil Storage Facility charges;

S_d = Excise Duty Remission.

[L.N. 26/2012, r. 2.]

6. The unit cost of imported refined petroleum products [C_{irp}] shall be determined in accordance with the calculation used in the open tender system for importation of petroleum products.

7. The unit cost of petroleum products obtained from crude oil refined at the Kenya Petroleum Refineries Limited [C_{crp}] shall be the sum of landed cost of crude oil, refinery fees, inventory financing costs and insurance costs for the crude imports allocated to the refinery approved product yields, benchmarked to the cost of importation of the same refined products.

[L.N. 26/2012, r. 3.]

8. The average mean exchange rate of leading commercial banks selected by the Commission on the last discharge date shall be used in converting the imported refined petroleum products and crude oil costs determined under Regulations 6 and 7 from foreign currency to Kenya Shillings.

[L.N. 26/2012, r. 4.]

9. The factors, K , L_p , L_d , m_w , m_r , z , x preferred to in regulations 4 and 5 of these Regulations shall be determined by the Commission.

(1) The Commission may review the calculation of the maximum wholesale and retail pump prices of petroleum products determined under regulation 4 as and when it may deem fit for purposes of monitoring compliance.

(2) The Commission may publish for general information the maximum wholesale and retail pump prices calculated in accordance with these regulations.

11. The Minister may from time to time review the formula specified under regulation 4.

FIRST SCHEDULE

[Rule 4(a), (b).]

PIPELINE TARIFF, DELIVERY RATES, BRIDGING RATES, AND X-FACTOR

		Location	Rate- KES/Litre
1	Pipeline Tariff K_{pt}	Mombasa	0.000
		Nairobi	2.250 plus VAT
		Nakuru	3.095 plus VAT
		Eldoret	3.980 plus VAT
		Kisumu	3.975 plus VAT
2	Delivery Rates (Z)	Within Town (40km Radius)	0.48 plus VAT
		Outside Town	KES 10.85 per Kilometer per 1000 Litres

Energy

[Subsidiary]

FIRST SCHEDULE—continued

		<i>Location</i>	<i>Rate- KES/Litre</i>
3	Bridging Rates <i>K_{rd}</i>	Mombasa to Nairobi, Nakuru, Kisumu and Eldoret	KES 8.14 per km per 1000 Litres plus VAT
4	x Factor	Nairobi, Nakuru, Kisumu and Eldoret	80% – Super Petrol and Automotive Diesel 100% – Regular Petrol and Kerosene

THIRD SCHEDULE

[Regulation 4(a), (b).]

MAXIMUM ALLOWED MARGINS ($m_w + m_y$)

<i>Product</i>	<i>Maximum Allowed Margins ($m_w + m_y$) (KES/Litre)</i>
Super Petrol	10.00
Regular Petrol	10.00
Kerosene	10.00
Automotive Diesel	10.00

ENERGY (COMPLAINTS AND DISPUTES RESOLUTION) REGULATIONS, 2012

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation.
2. Application.
3. Interpretation.
4. Complaints and disputes to which these regulations apply.
5. Complaints handling procedures of licensees and permit holders.
6. Reports to the Commission on handling of complaints.
7. Declaration of a dispute and reference to the Commission.
8. Authority to represent.
9. Filing a dispute.
10. Information to be provided by plaintiff.
11. Filing of reply, opposition, objections, etc.
12. Acknowledgement of a dispute or reply.
13. Request for further information.
14. Withdrawal of dispute.
15. Database of experts.
16. Dispute resolution by experts.
17. Limitation of liability.
18. Record of disputes.
19. Offences and penalties.
20. Offences by corporate bodies.
21. Appeals.
22. Revocation.

SCHEDULES

FIRST SCHEDULE —

GUIDELINES FOR COMPLAINTS HANDLING
PROCEDURES

SECOND SCHEDULE —

FORMS

**ENERGY (COMPLAINTS AND DISPUTES
RESOLUTION) REGULATIONS, 2012**

[L.N. 42/2012.]

1. Citation

These Regulations may be cited as the Energy (Complaints and Disputes Resolution) Regulations, 2012.

2. Application

These Regulations shall apply to any person who has a complaint or a dispute regarding any licence, permit, contract, code, conduct, practice or operation of any party or any matter regulated under the Act.

3. Interpretation

(1) In these Regulations, unless the context otherwise requires—

“**complainant**” means any person affected by a respondent’s undertaking, activity or practice regulated under the Act;

“**complaint**” includes a dissatisfaction with the service rendered by, or a practice of, any person carrying out any undertaking pursuant to a licence, permit or registration issued or granted by the Commission, under the Act;

“**day**” means calendar day;

“**dispute**” means a disagreement that exists, the parties acting in good faith have failed to reach an amicable resolution of a complaint after all due efforts have been made to resolve it;

“**licensee**” means a public entity, company, person or body of persons to whom a licence or permit is granted;

“**plaintiff**” means any person referring a dispute to the Commission for determination;

“**respondent**” means any person against whom another person has a complaint or a dispute relating to a matter regulated under the Act;

“**website**” means www.erc.go.ke, the official website of the Commission.

4. Complaints and disputes to which these regulations apply

These regulations shall apply to complaints and disputes in the following areas—

- (a) billing, damages, disconnection, health and safety, electrical installations, interruptions, licensee practices and procedures, metering, new connections and extensions, reconnections, quality of service, quality of supply, tariffs, way leaves, easements or rights-of-way in relation to the generation, transmission, distribution, supply and use of electrical energy;
- (b) damages, adulteration and under-dispensing of products, licensee practices and procedures, health and safety in relation to the importation, refining, exportation, wholesale, retail, storage or transportation of petroleum products; and
- (c) any other activity and/or matter regulated under the Act.

5. Complaints handling procedures of licensees and permit holders

(1) A person carrying out any undertaking under the Act shall establish procedures that shall be approved by the Commission for handling complaints relating to the undertaking.

(2) The procedures contemplated in paragraph (1) shall conform to the guidelines set out in the First Schedule.

6. Reports to the Commission on handling of complaints

A person carrying out any undertaking under a licence or permit issued or granted under the Act shall, at the end of every month, submit a report to the Commission, regarding the complaints received and resolved in Form S-1 set out in the Second Schedule.

7. Declaration of a dispute and reference to the Commission

(1) In the event that any complaint is not resolved to the satisfaction of the complainant, after exhausting the complaints handling procedures established pursuant to regulation 5, the parties may declare a dispute, and both or any one of them may refer it to the Commission for recourse.

(2) A party to a dispute may refer the dispute to the Commission in form S-2 as set out in the Second Schedule.

(3) Where a dispute has been referred to the Commission, the Commission shall appoint a mediator who shall assist the parties to reach a settlement within thirty days from the date of such appointment.

(4) Where the dispute—

- (a) is resolved through mediation in accordance with paragraph (3), the parties shall file their settlement agreement with the Commission within five days, and the agreement shall be final and binding on both parties;
- (b) is not resolved through mediation in accordance with paragraph (3), the procedures set out in regulations 8 to 16 shall apply.

8. Authority to represent

(1) A party to a dispute may authorize an advocate to represent him and to act and plead on his behalf before the Commission.

(2) A party to a dispute may appear in person or authorize any of the party's employees or agents to appear before the Commission and to act and plead on the party's behalf. (3) A party shall authorize the party's employees or agents to appear before the Commission and to act and plead on the party's behalf in form S-3 as set out in the Second Schedule.

9. Filing a dispute

(1) A person who wishes to refer a dispute with the Commission ("the plaintiff") shall—

- (a) inform the respondent in writing of his intention to refer the dispute; and
- (b) furnish the respondent with copies of all supporting documents that are to be filed with the Commission.

(2) The plaintiff shall file four copies of the dispute reference form before the Commission and each copy shall be typewritten, photocopied or printed neatly and legibly on one side of white paper and every page shall be consecutively numbered.

(3) The Commission may accept documents filed under paragraph (1) together with a computer disk or through electronic media on such terms and conditions as the Commission may specify.

(4) The dispute reference form shall be divided into separate paragraphs, which shall be numbered serially.

[Subsidiary]

(5) The dispute reference form shall be accompanied by such documents, supporting data and statements as the Commission may specify.

10. Information to be provided by plaintiff

The dispute reference form filed with the Commission shall contain the following information—

- (a) plaintiff's address;
- (b) plaintiff's or respondent's account number (where applicable);
- (c) copies of relevant correspondence between the plaintiff and respondent;
- (d) reasons, from the plaintiff's viewpoint, why the complaint was not resolved; and
- (e) relief sought.

11. Filing of reply, opposition, objections, etc.

(1) The respondent shall file with the Commission a reply and the documents relied upon within fourteen days from the date of service of a copy of the dispute to him by the plaintiff.

(2) In the reply filed, the respondent shall specifically admit, deny or explain the facts stated in the dispute reference form and may also state such additional facts as he considers necessary for the just decision of the dispute.

(3) Where the respondent states that additional facts may be necessary for the just decision of the dispute, the Commission may allow the plaintiff to file a rejoinder to the reply filed by the respondent.

(4) The manner, process, timeframes and number of copies prescribed for the filing of a dispute reference form and provision of additional information by the plaintiff in regulations 9 and 10 shall apply, *mutatis mutandis*, to the filing of the reply, rejoinder or additional information by the respondent.

12. Acknowledgement of a dispute or reply

The Commission shall acknowledge receipt of the pleadings and may require additional information from either party or both parties within fourteen days from the date of such receipt:

Provided that in either case, the Commission shall forward copies of the acknowledgement and may request for further information, comments or rejoinder from the respondent or plaintiff.

13. Request for further information

(1) The Commission may seek additional information from the plaintiff or respondent at any time.

(2) The party submitting further information to the Commission shall furnish copies of the information to the other party.

(3) The party from whom additional information is sought under paragraph (1) shall respond within thirty days from the date of such request, failing which, in the case of the plaintiff, the dispute shall be deemed to have been withdrawn, and in the case of the respondent, the Commission shall give such orders against the respondent as it may deem fit.

(4) If the Commission is satisfied that there is sufficient information relating to the dispute, the Commission shall be determine the dispute in accordance with the procedures set out in regulations 15 to 18.

14. Withdrawal of dispute

The plaintiff may, at any time before the Commission takes action, withdraw the reference of dispute by notice in writing to the Commission:

Provided that the plaintiff shall forward a copy of the notice of withdrawal of the dispute to the respondent.

15. Database of experts

The Commission shall identify and maintain a database of persons who are skilled in alternative dispute resolution techniques and who are experts in various fields relevant to energy matters, from among whom the Commission may from time to time select an expert or constitute a Dispute Resolution Panel on such terms and conditions as the Commission may determine, to assist it in the resolution of disputes.

16. Dispute resolution by experts

(1) The Commission may refer the dispute filed with it to an expert or to a Dispute Resolution Panel, appointed from among persons in the database maintained pursuant to regulation 15 in the manner described in paragraph (2).

(2) Depending on the complexity of the dispute referred to the Commission, the Commission may appoint an expert or constitute a Dispute Resolution Panel in the following manner—

- (a) if one expert is required, the parties may appoint one expert acceptable to both of them, and where the parties fail to agree on the expert, the Commission shall appoint the expert;
- (b) if a Dispute Resolution Panel is required, each party shall appoint one expert, and the experts appointed shall appoint another expert who shall be the chairperson of the panel.

(3) The costs of the dispute resolution process shall, unless the Commission decides otherwise, be borne equally by the parties.

(4) The Expert or Dispute Resolution Panel and the parties shall—

- (a) agree on the manner, process and place of conduct of the dispute resolution; and
- (b) use their best endeavours to hear and determine the dispute resolution within thirty days from the date of commencement of the process or such extension as the Commission may grant.

(5) The expert or the Dispute Resolution Panel, within fifteen days from the end of the dispute resolution process, make a finding and communicate the finding and the basis of the finding, in writing, together with the records of all the proceedings, to the Commission.

(6) The Commission shall review the information communicated under paragraph (5) and make the determination which shall be adopted as a decision of the Commission within thirty days from the date of submission of the communication.

(7) The Commission shall communicate the decision, in writing, to the parties within thirty days from the end of the dispute resolution process, and the decision shall be binding on the parties and publish a summary of the decision in the *Gazette*.

(8) The records of the proceedings shall, except the parts which, for reasons specified by the Commission, upon advice of the Expert or Dispute Resolution Panel, are confidential or privileged, be open for inspection after conclusion of the dispute resolution.

(9) A person who wishes to inspect the proceedings shall comply with such terms as the Commission may prescribe from time to time, in regard to place and manner of inspection and payment of fees.

[Subsidiary]

17. Limitation of liability

To the extent permitted by law, the Commission, the mediators and experts, shall not be liable for any loss or damage suffered or incurred by a party to a dispute or any other person as a consequence of any act or omission of the Commission, the mediators or experts which was done in good faith.

18. Record of disputes

The Commission shall keep and maintain a record of all the correspondence regarding every dispute and the decisions and settlements, together with the dates, in the Commission's register of disputes.

19. Offences and penalties

(1) Any person who—

- (a) fails to submit to the Commission for approval procedures for handling complaints relating to his undertaking or activity;
- (b) fails to submit to the Commission reports required by regulation 6;
- (c) wilfully gives false or misleading information in relation to a complaint or dispute; or
- (d) fails to comply with a mediation agreement or an order, direction or decision by the Commission,

commits an offence and shall upon conviction be liable to a fine not exceeding one hundred thousand shillings or a term of imprisonment not exceeding three months or both.

(2) Any person who contravenes or fails to comply with any of these Regulations or who fails to comply with any prohibition or order of the Commission under any of these Regulations, where no specific punishment is prescribed under paragraph (1) hereof, commits an offence and shall upon conviction be liable to a fine not exceeding one hundred thousand shillings or a term of imprisonment not exceeding three months or both.

20. Offences by corporate bodies

Where an offence under these Regulations committed by a company, co-operative society or other corporate body is proved to have been committed with the consent or connivance of, or to have been facilitated by any director, chairman, manager, secretary or other officer as well as the company, co-operative society or other corporate body commits an offence and shall upon conviction be liable to a fine not exceeding five hundred thousand shillings or a term of imprisonment not exceeding three months or both.

21. Appeals

Any party aggrieved by a decision or order of the Commission may, within thirty days from the date of the order or decision appeal to the Energy Tribunal established under section 107 of the Act.

22. Revocation

The Electric Power (Complaints and Dispute Resolution) Rules, 2006 are revoked.

FIRST SCHEDULE

[Regulation 5.]

GUIDELINES FOR COMPLAINTS HANDLING PROCEDURES

1. Procedures for dealing with complaints relating to any undertaking or activity performed pursuant to a licence or permit under the Act shall explain—

- (a) how other persons can gain access to the procedures;
- (b) how the procedures work;
- (c) the timeframes within which the procedures may be carried out;
- (d) the complainant's right to access the Commission if dissatisfied with the respondent's decision or the way it has been reached; and
- (e) any other matter of relevant importance.

2. Every person carrying out any undertaking or activity pursuant to a licence or permit under the Act shall—

- (a) promptly, fully, and fairly deal with every complaint with the objective of ensuring satisfaction of the complainant; and
- (b) ensure that their staff, representatives, agents, sales people or independent contractors are aware of the approved procedures and their obligations under them.

3. In the event that any complaint is not resolved to the complainant's satisfaction, person carrying out any undertaking or activity pursuant to a licence or permit shall inform the complainant of their right to have their complaint referred to the Commission as a dispute between the two parties.

4. In preparing the procedures contemplated in paragraph 1, the guiding principles are that those procedures shall to the extent possible—

- (a) be simple, quick and inexpensive;
- (b) preserve or enhance the relationship between the parties;
- (c) take account of the skills and knowledge that are required for the relevant procedures;
- (d) observe the rules of natural justice;
- (e) place emphasis on conflict avoidance; and
- (f) encourage resolution of complaints without formal legal representation or reliance on legal procedures.

SECOND SCHEDULE

FORM S-1

(r. 6)

REPORTING OF COMPLAINTS RECEIVED AND PROCESSED

From

NAME AND ADDRESS OF PERSON REPORTING

To the

ENERGY REGULATORY COMMISSION NAIROBI, KENYA

Monthly/Quarterly/Annual* Report of Complaints Received and Processed up to period ending
(insert date)

(*Choose applicable reporting period)

[Subsidiary]

SECOND SCHEDULE—continued

Number of Complaints	Licence No.	Licence No.
Brought forward from previous reporting period		
Received during reporting period		
Total (Line 1 and Line 2)		
Resolved during reporting period		
Declared Disputes		
Processed (Line 4 + Line 5)		
Carried forward to next reporting period (Line 3 – Line 6)		

Signed by
Name of Person Reporting

FORM S-2

(r. 7)

REFERENCE OF DISPUTE TO THE COMMISSION FOR MEDIATION

ENERGY REGULATORY COMMISSION		
ERC DISPUTE NUMBER		
Names of the Parties to the Dispute	Represented by (Optional)	
We, the above named, declare that we have failed to agree on the issues listed herebelow and request intervention of the Commission to assist us resolve our dispute by Mediation.		

Rules Governing the Mediation

Each party ("Party") hereby agrees to submit the above dispute for nonbinding mediation ("Mediation") to the Energy Regulatory Commission, (the "Commission"). The Commission shall designate one member of staff who shall be the Mediator.

Confidentiality Agreement

(a) Mediation is a facilitated negotiation. All offers, promises, conduct and statements, whether oral or written, made in the course of the Mediation, including those made in pre-Mediation and post-Mediation submissions to the Mediator (collectively, "Mediation Communication") by any Party, witness and/or the Mediator—

- (i) shall be considered confidential and privileged settlement communications that may only be disclosed to persons associated with the Parties;
- (ii) shall be deemed inadmissible and may not be used for any purpose, in any dispute resolution process, arbitration, judicial, administrative or regulatory proceedings; and
- (iii) may not be disclosed to non-participants in the Mediation (including any expert, hearing officer or court).

- (b) The Parties shall not subpoena or otherwise seek to compel any of the participants, including any Party, the Mediator, an employee of the Commission or any other person who participated in the Mediation, to testify about, respond to any request to admit, or respond to any discovery request regarding any Mediation Communication or any other aspect of the Mediation.
- (c) The Mediator will be disqualified as a witness, consultant or expert for any Party in connection with any matter relating whatsoever to this dispute or the Mediation. The Mediator will treat any Mediation Communication as confidential and will refrain from disclosing any Mediation Communication except to the Parties.

Effect of a Settlement Agreement

Notwithstanding anything to the contrary in this Agreement, an executed written settlement agreement shall be considered binding upon the Parties and may be enforced by any Party to the settlement agreement, and provided further that information disclosed to or known by a Party through a source other than the Mediation, or that is otherwise discoverable or admissible, shall not be rendered confidential, privileged, inadmissible, or not discoverable solely as a result of its use in the Mediation.

Pre-Mediation Submission

- (a) The Parties agree that a submission of each Party's understanding of the facts and theory of liability and damages ("Submissions") presented to the Mediator prior to the Mediation would facilitate the Mediator's ability to conduct a more expeditious and effective Mediation.
- (b) The Submission should be delivered to the Mediator and may be exchanged between the Parties not less than 14 (fourteen) days prior to the Mediation. If a Party deems a Submission to be confidential and to be read by the Mediator only, that Party must indicate as such in the Submission.

The Submission may include the following (to the extent applicable)—

- (i) statement of facts, including a description of the injury and a list of special damages and expenses incurred and expected to be incurred;
- (ii) theory of liability and damages and authorities in support thereof;
- (iii) summary of opinion witnesses (including "expert witnesses") and non-opinion fact witnesses;
- (iv) status of the case, and if in suit, expected trial date;
- (v) last demand and offer, if any;
- (vi) photographs;
- (vii) police reports;
- (viii) any other document not specifically referenced by any of the foregoing provisions that would assist the Mediator in understanding any claim and/or defence.

.....
*Signature and Designation of Plaintiff and/or
 Respondent Address for correspondence*

FORM S-3

(r. 9)

AUTHORITY FOR REPRESENTATION BEFORE THE COMMISSION

Before the
 Energy Regulatory Commission
 Nairobi, Kenya

Dispute No

IN THE MATTER OF:

..... Plaintiff(s)

v/s

..... Respondent(s)

Memo of Authorization

[Subsidiary]

SECOND SCHEDULE—continued

I, , practising/working as ,
having been authorized by
(Furnish the particulars of the person authorizing), hereby enter appearance on behalf of
..... and undertake to
plead and act for him/it in all matters in the aforesaid dispute.

Place:

Date:

.....
Signature & Designation
Address for correspondence

ENERGY (SOLAR WATER HEATING) REGULATIONS, 2012

ARRANGEMENT OF REGULATIONS

Regulation

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2. Interpretation.
3. Installation and use of solar water heating systems.
4. Exemptions.
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9. Conventional Backup Water Heating System.
10. Design, Installation, Repair and Maintenance.
11. Licensing of Solar Water Heating System installation work.
12. Renewal of licence.
13. Keeping of registers and records.
14. Compliance with other technical, legal and regulatory requirements.

SCHEDULES

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SECOND SCHEDULE —

THIRD SCHEDULE — FORMS

ENERGY (SOLAR WATER HEATING) REGULATIONS, 2012

[LN. 43/2012.]

1. Citation

These Regulations may be cited as the Energy (Solar Water Heating) Regulations, 2012.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“active solar water heating system” means a solar water heating system that employs a pump to circulate water through a solar collector to a storage tank or to the point of use;

“carbon finance” means a mechanism that facilitates the financial reward through carbon credits for the reduction of greenhouse gas emissions by emitters in developing countries;

“Clean Development Mechanism” means a mechanism that allows emission-reduction projects in developing countries to earn certified emission reduction (CER) credits each equivalent to one tonne of carbon dioxide, which can be traded or sold, or used by industrialized countries to meet a part of their emission reduction targets under the Kyoto Protocol;

“cogeneration” means the production of electricity and heat in one single process for dual output streams;

“direct solar water-heating system” means a solar water heating system in which water is heated directly in the collector;

“indirect solar water-heating system” means a solar water heating system in which a heat transfer fluid in the collector transfers heat to the water through a heat exchanger;

“Kenya Standard” means the specification or code of practice declared by the National Standards Council under section 9 of the Standards Act (Cap. 496);

“licensee” means the holder of a licence issued under these Regulations;

“Minister” means the Minister for the time being responsible for matters relating to energy;

“passive solar water heating system” means a solar water heating system that employs natural convection to circulate water through a solar collector to a storage tank or to the point of use;

“premises” means existing, new or alterations and extensions to existing residential or commercial buildings or structures, including—

- (a) small domestic houses as defined in the building code made under the Local Government Act (Cap. 265);
- (b) all domestic dwellings or residential houses;
- (c) commercial buildings including hotels, lodges, clubs, restaurants, cafeterias, laundries, eating places and similar premises;
- (d) health institutions including hospitals, health centres and clinics and similar medical facilities;

- (e) educational institutions including universities, colleges, boarding schools and similar institutions;

“renewable energy” means all non-fossil sources including, biomass, geothermal, small hydro-power, solar, wind, sewage treatment and plant gas;

“solar collectors” include evacuated tube collectors, and glazed and unglazed flat plate collectors;

“solar water heating system” means a device or system that uses sunlight to heat water and comprises of solar collectors, storage tanks, controls, installation hardware and fittings.

3. Installation and use of solar water heating systems

(1) All premises within the jurisdiction of a local authority with hot water requirements of a capacity exceeding one hundred litres per day shall install and use solar heating systems.

(2) Within a period of five years from the date of coming into force of these Regulations, all existing premises with hot water requirements of a capacity exceeding one hundred litres per day shall install and use solar heating systems.

(3) A person who contravenes the provisions of this regulation commits an offence and shall, on conviction, be liable to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding one year, or to both.

4. Exemptions

(1) The Commission may exempt from these Regulations—

- (a) premises with technical limitations;
- (b) premises incapable of incorporating solar heating systems due to their special circumstances;
- (c) premises supplied with hot water from a cogeneration plant in or proximate to the premises;
- (d) premises utilising electricity generated from renewable energy and the excess is used to heat water as a dump load; or
- (e) such other premises as the Commission may determine.

(2) An application for an exemption under sub-regulation (1) shall be made to the Commission, in Form 1 set out in the First Schedule, before the submission of the building plans for approval to the relevant local authority.

(3) The Commission shall process an application for an exemption within forty five days of receipt thereof, and inform the applicant and the relevant local authority of its decision, in writing.

(4) The Commission shall, where it refuses to grant an exemption, give the applicant reasons for the refusal.

5. Demand calculation and minimum hot water demand

(1) All premises shall have a minimum annual solar contribution of sixty per cent to the premises' hot water demand.

(2) The daily hot water demand shall be calculated using the specific hot water demand values specified in Part A of the Second Schedule.

[Subsidiary]**6. Responsibility for compliance**

(1) A developer of a housing estate, a promoter of the construction, an owner of the premises or an Architect or an Engineer engaged in the design or construction of premises shall comply with these Regulations.

(2) An owner of premises, Architect and an Engineer engaged in the design, construction, extension or alteration of premises shall incorporate solar water heating systems in all new premises designs and extensions or alterations to existing premises.

(3) An owner or occupier of premises that has a solar water heating system shall use and carry out the necessary operational maintenance and repairs required to keep the installation in good and efficient working condition.

(4) An electric power distributor or supplier shall not provide electricity supply to premises where a solar water heating system has not been installed in accordance with these Regulations.

(5) An owner or occupier to whom these Regulations apply may investigate the inclusion of the relevant solar water heating system into a project to be registered under any carbon finance mechanism that may be established from time to time including the Clean Development Mechanism (CDM).

(6) A person who contravenes the provisions of this regulation commits an offence and shall be liable, on conviction, to a fine not exceeding one million shillings, or imprisonment for a term not exceeding one year, or to both.

7. Powers of inspection

(1) The Commission or its agent may inspect premises, to investigate matters relating to the installation of solar water heating systems in premises, in accordance with section 24 of the Act.

(2) The Commission shall issue a compliance certificate, upon request, where a solar water heating system has been installed in compliance with these Regulations.

(3) Where the Commission finds that the provisions of these Regulations have been contravened by the owner or an occupier of the premises or that a condition that may lead to the contravention of these Regulations has arisen, the Commission or its agent may issue a compliance notice to the owner or occupier of the premises.

(4) A notice issued under this Regulation shall specify—

- (a) the regulation that have been contravened;
- (b) the measures that should be undertaken to rectify the contravention; and
- (c) the period within which the notice shall be complied with.

(5) A person who does not comply with a notice issued under paragraph (4) within the specified period commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand shillings for residential premises and thirty thousand shillings for all other premises for each day or part thereof that the contravention continues.

8. Standardisation

(1) A person shall not use or employ for the purposes of or in connection with a solar heating system, any mode, material or apparatus other than that which complies with the Kenya Standard.

(2) A Solar collector shall, for the purposes of these Regulations, be of the unglazed flat plate, glazed flat plate or evacuated tube collector technologies or any other type that meets the Kenya Standards for solar collectors.

(3) A glazed, evacuated tube collector or any other type that meets the Kenya Standards for collectors shall be used in all installations except in installations for heating swimming pools where unglazed collectors may be used.

(4) Solar collector panels shall be insulated to improve their thermal efficiency performance.

(5) The storage capacity of a solar water heating system shall not be less than one and a half times the daily hot water demand of the installation.

(6) The hot water storage tanks shall be insulated.

(7) All components selected for use in the installation of a solar water heating system shall be corrosion resistant.

(8) Selection of components for plumbing works in a Solar Water Heating System shall be in accordance with the planning and building code made under the Local Government Act (Cap. 265).

9. Conventional Backup Water Heating System

(1) The backup water heater systems that utilize traditional fuels, including electricity, gas, or similar fuels, may be separately installed in buildings or be integrated into the solar heating system to ensure that there is an adequate supply of hot water at all times.

(2) The conventional back-up system shall be designed to supplement a solar water heating system by operating when absolutely necessary to supply the energy deficit from solar collectors due to adverse weather conditions or a solar water heating system defects.

10. Design, Installation, Repair and Maintenance

(1) The design, installation, repair and maintenance of a Solar Water Heating System shall be in accordance with the Code of Practice – Solar Water Heating For Domestic Hot Water; Kenya Standard KS 1860:2008.

(2) The design, installation, repair and maintenance of a solar water heating system shall also be in accordance with the building code made under the Local Government Act (Cap. 265).

(3) Solar collectors shall be installed in accordance with the solar water heating system installation standards set out in Part B of the Second Schedule.

(4) A solar water heating system technician or contractor shall, upon commissioning a solar heating system, issue an installation certificate, the date of installation, capacity of the solar water heating system, details of the installer and warranty, for the premises.

11. Licensing of Solar Water Heating System installation work

(1) A person shall not undertake any solar water heating system installation work unless the person is licensed by the Commission as a solar water heating system technician or a contractor.

(2) The Commission shall not license a person as a solar water heating system technician unless the person has—

- (a) qualifications and experience specified in Part C of the Second Schedule; and
- (b) certification recognized by the Commission.

(3) The Commission shall not license a person to be a solar water heating system contractor, unless the person has in his or her employment, a licensed solar water heating system technician.

[Subsidiary]

(4) A person who wishes to be licensed as a solar water heating system technician or a contractor shall make an application in Form 3A or 3B, set out in the Third Schedule.

(5) The Commission may require and cause such applicant, for the purpose of ascertaining his ability to undertake, engage in or perform any work that is related to solar water heating system installation, to be examined, in such manner as it may determine, upon any matter or thing in connection with his application.

(6) The Commission shall process all applications within ninety days from the date of receipt of the application.

(7) The Commission may, after considering an application made under paragraph (4)—

- (a) grant the licence applied for unconditionally or with such conditions as it may consider fit; or
- (b) refuse to grant the licence applied for, giving reasons thereof.

(8) A licence issued under this regulation shall be valid for a period of two years from the date of issue.

12. Renewal of licence

(1) An application for renewal of a licence shall be made at least thirty days before the expiry date of the current licence.

(2) Where, upon application, it is shown to the satisfaction of the Commission that a licence has been lost, destroyed or defaced, the Commission may issue a duplicate licence.

13. Keeping of registers and records

(1) The Commission shall maintain a register of all licensed solar water heating system technicians and contractors licensed under these Regulations.

(2) The register shall be available to the public for inspection.

(3) All solar water heating system technicians and contractors registered by the Commission shall maintain records of all solar water heating systems installed, specifying the location, capacity and type.

(4) All registered solar water heating system technicians and contractors shall, within the first quarter of every succeeding year, submit an annual return by the end of the first quarter of the following year of all the solar water heating systems installed in the immediately preceding year, specifying the location, capacity and type.

(5) All solar water heating system technicians and contractors shall keep and maintain a record of the reports required under these Regulations for a minimum period of five years.

(6) A person who contravenes paragraph (3) commits an offence and is liable, on conviction, to a fine not exceeding one million shillings, or to a term of imprisonment of one year, or to both.

14. Compliance with other technical, legal and regulatory requirements

The incorporation of a solar water heating system in premises shall comply with all other relevant technical, legal and regulatory requirements applicable in Kenya.

FIRST SCHEDULE

[Rule 4(2).]

FORM 1

APPLICATION FOR EXEMPTION

APPLICATION FOR EXEMPTION FROM THE SOLAR WATER HEATING
REGULATIONS UNDER THE ENERGY ACT, 2006

"This form must be accompanied with a technical report signed by an expert (Registered Engineer, Architect, or Technician) explaining why it is not technically viable to have Solar Water Heating System in the premises".

GENERAL PARTICULARS

State

- (1) Name and address of applicant in full; in the case of a partnership or other joint venture (other than a body corporate), give the names and addresses of each party concerned
- (2) Name, address and telephone number of person to whom correspondence or enquiries concerning the application should be directed
- (3) State whether the applicant is a public limited company, private limited company, overseas company, other body corporate, partnership, unincorporated association, sole trader or other entity (and in the last case give particulars of the legal status)
- (4) If the applicant is a body corporate, state—
 - (a) the jurisdiction under which it is incorporated
 - (b) if applicable, its registered number
(Attach copies of Certificate of Registration, Certificate of Incorporation, Memorandum and/or Articles of Association where applicable)
 - (c) the full names and addresses of its current directors
 - (d) the name and registered office of any holding company (within the meaning of Section 154 of Cap 486) of the applicant
- (5) If the applicant is neither a body corporate nor a sole trader, give the name(s) and address(es) of the person or persons in whom effective control of the applicant rests.
- (6) Where any person (other than a person whose name is given at paragraph 2(2)(d) or paragraph 2(3) above) holds 20 per cent or more of any class of the shares of the applicant, give the name and address of each such person, specifying in each case the number of shares so held and the percentage of the aggregate number of shares of that class represented thereby
- (7) Give the Land Reference Number and name and address of the local authority where the premises are situated.
- (8) The grounds on which the applicant seeks exemption:

[Subsidiary]

FIRST SCHEDULE—continued

(9) (1) Name(s) and designation(s) of person(s) signing the application:

(2) Date of application:

SECOND SCHEDULE

[Rule 5.]

PART A – HOT WATER DEMAND CALCULATIONS

Type of Building Premises	Specific Daily Hot Water Demand (DHWD) in litres per day at 60 °C
Domestic residential houses	30 per person
Educational institutions such as colleges and boarding schools	5 per student
Health institutions such as Hospitals, Health Centres, clinics and similar medical facilities	50 per bed
Hotels, Hostels, Lodges and similar premises providing boarding services	40 per bed
Restaurants, Cafeterias and similar eating places	5 per meal
Laundries	5 per kilo of clothes

- (a) Hot Water Demand calculations at other temperatures (T) shall be adjusted for the 60 °C reference temperature. For the purposes of making the adjustment, the following equation shall be used—
- The equation assumes that the cold water temperature (inlet water temperature) is 15 °C and a linear relationship. 45 °C is the difference between 60 °C and 15 °C.
- (b) For buildings with seasonal variations in hot water demand such as Hotels, game Lodges, and similar premises, the demand may be adjusted by an annual occupancy rate of factor of not less than 70%.
- (c) In calculating demand, it shall be assumed that the daily hot water demand is constant, throughout the year.
- (d) In calculating demand for domestic residential houses, the number of persons shall be taken to be equal to the number of bedrooms x 1.5.
- (e) In calculating the heat load of solar water heating system, heat losses in the hot water distribution system shall be taken into account.

PART B – INSTALLATION STANDARDS FOR SOLAR WATER HEATING SYSTEM

[Regulation 10.]

Solar collectors shall be installed at an angle between 10° and 20° from horizontal plane and/or facing the equator:

Provided that the solar collector area shall be increased by 10% for tilt angles of up to 30 ° and 20% for tilt angles of up to 40° for technical or aesthetic reasons and/or increased by 10% if the deviation from the direction of the equator is above 25°.

SECOND SCHEDULE—continued

PART C – QUALIFICATIONS AND EXPERIENCE FOR LICENSING

[Regulation 11.]

Solar Water Heating System Technicians—Minimum Education (Academic) qualifications and Professional (Job) experience

	<i>Education (Academic)</i>	<i>Professional (Job)</i>
1	A graduate Engineer	Over 2 years experience involving plumbing works
2	Higher National Diploma Engineer or Equivalent	2 years experience involving plumbing Works
3	Government Trade Test Grade 1	Over 3 years experience of work experience involving plumbing works
4	Government Trade Test Grade 2	Over 6 years experience of work experience involving plumbing works

THIRD SCHEDULE

FORM 3A

(r. 11(4))

APPLICATION FOR LICENCE OF SOLAR WATER HEATING SYSTEM TECHNICIAN

Purpose of Application: New Application ☐ Renewal ☐ (Please indicate with a tick (✓))Name in full
(Block capitals, surname first)

Postal Address

Date of Birth Nationality

Name and address of present employer, if any

Name of present job

Academic qualification

(a)

(b)

Professional Qualification

(a)

(b)

Details of apprenticeship (if any)

.....

.....

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Energy

[Subsidiary]

THIRD SCHEDULE—*continued*

Subsequent experience in the work of a plumber (Trade Test Certificate, if any)

.....

.....

.....

Knowledge of occupational safety and health regulations

No ☐ Yes ☐

Details of Solar Water Heating System installation licence held (if any)

Licence No

Issued on

Issued by

For the licence applied for I was at first interviewed on

I declare that the particulars given by me are true and correct.

