NO. 12 OF 2006

ENERGY ACT

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An Act of Parliament to amend and consolidate the law relating to energy, to provide for the establishment, powers and functions of the Energy Regulatory Commission and the Rural Electrification Authority, and for connected purposes


PART I – PRELIMINARY

1. Short title
This Act may be cited as the Energy Act.

2. Interpretation
In this Act, unless the context otherwise requires—

“act of vandalism” means any willful, negligent, reckless or malicious act aimed at destroying or damaging apparatus;

“adulterated petroleum” means any mixture of refined petroleum products that alters product specifications detailed in the Kenya Standards;

“agent” means a person appointed in writing by the Commission to perform any of its functions;

“ancillary services” means services that are essential to the management of power system security, facilitate orderly trading in electricity and ensure that electricity supplies are of acceptable quality and, without limitation, may include—

(a) the provision of sufficient regulating capability to meet fluctuations in load occurring within a scheduling interval;

(b) the provision of sufficient contingency capacity reserve to maintain power system frequency in the event of network or generation outages;

(c) the provision of reactive power support to guard against power system failure through voltage collapse; and

(d) the provision of black start capability to allow restoration of power system operation after a complete failure of the power system or part of the power system.

“apparatus” means mechanical or electrical apparatus, and includes all vehicles, aircraft, vessels, pipeline, electrical plants and equipment;

“area of supply” means the area within which the licensee is for the time being authorised to supply electrical energy;
“Authority” means the Rural Electrification Authority established under section 66;

“biomass” means non-fossilised and biodegradable organic material originating from plants, animals and micro-organism and includes bio-ethanol, bio-diesel, biogas, charcoal, fuelwood and agrowaste;

“building” has the meaning assigned to it under the Local Government Act (Cap. 265);

“bulk supply” means the supply of electrical energy by a licensee to another licensee for the purpose of enabling the supply of electrical energy to consumers;

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

“Commission Secretary” means a person appointed under section 13;

“Commissioner” means a person appointed under section 10;

“company” means a company within the meaning of the Companies Act (Cap. 486);

“compulsory acquisition” of any land by a licensee means acquisition of that land, whether permanently or temporarily, through the agency of the Government or any other public body exercising statutory powers of acquisition or setting apart;

“conductor” means an electrical conductor connected or arranged to be electrically connected to a system;

“consumer” means any person supplied or entitled to be supplied with electrical energy or petroleum, but does not include a person supplied with electrical energy or petroleum for delivery or supply to another person;

“danger” means risk to the environment, health, life, person or property of anyone from shock, from fire or otherwise arising from the importation, exportation, generation, transmission, distribution, supply and use of electrical energy or from the importation, exportation, transportation, refining, storage and sale of petroleum, or from the production, storage, distribution and supply of any other form of energy;

“Director-General” means the Director-General appointed under section 12;

“distributing mains” means that portion of any electric supply line which is used or is intended to be used to give origin to service lines for the purpose of the general supply;

“distribution” means the ownership, operation, management or control of facilities for the movement or delivery of electrical energy to enable supply to consumers;

“distribution licence” means any document or instrument authorizing a person to distribute electrical energy in the manner described in such
document or instrument in that person’s authorised area of supply for the purpose of enabling supply to premises in that area and to also receive bulk supply from another licensee;

“electrical plant” means any plant, equipment, apparatus or appliance used for, or for purposes connected with the importation, exportation, generation, transmission, distribution and supply of electricity, other than—

(a) an electric supply line;
(b) a meter; or
(c) an electrical appliance under the control of a consumer;

“electric power producer” means a person who owns or operates facilities for generation of electrical energy pursuant to a generating licence issued under this Act;

“electric supply line” means any wire, conductor or other means used or intended to be used for the purpose of importing, exporting, generating, transmitting, distributing, supplying or using electrical energy, together with any casing, coating, covering, tube, pipe, insulator or support enclosing, surrounding or supporting the same or any part thereof, or any apparatus (including apparatus for switching, controlling, transforming, converting or otherwise regulating electric energy), ancillary thereto, but does not include any telegraph or telephone line;

“electrical energy” means energy involving the use of electric current which may be produced either by mechanical, chemical, photovoltaic or any other means;

“electrical installation licence” means a licence authorizing a person to carry out electrical installation work either individually or as a body corporate or incorporate for voluntary, business, training, or teaching purposes in the electrical installation works either for gain or reward or for no charge at all;

“electrical installation work” means the installation, alteration, or repair, wholly or partially, of any conductor or apparatus or system of wiring in or upon premises of an electricity consumer connected or intended to be connected to a supply of electricity where the voltage in any part exceeds 110 volts;

“energy” means any source of electrical, mechanical, hydraulic, pneumatic, chemical, nuclear, or thermal power for any use; and includes electricity, petroleum and other fossil fuels, geothermal steam, biomass and all its derivatives, municipal waste, solar, wind and tidal wave power;

“energy conservation” means the efficient, economic and cost effective production and use of energy;

“exclusive economic zone” has the meaning assigned to it in section 2 of the Maritime Zones Act (Cap. 371);

“factory” has the meaning assigned to it under the Factories Act (Cap. 514);

“factory owner” includes a person responsible for the management of the factory;
“fossil fuels” means combustible or explosive hydrocarbons formed from the remains of prehistoric animals or plants and includes petroleum, coal, schist, shale, peat, natural gas or any other bituminous substance;

“generating licence” means a licence authorising a person to generate electrical energy;

“generating station” means any station for generating electricity, including any buildings and plant used for the purpose, and the site thereof, but does not include any station for transforming (other than generator transformers), converting or distributing electrical energy;

“grid” means the network of transmission systems, distribution systems and connection points for the movement and supply of electrical energy from generating stations to consumers;

“installation” includes all material, wiring or apparatus situated upon any premises for use or intended for use in connection with the supply of electrical energy to such premises;

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

“large retail consumer” means a consumer that contracts for purchase of electrical energy for his own use, in excess of amounts that the Minister may from time to time prescribe by regulation upon recommendation by the Commission;

“licence” means any document or instrument in writing granted under this Act, to any person authorizing the importation, exportation, refining, storage and sale of petroleum or authorizing the importation, exportation, generation, transmission, distribution and supply of electrical energy, in the manner described in such document or instrument;

“licensee” means holder of a licence and excludes the holder of an electrical installation licence;

“linefill” means that quantity of petroleum constantly maintained in a pipeline;

“liquefied petroleum gas” means commercial propane, commercial butane, commercial pentane and mixture thereof as specified in the relevant Kenya standard;

“Local Authority” means a local authority as defined in the Local Government Act (Cap. 265);

“meter” means any and every kind of machine, device or instrument used for the measurement of the quantity of electrical energy, and includes such auxiliary appliances as resistors, shunts, reactances, current transformers, voltage transformers and time switches, external and necessary to the meter;

“minimum operational stocks” means the amounts of petroleum prescribed by the Minister in consultation with the Commission under section 96;

“Minister” means the Minister for the time being responsible for energy;
“natural gas” means hydrocarbons that are in a gaseous phase at atmospheric conditions of temperature and pressure, including wet mineral gas, dry mineral gas, casing head gas and residue gas remaining after the extraction or separation of liquid hydrocarbons from wet gas, and non-hydrocarbon gas produced in association with liquid or gaseous hydrocarbons;

“off-specification petroleum” means petroleum whose specifications do not conform to the relevant Kenya Standards;

“oil spill” means spillage of petroleum of at least five hundred litres;

“open tendering system” means a system of competitive bidding as provided for in Part V of the Public Procurement and Disposal Act, (No. 3 of 2005);

“outer continental shelf” means the outer continental shelf as defined in Article 76, paragraph 1 of the United Nations Convention on the Law of the Sea or all submerged lands seaward and outside the area of lands beneath navigable waters;

“permit” means an authorisation granted to a person to enable the carrying out of any activity in the energy business, where a licence is considered onerous;

“person” means any public or local authority, company, person or body of persons;

“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 includes condensate;

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

“pipeline” means a pipe or system of pipes that is used or to be used for the transportation of petroleum and any apparatus and works associated therewith, including—

(a) apparatus for inducing or facilitating the flow of petroleum through the pipe or system of pipes;

(b) valves, valve chambers, manholes, inspection pits and similar works, being works annexed to, or incorporated in the course of the pipe or system of pipes;

(c) apparatus for supplying energy for the operation of any such apparatus as is mentioned in paragraph (a) or of such works as are mentioned in paragraph (b);

(d) apparatus for the transmission of information for the operation of the pipe or system of pipes;

(e) apparatus for affording cathodic protection to the pipe or system of pipes;

(f) a structure for the exclusive support of a part of the pipe or system of pipes.
“power” means electrical power or the quantity of electrical energy per unit of time;
“premises” includes any land, land under water, building or structure;
“public authority” means the Government or any department or branch of the Government;
“public emergency” in relation to energy means a condition or situation, that in the reasonable opinion of the President does materially and adversely, or is likely to materially and adversely affect the provision of a continuous supply of energy to the country or to a significant part thereof, or which presents a physical threat to persons or property or security, integrity and reliability of one or more undertakings, and includes, without limitation, any of the following events and circumstances to the extent that they satisfy the foregoing requirements—
(a) any act of war (whether declared or undeclared), invasion, armed conflict, act of foreign enemies, blockade, embargo, revolution, riot, insurrection, civil commotion, act of terrorism, or sabotage;
(b) an act of God including but not limited to lighting, fire, earth quakes, volcanic activities, floods, severe drought, storms, cyclones, hurricanes, tsunami, typhoons, tornadoes or any other natural disaster;
(c) epidemics or plagues;
(d) explosions or chemical contamination (other than resulting from an act of war);
(e) labour disputes, including strikes, work to rule, go slow or lock outs;
“public lamp” means any electric lamp, which is under the control of a public or local authority, person or group of persons, used for the lighting of any street;
“refine” means to process petroleum crude in a refinery in order to yield petroleum products;
“refined petroleum products” means the products yielded from the refining of petroleum;
“refinery” means a distillation plant for refining of petroleum crude to yield petroleum products;
“renewable energy” means all non-fossil sources including, but not limited to biomass, geothermal, small hydro-power, solar, wind, sewage treatment and plant gas;
“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;
“service line” means any portion of any electric supply line through which electrical energy is or is intended to be supplied by a licensee—
(a) to a consumer either directly from the premises of the licensee, or from a distributing main; or
(b) from a distributing main to a group of consumers on the same premises or on adjoining premises supplied from the same point of the distributing main up to the point where such electric supply line reaches the supply terminals;

“specification” has the meaning assigned to it in section 2 of the Standards Act (Cap. 496);

“storage depot” means premises consisting one or more tanks for storing petroleum or liquefied petroleum gas in transit or for sale;

“strategic stocks” means petroleum kept for purposes of ensuring security of supply;

“street” includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, over which the public have a right of way, and also the roadway and footway over any public bridge, or causeway;

“sugar miller” means a person licensed to operate a sugar mill or a jaggery mill in Kenya for the production of sugar including refined sugar and other by-products;

“supply licence” means any document or instrument authorizing a person to supply electrical energy in the manner described in such document or instrument to any premises and such licence shall also entitle the licensee to receive a bulk supply from another licensee;

“supply terminals” means the ends of the electrical supply lines upon any consumer’s premises at which the supply of electrical energy is delivered from the service line of the licensee, and is situated—

(a) in any case where the supply of electrical energy is measured by a meter, at the point at which the conductor from the service line enters the meter, or, in respect of a conductor from the service line which does not pass through the meter, the point on such conductor nearest to the meter;

(b) in any other case, at the point at which the conductor from the service line enters the consumer’s main switch, or, if there is more than one main switch, that main switch on the consumer’s premises which is nearest to the source of supply;

(c) in any case in which the supply of electrical energy is made to a public lamp, at the point of attachment to the distributing main of the electric supply line serving such public lamp;

“system” means an electrical system or grid in which all the conductors and apparatus are electrically connected to a common source of electrical energy;

“system operation” means performance of generation scheduling, commitment and dispatch, scheduling of transmission and ancillary services, and generation outage co-ordination, transmission congestion management and co-ordination, and such other activities as may be required for the reliable and efficient operation of the grid;
“tariff” means a set of prices, rates, charges, and any cost associated with capacity, supply and delivery of electrical energy (which may vary by category of consumers, service voltage or time of use, and may include any adjustments or formulae therefor), as approved by the Commission pursuant to section 45;

“transmission” means the operation, management or control of facilities, consisting of high voltage electric supply lines for movement of electrical energy in bulk between generating stations and transmission substations for the purposes of enabling supply to consumers;

“transmission licence” means any document or instrument authorizing a person to transmit electrical energy in the manner described in such document or instrument, such licence may also entitle the licensee to carry out system operation of the grid;

“Tribunal” means the Energy Tribunal established under section 108;

“undertaking” means any business undertaken pursuant to a licence or a permit and includes all the assets and liabilities from time to time constituting or belonging or appertaining to such business, whether public or private, for—

(a) the importation, exportation, generation, transmission, distribution and supply of electrical energy; or

(b) the importation, exportation, manufacture, refining, transportation, storage or supply of fossil fuels; or

(c) the production, storage, distribution or supply of any other form of energy;

(d) but does not include an undertaking which the Commission in consultation with the Minister, by statutory instrument, declares not to constitute an undertaking for the purposes of this Act;

“use of electrical energy” means the conversion of electrical energy into chemical energy, mechanical energy, sound, heat or light, or the use or application of electrical energy to or for any of the purposes for which it may be or become or be found to be adapted;

“vandalize” means to commit an act of vandalism;

“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 regulations made under this Act;

(b) medium when it exceeds 1,000 volts but does not exceed 33,000 volts under normal conditions, subject however to the percentage variation allowed by any regulations made under this Act;

(c) high when it normally exceeds 33,000 volts under normal conditions, subject however to the percentage variation allowed by any regulations made under this Act;
“works” means—

(a) electric supply lines, machinery, lands, buildings, structures, earth works and water works, and includes any apparatus or things of whatsoever description, required for the importation, exportation, generation, transmission, distribution supply and use of electrical energy; or

(b) pipelines, machinery, lands, buildings, structures, earth works and water works, and includes any apparatus or things of whatsoever description, required for the importation, exportation, storage, refining, transportation, dispensing and supply of petroleum; or

(c) machinery, lands, buildings, structures, earth works and water works, and includes any apparatus or things of whatsoever description, required for the importation, exportation, storage, production, transportation, distribution and supply of any other energy form.

3. Application

The provisions of this Act shall apply, as hereinafter specified, to every person or body of persons importing, exporting, generating, transmitting, distributing, supplying or using electrical energy; importing, exporting, transporting, refining, storing and selling petroleum or petroleum products; producing, transporting, distributing and supplying of any other form of energy, and to all works or apparatus for any or all of these purposes.

PART II – ENERGY REGULATORY COMMISSION

4. Establishment of the Commission

(1) There is established a Commission to be known as the Energy Regulatory Commission.

(2) The Commission shall be a body corporate with perpetual succession and a common seal and shall in its corporate name be capable of—

(a) suing and being sued;
(b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
(c) borrowing and lending money; and
(d) doing or performing all other things or acts for the furtherance of the provisions of the Act which may be lawfully done or performed by a body corporate.

(3) Except as otherwise provided in this Act, the Commission shall be independent in the performance of its functions and duties and exercise of its powers and shall not be subject to the direction or control of any person or authority.

5. Objects and functions of the Commission

The objects and functions of the Commission shall be to—

(a) regulate—

(i) importation, exportation, generation, transmission, distribution, supply and use of electrical energy;
(ii) importation, exportation, transportation, refining, storage and sale of petroleum and petroleum products;
(iii) production, distribution, supply and use of renewable and other forms of energy;

(b) protect the interests of consumer, investor and other stakeholder interests;

(c) maintain a list of accredited energy auditors as may be prescribed;

(d) monitor, ensure implementation of, and the observance of the principles of fair competition in the energy sector, in coordination with other statutory authorities;

(e) provide such information and statistics to the Minister as he may from time to time require; and

(f) collect and maintain energy data;

(g) prepare indicative national energy plan;

(h) perform any other function that is incidental or consequential to its functions under this Act or any other written law.

6. Powers of the Commission

The Commission shall have all powers necessary or expedient for the performance of its functions under this Act and in particular, the Commission shall have the power to—

(a) issue, renew, modify, suspend or revoke licences and permits for all undertakings and activities in the energy sector;

(b) make proposals to the Minister, of regulations which may be necessary or expedient for the regulation of the energy sector or for carrying out the objects and purposes of this Act;

(c) formulate, enforce and review environmental, health, safety and quality standards for the energy sector, in coordination with other statutory authorities;

(d) enforce and review regulations, codes and standards for the energy sector;

(e) prescribe the form and manner in which any application for a licence or permit or amendment thereof or objection thereto shall be made and the fees payable in respect of any such application;

(f) prescribe the form and manner in which any application for any authority, consent or approval under this Act shall be made;

(g) prescribe the conditions which may be attached to the grant of licences or permits under this Act;

(h) make and enforce directions to ensure compliance with conditions of licenses or permits issued under this Act;

(i) set, review and adjust electric power tariffs and tariff structures, and investigate tariff charges, whether or not a specific application has been made for a tariff adjustment;

(j) approve electric power purchase and network service contracts for all persons engaging in electric power undertakings;
(k) examine and approve meters used or intended to be used for ascertaining the quantity of energy;

(l) investigate complaints or disputes between parties with grievances over any matter required to be regulated under this Act;

(m) prescribe the requirements for accreditation of persons with appropriate skills to check accuracy of energy meters installed in residential, commercial or industrial premises;

(n) prescribe the manner and intervals of time within which the energy audit shall be conducted; and

(o) impose sanctions and penalties on persons who are in breach of any of the provisions of this Act or any regulations made thereunder;

(p) grant licences, in coordination with other statutory authorities, for sustainable charcoal production upon submission of satisfactory development plans.

