

THE ENVIRONMENTAL MANAGEMENT AND CO-
ORDINATION ACT

(Cap. 387)

THE ENVIRONMENTAL MANAGEMENT AND CO-
ORDINATION (SAND HARVESTING) REGULATIONS, 2024

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THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

(Cap. 387)

IN EXERCISE of the powers conferred by section 147(1) of the Environmental Management and Co-ordination Act, the Cabinet Secretary for Environment, Climate Change and Forestry, on the recommendation of the Authority and in consultation with the relevant lead agencies, makes the following Regulations—

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (SAND HARVESTING) REGULATIONS, 2024

PART I – PRELIMINARY

1. These Regulations may be cited as the Environmental Management and Co-ordination (Sand Harvesting) Regulations, 2024. Citation.

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

“designated sand-harvesting site” means an area demarcated and endorsed by the County Environment Committee for sand harvesting;

“sand” means sedimentary material finer than gravel and coarser than silt and includes stones, coral, earth and turf but does not include silica sand;

“sand collection site” means any area meant for temporary holding of the harvested sand subject to the defined setbacks;

“sand dealer” means any entity or person licensed to carry out sand dealings;

“sand dealings” means the buying, selling or bartering of sand;

“sand harvesting” means the removal, extraction, or scooping of sand from a site;

“wayleave” means the right of way over another person’s land exercised by a public authority for purposes of laying public infrastructure and amenities including power transmission, sewer lines, drain or oil and water pipelines.

3. These Regulations shall apply to— Application.

(a) sand harvesting;

(b) sand dealers; and

(c) sand dealings.

4. The objective of these Regulations is to establish a framework for— Objective.

(a) the sustainable utilisation of sand resources; and

(b) good environmental practices during sand harvesting.

PART II—THE COUNTY ENVIRONMENT COMMITTEE

5. Each County Environment Committee shall—

Functions of
County
Environment
Committees.

- (a) maintain a register of sand dealers;
- (b) receive and determine proposals and requests presented by the ward sand harvesting committees;
- (c) advise the respective Governor on the structure and operations of sand harvesting and related activities;
- (d) ensure that sand harvesting activities are compliant with the Act and any national norms and standards;
- (e) ensure sustainable exploitation and utilisation of sand resources and other excavated material;
- (f) collaborate with other environmental agencies in management of environment;
- (g) formulate environmental conservation programmes in relation to sand harvesting;
- (h) co-ordinate and disseminate information on sand harvesting activities to ward sand harvesting committees within the County;
- (i) receive and determine grievances presented by the ward sand harvesting committees;
- (j) designate sand harvesting sites in accordance with the provisions of the Act and these Regulations;
- (k) designate sand harvesting sites at a radius of at least one hundred metres away from critical infrastructure such as bridges and roads;
- (l) facilitate the designation of roads for accessing the designated sand harvesting sites and keep such roads in a proper state of maintenance and repair; and
- (m) recommend to the respective Governor designated sand harvesting areas and sites for *Gazettement* subject to public participation, including suspension of sand harvesting from depleted or degraded sites.

6. (1) There shall be established a Ward Sand Harvesting Committee in each Ward where sand harvesting activities occur.

Ward Sand
Harvesting
Committees.

(2) Every Governor shall, by notice in the *Gazette*, constitute a Ward Sand Harvesting Committee of the County consisting of—

- (a) the chairperson representing the County Commissioner of the County;
- (b) the Assistant County Commissioner or a designated representative;

- (c) an officer of the Authority whose area of jurisdiction falls wholly or partially within the county who shall be the Secretary of the Committee;
- (d) a representative of sand dealers;
- (e) a representative of special interest groups;
- (f) a representative from the registered sand harvesting associations, nominated by members of the associations;
- (g) a representative of the local water resource users' association or beach management units; and
- (h) a representative of a civil society organization based within the county.

(4) All appointments shall be made in consultation with the various representative registered groups.

(6) The County Governor shall, in making the appointments under this regulation, ensure—

- (a) equal opportunities for persons with disabilities;
- (b) equal opportunities for the youth;
- (c) equal opportunities for marginalized groups; and
- (d) that not more than two-thirds of the members are of the same gender.

(7) The members of the Committee shall hold office for a term of three years and shall be eligible for re-appointment for one further term.

(8) Every Committee shall draw its operational expenses from the funds and budget of the respective county government.

(9) The Cabinet Secretary shall, in consultation with the Authority, provide technical assistance and capacity building to the Committees.

(10) In the absence of the Chairperson, the Committee shall elect an acting Chairperson from its quorum.

(11) The quorum of the Committee for purposes of a meeting shall be five members.

(12) Every Committee shall meet at least once every three months and shall within thirty days of every meeting, submit a report of its meeting to the County Governor and the County Commissioner.

7. Each Ward Sand Harvesting Committee shall—

- (a) inform the agenda of the County Environment Committee through proposals relating to sand harvesting activities in the Ward;
- (b) co-ordinate and mobilize communities and other stakeholders in the Ward to design and implement sand harvesting activities;

Functions of Ward Sand Harvesting Committees.