.....

Date: *Signature of Applicant:*

REFEREES

(The following details to be completed by two independent referees who must have known the applicant's ability very well, preferably in the trade)

1st Referee

I declare that the particulars given by the applicant in this form are true and correct to the best of my knowledge.

Full Name:

(Block letters, surname first)

Occupation:

Postal address:

.....

Solar Water Heating System installation licence No. (if any)

I have known the above person for years.

Position held at present

.....

Date *Signature of 1st referee*

I declare that the particulars given by the applicant in this form are true and correct to the best of my knowledge.

Full Name:

(Block letters, surname first)

Occupation:

Postal address:

.....

Solar Water Heating System installation licence No. (if any)

I have known the above person for years.

Position held at present

.....

Date *Signature of 2nd referee*

THIRD SCHEDULE—*continued*

FORM 3B

(r. 11(4))

APPLICATION FOR LICENCE OF SOLAR WATER HEATING SYSTEM CONTRACTOR

Purpose of Application: New Application ☐ Renewal ☐ (Please indicate with a tick (✓))

1. Name of contractor

2. Details of Contractor:

(a) Income Tax Personal Identification Number:

(b) Postal Address:

(c) Location of business premises:

Plot No. Building Name

Street/Market

Town/District

3. Give full details of proprietors or partners owning business or directors/shareholders of the company, as the case may be.

*Name**Nationality*

.....

.....

.....

(any additional information should be submitted on a separate sheet of paper)

4. Certified copies of the following documents should be submitted with the application for a licence—

(a) If the applicant is a Kenyan, a copy of both sides of ID card or if a non-Kenyan current work permit together with copies of pages 1 and 5 of the passport;

(b) Relevant entry permits(s) for non-citizens;

(c) Copy of Business name Registration Certificate or Certificate of Incorporation and Memorandum and Articles of Association in case of a company (whichever is applicable);

(d) Lease agreement or letter from landlord confirming tenancy;

(e) PIN and VAT certificates—

(i) Valid Tax compliance certificate

(ii) Any other document that may be required by the Commission from time to time

NB: An applicant for renewal of a licence shall submit only a photocopy of the current Licence.

List of Licensed Solar Water Heating System technicians—

*Full name**Licence No.*

.....

.....

.....

.....

.....

Areas where the business will operate

.....

.....

.....

.....

Previous Solar Water Heating System project or work experience

.....

.....

.....

Energy

[Subsidiary]

THIRD SCHEDULE—continued

Name and address of bank(s) or financial institution(s) where the business account(s) is/are maintained

.....

.....

.....

.....

.....

I/We hereby apply for registration as a Solar Water Heating System Contractor. We commit to carry out all installations in accordance with the Energy (Solar Water Heating) Regulations, 2011.

I/We hereby, declare that the information I/we have provided in the application is true and correct.

.....
Signature of Applicant Date

.....
Signature of Applicant Date

.....
Signature of Applicant Date

REFEREES

(The following details to be completed by two different and independent referees, who would vouch your competence to operate a business of contractor if registered, your technical ability having already been established. Persons who may not understand what is involved in running a business cannot be accepted as referees).

1st Referee

I certify that the information given in this form is true and correct to the best of my knowledge

Full name
(Block letters, surname first)

Occupation

Postal address

.....
Date Signature of 1st referee

2nd Referee

I certify that the information given in this form is true and correct to the best of my knowledge

Full name
(Block letters, surname first)

Occupation

Postal address

.....
Date Signature of 2nd referee

ENERGY (ELECTRICITY LICENSING) REGULATIONS, 2012

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation.
2. Application.
3. Interpretation.
4. Form and manner of application.
5. Additional information and documents.
6. Application fees.
7. Notice of application.
8. Objection to grant of licence or permit.
9. Objection hearing.
10. Decision of the Commission.
11. Invitation applications for licence or permit.
12. Acknowledgement of application.
13. Calling for additional information.
14. Notifying the due filing of the application.
15. Factors to be considered in granting an application.
16. Notice of grant of licence or permit and applicable fees.
17. Form of licence or permit.
18. Date of commencement of licence or permit.
19. Suspension or revocation of the licence or permit.
20. Appeals.

SCHEDULES

FIRST SCHEDULE —	FORM OF APPLICATION
SECOND SCHEDULE —	DOCUMENTS TO ACCOMPANY APPLICATION
THIRD SCHEDULE	
FOURTH SCHEDULE —	LICENCE AND PERMIT FEES
FIFTH SCHEDULE —	FORM OF LICENCE OR PERMIT

ENERGY (ELECTRICITY LICENSING) REGULATIONS, 2012

[L.N. 44/2012.]

1. Citation

These Regulations may be cited as the Energy (Electricity Licensing) Regulations, 2012.

2. Application

These Regulations shall apply to any person who engages or intends to engage in the generation, transmission, distribution and supply of electrical energy in Kenya.

3. Interpretation

In these Regulations, unless the context otherwise requires—

“ancillary services” means the services required to facilitate the delivery of electrical energy to consumers at stable frequencies and voltages, including frequency regulation or control, spinning reserves, voltage and reactive power support, black start and load shedding facilities;

“application” means an application for a licence, permit or transfer of a licence or permit, renewal or modification of a licence or permit under the Act, and references to an application in respect of a licence or permit shall be construed accordingly;

“connection point” means the agreed point of supply established between a network service provider, electric power producer or consumer as appropriate;

“electricity distribution or supply licence or permit” means a licence or permit granted to a public or local authority, company, person or body of persons, in these Regulations referred to as a public electricity supplier, to distribute and/or supply electrical energy within the area defined therein, and such licence or permit shall also entitle the public electricity supplier to receive supply in bulk from an electric power producer or from another public electricity supplier;

“electricity generation licence or permit” means a licence or permit granted to a public or local authority, company, person or body of persons, in these Regulations referred to as an electric power producer, to generate electrical energy for his own use or to supply such electrical energy to another electric power producer or public electricity supplier within the area described therein;

“Grid Code” means the grid, distribution or metering codes designed to facilitate the development, operation and maintenance of an efficient, co-ordinated and economical Kenyan electric power system by specifying to all parties connected to that system their technical and procedural obligations;

“licence” means a document or instrument authorising any person to import, export, generate, transmit, distribute and/or supply electrical energy, in the manner described in such document or instrument;

“licensee” means a person authorised by a licence or permit to import, export, generate, transmit, distribute and/or supply electrical energy;

“network services” means electrical energy transmission or distribution services, including the ancillary services that are necessary to maintain voltages and frequency within the agreed limits;

“**permit**” means an authorisation granted to a person to engage in the generation or distribution of electrical energy of a capacity that does not exceed 3,000 kW;

“**prudent operating practice**” means the exercise of a degree of skill, diligence, prudence and foresight that would reasonably be expected from licensees under conditions comparable to those applicable to the relevant undertaking consistent with applicable laws, regulations, licences or permits, Codes, reliability, safety and environmental protection, determined by taking into account factors such as the relative size, duty, age and technological status of the relevant undertaking and the applicable laws, regulations, licences or permits and Codes;

“**transfer**” means a transfer of licence or permit granted or to be granted under section 34 of the Act;

“**transmission licence**” means a licence granted or to be granted to a public or local authority, company, person or body of persons to operate, manage or control facilities consisting of high voltage electric supply lines for the movement of electrical energy in bulk from and between electric power producers to public electricity suppliers and large consumers within the area described therein.

4. Form and manner of application

(1) An application shall be—

- (a) made in the form set out in the First Schedule and shall contain the information required therein and be accompanied by the information and documents specified in the Second Schedule;
- (b) addressed to the Commission, signed and dated by or on behalf of the applicant, stating, where the application was signed and specifying the capacity of the signatory; and
- (c) submitted in an electronic format together with three paper based copies, delivered or sent by prepaid post to the Commission at its principal office.

5. Additional information and documents

Where an application is in respect of a licence or permit for electric power, the application shall be accompanied by the relevant additional information and documents specified in the Third Schedule.

6. Application fees

(1) An application for a licence shall be accompanied by a non-refundable fee of ten thousand shillings payable to the Rural Electrification Authority.

(2) An application for a permit shall be free of charge.

7. Notice of application

(1) The applicant shall, fifteen days before making the application to the Commission, publish and serve a notice of application in accordance with section 28(2) and (3) of the Act.

(2) The notice of application referred to in paragraph (1) shall—

- (a) indicate the date that the intended application is to be made;
- (b) contain a description of the nature and location of the proposed undertaking;
- (c) inform members of the public the date from which the application may, subject to the limits of commercial confidentiality, be inspected at the offices of the applicant or the Commission; and

[Subsidiary]

- (d) invite the persons, who may be directly affected or are in the areas that are likely to be affected by the undertaking, who object the grant of the licence or permit, whether on personal, environmental or other grounds, to lodge with the Commission an objection, in writing, setting out the grounds of the objection, within thirty days from the date of the application as stated in the notice and forward a copy of such objection to the applicant.

8. Objection to grant of licence or permit

(1) Where a person objects to the grant of a licence or permit applied for under the Act, the Commission shall, on the request of the applicant or an objector, hold a hearing and give, both the applicant and the objector, a notice of the hearing:

Provided that, the Commission may refuse to hold a hearing if in its opinion the objection is of a trivial or vexatious nature.

(2) The Commission may, on its own motion, from initiating, hold a hearing in relation to the grant of any licence or permit after giving the applicant and any objector notice of the place and time of the hearing.

9. Objection hearing

(1) The Commission may hear any objections in public, at the time and place specified in a notice given to the applicant and to every objector, at least fifteen days before the hearing date.

(2) The hearing shall be conducted in accordance with procedures issued by the Commission, and the duration of the hearing shall not be considered as part of the licence or permit processing period specified in section 30(2) of the Act.

10. Decision of the Commission

(1) The Commission may, after holding a hearing, reject an objection, accept an objection or direct the applicant to amend the application or provide additional information regarding the application and communicate its decision regarding the objection to the parties to the objection within thirty days after the hearing.

(2) Where the Commission has—

- (a) rejected an objection, the Commission shall communicate its decision on the application for a permit or licence within ninety days after the rejection of the objection;
- (b) accepted an objection, the Commission shall reject the application for a licence or permit, and inform the applicant, in writing, of its reasons for the rejection within thirty days after the hearing; or
- (c) directed that the application should be amended or requested for additional information, the applicant shall amend the application or provide the additional information within fifteen days of receiving the directions and the Commission shall reconsider the application and communicate its final decision on the objection within ninety days.

11. Invitation applications for licence or permit

(1) The Commission may, in accordance with section 29 of the Act, invite applications for a licence or permit under the Act.

(2) The invitation for application under paragraph (1) shall specify—

- (a) details of the criteria and schedule for the awarding the licence or permit;
- (b) manner of submission of applications by bidders;

- (c) additional information that should accompany the application; and
- (d) criteria for assessment and award of licence or permit by the Commission.

12. Acknowledgement of application

The Commission shall, on receipt of an application, note thereon the date of its receipt and shall within seven days thereof send to the applicant an acknowledgement stating the date of receipt.

13. Calling for additional information

The Commission may, after scrutinizing an application, require an applicant to furnish it, within fourteen days, with such additional information or particulars or documents as may be necessary for the purpose of dealing with the application.

14. Notifying the due filing of the application

If an application is complete and is accompanied by the requisite information, particulars and documents and the applicant has complied with all the requirements for making the application the Commission shall notify the applicant that the application is materially complete in all respects and shall be processed within ninety days as provided in section 30(2) of the Act.

15. Factors to be considered in granting an application

The Commission shall, in granting or rejecting an application for a licence or permit, consider—

- (a) the impact of the undertaking on the social, cultural or recreational life of the community;
- (b) the need to protect the environment and to conserve the natural resources in accordance with the Environmental Management and Coordination Act, 1999, (No. 8 of 1999);
- (c) land use or the location of the undertaking;
- (d) the economic and financial benefits to the country or area of supply of the undertaking;
- (e) the economic and energy policies in place from time to time;
- (f) the cost of the undertaking and the financing arrangements;
- (g) the ability of the applicant to operate in a manner designed to protect the health and safety of users of the service for which the licence or permit is required and other members of the public who would be affected by the undertaking;
- (h) the technical and financial capacity of the applicant to render the service for which the licence or permit is required;
- (i) any representations or objections made under regulation 8;
- (j) the proposed tariff offered; and
- (k) any other matter that would, in the opinion of the Commission, have a bearing on the undertaking.

16. Notice of grant of licence or permit and applicable fees

(1) The Commission shall inform the applicant of the grant of a licence or permit and specify the conditions to be satisfied by the applicant including the fees to be paid to the Kenya Rural Electrification Authority for the grant of the licence or permit.

[Subsidiary]

(2) The applicant shall pay the fees specified in second column of the Fourth Schedule, for the licence or permit of the description specified in first column, within thirty days of the grant of the licence or permit.

(3) A licensee shall pay the fees specified in the second column of the Fourth Schedule for the renewal, transfer or modification of any licence or permit of the description specified in second column.

17. Form of licence or permit

The Commission shall issue a licence or permit in the form set out in the Fifth Schedule.

18. Date of commencement of licence or permit

A licence or permit issued under these Regulations shall come into operation on the date of its issue, or on such other date as may, on the request of the licensee, specified in the permit.

19. Suspension or revocation of the licence or permit

(1) Notwithstanding an order issued or a sanction, penalty or fine imposed by the Commission, a licence or permit issued under these Regulations or the Act may, be suspended or revoked where the Commission is satisfied that the licensee is not operating in accordance with the terms and conditions of the licence or permit.

(2) The Commission shall give a notice of not less than thirty days to the licensee requiring the licensee to show cause why the licence or permit should not be suspended or revoked.

(3) A notice issued to the licensee shall clearly state the grounds on which it is proposed to suspend or revoke the licence or permit.

(4) The Commission shall, before suspending or revoking a licence or permit, give the licensee an opportunity to be heard.

(5) Where the Commission suspends or revokes any licence or permit, either in whole or in part, it shall give notice by public advertisement of such suspension or revocation within thirty days of the revocation.

20. Appeals

Any person aggrieved by a decision or order of the Commission may, within thirty days of communication to him of the order or decision appeal to the Energy Tribunal established under section 107 of the Act.

FIRST SCHEDULE

[Regulation 4.]

FORM OF APPLICATION

APPLICATION IN RESPECT OF A LICENCE OR PERMIT FOR THE
GENERATION*, TRANSMISSION*, DISTRIBUTION* AND/OR SUPPLY*
OF ELECTRICAL ENERGY UNDER THE ENERGY ACT (Cap. 314)

1. State

(1) name and address of applicant in full; in the case of a partnership or other joint venture (other than a body corporate), give the names and addresses of each party concerned

.....
.....

.....

(2) name, address and telephone number of person to whom correspondence or enquiries concerning the application should be directed

.....

(3) whether the application is an application for licence, permit, transfer, renewal or modification of licence or permit

.....

(4) whether the application is an application for licence, permit, transfer, renewal or modification of licence or permit

.....

2. (1) State whether the applicant is a public limited company, private limited company, overseas company, other body corporate, partnership, unincorporated association, sole trader or other entity (and in the last case give particulars of the legal status)

.....

(2) If the applicant is a body corporate, state—

(a) the jurisdiction under which it is incorporated

.....

(b) if applicable, its registered number

.....

(Attach copies of Certificate of Registration, Certificate of Incorporation, Memorandum and/or Articles of Association where applicable)

(c) the full names and addresses of its current directors

.....

(d) the name and registered office of any holding company (within the meaning of section 154 of Cap 486) of the applicant

.....

[Subsidiary]

FIRST SCHEDULE—*continued*

(3) If the applicant is neither a body corporate nor a sole trader, give the name(s) and address(es) of the person or persons in whom effective control of the applicant rests

.....

(4) Where any person (other than a person whose name is given at paragraph 2(2) (d) or paragraph 2(3) above) holds 20 per cent or more of any class of the shares of the applicant, give the name and address of each such person, specifying in each case the number of shares so held and the percentage of the aggregate number of shares of that class represented thereby

.....

(5) Give particulars of any licences or permits under the Act held, applied for (whether or not successfully) or intended to be applied for by the applicant or (so far as is known to the applicant) by any person who is a related person in relation to the applicant

.....

MODIFICATION OF THE CONDITIONS OF LICENCE OR PERMIT

3. If the application is for a licence or permit describe—

(1) any modification requested to any of the general conditions for the type of licence or permit;

.....

and

(2) the grounds on which the applicant believes that—

(a) any such modification is requisite to meet the circumstances of the particular case;

.....

and

(b) any such modification is such that—

(i) the licence or permit holder would not be unduly disadvantaged in competing with other holders of licence or permit of that type;

.....

and

(ii) no other holder of a licence or permit of the same type would be unduly disadvantaged in competing with other holders of such licences or permits (including the applicant)

.....

FIRST SCHEDULE—*continued*

4. This application has been made and signed by the person(s) whose particulars are specified in paragraph 4(1) and on the date specified in paragraph 4(2) herebelow

(1) Name(s) and designation(s) of person(s) signing the application—

.....

(2) Date of application:

.....

(* delete undertaking if it does not apply)

SECOND SCHEDULE

[Regulation 4.]

DOCUMENTS TO ACCOMPANY APPLICATION

1. Interpretation

In this Schedule—

“**annual accounts**” has the meaning given by Cap. 486;

“**auditors’ report**” means a report prepared under Cap. 486;

“**Cap. 486**” means the Companies Act of the Laws of Kenya;

“**company**” means a company within the meaning of Cap. 486;

“**competent engineer**” means a registered engineer in accordance with Cap. 530;

“**group accounts**” means such accounts as are provided by section 150(1) of the Companies Act (Cap. 486);

“**holding company**” and “**subsidiary undertaking**” have the meanings given by the Companies Act (Cap. 486).

2. Financial Information

Where the applicant is a company, the documents specified in sub-paragraph (a) shall be submitted, and, if the applicant is a subsidiary undertaking, additional documents specified in sub-paragraph (b) shall be submitted, and, if applicable, those specified in sub-paragraph (c) below—

(a) Copies of—

- (i) the most recent audited annual report and accounts of the applicant in respect of which an auditors’ report has been prepared, together with that auditors’ report;

[Subsidiary]

SECOND SCHEDULE-*continued*

- (ii) the audited annual report and accounts of the applicant for the two financial years preceding that to which the accounts referred to in sub-paragraph (a) above relate, together with the appropriate auditors' reports; and
 - (iii) such interim accounts and management accounts (whether audited or not) as may have been prepared in respect of a period more recent than that covered by any of the documents specified in sub-paragraphs (a) and (b) above.
- (b) Copies of—
 - (i) the most recent audited annual accounts in respect of the group of which the subsidiary undertaking forms part and in respect of which an auditors' report has been prepared, together with that report;
 - (ii) the audited annual accounts in respect of that group for the two financial years preceding that to which the accounts referred to in sub-paragraph (a) above relate, together with the appropriate auditors' reports; and
 - (iii) such interim accounts and management accounts for that group (whether audited or not) as may have been prepared in respect of a period more recent than that covered by any of the documents specified in sub-paragraphs (a) and (b) above.
- (c) If the documents specified in sub-paragraph (2) above do not include the consolidated audited annual accounts for any holding company or subsidiary undertaking of the applicant established outside Kenya, copies of such accounts, together with any auditors' reports, as indicate the financial state of affairs of the group in question—
 - (i) at the time of the application; and
 - (ii) at the end of each of the three financial years preceding that time.
- (d) Where the applicant is not a company, such accounts and other information as indicate the financial state of affairs of the applicant and its profit and loss, and the statements for the most recent period, together with copies of the latest audited annual accounts where such accounts have been prepared, and of any person in whom effective control of the applicant resides—
 - (i) at the time of the application; and
 - (ii) at the end of each of the three financial years preceding that time.
- (e) Where any of the documents mentioned in paragraph 2 or, where applicable, paragraph 3 above cannot be supplied, an explanation of why they cannot be supplied together with such financial information to the like effect as can reasonably be supplied.
- (f) A statement giving particulars of financial projections, sources of finance and capital proposed to be expended, as will, in conjunction with such information and documents as is provided in accordance with paragraphs 2, 3, or 4 above, indicate whether the applicant would be likely to be able to finance the activities authorised by his licence or permit if the application were granted.

Proposed business

- (g) An outline statement of the business proposals, for that business of the applicant to which the application relates, for the next five years including annual forecasts of costs, sales and revenues and project financing, stating the assumptions underlying the figures provided. (The statement of the first year's forecasts of costs, sales and revenues and project financing to be broken down on a month by month basis.)

SECOND SCHEDULE-*continued*

- (h) Details of any expected subsequent substantial capital outflows including major decommissioning costs.
- (i) Estimates of net annual cash flows for subsequent periods sufficient to demonstrate the financial security and feasibility of the project(s) to which the application relates.

Expertise of applicant

- (j) A statement giving such particulars of the applicant, and of any sub-contractors or other persons on whose expertise the applicant proposes to rely, as may indicate whether the applicant has or will acquire the necessary skills to undertake the activities in respect of which the application is made.
- (k) The report of a competent engineer on the proposed undertaking.

3. Environmental Approvals

(1) Unless expressly exempted by the Commission in consultation with National Environmental Management Authority, the applicant shall, in respect of the undertaking for which the application is made, provide copies of any of the following documents issued by National Environmental Management Authority—

- (a) Environmental Impact Assessment Licence; or
- (b) Acknowledgement of receipt of Environmental Audit Report.

(2) Without prejudice to, and in the absence of either of the documents contemplated in, paragraph (1), the applicant—

- (a) may submit his application accompanied by a scoping report for the Environmental Impact Assessment of the undertaking approved by the National Environmental Management Authority; and
- (b) shall use his best endeavours to obtain the Environmental Impact Assessment Licence before his application is approved by the Commission.

THIRD SCHEDULE

[Regulation 5.]

PART I – ELECTRIC POWER GENERATION

FURTHER INFORMATION AND DOCUMENTS TO ACCOMPANY AN APPLICATION IN RESPECT OF A GENERATION LICENCE OR PERMIT

1. The following information and documents shall accompany application for a generation licence or permit—

- (a) A sufficient description adequately specifying the actual or proposed location of each generating station operated or intended to be operated under the licence or permit if granted, and the description must be sufficient to make clear the nature and extent of the undertaking or proposed undertaking, and enable the areas, location or premises concerned to be adequately and readily identified by map or by any other convenient means.
- (b) A statement of—
 - (i) the number of generating plants or stations operated or to be operated;
 - (ii) a description of how each of those plants or stations shall, in each case, be fuelled or driven;
 - (iii) the date when any proposed generating plants or stations are expected to be commissioned;

[Subsidiary]

THIRD SCHEDULE-*continued*

- (iv) the maximum power (MW, MVA, MVA_r) for each of the next five years expected to be available from each generating plant or station at any one time in each of the next five years and the aggregate power (MW, MVA, MVA_r) expected to be available from each generating plant or station during any year, excluding in each case such wattage as is expected to be consumed at the station;
 - (v) the efficiency of each mode of generation;
 - (vi) the expected life of each generating plant or station;
 - (vii) for each generating plant or station for each of the next five years, the numbers of generating units and the capacity of each generating unit; and
 - (viii) particulars of the entity or entities to whom the applicant intends for each of the next five years to provide electricity and particulars of the distribution of that electricity, including details of the electric supply lines to be constructed.
- (c) A statement of the extent (if any) to which the applicant considers it necessary for powers under section 54 of the Act (including compulsory acquisition of land) to be given through the licence or permit for which the application is made.

PART II – ELECTRIC POWER TRANSMISSION

FURTHER INFORMATION AND DOCUMENTS TO ACCOMPANY
AN APPLICATION IN RESPECT OF A TRANSMISSION LICENCE

1. The following information and documents shall accompany application for a transmission licence—

- (e) Provide a statement of—
 - (i) particulars of the person or persons from whom, and the points at which, the applicant expects for the next five years to receive the electricity which he will transmit; particulars of the transmission of the electricity; particulars of the expected connection points; and quantities;
 - (ii) interconnections to other transmission systems;
 - (iii) proposed metering arrangements;
 - (iv) schedule of generating plant owned by the applicant including pumped storage, clutched gas turbine generators and synchronous or static compensators;

THIRD SCHEDULE-*continued*

- (v) forecast annual maximum demands for each of the next five years in his transmission system (MW or GW) and energy (GWh) to be transmitted;
- (vi) summary large scale map, together with detailed maps providing information on areas where activities are concentrated as necessary; and
- (vii) a single line diagram of the transmission system should be provided. All transmission voltage levels should be shown on the diagram.

PART III – ELECTRIC POWER DISTRIBUTION AND SUPPLY

FURTHER INFORMATION AND DOCUMENTS TO ACCOMPANY AN APPLICATION
IN RESPECT OF A DISTRIBUTION AND SUPPLY LICENCE OR PERMIT

1. The following information and documents shall accompany application for a distribution and supply licence or permit—

- (a) A sufficient description adequately specifying the actual or proposed location of the system of electric supply lines and electrical plant by means of which the applicant intends to enable a supply of electricity to be given, indicating which plant and electric supply lines are to be constructed and which are existing plant and electric supply lines, and further identifying any parts of that system which will not be owned by or otherwise in the possession or control the applicant, and the area to which the application relates and the description shall be sufficient to make clear the nature and extent of the undertaking, and enable the areas, location or premises concerned to be adequately and readily identified by map or by any other convenient means.
- (b) A statement of the extent (if any) to which the applicant considers it necessary for powers under section 54 of the Act, including compulsory acquisition of land to be given through the licence or permit for which he is applying.
- (c) A statement of—
 - (i) particulars of the person or persons from whom the applicant intends for each of the next five years to receive the electricity which he will distribute, particulars of the arrangements made for distribution of electricity; particulars of the expected connection points; and quantities;
 - (ii) forecast of the annual maximum demand for each of the next five years in his distribution system (MW) and energy (GWh) to be distributed;
 - (iii) details of the voltage levels and types (AC or DC), and frequency of operation. Include details of expected circuit length per voltage level for each of the next five years;
 - (iv) details of estimated connections per voltage level;
 - (v) details of any existing or proposed embedded generating plant or station, including location, type, maximum power (MW, MVA, MVA_r) for each of the next five years expected to be available from each generating plant or station at any one time, and the aggregate power (MW, MVA, MVA_r) for each of the next five years expected to be available from each generating plant or station during any year, in each case excluding such wattage as is expected to be consumed on site; and

[Subsidiary]

THIRD SCHEDULE-*continued*

- (vi) detailed map or maps, to scale sufficient to show clearly the area to which the application relates, including the distribution system above 11kV, location of infeeds (connection points), overhead lines, interconnectors, cable routes and associated substations, showing which electric supply lines, cables and substations are to be constructed and which are already in existence.
- (d) A map drawn to an appropriate scale showing the actual or proposed configuration of the distribution system the applicant would operate if the application were granted, showing—
 - (i) all electric supply lines and electrical plant effecting connection to the system operated by any other authorised distributor; and
 - (ii) all points through which it is proposed that electricity would be conveyed to the applicant's distribution system.
- (e) Such particulars as will indicate whether any distribution system through which the applicant would be authorised to convey electricity if the application were granted would be operated safely.
- (f) Particulars of the applicant's proposed arrangements to secure the performance of any obligations in relation to supplies of electricity illegally taken imposed on him by section 64 of the Act.
- (g) Particulars of the applicant's proposed arrangements for compliance with the applicable requirements of the Grid Code.
- (h) A description of the applicant's proposed arrangements for compliance with the continuity of supply requirements in accordance with section 36 of the Act.

2. In this Part of this Schedule, if the application is for a renewal or modification of a licence or permit, information and documents need only be given in so far as, in any material respect, they differ from or add to the most recent information or documents which were provided in relation to the same requirement—

- (a) with an application made by the applicant in accordance with these Regulations; or
- (b) subsequent to such an application in pursuance of a condition of the applicant's licence or permit.

3. In this schedule, "embedded generating station" means a generating station connected within a distribution network and not having direct access to the transmission network.

PART IV – ELECTRIC POWER GENERATION, DISTRIBUTION AND SUPPLY

FURTHER INFORMATION AND DOCUMENTS TO ACCOMPANY AN APPLICATION
IN RESPECT OF A DISTRIBUTION AND SUPPLY LICENCE OR PERMIT

1. The following information shall accompany an application for a licence of a permit for the generation, distribution and supply of electrical energy—

- (a) A sufficient description adequately specifying the actual or proposed location of each generating station operated or intended to be operated under the licence or permit if granted. The description must be sufficient to make clear the nature and extent of the undertaking or proposed undertaking, and enable the areas, location or premises concerned to be adequately and readily identified by map or by any other convenient means.

- (b) A statement of—
 - (i) the number of generating stations (to be) operated;
 - (ii) how each of those stations will, in each case, be fuelled or driven;
 - (iii) the date when any proposed generating stations are expected to be commissioned;
 - (iv) the maximum power (MW, MVA, MVAR) for each of the next five years expected to be available from each generating plant or station at any one time and the aggregate power (MW, MVA, MVAR) expected to be available from each generating plant or station during any year, exclude in each case such wattage as is expected to be consumed at the plant or station);
 - (v) the efficiency of each mode of generation;
 - (vi) the expected life of each generating plant or station;
 - (vii) for each generating plant or station for each of the next five years, the numbers of generating units and the capacity of each generating unit; and
 - (viii) particulars of the entity or entities to whom the applicant intends for each of the next five years to provide electricity and particulars of the distribution of that electricity, including details of the electric supply lines to be constructed.
- (c) A sufficient description adequately specifying the actual or proposed location of the system of electric supply lines and electrical plant by means of which the applicant intends to enable a supply of electricity to be given, indicating which plant and electric supply lines are to be constructed and which are existing plant and electric supply lines, and further identifying any parts of that system which will not be owned by or otherwise in the possession or control of the applicant, and the area to which the application relates, which description shall be sufficient to make clear the nature and extent of the undertaking, and enable the areas, location or premises concerned to be adequately and readily identified by map or by any other convenient means.
- (d) A statement of the extent (if any) to which the applicant considers it necessary for powers under section 54 of the Act, including compulsory acquisition of land to be given through the licence or permit for which he is applying.
- (e) A statement of—
 - (i) particulars, if any, of any person or persons from whom the applicant intends for each of the next five years to receive the electricity which he will distribute, particulars of the arrangements made for distribution of electricity; particulars of the expected connection points; and quantities;
 - (ii) forecast annual maximum demand for each of the next five years in his distribution system (MW) and energy (GWh) to be distributed;
 - (iii) details of the voltage levels and types (AC or DC), and frequency of operation. Include details of expected circuit length per voltage level for each of the next five years; and
 - (iv) details of estimated connections per voltage level.
- (f) Such particulars as shall indicate whether any distribution system through which the applicant would be authorised to convey electricity if the application were granted would be operated safely.
- (g) Particulars of the applicant's proposed arrangements to secure the performance of any obligations in relation to supplies of electricity illegally taken imposed on him by section 64 of the Act.

Energy

[Subsidiary]

- (h) Particulars of the applicant's proposed arrangements for compliance with the applicable requirements of the Grid Code.
- (i) A description of the applicant's proposed arrangements for compliance with the continuity of supply requirements in accordance with section 36 of the Act.

FOURTH SCHEDULE

[Regulation 16(2).]

LICENCE AND PERMIT FEES

The fees specified in the Second Column of this Schedule shall be chargeable in respect of the corresponding licence or permit specified in the First Column.

COLUMN 1 <i>Description of Licence or Permit for</i>	COLUMN 2 <i>Fees payable, amounts in KShs</i>
1. Electricity Generation	
(a) Grant of licence or permit	10,000 per MW installed capacity
(b) Annual fee, and fees for modification or transfer of licence or permit	5,000 per MW of installed capacity
2. Electricity Transmission	
(a) Grant of licence	2,000 per MW of transfer capacity
(b) Annual fee, and fees for modification or transfer of licence	1,000 per MW of transfer capacity
3. Electricity Distribution and/or Supply	
(a) Grant of licence or permit to distribute and supply electricity within a specified area	1,000 per GWhr of energy proposed to be supplied in first year of operation
(b) Annual fee, and fees for modification or transfer of licence or permit to distribute electricity within a specified area	1,000 per GWhr of energy actually supplied in the preceding year
4. Electricity Generation, Distribution and/or Supply	
(a) Grant of licence or permit to generate, distribute and supply electricity within a specified area	20,000 per MW of installed Capacity
(b) Annual fee, and fees for modification or transfer of licence or permit	10,000 per MW of installed Capacity
5. Electricity Supply	
(a) Grant of licence or permit to supply electricity within a specified area	1,000 per GWhr of energy proposed to be supplied in first year of operation
(b) Annual fee, and fees for modification or transfer of licence or permit	500 per GWhr of energy supplied in the preceding year

FIFTH SCHEDULE

[Regulation 15.]

FORM OF LICENCE OR PERMIT

ENERGY REGULATORY COMMISSION
(STATE UNDERTAKING) LICENCE OR PERMIT

Issued to

NAME OF LICENSEE

In respect of

NAME AND/OR PARTICULARS OF UNDERTAKING

By

ENERGY REGULATORY COMMISSION

Dated

Licence or permit Ref No.

THE ENERGY ACT

[Cap. 314.]

STATE TYPE OF LICENCE OR PERMIT

1. Definitions and Interpretation

(1) Any word or expression defined for the purposes of the Act or the General Interpretations Act, Chapter 2 of the Laws of Kenya shall, unless the context otherwise requires, have the same meaning ascribed thereto when used in the Conditions.

(2) Any reference to a statute shall include any statutory amendments, modification or re-enactment thereof and subsidiary legislation made thereunder after the date when this licence or permit comes into force and effect

(3) Except where the context otherwise requires, the following terms shall have the following meanings—

“Act” means the Energy Act, 2006 and includes any subsidiary legislation made thereunder;

“Commission” means the Energy Regulatory Commission established under section 4 of the Act;

“Force Majeure” means circumstances beyond the Licensee's control which shall include, but not be limited to, acts of God, fire, flood, tempest, civil commotion, acts of government or parliamentary authority and breakdown of communication lines;

“Grid Code” means the grid, distribution or metering codes designed to facilitate the development, operation and maintenance of an efficient, co-ordinated and economical Kenyan electric power system by specifying to all parties connected to that system their technical and procedural obligations;

“Lenders” means any financial institutions, which have provided loans or hedging facilities to the licensee for purposes of developing the Licensed Power Station, and includes their agents, trustees, transferees and assigns;

“Licensee” means (Insert name and address of licensee), holder of Certificate of Incorporation (Insert Country of issue and No.) and includes his successors and permitted transferees;

“Minister” means the Minister for the time being responsible for matters of energy in the Government of the Republic of Kenya;

“Power Purchase Agreement” means the Power Purchase Agreement dated (Insert date) and made between the licensee and (Insert the name of the buyer or seller of electrical energy) and approved by the Commission.

2. Grant of (State Type of) Licence or Permit

IN EXERCISE of the powers conferred by the provisions of sections 6(a), 27 and 31 of the Energy Act, 2006, the ENERGY REGULATORY COMMISSION (the Commission), HEREBY GRANTS this (STATE TYPE OF) LICENCE OR PERMIT to (Insert licensee Name), a limited liability

FIFTH SCHEDULE—*continued*

company incorporated in the Republic of Kenya under Certificate of Incorporation (Insert Certificate No) whose registered office is situated at (Insert Physical and Postal Addresses), Kenya (the licensee) to (State the Undertaking) at (State Location of) and brief particulars of the undertaking more particularly described in this (State Type of Licence or Permit).

3. Undertaking to which the Licence or Permit Relates

This licence or permit is specific and limited to the (Describe the Undertaking) situated (state location), which is procured, constructed, installed, owned, maintained and operated by the licensee. For the avoidance of doubt, it is hereby stated that the licence or permit does not authorize nor entitle the licensee to carry out any other undertaking except the undertaking herein specified and licensed.

4. Duration of Licence or Permit

This licence or permit shall come into force and effect on the date hereof, (which date shall for the purposes of the Act be the Date of the Commencement of the licence or permit) and shall continue in operation from the Date of Commencement for a duration of (Insert Number) years subject to the provisions of the Act and to the Conditions specified herein.