7. Protection from personal liability

No matter or thing done by a member of the Commission or any officer, employee or agent of the Commission shall, if the matter or thing is done bona fide for executing the functions, powers or duties of the Commission, render the member, officer, employee or agent or any person acting by his directions personally liable to any action, claim or demand whatsoever.

8. Liability of Commission for damages

The provisions of this Act shall not relieve the Commission of the liability to pay compensation or damages to any person for any injury to him, his property or any of his interests caused by the exercise of any power conferred by this Act or by the failure, whether wholly or partially, of any works.

9. The common seal of the Commission

(1) The common seal of the Commission shall be kept in the custody of the Commission Secretary and shall not be affixed to any instrument or document except as authorised by the Commission.

(2) All instruments or documents issued under the common seal of the Commission shall be authenticated under the hand of the Director-General or any other member of the Commission authorised by the Commission.

(3) The common seal of the Commission, when affixed to a document and duly authenticated, shall be judicially and officially noticed and unless and until the contrary is proved, any necessary order or authorisation by the Commission under this section shall be presumed to have been duly given.

10. Commissioners

(1) The management of the Commission shall vest in the Commissioners of the Commission which shall consist of—

(a) a Chairperson who shall be appointed by the President;

(b) the Permanent Secretary in the Ministry for the time being responsible for Energy or his representative;
(c) the Director General;
(d) five other Commissioners appointed by the Minister to represent the private sector in general.

(2) A person shall be qualified for appointment as a chairperson under subsection (1)(a) or commissioner under subsection (1)(d) if such person—

(a) is a holder of a university degree recognised in Kenya in the fields of engineering, physical sciences, law, finance, economics or energy; and

(b) has at least seven years working experience in the relevant field, five of which is at a senior management level.

(3) The Chairperson shall hold Office for a term of four years and shall be eligible for reappointment for one further term of four years.

(4) The commissioners appointed under subsection (1)(d) shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years.

(5) The commissioners shall be appointed at different times so that the respective expiry dates of their terms of office shall fall at different times.

11. Termination of appointment of commissioners

The appointment of the Chairperson or a commissioner may be terminated, on the advice of the commission, by the President in the case of the Chairperson or by the Minister in the case of a commissioner, if the Chairperson or a commissioner—

(a) is declared bankrupt;

(b) is convicted of a criminal offence involving dishonesty, fraud or moral turpitude;

(c) is absent from three consecutive meetings of the commission without reasonable cause to the satisfaction of the commission in consultation with the Minister; or

(d) in any particular case fails to comply with the provisions of paragraph 6 of the First Schedule.

12. Appointment of the Director General

(1) The Minister may, on the recommendation of the Commission, appoint a Director-General of the Commission who shall be the chief executive of the Commission and shall, subject to the directions of the Commission, be responsible for the day to day management of the Commission.

(2) The Minister may appoint the Director-General mentioned in subsection (1) from a list of three names of persons submitted by the Commission provided that the Commission obtains the names through a competitive selection process.

(3) A person shall be qualified for appointment as a Director-General if such person—

(a) is a holder of a recognised university degree in the fields of engineering, physical science, law, finance, economics, energy or a related field; and
(b) has at least seven years working experience in the relevant field.

(4) The Director-General shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years.

(5) The Director-General shall be an *ex officio* member of the Commission but shall have no right to vote at any meetings of the Commission.

13. Appointment of a Commission Secretary

(1) There shall be a Commission Secretary who shall be appointed on such terms and conditions as the Commission may determine.

(2) A person shall be qualified for appointment as a Commission Secretary if such person holds a university degree in law recognised in Kenya and is a registered certified public secretary with at least seven years relevant experience.

(3) The Commission Secretary shall—
   (a) be the Secretary to the Commission;
   (b) record and keep minutes and other records of the Commission;
   (c) keep custody of the seal of the Commission; and
   (d) carry out such other functions as the Commission or the Director-General may, from time to time, assign.

(4) In the performance of his duties under this Act, the Commission Secretary shall be responsible to the Director-General.

14. Headquarters

The headquarters of the Commission shall be in Kenya at a place gazetted by the Minister.

15. Appointment of directors, inspectors and other employees

(1) Subject to subsection (2), the Commission may appoint such directors, inspectors, officers or other staff for the proper discharge of the functions of the Commission under this Act, on such terms and conditions of service as the Commission may determine.

(2) Notwithstanding subsection (1), a person shall qualify for appointment as a director if such person holds a recognized university degree in engineering, physical sciences, law, finance, economics or energy and has at least seven years relevant experience.

16. Remuneration of Commissioners

The Commission shall, in consultation with the Minister, pay its members such remuneration, fees or allowances for expenses as it may determine from time to time.

17. Delegation by the Commission

(1) The Commission may, by resolution either generally or in any particular case, delegate to any committee of the Commission or to any member, officer,
employee or agent of the Commission the exercise of any of the powers or the performance of any of the functions or duties of the Commission under this Act.

18. **Conduct of business and affairs of the Commission**

   The conduct and regulation of the business of the Commission shall be as provided in the First Schedule, but subject thereto, the Commission shall regulate its own procedure and the procedure of any committee thereof.

19. **Funds of the Commission**

   (1) The funds of the Commission shall consist of—
   
   (a) such levies as the Minister may impose on the sales of electricity, petroleum and other energy sources;
   
   (b) interest from bank deposits;
   
   (c) revenue from other sources including loans, grants, gifts or donations approved by the Minister; and
   
   (d) such moneys as may, from time to time, be appropriated by Parliament for that purpose.

   (2) There shall be paid out of the funds of the Commission, all expenditure incurred by the Commission in the exercise of its powers or the performance of its functions under this Act.

20. **Financial year**

   The financial year of the Commission shall be the period of twelve months ending on the thirtieth June in each year.

21. **Annual estimates**

   (1) At least three months before the commencement of each financial year, the Commission shall cause to be prepared estimates of the revenue and expenditure of the Commission for that year.

   (2) The annual estimates shall make provision for all the estimated expenditure of the Commission for the financial year and in particular, the estimates shall provide for—

   (a) the payment of salaries, allowances and other charges in respect of the staff of the Commission;
   
   (b) the payment of pensions, gratuities and other charges in respect of the staff of the commission;
   
   (c) the proper maintenance of the buildings and grounds of the Commission;
   
   (d) the maintenance, repair and replacement of the equipment and other property of the Commission.

   (3) The annual estimates shall be approved by the commission before the commencement of the financial year to which they relate and shall be submitted to the Minister for approval and after the Minister’s approval, the Commission shall not increase the annual estimates without the consent of the Minister.
22. Books of accounts, records, audit and reports

(1) The Commission shall keep or cause to be kept proper books of accounts recording all the income and liabilities, expenditure, assets, undertakings, funds, activities, contracts, transactions and any other business of the Commission.

(2) The Commission shall ensure that all moneys received are properly brought to account, all payments out of its funds are correctly made and properly authorized and that adequate control is maintained over its assets and liabilities under this Act.

(3) Within a period of three months after the end of each financial year, the Commission shall submit to the Controller and Auditor-General or to an auditor appointed under subsection (4), the accounts of the Commission together with—

(a) a statement of income and expenditure during that year;

(b) a balance sheet showing the assets and liabilities of the Commission as of the end of the financial year.

(4) The accounts of the Commission shall be audited by the Controller and Auditor-General or by an auditor appointed by the Commission with the written approval of the Controller and Auditor-General.

(5) The appointment of an auditor shall not be terminated by the Commission without the prior written consent of the Controller and Auditor-General.

(6) The Controller and Auditor-General may give general or special directions to an auditor appointed under subsection (4) and the auditor shall comply with those directions.

(7) An auditor appointed under subsection (4) shall report directly to the Controller and Auditor-General on any matter relating to the directions given under subsection (6).

(8) Within a period of six months after the end of the financial year, the Controller and Auditor-General shall report on the examination and audit of the accounts of the Commission to the Commission and to the Minister, and in the case of an auditor appointed under subsection (4), the auditor shall transmit as copy of the report to the Controller and Auditor-General.

(9) Nothing in this Act shall be construed to prohibit the Controller and Auditor-General from carrying out an inspection of the Commission’s accounts or records whenever it appears to him to be desirable and the Controller and Auditor-General shall carry out such an inspection at least once every six months.

(10) Notwithstanding anything in this Act, the Controller and Auditor-General may transmit to the Minister a special report on any matters incidental to his powers under this Act, and the provisions of the Public Audit Act, 2003 (No.12 of 2003) on the same issue shall apply mutatis mutandis to any report made under this section.

(11) The Minister shall lay the audit report before the National Assembly as soon as reasonably practicable after the report is submitted to him under this section.

(12) The fee for any auditor, not being a public officer, shall be determined and paid by the Commission.
(13) The Commission shall within three months after the close of each financial year prepare and submit to the Minister a report of its operations and activities throughout the year, in such form and detail as the Minister shall from time to time determine, and the Minister shall as soon as practicable after receiving the report cause it to be laid before the National Assembly.

23. Appointment of committees or agents

(1) The Commission may appoint committees, or agents, as may be necessary or expedient for the better carrying out of the objects and purposes of this Act.

(2) Every such committee or agent shall be appointed by the Commission in writing, setting out the duration of the appointment, the duties, reporting requirements, functions, authority and powers so conferred.

(3) Any instrument issued by the Commission under subsection (2) may be issued for a limited period or without limit of period, and may be varied or revoked by the Commission at any time.

(4) The Commission shall pay such allowances and fees to the members of such committees or such agents as the Commission may determine.

[Act No. 12 of 2012, Sch.]

24. Powers of committees or agents

(1) A committee or agent appointed under section 23 may, upon production of evidence of appointment to any person reasonably requiring it, for the purposes of this Act—

(a) enter upon any premises at which any undertaking is carried out or an offence under this Act is or is suspected to have been committed;

(b) inspect and test any process, installation, works or other operation which is or appears likely to be carried out in those premises;

(c) be accompanied by a police officer(s) if there is a reason to believe that any serious obstruction may occur;

(d) require from any person the production of any book, notice, record, list or other document which appears to him to have relevance to the inspection or inquiry, which is in the possession or custody or under the control of that person or of any other person on his behalf;

(e) examine and copy any part of any book, notice, record, list or other document which appears to have relevance to the inspections or inquiry, and require any person to give an explanation of any entry therein, and take possession of any such book, notice, record, list or other document as he believes may afford evidence of an offence under this Act;

(f) require information relevant to his inspection or inquiry from any person whom he has reasonable grounds to believe is or has been employed at any such premises or to have in his possession or custody or under his control any article referred to in this subsection; or

(g) exercise such other powers as may be necessary in connection with the inspection or inquiry and other powers of his appointment under section 23.
(2) A committee or agent entering any premises under this section may be accompanied by such persons and may enter with such equipment as may be necessary.

(3) Where—
   (a) the premises to which this section relates are unoccupied; or
   (b) the owner, occupier or person in charge thereof is temporarily absent; or
   (c) entry thereon is refused or obstructed,
the committee or agent may use such force as is reasonably necessary to effect entry:
   Provided that in the case of an entry under paragraph (a) or (b)—
      (i) reasonable steps shall be taken prior to entry by the committee or agent to find the owner, occupier or person in charge of the premises to be entered; and
      (ii) the premises shall be left by the committee or agent as effectively secured against trespassers as they were found.

(4) A person who resists, hinders or obstructs any committee or agent acting in the course of his duty under this section or who wilfully fails to comply with any requirements lawfully made thereunder commits an offence and shall, on conviction, be liable to a fine not exceeding twenty-five thousand shillings for each day or part thereof that the obstruction occurs.

25. Decisions of the Commission

   (1) Decisions of the Commission shall be in writing and the order so given and reasons thereof shall be served upon all parties to the proceedings, and published in the Gazette.

   (2) All orders of the Commission shall become effective on the date of entry thereof, and shall be complied with within the time prescribed therein.

26. Appeal against a decision of the Commission

   A person aggrieved by a decision of the Commission may appeal to the Tribunal within thirty days of the decision:
   Provided that the Tribunal may entertain an appeal after the expiry of the thirty-day period if it is satisfied that there was sufficient cause for not filing it within that period.

PART III – ELECTRICAL ENERGY

   Licensing

27. Requirements for a licence or permit

   (1) Subject to the provisions of this Act, a licence or licences as the case may be, shall be required for the—
      (a) generation, importation or exportation, transmission or distribution of electrical energy; or
(b) supply of electrical energy to consumers:
Provided that for undertakings involving a capacity not exceeding 3,000 kW, the provisions of subsections (2), (3) and (4) shall apply.

(2) A permit shall be required in respect of all undertakings—
(a) intended for the supply of electrical energy to other persons or consumers; and
(b) with a generating plant of over 1000 kW intended for own use.

(3) Any undertaking operating pursuant to a permit granted under this Act shall—
(a) in any case where conveyance of electrical energy to or from any transmission or distribution network is possible, meet the minimum requirements of the owner or operator of the transmission or distribution network as approved by the Commission, and the owner or operator of any such undertaking shall inform the network owner or operator of all connected load and generation equipment that might have material effect on the network; and
(b) be subject to such conditions as may be specified by the Commission.

(4) A permit shall not be required in the case of installations with a generating plant of a capacity not exceeding 1000 kW and connected within the premises of any person in such a manner that conveyance of electrical energy to a transmission system or a distribution system cannot occur.

(5) A person who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to—
(a) in the case of contravention of subsection (1) a fine not exceeding two million shillings, or to a maximum term of imprisonment of two years, or to both; and
(b) in the case of contravention of subsections (2), (3) and (4), a fine not exceeding one million shillings, or to a maximum term of imprisonment of one year, or to both.

28. Application for a licence or permit

(1) An application for a licence or permit, (including an application for amendment, transfer or renewal), shall be made to the Commission in the form and manner prescribed by regulations made by the Minister under this Act.

(2) Before making any application for a licence, the intending applicant shall give fifteen days notice, by public advertisement, in at least two national and one regional newspaper of wide circulation and within the time specified for its publication of the intended application.

(3) In addition to the notice required under subsection (2), the intending applicant shall serve a notice in writing with the particulars of the application on every local authority in the area or proposed area of supply and in any other area concerned in the application, but, where the intending applicant is a local authority and the application to be made relates to an area in the jurisdiction of the intending applicant, the provision as to notice to the local authority shall not apply.
(4) Every notice under subsection (2) or (3) shall state that any person or body of persons desirous of making any representation on or objection to the application or to the grant of the licence shall do so by letter addressed to the Commission and marked on the outside of the cover enclosing it “Electric Power Licence Objection”, on or before the expiration of thirty days from the date of the application as stated in the notice and that a copy of such representation or objection shall be forwarded to the applicant.

(5) The Commission shall, within fifteen days after receipt of the application, inform the applicant in writing whether the application is complete.

(6) The Commission may hear any objections in public, at a time and place of which not less than fifteen days notice shall be given to the applicant and to every objector and the Commission shall make known its decision regarding any objection within thirty days after the hearing.

29. Commission may invite applications for a licence or permit

The Commission may, through a fair, open and competitive process in accordance with procedures prescribed by the Minister by regulations, invite applications for a licence or permit under this Act.

30. Factors to be considered in an application

(1) The Commission shall, in granting or rejecting an application for a licence or permit, take into consideration—

(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 Co-ordination Act of 1999 (No. 8 of 1999);
(c) land use or the location of the undertaking;
(d) 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 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 subsection (4) of section 28;
(j) the proposed tariff offered; and
(k) any other matter that the Commission may consider likely to have a bearing on the undertaking.
(2) The Commission shall process all applications for a licence or permit within ninety days after the Commission confirms to the applicant, in writing, that the application is complete.

(3) The Commission shall, where it refuses to grant a licence or permit, give the applicant a statement of its reasons for the refusal within thirty days of the refusal.

31. Form and conditions of a licence or permit

(1) Every licence or permit shall be in such form as the Commission may determine and shall, subject to subsection (2), contain such particulars or conditions where applicable—

(a) the provisions for tariffs or charges for the importation, exportation, generation, transmission, distribution and supply of electrical energy to different classes of consumers;

(b) the duration of the licence or permit;

(c) the maximum capacity of supply of the undertaking;

(d) the area of supply of the undertaking; and

(e) any other matter connected with the carrying on of the undertaking.

(2) All licences or permits issued by the Commission shall include the following conditions—

(a) a requirement that the licensee or permit holder shall comply with all applicable environmental, health and safety laws;

(b) a stipulation that the licensee or permit holder is subject to liability under tort and the contract laws; and

(c) a requirement that all necessary fees associated with the licence or permit shall be paid on a timely basis.

(3) A licence or permit issued under this Act may not be altered, revised or modified, except with the consent of the holder.