- (c) facilitate research and knowledge management at the Ward level on sand harvesting, its impacts and strategies for responding thereto;
- (d) facilitate public education, awareness creation, and capacity building at the Ward level on sand harvesting, its impacts and strategies for responding thereto; and
- (e) co-ordinate, facilitate and manage community consultations on priority sand harvesting activities.

8. Subject to these Regulations, each Ward Sand Harvesting Committees shall regulate its own procedure and shall, in doing so, ensure public and stakeholder participation in the performance of its functions.

Procedures.

PART III—MANAGEMENT OF SAND HARVESTING

9. The Authority shall engage with lead agencies and county governments to ensure effective management, sustainable utilization of sand resource and ensure effective implementation of these Regulations.

Management of sand harvesting.

10. The Authority shall—

Functions of the Authority.

- (a) co-ordinate lead agencies and county governments to ensure the effective management and sustainable utilization of sand resources; and
- (b) monitor the rehabilitation of sand harvesting sites and the adjacent environment including access roads, riverbanks and catchment areas.

11. On-farm, riverbed, lakeshore and seashore sand harvesting shall be carried out as follows—

On-farm, riverbed and lakeshore sand harvesting.

- (a) sand harvesting shall not exceed one and a half metres in depth and a buffer or set back line of at least three metres from adjacent boundaries;
- (b) designated sand collection sites shall be at least fifty metres from the riparian setback lines of the riverbanks or dykes for on-farm sand harvesting;
- (c) designated sand collection sites should be at least fifty metres from riparian setback lines of lakeshores;
- (d) sand harvesting shall be done concurrently with restoration of former designated sand harvesting sites and the restoration shall be undertaken with guidance from the Committee; and
- (e) sand harvesting shall be open-cast harvesting except in cases where underground tunnelling or extraction of sand is undertaken and in which cases, appropriate extraction technology shall be applied to safeguard human safety.

12. (1) Each County Environment Committee shall specify the minimum pricing guidelines for sale of sand within the county.

Sale of sand.

(2) The prices specified under sub-regulation (1) shall take into consideration the requirements of the laws relating to fair competition.

(3) Any person who sells sand shall issue a receipt to the purchaser and keep records of such receipts for inspection by the relevant authorities.

(4) Each County Environment Committee shall specify minimum wages for sand loaders payable by registered sand dealers and entities in accordance with the provisions of the Employment Act and other relevant written laws.

Cap. 226.

13. (1) Any person who wishes to transport sand shall apply to the Authority for a permit in the Form set out in the First Schedule.

Transportation of sand.

(2) The application under sub-regulation (1) shall be accompanied by—

- (a) proof of the Environmental Impact Assessment Licence showing the source of the sand being transported;
- (b) personal details of the applicant;
- (c) details of mode of transportation of the sand; and
- (d) the fee specified in the Fourth Schedule.

(3) The Authority shall consider the application under sub-regulation (1) within five working days after it is lodged.

(4) Upon the approval of the application, the Authority shall issue the applicant with a permit in the Form set out in the Second Schedule.

(5) A permit issued under this regulation shall be valid for a period not exceeding three months from the date of issuance.

(6) No person shall transport sand, unless such person is a holder of a permit issued under this regulation.

(7) Where sand is transported in a vehicle, the driver shall retain physical custody of the permit while the sand is in transit.

(8) The holder of a permit issued under this regulation shall present it on demand for the inspection and verification by an environmental inspector, police officer or an authorized officer.

(9) The permit holder shall transport sand only between the hours of 6.00 a.m. and 6.00 p.m. in each day.

(10) A person who contravenes the provisions of this regulation commits an offence and shall, on conviction, be liable to the penalty provided under section 144 of the Act.

14. (1) The proponent shall be responsible for rehabilitation of a designated sand harvesting sites and their adjacent environment, where relevant, in accordance with the rehabilitation plan submitted with the Environmental Impact Assessment report.

Rehabilitation of designated sand harvesting sites.

(2) The Authority shall collaborate with each County Environment Committee to monitor the rehabilitation of the designated sand harvesting

sites and the adjacent environment including access roads, riverbanks and catchment areas.

(3) The Authority shall ensure that operational designated sand harvesting sites maintain safety measures.

(4) The rehabilitation of a designated sand harvesting site shall be done in accordance with the rehabilitation plan submitted by the proponent.

(5) During the monitoring of the rehabilitation of a designated sand harvesting site, the Authority may issue such improvement orders or take such other measures that shall ensure compliance with the conditions of the Environmental Impact Assessment Licence and the Act:

Provided that the Authority may also issue a certificate of compliance where the licence conditions or rehabilitation plan have been complied with.

PART IV—LICENCING PROVISIONS

15. (1) Each sand dealer shall be registered in an association, community-based organisation, common object group or co-operative society and shall—

Registration of sand dealers.

- (a) possess a valid certificate of registration by the relevant State agency; and
- (b) have sand-related activities as one of the principal objectives of the formation of the association, community-based organisation, common object group or co-operative society.