5. Renewal of the licence or permit

(1) This licence or permit may be renewed in accordance with section 28(1) of the Act.

(2) If the licensee wishes to renew this licence or permit after its expiration date, the licensee shall submit to the Commission an application for renewal not later than thirty six (36) months prior to the expiration of this licence or permit.

(3) The Commission shall have the right to accept or reject the application for renewal in light of the licensee's performance during the period preceding the application for renewal.

6. Alteration, suspension or revocation of the Licence or Permit

(1) The Conditions of this licence or permit are subject to modification, alteration, revision or amendment in accordance with the terms herein specified or with section 31(3) of the Act.

(2) This licence or permit may not be altered, revised or modified by the Commission, except with the consent of the licensee.

(3) The licence may be suspended or revoked in accordance with section 36 of the Act, and is further subject to the conditions as to revocation specified in Condition 38 hereof.

7. Exceptions and limitations on the licensee's obligations

If the licensee is prevented from performing any of his obligations under this licence or permit because of Force Majeure—

(1) the licensee shall notify the Commission of the obligations he is prevented from performing as soon as reasonably practicable; and

(2) the Commission may suspend those obligations and the licensee will not be liable to perform those obligations, for so long as the Force Majeure continues, only if and to the extent that the inability to perform could not have been prevented by taking steps specifically required under this licence or permit, or other reasonable precautions and the inability cannot reasonably be circumvented by the licensee at his expense through the use of alternative sources, work-around plans or other means.

8. Liability under tort and contract laws of Kenya

Notwithstanding any provisions of this licence or permit, the licensee is subject to liability under tort and contract laws of Kenya.

9. Establishment of an office in Kenya

(1) The licensee shall at the commencement of this licence or permit provide to the Commission an electronic, postal and physical address of an office in Kenya at which communication from the Commission may be sent or delivered.

(2) The licensee shall maintain such offices until this licence or permit expires or is revoked under the Act.

10. Acquisition of any property for purposes of this licence or permit

(1) The licensee shall ensure that any compulsory acquisition or taking of any land or property by the licensee for purposes related to the electric power undertaking by virtue of this licence or permit shall be made in compliance with Article 40 of the Constitution of Kenya, 2010.

FIFTH SCHEDULE—*continued*

(2) In contracting or arranging for the provision of goods, assets and services required to enable the licensee to carry out his undertaking, the licensee shall purchase or otherwise acquire such goods, assets and services from the most economical sources available to him, having regard to the quantity and nature of the goods, assets and services required to enable him to discharge his obligations under the Act and this licence or permit and to the diversity, number and reliability of such goods, assets and services at that time available for purchase or other acquisition.

(3) Any contracts or arrangements for the purchase of goods, assets and services from an associated company or a related undertaking shall be on arm's length terms.

11. Disposal of assets, change in capital and change in control

(1) The licensee shall be required, for the duration of the licence or permit, to notify the Commission of any of the following—

- (a) any action that may lead to a decrease of the licensee's share capital existing on the date this licence or permit was issued;
- (b) any acquisition by a third party of more than 25% of the licensee's share capital;
- (c) a Change in Control of the licensee;
- (d) the intention of the licensee to increase or decrease its authorized capital or its paid up capital.

(2) The licensee shall be required, for the duration of the licence or permit, to obtain the prior written approval of the Commission for any of the following—

- (a) Subject to paragraph (4), disposal of any part of the licensee's electric power undertaking (including any of the assets forming part of the undertaking) by means of sale, transfer, merger, lease or any other means; and
- (b) any action that may lead to a decrease of the licensee's share capital existing at the time this licence or permit was issued that may affect the financial, technical or operational qualifications on which the granting of this licence or permit was based.

(3) For the purposes of paragraph (1)(c) above and notwithstanding anything to the contrary contained in this licence or permit, a person shall be considered to have control of the licensee if the person exercises, or is able to exercise or is entitled to acquire, direct or indirect control over the licensee's affairs, and in particular, but without prejudice to the generality of the foregoing, if the person possesses or is entitled to acquire a majority of the issued share capital of the licensee or to exercise a majority of the voting rights in the licensee.

(4) For the purpose of paragraph (2)(a), the licensee shall have the right to dispose of an asset or part of its undertaking without the prior approval of the Commission if the Commission has issued a directive granting a general consent for the disposal of the assets of a specified description or below a specified value, and the licensee has provided, prior to the disposal, the Commission with evidence that the asset or part of undertaking to be disposed of falls within the provisions of such directive.

(5) Without prejudice to paragraph (4) above, the licensee may apply by notice to Commission for permission of disposal of assets, specifying assets to be disposed and the reasons, or for the approval of any of the actions set out in paragraph (2)(b) above.

(6) The licensee may dispose of the relevant assets, or may undertake any of the actions set out in paragraph (2)(b) above, as specified in the notice referred to in paragraph (5), if—

- (a) the Commission confirms in writing that it consents to such disposal or action; or
- (b) the Commission does not inform in writing of any objection to such disposal or action within thirty (30) days of the notice;
- (c) paragraph (4) above applies; or
- (d) the licensee is obliged by law or final order of a competent court to dispose of the relevant asset or part of its undertaking, but without prejudice to the Commission's power to revoke this licence or permit as a result of such disposal.

12. Transferability of the licence or permit, and other licences or permits

(1) Subject to paragraph (2) herein below, the licensee shall not transfer or otherwise divest himself of any rights, powers or obligations conferred or imposed upon him by this licence or permit without the written consent of the Commission.

[Subsidiary]

FIFTH SCHEDULE—*continued*

(2) The Commission hereby consents to the transfer of the undertaking and the licence or permit to the secured lenders or to parties duly nominated by them under the terms and conditions of the financing agreements relating to the undertaking.

(3) Subject to the provisions of section 27 of the Act and to this licence or permit, the licensee may apply for other licences or permits for electric power undertakings in any area within the Republic of Kenya.

(4) The licensee shall not purchase or acquire any undertaking or associate himself with any public or local authority, company, person or body of persons supplying electrical energy under any licence or permit, except with the authority of the Commission.

(5) The Commission may revoke this licence or permit, in addition to such other action as the Commission may deem fit, if the licensee contravenes the provision of paragraph (1) above.

13. Provision of information to the Commission and other licensees

(1) The licensee shall on request by the Commission provide it with any information relating to his activities conducted under or in connection with this licence or permit, as the Commission may consider necessary for the purpose of performing the functions assigned to it by or under the Act.

(2) After the end of each financial year, the licensee shall submit to the Commission an annual performance report indicating the quality of service and performance of the licensee during the previous year against the Performance Standards established in Condition 27.

(3) The licensee shall also furnish to other licensees such information as may be reasonably required by those licensees in order to ensure the secure and efficient operation, co-ordinated development and inter-operability of the electricity network.

(4) The information requested in paragraphs (1), (2) and (3) shall be provided by the licensee—

(a) as soon as possible but in any case not later than a reasonable date specified in the request, and

(b) in such form and manner as the Commission or other licensee may require.

(5) The licensee shall submit annual reports to the Commission on his undertakings that encompass the financial and technical aspects, performance within one hundred and eighty (180) days of the end of the licensee's financial year, or such other period approved by the Commission, and such other reports as required by the Commission.

(6) For purposes of this Condition, "information" shall include any plans, drawings, specifications, designs, documents, reports, accounts, statistics, registers (including registers relating to the licensee's Members or Directors and Secretaries from time to time) or planned annual maintenance schedules (whether or not prepared specifically at the request of the Commission or other licensee) of any description specified in the request.

(7) The Commission or any person authorized by the Commission in writing may—

(a) at all reasonable times, enter upon the premises of the licensee and inspect or investigate any plant, machinery, books, accounts and other documents found thereat and take copies thereof, and/or

(b) require the licensee to furnish to the Commission, books, accounts, records and other documents in such form as the Commission may demand.

(8) The Commission may require that the accuracy of any documents or particulars be verified by a person who, in the Commission's opinion, is competent to verify such documents or particulars or render a professional opinion thereon.

(9) A person authorized by the Commission, shall produce proof of such authorization at the request of any person affected by his activities.

(10) The licensee shall submit the following financial data to the Commission when requested by the Commission—

(a) the licensee's financial statements for each Financial Year, together with the report of an external auditor and his remarks on such financial statements;

(b) any other financial data the Commission may specify with a reasonable prior notice.

(11) The Commission may ask for other reports as needed to fulfil its responsibilities.

FIFTH SCHEDULE—*continued***14. Monitoring of Compliance**

(1) The licensee shall give officers of the Commission or any person or persons duly authorized by the Commission access to the licensee's works for the purposes of any inspection under the Act or for ascertaining if the provisions of the Act and/or this licence or permit are being complied with.

(2) The licensee shall also comply with the provisions of the Grid Code in respect of inspection and testing of his works by other licensees.

(3) Entry into the licensee's works pursuant to paragraphs (1) and (2) of this Condition shall be upon reasonable notice and with the prior permission of the licensee. Such permission shall not be unreasonably refused.

15. Events of which licensee must promptly notify the Commission in writing

The licensee shall promptly notify the Commission in writing of the occurrence of any of the following events—

- (a) any accident by electric shock, and also of any other accident of such kind as has, or to would have been likely to cause loss of life or personal injury, and of any explosion or fire, which has arisen from and in the course of the generation, transformation, conversion, transmission, distribution or supply of electrical energy by the licensee, or which has arisen in or about any generating station, substation, switch station, factory, works or electric supply lines of the licensee and also notice of any loss of life or personal injury occasioned by any such accident, explosion or fire:

Provided that such notice shall be sent by the earliest practicable post and/or electronic means, after the accident, explosion or fire occurs, or, as the case may be, after the loss of life or personal injury becomes known to the licensee.

- (b) any event which threatens the licensee's financial ability to discharge his obligations under this licence or permit or any Power Purchase Agreement
- (c) any forced outage affecting a significant portion of the undertaking which is likely to subsist for a continuous predetermined duration specified in the special conditions of this licence or permit;
- (d) changes relating to the physical, electronic and postal address of the licensee in Kenya;
- (e) any change in the composition or structure of the shareholding of the licensee affecting the original or subsequent subscribers to the licensee's registered memorandum of association; or in the event that the securities of the licensee become listed in a securities exchange, any transaction with the effect of making a single person control five percent (5%) or more of the voting power at any general meeting of the licensee; or
- (f) any transfer of the undertaking and licence or permit under Condition 12.

16. Confidentiality and use of information

(1) The licensee shall maintain the confidentiality of the information and data it possesses on other licensee, in accordance with the agreements with such licensee, where applicable, and may not disclose such information to third parties (other than the Commission) except when requested by laws or relevant authorities, or to the extent authorised by the concerned licensee or the Commission, or required in relevant Codes or Regulations.

(2) The licensee shall ensure (and shall procure that its affiliates shall also ensure) that all information received by it relating to the undertaking—

- (a) is not used by the licensee or its affiliates for any purpose other than that for which it was provided or for a purpose permitted by this licence or permit or a Code; and
- (b) is not used by the licensee or its affiliates for any commercial advantage in the provision of any service other than a service comprised in the undertaking.

(3) The licensee may request the Commission not to disclose commercially sensitive information provided by the licensee to the Commission pursuant to this licence or permit. Upon satisfaction of the Commission that the information is commercially sensitive, the Commission shall not disclose any part of or all of such information, as applicable, without the prior approval of the licensee. These restrictions shall not apply to—

- (a) information which is in the public domain; or
- (b) information which is, or becomes, publicly known or available otherwise than through the action of the Commission; or

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FIFTH SCHEDULE—*continued*

- (c) information relating to performance and the level of compliance of the licensee with the Performance Standards.

17. Environmental, health and safety obligations

(1) The licensee shall comply with the provisions of all environmental, health and safety laws in force in Kenya from time to time.

(2) The Commission may, after consultations with the appropriate authorities, issue orders relieving the licensee of his obligations under paragraph (1) hereof relating to environmental laws to the extent that such exemption is permitted under the applicable environmental laws.

(3) The licensee shall carry out his undertaking in a manner that is designed to protect the health and safety of persons employed by the licensee at the undertaking and the users of the service and other members of the public who would be affected by his operations.

18. Insurance

The licensee shall adopt and implement reasonable and prudent policies in relation to the management and insurance of risks associated with the undertaking.

19. Licence or permit fees

(1) The licensee shall, at the times stated hereunder, pay to the Rural Electrification Authority fees of the amount specified in, or determined under, the following paragraphs of this Condition.

(2) Within 30 days after the commencement of this licence or permit, the licensee shall pay to the Rural Electrification Authority a grant of licence or permit fee of (Insert amount in Kenya Shillings calculated in accordance with Schedule 4 of these Regulations).

(3) In respect of the year beginning on the expiration of twelve calendar months from the commencement date of this licence or permit, and in every subsequent year, the licensee shall pay to the Rural Electrification Authority an annual fee of (Insert amount in Kenya Shillings calculated in accordance with Schedule 4 of these Regulations). The fee shall be paid by the Licensee to the Rural Electrification Authority within thirty (30) days of the annual anniversary of the commencement date of this licence until expiry.

20. Payments to the licensee

(1) The payments to be made to the licensee in respect of electrical energy sold or ancillary or network services provided by virtue of this licence or permit shall be in accordance with the Power Purchase Agreement or Network Service Contract or tariffs (or any other subsequent Power Purchase Agreement or Network Service Contract or tariffs) as approved by the Commission.

(2) Except as stated in the Power Purchase Agreement or Network Service Contract or tariffs approved by the Commission, no rebate or reduction in the maximum prices will apply in consideration of any stated improvement in the conditions of the demand by reason of load factor, time of the demand or other circumstances of the demand.

21. Accounts and audit

(1) Where the licensee holds one or more licences or permits in addition to this licence or permit he shall, unless specifically exempted or treated as a single undertaking by the Commission, ensure that the accounts of each undertaking under each licence or permit is kept separate and distinct and in the manner and form prescribed by the Commission.

(2) The licensee shall maintain his books of accounts (relating to his undertaking by virtue of this licence or permit) in the form and particulars prescribed by the Commission under the Act.

(3) The licensee shall ensure that the accounts pertaining to the licensee's undertaking are examined and audited by such competent and impartial persons

(4) The Commission may at any time, and at the licensee's expense, require auditors to investigate and report to it upon any such particular matter or things relating to or arising out of the accounts of the licensee in respect of the undertaking to which this licence or permit relates.

(5) The licensee shall give to the auditor and his personnel access to such of the books and documents relating to the undertaking as are necessary for the purposes of the audit, and shall when required furnish to him and them all vouchers and information requisite for that purpose, and shall afford to him and them all facilities for the proper execution of his or their duty.

(6) The licensee shall ensure that any report made by the auditor, or such portion thereof as the Commission may direct, shall be appended to the annual statement of accounts of the licensee.

FIFTH SCHEDULE—*continued***22. Fair competition and restriction to horizontal or vertical integration**

(1) The licensee shall—

- (a) not show undue preference to, or exercise unfair discrimination against, any person or other licensee, in respect of his undertaking;
- (b) not engage in any practice or enter into any arrangement that has the object or the likely effect of preventing, restricting or distorting competition in the generation, transmission, distribution or supply of electrical energy; and
- (c) comply with every directive issued by the Commission for the purpose of preventing any practice or arrangement that has the object or effect of preventing, restricting or distorting such competition.

(2) The licensee shall not directly or indirectly acquire shares or interest in another electric power undertaking within the Republic of Kenya without the prior written consent of the Commission, which consent shall not be unreasonably withheld.

23. Compliance with the Grid Code

(1) In planning, providing connection, operating and maintaining the transmission system, the licensee shall fully comply with the Grid Code.

(2) In case the licensee finds that it is, or will be, unable to comply with any provision of the Grid at any time, then he shall make such reasonable efforts as are required to remedy such non-compliance as soon as reasonably practicable and immediately notify the Commission.

(3) The Commission may, following consultation with the licensee and other licensees or users that may be affected, and for good cause shown, issue directives relieving the licensee of his obligations to comply with specific provisions of the Grid Code in respect of such parts of the licensee's transmission system and/or to such extent or duration as may be established in such directives.

24. Transmission system planning

(1) To develop and maintain system reliability and adequate transmission capacity for load growth, new generation entry and development of appropriate interconnections, the licensee shall plan, operate and maintain the transmission system, in accordance with the planning procedures, criteria and standards established in the Grid Code, and the Performance Standards and other reliability standards as the Commission may approve from time to time.

(2) In performing the functions specified in sub-condition (1), the licensee shall ensure adequate coordination with—

- (a) the System Operator, to take into consideration all applicable reliability standard or system constraint that may affect system operation and the economic dispatch;
- (b) affected users, to take into consideration their master plans, load growths, need for additional transmission capacity or connections to the transmission system.

(3) The licensee shall coordinate the system planning activities and prepare a least cost Master Plan.

(4) Each year and following the procedures established in the Grid Code, the licensee shall prepare and submit for Commission approval a Master Plan, for a period not less than the next ten (10) years, that complies with all applicable transmission planning criteria and performance requirements. The licensee may during the year submit to the Commission a revision to the approved Master Plan in order that the information set out in the plan shall continue to be accurate in all material aspects.

(5) The licensee shall furnish to other licensees and users, in such manner and at such times as may be reasonably required, any information requested by other licensees or Users in order to ensure the co-ordinated and efficient development of the electric system and efficient decisions on new generation location.

25. Transmission expansion and maintenance

(1) The licensee shall be responsible for, as necessary, the expansion and upgrade of the transmission system.

(2) Subject to approval by the Commission of the Master Plan, the licensee shall ensure that the approved transmission expansions and reinforcements are built on time and in an economic and safe manner, minimising environmental impacts.

FIFTH SCHEDULE—*continued*

(3) The licensee shall be responsible for adequate maintenance of its transmission system. The licensee shall ensure that no facility required for transmission services is abandoned, totally or partially, or does not have adequate maintenance.

26. Distribution Code

(1) The licensee shall fully implement and comply with the Distribution Code.

(2) The licensee shall keep under continuous review the implementation of the Distribution Code in his area of supply and propose to the Distribution Code Review Panel any amendments the licensee considers necessary, pursuant to the Distribution Code review process set out in the Distribution Code.

(3) The licensee shall ensure that he is at all times represented on the Distribution Code Review Panel by suitably qualified representatives pursuant to the provisions of the Distribution Code.

(4) The licensee shall make a copy of the Distribution Code, as revised from time to time, available for inspection by members of the public resident in his area of supply at each of his offices during normal working hours; and provide at a reasonable fee a copy of the Distribution Code, as revised from time to time, to any person residing in his area of supply who requests it.

(5) The Commission may, following consultation with the licensee and for good cause shown, issue directions relieving the licensee of his obligations to comply with specific provisions of the Distribution Code in respect of such parts of the licensee's distribution system and/or to such extent or duration as may be established in such directions.

27. Performance standards and quality of supply and service

(1) The licensee shall conduct his undertaking in the manner which achieves performance standards and quality of supply and service levels to which he is subject, as may be established or approved by the Commission, or any other applicable standard established in Codes or Regulations issued under the Act.

(2) The licensee shall prepare a report, within ninety (90) days after this licence or permit becomes effective, indicating the minimum performance standards and quality of supply and service levels as well as his plans to meet them as stipulated in sub-condition (1) hereof.

(3) The licensee shall submit from time to time, as provided for in the performance standards or in Commission monitoring procedures, the information required to enable the Commission monitor his compliance with the Performance Standards and quality of supply and service levels.

(4) The licensee shall not be in breach of his obligations under this licence or permit if he has failed to meet the Performance Standards or any other standard established in Codes directly due to Force Majeure, provided that the licensee has used reasonable efforts, to the extent reasonably possible, to comply with the Performance Standards or any other applicable operating standard established in Codes, as the case may be.

28. Demand forecast

(1) The licensee shall submit to the Commission results of studies of demand forecasts for his area of supply as required in the Tariff Methodology.

(2) The licensee shall inform the Commission of any demand forecast submitted to the System Operator or other licensee for the purposes of assisting the latter with their long term planning.

29. Connection and use of transmission system

(1) The licensee shall have the right to connect to and use the transmission system in accordance with the Grid Code and the Connection Agreements agreed between the licensee and the Transmission licensee and the System Operator.

(2) In order to connect and use the transmission system, the licensee shall enter into a Connection Agreement in each connection point in accordance with the Grid Code and in such standard form as the Commission shall approve and as the Transmission licensee may amend from time to time, provided that any amendment shall require the approval of the Commission. If, after a period which appears to the Commission to be reasonable for the purpose, the licensee has failed to enter into the required Connection Agreement, the Commission shall, on the application of the Transmission licensee and the licensee, settle any terms of the agreement in dispute as appears to be reasonable to the Commission.

FIFTH SCHEDULE—*continued*

(3) For the connection and use of the transmission system, the licensee shall pay to the Transmission licensee the applicable tariff.

(4) Metering at the transmission connection points for the supply to the licensee or the energy exchanged with another licensee shall be undertaken through metering systems as specified in the Metering Code and such meters shall be certified in accordance with the procedures specified in the Metering Code and any applicable directive of the Commission.

(5) The licensee shall comply with all applicable procedures regarding maintenance and accuracy of the meters specified in sub-condition (4), as established in the Metering Code. The licensee shall take all reasonable steps to prevent tampering with or damage of such meters.

30. Connection and use of the distribution system

(1) The licensee shall not unduly discriminate between consumers or undertakings of the same category in offering terms and conditions for connecting or upgrading connection to or use of the distribution system.

(2) Subject to other Conditions in this licence or permit, on the application of the owner or occupier of any premises within the licensee's area of supply or an undertaking desiring to connect or upgrade an existing connection to the distribution system of the licensee, and who is not in arrears of any amount due to the licensee in relation to licensee's distribution and supply business, the licensee shall—

- (a) offer to provide connection or to provide modifications to an existing connection of the premises or undertaking to his distribution system; and
- (b) where the terms offered by the licensee are accepted by the applicant and on payment to the licensee of the relevant Connection Charges and compliance with the requirements specified by the licensee in that regard pursuant to the Distribution Code, the licensee shall provide the connection or the modification of the connection to the licensee's distribution system to those premises or undertaking, including the laying of any required distribution mains, in accordance with the terms offered.

(3) The application form, terms and procedures shall be in accordance with the timeframes, connection conditions and procedures established in the Distribution Code.

(4) The cost payable for a connection to the distribution system of the licensee shall be determined in accordance with the applicable Connection Charges.

(5) The agreement to connect an undertaking shall also include, when applicable, conditions for the use of the distribution system of the licensee.

(6) The licensee shall not be obliged to provide a connection in circumstances where—

- (a) to do so would involve a breach of a technical, reliability or safety standard issued by the Commission, the Grid Code or the Distribution Code or the Act or this licence or permit; or
- (b) connecting the undertaking or consumer who has made the application endangers the security and reliability of the distribution service.

(7) Where the licensee refuses to connect an applicant, the licensee shall inform without delay the applicant and Commission providing the reasons for such refusal.

31. Planning, operation and maintenance of the distribution system

(1) The licensee shall plan, as necessary expand or upgrade, maintain and operate the licensee's distribution system so as to ensure that, subject to the availability of adequate generating and transmission capacity, the distribution system is capable of providing consumers with a safe, reliable and efficient supply of electrical energy. In particular, the licensee shall plan, develop and operate the licensee's distribution system in accordance with the standards established in the Grid Code and the Distribution Code, and the Performance Standards established from time to time by Commission.

(2) The licensee shall keep a register of assets which constitute his distribution system, which must include the physical description of the distribution system and the location of equipment.

32. System losses

The licensee shall achieve an efficient level of system losses (due to technical or any other reason) on his own system. In complying with this Condition, the licensee may have standard levels of system losses established by the Commission as one aspect of the minimum Performance Standards.

FIFTH SCHEDULE—*continued***33. Interruption of supply**

(1) In case the licensee is undertaking any operation, maintenance, replacement, restoration or any other activity that may lead to interruption of supply to a specific area or areas, he shall, no later than two days prior to the date of the interruption of supply, advise through appropriate means, all consumers of the areas to be affected, the date and time when the supply is planned to be interrupted and the period within which it will be restored.

(2) The licensee shall not unduly discriminate against or unduly prefer any one individual or any category of consumers in favour of or as against any other individual or any other category of consumers in preparing and implementing curtailment and restoration plans when scheduling maintenance or other Demand Control measures, and shall endeavour that, as far as practicable and reasonable, the consumers are treated equitably in such Demand Control measures and plans, provided that exemptions may apply to vital and priority consumers.

(3) The licensee shall inform and send to the Commission copies of any Demand Control guiding principle, demand reduction plan or demand restoration plan to be agreed by the licensee with the System Operator, in accordance to the Grid Code.

34. Handling of complaints

(1) The licensee shall comply with applicable provisions relating to the resolution of complaints and disputes as may be prescribed by the Commission or that may be enacted under the Act from time to time, and in particular—

- (a) implement procedures, approved by the Commission, to receive, process and respond to complaints relating to the quality of supply and service;
- (b) maintain a record of information about the identity of the complainant, type of malfunction or complaint, the location, in case of interruptions the outage time and the time taken to connect or reconnect the complainant, and all such matters established in the Distribution Code or in the Performance Standards; and
- (c) submit to the Commission reports about malfunctions, interruptions, problems in quality of supply and service and consumers' complaints in the form and manner approved by the Commission.

(2) The licensee shall, whenever requested to do so by the Commission, review the complaint resolution procedures, with a view to effect improvements.

(3) The licensee shall make available free to his consumers a current copy of the applicable complaints resolution procedures, as from time to time revised, at all his office premises during normal working hours.

35. Compliance with regulations, decisions and orders of the Commission

(1) The licensee shall fully comply with the rules, codes, standards, guidelines, directives, decisions or orders issued by the Commission in the discharge of its functions under the Act.

(2) The licensee shall comply with all applicable provisions of the Grid Code in respect of all his undertakings.

(3) At the written request of the Commission, the licensee shall participate to the extent specified by the Commission in the development and/or review of any rules, codes, standards and guidelines to be prescribed or prescribed by the Commission under the Act.

36. Review of Commission Decisions

(1) The licensee shall have the right to apply to the Commission for review of its decisions in relation to revocation or amendment of this licence or permit or any other decision that affects the licensee's undertaking or its rights under this licence or permit.

(2) If requested by the licensee in the prescribed manner, the Commission may review its decisions that affect the licensee's undertaking or its rights under this licence or permit, including its decision in relation to revocation or amendment of this licence or permit.

37. Adherence to the terms of the Licence or Permit and Penalties

(1) Where the Commission is satisfied that the licensee has contravened any of the conditions of this licence or permit, the Commission may issue an order requiring the licensee to take specific actions or to refrain from taking specific actions in order to rectify the contravention.

(2) Prior to issuing such order, the Commission shall inform the licensee of its intention to issue the order and the grounds upon which the order will be issued and provide the licensee an opportunity to make a representation in accordance with the procedure, including time period, specified by the Commission in a directive.

FIFTH SCHEDULE—*continued*

(3) Without limiting any other right or remedy available to the Commission under the Act, the Commission may specify in the order a penalty for each day the licensee is in default of compliance. The penalty specified by the Commission shall not exceed the limits (if any) for such penalties set by the Act or other applicable legislation. If the licensee fails to make payment on any amount of penalty to the Rural Electrification Authority, interest shall accrue at the rate established by the Laws of Kenya.

38. Revocation of Licence or Permit

(1) Subject to section 36 of the Act, the Commission may at any time revoke this licence or permit if—

- (a) the undertaking or the execution of the works related thereto has not commenced at the expiry of twenty four months from the date on which this licence or permit was granted, except where the Commission is satisfied that this occurred as a result of events beyond the reasonable control of the licensee in which case the Commission shall substitute such period as it in its sole discretion considers reasonable in all the circumstances) or at the expiry of any extended period which the Commission may allow;
- (b) the Commission is satisfied that the licensee has wilfully or negligently failed to operate in accordance with the terms and conditions of this licence or permit or the provisions of the Act or any regulations thereunder;
- (c) The licensee at any time after the commencement of this licence or permit makes representation to the Commission that the undertaking cannot be carried on with profit, and ought to be abandoned, and, upon inquiry the Commission is satisfied that the representation is true;
- (d) the licensee agrees in writing with the Commission that this licence or permit should be revoked;
- (e) any amount (unless this is being contested in good faith by the licensee with recourse to the appropriate administrative and judicial procedures) payable by the licensee under any of the conditions or Regulations prescribed under the Act is unpaid 30 days after it has become due and remains unpaid for a period of 30 days after the Commission has given the licensee notice that the payment is overdue;
- (f) the licensee is unable to pay its debts (unless this is being contested in good faith by the licensee with recourse to all appropriate judicial procedures and measures) or has any voluntary arrangement proposed in relation to it or enters into any scheme of arrangement (other than for the purpose of reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by the Commission);
- (g) the licensee fails to comply with a final order of the Commission issued under the Act and such failure is not rectified to the satisfaction of the Commission within 60 days after the Commission has given notice of such failure to the licensee:

Provided that no such notice shall be given by the Commission before the expiration of the period within which an appeal under section 89 of the Act may be made to the Tribunal;

- (h) the licensee ceases to carry on the undertaking authorized by this licence or permit;
- (i) the licensee goes into liquidation or makes arrangement with its creditors' or a receiver/manager is appointed over the whole or any material part of the licensee's assets or undertaking (other than by the Lenders);
- (j) the licensee passes any resolution for winding up other than a resolution previously approved in writing by the Commission;
- (k) the licensee becomes subject to an order for winding up by a court of competent jurisdiction;
- (l) it is established that the licensee submitted information the licensee knew or had reason to know to be false when making its application for this licence or permit, and
- (m) the licensee purchases or acquires the undertaking of, or associates itself with, any public or local authority, company, person or body of persons generating or transmitting or distributing electrical energy under any licence or permit without the authorization of the Commission.

[Subsidiary]

FIFTH SCHEDULE—*continued*

This Licence or Permit was granted at Nairobi this day of, 20

IN WITNESS WHEREOF the Common Seal of the)
 Energy Regulatory Commission was hereto affixed)
 pursuant to the authority of the Commission given)
 on the day of, 20)

In the presence of)
)
)

Title and Name)
 DIRECTOR GENERAL)

And)
)
)

Title and Name)
 COMMISSION SECRETARY)

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PART IV – TRANSPORT BY SEA, IMPORT,
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SCHEDULE —

FORMS

PETROLEUM RULES

[L.N. 428/1956, L.N. 201/1957, L.N. 86/1981, L.N. 88/2001,
L.N. 139/2001, L.N. 197/2003, L.N. 114/2006, L.N. 24/2012.]

PART I – GENERAL**1. Citation**

These Rules may be cited as the Petroleum Rules.

2. Definitions

In these Rules, unless the context otherwise requires—

“**approved**” means approved by the Licensing Authority;

“**Licensing Authority**” has the meaning assigned to it in rule 5 of these Rules;

“**petroleum in bulk**” means petroleum contained in a receptacle of a capacity exceeding five hundred gallons;

“**premises**” in connexion with the storage of petroleum includes an underground kerbside tank and the pumps and other works connected therewith;

“**to store petroleum**” means to keep it in any one place otherwise than is necessary in the ordinary course of transit.

3. Petroleum to which Rules apply

(1) These Rules shall apply only to petroleum having a flashing point below 150° F. and the word “petroleum” shall be construed accordingly.

(2) For the purposes of these Rules petroleum is divided into—

petroleum Class A, having a flashing point below 73° F.; and

petroleum Class B, having a flashing point of 73° F. or above.

4. Saving in case of Government departments and armed forces

(1) Nothing in Part II or Part III of these Rules contained shall apply to petroleum kept or transported by rail by the East African Railways and Harbours Administration in accordance with the provisions of the Kenya and Uganda Railway Ordinance, 1927 (No. 15 of 1927), or of any rules or orders made thereunder.

(2) Nothing in rule 7 or rule 13 of these Rules contained shall apply to petroleum kept or transported by the armed forces.

(3) Nothing in rule 7 of these Rules contained shall apply to the transport of petroleum by a department of the Government.

5. Licensing authorities; appeals

(1) Every administrative officer in charge of a district shall be a Licensing Authority for the purposes of these Rules.

(2) Any person aggrieved by any order or decision of a Licensing Authority made under the provisions of these Rules may appeal to the Minister whose decision shall be final.

PART II – TRANSPORT OF PETROLEUM BY ROAD**6. Saving in case of small quantities of petroleum**

Nothing in this Part of these Rules contained shall apply to—

- (a) petroleum in the fuel tank of a vehicle;

- (b) Class A petroleum not exceeding twelve gallons in quantity;
- (c) Class B petroleum not exceeding twenty gallons in quantity, if such petroleum is for use only in the propulsion of the vehicle and, in the case of the petroleum referred to in paragraphs (b) and (c) hereof, is carried in air-tight tins not exceeding four gallons in capacity.

7. Licence necessary for transport of petroleum

(1) No person shall transport petroleum by road, except under the authority of a licence issued by the Licensing Authority in the Form No. 1 set out in the Schedule hereto.

(2) A licence to transport petroleum by road shall authorize the transport of petroleum in the vehicle or vehicles and within the area or over the routes specified in the licence.

(3) Every such licence shall expire upon the thirty-first day of December in the year in which it is issued.

(4) There may be attached to and endorsed upon every such licence such conditions relating to—

- (a) the times during which petroleum shall be transported;
- (b) the places at which vehicles transporting petroleum may be parked; and
- (c) notification to the licensing or other authority of the intended transport of petroleum, as the Licensing Authority may consider necessary in the interests of safety.

(5) The fee payable on the issue of a licence under this Rule shall be sh.100 for every vehicle specified in the licence;

[L.N. 86/1981, s. 2.]

8. Transport of petroleum not in bulk

The following provisions shall apply to the transport of petroleum not in bulk—

- (a) every vehicle carrying petroleum not in bulk shall be strongly constructed with sides and back of adequate height and shall be maintained in a good condition;
- (b) no vehicle on which petroleum is carried shall carry—
 - (i) other goods of an inflammable nature;
 - (ii) passengers;
- (c) no vehicle containing more than sixty-five gallons of petroleum shall remain stationary for more than thirty minutes within one hundred yards of any building;
- (d) every vehicle transporting petroleum shall exhibit in conspicuous characters the words “Motor Spirit”, “Kerosene” or other similar words indicating the nature of the contents;
- (e) every vehicle whilst engaged in the transport of petroleum by road shall be constantly attended by at least one person;
- (f) every such vehicle shall carry at least one fire extinguisher;
- (g) no petroleum shall be loaded into or discharged from any vehicle—
 - (i) between the hours of sunset and sunrise; or
 - (ii) while the engine is running;
- (h) no person shall smoke, strike a match or carry any naked light while in or near a vehicle carrying petroleum;

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- (i) no person shall convey in a hamali cart a greater quantity of petroleum than one hundred and ninety-five gallons nor at a speed exceeding walking pace.

9. Receptacles for conveyance of petroleum not in bulk

The following provisions shall apply to receptacles used in the transport of petroleum not in bulk—

- (a) petroleum shall be carried in strong metal receptacles in good condition and so constructed, secured and closed as not to be liable to become defective, leaky or insecure in transit;
- (b) all receptacles shall be so packed as not to project beyond the sides and back of the vehicle;
- (c) no receptacle shall be of more than sixty-five gallons capacity;
- (d) there shall be exhibited in conspicuous characters on every receptacle containing Class A petroleum the words “Motor Spirit”, “Petrol” or other similar words indicating the nature of the contents;
- (e) an air-space of not less than two and a half per cent of its capacity shall be left in each receptacle containing Class A petroleum.

11. Duties of persons in charge of vehicles

The owner and person in possession, and the driver of every vehicle used for the conveyance, of petroleum shall be responsible for carrying out the provisions of this Part of these Rules and every such person shall take all reasonable measures to ensure—

- (a) that any person employed by him in connexion with such conveyance is acquainted with the provisions of these Rules; and
- (b) that such provisions are carried out.

12. Powers of inspection

A Licensing Authority or any person acting on his behalf or any police officer may stop and inspect any vehicle conveying petroleum by road for the purpose of ascertaining whether the provisions of the law relating to the transport of petroleum are being observed, and, in the case of a contravention of such provisions, may give such directions, to be obeyed by the driver and person in charge of the vehicle, as he considers necessary in the interests of safety. If any such person refuses to obey any order lawfully given under the provisions of this rule he may be arrested without a warrant and the Licensing Authority or other person may himself carry out, or cause to be carried out, any direction so given.