32. Licensee and a permit holder to provide access

(1) A licensee or permit holder who is a network service provider shall provide access to all existing and potential network users of that part of the grid owned or operated by him upon—

(a) payment of such fees and other charges for network services; and

(b) compliance with such minimum requirements of the network service provider;

as may be approved by the Commission.

(2) A licensee or permit holder shall provide the Commission with such information as the Commission may prescribe to enable the Commission approve the fees, charges and requirements under subsection (1).

(3) In this section—

“network service” means a transmission service or distribution service associated with the conveyance and controlling the conveyance, of electrical energy through the network;
“network service provider” means a person who engages in the activity of owning, controlling, or operating a transmission or distribution system pursuant to a licence or permit granted under this Act;

“network user” means a person licensed under this Act to generate, transmit, distribute or supply electrical energy or a large retail consumer.

33. Licensee or permit holder not to purchase other undertakings

(1) A licensee or permit holder 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, except with the authority of the Commission.

(2) A licensee or permit holder who contravenes the provision of subsection (1) shall be liable to the revocation of his licence or permit, in addition to such other action as the Commission may deem fit.

34. Transfer of licence or permit

(1) A licensee or permit holder shall not transfer or otherwise divest any rights, powers or obligations conferred or imposed upon him by the licence without the consent of the Commission.

(2) The Commission may, on application by any of the following persons, transfer a licence or permit—

(a) in the case of the death of the licensee or permit holder, to the legal representative of such licensee or permit holder;

(b) in the case of the bankruptcy of the licensee or permit holder or assignment for the benefit of his creditors generally, to the lawfully appointed trustee or assignee;

(c) in the case of a corporation in liquidation, to the lawfully appointed liquidator;

(d) in any case where the licensee or permit holder becomes subject to a legal disability, to any person lawfully appointed to administer his affairs; or

(e) in the case of voluntary transfer of the undertaking, to the new owner of the undertaking,

and a licence or permit so transferred shall, notwithstanding any other provision of this Act, continue to retain an expiry date similar to the one existing in the licence or permit before the transfer.

(3) The Commission shall satisfy itself of the legal, technical and financial competence of the transferee to carry out the undertaking.

(4) The transferee shall undertake in writing to comply with the licence or permit conditions.

(5) The Commission shall not withhold any consent to any application to transfer unless it has reason to believe that public interest is likely to be prejudiced by the transfer.
(6) In this section—

“transfer of licence or permit” includes the acquisition of a controlling interest directly or indirectly in the licence holder or permit holder; and

“controlling interest” as used with respect to any person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management of that person, whether through the ownership of shares, voting, securities, partnerships or other ownership interests, agreements or otherwise.

35. Failure of licensee or permit holder to meet obligations

(1) If a licensee or permit holder fails to meet his obligations under this Act, the Commission shall serve upon him a notice in writing to meet those obligations within fourteen days or such longer period but not exceeding sixty days as the Commission may determine.

(2) Subject to subsection (3), if a licensee or permit holder fail to comply with the requirements of the notice, the Minister may, on the recommendation of the Commission, enter upon and take possession of the undertaking of the licensee or permit holder and operate the undertaking for and on account of the licensee or permit holder and at the risk and expense of the licensee or permit holder, remitting the balance, if any, of the net income derived from the undertaking to the licensee or permit holder.

(3) Notwithstanding subsection (2), the Commission may, at any time, revoke the licence or permit of a licensee who contravenes subsection (1).

(4) For the purposes of subsection (2)—

(a) the entry and taking of possession by the Minister shall not prejudice the security of any debenture-holder or mortgagee of his right of enforcing such security;

(b) the Minister shall only restore possession of the undertaking at such time when the Minister, in consultation with the Commission, is satisfied that the circumstances on account of which the entry was made no longer exist or will no longer hinder the proper functioning of the undertaking and that the licensee or permit holder has satisfied his obligations under this Act and the conditions of his licence or permit.

(5) The application of subsection (2) or (3) shall not prejudice any claims which any consumer or other person may have against the licensee or permit holder arising from his failure to fulfil his obligations in terms of the conditions of his licence.

(6) A person obstructing or causing obstruction to the Minister or any person authorised by him in the execution of the duties under this section, commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand shillings for each day or part thereof during which the offence continues.
36. Suspension or revocation of licence or permit

(1) The Commission may suspend or revoke a licence or permit where—

(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 the licence or permit was granted, or at the expiry of any extended period which the Commission may allow;

(b) it is satisfied that the licence or permit holder is either wilfully or negligently not operating in accordance with the terms and conditions of the licence or permit, or the provisions of this Act or any regulations thereunder;

(c) the licensee or permit holder is adjudged bankrupt; or

(d) the licensee or permit holder, at any time after commencement of the 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.

(2) Before suspending or revoking a licence or permit under this section, the Commission shall give a licensee or permit holder forty five days notice to show cause why the licence or permit should not be revoked.

(3) A notice under subsection (2) shall—

(a) set out the relevant condition of the licence or permit, or the requirement of the Act to which the breach is related;

(b) specify the acts, omissions or other facts which, in the opinion of the Commission, constitute a contravention of the conditions or the Act, and the reasons why the Commission is of the opinion that any of the circumstances mentioned under subsection (1) have occurred or arisen; and

(c) be served at the principal office of the licensee or permit holder and shall take effect from the date of service.

(4) The Commission shall determine the matter within ninety days from the expiry of the notice.

(5) Where a licence or permit is suspended or revoked, the Commission shall, in consultation with the Minister, take such action as is necessary to ensure that the supply of electrical energy to consumers is not unduly interrupted as a result of the revocation:

Provided that the revocation and suspension of licences and permits is not in contravention of any written law.

(6) A suspension or revocation of a licence or permit under this section shall not indemnify the holder against any penalties for which such person may have become liable under the Act.

37. Provisions where Commission suspends or revokes licence

(1) Where the suspension or revocation of a licence under this Act is likely to interrupt or affect the importation, exportation, generation, transmission,
distribution or supply of electricity to the consumers, the Minister may, after due consultation with the owners of the undertaking declare that the undertaking shall continue.

(2) Where, under subsection (1) the Minister declares that an undertaking shall continue, the owners shall, within a reasonable time, sell and transfer the undertaking to other persons who have the technical, economic, financial and organizational capabilities to operate the undertaking:

Provided that the transfer amount shall be as agreed by the owners and the purchasers.

(3) If the owner of the undertaking declines to sell and transfer the undertaking in accordance with the order of the Minister given under subsection (1), the Minister may appoint an independent valuer who shall value the undertaking and submit his valuation report to the Minister.

(4) The Minister may, after receiving the report in accordance with subsection (3) proceed to sell the undertaking within a period of ninety days through an open tendering system, subject to the reserve price as may be determined by the valuer.

(5) All proceeds of the sale of the undertaking under subsection (4) shall be remitted to the owner minus any reasonable costs incurred by the Minister or his authorised representative in effecting the sale.

(6) The provisions of subsection (1) shall not prejudice the rights and interest of any debenture holder or secured creditors of the owner of the undertaking.

(7) In the event that after the ninety day period is over, no bidder meets the minimum requirements of the tender, the Minister may appoint a competent person to operate the undertaking until such time that a suitable buyer is found.

(8) A person who, without lawful or justifiable cause, obstructs the Minister or any person authorised by him in the carrying out of the sale or in operating the undertaking, authorised by this section, commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand shillings for each day or part thereof that the obstruction occurs or continues.

(9) A person aggrieved by the order of the Minister or who disputes the value of the undertaking may refer the matter for determination through arbitration within sixty days of receipt of the Minister’s order or the report of the valuers.

38. Electrical installation work

(1) A person shall not carry out any electrical installation work unless the person is licensed by the Commission as an electrician or an electrical contractor.

(2) To be licensed by the Commission as an electrical contractor a person must—

(a) be a licensed electrician registered under the Institute of Engineers of Kenya; or

(b) have in his employment, a licensed electrician.
(3) A person who desires to be licensed as an electrician or an electrical contractor shall make an application in the form and manner prescribed by the Commission.

(4) The Commission shall process all applications contemplated under subsection (3) expeditiously and in any case, not later than ninety days from the date of the application, and it may—

(a) grant the licence or registration applied for accordingly, either without conditions or subject to such conditions as it may deem fit; or

(b) refuse to grant the licence or registration applied for, giving reasons thereof.

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

39. Replacement of a licence or permit

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

(2) There shall be payable, upon replacement of a licence or permit under subsection (1), such fees as the Minister may, from time to time by regulations, prescribe.

40. Keeping of register of licences, permits and approvals

(1) The Commission shall maintain a register, in such form as it may determine, in which it shall enter the provisions, subject to subsection (2), of—

(a) every licence, permit or approval granted;

(b) every modification or revocation of such licence, permit or approval;

(c) every direction or consent given or determination made with respect to such licence, permit or approval;

(d) every order or revocation of such order and every notice, as appropriate; and

(e) such other information as the Commission may deem necessary.

(2) In entering any provision in the register, the Commission shall have regard to the need for excluding, so far as is practicable—

(a) any matter which relates to the affairs of any person, where publication of that matter would or might, in the opinion of the Commission, be prejudicial to the interests of that person; and

(b) any matter that would appear to the Commission to be against the public interest or the commercial interests of any person.

(3) The contents of the register shall be available for inspection by the public, during such hours and subject to the payment of such fee as may be prescribed by the Commission.
41. Accounts, records and reports of licensee

(1) For the purposes of this Act, where a person holds a licence or licences, the accounts of each undertaking under each licence shall, unless specifically exempted by the Commission, be subject to the provisions of this Act, and be kept separate and distinct and in the manner and form prescribed by the Commission:

Provided that—

(a) the Commission may direct that the operations of a licensee holding more than one licence in respect of separate or contiguous areas of supply may be treated as a single undertaking for the purposes of this section;

(b) a licensee holding two or more licences, the operations under which are not to be treated as a single undertaking under paragraph (a), or conducting any business or operations independent of his licence or licences, shall be required nevertheless to keep in the prescribed form additional or alternative sets of accounts, to be termed the Head Office Accounts, in respect of all such items as, in the opinion of the auditor appointed under subsection (2), cannot properly or reasonably be attributed or allocated to, and included in, the accounts of the undertaking of any one of such licences exclusively.

(2) A licensee shall, at his own cost, cause the annual accounts to be examined and audited by independent auditors and submit the audited accounts to the Commission within three months after the end of each financial year.

(3) A licensee shall, at the request of the Commission and at his own cost, provide all available information about the technical, financial, hydrological or environmental issues and any other relevant information relating to the operations of the licensee.

(4) The Commission may exempt a licensee from the requirements of subsection (1) where—

(a) it is satisfied with the form and manner in which the records and accounts of the licensee are kept and audited; or

(b) such exemption is provided for in the licence.

42. Powers of the Commission to enter, inspect and investigate

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

(a) at all reasonable times, enter upon the premises of a licence or permit holder and inspect or investigate any plant, machinery, books, accounts and other documents found thereat and take copies thereof;
(b) require a licence or permit holder to furnish to the Commission, books, accounts, records and other documents in such form as the Commission may demand.

(2) The Commission may require that the accuracy of any documents or particulars be verified.

(3) A person authorized by the Commission under subsection (1), shall produce proof of such authorization at the request of any person affected by his activities.

(4) A person who refuses to allow an inspection under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand shillings for each day or part thereof that the obstruction occurs or continues.

(5) A person who discloses information obtained upon an inspection or investigation under this section, other than—

(a) information in the public domain for the purposes of carrying out his duties under this Act; or

(b) upon the order of or in answer to questions put to him as a witness in a court of law or at a hearing before the Commission under this Act,

commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand shillings, or to a maximum term of imprisonment of six months, or to both.

Supply of Electrical Energy

43. Contracts for bulk supply of electrical energy

(1) All contracts for the sale of electrical energy, transmission or distribution services, between and among licensees, and between licensees and large retail consumers shall be submitted to the Commission for approval before execution.

(2) An application for approval of a contract under subsection (1) shall be in such form and submitted to the Commission in such manner, as the Minister may, in regulations prescribe.

(3) In considering a contract under subsection (1), the Commission shall—

(a) ensure that the rates or tariffs established in the contract are just and reasonable;

(b) satisfy itself that the application meets the minimum requirements as prescribed by the Minister in the regulations under this Act; and

(c) take into account any other issues which may have a bearing on the operations of the undertakings.

(4) In this section, a just and reasonable tariff shall mean a rate that enables a licensee to, inter alia—

(a) maintain its financial integrity;

(b) attract capital;
Energy

(c) operate efficiently; and
(d) fully compensate investors for the risks assumed.

44. Forms of contract for supply of electrical energy to consumers

(1) Every person licensed to supply electrical energy shall use a form of contract approved by the Commission for such supply which shall set out the rights and responsibilities of the licensee and consumers.

(2) In approving a form of contract under subsection (1), the Commission shall satisfy itself that such form of contract has fair and reasonable provisions dealing with issues, including but not limited to—
(a) limitation of liability of the licensee;
(b) disconnection procedures;
(c) account and meter deposits;
(d) consultation and notice of changes to any of the contract terms;
(e) metering; and
(f) complaint handling and dispute resolution.

45. Tariffs and tariff structures and terms of supply

(1) The tariff structure and terms for the supply of electrical energy shall be in accordance with principles prescribed by the Commission.

(2) All tariffs charged for electrical energy supplied shall be just and reasonable.

(3) Any application for the review of tariffs shall be filed with the Commission for approval not later than forty-five days before the proposed effective date:
Provided that the Commission may, at its discretion, suspend a schedule of tariffs increase for up to five months.

(4) An application under subsection (3) shall be in the form prescribed by the Commission.

(5) A licensee may require a consumer to make such account deposit, commensurate with the consumer’s estimated electrical energy consumption, before electrical energy is supplied to him, which deposit may, from time to time, be revised by the licensee in order to take account of both the level of consumption and of any changes in electrical energy tariffs.

(6) The charges for electrical energy to be supplied may, subject to agreement between the parties, be paid in advance.

46. Permission to survey and use land to lay electric supply lines

(1) No person shall enter upon any land, other than his own—
(a) to lay or connect an electric supply line; or
(b) to carry out a survey of the land for the purposes of paragraph (a), except with the prior permission of the owner of such land.

(2) The permission sought in subsection (1) shall be done by way of notice which shall be accompanied by a statement of particulars of entry.
47. Assent to proposal

(1) An owner, after receipt of the notice and statement of particulars under section 46, may assent in writing to the construction of the electric supply line upon being paid such compensation as may be agreed and any assent so given shall be binding on all parties having an interest in the land, subject to the following provisions—

(a) that any compensation to be paid by the licensee giving notice to the owner, in cases where the owner is under incapacity or has no power to assent to the application except under this Act, shall be paid to the legal representative of the owner;

(b) that an occupier or person other than the owner interested in the land shall be entitled to compensation for any loss or damage he may sustain by the construction of the electric supply line, so long as the claim is made within three months after the construction of the electric supply line.

(2) No assent expressed in writing in accordance with subsection (1) shall be void by reason only of non-compliance with any statutory requirements as to registration.

48. Objection to proposal

(1) An owner shall be deemed to have assented to a proposal to construct an electric supply line on his land if he fails to notify, in writing, the person desiring to construct an electric supply line, of his objection thereto within sixty days after the service on him of the notice required by section 46 and in the event of an objection, the Commission, on application by the licensee, shall determine—

(a) what loss or damage, if any the proposed electric supply line will cause to the owner, or to the occupier or other person interested in the land;

(b) whether any loss or damage that may be caused is capable of being fully compensated for by money.

(2) The result of a determination under subsection (1) shall be as follows—

(a) if the Commission determines that loss or damage will be caused to the owner, occupier or other party interested in the land and that the loss or damage is—

(i) of a nature that may be fully compensated for by money, the Commission shall proceed to assess the compensation and to apportion it amongst the owner, occupier and other parties who may in the judgment of the Commission be entitled to compensation and on payment of the sum so assessed the person giving notice may proceed to construct or lay the proposed electric supply line;

(ii) not of a nature that may be fully compensated for by money the person giving notice shall not be entitled to construct or lay the proposed electric supply line;
(b) if the Commission determines that no loss or damage will be caused to the owner, occupier or other party interested in the land the person giving notice may forthwith proceed to construct or lay the electric supply line.

49. Procedure before Commission

(1) Where an application is made under section 48, the Commission may summon the parties to appear before it at a time and place to be named in the summons and upon the appearance of the parties or in the absence of any of the parties, upon proof of due service of the summons, the Commission may hear and determine the question and amount of compensation and for that purpose may examine the parties and their witnesses on oath.

(2) The costs of the inquiry pursuant to subsection (1) shall be determined by the Commission.

50. Payment of compensation by the Commission

(1) If any difficulty or question arises as to the person entitled to compensation payable under this Act, the Commission shall order compensation to be paid to the Commission pending the making of an application under subsection (2).

(2) Upon an application by a person making claim to any compensation paid to the Commission under subsection (1), the Commission may at the cost of the person making the application give notice to such persons as it deems fit in accordance with sections 46 and 48 and after such notice the Commission shall direct or order distribution and payment of the compensation according to the respective rights and interests of the persons making claim to such compensation or any part thereof, and may further make such other orders in the premises as it deems fit.