(2) Each registered entity shall comply with the relevant written labour laws.

(3) No child shall be permitted to join an association, community-based organisation, common object group or co-operative society engaged in sand-related activities or participate in sand-related activities in any way.

16. (1) No person shall harvest sand from any river, lake, ocean, farm or other land unless such a person is issued with a valid Environmental Impact Assessment Licence.

Requirement of an Environmental Impact Assessment Licence.

(2) An Environmental Impact Assessment Licence shall only permit sand harvesting from areas near or around temporary rivers.

(3) Sand harvesting from permanent river sources shall not be permitted.

(4) A person who contravenes this regulation commits an offence and shall, on conviction, be liable to the penalties specified under section 138 of the Act.

17. (1) The Authority may, after the issuance of an Environmental Impact Assessment Licence, suspend, cancel or revoke such licence in accordance with section 67 of the Act.

Suspension, cancellation of the Environmental Impact Assessment Licence.

(2) The notice for suspension, cancellation or revocation shall be in the Form set out in the Third Schedule.

18. All proponents for sand harvesting activities shall, prior to obtaining an Environmental Impact Assessment License, deposit a deposit bond in accordance with section 28 of the Act.

Provision of a deposit bond.

19. An environmental impact assessment license for sand harvesting shall not be issued in respect of the following sites—

Prohibited sites.

- (a) cemeteries;
- (b) way leaves;
- (c) critical infrastructure;
- (d) cultural sites;
- (e) river banks; and
- (f) ecologically sensitive areas.

20. Each designated sand harvesting site shall be subjected to environmental audits in accordance with the section 68 of the Act.

Environmental audit.

PART V—MISCELLANEOUS PROVISIONS

21. Each County Environment Committee shall resolve any dispute referred to it in a way that promotes alternative dispute resolution.

Resolution of disputes.

22. A person who is aggrieved by—

Appeals to the Tribunal.

- (a) a decision of the County Environment Committee;
- (b) the revocation, suspension and cancellation of a license; or
- (c) the imposition of any condition, limitation or restriction in the conditions pertaining to a licence,

may appeal to the National Environment Tribunal in accordance with the Act.

23. A person convicted of an offence under these Regulations for which no penalty provided, shall be liable to the penalties set out in section 144 of the Act.

Penalties.

24. An Environmental Impact Assessment Licence for a sand harvesting activity may be transferred by the holder to another person in accordance with the provisions of section 65 of the Act.

Transfer of environmental impact assessment licence.

25. Any person who is carrying on a sand harvesting activity shall, within three months of the commencement of these Regulations, comply with the provisions of these Regulations.

Transitional matters.

FIRST SCHEDULE

(r. 13(1))

APPLICATION TO TRANSPORT SAND *(TO BE FILLED BY INDIVIDUAL,
REGISTERED GROUP, COMPANY)*

APPLICATION NO. NEMA/

PART 1

PERSONAL DETAILS

Name

ID.....PIN

GROUP/COMPANY REGISTRATION NO.

Physical Address

Tel. Postal address

DETAILS ON TRANSPORTATION OF SAND

Source (Place where sand has originated (Sub-county/County))

Detail of the vehicle:

i) Registration No.

ii) Make and model

iii) Tonnage

SIGNED..... DATE

DIRECTOR GENERAL

Attachments:

- i) Copy of motor vehicle logbook
- ii) Copy of company/group registration certificate/National ID

SECOND SCHEDULE

(r. 13(4))



PERMIT TO TRANSPORT SAND

(TO BE ISSUED TO SAND TRANSPORTERS)

APPROVAL NO. NEMA/

THIS IS TO CERTIFY THAT M/S

ID/PIN/REG.NO.of P. O. Box

Tel.

Has thisday of(MONTH) 20.... (YEAR)

been granted this permit to transport sand in the area as described below:.....

Pursuant to Application No. NEMA/

And whose area of jurisdiction falls under _____ (county/counties)
for a period of

(NOT EXCEEDING THREE (3) MONTHS)

Subject to the following conditions

1.

2.

SIGNED & STAMPED

.....DATE.....

DIRECTOR GENERAL

THIRD SCHEDULE

(r. 17(2))

SUSPENSION/CANCELLATION/REVOCATION OF PERMIT TO TRANSPORT SAND (TO
BE ISSUED TO SAND TRANSPORTERS)

NOTICE IS HEREBY GIVEN TO

M/S.....ID/PIN/REG.NO.

of P. O. Box Tel

whose Permit No. issued on..... (Day) (Month)____
(Year)

to transport sand

in..... (County)

Is hereby suspended for 1 Month

OR

Revoked

OR

Cancelled for 3 months with IMMEDIATE EFFECT for the following reasons:

1.

2.

SIGN:DATE

DIRECTOR GENERAL

OFFICIAL STAMP

FOURTH SCHEDULE

(r. 13(2)(d))

FEE

ACTIVITY	Ksh.
Sand transportation permit processing fee	3000

Made on the 14th October, 2024.

ADEN DUALE,
*Cabinet Secretary Ministry for
Environment, Climate Change and Forestry.*