PART III – STORAGE

13. Licences necessary for storage of petroleum

(1) Save as provided in paragraph (2) of this rule, no person shall store petroleum except in accordance with a licence issued by the Licensing Authority in one of the forms set out in the Schedule to these Rules.

(2) No licence shall be necessary for the keeping of—

- (a) Class A petroleum not exceeding forty-four gallons if contained in securely stoppered receptacles of glass or stoneware not exceeding one quart in capacity or in air-tight metal containers not exceeding forty-four gallons in capacity, each such receptacle and container being distinctly marked with the nature of the contents and the words “highly inflammable and asphyxiant; not to be used in the proximity of fire or in an unventilated room”;

- (b) Class A petroleum not exceeding eighty-eight gallons contained in forty-four gallons drums and used in connexion with a portable pump for the fuelling of vehicles, if kept in accordance with the written permission of the Licensing Authority and upon such conditions as the Licensing Authority may consider necessary in the interests of safety;
- (c) Class B petroleum not exceeding five hundred gallons:

Provided that no person shall, within a municipality or township, store any class A petroleum in any building the sides or roof of which are wholly or mainly constructed of inflammable material.

14. Methods of storage and forms of licences

- (1) Petroleum in bulk shall be kept in an installation or in an underground kerbside tank.
- (2) Petroleum not in bulk shall, save as otherwise provided in rule 13 hereof and in this rule, be kept in a storage shed.

(3) A licence to store petroleum in an installation shall be in the Form No. 2 set out in the Schedule hereto and shall authorize the keeping of the quantity and description of the petroleum specified therein within the confines of the installation, whether in tanks, storage sheds or otherwise in accordance with the specifications and plans attached to the licence:

Provided that petroleum shall be kept in the open only in accordance with such conditions as the Licensing Authority may require in the interests of safety.

(4) A licence to store petroleum not in bulk shall be in the Form No. 3 set out in the Schedule hereto and shall authorize the storing of the quantity and description of the petroleum specified therein in one or more storage sheds according to the specifications and plans attached to the licence:

Provided that the holder of a licence to store petroleum not in bulk in a storage shed may with the approval of the Licensing Authority, store petroleum in drums in the open in accordance with such conditions as may be endorsed on the licence.

(5) A licence to store petroleum in an underground kerbside tank shall be in the Form No. 4 set out in the Schedule hereto.

15. Fees for licences. 36 of 1981

The annual fee for a licence to store petroleum shall be one hundred shillings for every five thousand gallons or part thereof with a maximum fee of two thousand shillings.

[L.N. 86/1981, s. 2.]

16. Applications for licences

Every application for the grant or renewal of a licence to store petroleum shall contain—

- (a) the name and address of the applicant;
- (b) a description of the premises to be licensed;
- (c) a description of the nature and quantity of the petroleum to be stored;
- (d) the number and date of existing licence if any.

17. Plans and specifications

(1) Every application for the grant of a licence shall be accompanied by specifications and plans in duplicate indicating—

- (i) the premises to be licensed, giving particulars of the materials and construction of each building;

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- (ii) the position of the premises in relation to adjoining property including the distances from neighbouring buildings;
- (iii) in the case of an installation, the position and capacity of all tanks, storage sheds and filling stations, the position of all buildings, structures or other works within the installation, and the manner in which the petroleum is to be stored;
- (iv) all lighting arrangements including the position of electric cables, switches and fuse boxes, drainage system, water connexions, fire hydrants and fire-fighting appliances;
- (v) all information reasonably necessary to show that the premises and the proposed method of storage comply with the provisions of these Rules.

(2) One copy of the specifications and plans shall be attached to the licence by the Licensing Authority upon issue thereof.

(3) The site plans shall be drawn to a scale of not less than 1/500th of an inch to one foot and the detail plans to a scale of not less than 1/16th of an inch to one foot.

(4) No alterations in the licensed premises or in the method of storing petroleum therein as shown in the licence or in the specifications and plans attached thereto shall be made without the authority of the licensing officer, and if such alterations are approved, the licence and documents attached thereto shall be amended by the Licensing Authority accordingly.

18. Issue of licences; renewals; cancellations

(1) Licences for the storage of petroleum may be issued by the Licensing Authority to any fit and proper person if the Licensing Authority is satisfied that the conditions under which the applicant proposes to store the petroleum are in accordance with the provisions of these Rules.

(2) No licence to store petroleum within a municipality or a township shall be granted unless the local authority has approved of the site.

(3) No licence for the storage of petroleum in an installation shall be granted unless the plans and specifications have been approved by the Minister or his representative.

(4) Every licence shall expire on the thirty-first day of December in the year in which it was issued but may be renewed upon payment of the prescribed fee.

(5) If an application for renewal is made more than fourteen days before the date of expiry the premises shall be deemed to be duly licensed until such date as the Licensing Authority renews the licence or communicates to the applicant notice of his refusal to do so.

(6) If a Licensing Authority refuses to renew a licence he shall inform the applicant of his reasons in writing.

19. Conditions applicable to all storage sheds and installations

(1) No person shall, in or near any storage shed or installation, do any act which is likely to cause fire.

(2) No person shall smoke within a storage shed or installation, or have in his possession therein any matches or other articles of a highly inflammable or explosive nature except as permitted by these Rules:

Provided that this provision shall not apply to—

- (i) smoking in offices and living quarters if so situated as to preclude danger from fire;

- (ii) the possession of the necessary means of ignition for such fires as are necessary and authorized under the provisions of paragraph (2) of rule 20 of these Rules.

(3) There shall be posted in a conspicuous place at the entrance to every installation or storage shed a notice in English, Gujarati and Swahili to the effect that smoking and the possession of matches are prohibited.

(4) All operations within any installation or storage shed shall be conducted under the supervision of a responsible agent of the licensee.

(5) An adequate supply of dry sand or dry earth shall always be kept ready for immediate use in an installation and in or near a storage shed for the purpose of extinguishing fire.

(6) No petroleum shall be allowed to escape into any drain, sewer, harbour, river or watercourse.

Installations

20. Precautions against fire

(1) Between the hours of sunset and sunrise installations shall be shut and no work shall be carried out except where electric lighting is exclusively used, or where special permission has been given in case of emergency by the Licensing Authority.

(2) There shall be no fire or naked lights within the installation except in the offices, tin-factory, soldering shed, welding shed, laboratory, living-quarters, engine-room, boiler-house and smithy.

(3) Electric lights near storage tanks or in or near storage, filling or soldering sheds or other danger zones shall be enclosed in stout metal lanterns of well-glass or bulkhead pattern, having close-fitting metal joints, extra stout glasses and stout wire protectors. Fuse and switch gear shall not be installed in any such situation as is mentioned above except when unavoidable, and in such a case shall be of extra stout iron-clad pattern with close-fitted metal joints throughout and suitable means for sealing cables at all entries.

(4) The ground in the interior of an installation shall be kept clean and free from waste vegetation and rubbish.

(5) No installation shall, without the permission in writing of the Licensing Authority, be used for any purpose other than the storage and distribution of petroleum and purposes directly connected therewith.

(6) An efficient fire service shall be provided in every installation and the employees shall be instructed periodically in the use of the various fire appliances.

(7) No petroleum shall be kept in any filling shed except such quantity as is necessary for the purpose of filling operations.

21. Storage of goods of inflammable nature

No goods of an inflammable nature, other than the petroleum for which the licence is issued, shall be kept within an installation except such as are necessary for the purposes of the installation and are stored in the manner indicated in the specifications and plans attached to the licence.

22. Tanks: distances

The distances between tanks, and between tanks and other buildings and between tanks and the boundaries of the installation shall, where the tanks are constructed below or partially below ground in accordance with the provisions of paragraphs (1) and (2) of

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rule 24 of these Rules, be not less than three feet, and, in the case of tanks constructed above ground, shall be in accordance with the following table—

Capacity of tank in thousands of gallons	Minimum distance in feet between tanks		Minimum distance in feet between tanks and boundary of installation of buildings		Minimum distance in feet between two tanks one of which contains Class A petroleum and the other of which contains Class B petroleum
	Class A petroleum	Class B petroleum	Class A petroleum	Class B petroleum	
Up to 12	3	3	10	10	3
Over 12 up to 18	3	3	15	10	3
Over 18 up to 24	5	3	15	10	4
Over 24 up to 30	10	3	20	10	7
Over 30 up to 40	10	3	25	15	7
Over 40 up to 75	13	10	25	15	12
Over 75 up to 100	15	10	25	15	13
Over 100 ...	50 feet or the diameter of the tank, whichever is the lesser.*	20	25	15	50 feet or the diameter of the tank, whichever is the lesser.*

* If tank is of a type which does not exhaust to atmosphere during normal working or is of the hemispheroid pressure type these distances may be reduced to 25 feet.

23. Tanks to be of approved construction

Tanks shall be made of mild steel, or other approved material, and shall be designed and constructed according to British standards or other standards approved by the Minister.

24. Tanks: construction of

Tanks may be constructed entirely below, partially above, or completely above, the surface of the ground as follows—

(1) tanks entirely below the surface of the ground shall be covered to a minimum depth of twelve inches, with the exception of manhole covers. Where, in the event of a serious leakage, there is a possibility of water supplies, courses or drainage systems being contaminated, the tank shall be completely surrounded by puddled clay not less than twelve inches in thickness, or by concrete of a thickness and composition to be approved of by the Minister;

(2) tanks partially above the surface of the ground may be set in one of the following methods—

- (a) left exposed in a pit excavated in the ground, the sides of the pit to be carried out to easy slopes. The pit shall be capable of holding a volume of petroleum not less than five per cent in excess of the capacity of the tanks. Bunding may be resorted to to reduce the tank yard area, such bunding being provided with clay or other impermeable core;

- (b) sunk not less than sixty per cent of their diameter or height and mounded over with soil to a minimum depth of twelve inches with the exception of the manhole covers. In such cases the siting of the tank and mound shall be so designed that the volume of fuel above normal ground level shall not exceed the volume of earth in the mound;
- (c) sunk less than five feet and mounded as prescribed in paragraph (b) of this paragraph. The soil shall be supported by retaining walls constructed in brick, concrete or other material approved by the Minister; where in the event of a serious leakage, there is a possibility of water supplies, courses or drainage systems being contaminated, the following additional conditions shall apply—

under the method prescribed in paragraph (a) of this paragraph the floor and sides of the pit shall be formed of concrete or as may be otherwise approved by the Minister;

under the methods prescribed in paragraphs (b) and (c) of this paragraph the tank shall be mounded over with puddled clay not less than twelve inches in thickness or with concrete of a thickness and composition to be approved of by the Minister;

- (d) the method prescribed in paragraph (3) of this rule for tanks completely above the surface of the ground may be applied as a further alternative method for use with tanks partially above the surface of the ground provided that the same effect is achieved;

(3) in the case of tanks constructed completely above the surface of the ground the following conditions shall be observed—

- (a)
 - (i) the tanks shall be supported on brick, stone or concrete piers, and shall be surrounded by a brick, stone, or concrete wall or by an earth bank forming an enclosure capable of holding a volume of petroleum not less than five per cent in excess of the capacity of the tanks;
 - (ii) where, in the event of a serious leakage, there is a possibility of water supplies, courses or drainage system adjacent to the installation being contaminated, the floor of the enclosure shall be formed of concrete or other material approved by the Minister and in such a case the enclosure shall be drained by a pipe fitted with a valve, actuated from the outside of the enclosure, which shall always be kept closed except when actually in use;
 - (iii) notwithstanding the provisions of this paragraph, the Minister may, in his absolute discretion, exempt any person from all or any of the requirements of subparagraph (a)(i) of this paragraph, and may impose such conditions on such exemption as he may deem to be fit;
- (b) no water shall be allowed to accumulate in the enclosure;
- (c) an ullage of not less than 2.5 per centum of their capacity (including the manhole) shall be provided in the tanks to allow for expansion;
- (d) the Licensing Authority may require the provision of a fire-proof roof over unburied tanks where special conditions exist, such as danger from sparks;
- (e) tanks shall be adequately protected from rust;
- (f) *deleted by L.N. 201/1957.*

25. Conditions applicable to tanks

(1) All pumping mains and pipes shall be furnished with a means of stopping a flow of petroleum from the tanks in the event of any injury to the pipelines.

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(2) All ventilating openings on tanks shall be protected by a diaphragm of strong non-corrodible wire gauze having a mesh of not less than twenty openings to the lineal inch. If not provided with such ventilating openings, each tank shall be fitted with a safety-valve of a type approved by the Minister.

(3) All manholes and other openings, except ventilating openings and safety-valves, shall be airtight when closed.

(4) The roofs of all tanks shall be gas-tight except for the ventilating openings.

(5) The capacity of a tank in gallons shall be conspicuously marked thereon.

(6) All leaks in tanks shall be promptly repaired. No person shall enter any tank without the authority of the manager of the installation. Before a tank is entered for the purpose of undertaking repairs, which would expose the interior atmosphere to contact with hot rivets or other source of artificial heat, the tank shall be thoroughly ventilated and found free from vapour after test by a competent person who shall furnish a certificate to this effect. Until a tank is certified free from dangerous vapour, only portable safety lamps, oil or electric, of types approved for use in fiery coal mines, shall be taken into it.

26. Soldering tins

(1) The soldering of filled tins shall not be carried out in the filling shed but in a separate building not less than fifty, or in the case of Class B petroleum twenty, feet distance therefrom.

(2) Soldering irons, unless electrically heated, shall not be heated in the same building as that in which the soldering takes place, unless each operation is carried on in a separate compartment divided by a fire-proof partition of metal or concrete containing an opening not less than three feet from the ground, the opening to be furnished with an iron shutter which can be closed at once in case of emergency; and each compartment shall be adequately ventilated.

(3) Fires used for heating solder bolts shall be at least three feet above ground-level.

27. Packing of petroleum

Petroleum not in bulk within the installation shall be contained in gas-tight tinned or galvanized sheet, iron, steel or lead plate receptacles fitted with well-made filling holes and well-fitted screw plugs, or fitted with screw caps or other metal air-tight caps, subject to the following conditions—

- (a) a sufficient air space to allow of expansion shall be left in each receptacle at the time of filling;
- (b) all receptacles shall be so substantially constructed and secured as not to be liable, except under circumstances of grave negligence or extraordinary accident, to be broken or become defective, leaky or insecure; and
- (c) the nature of the contents and the words "highly inflammable and asphyxiant: not to be used in the proximity of fire or in an unventilated room" shall be distinctly marked on all receptacles containing Class A petroleum before dispatch from the installation.

28. Storage and filling sheds

A storage and filling shed shall not form part of the same building unless it is separated by a wall of metal sheeting, masonry or concrete. Such wall may contain a doorway giving direct communication between the storage and filling sheds if such doorway is of a type which may be immediately closed by a fire-proof door in case of emergency.

Storage Sheds

29. Conditions applicable to storage sheds

- (1) Every storage shed shall be constructed entirely of non-inflammable material.
- (2) The doorways and other openings of the storage shed shall be built up to a height of six inches above the level of the floor, or the floor sunk to a depth of six inches so that petroleum cannot flow out from the building in the case of its escape from the receptacle or receptacles in which it is contained.
- (3) Adequate ventilation shall be provided.
- (4) No fire or naked lights shall be allowed in or near a storage shed.
- (5) The capacity in gallons shall be conspicuously marked on the storage shed.
- (6) No vessel containing petroleum shall be opened and no petroleum shall be drawn from any vessel within the building in which petroleum is stored.
- (7) No storage shed shall be used for any purpose other than the storage of petroleum for which the shed is licensed.
- (8) These provisions shall apply to all storage sheds whether within an installation or otherwise.

*Kerbside Tanks***30. Conditions applicable to underground kerbside tanks**

- (1) In the case of kerbside tanks the petroleum shall be stored in one or more gas-tight metal tanks, specially designed and treated on the outside surfaces to prevent corrosion, of a total capacity not exceeding five thousand gallons, sunk completely underground in the position shown on the plan submitted. Where flooding of the foundations is, in the opinion of the Licensing Authority, likely to occur, the tanks shall be placed in a pit lined with concrete or brick in cement, the tank being packed round with sand, earth or clay so that no air space is left below ground-level except for such space as may be necessarily so left in order to obtain access to the fittings on the tank. The pit shall be covered with a cement concrete slab or other suitable cover, access to fittings being obtained by means of a metal manhole cover.
- (2) Where the foundations of underground tanks are free from flooding, the tanks may be placed direct in the ground without any concrete or brick pit or slab cover other than the manhole for containing and giving access to the fittings on the tank.
- (3) A pump or pumps shall be placed in the position shown on the plan, the pipe connexion between the tank and the pump or pumps shall be placed underground and all joints, valves and cocks shall be installed and maintained in a gas-tight condition.
- (4) For the purpose of fuelling motor vehicles the petroleum shall be pumped through approved measuring vessels, fixed in approved positions, through sound hose electrically bonded and fitted with an approved quick-acting leak-proof cock or with an approved nozzle, into the tanks of motor vehicles.
- (5) All tanks, pumps, pipes and fittings shall be strongly constructed of approved materials.
- (6) All tanks shall be fitted with a vent pipe leading into the open air, the open end being covered with strong wire gauze having a mesh of not less than four hundred openings to the square inch and fitted with a hood, or with an inlet valve and an exhaust valve. All such vents shall be maintained in serviceable condition.

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(7) The tank shall be filled in such manner that no gas can escape except through the vent pipe during filling operations.

(8) The space over a buried tank shall only be used for purposes authorized by the Licensing Authority.

PART IV – TRANSPORT BY SEA, IMPORT,
LOADING AND UNLOADING OF PETROLEUM

Section A

31. Interpretation

For the purposes of this Part of these Rules, unless the context otherwise requires—

“**harbour**” has the meaning assigned to it in the Harbours Regulation Ordinance, 1928;

“**hold**” includes the lower hold, all between deck and bridge deck and spaces between the same bulkheads which are served by the same hatchway, provided such spaces are included in the registered tonnage shown on the certificate of registry;

“**loading**” and “**discharge**” extend to cover the transit of petroleum between ship or lighter and railway vehicles and, in the case of petroleum not dealt with by means of railway vehicles, to the transit of such petroleum across the quays and land area falling within the harbour area;

“**master**” means any person having or taking command, charge or management of a ship for the time being; “**owner of petroleum**” includes any consignor, consignee, shipper or agent for the sale, receipt, custody, loading or discharge of the same as well as the owner;

“**petroleum in bulk**” means petroleum in any tank or container having a capacity of two hundred gallons or upwards whether in a ship or on shore;

“**petroleum in receptacles**” means petroleum in tins, in tins in cases, in drums or other receptacles other than tanks or containers used for petroleum in bulk;

“**petroleum lighter**” means a lighter having on board, or about to take on board, petroleum, or having discharged petroleum if the holds or other places have not been rendered free from inflammable vapour to the satisfaction of the Port Manager;

“**lighter**” includes lighter, dumb barge, pontoon, boat or similar craft not having its own means of propulsion and kept for use within the harbour only;

“**petroleum ship**” means any ship or craft, other than a petroleum lighter, having on board, or about to take on board, petroleum as ships’ stores or cargo, or having discharged petroleum, if the holds and tanks have not been rendered free from inflammable vapour to the satisfaction of the Port Manager:

Provided that—

- (i) ships, except native sailing ships, shall not be deemed petroleum ships by reason only of the presence on board of petroleum in any or all of the following circumstances—
 - (a) Class A petroleum and Class B petroleum in reasonable quantities carried as ships’ stores and not as cargo, and stored in a safe place

away from cargo and protected. If any question arises as to whether any petroleum carried as ships' stores is of an unreasonably large amount the decision of the Port Manager shall be final;

- (b) when not exceeding 12 gallons of Class A petroleum and/ or 20 gallons of Class B petroleum;
 - (c) when carried as cargo in transit for discharge at another port and contained in receptacles and of a quantity not exceeding 800 gallons of Class A only or 800 gallons each of Class B petroleum or 1,600 gallons of Class B petroleum only and provided that this petroleum is carried in a safe and proper manner, either on deck and capable of speedy removal in case of fire, or in a properly ventilated hold provided such hold is not to be opened or worked during the vessel's stay in the port;
- (ii) native sailing ships shall not be deemed to be petroleum ships by reason only of the presence on board of a quantity of Class B petroleum not exceeding four gallons;

"Port Manager" means the person in charge of any harbour.

31A. Importation or distribution of refined petroleum products for use in Kenya

(1) The Kenya Petroleum Refineries Limited shall process such minimum quantities of petroleum crude oil per calendar year as the Minister may from time to time prescribe.

(2) Any person engaged in the importation of refined petroleum products other than bitumen for use in Kenya, shall purchase from the Kenya Petroleum Refineries Limited such quantities of refined petroleum products derived from the processing of the minimum quantity of petroleum crude oil indicated in paragraph 1, as the Minister may prescribe having regard to the market share, per product, of such importer.

(3) With effect from the 1st July, 2012, no person shall import or cause to be imported refined petroleum products except—

- (a) liquefied petroleum gas;
- (b) bitumen; and
- (c) fuel oil,

for use in Kenya other than through an Open Tender System centrally coordinated by the Ministry responsible for energy.

(4) All importation of refined petroleum products other than those specified under paragraph (3) shall except where exempted by the Minister in writing, be through the Kipevu Oil Storage Facility, Shimanzi Oil Terminal, Miritini LPG Import Terminal and Kenya Petroleum Refineries Limited, Changamwe, Mombasa.

(5) In these Rules, "**market share**" means the percentage of the total sales of each petroleum product in Kenya other than those specified under paragraph (2) attributable to an importer as determined by the Minister from time to time.

[L.N. 197/2003, s. 2, L.N. 24/2012, s. 2.]

Section B

32. Notice of arrival

The owner of, or the agent for, a petroleum ship shall, when ever possible, give written notice to the Port Manager 24 hours in advance of the expected arrival of any such ship.

[Subsidiary]**33. Distinguishing flags or lights**

The master of every petroleum ship shall, on nearing the harbour and/or during the time that such ship remains in the harbour, display by day a red flag and by night a red light at the masthead or where it can best be seen but not less than 20 feet above the deck in addition to any navigation lights which may be required:

Provided that, in the case of native sailing ships or other craft which cannot normally comply with the provisions of this rule there shall be displayed by day a red flag and by night a red light at the masthead or where it can best be seen.

34. Declaration on arrival

(1) The master of every petroleum ship shall, before entering the inner harbour, deliver to the pilot a written declaration under his signature stating—

- (a) the quantity of petroleum the ship is carrying whether as cargo or as ships' stores and the manner in which the petroleum is stowed or carried;
- (b) whether any, and if so, what part of it is Class A petroleum;
- (c) whether any, and if so, what part of it is Class B petroleum;
- (d) what quantity of petroleum, specifying the class, it is intended to land at the harbour.

(2) The master of any ship which has discharged petroleum at any port shall declare the fact to the Port Manager and certify whether the ship, tanks and/or holds, have been steamed or cleaned and rendered free from vapour.

(3) The Port Manager shall be afforded the fullest facilities for checking the accuracy of the above declaration. The master of the ship or the owner of the petroleum shall supply samples of the petroleum carried if called upon to do so by the Port Manager.

35. Holds and tanks to remain closed when work not proceeding

Before any petroleum ship enters a harbour, all holds and tanks containing petroleum or petroleum vapour shall be securely and safely closed until the ship leaves the harbour, except at such times as petroleum is being loaded or discharged or as otherwise may be authorized by the Port Manager.

36. Berthing of ship; employment of pilot and tug

(1) The master of every petroleum ship shall anchor or moor his ship at such a place as the Port Manager may direct and shall not move his ship without the written order or permission of such manager. No petroleum ship shall be anchored or moored at any place other than that approved by the Port Manager.

(2) When moving in the harbour, petroleum ships are to have one or more tugs in attendance if and as considered desirable by the Port Manager.

37. Notice of loading or discharge

Before any petroleum is loaded or discharged, the owner of the petroleum shall give due notice in writing to the Port Manager and no petroleum ship shall load or discharge petroleum until the Port Manager has given authority for the work to begin.

38. Holds to be ventilated before discharging petroleum in tins, etc.

Before any petroleum in receptacles is removed from the holds, the holds shall be thoroughly ventilated.

39. Place and manner of loading and discharge

(1) Petroleum shall only be loaded or discharged at such places as the Port Manager shall, from time to time, direct.

(2) The Port Manager may give directions governing the manner in which petroleum is to be loaded or discharged and, in the case of mixed cargoes consisting of Class A petroleum, Class B petroleum, other goods, passengers or any other cargo, the Port Manager may direct the order in which the cargo is to be worked.

40. Ventilation outlets

During the loading or discharge of petroleum all ventilator outlets of any hold containing petroleum shall be covered with wire gauze or provided with other flame-proof protection.

41. Receptacles to be staunch and free from leakage

No petroleum contained in receptacles shall be loaded or discharged unless such receptacles are of such strength and construction as not to be liable to be broken or to leak.

42. Watch during loading and/or discharge

Every petroleum ship shall be watched by a competent person on board such ship until all petroleum has been loaded or discharged and the holds or tanks securely closed.

43. Power of Port Manager to order operations to cease

The Port Manager may, at any time, give orders to masters of ships loading or discharging petroleum at once to cease operations and remove the ship to a specified distance from any quay and/or other shipping.

44. Ships not to be unnecessarily delayed

(1) Petroleum ships shall be loaded and discharged with all reasonable speed and shall leave the harbour without delay unless the permission of the Port Manager is obtained for the ship to remain.

(2) Native and other sailing ships having petroleum on board shall not remain in the harbour between the hours of sunset and sunrise except by permission of and under such conditions as may be prescribed by the Port Manager.

45. Render tanks or holds free from inflammable vapour

Any petroleum ship for which permission to remain in the harbour after discharge is desired may be required to render its tanks or holds free from inflammable vapour to the satisfaction of the Port Manager.

46. Readiness to manoeuvre. Sufficient crew to remain on board

Every petroleum ship having petroleum on board shall, while within a harbour, have always on board not less than one officer, one engineer and half the crew, and the engine's boiler and machinery shall not be dismantled in any way but shall be maintained in working order so that the vessel is able to manoeuvre under her own power in the shortest possible time.

47. Port representative on board

(1) The Port Manager may place and retain a representative on board any petroleum ship at any time.

[Subsidiary]

(2) *Inspection.*—The master of any petroleum ship shall, when so required by the Port Manager, afford every reasonable facility to enable the Port Manager to ascertain whether the provisions of these Rules are being observed.

48. Prevention of leakage of petroleum

(1) No petroleum or water mixed with petroleum or water prevention or from bilges or tanks or water used for flushing out pipes and connexions or sand used to absorb petroleum shall be discharged or allowed to escape into the waters of a harbour.

(2) When bulk petroleum is being loaded or discharged all pipes and connexions on board and on the shore or between a ship and a quay shall be maintained in an efficient condition and shall be reasonably free from leakage.

(3) During the loading or discharge of petroleum in bulk a competent watch shall be constantly maintained near the pipes and connexions.

(4) After the completion of the loading or discharge of petroleum in bulk the pipes used are to be flushed out with water or emptied by such other means as may be considered satisfactory by the Port Manager.

(5) Petroleum escaping on board the ship or lighter or on shore shall be immediately absorbed by sand and removed.

49. Fire precautions on board a petroleum ship

Every petroleum ship when discharging or loading or while hatches are open, shall have her fire hoses connected and all fire on board a extinguishing appliances ready for immediate use.

50. Unauthorized craft not allowed alongside

No motor launches, boats, or other craft may approach within a distance of 200 feet of a petroleum ship loading or discharging petroleum, except that—

- (a) tugs provided by the Port Manager may be used for the purpose of berthing or manoeuvring petroleum ships;
- (b) boats belonging to the East African Harbours Corporation, the master or agent of the ship, or the owner of the petroleum, when in charge of a competent man, may go alongside a petroleum ship;
- (c) motor launches belonging to the East African Harbours Corporation, the master or agent of the ship, or the owner of the petroleum, may go alongside a petroleum ship, which cannot be boarded direct from a quay, when such motor launches are maintained and operated to the satisfaction of the Port Manager, and are in charge of a competent man;
- (d) lighters used for working a particular ship if such use has been previously approved by the Port Manager.

51. Regulations to apply in case of mixed cargoes of dangerous petroleum and common petroleum

Petroleum ships loaded with mixed cargoes of Class A petroleum and Class B petroleum shall comply with the rules appearing in Section C hereof as if the whole cargo were dangerous petroleum.

Section C – Special Regulations Applicable to Class A Petroleum

52. Isolation of ships carrying dangerous petroleum

(1) Two or more petroleum ships having Class A petroleum on board shall not, except for purposes of transshipment, lie within 100 feet of one another, unless a lesser distance be specially sanctioned by the Port Manager, subject to such conditions as he may prescribe.

(2) Save as provided in rule 50 hereof, no other ship or craft with lights or fires on board or any person smoking on board shall be allowed within 200 feet of any petroleum ship loading or discharging Class A petroleum or with holds or tanks containing Class A petroleum or vapour unless a reduced distance (which shall not in any case be less than 100 feet) be specially sanctioned by the Port Manager and subject to such conditions as he may prescribe.

52A. Wooden vessels not to carry dangerous petroleum

No person shall cause or permit any ship, lighter or other vessel, whose hull is constructed or mainly constructed of wood, to have or take on board Class A petroleum:

Provided that the Port Manager may in his discretion permit the carriage on any such vessel of a quantity not exceeding 264 gallons of Class A petroleum contained in steel drums.

53. Loading or discharge of dangerous petroleum

(1) Class A petroleum shall not be loaded or discharged except between the hours of sunrise and sunset:

Provided that any vessel which has begun such operation before sunset and which has the ship and pipe connexion ashore lit by electricity to the satisfaction of the Port Manager may be permitted by him to continue loading or discharging.

(2) When loading or discharging Class A petroleum in bulk—

- (a) no other cargo shall be worked in the vessel concerned;
- (b) the loading or discharging shall continue with due diligence, and if it is discontinued for any reason whatsoever, all holds, tanks and connexions shall immediately be closed;
- (c) where any occurrence necessitates repairs to the plant, pipes or connexions or interferes in any way with the uninterrupted loading or discharging and the operation cannot be resumed before sunset, then it shall be discontinued until after sunrise unless the pipe line is first cleared by water.

(3) When loading or discharging Class A petroleum in receptacles—

- (a) no other cargo shall at the same time be loaded into or discharged from the vessel, nor shall any other cargo be handled or worked at a hatch or in a hold where Class A petroleum is being handled or is contained;
- (b) no such petroleum shall be brought to or discharged at a quay until the means by which it is to be removed from the quay is in readiness, and the rate of loading or discharge shall be so adjusted that no undue accumulation thereof shall occur on the quay, and the quay shall be left clean at all times during which such operation is suspended.

54. Deleted by G.N. 286/1954.

55. Fires and lights Limitation on use of fires and lights

Save as provided in rule 53 hereof, from the time when the holds or tanks of any ship containing Class A petroleum or vapour are first opened and until such time as they shall have been securely closed as required by these rules or, in the case of discharge of dangerous petroleum, until the holds or tanks shall have been so closed or rendered free from inflammable vapour, there shall be no fire or artificial light on board such ship. Where Class A petroleum is being loaded or discharged, there shall be no fire or artificial light at or near the quay where such loading or discharge is being carried out, or upon which Class A petroleum is lying:

[Subsidiary]

Provided that—

- (i) nothing in this rule contained shall prevent the use of lamps, heaters, cookers or other similar type of safe apparatus, electric or otherwise, so designed, constructed and maintained as to be incapable of igniting inflammable vapour;
- (ii) subject to the approval of and to any conditions prescribed by the Port Manager, this rule shall not be deemed to prohibit the loading or discharge of dangerous petroleum—
 - (a) in special cases by means of steam from a ship's own boilers placed in a position away from cargo holds and pump-rooms or, alternatively, by electric power generated by means of steam from boilers or internal combustion engines placed in a position as aforesaid and operating electric motors so designed, constructed and maintained to be incapable of igniting inflammable vapour and maintained in accordance with Lloyd's or other approved society's requirements;
 - (b) by means of electric motors and other machinery designed, constructed and maintained as aforesaid and brought into use by means of steam supplied from the shore.

56. Smoking and matches

During the loading and discharging of Class A petroleum or, when the holds or tanks containing Class A petroleum or vapour are open, or when Class A petroleum is stacked on deck, the master shall be responsible for ensuring that no smoking takes place on the ship or on the gangways; and the owner of the Class A petroleum shall be responsible for ensuring that no smoking takes place at or near the quay where Class A petroleum is being loaded or discharged or lying and that the master and owner shall be responsible for ensuring that no person under their control engaged in connexion with the loading or discharge of Class A petroleum shall carry fuses, matches or any appliance for producing ignition within a distance of 100 feet of any such petroleum.

57. Escaping vapour of dangerous petroleum to be passed through gas line

When loading dangerous petroleum in bulk or when loading petroleum of any kind in bulk, or water into a ship's tank which has previously contained Class A petroleum, the escaping vapours shall be passed through the gas line which is to be carried to a point on the mast ten feet above the mast-head light. All hatches, cocks, valves or other direct openings to the atmosphere shall be securely closed.

58. Suspension of loading or discharge of dangerous petroleum during storm

During a storm accompanied by lightning, the loading or discharging of Class A petroleum shall be suspended and holds, tanks and valves closed.

59. Suspension of scraping, etc., during loading or discharge

Iron or steel hammers or other instruments capable of causing a spark shall not be used for the purpose of opening or closing hatches on tank lids of a petroleum ship and during the loading or discharging of Class A petroleum, no scraping, chipping or any other work which might cause sparks shall be permitted.

60. Wire hawsers as to tow ropes

All petroleum ships, before commencing to load or discharge Class A petroleum, shall have wire hawsers of suitable size, one fore and one aft, hanging to water edge with shackle fitted to attach tow rope of tug if necessary in case of fire.

*Section D - Special Regulations Applicable to Class B Petroleum***61. Loading or discharge of common petroleum**

(1) Class B petroleum shall not be loaded or discharged except between the hours of sunrise and sunset:

Provided that such petroleum when in bulk may be loaded or discharged at night if the ship and pipe connexions ashore are lit by electricity to the satisfaction of the Port Manager.

(2) The Port Manager may authorize the working of Class B petroleum on deck at night when electric lighting is used and arrangements are made for generally safe working to his satisfaction.

(3) No general cargo shall be worked between the hours of sunset and sunrise in a hold, or at any hatch of a hold, which contains Class B petroleum.

(4) No general cargo shall be loaded or discharged into or from a vessel at the same time as Class B petroleum contained in receptacles unless such cargo and such petroleum are loaded or discharged into or from separate holds.

(5) No person shall cause or permit any Class B petroleum in receptacles to remain on any quay between the hours of sunset and sunrise except by permission of, and in accordance with any conditions imposed by, the Port Manager.

62. Fires and lights. Limitations on use of fires and lights

Save as provided for in rule 61 hereof, from the time when the holds or tanks of any ship containing Class B petroleum or vapour are first opened and until such time as they have been securely closed as required by these Rules, or, in the case of discharge, until the holds or tanks shall have been so closed or rendered free from inflammable vapour, there shall be no fire or artificial light at or near the holds or tanks or near the quay where the loading or discharge is being carried out or upon which the Class B petroleum is lying:

Provided that nothing in this rule contained shall prevent the use of lamps so designed, constructed and maintained as to be incapable of lighting inflammable vapour.

63. Smoking and matches

During the loading or discharge of Class B petroleum or, when the holds or tanks containing Class B petroleum or vapour are open, or when Class B petroleum is stacked on deck, the master shall be responsible for ensuring that no smoking takes place at or in the proximity of the holds or tanks or decks and the owner of the petroleum shall be responsible for ensuring that no smoking takes place at or near the quay and, in any case, not within a distance of 100 feet from where the petroleum is being discharged or loaded, or lying.