51. Power of the licensee to enter land to inspect or repair lines

(1) After electric supply lines have been laid in accordance with this Act, the licensee or any person authorised by the licensee may, from time to time as it becomes necessary, enter the land on which the electric supply lines are laid, with such assistance as may be necessary, for the purpose of inspecting or repairing the lines, or removing such lines in case where the electric supply lines are no longer required.

(2) Where electric supply lines are removed, the surface of the land shall forthwith be restored to its former condition as far as possible and in default thereof restoration may be carried out by the owner of the land, and the costs thereof shall be recoverable from the licensee.

52. Liability of licensee to make compensation for damage

The provisions of this Act shall not relieve a licensee of the liability to make compensation to the owner or occupier of any land or the agents, workmen or servants of the owner or occupier of any land which is the subject of the provisions of this Act, for damage or loss caused by the exercise or use of any power or authority conferred by this Act or by any irregularity, trespass or other
wrongful proceeding in the execution of this Act, or by the loss or damage or breaking of any electric supply line, or by reason of any defect in any electric supply line.

53. Laying of electric supply lines along roads, railways, etc.

(1) For the purpose of the conveyance, transmission, or supply of electrical energy, a licensee may erect, fix, install or lay any poles, wires, electric supply lines, power or other apparatus in, upon, under, over or across any public streets, road, railways, tramways, rivers, canals, harbours or Government property, in the manner and on the conditions as provided in this Act.

(2) Notwithstanding the provisions of any other written law, but subject to the provisions of this section, a licensee may break up any street within his area of supply, and may erect posts and lay or construct power lines or electric supply lines along, under or over any such street, and may, from time to time, repair, alter or remove any posts or lines so erected, laid or constructed:

Provided that the person having the control of such street shall have a prior right to break up and repair such street with reasonable despatch upon payment to him of a reasonable charge by the licensee.

(3) A licensee shall, not less than thirty days before exercising any power conferred upon him by this section, give notice in writing to the owner of his intention to do so, except in a case of emergency and in such case the licensee shall notify the owner as soon as possible after the emergency has arisen.

(4) The powers conferred upon a licensee by this section shall, except in a case of emergency, be exercised only under the superintendence of the person concerned and according to a plan showing the route and in terms of specifications approved by that person, or, if any dispute arises in respect of such plan, route or specifications, as may be approved by the Commission:

Provided that if the said person fails to exercise the powers of superintendence conferred by this section the licensee may, after giving notice, exercise those powers without such superintendence.

(5) Whenever a licensee carries out any work authorized by this section, he shall comply with the by-laws, if any, of the local authority concerned and shall complete that work with reasonable despatch and reinstate the street broken up and remove any debris or rubbish occasioned thereby and shall, while the street is broken up or obstructed, cause the works to be, at all times, fenced and guarded and during the night, adequately lit.

(6) If the licensee fails or unreasonably delays in carrying out the work referred to in subsection (5), the local authority concerned may cause the work to be executed at the expense of the said licensee.

(7) A licensee shall pay to the said local authority the costs reasonably and necessarily incurred by it in executing such work.

(8) Nothing in this section shall be construed as relieving a licensee of any liability in respect of any loss or damage caused by his negligence in carrying out such work or by his failure to comply with the provisions of this section.
54. Compulsory acquisition of land

(1) Where a licensee requires the compulsory acquisition of land for any of the purposes of a licence, the licensee may apply to the Minister to acquire the land on his behalf.

(2) Where the Minister in consultation with the Commission is satisfied that it is in the public interest to do so, he may acquire the land in accordance with the relevant laws.

(3) Where land is acquired on behalf of the licensee under subsection (2), the licensee shall bear all the costs in relation thereto.

55. Power to lop trees and hedges

(1) Where any tree or hedge obstructs or interferes with the construction by a licensee of any electric supply line, or interferes or is likely to interfere with the maintenance or working of any electric supply line, owned by any licensee, such licensee shall give a seven days notice to the owner or occupier of the land on which the tree or hedge is growing, requiring the person to lop or cut it so as to prevent the obstruction or interference of the electric supply line, subject to the payment by such licensee of the expenses reasonably incurred by the owner or occupier of the land in complying with the notice:

Provided that in any case where such a notice is served upon an occupier who is not the owner of the land on which the tree or hedge is growing, a copy of the notice shall also be served upon the owner thereof, if his address is known.

(2) If within twenty-one days from the date of giving such notice the owner or occupier of the land on which the tree or hedge is growing gives a counter-notice to the licensee objecting to the requirements of the notice, the matter shall, unless the counter-notice is withdrawn following consultations between the licensee and the owner or occupier, be referred to the Commission for determination and the Commission may, after giving the parties an opportunity to be heard, make such orders as it thinks just, and any such order may empower the licensee, after giving a seven day prior notice to any such person by whom the counter-notice was given of the commencement of the work as the order may direct, to cause the tree or hedge to be lopped or cut, and may determine any question as to what compensation, if any, and expenses are to be paid:

Provided that any party aggrieved by any decision of the Commission with regard to compensation may within thirty days after being notified of such decision appeal to the Tribunal.

(3) The licensee shall issue instructions to his servants and agents with a view to ensuring that trees and hedges shall be lopped or cut in a way that little damage as possible is done to trees, fences, hedges and growing crops, and shall cause the boughs lopped to be removed in accordance with the directions of the owner or occupier, and shall make good any damage done to land.

(4) Any compensation or expenses payable to the owner or occupier by the licensee under this section shall be a civil debt recoverable summarily.

(5) Where it is necessary to fell any trees, this section shall apply to the felling of trees mutatis mutandis as it applies to the lopping of trees.

(6) This section shall apply to electric supply lines owned or to be constructed by any licensee regardless of the type of licence he holds.
56. **Electric supply lines**

The licensee shall lay down or erect and keep in good state of repair suitable and sufficient electric supply lines for the purpose of enabling supply to be given in the area of supply specified in that behalf in the licence.

57. **Supply of electrical energy to persons within area of supply**

(1) A person requiring a supply of electrical energy shall apply to the licensee, specifying the premises in respect of which the supply is required and the maximum power required to be supplied, and a reasonable date when the supply is required to commence.

(2) Upon application by any person in the area of supply, the licensee shall, within the period specified in the licence or any regulations made under this Act, notify the persons by whom the application is made, of the terms and conditions, which may include payments of whatever nature, to be complied with by such persons before the supply is given:

Provided that the licensee may, in its discretion, allow an applicant under this section to pay the costs of the installation of the supply instalments, over such period and on such terms and conditions as may be agreed upon between the licensee and such person.

(3) Notwithstanding any payments made in accordance with subsection (2)—

(a) all electric supply lines shall be the property of the licensee and may be used to supply other persons provided that such use does not prejudicially affect the supply of electrical energy to the person who first required such electric supply lines to be laid down or erected;

(b) such person shall be entitled to reimbursement by the licensee of a fair and just proportion of the cost originally paid by such person from payment made by each person subsequently connected to such electric supply lines provided that a claim for such reimbursement shall be made within six years; and

(c) the licensee shall determine the fair and just proportion of the cost to be reimbursed in accordance with regulations made under this Act.

(4) If any difference arises under this section as to the amount to be reimbursed by any person, that difference shall, upon the application of any person, be determined by the Commission.

(5) A licensee shall keep at his office forms of requisition, embodying a suitable note drawing attention to the provisions of this section, and a copy shall, on application, be supplied free of charge to any person within the area of supply, and any requisition so supplied shall be deemed valid in point of form.

[Act No. 6 of 2009, SCH.]

58. **Quantity of electrical energy supplied and metering**

(1) The amount of electrical energy supplied to the consumer or the number of hours during which the supply is given, or the maximum demand taken by the consumer, or any other quantity or time connected with the supply shall be ascertained by meters of a type approved by the Kenya Bureau of Standards, or determined in a manner agreed upon by the licensee and the consumer.
(2) The licensee shall supply and fix meters, on hire, upon the premises of the consumer and connect the supply system therewith, and the consumer shall pay to the licensee for the hire of any such meter or meters, such costs as may be approved by the Commission:

Provided that the licensee shall allow the consumer, if the consumer so wishes, to supply the meter or meters for the purpose of determining the quantity of the supply.

(3) The meters, whether the property of the licensee or of the consumer, shall be sealed by the licensee with an approved seal bearing the licensee's distinguishing brand or mark impressed thereon.

(4) The licensee may, in order to protect any meter or meters or any other apparatus belonging to him, install suitable cut-outs on a consumer's premises on the supply side of any such meter or other apparatus, and seal such cut-outs with an approved seal bearing the licensee's distinguishing brand or mark impressed thereon.

(5) Where any seal affixed under subsection (3) or (4) is broken without the authority of the licensee, the consumer upon whose premises the seal was placed commits an offence and shall, on conviction, be liable to a fine not exceeding one million shillings or to a maximum term of imprisonment of one year or to both:

Provided that, where it can be proved that the offence was committed by some person other than the consumer, that person shall be punishable as if he were the consumer upon whose premises the breach occurred.

(6) Where a consumer who is supplied with electrical energy by the licensee has provided a meter for the purpose of ascertaining the quantity of electrical energy supplied and the licensee changes the method of charging for electrical energy supplied by him, the licensee shall either pay to that person the reasonable expenses which he may have incurred in providing a new meter for the purpose of ascertaining the quantity of electrical energy supplied according to the new method of charging, or provide such consumer with a new meter.

(7) A consumer shall be entitled to install in his premises a check meter or meters for the purpose of checking the quantity of electrical energy supplied to him but the registrations of such check meter shall not be taken into account in determining the quantity of electrical energy supplied to him and no such check meter shall be fixed and connected with the supply system except in such manner and subject to such conditions as the licensee may approve.

(8) The licensee shall not connect or disconnect any meter to be used for ascertaining the quantity of electrical energy supplied, or a consumer's check meter, or from any electric supply line through which electrical energy is supplied by the licensee, unless he has obtained the written consent of that person, or alternatively unless he has given to that person not less than forty eight hours' written notice of his intention to do so.

(9) The licensee shall not make any alteration, adjustment or readjustment in any meter being used for ascertaining the quantity of electrical energy supplied, as to affect the functioning of such meter unless the licensee has given to the consumer not less than forty eight hours' written notice of the intention to do so or unless otherwise mutually arranged.
(10) The consumer shall, at all times and at his own expense, keep all meters belonging to him and used for ascertaining the quantity of electrical energy supplied, in proper order for correctly registering that quantity, and, in default, the licensee may cease to supply electrical energy through the meter until the defect is rectified.

(11) The licensee shall, at all times, at his own expense, keep all meters let for hire by him to any person, for ascertaining the quantity of electrical energy supplied, in proper order for correctly registering that quantity, and in default the said person shall not be liable to pay any charges for hire of the meter during such time as the default continues.

(12) The licensee shall, subject to the provisions of section 51, for the purposes of this section, have access to, and be at liberty to remove, test, inspect and replace any meters installed by the consumer for the purpose of ascertaining the quantity of electrical energy supplied at all reasonable times.

(13) A person who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to fine not exceeding five hundred thousand shillings, or to a maximum term of imprisonment of one year, or to both.

59. Defective meters

(1) Where a meter used to register the quantity of electrical energy supplied by a licensee to any consumer is found to be defective through no fault of the licensee or the consumer, the licensee may, in consultation with the consumer, determine the reasonable quantity of electrical energy supplied and recalculate the charges due to or from the consumer as appropriate for up to a maximum period of six months from the date the meter is established to be defective:

Provided that if the consumer had reported any suspected defect in the meter and the licensee did not immediately examine the meter, the licensee shall not be entitled to recover from the consumer any charges for more than three months from the date the meter was established to be defective.

(2) Where any meter used to register the quantity of electrical energy supplied by any licensee to any consumer is found to be defective through interference by the consumer, the licensee may determine the reasonable quantity of electrical energy supplied and recalculate the charges due from consumer as appropriate from the date the licensee determines the meter to have been interfered with:

Provided that if the subject meter is no longer suitable for ascertaining the quantity of electrical energy supplied, the licensee shall be entitled to repair or replace the meter at the cost of the consumer who interfered with it.

(3) If any dispute arises under this section as to recalculation of electrical energy supplied to a consumer or as to interference with any meter, such dispute shall be referred to the Commission for determination.

60. Electric supply lines, meters and other apparatus are not fixtures

(1) Any electric supply lines, meters, fittings, works or apparatus belonging to a licensee and lawfully placed or installed in or upon any premises not belonging to the licensee, whether or not fixed to any part of such premises shall—

(a) remain the property of and may be removed by the licensee;
(b) not be subject to the landlord’s distress for rent in such premises; and

(c) not be liable to be taken in execution under any process of law or any proceedings in insolvency or liquidation against the owner or occupier of such premises:

Provided that adequate indication is given on such premises that such licensee is the actual owner of such lines, meters, fittings, works or apparatus.

(2) For the purposes of this section and of section 58, lines, meters, fittings and apparatus let, rented or disposed of by the licensee on terms of payment by instalments shall, until such instalments have been paid, be deemed to belong to the licensee.

61. When supply of electrical energy may be refused or discontinued

(1) A licensee shall not, except for reasons beyond his control, reduce, discontinue or refuse the supply of electrical energy to any consumer, unless—

(a) the consumer has failed to pay to the licensee any costs of installation or instalments thereof payable under section 57(2), or charges for consumption of electrical energy, whether such charges are due to the licensee for the supply of electrical energy to premises in respect of which such supply is demanded or in respect of other premises:

Provided that—

(i) such charges have not been referred to the licensee by the consumer for resolution in accordance with the licensee’s complaint handling and dispute resolution procedures approved by the Commission;

(b) the consumer fails or neglects to make good any defects in his installation:

Provided that those defects and the period within which such defects are to be rectified, have been communicated to the consumer in writing;

(c) the consumer uses or permits to be used such supply for any purpose or deals with or permits such supply to be dealt with in any manner so as to interfere unduly or improperly with the efficient supply of electrical energy by the licensee to any person, or endangers public safety;

(d) the consumer contravenes the provisions of subsection (5) or (10) of section 58;

(e) the consumer denies the licensee access to the electric supply lines or any meters on the premises under the control of the consumer;

(f) the premises of part thereof is the subject of an order for demolition made at the instance of a public or local authority; or

(g) the supply of electrical energy is prohibited by law to such premises or part thereof.
(2) Where a person has given a licensee a deposit as security for payment for the supply of electrical energy, the licensee may, at any time, while any such charge or other sum remains unpaid and after giving that person not less than fourteen days notice in writing—

(a) discontinue the supply of electrical energy to such person; or

(b) apply the deposit for the electrical energy consumed and if any part of such charge or other sum remains unpaid thereafter, discontinue the supply of electrical energy to such person,

until such charge or other sum together with any expenses incurred in disconnecting such supply and any lawful charges for or incidental to the reconnection thereof have been paid.

(3) If any dispute arises as to—

(a) any charges; or

(b) the application of any deposit; or

(c) any illegal or improper use of electrical energy; or

(d) any alleged defects in any apparatus or protective devices; or

(e) any unsuitable apparatus or protective devices,

it shall be referred to the Commission.

(4) Where any dispute referred to in subsection (3) has been referred to the Commission, or has otherwise been taken to court before a notice of disconnection has been given by the licensee, the licensee shall not exercise any of the powers conferred by this section until final determination of the dispute:

Provided that the prohibition contained in this subsection shall not apply in any case in which the licensee has made a request in writing to the consumer for a deposit with the Commission, in addition and without prejudice to any other deposit the licensee is entitled to require, or the amount of the charge or other sum in dispute, and the consumer has failed to comply with the request within forty-eight hours of the request having been made.

62. Power of the Minister to provide electric lines or funds

Where, in the opinion of the Minister, a supply of electrical energy should be obtained from any licensee or permit holder and after investigation, it is considered uneconomical or commercially inexpedient to provide for the necessary works as specified in that behalf, the Minister, may with the approval of the National Assembly, undertake in whole or in part the provision of any such works or of the funds necessary to defray the charges thereon or may guarantee such payments, upon such terms and conditions as the Minister may consider necessary or expedient.

63. Regulations for electrical energy

(1) Without limiting the generality of sections 5 and 6 and in accordance with section 110, the Minister may, on the recommendation of the Commission, make
such regulations as may be necessary or expedient for the achievement of the objectives and purposes of this Act and in particular, for all or any of the following purposes—

(a) prescribing the form and manner in which any application for review or adjustment of tariffs is to be made and the procedure for the review or adjustments of tariffs;
(b) providing the procedure for application and transfer of licences;
(c) prescribing generally the duties and obligations of licensees, permit holders, undertakers and consumers;
(d) prescribing the form and manner in which every licensee shall keep his accounts and records of income and expenditure for the purposes of this Act;
(e) providing for the securing the safety of the public from danger, personal injury or damage to property arising from the production, transmission, transportation, transformation, distribution, supply or use of electricity;
(f) providing for the reporting of accidents to the Commission which have resulted in the loss of life, personal injury or damage to property;
(g) providing for the inspection of and enquiry into the operation of undertakings;
(h) providing for the measurement of electrical energy and the settlement of disputes as to measurements of electrical energy;
(i) providing for the conditions on which new electricity connections may be made to any premises;
(j) prescribing the conditions on which electrical energy supplied to a person may be resold to another person;
(k) prescribing standards with regard to the quality, safety and reliability of supply of electrical energy and related installations; and
(l) prescribing the procedures for hearings, settlement of disputes and any proceedings before the Commission.