*Section E – Special Regulations Applicable to Petroleum Lighters***64. General obligations of owner or hirer of a petroleum lighter**

For the purpose of this Part of these Rules a petroleum lighter shall be deemed for all purposes to be a petroleum ship present in the harbour and the owner or, in the case of a hiring, the hirer shall conform with, and be responsible for, the observance of and shall accept the same liabilities under the rules relating to petroleum ships to the same extent as if the petroleum lighter were a petroleum ship present in the harbour of which he were a master and in relation to which he were a petroleum owner:

Provided always that the provisions of rules 42, 44, 46, 49 and 60 hereof shall not apply petroleum lighters, and the provisions of rules 40 and 45 hereof shall not so apply unless the petroleum lighter is provided with closed holds.

[Subsidiary]

For the purpose of this rule, a petroleum lighter not provided with closed holds shall be deemed to be a petroleum ship with holds open.

65. Working of two or more lighters to one ship or Quay

Notwithstanding the provisions of rule 52 hereof, two or more lighters may, with the previous consent of the Port Manager, work to one ship or quay.

66. Special obligations of owner or hirer of a petroleum lighter

Without prejudice to the provisions of rule 64 hereof, the owner or, in the case of a hiring, the hirer of a petroleum lighter shall be responsible for ensuring that—

- (a) the lighter is not loaded to a greater capacity than is authorized by the Port Manager;
- (b) all petroleum loaded on to the lighter is protected by tarpaulins from sparks;
- (c) every lighter shall have a watchman on board throughout the time petroleum remains loaded, and shall be provided with fire extinguishing appliances ready for immediate use;
- (d) petroleum shall be loaded and discharged therefrom with all reasonable speed and shall remain under load for as short a time as possible;
- (e) petroleum shall not remain on board such lighter between the hours of sunset and sunrise except by permission of and subject to such conditions as may be prescribed by the Port Manager.

*Section F – Responsibility of Agents***66A. Responsibility of agents**

The agent for a petroleum ship is responsible that the master of such ship is fully conversant with the provisions of Part IV of these Rules.

67. Licensing authority may require repairs to licensed premises

Where the Licensing Authority calls upon a licensee, by a notice in writing, to execute any repairs to the licensed premises, which may, in the opinion of such Authority, be necessary for safety the licensee shall execute the repairs within such period as may be fixed by the notice.

68. Powers of entry: unauthorized persons

(1) The Licensing Authority may at all times enter or authorize any person to enter any premises licensed under these Rules for the purpose of ascertaining whether the provisions thereof are being observed.

(2) Except as provided in paragraph (1) of this rule no person shall, without the consent, express or implied of the licensee or his manager or agent, enter any licensed premises.

69. Responsibilities of licensee

The licensee shall take all reasonable and proper steps to ensure—

- (a) that the provisions of these Rules and the conditions of the licence are known to, and observed by, all persons employed in or about the licensed premises;
- (b) that unauthorized persons do not have access to the licensed premises.

70. Power to exempt

The Minister may, by notice in the *Gazette*, authorize any licensing authority to exempt all or any persons in Kenya, or in any particular area of Kenya, from all or any of the provisions of these Rules, either indefinitely or during such periods as may be specified in such notice.

71. (1) All petroleum fuels meant for export except jet kerosene shall be marked with a chemical marker approved by the minister.

(2) All illuminating kerosene intended for sale in the country shall be marked with a particular type of chemical approved by the Minister.

(3) Any person who contravenes paragraphs (1) and (2) shall be guilty of an offence and liable to a fine not exceeding five hundred shillings for every day on which the offence occurs or continues, and the court before which any person is convicted under this rule may order that the petroleum in respect to which the offence is committed and any vessel in which it is contained be forfeited or that the trade licence for the company be revoked or that the petroleum be otherwise dealt with in such a manner as the court may think fit.

73. (1) In this rule, unless the context otherwise requires—

- LPG – means the liquefied petroleum gas;
- LPG Cylinder Exchange Pool – means a body set up by LPG marketing companies, under the oversight of the Minister for the time being responsible for petroleum energy, to regulate the mechanism of exchanging LPG cylinders in order to promote fair competition; and
- unified valve – means the unified valve specified in the Kenya Standard KS 201:2004.

(2) With effect from 1st October, 2006, the following provisions shall apply to the importation, exportation, filling, wholesale and retail of LPG in cylinders of capacities between one (1) and twenty (20) kilogrammes—

- (a) the standard capacities of cylinders for filling with LPG shall be one (1), three (3), six (6) and thirteen (13) kilogrammes, and such cylinders shall be fitted with unified valves;
- (b) no LPG cylinders shall be manufactured in, or imported into, Kenya other than those of capacities, and fitted with unified valves, specified in paragraph (a);
- (c) all LPG cylinders existing immediately before the provisions of this rule takes effect shall be fitted with unified valves within a period of thirty (30) months from the date the provisions of this rule takes effect;
- (d) any cylinder not in the categories specified in paragraph (a) shall not be allowed for filling with LPG after the expiry of four (4) years from the date the provisions of this Rule takes effect;
- (e) every retail outlet selling LPG shall have a properly calibrated weighing instrument in accordance with the Weights and Measures Act for verification of the net contents of LPG cylinders;
- (f) an LPG Cylinder Exchange Pool shall be established to regulate the exchange of LPG cylinders among the LPG marketing companies;
- (g) a person shall not engage in importation, exportation or wholesale trade of LPG in cylinders unless such a person is a member of the LPG Cylinder Exchange Pool;

[Subsidiary]

- (h) A member of the LPG Cylinder Exchange Pool commits an offence if such a member refuses to accept or recognize for exchange a cylinder belonging to another member.

[L.N. 114/2006, s. 2.]

SCHEDULE

[L.N. 86/1981, s. 2.]

FORMS

FORM No. 1

(r. 7)

PETROLEUM RULES

LICENCE TO TRANSPORT PETROLEUM BY ROAD

..... is by this licence authorized to transport Petroleum
Class by road subject to the provisions of Part II of the
Petroleum Rules on the following route(s) (or within the following areas)—

.....
.....
.....

by means of the following vehicles—

Registered No. Type
Registered No. Type
Registered No. Type
Registered No. Type

The following conditions shall be observed by the holder of this licence—
(Set out *special conditions if any.)

.....
.....
.....

This licence expires on the 31st December, 20.....

FEE PAID SH

Date, 20.....

.....
Licensing Authority

* See rule 7.

SCHEDULE—continued

FORM No. 2

(r. 14(3))

PETROLEUM RULES

LICENCE TO STORE PETROLEUM IN AN INSTALLATION

Licence is hereby granted to of
 for the storage of the undermentioned petroleum, that is to say—
 In bulk Petroleum Class A gallons
 Petroleum Class B gallons
 not in bulk Petroleum Class A gallons
 Petroleum Class B gallons
 within the installation situated at In accordance with the plans
 and specifications attached hereto.
 No. of plan attached to licence
 Date of issue, 20
 This licence expires on the 31st December, 20
 Application for renewal should be made not later than the 15th December.
 FEE: Sh. (rule 15).

Licensing Authority

RENEWALS

Date

Signature of Licensing Authority

.....

FORM No. 3

(r. 14(4))

PETROLEUM RULES

LICENCE TO STORE PETROLEUM NOT IN BULK

Licence is hereby granted to of
 for the storage of the undermentioned petroleum not in bulk, that is to say—
 Petroleum Class A gallons
 Petroleum Class B gallons
 in the storage shed(s) on the premises situated at and described
 in the plans and specifications attached hereto.
 No. of plan
 Date of issue, 20
 This licence expires on the 31st December, 20.....

Energy

[Subsidiary]

SCHEDULE, FORM No. 3—continued

Application for renewal should be made not later than the 15th December.

FEE: Sh (rule 15).

RENEWALS	 <i>Licensing Authority</i>
	<i>Date</i>	<i>Signature of Licensing Authority</i>

Licence is hereby granted to of for the storage of the undermentioned petroleum, that is to say—

Petroleum Class gallons in underground kerbside/tank(s) at the premises situated at , in accordance with the plans and specifications attached hereto.

No. of plan

Date of issue, 20

This licence expires on the 31st December, 20

Application for renewal should be made not later than the 15th December.

FEE: Sh (rule 15).

RENEWALS	 <i>Licensing Authority</i>
	<i>Date</i>	<i>Signature of Licensing Authority</i>

NOTICE

[Rule 70.]

EXEMPTIONS

With effect from the 31st August, 1948, all persons in the Northern Province are exempted from the provisions of paragraphs (b), (c), (d), (f) and subparagraph (i) of paragraph (g) of rule 8 of the Petroleum Rules.

ENERGY (ENERGY MANAGEMENT) REGULATIONS, 2012

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation.
2. Application.
3. Definitions.
4. Energy Consumption Rating.
5. Energy management policy.
6. Energy audits.
7. Energy Investment Plan.
8. Energy conservation measures.
9. Implementation Reports.
10. Audit by the Commission.
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12. Licensing of energy auditor or energy audit firm.
13. Application for licence.
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17. Professional Indemnity.
18. Offences.
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SCHEDULES

FIRST SCHEDULE —	GUIDELINES FOR PREPARATION OF AN ENERGY MANAGEMENT POLICY
SECOND SCHEDULE —	GUIDELINES FOR ENERGY AUDIT REPORT
THIRD SCHEDULE —	QUALITY ASSURANCE DECLARATION FORM
FOURTH SCHEDULE —	GUIDELINES FOR IMPLEMENTATION REPORT
FIFTH SCHEDULE —	QUALIFICATIONS AND EXPERIENCE FOR LICENCING
SIXTH SCHEDULE —	APPLICATION FORMS

ENERGY (ENERGY MANAGEMENT) REGULATIONS, 2012

[L.N. 102/2012.]

1. Citation

These Regulations may be cited as the Energy (Energy Management) Regulations, 2012.

2. Application

These Regulations shall apply to the owner or occupier of industrial, commercial and institutional facilities using any form of energy.

3. Definitions

In these Regulations, unless the context otherwise requires—

“**Act**” means the Energy Act, 2006;

“**approved**” means approved by the Commission;

“**carbon finance**” means a mechanism that facilitates the financial reward through carbon credits for the reduction of greenhouse gas emissions by emitters in developing countries;

“**clean development mechanism**” means a mechanism that allows emission-reduction projects in developing countries to earn certified emission reduction (CER) credits each equivalent to one tonne of CO₂, which can be traded and sold, and used by industrialized countries to meet a part of their emission reduction targets under the Kyoto Protocol;

“**designated facility**” a facility designated by the Commission under section 105 of the Act;

“**energy audit**” means an inspection, survey and analysis of energy flows for energy conservation in a building, process, or system to reduce the amount of energy input into the system without negatively affecting the output;

“**energy auditor**” means a person who carries out inspection, survey and analysis of energy flows for energy conservation in a building, process, or system to reduce the amount of energy input into the system without negatively affecting the output, and includes a firm;

“**energy consumption rating**” means the classification by the commission of premises based on the amount of energy consumed;

“**energy conservation**” means efforts leading to a decrease in energy consumption;

“**energy investment plan**” means the allocation of resources for the purpose of advancement, capacity growth, and improvement of energy efficiency and conservation measures;

“**energy savings**” means the reduction of energy units consumed per unit of production or per square foot;

“**facility**” includes factories, commercial buildings, institutional buildings, and local authorities;

“**owner or occupier**” includes the charterer or a lessee of a facility;

“**licensed**” means licensed by the Commission.

4. Energy Consumption Rating

(1) It shall be the responsibility of the Commission to carry out energy consumption rating of facilities for purposes of these Regulations.

(2) Facilities shall be classified as low, medium or high consumers, and the classification shall be recorded in such manner and form as the Commission may consider appropriate.

5. Energy management policy

(1) The owner or occupier shall develop an energy management policy for the facility which shall have the minimum requirements as provided in the First Schedule.

(2) The owner or occupier shall within one year of classification file the energy management policy for every designated facility with the Commission for approval before implementation.

(3) The owner or occupier of a facility shall designate an energy officer for every designated facility, who shall be responsible for the development and implementation of energy efficiency and conservation.

(4) The owner or occupier of a facility shall maintain records of information for every designated facility for a minimum period of five years from the date of occupation of the facility, which shall include—

- (a) monthly and annual electricity, fuel and water consumption;
- (b) monthly production data or occupancy levels; and up to date building plans, infrastructure plans and floor area drawings.

6. Energy audits

(1) The owner or occupier shall cause an energy audit of the facility to be undertaken by a licensed energy auditor at least once every three years.

(2) The report of the audit undertaken under paragraph (1) shall be in the form set out in the Second Schedule.

(3) The owner or occupier shall submit the report of the audit to the Commission in a manner approved by the Commission, within six months from the end of the financial year in which the audit is undertaken.

(4) The Commission shall examine the report submitted hereunder and if dissatisfied therewith, may require the concerned owner or occupier of a facility, at his own cost, to engage an independent energy auditor from a list of names provided by the Commission to undertake an energy audit.

(5) An energy auditor shall upon completion of an audit execute a quality assurance declaration in the form set out in the Third Schedule.

(6) The Commission or its agent may subject the energy audit report to verification after giving not less than fourteen days notice to the facility owner or occupier.

7. Energy Investment Plan

(1) An owner or occupier of designated facilities shall within six months from the end of the financial year in which an energy audit is undertaken, prepare and submit to the Commission an energy investment plan for the next three years, setting out proposals for the conservation of energy during that period.

(2) An energy investment plan under paragraph (1) shall be reviewed after every three years.

[Subsidiary]

8. Energy conservation measures

(1) The owner or occupier shall take measures to realize at least fifty per cent of the identified and recommended energy savings specified in the energy investment plan by the end of three years and thereafter at every audit reporting date.

(2) An owner or occupier to whom these Regulations apply may investigate the inclusion of the relevant components of an energy investment plan into a project to be registered under the clean development mechanisms or any other carbon finance mechanism which may be in place from time to time.

9. Implementation Reports

(1) Every designated facility shall submit an annual implementation report as provided in the Fourth Schedule.

(2) A facility owner or occupier who fails to submit an implementation report within the stipulated time shall be liable to a penalty not exceeding thirty thousand shillings for each day or part thereof that the breach continues.

(3) The Commission or its agent may conduct an inspection to verify compliance with the implementation report.

(4) The Commission shall issue a compliance certificate on request by facilities complying with these Regulations.

10. Audit by the Commission

(1) Notwithstanding regulation 6, the Commission or its agent may, after giving not less than fourteen days notice to the facility owner or occupier, undertake an energy audit at its own cost.

(2) The owner or occupier shall allow the Commission or its agent access to the facility for purposes of such audit.

11. Disputes

(1) Where a dispute arises between an owner or occupier and the energy auditor the dispute shall be referred to the Commission for determination.

(2) A person aggrieved by a decision of the Commission may appeal to the Energy Tribunal.

12. Licensing of energy auditor or energy audit firm

(1) A person shall not carry out an energy audit under these Regulations unless he is licensed as an energy auditor by the Commission.

(2) A person shall be qualified to be licensed by the Commission as an energy auditor if the person holds the qualifications set out in the Fifth Schedule.

(3) An organization shall be licensed as an energy audit firm if it is registered in Kenya and has in its employment at least one licensed energy auditor.

13. Application for licence

(1) A person wishing to be licensed as an energy auditor or an energy audit firm shall make an application to the Commission in the form set out in the Sixth Schedule.

(2) The Commission may require an applicant to be examined in such a manner as it may determine for purposes of ascertaining his ability to undertake, engage in or perform energy audit work.

14. Determination of Application

- (1) The Commission shall examine all applications under regulation 13, and may—
 - (a) grant the licence applied for accordingly, either without conditions or subject to such conditions as it may deem fit; or
 - (b) refuse to grant the licence applied for, giving reasons for refusal.
- (2) A license issued under these Regulations shall be valid for one year from the date of issue.

15. Renewal and replacement of licences

- (1) An application for renewal of a licence shall be made at least thirty days before the expiry date of the existing licence.
- (2) If the Commission is satisfied that the applicant has continuously met the conditions of the current licence, the Commission shall renew the licence.
- (3) If the application for the renewal of a licence has been made before the expiry of the licence but has not been dealt with by the Commission when the license expires, that license shall remain valid until the application for renewal is finalized, and any renewal in such case shall be deemed to have commenced from the day the licence would have expired before the renewal thereof.
- (4) Where, upon application, it is shown to the satisfaction of the Commission that a licence has been lost, destroyed or defaced the Commission may issue a duplicate licence.
- (5) The Commission shall maintain a register of all licensed energy auditors and the register shall be available for inspection by the public free of charge.

16. Revocation of licence

- (1) The Commission may suspend or revoke a licence where—
 - (a) it is satisfied that the licence holder is either wilfully or negligently breaching the terms and conditions of the licence; or
 - (b) the licence holder is adjudged bankrupt.
- (2) A person aggrieved by a decision of the Commission may appeal to the Energy Tribunal.

17. Professional Indemnity

Every licensed energy auditor or energy audit firm shall take out and maintain a professional indemnity insurance policy.

18. Offences

- (1) Any person who—
 - (a) carries out an energy audit without a valid licence issued by the Commission under these Regulations; or
 - (b) being the owner or occupier of a designated facility—
 - (i) fails to submit an audit report to the Commission as stipulated in these Regulations; or
 - (ii) denies the Commission or its agent access to the facility for purposes of conducting an energy audit, commits an offence.

[Subsidiary]

19. General penalty

Any person who commits an offence under these Regulations shall, unless otherwise specified herein, be liable on conviction to a fine not exceeding one million shillings, or to a maximum term of imprisonment of one year, or to both.

FIRST SCHEDULE

[Rule 5(1).]

GUIDELINES FOR PREPARATION OF AN ENERGY MANAGEMENT POLICY**1. An Energy Management Policy shall include—**

- (a) A commitment to improve energy efficiency and conservation;
- (b) A commitment to comply with the Act and these Regulations;
- (c) A commitment to provide resources necessary to achieve energy efficiency and conservation;
- (d) A commitment to establish and implement a strategic plan for energy efficiency and conservation;
- (e) A commitment to train staff to ensure competence in energy efficiency and conservation.

2. The owner or occupier of the designated facility shall ensure that the policy is endorsed by the top management.

3. The owner or occupier of the designated facility shall ensure that the policy is communicated to all staff.

SECOND SCHEDULE

[Rule 6(2).]

GUIDELINES FOR ENERGY AUDIT REPORT**1. Cover Page**

- Report title;
- Name of client (company for which the facility has been audited);
- Location of facility;
- Date of report;
- Audit team and their Qualifications;
- Signature of Auditor or Audit Firm;
- Statement by the company accepting the report and verifying that the audit report has taken into account the company's financial criteria for funding of projects;
- Signature of company's representative.

2. Executive Summary

All information in the Executive Summary should be drawn from the detailed information in the full report. The Executive Summary should contain a brief description of the audit, including—

- Name of client, location of facility or building audited;
- Objectives of audit;
- Key systems and equipment analyzed;
- Dates of audit;

• Summary of recommended energy conservation measures, annual energy savings and cost savings using the table format below:

No.	Recommended Measure	Estimated Implementation Cost	Estimated annual energy savings (kWh/unit of production and/or kWh/square foot)	Estimated Annual Monetary Savings	Estimated annual CO ₂ reduction (kg/kWh)	Payback period	Return on Investment (ROI)
1.							
2.							
Total							

3. Introduction

- Objectives of audit;
- The financial criteria and technical/operational limitations;
- Brief description of facility audited;
- Previous year's energy consumption and costs, including tariff rates used for financial calculations;
- Breakdown of energy supply and end use (electricity and fuel);
- Scope of audit.

4. Methodology

- List of instruments used and measurement procedure;
- Pictures and maps showing the locations of the instruments and sensors in use during the audit;
- Measurement error analysis (mandatory).

5. Assumptions

Clearly state all the assumptions made in taking measurements, calculations, and financial and economic analysis.

6. Data Analysis and Findings

Description of systems or equipment audited, their capacities and ratings, design and operating conditions;

Inventory of key energy consuming equipment and systems;

[Subsidiary]

Review of energy production and service level data for the baseline period (at least one year);

Establishment of Baseline energy consumption data such as the energy efficiency index (EEI – kWh/m²/year) of buildings, defined as the amount of energy consumed annually per Gross Floor Area (GFA) of the building;

Heat and mass balance where applicable;

Findings and observations.

7. Identified Energy Saving Measures

Brief description of the present situation and shortcomings identified;

Recommended energy saving measures with detailed and clear calculations of the predicted annual energy and cost savings, investment cost and payback period for each measure. All numbers should be supported by data and assumptions must be stated.

8. Energy Investment Plan

Summary of recommendations to include: projected annual kWh savings, estimated cost savings, projected investment cost and investment indicators such as payback period, return on investment and internal rate of return (IRR);

Show clearly the agreed energy investment plan the organisation intends to take in order to improve efficiency and conserve energy. The plans should show time required for completion, and resources to be used i.e. labour, materials, finances and anything else which is relevant for the project.

9. Monitoring and verification

Indicate the monitoring and verification process to be applied.

10. Appendices

Information of significant importance, which cannot be presented as a part of the text report (because of number of pages, quality of presentation, etc.) should be presented in appendices.

The appendices should include—

- Schematics and layout drawings of facility or building audited;
- Details of instrumentation used—parameters monitored and duration of monitoring for each parameter;
- Data plots of performance of systems or equipment audited;
- Energy efficiency of major equipment compared against industrial benchmarks;
- Measurement and verification (M&V) plan for monitoring and verifying energy savings for each of the recommendations;
- CD-ROM containing the raw measurement data.

11. General Notes to the Report

• Documentation – All numbers related to the results should be supported by information showing how they were derived. This includes all energy savings, cost savings, investment and payback information;

- All calculations in the report should be checked for mathematical accuracy;
- SI units must be used in all parts of the report;

- Measurement and instrumentation accuracy;
- Grammar and style – The report should be written in proper prose. The language should be clear, concise and understandable;
- All graphs and plots should be properly labelled and show the dates when the readings were taken;
- The report should be printed on both sides to save paper;
- A soft copy of the report shall be sent to the Commission;
- Indicate sources of reference which can include but not limited to Energy Management Handbook, International Standards and best global practices.

THIRD SCHEDULE

[Rule 6 (5).]

QUALITY ASSURANCE DECLARATION FORM

I/ We have conducted an energy audit as set out in the Energy Management Regulations 2011, which comprise the company energy consumption and costs as at (Date).

Owner's Responsibility for the Energy Investment Plan

The Owner/ Occupier are responsible for the preparation and fair presentation of this e Energy Investment plan and the requirements of the Energy Management Regulations 2011. This responsibility includes: designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of the Energy Investment plan that is free from material misstatement, whether due to fraud or error, selecting and applying appropriate energy audit methodologies; and making audit estimates that are reasonable in the circumstances.

Auditors Responsibility

Our responsibility is to express an opinion on the energy supply and end use based on our audit. We conducted our audit in accordance with International Standards on Energy Auditing. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance whether the energy audit and investment plan are free from material misstatement.

An energy audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the energy and financial statements. The procedures selected depend on our judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, we considered the internal controls relevant to the company's preparation and fair presentation of the Energy investment plan in order to design audit procedures that were appropriate in the circumstances, but not for the purpose of expressing an opinion on the company's internal controls.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the accompanying Energy Investment Plan give a true and fair view of the possible intervention to improve energy efficiency and conservation of the company as at (Date).

Report on Other Legal Requirements

We wish to report to you, based on our audit that—

- (a) We have obtained all the information and explanations which to the best of our knowledge and belief were necessary for the purposes of our audit;
- (b) In our opinion proper energy and financial records have been kept by the company, so far as appears from our examination of those records; and
- (c) The company's energy supply and end are/are not in agreement with the records.

[Subsidiary]

THIRD SCHEDULE—*continued*

Certified Energy Auditor (Kenya)

Licence Number

National ID/Passport Number

Sign

Date

FOURTH SCHEDULE

[Rule 9(1).]

GUIDELINES FOR IMPLEMENTATION REPORT

1. Cover Page

- Report title;
- Name of client (company for which facility has been audited);
- Location of facility or building;
- Date of report;
- Audit firm;
- Audit team and their project designations.

2. Executive Summary

All information in the Executive Summary should be drawn from the detailed information in the full report. The Executive Summary should contain a brief description of the following—

- Name of client, location of facility or building audited;
- Measures Implemented;
- Summary of energy saving measures, and the measured annual energy and cost savings in table format as shown below—

No.	Recommended Measure	Estimated annual energy savings	Estimated annual energy savings	Estimated annual cost savings	Estimated implementation on cost	Payback period	Return on Investment (ROI)	Carbon Dioxide Reduction on per Kwh
1								
2								
TOTAL								

3. Measures implemented and cost of implementation

- Details of measures implemented;
- Description of systems or equipment modified, their capacities and ratings, design conditions, equipment schedules, including information such as the type of systems, type of controls, type and number of auxiliary equipment, etc.;
- Milestone chart showing the timeline of implementation;
- Cost breakdown of each measure in table format, with reference to the payment documents.

4. Measurements and Calculations

- Details of the measurements and verification system adopted to measure and compare actual savings to savings projected in the detailed audit;
- Formulae and key data used for calculations;
- Detailed instrumentation plan;
- Parameters monitored and duration of monitoring of each parameter;
- Dates of data collection and logging;
- Performance of systems or equipment;
- Findings and observations.

5. Savings Achieved

- Summary of the measures implemented, the predicted and actual annual kWh savings, and the predicted and actual annual cost savings.
- Statement by the company on whether or not the implementations meet the company's savings target stated in the Audit report.

6. Appendices

Information with significant importance, which cannot be presented as a part of the text report (because of number of pages, quality of presentation, etc.) shall be presented as appendices as follows—

- Data plots of performance of systems or equipment improved;
- Data plots of energy consumed vs. time before and after implementation on the same graph, showing the improvement.
- Energy efficiency of major equipment compared against benchmarks set during the detailed audit;
- Current energy bills.

7. General Notes to the Report

- Content – The report should focus on the measures stated in the detailed energy audit report, and with reference to the figures made then;
- Documentation – All numbers related to the results should be supported by information showing how they were derived. This includes all energy savings, cost savings, investment cost and payback information;
- Mathematical accuracy – All calculations in the report should be checked for mathematical accuracy;
- Grammar and style – The report should be written in proper prose. The language should be clear, concise and understandable;
- All graphs and plots should be properly labeled and named, highlighting the important points to take note;
- A soft copy of the report shall be sent to the Commission.

FIFTH SCHEDULE

[Rule 9(1).]

QUALIFICATIONS AND EXPERIENCE FOR LICENSING

A – Energy Auditor – Minimum Education qualifications and Professional experience

1. To be licensed as an Energy auditor and applicant must have a minimum of any one of the following combinations of academic and professional qualifications

	<i>Education (Academic)</i>	<i>Professional (Job)</i>
1.	A degree in technology or engineering or equivalent in a relevant field.	At least three years work experience in Energy operations or Maintenance or Planning
2.	Post graduate Engineer (Masters of Engineering/Masters of Technology).	At least two years work experience in Energy operations or Maintenance or Planning
3.	A graduate Engineer with post-graduate degree in Energy Management or equivalent.	At least two years work experience in Energy operations or Maintenance or Planning
4.	Higher National Diploma Engineer or equivalent.	At least six years work experience in Energy operations or Maintenance or Planning
5.	A post graduate degree in Physics or Electronics or Chemistry (with Physics and Mathematics at graduation level).	At least three years work experience in Energy operations or Maintenance or Planning
6.	A First degree in Architecture or equivalent field.	At least three years work experience in design and use of Energy efficient buildings
7.	A Masters degree in Architecture or equivalent in relevant field.	At least two years work experience in design and use of Energy efficient buildings

2. An energy management certification examination from a body recognized by the Energy Regulatory Commission, or Post Graduate Diploma in Energy Management, or Masters of Science in Energy Management from recognised University.

3. A person applying for a Category B energy audit license shall have conducted at least five energy audits.

*B– Categories of Audit Licences***1. Category A Auditor**

A holder of a Category A audit licence shall be authorized to conduct all energy audits including investment grade audits.

An applicant for a Category A Audit License shall be required to have—

- (a) met all the qualifications in Part A above; and
- (b) conducted at least five energy audits, one of which must have been an investment grade audit.

2 Category B Auditor

A holder of a Category B Audit License shall be authorized to conduct all energy audits excluding investment grade audits.

An applicant for a Category B Audit License shall be required to have—

- (a) met all the qualifications in Part A above; and
- (b) conducted at least five energy audits.

SIXTH SCHEDULE

[Rule 13(1).]

APPLICATION FORMS

A – Application for Licence as an Energy Auditor

1. Name:
2. Age:
3. Nationality:
4. Identity Card/Passport Number:
5. Designation:
6. Category of Audit: A or B (.....)
7. Academic Qualification:
 - (a)
 - (b)
8. Professional Qualification:
 - (a)
 - (b)
9. Other specific qualification on energy related subjects (if any)

.....
10. Membership of professional and/or Technical Associations
 - (a)
 - (b)

11. Employment Record

<i>Period From/To</i>	<i>Name of Company</i>	<i>Position Held</i>	<i>Responsibilities and Experience</i>

12. Previous Energy Audits

<i>Energy Audit Dates</i>	<i>Energy Audit Location</i>	<i>Client Name Address/Contact Info</i>	<i>Category of Audit</i>	<i>Scope of the Energy Audit</i>	<i>Status of the Energy Project after Audit</i>

13. Provide certified copies of National ID or passport, academic, professional and training certificates of Lead Auditor.

Note: For items 10 and 11, applicants may provide detailed information on separate sheets if the space provided is not adequate.

[Subsidiary]

*

B – Application for Licence as an Energy Audit Firm

Purpose of Application*: New Application: Renewal:

1. Company Name:
2. Category of the Energy Audit Firm (i.e. A or B):
3. Date:
4. Contact details—
 - (a) Physical Address:
 - (b) Telephone No.:
 - (c) Cell Phone No.:
 - (d) E-mail Address:
 - (e) Website (if any):
5. Details of the Licenced Energy Auditor (i.e. Lead Auditor)—

Name:

Nationality:

ID/Passport Number:

Licence Number:

Position held:
6. Provide copies of the following certificates—
 - (a) Certificate of registration from the registrar societies;
 - (b) VAT certificate;
 - (c) Tax Compliance certificate;
 - (d) Certified copies of National ID or passport, academic, professional and training certificates of Lead Auditor.

ENERGY (SOLAR PHOTOVOLTAIC SYSTEMS) REGULATIONS , 2012

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation.
2. Application.
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4. Licensing of solar PV system technicians.
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6. Licensing of solar PV system manufacturer, importer, vendor or contractor.
7. General conditions for licences.
8. Design, installation, repair and maintenance.
9. Warranty on system and components.
10. Use and disposal of solar PV systems and components.
11. Compliance with other technical, legal and regulatory requirements.
12. Documentation by the Commission.
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SCHEDULES

FIRST SCHEDULE —	QUALIFICATIONS AND EXPERIENCE FOR LICENSING
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ENERGY (SOLAR PHOTOVOLTAIC SYSTEMS) REGULATIONS, 2012

[L. N. 103/2012.]

1. Citation

These Regulations may be cited as the Energy (Solar Photovoltaic Systems) Regulations, 2012.

2. Application

(1) These Regulations shall apply to a solar PV system manufacturer, importer, vendor, technician, contractor, system owner, a solar PV system installation and consumer devices.

(2) Where alternate current electricity is involved the Electric Power (Electrical Installation Work) Rules, 2006, shall apply.

3. Interpretation

In these Regulations, unless the context otherwise requires—

“consumer devices” means off-the-shelf, readymade kits with no installation required, and may include PV lanterns, DC phone chargers and PV kits;

“contractor” means a business, or organization that provides goods or services to another entity under terms specified in a contract;

“battery based system” means an electrical energy supply system based on a battery without an integrated charging source or the charging source on site, and may include a single DC battery up to 200 Ah;

“hybrid system” means an integrated solar PV system incorporating other electricity generation sources such as diesel generator or wind generator;

“Commission” means the Energy Regulatory Commission established under section 4 of the Act;

“Kenya Standard” shall have the meaning assigned to it under Standards Act (Cap. 496);

“licensee” means the holder of a licence;

“manufacturer” means an entity that makes solar PV system, components or products through a process involving raw materials, components, or assemblies;

“medium system” means a solar PV system incorporating a single module or multiple modules up to 300 Wp;

“photovoltaic” or “PV” means the direct conversion of sunlight into electric current;

“small system” means a solar PV system incorporating a single module or multiple modules up to 100 Wp;

“solar cell” means a solid state device that converts the energy of sunlight directly into electricity by photovoltaic effect;

“solar PV module” means a packaged interconnected assembly of solar cells, also known as photovoltaic cells;

“solar photovoltaic system” or “solar PV system” means a system consisting of photovoltaic modules, electrical, mechanical connections and mountings and regulating or modifying electrical output components that generate and provide electricity;

“system design tools” means equipment, software, spreadsheets, charts, or matrices used in the design, installation, testing and maintenance of solar PV systems;

“solar PV system installation” means a set up comprising a solar PV system, modules and components fixed at a specific site for the provision of electricity service;

“vendor” means a distributor, promoter, or supplier of solar PV system or components or consumer devices to a user for installation by a technician, contractor or user;

“warranty” means an assurance or guarantee given to the purchaser by a manufacturer or his agent stating that a product will perform as stated, is reliable and free from known defects and that the manufacturer shall, without charge, repair or replace defective parts within a given time limit and under certain conditions.

4. Licensing of solar PV system technicians

(1) A person shall not design or install any solar PV system unless he is licensed by the Commission.

(2) To be licensed by the Commission as a technician, a person shall be required to have the prescribed qualifications and experience as set out in the First Schedule, and appropriate certification recognized by the Commission.

(3) The Commission may on application being made to it, grant to the applicant any one of the following classes of licences—

- (a) Class T1 licence, which shall entitle the holder to carry out solar PV system installation work for small systems or single battery DC systems of up to 100 Wp;
- (b) Class T2 licence, which shall entitle the holder to carry out solar PV system installation work for medium systems or multiple batteries which may include an inverter;
- (c) Class T3 licence, which shall entitle the holder to carry out solar PV system installation work for advanced, including grid connected and hybrid systems.

5. Licensing of solar PV system manufacturers

(1) A person shall not engage in the business of manufacture of any solar PV system and components unless he applies for and obtains a licence from the Commission.

(2) An application under this Regulation shall be in form ERC 002 as set out in the Third Schedule, and the applicant shall pay to the Commission the fee set out in the Second Schedule.

(3) An application for a solar PV system technician's licence shall be made to the Commission on form ERC 003 set out in the Second Schedule, specifying the class of licence in respect of which the application is made, and shall be accompanied by the prescribed fee.

(4) The applicant shall furnish to the Commission such evidence or particulars as may be required by the Commission relating to the applicant's previous experience of solar PV system installation work.

6. Licensing of solar PV system manufacturer, importer, vendor or contractor

(1) A person shall not import, distribute, promote, sell or install any solar PV system unless he is licensed by the Commission as a vendor.

(2) Where under this Regulation a person who is not a technician applies to be licensed by the Commission as a vendor or contractor that person shall be required to have in his employment, a licensed Solar PV system technician.

(3) The Commission may on application being made to it, grant to the applicant any one of the following classes of licences—

- (a) Class C1 licence, which shall entitle the holder to carry out design and installation work for solar PV systems, in which case the contractor shall be requested to be or have in his employment a class T3 technician;
- (b) Class V1 licence, which shall entitle the holder to design, distribute, promote, sell or install solar PV systems, in which case the licensee shall be required to be, or to have in his employment a class T2 technician;
- (c) Class V2 licence, which shall entitle the holder to manufacture or import solar PV systems or components, in which case the licensee shall be required to be or to have in his employment a class T2 technician.

(4) An application for the registration of a manufacturer, importer, vendor or contractor shall be made to the Commission on form ERC 004 set out in the Third Schedule, and such application shall specify the class of licence in respect of which the application is made and be accompanied by the prescribed application fees to the commission as set out in that Schedule.

7. General conditions for licences

(1) The Commission may grant an applicant such type of licence as in its opinion the applicant is qualified to hold, or may refuse to grant any licence to any applicant, and shall set out in writing the reasons for refusal.

(2) The Commission may require or cause an applicant under these Regulations, to be examined, in such manner as it may determine, upon any matter or thing in connection with the application for the purpose of engaging in or undertaking solar PV system promotion, distribution or installation.