Offences

64. Unauthorised, fraudulent or improper supply or use of electrical energy

(1) A person who—

(a) contravenes any of the conditions of a licence granted to him under this Act;
(b) without lawful right (the proof of which shall be upon him) abstracts, branches off or diverts or causes to be abstracted, branched off or diverted any electrical energy, or consumes or uses any such electrical energy which has been wrongfully or unlawfully abstracted, branched off or diverted, knowing it to have been wrongfully or unlawfully abstracted, branched off or diverted; or
(c) lays, erects or installs, or permits to be laid, erected or installed, any conductor or apparatus and connects it, or permits it to be connected, with any electric supply line through which electrical energy is supplied by a licensee, without the consent of the licensee; or

(d) disconnects, or permits to be disconnected, any conductor or apparatus from any electric supply line belonging to a licensee, without the consent of the licensee; or

(e) makes or permits to be made any alteration in his permanent installation without the previous approval of the licensee; or

(f) in any case where the quantity of the supply of electrical energy is not ascertained by meter, uses any apparatus or device other than what he has contracted to pay for or uses such apparatus or device at any other time than the time specified and for which he has contracted to pay; or

(g) uses the electrical energy supplied to him for other purposes other than the purposes for which it is supplied for; or

(h) supplies any other person with any part of the electrical energy supplied to him by the licensee or the permit holder, without the consent of the licensee or the permit holder,

commits an offence and shall, on conviction, be liable to a fine not exceeding one million shillings, or to a maximum term of imprisonment of one year, or to both.

(2) In any case where the person who commits an offence under subsection (1) is the consumer, the licensee may also discontinue the supply of electrical energy to the premises of such consumer or abstain from resuming such supply, if already discontinued, for such period as the Commission may direct, notwithstanding any contract which may have been previously entered into.

(3) The existence of artificial or unlawful means for making—

(a) connection or disconnection as is referred to in paragraphs (c), (d) and (f) of subsection (1); or

(b) making such alteration as is referred to in paragraph (e) of subsection (1); or

(c) facilitating such use or supply as referred to in paragraphs (g) and (h) of subsection (1),

shall, where the meter, indicator or apparatus is under the custody or control of the consumer, whether it is his property or not, be prima facie evidence that such connection or disconnection, alteration, improper use or supply, as the case may be, has been fraudulently, knowingly and wilfully caused or permitted by the consumer.

(4) A person who wilfully or with intent to interfere with the management or operation of the apparatus of a licensee—

(a) extinguishes or causes to be extinguished, any public lamps;

(b) vandalizes or damages any works of or under the control of a licensee;

(c) steals or, with intent to steal, break, throws down or damages any works of or under the control of a licensee; or
(d) steals, illegally trades or improperly uses any of the electrical energy supplied by a licensee, commits an offence, and shall be liable, on conviction, to a fine of not less than five million shillings or to imprisonment for a term of not less than ten years, or both.

[Act No. 12 of 2012, Sch.]

64A. Serving with intent to steal

A person who, with intent to steal, severs any conductor, transformer or part thereof, insulator, tower, jumper or other installations under the control of a licensee, commits an offence and is liable, on conviction, to a fine of not less than five million shillings or to imprisonment for a term of not less than ten years, or to both.

[Act No. 12 of 2012, Sch.]

65. Hindering, obstructing or interfering with the exercise of licensee powers

A person hindering, obstructing or interfering with the exercise by a licensee with regard to an electric supply line, or by the servants or agents duly authorised in writing of any such licensee, of any right of entry upon land conferred by this Act for the purpose of laying and connecting, or repairing, inspecting or removing, an electric supply line commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand shillings for each day or part thereof that the obstruction occurs or continues.

Rural Electrification

66. Establishment of the Rural Electrification Authority

(1) There is established an Authority to be known as the Rural Electrification Authority (hereinafter referred to as “the Authority”).

(2) The Authority shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

(a) suing and being sued;
(b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
(c) borrowing and lending money; and
(d) doing or performing all other things or acts for the furtherance of the provisions of the Act which may be lawfully done or performed by a body corporate.

67. Functions of the Authority

The Authority shall—

(a) manage the Rural Electrification Programme Fund established under section 79;
(b) develop and update the rural electrification master plan;
(c) implement and source additional funds for the rural electrification programme;
(d) promote use of renewable energy sources including but not limited to small hydros, wind, solar, biomass, geothermal, hybrid systems and oil fired components taking into account specific needs of certain areas including the potential for using electricity for irrigation and in support of off-farm income generating activities;

(e) manage the delineation, tendering and award of contracts for licences and permits for rural electrification; and

(f) to perform such other functions as the Board may direct.

68. Board of the Authority

(1) There shall be a Board of Directors of the Authority which shall consist of—

(a) a Chairperson appointed by the President;

(b) the Permanent Secretary in the Ministry for the time being responsible for energy or his representative;

(c) the permanent Secretary in the Ministry for the time being responsible for finance or his representative; and

(d) a minimum of four and a maximum of eight other members appointed by the Minister.

(2) A member of the Board shall hold office—

(a) in the case of the Chairperson, for a period of five years;

(b) in the case of any other member, for a period of three years.

(3) A member of the Board may be re-appointed for one further term.

(4) A person shall be qualified for appointment as a Chairperson under subsection (1)(a) or member under subsection (1)(d) of the Board if such person—

(a) is a holder of a university degree recognized in Kenya in the fields of engineering, physical sciences, law, finance, economics or energy; and

(b) has at least fifteen years experience in the relevant field, five of which is at a senior management level.

69. Conduct of business and affairs of the Board

The conduct and regulation of the business and affairs of the Board shall be as provided in the Second Schedule.

70. Chief Executive and other staff of the Authority

(1) The Minister may, on recommendation of the Authority, appoint a Chief Executive of the Authority from a list of three names of persons submitted by the Board through competitive selection.

(2) The person appointed under subsection (1) shall be the chief executive of the Authority and, subject to the directions of the Board, be responsible for the day-to-day management of the Authority.
(3) The Authority may appoint such other officers and staff as may be necessary for the efficient discharge of its functions.

71. Remuneration

The Authority shall pay its members and staff such salaries and allowances as it shall determine in consultation with the Minister.

72. The common seal

(1) The common seal of the Authority shall be kept in such custody as the Board may direct and shall not be used except on the order of the Board.

(2) The common seal of the Authority when affixed on a document and duly authenticated shall be judicially and officially noticed unless and until the contrary is proved any necessary order or authorization by the Board under this section shall be presumed to have been duly given.

(3) The affixing of the common seal of the authority shall be authenticated by the signature of the chairperson and the Chief Executive Officer and any document not required by law to be made under seal and all decisions of the Board may be authenticated by the signature of the chairperson and the Chief Executive Officer:

Provided that the Board shall, in the absence of either the chairperson or the Chief Executive Officer in any particular matter, nominate one member to authenticate the seal on behalf of the chairperson or the Chief Executive Officer.

73. Protection from personal liability

No matter or thing done by a member of the Board or any officer, employee or agent of the Authority shall, if the matter or thing is done bona fide for executing the functions, powers or duties of the Authority, render the member, officer, employee or agent, any other person acting on his directions personally liable to any action, claim or demand whatsoever.

74. Liability of the Board for damages

The provisions of section 73 shall not relieve the Authority of the liability to pay compensation or damages to any person for an injury to him, his property or any of his interests caused by the exercise of the powers conferred on the Board by this Act or by any other written law or by the failure, whether wholly or partially, of any works.

75. Financial year

The financial year of the Authority shall be the period of twelve months ending on the thirtieth June in each year.

76. Annual estimates

At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Authority for that year.
77. Accounts and audit

(1) The Board shall cause to be kept proper books and records of accounts of the income, expenditure and assets of the Authority.

(2) Within a period of three months after the end of each financial year, the Board shall submit to the Controller and Auditor-General or to an auditor appointed under this section, the accounts of the Authority together with—

(a) a statement of the income and expenditure of the Authority during that year; and

(b) a detailed balance sheet of the Authority on the last day of that year.

(3) The accounts of the Authority shall be audited and reported upon in accordance with the provisions of the Public Audit Act, 2003 (No. 12 of 2003) by the Controller and Auditor-General or by an auditor appointed by the Board with the approval of the Controller and Auditor-General.

78. Electricity sales levy

The Minister may impose a levy of up to five percent on all electricity consumed in the country, the proceeds of which shall go into the Rural Electrification Programme Fund, set up under section 79.

79. Rural Electrification Programme Fund

(1) The Minister shall establish a fund to be known as the Rural Electrification Programme Fund to support the electrification of rural areas and other areas, considered economically unviable for electrification by licensees.

(2) The Rural Electrification Programme Fund consists of—

(a) the electricity sales levy as provided under section 78;

(b) fees and other charges levied by the Commission under this Act;

(c) such moneys as may be appropriated by Parliament for that purpose;

(d) donations, grants and loans; and

(e) all other moneys lawfully received or made available for the programme as the Minister may approve.

(3) The Authority shall keep books and records of accounts and shall cause regular audits of such books and records to be undertaken.

PART IV – PETROLEUM

Licensing

80. Licence for petroleum business

(1) A person shall not conduct a business of importation, refining, exportation, wholesale, retail, storage or transportation of petroleum, except under and in accordance with the terms and conditions of a valid licence.

(2) A licensee shall not sell petroleum to a person for the purpose of exportation or for resale in Kenya unless that person has a valid exporters or retail licence under this Act.
(3) A person shall not use a vehicle for the purpose of transporting petroleum unless there is in force, in respect of that vehicle, a valid petroleum permit issued under this Act.

(4) No person shall drive a vehicle, or engage a driver, for the purpose of transporting petroleum unless such driver is certified for that purpose in accordance with this Act.

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

81. Licensing Agents

The Commission may, in accordance with section 23 appoint competent and impartial persons to be licensing agents for the purpose of issuing licences under this Act.

82. Granting of licences

(1) A person desirous of obtaining a licence under this Act shall make an application to the Commission or licensing agent in the manner prescribed by the Commission, and the Commission or licensing agent may, within thirty days—

(a) grant a licence accordingly, either without conditions or subject to such conditions as the commission may deem fit and shall be accompanied by the prescribed fee;

(b) refuse to grant such licence.

(2) Where the Commission or licensing agent—

(a) refuses to grant a licence; or

(b) imposes conditions on a licence,

the Commission or licensing agent shall give to the applicant, the reasons in writing for the action.

(3) A licence issued under this Act shall be valid for one year from the date of issue.

(4) An application for a renewal of a licence shall be made at least thirty days before the expiry date of the current licence and must be accompanied by the prescribed fee.

(5) If the Commission or the licensing agent is satisfied that the applicant continues to meet the requirements for the issue of the licence, the Commission or the licensing agent shall renew the licence.

(6) If an 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 or the licensing agent when the licence is due to expire, the licence continues in force until the application for renewal is dealt with and any renewal in such a case shall be taken to have commenced from the day when the licence would have expired before the renewal.

(7) A person who contravenes subsection (4) shall be liable to a penalty equivalent to twenty per cent of the licence fee.
A licence shall specify the nature of petroleum business and the premises at which the licensee may conduct his business and where a petroleum business is conducted at more than one premises, a separate licence shall be required for each of such premises.

83. Amendment of licences

(1) Subject to the provisions of this Act, a person may make an application in the prescribed manner for amendment of the licence, and the Commission or the licensing agent may, upon payment of the prescribed fee, amend the licence and endorse it accordingly.

(2) Where the Commission or the licensing agent refuses to amend a licence under subsection (1), the Commission or licensing agent shall give to the applicant, if the applicant so requests, the reasons in writing for the refusal.

(3) A licence amended under this section shall retain the existing expiry date.

84. Display of licences or permits

(1) Every licence or permits shall, except when lodged with the Commission or licensing agent for any of the purposes of this Act, be displayed in a prominent position on the premises in respect of which it is issued.

(2) A licensee or permit holder who contravenes the provision of subsection (1), commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand shillings for each day or part thereof that the licence is not displayed.

85. Revocation of licence

(1) The Commission or licensing agent may suspend or revoke a licence where—

(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 the licence or permit was granted, or at the expiry of any extended period which the Commission may allow;

(b) it is satisfied that the licensee is either wilfully or negligently not operating in accordance with the terms and conditions of the licence, permit or the provisions of this Act or any regulations thereunder; or

(c) the licensee is adjudged bankrupt.

(2) Unless otherwise specified in the licence, the Commission or licensing agent may give a licensee fourteen days notice to show cause why the licence should not be revoked.

(3) A notice under subsection (2) shall—

(a) set out the relevant condition of the licence or the requirement of the Act to which the breach relates;

(b) specify the acts, omissions or other facts which, in the opinion of the Commission or the licensing agent, constitute a contravention of the conditions of the licence or requirements of the Act, and the reasons
why the Commission or licensing agent is of the opinion that any of the circumstances mentioned under subsection (1) have occurred or arisen; and

(c) be served at the licensed premises and shall take effect from the date of service.

(4) The Commission or licensing agent shall determine the matter within thirty days from the expiry of the notice.

(5) Any suspension or revocation of a licence shall not indemnify the licensee against any penalties for which such person may have become liable under the Act.

86. Replacement of a licence

Where, upon application, it is shown to the satisfaction of the Commission or licensing agent that a licence has been lost, destroyed or defaced, the Commission or licensing officer shall, upon payment of the prescribed fee, issue a duplicate licence to the licensee.

87. Transfer of a licence

(1) A licensee shall not transfer or otherwise divest any rights, powers or obligations conferred or imposed upon him by the licence without the consent of the Commission.

(2) The Commission may, on application by any of the following persons, transfer a licence or permit—

(a) in the case of a death of the licensee or permit holder, to the legal representative of such licensee or permit holder;

(b) in the case of the bankruptcy of the licensee or permit holder or assignment for the benefit of his creditors generally, to the lawfully appointed trustee or assignee;

(c) in the case of a corporation in liquidation, to the lawfully appointed liquidator;

(d) in any case where the licensee becomes subject to a legal disability, to any person lawfully appointed to administer his affairs; or

(e) in the case of voluntary transfer of the undertaking, to the new owner of the undertaking.

(3) The Commission shall satisfy itself of the legal, technical and financial competence of the transferee to carry out the undertaking.

(4) The transferee shall undertake in writing to comply with the licence conditions.

(5) The Commission shall not withhold any consent to any application to transfer unless it has reason to believe that public interest is likely to be prejudiced by the transfer.

(6) In this section—

"controlling interest" as used with respect to any person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management of that person, whether through the ownership of shares, voting, securities, partnerships or other ownership interests, agreements or otherwise.
“transfer of licence” includes the acquisition of a controlling interest directly or indirectly in the licence holder; and

88. **Register of licences and permits**

(1) The Commission shall keep a register, in such form as it may determine, of all licences and permits granted and shall record therein, in respect of each licence or permit—

(a) the particulars required under sections 82 and 91;

(b) particulars of any duplicate issued or any amendment of the licence or permit made under sections 83 and 86;

(c) particulars of any suspension or revocation of the licence or permit under section 85; and

(d) such other particulars as may be prescribed.

(2) Subject to subsection (3), any person may, during office hours, and upon payment of the prescribed fee, inspect the register of licences and permits.

(3) Notwithstanding the provisions of subsection (2), a person who is—

(a) a member of the police force or a public officer acting in the course of his duty; or

(b) an employee of the Commission or person authorised in writing by the Commission,

may inspect the register without payment of any fee.

89. **Appeal against action of the Commission or a licensing agent**

A person aggrieved by the action of the Commission or a licensing agent in—

(a) refusing to renew or grant a licence or revoking a licence; or

(b) imposing conditions on a licence; or

(c) refusing to replace or amend a licence,

may, within thirty days of receipt by him of written notification of such action, in writing appeal, to the—

(a) Tribunal in case of an appeal against the Commission; or

(b) Commission in case of an appeal against a licensing agent,

whose decision shall be communicated within forty-five days of receipt of the appeal by the Tribunal (or the Commission as the case may be) from any such aggrieved person.

90. **Construction permits**

(1) Any person intending to construct a pipeline, refinery, bulk storage facility or retail dispensing site shall, before commencing such construction, apply in writing to the Commission for a permit to do so.

(2) An application under subsection (1) shall—

(a) specify the name and address of the proposed owner;
(b) be accompanied by three copies of plans and specifications;
(c) in the case of a pipeline—
   (i) specify the points, between which the proposed pipeline is to run;
   (ii) state what is to be transported by the proposed pipeline;
(d) in the case of a refinery, bulk liquefied petroleum gas, or natural gas facility specify the location, type and capacity;
(e) be accompanied by an environmental impact assessment report; and
(f) contain such other details as may be necessary.

(3) The Commission shall consider every application received under this section and shall, if satisfied that the applicant meets the prescribed requirements, grant to the applicant, within forty five days, the permit to construct a pipeline, refinery, bulk storage facility, bulk liquefied petroleum gas facility, natural gas facility or retail dispensing site, as the case may be.

(4) A permit shall be subject to such conditions as may be prescribed.

(5) Where the Commission refuses to grant a permit under this section, it shall notify the applicant of such refusal specifying the reasons therefor and shall deliver such notice to the applicant personally or by registered post.

91. Conditions for granting permits

(1) The Commission shall, before issuing a permit under section 90, take into account all relevant factors, including but not limited to—
   (a) the relevant Government policies;
   (b) compliance with the Environmental Management and Co-ordination Act, 1999 (No. 8 of 1999) and in particular, the report of the Environmental (Impact Assessment and Audit) Regulations, 2003, the Physical Planning Act, 1996 (No. 6 of 1996), the Local Government Act (Cap. 265) and any other relevant legislation;
   (c) the financial capability of the applicant and methods of financing the proposed pipeline, refinery, bulk storage facility, or retail dispensing site; and
   (d) any other matter which, in the opinion of the Commission, may be affected by the granting or the refusal of the permit being sought.

(2) A permit shall contain such terms and conditions as the Commission may deem appropriate, including but not limited to the—
   (a) duration of the permit;
   (b) person authorised to execute the works;
   (c) area in which the works shall be executed; and
   (d) conditions to be satisfied before any works authorised by the permit are used, which may include a requirement for the execution of further works.

(3) Where a permit contains conditions prescribed in subsection (2)(d), no person shall, before the conditions are satisfied, use any works the execution of
which was authorised by the permit, except to the extent specified in a notice given by the Commission to the holder of the permit specifying the extent to which the works may be used, notwithstanding that some of the conditions have not been satisfied and such permit may, at any time, be revoked by the Commission in a subsequent notice in the Gazette.

(4) A notice given by the Commission under subsection (3) shall be conclusive evidence for the purposes of this Act that those conditions have been satisfied.

(5) Where a permit referred to in subsection (3) is cancelled or otherwise ceases to be in force prior to the completion of the authorised works, the holder shall, to the extent of partially executed works, be deemed to have satisfied the prescribed conditions.

92. Exemption from the requirement for a permit

Notwithstanding any other provision of this Act—

(a) emergency works for the construction of a pipeline, may be executed without any authorisation by the Commission:

Provided that as soon as is reasonably practicable and in any event not later than sixty days after the works have commenced or have been executed, the owner of the pipeline shall inform the Commission in writing of the works executed attaching copies of detailed construction drawings of such construction works and the route taken or intended to be taken by the pipeline;

(b) no permit shall be required for the construction of a pipeline within a storage depot, a pipeline facility or refinery.

93. Suspension or revocation of a construction permit

(1) Subject to subsection (2), the Commission may, by notice in the Gazette, suspend or revoke a construction permit if any term or condition thereof has not been complied with within the prescribed period.

(2) Where the Commission intends to revoke or suspend a permit under this section, it shall, at least twenty-one days before the date of the intended revocation or suspension, notify the holder of the permit of such intention, specifying the reasons thereof, and shall take every precaution to ensure fairness in the exercise of this power.

(3) The Commission may in writing, reinstate a permit revoked or suspended under subsection (1) if satisfied that the reasons for the revocation or suspension no longer exist.

94. Validity of permits

If, after a permit to construct a pipeline, a refinery, a bulk storage facility or a retail dispensing site has been granted, the execution of the works has not commenced at the expiry of twelve months from the date on which the permit was granted, or at the expiration of any extended period which the Commission may allow, the permit shall cease to have effect.
95. Standards for petroleum products, equipment, facilities and installations

(1) Petroleum imported or produced locally for use in Kenya, petroleum products, equipment, facilities and installations shall conform to the relevant Kenya Standard:

Provided that where no such standard exists, the relevant international standards approved by the Kenya Bureau of Standards shall apply.

(2) A person who offers for sale in Kenya or transports or stores petroleum meant for use in Kenya shall ensure that the specifications of such petroleum is in accordance with subsection (1):

Provided that no person diverts for sale in Kenya, goods destined for other markets.

(3) A person who—

(a) sells petroleum not conforming to the relevant Kenya Standard or any other standard approved by the Commission;

(b) stores, transports, or sells adulterated petroleum; or

(c) diverts for sale in Kenya, goods destined for other markets,

commits an offence and shall, on conviction, be liable to a fine not exceeding two million shillings, or to a maximum term of imprisonment of two years, or to both.

[Act No. 12 of 2012, Sch.]

96. Maintenance of minimum operational stocks

It shall be the duty of a person licensed to import petroleum to maintain such quantities of petroleum and at such locations as may be prescribed by the Minister in consultation with the Commission.

97. Power of the Minister to provide strategic petroleum stocks

The Minister may undertake in whole or in part, the provision of financing, procurement, maintenance and management of petroleum strategic stocks.

98. Compliance with environmental, health and safety standards

(1) A person engaged in petroleum business shall comply with the relevant Kenya Standard and in the absence of such standard, any other standard approved by the Commission from time to time on environment, health and safety in consultation with the relevant authorities and in conformity with the relevant statutes touching on environment, health and safety standards.

(2) In the event of a fire, explosion, oil spill, injury or fatality occurring in the course of operating a petroleum facility or transportation of petroleum, either by accident or through negligence, the operator or person transporting petroleum shall forthwith clean up the polluted or damaged environment, at his own expense, to the satisfaction of the Commission and other relevant authorities:

Provided that any person engaged in the transportation of petroleum and petroleum products shall have an oil clean-up plan in compliance with the national oil policy.
(3) If the operator or person transporting petroleum fails, or unreasonably delays, to carry out the work referred to in subsection (2), the Commission may cause any work not carried out to be executed at the expense of the said operator or person transporting petroleum.

(4) Nothing contained in this section shall be construed as relieving the operator or person transporting petroleum from any liability in respect of any loss or damage caused by his failure to comply with safety measures as required in subsection (5).

(5) A person transporting petroleum by road, rail, coastal or inland waters, pipeline or any other mode shall institute measures to ensure that their mode of transportation is safe.

(6) The Commission may, at any time, require the operator of a facility or a transporter to show that he is in compliance with the provisions of this section.

99. Designated parking places reserved exclusively for petroleum tankers

(1) A local authority shall designate a place or places exclusively reserved for parking of petroleum tanker vehicles.

(2) A local authority that contravenes subsection (1) commits an offence and shall be liable, on conviction, to pay a fine of fifty thousand shillings for each day or part thereof that the offence continues.

100. Contravening provisions relating to petroleum undertakings

(1) A person who—

(a) contravenes any provisions of section 96 on maintenance of minimum operational stock of petroleum;

(b) being the owner or operator of a refinery, pipeline, bulk liquefied petroleum gas or natural gas facility, service station, filling station or storage depot or transporter of petroleum, fails to institute appropriate environmental, health or safety control measures;

(c) being the owner of a pipeline, refinery or bulk liquefied petroleum gas or natural gas facility, contravenes the provisions of this Act or any regulations made thereunder relating to the construction or operation of a pipeline, refinery or bulk liquefied petroleum gas or natural gas facility or regulations thereof;

(d) not being the owner of the pipeline or his agent, interferes in any manner with such pipeline;

(e) being the owner of a retail dispensing site or storage depot, contravenes the provisions of this Act or any regulations made thereunder relating to the construction or operation of a retail dispensing site storage depot;

(f) being the owner or operator of a bulk storage facility for petroleum products, service station, filling station or storage depot, hoards petroleum products,

commits an offence and shall, on conviction, be liable to a fine not exceeding two million shillings, or to a maximum term of imprisonment of two years, or to both.
(2) In any case where the person who contravened the provisions of subsection (1) is licensed under this Act, the Commission may suspend or revoke his licence.

[Act No. 12 of 2012, Sch.]

101. Contraventions by petroleum carrying ships

(1) The owner or master of any ship carrying cargo, any part of which consists of petroleum, who fails to give notice to the port authorities upon entering a port, as may be required by regulations made under this Act shall, on conviction, be liable to a fine not exceeding two million shillings, or to a maximum term of imprisonment of two years, or to both.

(2) In the event of the contravention of any regulations made under this Act relating to precautions to be observed with respect to ships carrying petroleum within a port, the owner and the master of the ship in relation to which the contravention occurs shall, on conviction, be liable to a fine not exceeding two million shillings, or to a maximum term of imprisonment of two years, or to both.

(3) Any person who, while within Kenya’s Exclusive Economic Zone and Outer Continental Shelf, discharges or allows to escape into the water—

(a) petroleum or water mixed with petroleum; or

(b) water from bilges or tanks; or

(c) water used for flushing pipes and connections; or

(d) sand used to absorb petroleum,

commits an offence and shall, on conviction, be liable to a fine not exceeding two million shillings, or to a maximum term of imprisonment of two years, or to both.

(4) In addition to the penalty imposed under subsection (3), the person liable shall be responsible, at his own cost, for cleaning the water and restoring it to its original status.

102. Regulations for petroleum

Without limiting the generality of section 6 and in accordance with section 110, the Minister may, on the recommendation of the Commission, make regulations—

(a) defining the kind of petroleum to which the regulations shall apply, and dividing petroleum into classes or categories and making different provisions with regard to such classes or categories;

(b) providing for the importation, refining, exportation, landing, loading, shipping, transportation, storage, wholesale and retail of petroleum and prescribing a system of licensing for the purposes aforesaid, the manner in which application for any such licence shall be made, the conditions of licence, the authorities which may grant such licences, the fees which may be charged and any other matters incidental thereto;

(c) providing for exemption to the armed forces from the requirement of licences;

(d) providing for importation of petroleum through open tendering system and the manner in which such system shall operate;
(e) providing for maintenance of minimum operational stocks of
petroleum and procedures thereof;
(f) providing for maintenance of strategic stocks of petroleum and
procedures thereof;
(g) providing for the mode of sale, metering, documentation and display
of prices of petroleum in retail dispensing sites and depots;
(h) providing for environmental, health and safety standards associated
with the handling, storage and use of petroleum;
(i) providing for notice to be given by the owner or master of any ship
entering a port with petroleum, and for ascertaining the quantity and
specification of any petroleum on board any such ship;
(j) determining the places at which, and the conditions on and subject
to which, petroleum may be imported, offloaded, landed, stored, loaded or transhipped;
(k) providing for the delivery to such officer as may be specified of
samples of petroleum landed or intended to be landed and for the
testing of such sample;
(l) providing for the type and location of the premises in respect of
which licences to possess petroleum may be granted, the inspection
of premises so licensed and the taking of samples and the testing of
petroleum found thereon;
(m) governing the design, construction and operation of pipelines,
refineries, bulk liquefied petroleum gas facilities, retail dispensing
sites, storage depots and providing for the protection of property and
the environment and the safety of the public in the construction and
operation thereof;
(n) governing the design and construction of vehicles to be used in the
transportation of petroleum by road, rail, inland or coastal waters;
(o) prohibiting or restricting the carriage of goods and passengers in
vessels carrying petroleum;
(p) prescribing the quantity of petroleum that may be conveyed at any
one time or in any one vehicle;
(q) prescribing the precautions to be observed in the transportation of
petroleum, in the manner of packing and the mode and time of
transit and in the loading and unloading of vessels used for such
transportation;
(r) in consultation with the body responsible for standards, prescribing
apparatus for testing petroleum, the tests to be applied and the
manner in which tests are to be made;
(s) in consultation with the body responsible for standards, appointing
inspectors and agents for the testing and examination of petroleum and
prescribing their powers and duties;
(t) prescribing the marking of fuels and categories of the petroleum in
which such marking shall be carried out;
(u) prescribing for the provision of petroleum statistics and information
to the Commission;
(v) providing for the development and coordination of a national oil spill response plan including measures to prevent oil spills and a mechanism for compensation in the event of an oil spill;

(w) determining the retail prices of petroleum and petroleum products:

Provided that a person convicted of an offence under this paragraph shall be liable to a fine not exceeding Kshs. one million shillings or the withdrawal of the operating licence or both;

(x) generally for the better carrying out of the objects and purposes of this Act.

PART V – RENEWABLE ENERGY, ENERGY EFFICIENCY AND CONSERVATION

103. Renewable energy

(1) The Minister shall promote the development and use of renewable energy technologies, including but not limited to biomass, biodiesel, bioethanol, charcoal, fuelwood, solar, wind, tidal waves, hydropower, biogas and municipal waste.

(2) The Minister may perform such functions and exercise such powers as may be necessary under this Act to promote the development and use of renewable energy, including but not limited to—

(a) formulating a national strategy for coordinating research in renewable energy;

(b) providing an enabling framework for the efficient and sustainable production, distribution and marketing of biomass, solar, wind, small hydros, municipal waste, geothermal and charcoal;

(c) promoting the use of fast maturing trees for energy production including biofuels and the establishment of commercial woodlots including peri-urban plantations;

(d) promoting the use of municipal waste for energy production; and

(e) promoting the development of appropriate local capacity for the manufacture, installation, maintenance and operation of basic renewable technologies such as bio-digesters, solar systems and hydropower;

(f) promoting international co-operation on programmes focusing on renewable energy sources;

(g) harnessing opportunities offered under clean development mechanism and other mechanisms including, but not limited to, carbon credit trading to promote the development and exploitation of renewable energy sources;

(h) promoting the utilization of renewable energy sources for either power generation or transportation;

(i) promoting co-generation of electric power by sugar millers and sale of such electric power through the national grid directly to the consumers;

(j) promoting the production and use of gasohol and biodiesel.
104. Energy efficiency and conservation programme

(1) The Minister shall develop and manage a prudent national energy efficiency and conservation programme.

(2) The Minister may perform such functions and exercise such powers as may be necessary under this Act to enhance energy efficiency and conservation, including but not limited to—

(a) making, in consultation with the Kenya Bureau of Standards, requirements for the particulars to be displayed on labels on equipment or on appliances;

(b) taking all measures necessary to create awareness and for the dissemination of information for efficient use of energy and its conservation;

(c) strengthening consultancy services in the field of energy conservation;

(d) promoting research and development in the field of energy conservation;

(e) formulating and facilitating implementation of pilot projects and demonstration projects for promotion of efficient use of energy and its conservation;

(f) giving financial assistance to institutions for promoting efficient use of energy and its conservation;

(g) supporting the preparation of educational curriculum on efficient use of energy and its conservation for educational institutions, and coordinate with them for inclusion of such curriculum in their syllabus;

(h) implementing international co-operation programmes relating to efficient use of energy and its conservation; and

(i) giving financial incentives for any investment made to replace or install additional capital investments to improve energy efficiency;

(j) making it mandatory, in collaboration with Kenya Bureau of Standards, the importation of energy efficient but cost effective technologies.

105. Energy conservation in factories and buildings

(1) The Commission shall, in consultation with the Minister, designate factories or buildings and electrical appliances by types, quantities of energy use, or methods of energy utilization for purposes of energy efficiency and conservation.

(2) In the event that there is a reasonable cause, the Commission may give instruction to the owner of any designated factory or building, to furnish factual information on energy utilization for the purpose of inspection and to assure that energy conservation measures are in accordance with the standard, criteria and procedures provided in regulations under this Act and the said owner of the designated factory or building shall comply within thirty days starting from the
date of receipt of such instruction, and in default commits an offence and shall, on conviction, be liable to a fine not exceeding one million shillings, or to a maximum term of imprisonment of one year, or to both.

(3) If the Commission determines that the owner of the building is not able to comply without financial or technical assistance and that the activities required to be in compliance may be eligible for assistance from an identified source, the Commission may decide to give additional grace period to allow the owner to access assistance from the identified source.

(4) The owner of the designated factory shall keep records of information required under regulations under this Act at the designated factory for a minimum of five years, and in default commits an offence and shall on conviction, be liable to a fine not exceeding one million shillings, or to a maximum term of imprisonment of one year, or to both.

106. Energy conservation in buildings

(1) The owner of a building designated under section 105, shall conserve energy, audit and analyze energy consumption in his building in accordance with the standards, criteria, and procedures as prescribed by regulations.

(2) A person who fails to comply with this provision commits an offence and shall, on conviction, be liable to a fine not exceeding one million shillings, or to a maximum term of imprisonment of one year, or to both.

PART VI – THE ENERGY TRIBUNAL

107. Appeals from decisions of the Commission

Where under this Act the provision is made for appeals from the decisions of the Commission, all such appeals shall be made to the Energy Tribunal, in accordance with the provisions of this Part.

108. Establishment and constitution of the Energy Tribunal

(1) For the purpose of hearing and determining appeals in accordance with section 107 and of exercising the other powers conferred on it by this Act, there is established a tribunal to be known as the Energy Tribunal, hereinafter referred to as the “Tribunal”

(2) The members of the Tribunal shall be appointed from among persons with a university degree and not less than fifteen years relevant experience in matters related to electricity, petroleum, finance, economics, engineering, energy or law and shall consist of—

(a) a Chairperson and vice-Chairperson appointed by the President, in consultation with the Judicial Service Commission from among persons qualified to be judges of the High Court;

(b) three other members who are persons possessing, in the opinion of the Minister, expert knowledge of the matters likely to come before the Tribunal and who are not in the employment of the Government or any State corporation; and

(c) the members under paragraph (b) shall be appointed by the Minister in consultation with the Attorney-General.
108A. Protection from personal liability

The Chairman or other members of the Tribunal shall not be liable to be sued in any court for an act done or omitted to be done by them in the discharge of their duty as members of the Tribunal, whether or not within the limits of the jurisdiction, provided they, at the time, in good faith believed themselves to have jurisdiction to do or order the act complained of; and no officer of the Tribunal or other person bound to execute the lawful warrants, orders or other process of the Tribunal shall be liable to be sued in any court for the execution of a warrant, order or process which he would have been bound to execute if within the jurisdiction of the Tribunal.