(3) The Commission shall process all applications expeditiously and in any case, not later than ninety days from the date of receipt of the application.

(4) A licence issued under this Regulation shall be valid for one year from the date of issue.

(5) A solar PV system technician licence holder shall be required to practise for at least two years before applying to upgrade the licence.

8. Design, installation, repair and maintenance

(1) The design, installation, repair and maintenance of a solar PV system shall be in accordance with the relevant Kenya standard.

(2) Any solar PV system design and specifications shall take into account the electric energy needs and safety of the user, and ensure that these aspects are appropriately matched.

(3) A system design declaration indicating the user's electrical energy needs and proposed design shall be prepared by the vendor or contractor and signed by both vendor or contractor and the customer.

(4) A vendor or contractor shall be responsible for the design and specifications of complete solar PV systems, except in situations where customers purchase individual system components from different vendors, in which case the customers shall indicate in the signed system design declaration form that they did not require the said design or specifications from the vendor or contractors.

(5) A vendor or contractor shall submit the solar PV system design tools to the Commission for approval.

(6) A solar PV system technician or contractor shall issue an installation completion certificate, showing as a minimum, the date of installation, details of the person installing, details of the owner, the location, capacity and warranty upon the commissioning of the solar PV system.

(7) The owner of a solar PV system shall use and ensure maintenance and carry out repairs required to keep the installation in good and efficient working condition.

9. Warranty on system and components

(1) A manufacturer, vendor, technician or contractor shall provide a warranty to the customer for the components in the solar PV system and the PV Installation for the periods set out in the Fourth Schedule.

(2) Consumer devices which incorporate the use of solar PV systems shall have a warranty for the periods set out in the Fourth Schedule.

(3) A manufacturer or vendor shall ensure the warranty period is clearly indicated on any displayed solar PV system product.

10. Use and disposal of solar PV systems and components

(1) All manufacture, sale, installation, use and disposal of solar PV systems and components shall be in accordance with the provisions of the Environmental Management Co-ordination Act (Cap. 387) and the Occupational Safety and Health Act (Cap. 513).

(2) A manufacturer or vendor of a solar PV system and components shall affix thereon appropriate safety and health warning labels.

(3) A technician or contractor shall affix appropriate safety and health warning labels on completed solar PV system installations.

11. Compliance with other technical, legal and regulatory requirements

The installation of solar PV system and battery based systems in premises shall be in compliance with all other relevant technical, legal and regulatory requirements applicable in Kenya.

12. Documentation by the Commission

(1) The Commission shall maintain a register of all licensed solar PV systems manufacturers, importers, vendors, technicians and contractors, which shall be available for inspection by the public during working hours free of charge.

(3) All vendors, technicians and contractors shall provide to the owner of a solar PV system the prescribed documentation as set out in the Fifth Schedule.

(4) All manufacturers, importers, vendors, technicians and contractors shall provide with the Commission information on the annual sales volumes in watts, and value of solar PV systems and components manufactured, sold and installed, by the 31st March of the year following the manufacture, sale or installation.

(5) A solar PV system manufacturer, importer, vendor, technician or contractor shall maintain any documentation required under these Regulations for a minimum period of five years.

13. Powers of Inspection

(1) The Commission or its agent may carry out inspection, in relation to the compliance with these Regulations, in accordance with section 24 of the Act.

[Subsidiary]

(2) Where the Commission finds that any provisions of these Regulations have been contravened by a manufacturer, importer, vendor, technician or contractor, or that a condition has arisen which may lead to the contravention of these Regulations, the Commission or its agent may issue a non-compliance notice in that respect.

(3) A notice issued under subregulation (2) shall state—

- (a) the specific provisions which have been or are likely to be contravened;
- (b) the measures which should be taken to rectify, the contravention; and
- (c) the period within which the notice shall be complied with.

(4) The Commission may, upon request and after inspection, issue a compliance certificate where the manufacturer, vendor, technician, or contractor is in compliance with these Regulations and the solar PV system meets the requirements set out herein.

(5) An inspection under subregulation (4) shall be carried out at the licensee's cost and the compliance certificate shall be valid for a period of one year.

14. Renewal of licence

(1) An application for renewal of a licence shall be made at least thirty days before the expiry date of the current licence, and shall be renewal accompanied by the fee specified in Third Schedule.

(2) Where, upon application, it is shown to the satisfaction of the Commission that a licence has been lost, destroyed or defaced, the Commission may issue a duplicate licence.

15. Revocation of licenses

(1) The Commission may suspend or revoke any licence issued under these Regulations upon being satisfied that the licensee has contravened any of the provisions therein.

(2) Upon the suspension or revocation of a licence under subregulation (1), the Commission may by written notice to such licensee setting out the reasons thereof, disqualify him from holding a licence or a particular type of licence for such period as the Commission deems fit.

(3) Before exercising its powers under subregulation (1), the Commission shall by notice in writing afford the licensed solar PV system manufacturer, importer, vendor, contractor or technician whose licence it is proposed to suspend or revoke an opportunity of appearing or being represented before it to show cause why the Commission should not exercise its power under these Regulations.

(4) An issuing officer may at any time by giving seven days notice in writing to a licensed manufacturer, importer, vendor, contractor or technician, a copy of which shall be sent to the Commission, suspend the licence of the business of such a licensee or of a branch thereof until the next meeting of the Commission.

(5) Any licence issued and is not renewed for two consecutive years shall, unless the licence holder has before expiry of the licence informed the Commission in writing of the intention and reasons not to renew the licence, be deemed to have been cancelled and shall not be considered for renewal.

(6) Where the Commission suspends or revokes the licence of any manufacturer, importer, vendor, contractor or technician it shall remove the name of the holder from the register of licensees for the time being licensed under these Regulations.

(7) Where a licence is cancelled under subregulation (6) or deemed to be cancelled under subregulation (5) the licence holder may re-apply for a licence and shall be required to go through an oral interview.

(8) Every licence shall, unless previously suspended or cancelled, remain in force until it expires and shall not be transferable but may be renewed subject to such conditions as may be specified by the Commission.

16. Offences and penalties

Any person who—

- (a) by himself, servant, or agent undertakes or carries out any solar PV system manufacture, import, vending or installation work without being the holder of a licence then in force appropriate to the work undertaken or carried out or without being under the direction of such a license-holder;
- (b) contravenes or fails to comply with any of the terms and conditions of any licence issued under these Regulations or willfully gives false or misleading information under or for the purposes of these Regulations;
- (c) submits or causes to be submitted to the Commission or its agent a completion certificate which he knows or has reason to believe is false in any material particular;
- (d) being an owner or occupier of any premises or a developer or contractor of any premises under construction, causes or permits to be carried out upon the premises any solar PV system installation work in contravention of these Regulations; or
- (e) contravenes or fails to comply with any of these Regulations or who fails to comply with any prohibition or order of the Commission under any of these Regulations,

commits of an offence and shall, on conviction, be liable to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding one year, or to both.

FIRST SCHEDULE

[Rule 4(2).]

QUALIFICATIONS AND EXPERIENCE FOR LICENSING

Solar PV system Technician – Minimum Education (Academic) qualifications and Professional (Job) experience

	Category	Education (Academic)	Professional (Job) Experience
1	Basic T1	KCPE, Electrical Govt. trade test 2 and Basic Solar Training	Verifiable two years solar installation experience
2	Intermediate T2	KCSE, Certificate in Electrical or Electronic and Intermediate Solar Training	Verifiable four years solar installation experience
		KCSE, Diploma in Electrical or Electronic and Intermediate Solar Training	Verifiable two years solar installation experience

Energy

[Subsidiary]

		Bsc Electrical Engineering or relevant degree Or Higher National diploma	One year of solar installation experience
3	Advanced T3	KCSE, Diploma in Electrical or Electronics and Intermediate Solar Training	Verifiable four years solar installation experience
		Bsc Electrical Engineering or relevant degree Or Higher National diploma	Two years of solar installation experience

SECOND SCHEDULE

[Rule 5(2).]

LICENCE FEES

1. To be licensed as a solar PV system technician the following fees shall apply—

<i>Class of Licence</i>	<i>Application Fee (KSh)</i>	<i>License Fee (KSh)</i>	<i>Renewal Fee (KSh)</i>
Class T1	250	1,000	500
Class T2	500	2,000	750
Class T3	750	3,000	1,000

2. To be licensed as a solar PV system manufacturer, importer, contractor/ vendor the following fees shall apply—

<i>Class of Licence</i>	<i>Application Fee (KSh)</i>	<i>License Fee (KSh)</i>	<i>Renewal Fee (KSh)</i>
Class C1	500	1,000	750
Class V1	1,000	2,500	1,000
Class V2	2,000	5,000	2,500

THIRD SCHEDULE

[Rule 6(4).]

FORMS

FORM ERC 001

Submission form for annual sales volumes in watts for solar PV system manufacturers, vendors, contractors and technicians

PV Category: ☐ Technician ☐ Contractor/Vendor ☐ Manufacturer (Please indicate with a tick (✓))

1. Name of manufacturer/vendor/contractor/technician:

.....

.....

THIRD SCHEDULE, FORM ERC 001—*continued*

2. Licence No.:
3. Details of manufacturer/vendor/contractor/technician:
- (a) Income Tax Personal Identification Number:
- (b) Postal Address:
- (c) Email Address:
- (d) Telephone number(s):
- (e) Location of business premises:
- LR/Plot No.: Building Name:
- Street:
- Town/County:
4. Give full details of proprietors or partners owning business or directors/shareholders of the company, as applicable:
- Name:
- Nationality:
-

(Insert additional lines as appropriate)

5. Provide the following information based on your solar PV system category i.e. manufacturer, vendor, contractor, technician, manufacturer for systems and components sold and installed in the last one year—

- (a) For importers

- (i) Component/consumer devices imported

	Description of solar PV system component or consumer device including capacity or size	Number	Country of origin
1.			
2.			
3.			

(Insert additional lines as appropriate)

- (ii) Components/consumer devices sold

	Description of solar PV system component or consumer device including capacity or size	Number	General location (Region/District/County)
1.			
2.			
3.			

(Insert additional lines as appropriate)

- (b) For manufacturers

- (i) Components/consumer devices produced

	Description of solar PV system component or consumer device including capacity or size	Number
4.		
5.		
6.		

(Insert additional lines as appropriate)

Energy

[Subsidiary]

THIRD SCHEDULE, FORM ERC 001—*continued*

(ii) Components/consumer devices sold

	Description of solar PV system component or consumer device including capacity or size	Number	General location (Region/District/County)
4.			
5.			
6.			

(Insert additional lines as appropriate)

(c) For vendors/Contractors/Technicians

(i) Systems installed

	Description of solar PV system including system capacity or size	Number	General location (Region/District/County)
1.			
2.			
3.			

(Insert additional lines as appropriate)

(ii) Components sold

	Description of solar PV system component including capacity or size	Number	General location (Region/District/County)
1.			
2.			
3.			

(Insert additional lines as appropriate)

(d) For vendors/Contractors – Imports

(i) Components

	Description of solar PV system component or consumer device including capacity or size	Number	Country of Origin
1.			
2.			
3.			

(Insert additional lines as appropriate)

(ii) Systems

	Description of solar PV system including system capacity or size	Number	Country of Origin
1.			
2.			
3.			

(Insert additional lines as appropriate)

THIRD SCHEDULE, FORM ERC 001—*continued*

DECLARATION

I/We hereby, declare that the information I/we have provided in the application is true and correct. I understand that it is an offence to give false information in an application for a licence.

Signature of Applicant

Date

FORM ERC 002

APPLICATION FOR A SOLAR PV SYSTEM MANUFACTURER LICENCE

(A separate application form must be completed in respect of each separate business establishment)

The Director-General
Energy Regulatory Commission
P.O. Box 42681, 00100 GPO
NAIROBI

I/We hereby apply to be licensed as a manufacturer in accordance with the Energy (Solar Photovoltaic) Regulations, 2012. I/We commit to carry out all manufacturing work for solar PV system and components undertaken by me/ourselves in accordance with the Energy (Solar Photovoltaic) Regulations, 2012 and any rules and by-laws for the time being in force there under.

Purpose of Application: New Application ☐ Renewal ☐ (Please tick (✓) as appropriate)

1. Name of applicant:
.....
.....

2. Details of applicant:

- (a) Income Tax Personal Identification Number:
- (b) Postal Address:
- (c) Email Address:
- (d) Telephone number(s):
- (e) LR/Plot No.: Building Name:
- (f) Street:
- (g) Town/County:

3. Location of business premise(s):

- (a)
- (b)
- (c)

(Insert additional lines as appropriate)

4. Give full details of proprietors or partners owning business or directors/shareholders of the company, as applicable:

Name:
Nationality:

(Insert additional lines as appropriate)

5. State if you are or any of your partners/directors is an undischarged bankrupt. (If so indicate the names):

- (a)

Energy

[Subsidiary]

THIRD SCHEDULE, FORM ERC 002—*continued*

- (b)
 (c)

(Insert additional lines as appropriate)

6. For new applications, certified copies of the following documents should be submitted with the application for a licence:
 (a) If Kenyan, a copy of ID card, or if non-Kenyan a copy of current work permit together with copies of pages 1 and 5 of the passport;
 (b) Relevant entry permits(s) for non-citizens;
 (c) Copy of Business name Registration Certificate or Certificate of Incorporation and Memorandum and Articles of Association in case of a company (whichever is applicable);
 (d) Lease agreement or letter from landlord confirming tenancy;
 (e) PIN and VAT certificates;
 (f) Valid Tax compliance certificate;
 (g) Any other document that may be required by the Commission from time to time.
7. For renewal of a licence, only a photocopy of the current licence should be submitted.
8. Name and address of bank(s) or financial institution(s) where the business account(s) is/are maintained:
 (a)
 (b)
 (c)

(Insert additional lines as appropriate)

9. Previous manufacturing experience:

(Insert additional lines as appropriate)

10. Have you applied for a licence in the past? Yes ☐ No ☐ If yes,
 (a) Licence No.:
 (b) Issued on:
 (c) Issued by:

11. Has any previous application for a licence been rejected under these Regulations?
 Yes ☐ No ☐ (If Yes, give details)

.....

Has any previous licence been cancelled under these Regulations?

Yes ☐ No ☐ (If Yes, give details)

.....

DECLARATION

I/We hereby apply for a licence as a solar PV system manufacturer. I/We commit to carry out production in accordance with the Energy (Solar Photovoltaic) Regulations, 2012.

I/We hereby, declare that the information I/we have provided in the application is true and accurate. I/We understand that it is an offence to give false information in an application for a licence.

Signature of Applicant Date

Signature of Applicant Date

Signature of Applicant Date

THIRD SCHEDULE, FORM ERC 002—*continued*

REFEREES

(The following details to be completed by two different and independent referees, who would vouch your competence to operate as a manufacturer if licensed, your technical ability having already been established. Persons who may not understand what is involved in running a business cannot be accepted as referees).

1st Referee

I certify that the information given in this form is true and correct to the best of my knowledge.

Full name:

(Block letters, surname first)

Occupation:

Postal address:

Email Address:

Telephone number(s):

Date Signature of 1st referee

2nd Referee

I certify that the information given in this form is true and correct to the best of my knowledge.

Full name:

(Block letters, surname first)

Occupation:

Postal address:

Email Address:

Telephone number(s):

Date Signature of 2nd referee

FORM ERC 003

APPLICATION FOR A SOLAR PV SYSTEM TECHNICIAN LICENCE

The Director-General
Energy Regulatory Commission
P.O. Box 42681-00100, GPO
NAIROBI

I, hereby apply to be licensed as a solar PV system technician in accordance with the Energy (Solar Photovoltaic Systems) Regulations, 2012 for the following class* of licence—

- (a) Class T1, which shall entitle the holder to carry out solar PV system installation work for single PV module and single battery DC system of up to 100 Wp;
- (b) Class T2, which shall entitle the holder to carry out solar PV system installation work for medium size PV systems i.e. multiple modules of up to 300 Wp and multiple batteries which may include an inverter;
- (c) Class T3, which shall entitle the holder to carry out solar PV system installation work for advanced, including grid connected and hybrid solar PV systems.

*(Delete classes that do not apply)

I commit to carry out all solar PV system sales and installation works undertaken by me strictly in accordance with the Energy (Solar Photovoltaic Systems) Regulations, 2012 and any Regulations and by-laws for the time being in force thereunder.

Purpose of Application: New Application ☐ Renewal ☐ (Please tick (√) as appropriate)

1. Name of applicant:

(Block capitals, surname first)

[Subsidiary]

THIRD SCHEDULE, FORM ERC 003—*continued*

2. Income Tax Personal Identification Number:
3. Postal Address:
4. Email Address:
5. Telephone number(s):
6. Date of Birth:
7. Nationality:
8. Name and address of present employer, if any:

9. Name of present job:

10. Academic qualification:

(a)

(b)

11. Professional Qualification (Government Trade Test Certificate etc):

(a)

(b)

(c)

(Insert additional lines as appropriate)

12. Work experience (including apprenticeship (if any):

(a)

(b)

(c)

(Insert additional lines as appropriate)

13. Do you have any knowledge of Occupational Safety and Health Regulations: Yes ☐ No ☐

14. Have you applied for a licence in the past? Yes ☐ No ☐ If yes,

(i) Licence No.:

(ii) Issued on:

(iii) Issued by:

15. Has any previous application for a licence been rejected under these Regulations?

Yes ☐ No ☐ (If Yes, give details)

.....

.....

.....

.....

Has any previous licence been cancelled under these Regulations?

Yes ☐ No ☐ (If Yes, give details)

.....

.....

.....

I declare that the particulars given by me are true and accurate. I understand that it is an offence to give false information in an application for a licence.

Date: Signature of Applicant:

REFEREES

(The following details to be completed by two independent referees who must have known the applicant's ability very well, preferably in the trade)

THIRD SCHEDULE, FORM ERC 003—*continued*

1st Referee

I declare that the particulars given by the applicant in this form are true and correct to the best of my knowledge.

Full Name:
(Block letters, surname first)

Occupation:

Postal address:

Email Address:

Telephone number(s):

Solar PV system licence No. (If any):

I have known the above person for years.

Position held at present:

Date Signature of 1st referee

2nd referee

I declare that the particulars given by the applicant in this form are true and correct to the best of my knowledge.

Full Name:
(Block letters, surname first)

Occupation:

Postal address:

Email Address:

Telephone number(s):

Solar PV system licence No. (If any):

I have known the above person for years.

Position held at present:

Date Signature of 2nd referee

FORM ERC 004

APPLICATION FOR A SOLAR PV SYSTEM CONTRACTOR/VENDOR/IMPORTER LICENCE

(A separate application form must be completed in respect of each separate business establishment)

The Director-General
Energy Regulatory Commission
P.O. Box 42681, 00100 GPO
NAIROBI

I/We hereby
apply to be licensed as a solar PV system contractor/vendor (delete as appropriate) in accordance
with the Energy (Solar Photovoltaic) Regulations, 2012 for the following class* of licence—

- (a) Class C1, which shall entitle the holder to carry out design and installation work for solar PV system. In this case the contractor shall have in his employment a class T3 technician.
- (b) Class V1, which shall entitle the holder to carry out design distribution, promotion, sale or installation work for solar PV system.

[Subsidiary]

THIRD SCHEDULE, FORM ERC 004—*continued*

- (c) Class V2, which shall entitle the holder to carry out import or manufacture solar PV systems or components.

**(Delete classes that do not apply)*

I/We commit to carry out all design distribution, promotion, sale and installation work for solar PV system undertaken by me/ourselves in accordance with the Energy (Solar Photovoltaic) Regulations, 2012 and any rules and by-laws for the time being in force thereunder.

Purpose of Application: New Application ☐ Renewal ☐ (Please tick (✓) as appropriate)

1. Name of applicant:

2.

3. Details of applicant:

(a) Income Tax Personal Identification Number:

(b) Postal Address:

(c) Email Address:

(d) Telephone number(s):

(e) LR/Plot No.: Building Name:

(f) Street:

(g) Town/County:

4. Location of business premise(s):

(a)

(b)

(c)

(Insert additional lines as appropriate)

5. Give full details of proprietors or partners owning business or directors/shareholders of the company, as applicable.

Name: Nationality:

.....

.....

(Insert additional lines as appropriate)

6. State if you are or any of your partners/directors is an undischarged bankrupt. (If so indicate the names):

(a)

(b)

(c)

(Insert additional lines as appropriate)

7. For new applications, certified copies of the following documents should be submitted with the application for a licence:

(a) If Kenyan, a copy of ID card, or if non-Kenyan a copy of current work permit together with copies of pages 1 and 5 of the passport;

(b) Relevant entry permits(s) for non-citizens;

(c) Copy of Business name Registration Certificate or Certificate of Incorporation and Memorandum and Articles of Association in case of a company (whichever is applicable);

(d) Lease agreement or letter from landlord confirming tenancy;

(e) PIN and VAT certificates;

(f) Valid Tax compliance certificate;

(g) Any other document that may be required by the Commission from time to time.

8. For renewal of a licence, only a photocopy of the current licence should be submitted.

THIRD SCHEDULE, FORM ERC 004—*continued*

9. Name and address of bank(s) or financial institution(s) where the business account(s) is/are maintained:

- (a)
 (b)
 (c)

(Insert additional lines as appropriate)

10. List of licensed Solar PV system technician(s):

Full name: Licence No.:

(Insert additional lines as appropriate)

11. Previous solar PV system work experience:

.....

(Insert additional lines as appropriate)

12. Have you applied for a license in the past? Yes ☐ No ☐ If yes,

- (a) Licence No.:
 (b) Issued on:
 (c) Issued by:

13. Has any previous application for a licence been rejected under these Regulations?

Yes ☐ No ☐ (If Yes, give details)

.....

Has any previous licence been cancelled under these Regulations?

Yes ☐ No ☐ (If Yes, give details)

DECLARATION

I/We hereby apply for a licence as a solar PV system contractor/vendor (delete as appropriate). We commit to carry out all installations in accordance with the Energy (Solar Photovoltaic) Regulations, 2012.

I/We hereby, declare that the information I/we have provided in the application is true and accurate. I/We understand that it is an offence to give false information in an application for a licence.

Signature of Applicant Date

Signature of Applicant Date

Signature of Applicant Date

REFEREES

(The following details to be completed by two different and independent referees, who would vouch your competence to operate as a contractor/vendor (delete as appropriate) if licensed, your technical ability having already been established. Persons who may not understand what is involved in running a business cannot be accepted as referees).

1st Referee

I certify that the information given in this form is true and correct to the best of my knowledge.

Full name:

(Block letters, surname first)

Energy

[Subsidiary]

THIRD SCHEDULE, FORM ERC 004—*continued*

Occupation:
 Postal address:
 Email Address:
 Telephone number(s):
 Date Signature of 1st referee

2nd Referee

I certify that the information given in this form is true and correct to the best of my knowledge.

Full name:
 (Block letters, surname first)

Occupation:
 Postal address:
 Email Address:
 Telephone number(s):

Date Signature of 2nd referee

FOURTH SCHEDULE

[Rule 9(2).]

MINIMUM WARRANTY ON SOLAR PV SYSTEM AND COMPONENTS

<i>Component</i>	<i>Warranty period</i>
Controller/regulator	10 years
Inverter	10 years
Battery	1 year
Light bulbs/ LEDs	1 year
Panels	20 years
Light fittings/device	2 years

FIFTH SCHEDULE

[Rule 12.]

DOCUMENTATION

DOCUMENTATION

<i>Item</i>	<i>Provided by</i>
Receipt of purchase	Vendor/Contractor
Signed system design declaration (owner/user signs agreement with the design)	Vendor/Contractor
Signed System completion certificate (include user training)	Technician/Contractor
User manuals	Vendor/Contractor

ENERGY (PETROLEUM INFORMATION AND STATISTICS) REGULATIONS, 2013

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation.
2. Application.
3. Requirement to submit information.
4. Information on importation and sales.
5. Information on petroleum refining business.
6. Information on petroleum storage facility business.
7. LPG information.
8. Other information.
9. Database.
10. Offences.

**ENERGY (PETROLEUM INFORMATION AND STATISTICS)
REGULATIONS, 2013**

[L.N. 6/2014.]

1. Citation

These Regulations may be cited as the Energy (Petroleum Information and Statistics), Regulations 2013.

2. Application

These Regulations shall not apply to the Kenya Defence Forces.

3. Requirement to submit information

An officer of the Commission may require any person engaged in petroleum business or a petroleum business licensee to submit any information in the prescribed manner and within the prescribed period.

4. Information on importation and sales

A petroleum business licensee who is engaged in the importation of petroleum shall submit to the Commission or its agents the following information—

- (a) the quantity of petroleum products imported each month for consumption in Kenya by type, country of origin and point of entry;
- (b) the quantity of petroleum products sold each month specifying the type of product sold and the consumer category;
- (c) the quantity of petroleum exported each month specifying the type of petroleum and its destination;
- (d) the quantity of foreign financed transit petroleum products received and transferred specifying the destination and exit point; and
- (e) the stocks of petroleum products held for consumption in Kenya at the end of each month stating the product type and the storage facility in which it is held.

5. Information on petroleum refining business

A petroleum refining business licensee shall submit the following information to the Commission or its agents—

- (a) the quantity and cost of crude oil imported during the month by type, origin and importer;
- (b) the quantity of crude oil refined during the month;
- (c) the yield of petroleum products obtained and the deliveries made; and
- (d) stocks of crude oil and petroleum products at the end of the month stating the type and owner.

6. Information on petroleum storage facility business

A petroleum storage facility business licensee shall submit to the Commission or its agent's information relating to the opening and closing stocks, receipts and deliveries of petroleum products stating the type for the month.

7. LPG information

(1) A petroleum business licensee dealing in liquid petroleum gas shall submit to the Commission or its agents information relating to the—

- (a) quantity of liquid petroleum gas received in bulk and the source from which it is received for each calendar month;
- (b) quantity and cost of liquid petroleum gas cylinders imported or procured locally per quarter;
- (c) opening and closing stocks of liquid petroleum gas cylinders for each calendar month;
- (d) sales of liquid petroleum gas and the destination for each calendar month; and
- (e) sales of liquid petroleum gas in cylinders for each calendar month.

(2) A petroleum business licensee shall submit the information required to be submitted under paragraph (1) before the fifteenth day of the month following the month to which the information relates.

8. Other information

The Commission or its agents may require a petroleum business licensee to submit any other relevant information.

9. Database

(1) The Commission or its agents shall maintain a database and shall keep records of the information provided under these Regulations in the prescribed manner and form.

(2) The data maintained by the Commission or its agents shall be made available to the public on payment of such reasonable charges as maybe prescribed from time to time determine.

(3) The Commission shall publish an annual report which shall include an analysis of the trends and developments based on the information drawn from its database and other sources.

10. Offences

(1) A person who gives false information to the Commission, any of its officers or agents commits an offence and shall be liable on conviction to a fine not exceeding one million.

(2) A person who fails, refuses or neglects to submit any data or information required under these Regulations commits an offence and shall be liable on conviction, to a fine not exceeding one million shillings.

**ENERGY (RETAIL FACILITY CONSTRUCTION
AND LICENSING) REGULATIONS, 2013**

ARRANGEMENT OF REGULATIONS

PART I – PRELIMINARY

Regulation

1. Citation.
2. Interpretation.
3. Application.

PART I – CONSTRUCTION PERMITS

4. Prohibition against construction without a construction permit.
5. Application for a construction permit.
6. Consideration and determination of application for a construction permit.
7. Inspection of a petroleum retail dispensing facility by an agent.

PART II – LICENSING OF PETROLEUM RETAIL BUSINESSES

8. Prohibition against operating Petroleum Retail Business without a Licence.
9. Application for Petroleum Retail Business Licence.
10. Consideration and determination of application.
11. Form of licence.
12. Enquiries by potential licensees.
13. Obligation of a petroleum retail business licensee.
14. Inspections and investigations.
15. Publication of list of names.
16. Offence.

SCHEDULES

FIRST SCHEDULE

SECOND SCHEDULE

**ENERGY (RETAIL FACILITY CONSTRUCTION
AND LICENSING) REGULATIONS, 2013**

[L.N. 7/2014.]

PART I — PRELIMINARY**1. Citation**

These Regulations may be cited as the Energy (Retail Facility Construction and Licensing) Regulations, 2013.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“**modification**” means any change in a facility which alters the existing technical design, storage capacity or impacts on compliance with local health, environmental and safety legal requirements or any change requiring local authority approval;

“**specifications**” has the meaning assigned to it in section 2 of the Standards Act (Cap. 496).

3. Application

These regulations shall not apply to the Kenya Defence Forces.

PART II – CONSTRUCTION PERMITS**4. Prohibition against construction without a construction permit**

(1) A person shall not construct or undertake modification of a petroleum retail dispensing site except—

- (a) in accordance with the Act; and
- (b) under the terms and conditions of a petroleum retail dispensing site construction permit.

5. Application for a construction permit

(1) A person may make an application to the Commission for a petroleum retail dispensing site construction permit in Form 1 set out in Part 1 of the First Schedule.

(2) An application for a petroleum retail dispensing site construction permit shall be accompanied by the documentation and information set out in Part II of the First Schedule.

6. Consideration and determination of application for a construction permit

(1) The Commission may request additional information from an applicant which may be necessary for the Commission to make a decision regarding the issuing of the petroleum retail dispensing site construction permit.

(2) The Commission shall issue a petroleum retail dispensing site construction permit if it is satisfied that the applicant has complied with the Act and these regulations.

(3) A petroleum retail dispensing site construction permit shall be in Form 2 set out in Part III of the First Schedule.

7. Inspection of a petroleum retail dispensing facility by an agent

(1) A person appointed by the Commission may enter and inspect any premise which is under construction as a petroleum retail dispensing site.

(2) Where an agent determines that a person who is engaged in the construction of a petroleum retail dispensing site has not obtained a petroleum retail dispensing site construction permit, he shall direct that person to—

- (a) cease the construction; and
- (b) apply for a petroleum retail dispensing site construction permit.

PART III – LICENSING OF PETROLEUM RETAIL BUSINESSES

8. Prohibition against operating Petroleum Retail Business without a Licence

A person shall not conduct any petroleum retail business except in accordance with the requirements of the Act and the terms and conditions of a valid petroleum retail business licence issued by the Commission.

9. Application for Petroleum Retail Business Licence

(1) A person may apply for—

- (a) a petroleum retail business licence; or
- (b) renewal of a petroleum retail business licence, in Form 3 set out in Part I of the Second Schedule.

(2) In the case of a new applicant the application made under paragraph (1) shall be accompanied by Form 4 set out in Part II of the Second Schedule.

10. Consideration and determination of application

(1) A person evaluating an application for a petroleum retail business licence, shall take into account the respective criteria set out in Part III of the Second Schedule.

(2) An agent may request additional information from an applicant that may be necessary to enable the Commission determine the application.

11. Form of licence

A petroleum retail business licence shall be in Form 5 set out in Part IV of the Second Schedule.

12. Enquiries by potential licensees

(1) A person appointed by the Commission shall furnish a person interested in applying for any of the licences prescribed under these Regulations with any relevant information.

(2) Any discussions with, notifications or requests for information from the Commission or its agents shall not confer any right to any person to the grant of a licence.

13. Obligation of a petroleum retail business licensee

A petroleum retail business licensee shall, as general conditions attached to the licence—

- (a) only retail petroleum at the facility specified in the petroleum retail business licence;
- (b) purchase petroleum or petroleum products only from a holder of a valid petroleum business licence;
- (c) only purchase or sell petroleum which meets the Kenyan Standard;
- (d) not offer for sale adulterated petroleum products or petroleum products meant for export;

[Subsidiary]

- (e) ensure that the petroleum dispensing pumps are calibrated within the time period specified by the law;
- (f) not charge prices above those determined by the Commission;
- (g) not hoard petroleum products;
- (h) ensure that the operations at the petroleum retail dispensing facility comply with the provision of all relevant written laws;
- (i) at all times comply with the Act and carry out the instructions of the Commission;
- (j) inform the Commission or its agents in writing of any changes of address or telephone number or other material particulars submitted as part of the application for the licence within thirty days of the relevant change taking effect; and
- (k) submit information to the Commission or its agents as required under the Act and any regulations made there under.

14. Inspections and investigations

A person appointed by Commission or agent may enter and inspect any petroleum retail dispensing site or any premises where petroleum retail business is conducted for the purposes of inspections or conducting investigations pursuant to the provisions of the Act.

15. Publication of list of names

The Commission may publish a list of names of retail dispensing sites who may have committed any offence under the Act or these Regulations.

16. Offence

Any person who contravenes the provisions of these regulations commits an offence and shall on conviction be liable to a fine not exceeding one million shillings.

FIRST SCHEDULE

[Rule 5.]

PART I

FORM 1

APPLICATION FORM FOR A PETROLEUM RETAIL DISPENSING SITE CONSTRUCTION PERMIT

(A separate application form must be completed in respect of each separate installation)

1. Name of applicant/proponent:
2. Details of applicant/proponent:
 - (a) Income Tax Personal Identification Number(s):
 - (b) Postal address:
 - (c) Email Address :
 - (d) Facility location :
 - (I) Plot No.:
 - (II) Street/Market:
 - (III) Town/County:

FIRST SCHEDULE, PART I, FORM 1—*continued*

3. Give full details of proprietors or partners owning business or directors/shareholders of the company, as the case may be:

Name	Nationality	(Where applicable No. of shares held)
.....
.....
.....

(Any additional information should be submitted on a separate sheet of paper)

4. Give full details of directors of the company:

Name	Nationality	Passport/ ID No.
.....
.....
.....

(Any additional information should be submitted on a separate sheet of paper)

5. Full description of the proposed petroleum facility:

.....

.....

.....

6. Specify the storage capacity of the facility:

.....

.....

.....

7. Give details on equity capital including other sources of financing:

.....

.....

.....

8. Indicate bank references:

.....

.....

.....

9. CONDITIONS FOR ISSUANCE OF A PETROLEUM RETAIL DISPENSING SITE CONSTRUCTION PERMIT

Compliance with:

- (a) Energy Act, 2006.
- (b) Environmental Management and Co-ordination Act, 1999 and in particular the report of the Environmental (Impact Assessment and audit) Regulations, 2003.
- (c) Physical Planning Act, 1996.
- (d) Any other subsidiary legislation regulations from the above Acts.

10. DECLARATION

- (i) I/We have read and understood the relevant sections of the Energy Act, 2006 and the related petroleum rules and regulations, and agree to abide with them.
- (ii) I/We hereby certify that the information given above is to my/our knowledge true and accurate.
- (iii) I/We understand that it is an offence to give false information in an application for a construction permit.
- (iv) I/We hereby confirm that our Company/Business shall abide by the above terms and conditions with regard to construction of the petroleum installation. I also understand that the construction permit is subject to these conditions.

Name of Company:

Name and ID No. of Person signing the Declaration:

Designation and telephone No.:

Energy

[Subsidiary]

FIRST SCHEDULE, PART I, FORM 1—*continued*

Signature & Stamp: _____

Date: _____

Email address: _____

11. FOR OFFICIAL USE ONLY

1. Date application received _____

2. Date of review: _____

3. Decision: _____

4. If application is deferred or rejected, date of letter advising applicant accordingly: _____

5. Permit details:

No.: _____ Date issued: _____ Expiry date: _____

PART II – INFORMATION AND DOCUMENTS TO ACCOMPANY APPLICATION
FOR A PETROLEUM RETAIL DISPENSING SITE CONSTRUCTION PERMIT

An application for a petroleum retail dispensing construction permit shall be accompanied by—

- (a) a completed application form;
- (b) three copies of approved plans and specifications;
- (c) an Environmental Impact Assessment (EIA) Licence; and
- (d) a certificate of compliance with land use.

PART III

FORM 2

PERMIT NO.

PETROLEUM RETAIL DISPENSING CONSTRUCTION PERMIT

Construction Permit is hereby granted to _____ of P.O. Box _____ to construct the following petroleum Facility (is):

Construction of: 1 . Petroleum Facility

On premises situated at:

Plot No.: _____

Street/Market: _____

Town/County : _____

This Permit expires on: _____

Dated this: _____

Signature: _____

(SEAL)

Director General,
Energy Regulatory Commission*Conditions:*

- 1.
- 2.
- 3.
- 4.

SECOND SCHEDULE

[Rule 7.]