[Act No. 12 of 2012, Sch.]

109. Conditions of appointment

(1) A member of the Tribunal shall hold Office for a period of three years and shall be eligible for re-appointment for one further term of three years.

(2) A member of the Tribunal shall hold office on such terms and conditions as shall be prescribed in the instrument of appointment.

(3) The provisions set out in the Third Schedule shall have effect in relation to the membership and conduct of business and affairs of the Tribunal.

PART VII – MISCELLANEOUS PROVISIONS

110. Minister may make regulations generally

(1) The Minister may, on the recommendation of the Commission and subject to sections 63 and 102, make regulations for or with respect to any matter that by this Act is required or permitted to be prescribed, or that is necessary or expedient to be prescribed for carrying out or giving effect to this Act.

(2) The regulations to be made under this Act may be made by the Commission on its own motion or may be proposed to the Commission by any licensee or person.

(3) Before making recommendation of any regulations to the Minister under this Act, the Commission shall publish the proposed regulations for purposes of inviting proposals from the public, in such manner as it may deem fit, at least forty days before the regulations are submitted to the Minister.

(4) The Regulations made by the Minister in accordance with this section may, impose conditions, requiring acts or things to be performed or done to the satisfaction of the Commission, prohibiting acts or things from being performed or done and may prescribe periods or dates upon, within or before which such acts or things shall be performed or done or within which such conditions shall be fulfilled.

(5) The regulations made under this Act may be made for a limited period or without limit of period, and may be made subject to such conditions as the Minister deems fit, and may contain such supplemental and consequential provisions as the Minister considers necessary for giving full effect to the regulations.
111. **Powers of the Minister generally**

(1) The Minister shall be responsible for—

(a) formulation of policy relating to the energy sector;

(b) the appointment of Commissioners of the Commission, members of the Authority, and the Tribunal;

(c) the imposition of levies under this Act;

(d) formulation and co-ordination of a disaster preparedness plan for the energy sector;

(e) policy relating to financing, procurement, maintenance and management of strategic petroleum stocks; and

(f) the performance of such other functions as are provided under this Act or any other written law.

(2) On the occurrence of an emergency the Minister may, in consultation with the Commission, exercise such authority and give such directions as may be necessary in the public interest for the proper continuance or resumption of the production or supply of energy.

(3) The Minister may, from time to time, give directions in writing to the Commission with respect to the policy to be observed and implemented by the Commission.

112. **Licensee to furnish information**

It shall be the duty of every licensee to furnish to the Commission at such times and in such form and manner such information as the Commission may, in writing, require.

113. **False information**

Any person who makes a false statement or a statement which he has reason to believe is untrue, to the Minister, or to the Commission, committee, agent or an officer acting on behalf of the Commission, as required under this Act, commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand shillings or to a maximum term of imprisonment of six months or to both.

114. **Secrecy of information**

No information relating to any matter obtained under section 112 shall be published or otherwise disclosed to a third party without prior consent in writing from the person from whom the information was obtained:

Provided that nothing in this section shall restrict—

(a) the disclosure of such information to—

(i) the Minister responsible for energy;

(ii) any officer or authority having functions in relation to energy, policy development or economic planning of petroleum business in Kenya;
(b) the use of such information in any manner, which the Commission deems necessary or expedient in connection with the objects of this Act.

115. Standardisation

No person shall use or employ for or in connection with any of the purposes of producing, generating, transforming, transmitting, distributing, supplying, or importing, exporting, transporting, refining, storing, selling or using, any form of energy, any mode, material or apparatus other than that which complies with the specification or standard of the Kenya Bureau of Standards or where no such standard exists, any international standard approved by the Kenya Bureau of Standards.

116. Commission not to discriminate

While discharging its functions and exercising its powers under the Act, the Commission shall ensure that no particular person is given undue preference or subjected to any undue disadvantage.

117. Reporting of accidents and incidents

(1) All persons engaged in any undertaking or activity pursuant to a licence or permit under this Act shall notify the Commission in writing, in the form and manner prescribed by the Commission, of any accident or incident causing loss of life, personal injury, explosion, oil spill, fire or any other accident or incident causing significant harm or damage to the environment or property which has arisen in Kenya or within Kenya’s Exclusive Economic Zone or Outer Continental Shelf.

(2) The Commission may direct an investigation to be carried out into any accident or incident under subsection (1) and take such action as it deems necessary.

118. Recovery and application of licence fees and penalties

Any penalty, fine, fee, expenses or other moneys recoverable under this Act or a licence, the recovery of which is not otherwise specifically provided for, shall be a civil debt recoverable summarily.

119. Offences by bodies corporate or their employees

An employer or principal shall be liable for an offence committed by an employee or agent under this Act, unless the employer or principal proves that the offence was committed against his express or standing directions.

120. Penalties not to affect other liabilities

The penalties imposed under this Act shall be in addition to and not in derogation of any liabilities in respect of payment of compensation or in the case of a licensee, the revocation of the licence.

121. Prosecution of offences

The Attorney-General may, on the request of the Commission, appoint any officer of the Commission or an advocate of the High Court to be a public prosecutor for the purposes of the offences under this Act.
122. General penalty

Where any default in or contravention of any of the provisions of this Act is made for which no fine or penalty is expressly stated, the person so defaulting or contravening shall, on conviction, be liable to a fine not exceeding one million shillings.

PART VIII – REPEALS, SAVINGS AND TRANSITIONAL PROVISIONS

123. Repeals and savings

(1) Subject to the provisions of subsection (2), the Electric Power Act, 1997 (No. 11 of 1997) and the Petroleum Act (Cap. 116) are repealed.

(2) Notwithstanding the provisions of subsection (1)—

(a) anything done under the provisions of the Electric Power Act, 1997 (No. 11 of 1997) or the Minister under the provisions of the Electric Power Act, 1997 and the Petroleum Act (Cap. 116) before the commencement of this Act shall be deemed to have been done under the provisions of this Act;

(b) any statutory instruments issued by the Electricity Regulatory Board or the Minister under the provisions of the Electric Power Act, 1997 and the Petroleum Act (Cap. 116) before the commencement of this Act shall be deemed to be statutory instruments granted by the Commission under the provisions of this Act and shall remain in force until specifically revoked under this Act;

(c) any revocation of a licence or permit under this Act shall not indemnify the licensee from any liabilities to which the person may have become liable under the Act before such revocation;

(d) the tariffs existing at the commencement of this Act shall continue being in place until new tariffs are gazetted under this Act; and

(e) any subsidiary legislation issued before the commencement of this Act shall, as long it is not inconsistent with this Act, remain in force until repealed or revoked by subsidiary legislation under the provisions of this Act and shall, for all purposes, be deemed to have been made under this Act.

(3) Nothing in this Act or a licence shall exempt the licensee or his undertaking from the provisions of, or deprive of the licensee of the benefits of, any general Act relating to energy or to the supply of, or price to be charged for, energy which may be enacted after the granting of a licence.

124. Transitional provisions

The provisions of the Fourth Schedule shall apply.
FIRST SCHEDULE

[Section 18.]

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE ENERGY COMMISSION

1. The Commissioners to meet at least four times in a year

   The Commissioners shall meet as often as necessary for the transaction of business but it shall meet not less than four times every financial year and not more than four months shall elapse between the date of one meeting and the next.

2. The Chairperson to preside all meetings

   (1) The Chairperson shall preside at every meeting of the Commission at which the chairperson is present but in the absence of the chairperson, the Commissioners present shall appoint a commissioner from among their number to preside at that meeting.

   (2) The Chairperson or, in the absence of the chairperson a commissioner appointed by the Commission to act in the place of the chairperson, may at any time call a special meeting upon a written request by a majority of the Commissioners.

3. Notice of meeting

   Unless five commissioners otherwise agree, at least seven days’ written notice of every meeting of the Commission shall be given to every commissioner of the Commission.

4. Decision of the Commission to be by majority

   Unless a unanimous decision is reached, a decision on any matter before the Commission shall be by a majority of votes of the Commissioners present and in the case of an equality of votes, the Chairperson or the Commissioner presiding shall have a casting vote.

5. A commissioner is entitled to have opinion recorded

   Any commissioner present at a meeting of the Commission or a Committee thereof, shall have the right to require his opinion to be recorded in the minutes if the Commission or the Committee, as the case may be, passes a resolution, which in the opinion of that commissioner is contrary to his advice or to law.

6. Commissioner to disclose interest

   A commissioner who has a direct or indirect interest in a matter being considered or to be considered by the Commission shall, as soon as possible after the relevant facts concerning the matter have come to his knowledge, disclose the nature of his interest to the Commission and shall not be present during any deliberations on the matter.
7. The Commission to cause minutes to be recorded and kept

The Commission shall cause the minutes of all proceedings of its meetings to be recorded and kept, and the minutes of each meeting shall be confirmed by the Commission at the next meeting of the Commission and signed by the Chairperson or the commissioner presiding at the meeting.

8. Quorum

(1) Subject to subsection (2), five commissioners shall constitute a quorum for the conduct of business at any meeting of the Commission.

(2) When there is no quorum at or for the continuation of a meeting of the Commission only because of the exclusion of a commissioner under paragraph 6, the other Commissioners present may, if they deem it expedient so to do—

(a) postpone the consideration of that matter until there is a quorum; or

(b) proceed to consider and decide the matter as if there was quorum.

SECOND SCHEDULE

[Section 69.]

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD OF RURAL ELECTRIFICATION AUTHORITY

1. Termination of appointment

(1) A member of the Board may resign office by notice in writing delivered to the President or the Minister, as the case may be.

(2) The President or the Minister, as the case may be, may on the recommendation of the Board, remove from office a member who—

(a) is unable to perform the functions of his office by virtue of mental or physical infirmity of body or mind;

(b) is absent from three consecutive meetings of the Board without reasonable cause to the satisfaction of the Board in consultation with the Minister;

(c) is declared or becomes bankrupt;

(d) fails to disclose to the Board any interest in any contract or matter before the Board; or

(e) is convicted of criminal offence involving dishonesty, fraud or moral turpitude and sentenced for a term exceeding six months.

2. Meetings of the Board

(1) The Board shall meet as often as necessary for the transaction of business at such places and at such times as may be decided upon by the Board but it shall meet at least four times every year.

(2) Subject to the provisions of this Act, the Board may regulate its own procedure.
3. Headquarters

The headquarters of the Authority shall be Nairobi.

4. Disclosure of interest

A member of the Board who has a direct or indirect personal interest in a matter being considered or to be considered by the Board shall as soon as possible after the relevant facts concerning the matter have come to his knowledge disclose the nature of his interest to the Board, and shall not be present during any deliberations on the matter by the Board or take part in decision of the Board on the matter.

5. Delegation by the Board

The Board may, by resolution either generally or in any particular case, delegate to any committee of the Board or to any member, officer, employee or agent of the Authority, the exercise of any of the functions or duties of the Board under this Act or under any other written law.

6. Contracts and instruments

Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Board by any person generally or specially authorised by the Board for that purpose.

THIRD SCHEDULE

[Section 109.]

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE ENERGY TRIBUNAL

1. Oath of office

A person who is appointed a member of the Tribunal shall, before assuming the duties of his Office take and subscribe to the oath of allegiance to the office.

2. Disclosure of interest

Where a member of the Tribunal, as constituted for the purposes of a proceeding, has any interest, pecuniary or otherwise, that could conflict with the proper performance of the member’s functions, he shall disclose the interest to the parties to the proceeding and shall not be present during any deliberations on the matter by the Tribunal to take part in decision of the Tribunal on the matter.

3. Termination of appointment

(1) A member of the Tribunal may resign his office by notice in writing addressed to the President or the Minister, as the case may be.

(2) The President or the Minister, as the case may be, may in consultation with the Judicial Service Commission, remove from office, a member of the Tribunal who—

(a) is unable to perform the functions of his office by virtue of mental or physical infirmity of body or mind;
(b) is absent from three consecutive meetings of the Tribunal without reasonable cause to the satisfaction of the Tribunal in consultation with the Minister;

(c) is declared or becomes bankrupt;

(d) fails to disclose to the Tribunal any interest in any contract or other matter before the tribunal; or

(e) is convicted of a criminal offence involving dishonesty, fraud or moral turpitude and sentenced for a term exceeding six months.

4. Secretary

The Attorney-General shall designate a public officer to be the secretary to the Tribunal.

5. Official seal

(1) The Tribunal shall have an official seal.

(2) The official seal of the Tribunal shall be affixed by the Chairperson to such documents as the Tribunal may direct.

(3) In the absence of the Chairperson the Tribunal may nominate one member to authenticate the seal of the Tribunal on behalf of the Chairperson.

(4) The Courts shall take judicial notice of documents where the seal is properly affixed.

6. Arrangement of business

(1) The Chairperson shall be responsible for ensuring the orderly and expeditious discharge of the business of the Tribunal.

(2) Without limiting the operation of subsection (1), the Chairperson shall give directions relating to—

(a) the arrangement of the business of Tribunal;

(b) the places at which the Tribunal may sit generally; and

(c) the procedure of the Tribunal at a particular place.

(3) The times and places of the hearings of the Tribunal shall be determined by the Chairperson with a view to securing a reasonable opportunity for applicants to appear before the Tribunal with as little inconvenience and expense as is practicable.

7. Quorum of the Tribunal

(1) The Chairperson shall preside at all sittings of the Tribunal at which he is present and in the absence of the Chairperson, the Vice-Chairperson shall preside.

(2) The quorum of the Tribunal shall be three members including the Chairperson.
8. Technical advice

The Tribunal may seek technical advice from persons whose specialised knowledge or experience may assist the Tribunal in its proceedings:

Provided that such persons shall disclose any interest they may have in the matter before the Tribunal or any subsequent interest acquired relating to the matter in question.

9. Remuneration

(1) There shall be paid to the Chairperson and the members of the Tribunal such remuneration and allowance as the Minister may determine.

(2) Any person giving technical advice to the Tribunal shall be paid such allowance as may be determined by the Minister.

10. Jurisdiction of the Tribunal

(1) The Tribunal shall have jurisdiction to hear and determine all matters referred to it, relating to the energy sector arising under this Act.

(2) For greater certainty, the jurisdiction of the Tribunal shall not include the trial of any criminal offence or the hearing of any dispute that a licensee and any other party may have agreed to settle in accordance with their agreement.

11. Power of review and appeals from Tribunal

(1) The Tribunal may, of its own motion or upon application by an aggrieved party, review its judgements and orders.

(2) Judgements and orders of the Tribunal shall be executed and enforced in the same manner as judgements and orders of the High Court.

(3) Any person aggrieved by a decision of the Tribunal may, within thirty days from the date of the decision or order, appeal to the High Court.

(4) The law applicable to appeals from the High Court in civil matters shall, with the necessary modifications or other adjustments as the Chief Justice may direct, apply to appeals from the Tribunal to the High Court.

(5) Except in the case of an appeal under this section it shall not be lawful for any court or tribunal to entertain any action or proceeding of any nature for the purpose of questioning any judgement, finding, ruling, order or proceeding of the Tribunal.

(6) A person aggrieved by the decision of the High Court under this section may, within thirty days of the date of the decision, appeal to the Court of Appeal.

12. Procedure of the Tribunal

(1) The Tribunal shall meet as and when there is need to exercise its jurisdiction under this Act.

(2) Unless a unanimous decision is reached, a decision on any matter before the Tribunal shall be by a majority of votes of the members present and in the case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.
(3) The Tribunal shall conduct its proceedings without procedural formality but shall observe the rules of natural justice.

(4) Except as prescribed in this Act, the Tribunal shall regulate its own procedure.

FOURTH SCHEDULE
[Section 124.]
TRANSITIONAL PROVISIONS

1. Commission to be successor of Electricity Regulatory Board

(1) The Energy Commission shall be the successor to the Electricity Regulatory Board established by the Electric Power Act (now repealed) and subject to this Act, all rights, duties, obligations, assets and liabilities of the Electricity Regulatory Board existing at the commencement of this Act shall be automatically and fully transferred to the Energy Commission and any reference to the Electricity Regulatory Board in any contract or document shall, for all purposes, be deemed to be a reference to the Energy Commission established under section 4.

(2) The persons who at the commencement of this Act are the Chairperson and members of the Electricity Regulatory Board shall become Chairperson and Commissioners respectively, as the case may be, of the Commission for the remainder of their tenure in accordance with their appointment under the repealed Act.

(3) For the greater certainty and subject to subsection (2), such persons shall have and may exercise and perform all the powers and functions of Chairperson or Commissioners, as the case may be, as if they were appointed under section 10.

(4) Every person who at the commencement of this Act is an employee of the Electricity Regulatory Board (not then being under notice of dismissal or resignation) shall, on that day and subject to this Act, become an employee of the Commission on the same terms and conditions.
List of Subsidiary Legislation

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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.
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.