PART 1

FORM 3

APPLICATION FORM FOR A PETROLEUM RETAIL BUSINESS LICENCE

(A separate application form must be completed in respect of each separate business establishment)

1. Name of business/applicant:
2. Details of applicant:
 - (a) Income Tax Personal Identification Number(s):
 - (b) Postal address:
 - (c) Email Address:
 - (d) Location of business premises:
 - (I) Plot No.: Building Name:
 - (II) Street/Market:
 - (III) Town/District:
3. Give full details of proprietors or partners owning business or directors/shareholders of the company, as the case may be:

Name	Nationality	(Where applicable No. of shares held)
.....
.....
.....

(Any additional information should be submitted on a separate sheet of paper.)
4. Give full details of directors of the company:

Name	Nationality	Passport/ ID No.
.....
.....
.....

(Any additional information should be submitted on a separate sheet of paper.)
5. Full description of the business(es) for which the licence is required:

.....

.....
6. (a) Indicate the number and date of issue of any licence previously held under the Act:

.....

.....

(b) Indicate the period for which the licence is being applied (maximum is one year from the date of issue):

.....
7. State if you are or any of your partners/directors is an undischarged bankrupt (if so indicate the names):

.....

.....
8. (a) Has any previous application for a licence been rejected under the Act? (If so, give details):

.....

.....

(b) Has any previous licence been cancelled under the Act?

.....

[Subsidiary]

SECOND SCHEDULE, FORM 3—*continued*

9. (a) Criteria to be met for new application and for renewal of a licence is attached at the back of the application form.
 (b) Certified copies (by advocate/commissioner of oaths) of documents as per criteria specified above should be submitted together with the licence application.

10. CONDITIONS FOR PETROLEUM RETAIL BUSINESS LICENCE

- (a) Compliance with Energy Act, 2006 and any other subsidiary legislation regulation issued there under.
 (b) Environmental Management and Co-ordination Act, 1999.
 (c) Traffic Act.
 (d) Relevant Kenya Standard on Petroleum Tankers.
 (e) Any other subsidiary legislation regulations from the above Acts.

DECLARATION

- (i) I/We have read and understood the relevant sections of the Energy Act (No. 12 of 2006) and the related regulations issued therein, and agree to abide with them.
 (ii) I/We hereby certify that the information given above is to my/our knowledge true and accurate.
 (iii) I/We understand that it is an offence to give false information in an application for a licence.
 (iv) I/We commit to conduct an honest petroleum business.

Name of Company:

Name and ID of Person signing the Declaration:

Designation and telephone No.:

Signature and Stamp:

Date:

Email address:

FOR OFFICIAL USE ONLY

1. Date application received:
 2. Date of meeting of Petroleum Licensing Committee:
 3. Decision of Petroleum Licensing Committee:

Members present

Signature

1.

2.

3.

4.

4. If application is deferred or rejected, date of letter advising applicant accordingly:

5. Date of review of application:

Decision of Committee:

Members present

Signature

1.

2.

3.

4.

6. Licence details:

No.: Date issued: Expiry date:

SECOND SCHEDULE—continued

PART II

FORM 4

QUESTIONNAIRE TO BE FILLED BY NEW APPLICANTS FOR A PETROLEUM RETAIL BUSINESS LICENCE

1. Name of applicant:
2. Nature of business (Sole Trader, Partnership, Private Company or Public Company):
.....
3. Certificate of Incorporation/Registration Number and date:
 (a) Country of Incorporation:
 (b) Physical address:
 (c) Postal address:
 (d) Telephone/ fax:
 (e) Email address:
4. Give full details of proprietors or partners owning business or directors/shareholders of the company, as the case may be:

Name	Nationality	(Where applicable No. of shares held)
.....
.....
.....

 (Any additional information should be submitted on a separate sheet of paper)
5. Give full details of directors of the company:

Name	Nationality	Passport/ ID No.
.....
.....
.....

 (Any additional information should be submitted on a separate sheet of paper)
6. Give details on equity capital including other sources of financing:
.....
7. Indicate bank references
.....
8. Type of business required to be licensed (tick as appropriate):
 (I) Refining
 (II) Importation
 (III) Exportation
 (IV) Wholesale
 (V) Storage
 (VI) Specify any other
9. Indicate if you:
 (a) Own storage facilities (if so, give details including location and capacity):
.....
 (b) Have hospitality/rental arrangement (if so, give details including copies of any agreements):
.....
10. Do you intend to market your product locally?
 If Yes,
 (a) Give the number and locations of Retail Outlets:
.....

[Subsidiary]

SECOND SCHEDULE, FORM 4—*continued*

(b) Give the number and locations of Distribution Depots including their capacities:

(c) If neither (a) nor (b) is applicable, explain:

(d) Give details on how you propose to maintain the approved quality of your product:

11. (a) Give details of measures you have taken/you propose to take to ensure that the product you handle does not endanger life or pollute the environment:

(b) Any additional information that the applicant wishes to give:

(If space provided above is not adequate use plain paper where applicable and attach to this questionnaire)

Name of Company:

Name and ID No. of Person signing the Declaration:

Designation and telephone No.:

Signature & Stamp:

Date:

PART III

A. LICENCE EVALUATION CRITERIA FOR NEW
PETROLEUM RETAIL BUSINESS LICENCE

An application for a Petroleum Retail Dispensing Construction Permit shall be accompanied by—

- (a) a completed application form;
- (b) a completed detailed questionnaire;
- (c) a certified copy of Certificate of Incorporation;
- (d) Certified copy of PIN registration certificate;
- (e) Certified copy of VAT registration certificate;
- (f) Certified copy of current Tax compliance Certificate;
- (g) Certified copy Identification documents for directors ID/passport;
- (h) Certified copy of a valid entry permit for foreign directors;
- (i) Certified copy of Lease agreement/proof of ownership of Premises e.g. title documents;
- (j) Certified copy of valid calibration certificate for the dispensing pumps from Weights and Measures;
- (k) Certified copy of Memo and Articles of association;
- (l) Environmental Impact Assessment (EIA) Licence;
- (m) Certified copy of Certificate of Compliance with Physical Planning Act;
- (n) Certified copy of Clearance Certificate form Chief Fire Officer ;
- (o) Detailed approved drawings drawn to scale; and
- (p) Certified copy of DOSHS certificate of registration.

SECOND SCHEDULE, —continued

B. LICENCE EVALUATION CRITERIA FOR RENEWAL
OF PETROLEUM RETAIL BUSINESS LICENCE

An application for a Petroleum Retail Dispensing Construction Permit shall be accompanied by—

- (a) Completed application form;
- (b) Certified copy of current Tax compliance Certificate;
- (c) Certified copy of Lease agreement/proof of ownership of Premises e.g. title documents;
- (d) Valid Environmental Audit acknowledgement letter from NEMA;
- (e) Certified copy of Certificate of Compliance with Physical Planning Act;
- (f) Certified copy of Clearance Certificate form Chief Fire Officer;
- (g) Detailed approved drawings drawn to scale;
- (h) Certified copy of DOSHS certificate of registration; and
- (i) Certified copy of valid calibration certificate for the dispensing pumps from Weights and Measures.

PART IV— PETROLEUM RETAIL BUSINESS LICENCE

An application for a Petroleum Retail Dispensing Construction Permit shall be accompanied by—

- (a) Completed application form;
- (b) Certified copy of current Tax compliance Certificate;
- (c) Certified copy of Lease agreement/proof of ownership of Premises e.g. title documents;
- (d) Valid Environmental Audit acknowledgement letter from NEMA;
- (e) Certified copy of Certificate of Compliance with Physical Planning Act;
- (f) Certified copy of Clearance Certificate form Chief Fire Officer;
- (g) Detailed approved drawings drawn to scale;
- (h) Certified copy of DOSHS certificate of registration; and
- (i) Certified copy of valid calibration certificate for the dispensing pumps from Weights and Measures.

PART IV – PETROLEUM RETAIL BUSINESS LICENCE

No. ERC/PET/

Licence is hereby granted to of
P.O. Box to carry on the following petroleum businesses:
LICENCE NAME
On premises situated at:
Plot No.:
Building:
Street/Market:
Town/District:
This licence expires on:

Dated this

Signature

(SEAL),
Director General,
Energy Regulatory Commission

**ENERGY (LICENSING OF PETROLEUM ROAD
TRANSPORTATION BUSINESS) REGULATIONS, 2013**

ARRANGEMENT OF REGULATIONS

PART I – PRELIMINARY

Regulation

1. Citation.
2. Application.

PART II – PETROLEUM ROAD TRANSPORT LICENSING

3. Prohibition against conducting petroleum road transportation business without licence.
4. Application for licence.
5. Evaluation and determination of application.
6. Form of the licence.
7. Inquiries by potential licensees.
8. Obligation of road transportation business licensees.
9. Power of inspection.
10. Reporting of accidents or incidents.

PART III – PERMITS FOR PETROLEUM TANKERS

11. Prohibition against use of petroleum road tanker without permit.
12. Application for permit.
13. Form of permit.
14. Inquiries by potential licensees.

PART IV – CERTIFICATION OF PETROLEUM TANKER DRIVERS

15. Prohibition against driving of a petroleum road tanker without a valid certificate.
16. Application for certificate.
17. Form of certificate.
18. Inquiries by potential applicants.
19. Possession of certificate.
20. Obligations of certificate holder.
21. Offences.

SCHEDULES

SECOND SCHEDULE

FIRST SCHEDULE

THIRD SCHEDULE

**ENERGY (LICENSING OF PETROLEUM ROAD
TRANSPORTATION BUSINESS) REGULATIONS, 2013**

[L.N. 8/2014.]

PART I – PRELIMINARY**1. Citation**

These Regulations may be cited as the Energy (Licensing of Petroleum Road Transportation Businesses Regulations, 2013.

2. Application

These Regulations shall not apply to—

- (a) the Kenya Defence Forces,
- (b) petroleum contained in a vehicle for use by that vehicle; or
- (c) petroleum transported in containers whose combined volume does not exceed one thousand litres.

PART II – PETROLEUM ROAD TRANSPORT LICENSING**3. Prohibition against conducting petroleum road transportation business without licence**

(1) A person shall not carry out the business of petroleum road transportation unless he is licenced in accordance with these Regulations.

(2) The Commission or its agents shall direct a person who is engaged in the business of petroleum road transportation business without a licence to cease such a business until such time as the person obtains the required licence.

4. Application for Licence

(1) A person who intends to carry out the business of petroleum road transportation shall make an application to the Commission for a licence or renewal of licence in Form 1 set out in Part 1 of the First Schedule.

(2) An applicant shall, in making an application under paragraph (1), submit to the Commission, the documentation and information specified in Part II of the First Schedule.

5. Evaluation and Determination of application

(1) In evaluating an application for a petroleum road transportation business licence under regulation 5, the Commission shall take into account the criteria specified in Part III of the First Schedule.

(2) The Commission may require the applicant to submit to it, such additional information as it considers necessary to enable it determine the application for the issuance of a licence.

6. Form of the licence

(1) The Commission shall, upon approving an application under regulation 6, issue to the applicant a licence in Form 2 set out in Part IV of the First Schedule.

(2) The Commission shall specify the conditions for the issuance of the licence in the licence issued under paragraph (1).

7. Inquiries by potential licensees

(1) A person who intends to make an application for a Petroleum Road Transportation business licence may request from the Commission, such information as he may require for purposes of making the application.

(2) The Commission may, upon receipt of a request under paragraph (1), submit to the applicant such information as is in the possession of the Commission as the applicant requires.

(3) Any discussions with, notifications or requests for information from the Commission or its agents shall not confer any right to any person to the grant of a licence.

8. Obligation of road transportation business licensees

In carrying out the business of petroleum road transportation, a licensee shall—

- (a) transport only petroleum products that which meet the Kenya Standard;
- (b) ensure that the business complies with the requirements of the Act and all the other applicable laws;
- (c) transport petroleum only for persons who hold a valid petroleum business licence issued under the Act;
- (d) only use transport import route designated or prescribed;
- (e) load petroleum only from petroleum storage facilities that are licenced under the Act;
- (f) discharge petroleum only to a licensed facility, to an end user for own consumption or, in the case of petroleum intended for export, at the destination outside Kenya;
- (g) ensure that all vehicles used in the transportation of petroleum have valid petroleum road tanker permits issued by the Commission;
- (h) ensure that the vehicles used in the transportation of petroleum are driven only by persons in possession of valid certificates issued under the Act;
- (i) ensure that there is an emergency preparedness and response plan that meets the criteria set by the Commission;
- (j) implement regular pre-loading vehicle inspection in accordance with a checklist approved by the Commission;
- (k) ensure that petroleum tankers are only driven between 6.30 a.m. and 6.30 p.m.;
- (l) ensure petroleum road tankers are only parked in designated parking areas where they exist or at least one hundred meters from any building where designated parking does not exist;
- (m) ensure that the provisions of these Regulations and the conditions of the licence and vehicle permits are known to, and by all persons employed in or about the licensed premises or the petroleum road tankers; and
- (n) ensure that unauthorized persons do not have access to the petroleum road tankers.

9. Power of inspection

(1) The Commission may inspect any vehicle, premises, or facility reasonably suspected of being used for the business of transportation of petroleum products for the purpose of ascertaining whether the provisions of the Act and these Regulations relating to such transportation of petroleum products have been complied with.

(2) Where the Commission determines that the vehicle, premises or facility do not meet the requirements of the Act or these regulations, the Commission may issue, in writing, such directions as it considers appropriate to the owner, occupier, driver or person in charge of such vehicle, premises, or facility to ensure compliance.

(3) Where a directive issued under paragraph (2) requires a petroleum transportation business licensee to execute any repairs to the licensed vehicle which, in the opinion of the Commission, may be necessary, the licensee shall execute the repairs within such period as may be specified by the notice.

[Subsidiary]

10. Reporting of accidents or incidents

(1) A petroleum road transportation business licensee shall send—

- (a) an initial report in writing to the Commission within forty eight hours; and
- (b) a detailed report within fourteen days, of any accident involving,

the transportation of petroleum which causes loss of life, personal injury, explosion, oil spill, fire or any other incident or accident causing significant harm or damage to the environment or property.

PART III – PERMITS FOR PETROLEUM TANKERS**11. Prohibition against use of petroleum road tanker without permit**

(1) A person shall not use or cause a petroleum road tanker to be used for transportation of petroleum by road within Kenya except in accordance with these Regulations.

(2) Where a person appointed by the Commission determines that a person using a petroleum road tanker has not obtained a permit he shall direct that person to—

- (a) cease using the petroleum tanker; and
- (b) apply for the requisite permit.

12. Application for permit

(1) A person who intends use a petroleum road tanker shall apply to the Commission for a permit or renewal of a permit in Form 3 set out in Part I of the Second Schedule.

(2) An applicant shall submit to the Commission the application under paragraph (1) together with the documentation and information specified in Part II of the Second Schedule.

13. Form of permit

(1) The Commission shall consider an application made to it under regulation 17 and shall, upon approving the application, issue a permit in the Form 4 set out in Part III of the Second Schedule.

(2) The Commission may, in issuing a permit under paragraph (1), impose such conditions as it considers necessary which shall be set out in the permit.

14. Inquiries by potential licensees

(1) The Commission may furnish any person interested in making an application for a petroleum road tanker permit with any necessary information in the Commission's or its agent's possession.

(2) Any discussions with, notifications or requests for information from the Commission shall not confer any right to any person to the grant of permit.

PART IV – CERTIFICATION OF PETROLEUM TANKER DRIVERS**15. Prohibition against driving of a petroleum road tanker without a valid certificate**

(1) A person shall not drive a petroleum tanker for the purpose of transportation of petroleum within Kenya unless the person is in possession of a valid certificate issued under the Act

(2) Where a person appointed by the Commission determines that a person is driving a petroleum road tanker without a valid certificate he shall direct that person to—

- (a) cease driving the petroleum road tanker; and
- (b) obtain the requisite certificate within the prescribed period.

16. Application for Certificate

(1) A person who intends to drive a petroleum road tanker shall make an application to the Commission for a certificate or renewal in Form 5 set out in Part I of the Third Schedule.

(2) An applicant shall submit to the Commission the application together with the documentation and information specified in Part II of the Third Schedule.

17. Form of Certificate

(1) The Commission shall consider an application made to it under paragraph 16 and shall, on approving the application, issue to the applicant a certificate Form 6 set out in Part III of the Third Schedule.

(2) The Commission may, in issuing a certificate under paragraph (1), impose such conditions as it considers necessary which shall be set out in the certificate.

18. Inquiries by Potential Applicants

(1) The Commission shall furnish all persons interested in making an application for a petroleum road tanker driver certificate with such necessary information as may be in the possession of the Commission.

(2) Any discussions with, notifications or requests for information from the Commission or its agents shall not confer any right to any person to the grant of a certificate.

19. Possession of Certificate

(1) A driver of a petroleum road tanker shall at all times when driving or in any way, controlling a petroleum road tanker have in his possession, his certificate, or a certified copy thereof.

(2) Any certificate issued in terms of these Regulations—

- (a) remains the property of the Commission;
- (b) may be modified, suspended, revoked or amended at any time subject to compliance with the Act;
- (c) may not be tampered with or defaced in any manner; and
- (d) is not transferable without the written consent of the Commission or its agents.

20. Obligations of Certificate holder

A petroleum road tanker driver shall—

- (a) not drive or allow another person to drive a petroleum tanker in his custody unless such tanker has a valid petroleum road tanker permit issued by the Commission;
- (b) not tamper with the quality of the petroleum in his custody;
- (c) not divert the petroleum destined for export into the local market;
- (d) ensure that he operates the petroleum road tanker in accordance with the requirements of the Act, and other applicable laws;
- (e) transport petroleum only for petroleum business licensees in possession of valid licences issued by the Commission under the Act or petroleum imported through an import route designated or prescribed;
- (f) load petroleum only from petroleum storage facilities in possession of a valid licence issued by the Commission under the Act;
- (g) discharge petroleum only to a facility in respect of which a licence has been issued under the Act, to an end user for own consumption or, in the case of petroleum intended for export, at a destination outside Kenya;

[Subsidiary]

- (h) comply with the emergency preparedness and response plan that has been put in place by the petroleum transport business licensee;
- (i) implement regular pre-loading vehicle inspection in accordance with a checklist approved by the Commission or its agents; and
- (j) comply with arrangements for the safe parking of petroleum road tankers in accordance with the emergency preparedness and response plan.
- (k) park petroleum road tanker in designated parking areas where they exist or one hundred meters from any building where designated parking does not exist.
- (l) not park petroleum road tanker one hundred metres from any building when tanker is loaded or empty.
- (m) always adhere to the written instructions of the Commission.

21. Offences

The Commission may, notwithstanding any penalties that may be imposed under the Act, suspend or revoke the licence, permit or certificate issued to a person under the Act who contravenes any provision of these Regulations.

FIRST SCHEDULE

[Rule 4, 6]

PART I

APPLICATION FORM FOR A PETROLEUM ROAD TRANSPORTATION BUSINESS LICENCE

(A separate application form must be completed in respect of each separate business establishment)

1. Name of business/applicant: _____

2. Details of applicant:

- (a) Income Tax Person& Identification Number(s): _____
- (b) Postal address: _____
- (c) Email Address: _____
- (d) Location of business premises:
 - (i) Plot No: Building Name: _____
 - (ii) Street/Market: _____
 - (iii) Town/District: _____

3. Give full details of proprietors or partners owning business or directors/shareholders of the company, as the case may be:

Name Nationality *(Where applicable No. of shares held)*

(Any additional information should be submitted on a separate sheet of paper.)

4. Give full details of directors of the company

Name Nationality Passport/ID No.

(Any additional information should be submitted on a separate sheet of paper.)

5. Full description of the business (es) for which the licence is required:

6. (a) Indicate the number and date of issue of any licence previously held under the Act:

(b) Indicate the number and date of issue of any licence previously held under the Act:

7. State if you are or any of your partners/directors is an undischarged bankrupt (If so indicate the names): _____**8. (a) Has any previous application for a licence been rejected under the Act? (If so, give details):** _____

(b) Has any previous licence been cancelled under the Act? _____

9. (a) Criteria to be met for new application and for renewal of a licence is attached at the back of the application form.

(b) Certified copies (by advocate/commissioner of oaths) of documents as per criteria specified above should be submitted together with the licence application.

10. CONDITIONS FOR PETROLEUM ROAD TRANSPORTATION BUSINESS:

Compliance with:—

- (a) Energy Act, 2006 and any other subsidiary legislation regulation issued there under.
- (b) Environmental Management and Co-ordination Act, 1999
- (c) Traffic Act
- (d) Proof of adequate insurance cover
- (e) Relevant Kenya Standard on Petroleum Tankers
- (f) Any other subsidiary legislation regulations from the above Acts.

DECLARATION

- (i) I/We have read and understood the relevant sections of the Energy Act, No. 12 of 2006 and the related regulations issued therein, and agree to abide with them.
- (ii) I/We hereby certify that the information given above is to my/our knowledge true and accurate.
- (iii) I/We understand that it is an offence to give false information in an application for a licence.
- (iv) I/We commit to conduct an honest petroleum business.
- (v) I/We hereby confirm that our Company/Business shall only transport petroleum from licensed facilities to only other licensed facilities or end consumers.
- (vi) I/We commit that our Company/Business shall provide parking for our tankers and only park petroleum tankers at parking designated for such tankers.

Energy

[Subsidiary]

Name of Company: _____

Name and ID of Person signing the Declaration: _____

Designation and telephone No.: _____

Signature & Stamp: _____

Date: _____

Email address: _____

FOR OFFICIAL USE ONLY

1. Date application received: _____

2. Date of meeting of Petroleum Licencing Committee: _____

3. Decision of Petroleum Licencing Committee: _____

Members present

Signature

1. _____

2. _____

3. _____

4. _____

4. If application is deferred or rejected, date of letter advising applicant accordingly:

5. Date of review of application: _____

Decision of Committee: _____

Members present

Signature

1. _____

2. _____

3. _____

4. _____

6. Licence details:

No.: _____ Date issued: _____ Expiry date: _____

PART II

QUESTIONNAIRE TO BE FILLED BY NEW APPLICANTS FOR
A PETROLEUM ROAD TRANSPORT BUSINESS LICENCE

1. Name of applicant: _____
2. Nature of business (Sole Trader, Partnership, Private Company or Public Company):

3. Certificate of Incorporation/Registration Number and date: _____
 - (a) Country of Incorporation: _____
 - (b) Physical address: _____
 - (c) Postal address: _____
 - (d) Telephone/fax: _____
 - (e) Email address: _____

4. Give full details of proprietors or partners owning business or directors/shareholders of the company, as the case may be:

Name Nationality (*Where applicable No. of shares held*)

(Any additional information should be submitted on a separate sheet of paper.)

5. Give full details of directors of the company

Name Nationality *Passport/ID No.*

(Any additional information should be submitted on a separate sheet of paper.)

6. Give details on equity capital including other sources of financing: _____
7. Indicate bank references: _____
8. Indicate details of business to be carried out: _____
9. Indicate if you:
 - (a) Own petroleum tankers (If so, give details including permit numbers and capacity): _____
 - (b) Have contract arrangement with tanker owners (If so, give details including copies of any agreements): _____

10. Give details of measures you have taken/you propose to take to ensure that the product you handle does not endanger life or pollute the environment: _____

11. Any additional information that the applicant wishes to give: _____

(If space provided above is not adequate use plain paper where applicable and attach to this questionnaire) _____

Name of Company: _____

Name and ID of Person signing the Declaration: _____

Designation and telephone No.: _____

Signature & Stamp: _____

Date: _____

Energy

[Subsidiary]

LICENCE EVALUATION CRITERIA FOR NEW PETROLEUM
ROAD TRANSPORTATION BUSINESS LICENCE*Criteria*

Completed Application form
 Completed detailed Questionnaire
 Certified copy of Memorandum and Articles of association
 Certified copy of Certificate of Incorporation
 Certified copy of PIN registration certificate
 Certified copy of VAT registration certificate
 Certified copy of valid Tax compliance Certificate
 Certified copies of Identification documents for directors ID/passport
 Certified of a valid entry permit for foreign directors
 Certified copy of Lease agreement/proof of ownership of Premises e.g. title documents
 List of tankers issued with valid permits

LICENCE EVALUATION CRITERIA FOR RENEWAL OF
PETROLEUM ROAD TRANSPORTATION BUSINESS LICENCE*Criteria*

Completed Application form
 Certified copy of valid Tax compliance Certificate
 Copy of previous licence
 List of tankers with valid permits
 Annual performance data

PART IV

FORM 2

PETROLEUM BUSINESS LICENCE

No. ERCI _____

Licence is hereby granted to _____ of P.O. Box _____
 to carry on the following petroleum businesses:

LICENCE NAME

On premises situated at:

Plot No.: _____

Building: _____

Street/Market: _____

Town/District: _____

This licence expires on: _____

Dated this: _____

Signature _____

(SEAL),

Director General.

Energy Regulatory Commission.

SECOND SCHEDULE

[Rule 12, 13]

PART I

FORM 3

APPLICATION FORM FOR A PETROLEUM TANKER PERMIT

(A separate application form must be completed in respect of each separate Tanker)

1. Name of applicant/proponent: _____

2. Details of applicant/proponent:

(a) Income Tax Personal Identification Number(s): _____

(b) Postal address: _____

(c) Email Address: _____

(d) Site location:

(i) Plot No: _____

(ii) Street/Market: _____

(iii) Town/County: _____

3. Give full details of proprietors or partners owning business or directors/shareholders of the company, as the case may be:

Name Nationality

(Where applicable No. of shares held)

(Any additional information should be submitted on a separate sheet of paper.)

4. Give full details of directors of the company

Name Nationality

Passport/ID No.

(Any additional information should be submitted on a separate sheet of paper.)

5. Full description of the petroleum tanker: _____

6. Specify the carrying capacity of the tanker: _____

7. Give details on equity capital including other sources of financing: _____

8. Indicate bank references: _____

9. CONDITIONS FOR ISSUANCE OF A PETROLEUM TANKER PERMIT:

Compliance with:

(a) Energy Act 2006.

(b) Environmental Management and Co-ordination Act, 1999

(c) Traffic Act

(d) Relevant Kenya Standard on Petroleum Tankers

(e) Any other subsidiary legislation regulations from the above Acts.

10. DECLARATION

(i) I/We have read and understood the relevant sections of the Energy Act, No. 12 of 2006 and the related petroleum rules and regulations, and agree to abide with them.

Energy

[Subsidiary]

- (ii) I/We hereby certify that the information given above is to my/our knowledge true and accurate.
- (iii) I/We understand that it is an offence to give false information in an application for a petroleum tanker permit.
- (iv) I hereby confirm that our Company/Business shall abide by the above terms and conditions with regard to operation of the petroleum transport.

Name of Company: _____

Name and ID of Person signing the Declaration: _____

Designation and telephone No.: _____

Signature & Stamp: _____ Date: _____

Email address: _____

11. FOR OFFICIAL USE ONLY

1. Date application received:
2. Date of review:
3. Decision:
4. If application is deferred or rejected, date of letter advising applicant accordingly:
5. Permit details:

No.: _____

Date issued: _____ Expiry date: _____

PART II**INFORMATION AND DOCUMENTS TO ACCOMPANY
APPLICATION FOR PETROLEUM TANKER PERMIT**

CRITERIA	<i>PETROLEUM LPG</i>
Application form	Yes Yes
Proof of ownership of Tanker/ vehicles	Yes Yes
Certificate of tanker compliance with relevant Kenya Standard	Yes Yes
Valid Tanker certificate from Fire department	Yes Yes
Valid vehicle inspection certificate from MVI	Yes Yes
Valid Tanker calibration (W&M)	Yes Yes

PART III**FORM 4****PETROLEUM TANKER PERMIT**

PERMIT NO.

This petroleum tanker permit authorizes the transport of petroleum products (except LPG)
in the tanker whose details appears below:—

Energy

[Subsidiary]

Tanker No.: _____

Chassis No.: _____

Maximum Capacity: _____

This Permit expires on: _____

Dated this: _____

Signature _____

Chairperson,
Petroleum Licensing Committee.

THIRD SCHEDULE

[Rule 16, 17]

PART I

FORM 5

APPLICATION FORM FOR A PETROLEUM ROAD TANKER DRIVER CERTIFICATE

1. Name of applicant: _____

2. Details of applicant:

- (a) National Identification Number: _____
- (b) PIN: _____
- (c) Passport Number (if any issued): _____
- (d) Postal address: _____
- (e) Level of Education: _____

3. Details of Driving License:

- (a) License Number: _____
- (b) Date issued: _____
- (c) Class of Vehicle for which license issued: _____

4. Driver Experience:

- (a) Number of years experience driving under Class BCE license: _____
- (b) Indicate number of years driving Petroleum tankers: _____
- (c) Indicate number of years driving LPG tankers: _____

5. Details of Employer (Petroleum Road Transportation Company):

- (a) Petroleum Road Transportation License Number: _____
- (b) Date License Issued: _____

6. For Certificate renewal, indicate number and date of previous certificate issued:

7. (a) Has any previous application for a certificate by the applicant been rejected under the Act? (If so, give details): _____

- (b) Has any previous certificate in respect of the applicant been cancelled under the Act? _____

[Subsidiary]

DECLARATION

- (i) I hereby certify that the information given above is to my/our knowledge true and accurate.
- (ii) I understand that it is an offence to give false information in an application for a petroleum tanker driver certificate
- (iii) I understand that it is a serious offence to divert into the Kenyan market petroleum products destined for export and will lead to cancellation of the petroleum tanker driver certificate.
- (iv) I understand that it is a serious offence to engage in petroleum products adulteration, either directly or indirectly and that it can lead to cancellation of the petroleum tanker driver certificate.
- (v) I understand that the tanker under my care shall load products only from those facilities licensed by the Commission under the Act.

Name of Applicant: _____

ID No. of Applicant: _____

Postal Address: _____

Telephone Number: _____

Signature: _____

Date: _____

FOR OFFICIAL USE ONLY

1. Date Certificate application received:

2. Date of meeting of Petroleum Licencing Committee:

3. Decision of Petroleum Licencing Committee:

Members present

Signature

1. _____

2. _____

3. _____

4. If application is deferred or rejected, date of letter advising applicant accordingly:

5. Date of review of application: _____

Decision of Committee: _____

Members present

Signature

1. _____

2. _____

3. _____

6. Certificate details:

No.:

Date issued Expiry date:

Energy

[Subsidiary]

PART II

APPLICATION CRITERIA FOR A PETROLEUM ROAD TANKER DRIVER CERTIFICATE

DESCRIPTION *PETROLEUM LPG*

Application form	Yes Yes
Certificate of formal education within minimum KCSE or equivalent	Yes Yes
Valid driving license with more than four years experience	Yes Yes
Professional drivers training certificate from a school approved by ERC	Yes Yes
Basic Training on Handling of LPG	Yes Yes
Valid medical certificate indicating applicant is fit for the job	Yes Yes
Valid certificate of good conduct from relevant authorities	Yes Yes

PART III

FORM 6

PETROLEUM ROAD TANKER DRIVER CERTIFICATE

Energy Regulatory Commission

Number

Name:

National ID No.:

PIN NO.

This certificate authorizes the Holder to drive a petroleum road tanker (Except LPG tankers).

Date of Issue: Expiry Date:

Director General, Energy Regulatory Commission

This Certificate Shall Remain Valid up to Expiry Date Indicated on Front Side Subject to the Holder Being in the Register Maintained by the Commission at www.erc.go.ke.

This Certificate is the Property of the Energy Regulatory Commission and Should be Surrendered on Expiry, or if Found to:

ENERGY REGULATORY COMMISSION
P.O. BOX 42681-00100 NAIROBI KENYA
TEL +254-202847000/200, Fax: +254202717603
Cell: 0722200947: 0734414333
Email: infor@erc.go.ke

(SEAL),
Director General,
Energy Regulatory Commission.

**ENERGY (LICENSING OF PETROLEUM LOGISTICS BUSINESS
AND FACILITY CONSTRUCTION) REGULATIONS, 2013**

ARRANGEMENT OF REGULATIONS

PART I – PRELIMINARY

Regulation

1. Citation.
2. Interpretation.
3. Application.

PART II – PETROLEUM LOGISTICS FACILITY CONSTRUCTION PERMITS

4. Prohibition against constructing a petroleum logistic facility without a construction permit.
5. Application of a construction permit.
6. Consideration and determination of applications for a construction permit.
- 7.

PART III – PETROLEUM LOGISTIC FACILITY LICENSING

8. Prohibition against operating a petroleum logistics facility without a licence.
9. Application for a licence.
10. Consideration and determination of applications.
11. Inquiries by licensees.
12. Obligations of Petroleum logistics facility licensees.
13. Inspections and investigations.
14. Offence.

SCHEDULES

FIRST SCHEDULE

SECOND SCHEDULE

**ENERGY (LICENSING OF PETROLEUM LOGISTICS BUSINESS
AND FACILITY CONSTRUCTION) REGULATIONS, 2013**

[L.N. 9/2014.]

PART I – PRELIMINARY**1. Citation**

The Energy (Licensing of Petroleum Logistics Facilities and Businesses) Regulations, 2013.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“**licence**” means any document or instrument in writing granted under this Act by the Commission to any person authorizing the operation of a petroleum logistics facility;

“**modification**” means any change in a facility that alter the design, storage capacity, or impacts on the health, safety and environmental requirements;

“**petroleum logistics facility**” means any facility that is or can be used to receive, store, load, offload or transport petroleum and includes petroleum marine jetties, marine terminals, pipeline systems, and storage depots but does not include retail dispensing sites; and

“**petroleum logistics facility licensee**” means a person licensed to operate a petroleum logistics facility and provide related services.

3. Application

These regulations shall not apply to the Kenya Defence Forces.

PART II – PETROLEUM LOGISTICS FACILITY CONSTRUCTION PERMITS**4. Prohibition against constructing a petroleum logistic facility without a construction permit**

A person shall not construct or modify a petroleum logistics facility except in accordance with the Act and the terms and conditions of a valid petroleum logistics facility construction permit issued by the Commission.

5. Application of a construction permit

(1) A person who wishes to construct or modify a petroleum logistics facility shall apply to the Commission for a construction permit in the Form 1 set out in the First Schedule.

(2) An application under paragraph (1) shall be accompanied by the documentation and information specified in the First Schedule.

6. Consideration and determination of applications for a construction permit

(1) The Commission may request such additional information from an applicant as it considers necessary to decision regarding the issuing of the petroleum logistics facility construction permit.

(2) Where the Commission is satisfied that the applicant meets the requirements under these Regulations, it shall issue to the applicant with a petroleum logistics facility construction permit in Form 2 set out in the First Schedule.

7. (1) The Commission may authorize a suitably qualified person to enter into and inspect any premises or facility that the Commission believes is under construction or modification as a petroleum logistics facility.

(2) Where the Commission is satisfied after an inspection under paragraph (1) that a person is engaged in the construction or modification of a petroleum logistics facility requiring a construction permit and is not in possession of such construction permit it shall direct that person to cease the construction or modification unless and until the requisite permit is obtained.

PART III – PETROLEUM LOGISTIC FACILITY LICENSING

8. Prohibition against operating a petroleum logistics facility without a licence

(1) A person shall not operate a petroleum logistics facility except in accordance with the terms and conditions of a valid licence issued by the Commission under these regulations.

(2) Where the Commission determines that a person is engaged in the operation of a petroleum logistics facility without a licence it shall direct that person to cease such operation immediately and not to resume until a licence is obtained.

9. Application for a licence

(1) A person who intends to engage in the operation of a petroleum logistics facility shall apply to the Commission for a licence in the Form 3 set out in Second Schedule.

(2) An application under paragraph (1) shall be accompanied by the documents and additional information specified in the Second Schedule.

10. Consideration and determination of applications

(1) In evaluating an application for a petroleum logistics facility licence, the Commission shall take account of the criteria specified in the Second Schedule.

(2) The Commission may request for such additional information from an applicant as it may consider necessary to enable it to make a decision regarding the issuance of the licence.

(3) Where the Commission is satisfied that the applicant meets the requirements under these Regulations, it shall issue a licence in Form 4 set out in the Second schedule.

11. Inquiries by licensees

(1) The Commission shall furnish to all persons who intend to make an application for a petroleum logistics facility licence and construction permit prescribed under these Regulations with any necessary information in the Commission's possession.