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.
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

<table>
<thead>
<tr>
<th>Type of Fuel Product</th>
<th>Minimum Operational Stock (days’ consumption)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Liquefied petroleum gas</td>
<td>15</td>
</tr>
<tr>
<td>Petroleum motor spirit</td>
<td>20</td>
</tr>
<tr>
<td>Automotive gasoil</td>
<td>25</td>
</tr>
<tr>
<td>Illuminating kerosene</td>
<td>20</td>
</tr>
<tr>
<td>Type of Fuel Product</td>
<td>Minimum Operational Stock (days' consumption)</td>
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<tr>
<td>-------------------------------------------</td>
<td>-----------------------------------------------</td>
</tr>
<tr>
<td>Jet fuel (kerosene)</td>
<td>30</td>
</tr>
<tr>
<td>Industrial diesel oil</td>
<td>20</td>
</tr>
<tr>
<td>Heavy fuel oil (boiler/furnace oil)</td>
<td>25</td>
</tr>
<tr>
<td>Aviation gasoline</td>
<td>20</td>
</tr>
</tbody>
</table>
ENERGY (PETROLEUM REGULATION LEVY) ORDER, 2008

1. This Order may be cited as the Energy (Petroleum Regulation Levy) Order, 2008, and shall come into operation on 1st July, 2008.

2. In this Order, unless the context otherwise requires—
   “Director-General” means the Chief Executive Officer of the Energy Regulatory Commission;
   “Kenya Revenue Authority” shall have the meaning given to it in the Kenya Revenue Authority Act;
   “levy” means the Petroleum Regulation Levy imposed under paragraph 3.

3. (1) There is imposed a levy to be known as the Petroleum Regulation Levy.
   (2) The levy shall be paid on the petroleum products consumed in Kenya with tariff codes and descriptions specified in the first and second columns, respectively, of the Schedule hereto, at rates specified in relation thereto in the third column of the Schedule.

4. Payment in respect of the levy shall be received by the Kenya Revenue Authority.

5. (1) The Kenya Revenue Authority shall on or before the thirtieth day of each month remit to the Director-General the levy collected in respect of the immediately preceding month.
   (2) The Kenya Revenue Authority shall maintain or cause to be maintained monthly records of the total quantity of petroleum products sold and the levy payable in respect thereof, and shall submit such records together with the levy remitted under subparagraph (1).

6. The Commission shall keep accounts and records of its transactions and ensure that all monies received by it through the levy are properly brought to account, and shall submit to the Minister its annual audited accounts.

SCHEDULE
[L.N. 109/2008.]

<table>
<thead>
<tr>
<th>Tariff Code</th>
<th>Description</th>
<th>Rates of Levy (KSh.)</th>
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</thead>
<tbody>
<tr>
<td>2710.11.10</td>
<td>Motor spirit (gasoline) regular</td>
<td>50.00 per 1,000 litres at 20°C</td>
</tr>
<tr>
<td>2710.11.20</td>
<td>Motor spirit (gasoline) premium</td>
<td>50.00 per 1,000 litres at 20°C</td>
</tr>
<tr>
<td>2710.19.22</td>
<td>Kerosene</td>
<td>50.00 per 1,000 litres at 20°C</td>
</tr>
<tr>
<td>2710.11.10</td>
<td>Automotive gas oil</td>
<td>40.00 per 1,000 litres at 20°C</td>
</tr>
<tr>
<td>2710.19.32</td>
<td>Diesel oil (industrial, heavy, black for low speed marine and stationary engines)</td>
<td>50.00 per 1,000 litres at 20°C</td>
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ENERGY (RURAL ELECTRIFICATION PROGRAMME FUND) ORDER, 2008

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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 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.


The Electric Power (Rural Electrification Programme Levy) Order, 1998 is revoked.
ENERGY (LIQUEFIED PETROLEUM GAS) REGULATIONS, 2009

ARRANGEMENT OF REGULATIONS

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SCHEDULE
ENERGY (LIQUEFIED PETROLEUM GAS) REGULATIONS, 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.
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.

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.
93 (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 (Act No. 8 of 1999);
   (b) a certificate of compliance issued in accordance with the Physical Planning Act, 1996 (Act 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;
(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 (Act 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;
(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) not withstanding 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 not 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.
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)

7. (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.

8. (2) A person who wishes to renew his licence shall only submit a photocopy of the current licence.


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, No. 12 of 2006 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. ..................................................................................
Form No. 2 (r. 8, 9, 10, 11, 12, 13)

PETROLEUM BUSINESS LICENCE

Licence is hereby granted to ................................................................. 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
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.

SCHEDULE
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;
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—

<table>
<thead>
<tr>
<th>Class of Licence</th>
<th>Application Fee (KSh.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Class C-2</td>
<td>250</td>
</tr>
<tr>
<td>(b) Class C-1</td>
<td>500</td>
</tr>
<tr>
<td>(c) Class B</td>
<td>750</td>
</tr>
<tr>
<td>(d) Class A-1</td>
<td>1,000</td>
</tr>
<tr>
<td>(e) Class A-2</td>
<td>1,000</td>
</tr>
</tbody>
</table>
(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—

<table>
<thead>
<tr>
<th>Class of Licence</th>
<th>Application Fee (KSh.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Class C-2</td>
<td>1,000</td>
</tr>
<tr>
<td>(b) Class C-1</td>
<td>2,000</td>
</tr>
<tr>
<td>(c) Class B</td>
<td>3,000</td>
</tr>
<tr>
<td>(d) Class A-1</td>
<td>5,000</td>
</tr>
<tr>
<td>(e) Class A-2</td>
<td>5,000</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Class of Licence</th>
<th>Application Fee (KSh.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Class C-2</td>
<td>500</td>
</tr>
<tr>
<td>(b) Class C-1</td>
<td>750</td>
</tr>
<tr>
<td>(c) Class B</td>
<td>1,000</td>
</tr>
<tr>
<td>(d) Class A-1</td>
<td>2,000</td>
</tr>
<tr>
<td>(e) Class A-2</td>
<td>2,000</td>
</tr>
</tbody>
</table>

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—

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

(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—

<table>
<thead>
<tr>
<th>Class of Licence</th>
<th>Application Fee (KSh.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Class C-2</td>
<td>1,000</td>
</tr>
<tr>
<td>(b) Class C-1</td>
<td>2,000</td>
</tr>
<tr>
<td>(c) Class B</td>
<td>3,000</td>
</tr>
<tr>
<td>(d) Class A-1</td>
<td>5,000</td>
</tr>
<tr>
<td>(e) Class A-2</td>
<td>5,000</td>
</tr>
</tbody>
</table>

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.

(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—

<table>
<thead>
<tr>
<th>Class of Licence</th>
<th>Application Fee (KSh.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Class C-2</td>
<td>1,000</td>
</tr>
<tr>
<td>(b) Class C-1</td>
<td>2,000</td>
</tr>
<tr>
<td>(c) Class B</td>
<td>3,000</td>
</tr>
<tr>
<td>(d) Class A-1</td>
<td>5,000</td>
</tr>
<tr>
<td>(e) Class A-2</td>
<td>5,000</td>
</tr>
</tbody>
</table>

(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.

(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.

(7) (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
(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;

______________________________
[Issue 1] 108
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.
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 ...................................................................................................................................... 

[Issue 1] 110
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/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 ..........................

.......................................................... ..........................
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)
of ...........................................................................................................................................................
(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 ...................................................................................................................................................

.........................................................................................................................................................

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. ..................................................................................................................

To: .................................................................................................................................

...................................................................................................................................................

(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. .................................................................................................................................

(Name and address of Electrical Contractor)

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. ............................................................

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

ARRANGEMENT OF REGULATIONS

Regulation
1. Citation.
2. Interpretation.

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

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

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

<table>
<thead>
<tr>
<th>Petroleum products</th>
<th>Percentage allocation</th>
<th>Importing company</th>
</tr>
</thead>
<tbody>
<tr>
<td>Petroleum crude oil</td>
<td>100</td>
<td>Kenya Petroleum Refineries Limited</td>
</tr>
<tr>
<td>Jet fuel (Kerosene)</td>
<td>30</td>
<td>National Oil Corporation of Kenya</td>
</tr>
<tr>
<td>Automotive gas oil</td>
<td>30</td>
<td>National Oil Corporation of Kenya</td>
</tr>
</tbody>
</table>
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;

$m_w$ = 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:

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

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—

$$T = (t_{ed} + t_{ml} + t_{pdl} + t_{prl})$$

Where—

$t_{ed}$ = Excise Duty;

$t_{ml}$ = Road Maintenance Levy;

$t_{pdl}$ = Petroleum Development Levy;
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.

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.

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.

10. (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 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).]

<table>
<thead>
<tr>
<th>Pipeline Tariff, Delivery Rates, Bridging Rates, and X-Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Location</strong></td>
</tr>
<tr>
<td>----------------</td>
</tr>
<tr>
<td>1</td>
</tr>
<tr>
<td>Pipeline Tariff</td>
</tr>
<tr>
<td>(K_{pf})</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
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<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>2</td>
</tr>
<tr>
<td>(Z)</td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>
FIRST SCHEDULE—continued

<table>
<thead>
<tr>
<th>Location</th>
<th>Rate—KES/Litre</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 Bridging Rates ( K_{rd} ) Mombasa to Nairobi, Nakuru, Kisumu and Eldoret</td>
<td>KES 8.14 per km per 1000 Litres plus VAT</td>
</tr>
<tr>
<td>4 x Factor Nairobi, Nakuru, Kisumu and Eldoret</td>
<td>80% — Super Petrol and Automotive Diesel 100% — Regular Petrol and Kerosene</td>
</tr>
</tbody>
</table>

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

MAXIMUM ALLOWED MARGINS \( (m_w + m_y) \)

<table>
<thead>
<tr>
<th>Product</th>
<th>Maximum Allowed Margins ( (m_w + m_y) ) (KES/Litre)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Super Petrol</td>
<td>10.00</td>
</tr>
<tr>
<td>Regular Petrol</td>
<td>10.00</td>
</tr>
<tr>
<td>Kerosene</td>
<td>10.00</td>
</tr>
<tr>
<td>Automotive Diesel</td>
<td>10.00</td>
</tr>
</tbody>
</table>
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.
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.
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.
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.
(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 complying with such terms as the Commission may prescribe from time to time, in regard to place and manner of inspection and payment of fees.
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)
SECOND SCHEDULE—continued

<table>
<thead>
<tr>
<th>Number of Complaints</th>
<th>Licence No.</th>
<th>Licence No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brought forward from previous reporting period</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Received during reporting period</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total (Line 1 and Line 2)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Resolved during reporting period</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Declared Disputes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Processed (Line 4 + Line 5)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Carried forward to next reporting period (Line 3 – Line 6)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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).
SECOND SCHEDULE—continued

(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

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
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
1. Citation.
2. Interpretation.
3. Installation and use of solar water heating systems.
4. Exemptions.
5. Demand calculation and minimum hot water demand.
8. Standardisation.
11. Licensing of Solar Water Heating System installation work.
12. Renewal of licence.
14. Compliance with other technical, legal and regulatory requirements.

SCHEDULES

FIRST SCHEDULE
SECOND SCHEDULE
THIRD SCHEDULE
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;
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.
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


(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.
(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.
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 ....................................................................................
........................................................................................................................................
   (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:
........................................................................................................................................
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

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

(a) Hot Water Demand calculations at other temperatures (T) shall be adjusted for the 60 ºC 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 ºC and a linear relationship. 45 º C is the difference between 60 º C and 15 º 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 10º and 20º 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 º and 20% for tilt angles of up to 40º for technical or aesthetic reasons and/or increased by 10% if the deviation from the direction of the equator is above 25º.
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

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

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 ...........................................................................................................................................
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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Third Schedule—continued

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

��识职业安全和健康法规

No ☐ Yes ☐

太阳能热水系统安装许可证书（如有）

许可证号：

颁发日期：

颁发机构：

我声明申请人在申请表中提供的信息真实准确。

Date: ___________________________  Signature of Applicant: ___________________________

Refereses

（以下细节应由两位独立的推荐人完成，他们必须熟知申请人的能力，最好是在贸易中）

第1 referees

我声明申请人在申请表中提供的信息真实准确到我所知。

全名：

（大写，姓氏在前）

职业：

邮政地址：

太阳能热水系统安装许可证书号（如有）

我已认识上述人员__年。

目前的职位：

Date: ___________________________  Signature of 1st referee: ___________________________

第2 referees

我声明申请人在申请表中提供的信息真实准确到我所知。

全名：

（大写，姓氏在前）

职业：

邮政地址：

太阳能热水系统安装许可证书号（如有）

我已认识上述人员__年。

目前的职位：

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.
   ----------------------------------
   .................................................................................................................................
   .................................................................................................................................
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Areas where the business will operate ..................................................................................
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Previous Solar Water Heating System project or work experience ..........................................
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THIRD SCHEDULE—continued

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

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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
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;
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.
(2) The applicant shall pay the fees specified in the second column of the Fourth Schedule, for the licence or permit of the description specified in the 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 the 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 be 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 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, NO 12 OF 2006

GENERAL PARTICULARS
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

   .............................................................................................................................................................................
FIRST SCHEDULE—continued

(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) the date from which the licence, permit, transfer, renewal or modification of licence or permit is desired to take effect

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
   .................................................................

   (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
   .................................................................

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

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(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

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(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

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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;

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and

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

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

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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;

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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)

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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—

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(2) Date of application:

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(* 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;
(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.)
(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 subcontractors 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.

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**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;
(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 in each of the next five years and the aggregate power (MW, MVA, MVAr) 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—

   (a) A sufficient description adequately specifying the actual or proposed locations of the electric supply lines and electrical plant constituting the intended transmission system, 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) An indication of the extent to which, and the locations in which, those electric supply lines are or will be placed underground.

   (c) An identification of the voltages of the electric supply lines forming part of the intended transmission system.

   (d) A statement of the extent (if any) to which the applicant considers it necessary for powers under section 54 of the Act (compulsory acquisition of land etc) to be given through the licence for which he is applying.

   (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;
(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.

(f) A description of the applicant’s proposed arrangements for compliance with the applicable provisions of the Grid Code.

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, 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) 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
(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 LICENCE OR PERMIT FOR THE GENERATION, DISTRIBUTION AND SUPPLY OF ELECTRICAL ENERGY

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.
(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.

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


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

(No. 12 of 2006)

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
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.
(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.
(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.
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
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.
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 Code 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.
(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.
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.
(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.
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
PETROLEUM RULES

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SCHEDULE    —    FORMS
PETROLEUM RULES

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;
(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.

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 asphyxiating; not to be used in the proximity of fire or in an unventilated room”;

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 asphyxiating; not to be used in the proximity of fire or in an unventilated room”;

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(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;
(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
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—

<table>
<thead>
<tr>
<th>Capacity of tank in thousands of gallons</th>
<th>Minimum distance in feet between tanks</th>
<th>Minimum distance in feet between tanks and boundary of installation of buildings</th>
<th>Minimum distance in feet between two tanks one of which contains Class A petroleum and the other of which contains Class B petroleum</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Class A petroleum</td>
<td>Class B petroleum</td>
<td>Class A petroleum</td>
</tr>
<tr>
<td>Up to 12</td>
<td>3</td>
<td>3</td>
<td>10</td>
</tr>
<tr>
<td>Over 12 up to 18</td>
<td>3</td>
<td>3</td>
<td>15</td>
</tr>
<tr>
<td>Over 18 up to 24</td>
<td>5</td>
<td>3</td>
<td>15</td>
</tr>
<tr>
<td>Over 24 up to 30</td>
<td>10</td>
<td>3</td>
<td>20</td>
</tr>
<tr>
<td>Over 30 up to 40</td>
<td>10</td>
<td>3</td>
<td>25</td>
</tr>
<tr>
<td>Over 40 up to 75</td>
<td>13</td>
<td>10</td>
<td>25</td>
</tr>
<tr>
<td>Over 75 up to 100</td>
<td>15</td>
<td>10</td>
<td>25</td>
</tr>
<tr>
<td>Over 100 ...</td>
<td>50 feet or the diameter of the tank, whichever is the lesser.*</td>
<td>20 feet or the diameter of the tank, whichever is the lesser.*</td>
<td>25 feet or the diameter of the tank, whichever is the lesser.*</td>
</tr>
</tbody>
</table>

* If tank is of a type which does not exhaust to atmosphere during normal working or is of 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 of 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.
(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 contract
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 filing sheds

A storage and filing 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 filing sheds if such doorway is of a type
which may be immediately closed by a fire-proof door in case of emergency.
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.

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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.
(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, Shimanzo 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.
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.
(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 transhipment, 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:
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 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 hawser as to tow ropes**

All petroleum ships, before commencing to load or discharge Class A petroleum, shall have wire hawser 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.
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.
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 observer 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.

[209x731]L.N. 64/1999.]

(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 paragraph (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

(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 Weighs 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;
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.]

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**FORM No. 1**

**PETROLEUM RULES**

**LICENCE TO TRANSPORT PETROLEUM BY ROAD**

---

**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 ...........

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* 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).

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Licensing Authority

RENEWALS

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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.............
Application for renewal should be made not later than the 15th December.
FEE: Sh. ............................................  (rule 15).

Licensing Authority

RENEWALS

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FORM No. 4 (r. 14(4))

PETROLEUM RULES

LICENCE TO STOKE PETROLEUM IN AN UNDERGROUND KERBSIDE TANK

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).

Licensing Authority

RENEWALS

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<th>Date</th>
<th>Signature of Licensing Authority</th>
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NOTICE

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.