(2) Any discussions with, notifications or requests for information from the Commission or its agents shall not confer any right on any person to the grant of a licence or a permit, as the case may be.

12. Obligations of Petroleum logistics facility licensees

A petroleum logistics facility licensee shall—

- (a) operate and maintain the facility in accordance with the requirements of all relevant laws for the time being in force;
- (b) not permit the loading or offloading on its facility by petroleum road tankers which do not comply with the requirement of the Act;
- (c) not allow any person not certified by the Commission as a petroleum tanker driver to drive a petroleum tanker within its premises;
- (d) put in place measures to ensure that petroleum from its facilities complies with the Kenya standards;
- (e) maintain and operate the facility in compliance with Kenya standards or the relevant international standards approved by Kenya Bureau of Standards;
- (f) operate the facility in a manner that conforms to the existing Kenyan standards for Petroleum Storage Installations;

[Subsidiary]

- (g) provide to the Commission all information required to be provided by Act; and
- (h) if so directed by the Commission, stop providing logistics facility services to a petroleum business licensee that is not in compliance with the Act or the conditions of its licence.

13. Inspections and investigations

The Commission may enter and inspect any premises where a petroleum logistics facility is located for the purpose of inspecting or conducting an investigation pursuant to the provisions of the Act or Regulations made under the Act.

14. Offence

A person who contravenes the provisions of these Regulations commits an offence and shall, on conviction, be liable to a fine not exceeding one million shillings.

FIRST SCHEDULE

[Rule 5, 6]

FORM 1

APPLICATION FORM FOR A PETROLEUM LOGISTIC FACILITY CONSTRUCTION PERMIT

(A separate application form must be completed in respect of each separate installation)

1. Name of applicant/proponent: _____

2. Details of applicant/proponent:

- (a) Income Tax Personal Identification Number(s): _____
- (b) Postal address: _____
- (c) Email Address: _____
- (d) Site location:
 - (i) Plot No: _____
 - (ii) Street/Market: _____
 - (iii) Town/County: _____

3. Give full details of proprietors or partners owning business or directors/shareholders of the company, as the case may be:

<i>Name</i>	<i>Nationality</i>	<i>(Where applicable no. of shares held)</i>
_____	_____	_____
_____	_____	_____
_____	_____	_____

(Any additional information should be submitted on a separate sheet of paper.)

4. Give full details of directors of the company:

Name	Nationality	Passport ID No.
_____	_____	_____
_____	_____	_____
_____	_____	_____

(Any additional information should be submitted on a separate sheet of paper.)

5. Full description of the proposed petroleum facility:

6. Specify the points between which the pipeline is to run (For Pipeline installations only):

7. Specify the storage capacity of the facility: _____

8. Give details on equity capital including other sources of financing:

9. Indicate bank references: _____

10. CONDITIONS FOR ISSUANCE FOR A PETROLEUM LOGISTIC FACILITY CONSTRUCTION PERMIT

Compliance with:—

- (a) Energy Act, 2006;
- (b) Environmental Management and Co-ordination Act, 1999 and in particular the report of the Environmental (Impact Assessment and audit) Regulations, 2003;
- (c) Physical Planning Act, 1996;
- (d) Any other subsidiary legislation regulations from the above Acts.

DECLARATION

- (i) I/We have read and understood the relevant sections of the Energy Act, No. 12 of 2006 and the related petroleum rules and regulations, and agree to abide with them.
- (ii) I/We hereby certify that the information given above is to my/our knowledge true and accurate.
- (iii) I/We understand that it is an offence to give false information in an application for a construction permit.
- (iv) I/We hereby confirm that our Company/Business shall abide by the above terms and conditions with regard to construction of the petroleum installation. I also understand that the construction permit is subject to these conditions.

Name of Company: _____

Name and ID of Person signing the Declaration: _____

Designation and telephone No.: _____

Signature & Stamp: _____

Date: _____

Email address: _____

Energy

[Subsidiary]

FOR OFFICIAL USE ONLY

1. Date application received: _____
2. Date of review: _____
3. Decision: _____
4. If application is deferred or rejected, date of letter advising applicant accordingly: _____
5. Permit details: _____

No.:

Date issued Expiry date:

<i>Criteria</i>	<i>REF</i>	<i>PLF</i>	<i>PL</i>	<i>RT</i>
Application form	Yes	Yes	Yes	Yes
three copies of approved plans and specifications	Yes	Yes	Yes	Yes
Environmental Impact Assessment (EIA) Licence	Yes	Yes	Yes	Yes
Certificate of compliance with Land Use	Yes	Yes	Yes	Yes

KEY

REF- Refinery

PLF - Petroleum Logistic Facility.

RT - Retail Dispensing Site.

PL - Pipeline

FORM 2

PERMIT NO

PETROLEUM LOGISTIC FACILITY CONSTRUCTION PERMIT

Construction Permit is hereby granted to _____ of P.O. Box _____
to construct the following petroleum Facility (is):

Construction of: 1. *Petroleum Logistic Facility*

On premises situated at:

Plot No.:

Street/Market:

Town/County:

This Permit expires on:

Dated this: _____

Signature: _____

(SEAL),

*Director General,**Energy Regulatory Commission.**Conditions:*

1.
2.
3.

SECOND SCHEDULE

[Rule 9.]

FORM 3**APPLICATION FORM FOR A PETROLEUM BUSINESS LICENCE**

(A separate application form must be completed in respect of each separate business establishment)

1. Name of business/applicant: _____

2. Details of applicant:

(a) Income Tax Personal Identification Number(s): _____

(b) Postal address: _____

(c) Email Address: _____

(d) Location of business premises:

(i) Plot No: _____ Building Name: _____

(ii) Street/Market: _____

(iii) Town/District: _____

3. Give full details of proprietors or partners owning business or directors/shareholders of the company, as the case may be:

<i>Name</i>	<i>Nationality</i>	<i>(Where applicable No. of shares held)</i>
_____	_____	_____
_____	_____	_____
_____	_____	_____

(Any additional information should be submitted on a separate sheet of paper.)

4. Give full details of directors of the company

<i>Name</i>	<i>Nationality</i>	<i>Passport/ID No.</i>
_____	_____	_____
_____	_____	_____
_____	_____	_____

(Any additional information should be submitted on a separate sheet of paper.)

5. Full description of the business (es) for which the licence is required: _____

6. (a) Indicate the number and date of issue of any licence previously held under the Act:

(b) Indicate the period for which the licence is being applied (maximum is one year from the date of issue): _____

Energy

[Subsidiary]

7. State if you are or any of your partners/directors is an undischarged bankrupt (If so indicate the names): _____

8. (a) Has any previous application for a licence been rejected under the Act? (If so, give details): _____

(b) Has any previous licence been cancelled under the Act? _____

9. (a) Criteria to be met for new application and for renewal of a licence is attached at the back of the application form.

(b) Certified copies (by advocate / commissioner of oaths) of documents as per criteria specified above should be submitted together with the licence application.

10. CONDITIONS FOR PETROLEUM LOGISTIC BUSINESS LICENCE IN KENYA

Compliance with:

- (a) Energy Act, 2006 and any other subsidiary legislation regulation issued there under.
- (b) Environmental Management and Co-ordination Act, 1999.
- (c) Traffic Act
- (d) Relevant Kenya Standard on Petroleum Tankers.
- (e) Any other subsidiary legislation regulations from the above Acts.

DECLARATION

- (i) I/We have read and understood the relevant sections of the Energy Act, No. 12 of 2006 and the related regulations issued therein, and agree to abide with them.
- (ii) I/We hereby certify that the information given above is to my/our knowledge true and accurate.
- (iii) I/We understand that it is an offence to give false information in an application for a licence.
- (iv) I/We commit to conduct an honest petroleum business.

Name of Company: _____

Name and ID of Person signing the Declaration: _____

Designation and telephone No.: _____

Signature & Stamp: _____

Date: _____

Email address: _____

FOR OFFICIAL USE ONLY

1. Date application received: _____

2. Date of meeting of Petroleum Licensing Committee _____

3. Decision of Petroleum Licensing Committee _____

Members present

Signature

1. _____

2. _____

4. If application is deferred or rejected, date of letter advising applicant accordingly

5. Date of review of application: _____

Decision of Committee: _____

Members present

Signature

1. _____

2. _____

6. Licence details:

No.: _____

Date issued: _____ Expiry date: _____

QUESTIONNAIRE TO BE FILLED BY APPLICANTS
FOR A PETROLEUM LOGISTIC BUSINESS

1. Name of applicant: _____

2. Nature of business (Sole Trader, Partnership, Private Company or Public Company):

3. Certificate of Incorporation/Registration Number and date:

(a) Country of Incorporation: _____

(b) Physical address: _____

(c) Postal address: _____

(d) Telephone/ fax: _____

(e) Email address: _____

4. Give full details of proprietors or partners owning business or directors/shareholders of the company, as the case may be:

Name

Nationality

*(Where applicable
No. of shares held)*

(Any additional information should be submitted on a separate sheet of paper.)

5. Give full details of directors of the company

Name

Nationality

Passport/ID No.

(Any additional information should be submitted on a separate sheet of paper.)

[Subsidiary]

6. Give details on equity capital including other sources of financing:

7. Indicate bank references _____

8. Type of business required to be licensed (tick as appropriate):

- (i) Refining
- (ii) Importation
- (iii) Exportation
- (iv) Wholesale
- (v) Storage
- (vi) Specify any other _____

9. Indicate if you:

- (a) Own storage facilities (If so, give details including location and capacity):

- (b) Have hospitality/rental arrangement (If so, give details including copies of any agreements): _____

10. Do you intend to market your product locally? _____

If Yes,

- (a) Give the number and locations of Retails Outlets:
- (b) Give the number and locations of Distribution Depots including their capacities:
- (c) If neither (a) nor (b) is applicable, explain
- (d) Give details on how you propose to maintain the approved quality of your product:

11. (a) Give details of measures you have taken/you propose to take to ensure that the product you handle does not endanger life or pollute the environment:

- (b) Any additional information that the applicant wishes to give:
- _____

(If space provided above is not adequate use plain paper where applicable and attach to this questionnaire)

Name of Company: _____

Name and ID of Person signing the Declaration: _____

Designation and telephone No.: _____

Signature & Stamp: _____

Date: _____

**EVALUATION CRITERIA FOR NEW PETROLEUM
LOGISTIC BUSINESS (EXCEPT LPG) LICENCE**

<i>Criteria</i>	<i>REF</i>	<i>IMP</i>	<i>EXP</i>	<i>STO</i>	<i>WH</i>	<i>PL</i>
Application form	Yes	Yes	Yes	Yes	Yes	Yes
Detailed Questionnaire	Yes	Yes	Yes	Yes	Yes	Yes
Certified copy of Memo and Articles of association	Yes	Yes	Yes	Yes	Yes	Yes
Certified copy of Certificate of Incorporation	Yes	Yes	Yes	Yes	Yes	Yes
Certified copy of PIN registration certificate	Yes	Yes	Yes	Yes	Yes	Yes
Certified copy of VAT registration certificate	Yes	Yes	Yes	Yes	Yes	Yes
Certified copy of current Tax compliance Certificate	Yes	Yes	Yes	Yes	Yes	Yes
Identification documents for directors (ID/passport page 1 and 5)	Yes	Yes	Yes	Yes	Yes	Yes
Work permits for non-citizens/Entry permit class H	Yes	Yes	Yes	Yes	Yes	Yes
Certified copy of Lease agreement/Premises ownership	Yes	Yes	Yes	Yes	Yes	Yes
Letter from OSMAG confirming membership	Yes	Yes				
Signed KPRL product off take agreement		Yes				
Purchase of allocated product from KPRL		Yes				
Letter from MOE confirming applicant		Yes				
Signed OTS agreement for crude and refined products						
Supply agreement with licensed importer or supplier/letter of intent				Yes		Yes
EIA Licence (if new) EA if existing				Yes		Yes
Certified copy of Certificate of Compliance with Physical Planning Act				Yes		Yes
Certified copy of Clearance Certificate form Chief Fire Officer				Yes		Yes
Detailed approved drawings drawn to scale				Yes		Yes
Certified copy of DOSHS certificate of registration				Yes		Yes

**EVALUATION CRITERIA FOR RENEWAL OF PETROLEUM
LOGISTIC BUSINESS (EXCEPT LPG) LICENCE**

<i>Criteria</i>	<i>REF</i>	<i>IMP</i>	<i>EXP</i>	<i>STO</i>	<i>WH</i>	<i>PL</i>
Application form	Yes	Yes	Yes	Yes	Yes	Yes
Copy of previous licence	Yes	Yes	Yes	Yes	Yes	Yes
Proof that expired licence was utilized	Yes	Yes	Yes	Yes	Yes	Yes
Certified copy of Current Tax compliance certificate	Yes	Yes	Yes	Yes	Yes	Yes
Proof of active OSMAG membership-OSMAG letter	Yes	Yes				Yes
Annual performance data				Yes		
Proof of purchase of product from KPRL		Yes				
EA acknowledgment letter from NEMA				Yes		Yes
Certified copy of Clearance certificate from chief fire officer				Yes		Yes
Certified copy of DOHSS certificate of registration				Yes		Yes

Energy

[Subsidiary]

KEY

REF- Refining
IMP — Import
EXP — Export
STO — Storage & Loading
WH — Wholesale
PL — Pipeline

FORM 4

PETROLEUM LOGISTIC BUSINESS LICENCE

No. ERC/PET/ _____

Licence is hereby granted to _____ of P.O. Box _____
to carry on the following petroleum businesses:

Licence Name (Except LPG)

On premises situated at:

Plot No.: _____

Building: _____

Street/Market: _____

Town/District: _____

This licence expires on: _____

Dated this: _____

Signature: _____

(SEAL),
Director General,
Energy Regulatory Commission.

**ENERGY (ENERGY REGULATORY
COMMISSION PETROLEUM LEVY) ORDER, 2014**

[L.N. 157/2014.]

1. Citation

This Order may be cited as the Energy (Energy Regulatory Commission Petroleum Levy) Order 2014.

2. Interpretation

In this Order unless the context otherwise requires—

“**Act**” means the Energy Act (No. 12 of 2006);

“**Commission**” means the Energy Regulatory Commission;

“**Director-General**” means the Chief Executive Officer of the Commission;

“**Kenya Revenue Authority**” shall have the meaning given to it in the Kenya Revenue Authority Act (Cap. 469); and

“**Levy**” means the Energy Regulatory Commission Petroleum Levy imposed under paragraph 3.

3. (1) There is imposed a levy to be known as the Energy Regulatory Commission Petroleum Levy.

(2) The purpose of the levy referred to in subparagraph (1) shall be to finance the operations of the Commission.

(3) The levy shall be paid on the petroleum products consumed in Kenya bearing the tariff codes and descriptions specified in the first and second columns respectively of the Schedule to this Order, at the rates specified in the third column of the Schedule.

(4) Any company licensed to import petroleum products shall remit the levy referred to in this paragraph to the Kenya Revenue Authority.

4. Remission of levy

The Kenya Revenue Authority shall on or before the thirtieth day of each month remit to the Director-General, the levy in respect of the immediately preceding month.

5. Records

The Kenya Revenue Authority shall maintain or cause to be maintained monthly records of the total petroleum products sold and the levy due in respect thereof and shall submit such records and the levy remitted under paragraph 4 to the Commission

6. Books of account

The Commission shall ensure that all proper books of accounts in relation to the levy are kept and audited in accordance with section 22 of the Act.

7. Revocation of Order L.N. 91/2008

The Energy (Petroleum Regulation Levy) Order 2008 is hereby revoked.

Energy

[Subsidiary]

Schedule
[para. 3 (3)]

<i>Tariff Code</i>	<i>Product Description</i>	<i>Rate of levy (KSh.)</i>
2710.11.10	Motor spirit (gasoline) regular.	120.00 per 1,000 litres at 20°C
2710.11.20	Motor spirit (gasoline) premium	120.00 per 1,000 litres at 20°C
2710.11.22	Kerosene	50.00 per 1,000 litres at 20°C
2710.19.31	Automotive gas oil	120.00 per 1,000 litres at 20°C
2710.19.32	Diesel oil (industrial, heavy black for low speed marine and stationary engines)	120.00 per 1,000 litres at 20°C

ENERGY (APPLIANCES' ENERGY PERFORMANCE AND LABELLING) ORDER, 2016

[L.N. 125/2016, L.N. 50/2018.]

1. Citation

These Regulations may be cited as the Energy (Appliances' Energy Performance and Labelling) Regulations, 2016.

2. Application

These Regulations shall apply to appliances manufactured, imported, distributed or sold for use in Kenya as listed in the First Schedule.

3. Interpretation

In these Regulations, unless the context otherwise requires—

"accredited laboratory" means a laboratory for testing appliances as per the Kenya Standards and approved by the Kenya Accreditation Service;

"Act" means the Energy Act, 2006, No. 12 of 2006;

"appliance" means an electrical equipment defined by the relevant standard;

"Commission" has the meaning assigned to it under the Act;

"distributor" means a person who is involved in sourcing appliances from manufacturers or importers for resale;

"importer" means a person who is involved in sourcing appliances from other countries into Kenya for use or commercial purposes;

"label" means an illustration determined by the Commission to be affixed on an appliance or printed on the packaging of an appliance which provides information on the appliance's energy performance based on the relevant standard;

"manufacturer" means a person who makes or assembles appliances for commercial purposes;

"model" means a specific design of an appliance as assigned by the manufacturer;

"retailer" means a person involved in selling appliances to end users;

"standard" means the relevant Kenya's Minimum Energy Performance Standards (MEPS);

"supplier" means manufacturer, manufacturers' local agent, importer or distributor involved in appliance model delivery chain;

"test certificate" means a document issued by an accredited laboratory after the evaluation of energy performance of an appliance as per the relevant standard;

"testing" means the assessment of an appliance by an accredited laboratory to determine its energy performance in accordance with the relevant standard; and

"registration certificate" means a certificate issued by the Commission to a manufacturer or importer, to confirm that the appliance indicated in the certificate has met the relevant standard.

4. Testing of appliance by accredited laboratory

(1) A person intending to manufacture or import any appliance listed in the First Schedule shall submit a sample of the appliance to an accredited laboratory for testing.

(2) The laboratory referred to in paragraph (1) shall conduct a test and if satisfied shall issue a test report and test certificate.

5. Registration of appliance model

[Subsidiary]

(1) A person intending to manufacture or import any appliance referred to in regulation 4 shall apply to the Commission for the registration of the appliance model.

(2) An application for registration shall be made in accordance with the registration categories specified in the Second Schedule.

(3) A person applying for the registration of an appliance model shall—

- (a) submit the test report and test certificate referred to in regulation 4;
- (b) submit a duly completed application form as provided in the Third Schedule; and
- (c) pay the application fees as provided in the Second Schedule.

4. Where an appliance model has already been registered, an applicant shall not submit another test report and test certificate for the appliance or apply for registration unless the applicant is the manufacturer.

6. Labels

(1) Every importer shall affix the applicable energy label approved by the Commission on every appliance that has been registered under these Regulations.

(2) The label referred to in paragraph (1) shall be in the form provided in the Fifth Schedule and shall bear the respective star rating as provided in the Sixth Schedule.

(3) The label shall be affixed in a clearly visible position in the manner stipulated in the Fifth Schedule.

(4) The Commission may from time to time vary the labels referred to in this regulation.

7. Enforcement powers of the Commission

(1) The Commission or its agents may carry out an inspection on any premises where appliances are kept or are suspected to be kept to ensure that the appliances conform to these Regulations.

(2) Where on inspection, the Commission establishes that the provisions of these regulations have been contravened, the Commission may in writing direct the importer or manufacturer of that appliance model to cause such appliance to be re-tested at an accredited laboratory.

(3) Where a re-test is ordered in accordance with paragraph (2), the manufacturer or importer shall—

- (a) submit the appliance for a re-test within thirty days of receipt of the Commission's directions;
- (b) submit a test report and test certificate to the Commission within the period stipulated in the order; and
- (c) bear all the costs connected with the directives of the Commission.

(4) Where a manufacturer or importer fails to submit a test report and test certificate within the period stipulated by the Commission, such an importer or manufacturer shall be liable on conviction to a fine of one hundred thousand shillings for each month or part thereof that the test report and test certificate is not submitted.

(5) The Commission may, at its own cost, re-test, inspect or reinspect appliances where necessary.

(6) Where pursuant to paragraphs (1), (2) and (5) an appliance model is found to contravene these Regulations, the Commission shall issue a non-compliance notice which shall state—

- (a) the specific provisions which have been or are likely to be contravened;
- (b) the measures which should be taken to rectify the contravention; and
- (c) the period within which the notice shall be complied with.

8. Conflict Resolution

[Issue 3]

(1) Any dispute between a manufacturer, importer, distributor, retailer or a user of an appliance in relation to these regulations may be referred to the Commission for resolution.

(2) The Commission shall conduct an inquiry into the matter in accordance with such procedures as it may determine and in accordance with the rules of natural justice.

(3) Within twenty one days of receiving the complaint, the Commission shall make a decision and give reasons for the decision.

9. Submission of data

(1) All manufacturers and importers of the appliances listed in the First Schedule shall be required to submit an annual record of all appliances sold every year in the manner indicated in the Fourth Schedule within six months after the end of the calendar year.

(2) A person, whose appliance is registered and who fails to submit the records referred to in paragraph (1), shall pay a fine of one hundred thousand shillings for each month or part thereof that the data is not submitted.

10. Suspension or Revocation of the Registration Certificate

(1) The Commission may suspend or revoke the certificate of registration if an importer or manufacturer contravenes the provisions of these regulations.

(2) Where the Commission intends to undertake the action referred to in paragraph (1), the Commission shall give the importer or manufacturer seven days of the intended action.

(3) The notice referred to in paragraph (2) shall be in writing and shall set out the reasons for the suspension or revocation.

(4) Where a certificate is suspended or revoked, the Commission shall remove the appliance model from the register.

(5) The manufacturer or importer of an appliance model whose registration certificate has been suspended or revoked shall—

- (a) immediately stop the distribution of that model; and
- (b) recall all appliances of that model from distribution or retail outlets within six months of the notice.

(6) A manufacturer, importer, distributor or retailer who fails to comply with paragraph (5) shall be liable to a fine of one million shillings and thereafter one million shillings for each six months period that the appliances are not recalled.

(7) The Commission shall issue a registration certificate if the appliance model is retested and meets the requirements of the relevant standard.

(8) Subject to paragraph (1), an appliance model registration certificate shall remain in force and is not transferable until the relevant standard is revised.

11. Replacement of Registration Certificates

Where, upon application, it is proved to the satisfaction of the Commission that an appliance model registration certificate has been lost, destroyed or defaced, the Commission may issue a duplicate certificate.

12. Register of Appliance Models

(1) The Commission shall maintain a register of all appliance models registered under these Regulations.

(2) The register shall be made available to the public for inspection.

13. Revision of Kenya standard

(1) Where a standard is revised, the importer of manufacturer shall be required to apply for a fresh registration of the appliance model.

(2) Where a relevant standard or label is revised it shall be applicable to appliances—

- (a) imported or manufactured one year after the revision; or

[Subsidiary]

- (b) retailed two years after the revision.

14. Obstructing the work of inspectors

Any person who hinders the Commission or its agent from inspecting any premises where such appliances are sorted or displayed commits an offence.

15. General penalty

(1) Any person who by self, servant, or agent contravenes any of the provisions of these Regulations for which no specific penalty is provided, shall be liable on conviction to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding one year or both such fine and imprisonment.

(2) The procedure in the Seventh Schedule shall apply to any person who contravenes these Regulations.

16. Transitional Provisions

(1) These regulations shall apply to all appliances—

- (a) listed in the First Schedule, manufactured or imported one year after the date of gazettment.
- (b) listed in the Second Schedule, retailed two years after the date of gazettment.

FIRST SCHEDULE

[r.2,4(1), 9(1), 16(1) (a)]

List of Appliances

<i>Appliance</i>	<i>Standard</i>
Self Ballasted Lamps	KS 2446–1: 2013
.	KS 2446–2: 2013
Double Capped	KS 2448–1: 2013
Ballasts for Flourescent Lamps	KS 2447–1: 2013
.	KS 2447–1: 2013
Refrigerating Appliances	KS 2464–1: 2013
.	KS 2464–2: 2013
Non-Ducted Air Conditioners	KS 2463: 2013
Three-Phase Cage Induction Motors	KS 2449–1: 2013
.	KS 2449–2: 2013

SECOND SCHEDULE

[r.5(2), (3)(c) and 16(1)(b).]

Registration Categories and Application Fees

<i>Appliance</i>	<i>Category</i>	<i>Application Fees per model (KShs).</i>
Self-Ballasted Lamps	CFL.	3000
Double Capped Flourescent Lamps	FL.	3000
Ballasts for Flourescent Lamps	BFL.	3000
Refrigerating Appliances	R.	5,000
Non-Ducted Air Conditioners	AC.	10,000
Three-Phase Cage Induction Motors	M.	10,000

THIRD SCHEDULE

[r.5(3)(b)]

Appliances' Models Application Form

(This form is to be used for application for registration of appliance model by Manufacturers and Importers.)

The Director General
Energy Regulatory Commission
P.O. Box 42681, 00100 GPO
NAIROBI

I/Wehereby apply for registration of:—

(Please tick (✓) as appropriate)

- ☐ Class CFL: Self Ballasted Lamps
- ☐ Class FL: double Capped Flourescent Lamps
- ☐ Class BFL: Ballasts for Flourescent Lamps
- ☐ Class R: Refrigerating Appliances
- ☐ Class AC: Non-Ducted Air Conditioners

☐ Class M: Three-Phase Cage Induction Motors for the purpose *Manufacturer and Importer* in accordance with the Energy (Appliances' Energy Performance & Labelling) Regulations, 2014.

1. Purpose of Application: New Application ☐ Replacement EI (Please tick (✓) as appropriate)

2. Model ☐ Family/Range of Models E (Please tick (✓) as appropriate) For family of models give more information on models' variations.

.....
.....
.....
.....

3. Model Description

a. Name

b. Number

4. Name of applicant *(Applicable to both Individuals and Business Organisations)*

.....
.....

5. Details of applicant:

a. Income Tax Personal Identification Number

b. Postal Address:

c. Email Address:

d. Telephone number(s):

e. LR/Plot No

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f. Building Name

g. Street/:

h. Town/County:

6. Location of business premise(s)

a.

b.

c.

(Insert additional lines as appropriate)

7. Give full details of proprietors or partners owning business or directors/shareholders of the company, as applicable.

Name

Nationality

(Insert additional lines as appropriate)

8. State if you are or any of your partners/directors is an un-discharged bankrupt. (If so indicate the names).

a.

b.

c.

(Insert additional lines as appropriate)

9. For new applications, certified copies of the following documents should be submitted with the application for registration:

a) Test report

b) Test Certificate

c) If Kenyan, a copy of ID card or passport, or if non-Kenyan a copy of current work permit, where applicable, together with copies of relevant pages of the passport; *(Applicable ONLY to Individual Persons)*d) Relevant entry permit(s) for non-citizens: *(Applicable ONLY to Individual Persons)*

e) Copy of Business name Registration Certificate or Certificate of Incorporation and a recent CR12 from the register of companies (whichever is applicable).

f) Lease Agreement or letter from landlord confirming tenancy.

g) PIN and VAT certificates.

h) Valid Tax compliance certificate.

i) Any other document that may be required by the Commission from time to time.

*(Insert additional lines as appropriate)**(Insert additional lines as appropriate)*10. Have you applied for registration in the past? Yes ☐ No ☐ If yes,

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i. Registration Certificate No

ii. Issued on

iii. Issued by

11. Has any previous application for a registration been rejected under these regulations? Yes ☐ No ☐ If yes, give details)

.....

12. Has any previous registration been cancelled under these regulations? Yes ☐ No ☐ If yes, give details)

.....

DECLARATION

I/We hereby, declare that the information provided in this application is true and accurate.
 I/We understand that it is an offence, under the Energy Act 2006/any other Laws of Kenya to give false information in an application for this certificate

I/We commit to abide by the Energy (Appliances' Energy Performance and Labelling) Regulations, 2014 and any rules and by-laws for the time being in force there under.

Signature of Applicant Date

FOURTH SCHEDULE

[(r. 9(1))]

Data Submission Format**1. Manufacturers**

<i>Name of Applicant</i>	<i>Class</i>	<i>Model Number</i>	<i>No. of Appliances Made</i>	<i>No. of Appliances Sold.</i>
.
.
.
.
.

2. Importers

<i>Name of Applicant</i>	<i>Class</i>	<i>Model Number</i>	<i>No. of Appliances Made</i>	<i>No. of Appliances Sold.</i>
.
.
.
.
.

Note: All the items declared shall meet Minimum Energy Performance Standards set in the relevant Kenya Standards.

[Subsidiary]

FIFTH SCHEDULE

[(r. 6(2), 6(3))]

Approved Labels for Appliances and Recommend Appliance Locations for Affixing the Labels

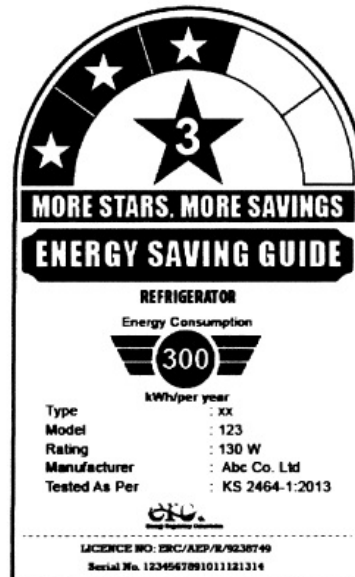
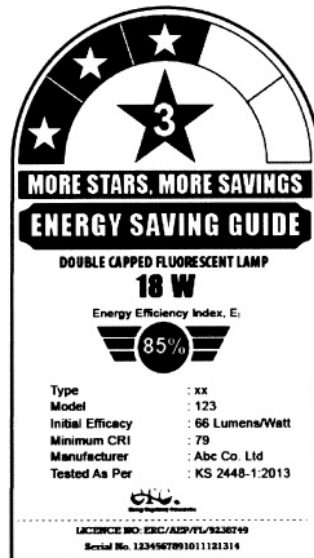


Figure 1: Self Ballasted Lamps

Location: To be affixed on one of the long sides of the lamp packaging.

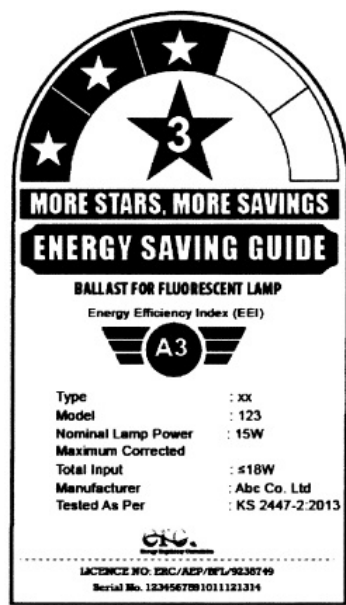
Figure 2 : Double Capped Fluorescent Lamps



Location: To be affixed on one of the long sides of the lamp packaging.

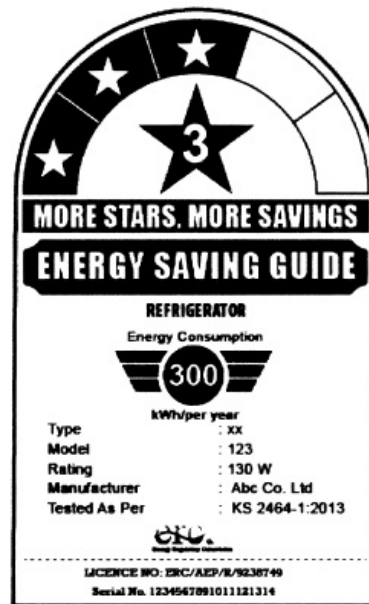
[Subsidiary]

Figure 3 : Ballasts for Fluorescent Lamps



Location: To be affixed on the top side of the ballast .

Figure 4 : Refrigerating Appliances



Location: To be affixed on the top right hand corner of the refrigerator door.

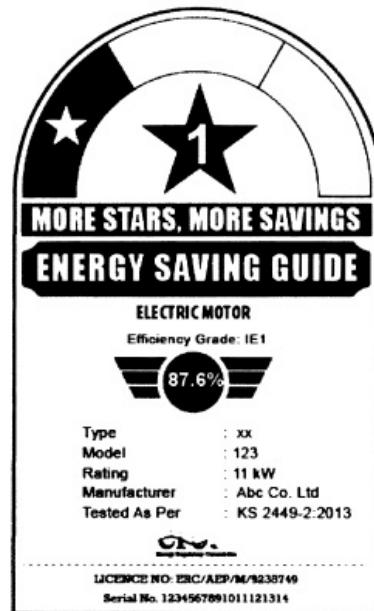
[Subsidiary]

Figure 5 : Non-Ducted Air Conditioners



Location: To be affixed on the top right hand corner of the front facing side of the air conditioner.

Figure 6 : Three-Phase Cage Induction Motors



Location: To be affixed on the top side of the motor.

Energy

[Subsidiary]

SIXTH SCHEDULE

[(r.6(2))]

Star Rating of Appliance Models

1. BALLASTS FOR FLOURESCENT LAMPS

Energy Efficiency Index (EEI) CLASSIFICATION	STAR EQUIVALENT
A1	5
A2	4
A3	3
B1	2
B2	1

For actual values of energy consumption refer to TABLES 1 and 2 of KS 2447-1

2. DOUBLE CAPPED FLOURESCENT LAMPS

Energy Efficiency Index (E_l) CLASSIFICATION	STAR EQUIVALENT
<60%	5
60% ≤ E_l < 80%	4
80% ≤ E_l < 95%	3
95% ≤ E_l < 110%	2
110% ≤ E_l < 130%	1

For the definition of E_l refer to ANNEX C KS 2448-1

3. NON BALLASTED LAMPS

Energy Efficiency Class	Energy Consumption Relative to a Standard GLS / Incandescent lamps	Star Rating
A	<18% to 25%	5
B	<60%	4
C	<80%	3
D	<95%	2
E	<130%	1

For actual values of energy consumption refer to TABLES 1 and 2 of KS 2446-1

4. NON DUCTED AIR CONDITIONERS

EER	STAR EQUIVALENT
Above 4.00	5
3.75 to 3.70	4
3.15 to 3.40	3
2.8 to 3.10	2
Below 2.00	1

For Energy Ratios and Star Rating see TABLE 11 ANNEX of KS 2463

5. REFRIGERATORS

SRI	STAR EQUIVALENT
≤ 8.5	5
6.5 ≤ SRI < 8.5	4

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4.5 ≤ SRI < 6.5	3
2.5 ≤ SRI < 4.5	2
2.5 ≤ SRI	1

6. MOTORS

Energy Efficiency Class (IE) CLASSIFICATION	Description	STAR EQUIVALENT
IE3	Premium Efficiency	3
IE2	High Efficiency	2
IE1	Standard Efficiency	1

SEVENTH SCHEDULE

[(r 15(2))]

Procedure of Enforcement of Regulations

The following procedure shall apply to a person who fails to comply with these regulations

1. The Commission shall send to such person a notice to show cause which shall contain the—

- (a) details of the alleged breach;
- (b) applicable penalty; and
- (c) period of time provided within which to show cause in writing or request to be heard in person.

2. The person shall be afforded a reasonable period of time of not less than fourteen days from the date of receipt, to respond to the notice in writing or request to be heard in person.

3. (1) Where a person requests to be heard in person, the Commission shall arrange for the hearing and keep a record of the proceedings at the hearing.

(2) A person may appear personally or through a duly appointed representative.

4. Upon submission of the response to the notice to show cause or upon the hearing, the Commission shall decide the matter and communicate its decision to the person with fourteen days of receipt of the response or of the date of the hearing. This communication shall include—

- (a) a copy of the record of the proceedings in the case of the hearing;
- (b) a brief statement on the reasons that led the Commission to make its findings;
- (c) the penalty imposed for the breach of the regulations;
- (d) the time within which the penalty (in the case of monetary fines) shall be paid; and
- (e) a statement informing the person of his right to appeal the decision at the Energy Tribunal within the prescribed period.