

THE WATER SUPPLY AND SANITATION ACT
(CAP 272)

THE WATER SUPPLY AND SANITATION SERVICES RULES, 2010

(Made under section 28)

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PART I
PRELIMINARY PROVISIONS

Citation	1. These Rules may be cited as the Water Supply and Sanitation Services Rules, 2010.
Application	2. These Rules shall govern the regulatory and licensing matters related to the provision of water supply and sanitation services in Tanzania.
Interpretation	3. In these Rules, unless the context otherwise requires:
Cap 272	“Act” means the Water Supply and Sanitation Act; “affiliate” means any legal entity holding shares in the licensee or any other legal entity in which the licensee is a shareholder; “applicable law” means any principal law, treaty, proclamation, regulation, rule, order and by-law that is customarily treated in Tanzania as having legally binding force and which is relevant to matters pertaining to regulation of the water supply and sanitation services;
Cap 414	“Authority” means the Energy and Water Utilities Regulatory Authority established under the provisions of the EWURA Act; “business plan” means a document prepared by a licensee pursuant to guidelines issued by the Authority that describes the scope of its services; “community” means a group of households, a village or group of villages who receive their water supply from a common source or one or more water points or a waterworks; “community organization” means a community owned water supply organization established under section 31 of the Act; “customer” means a person or body of persons supplied, or has applied to be supplied with a service or who is liable for payment of any fees or other charges for the supply or use of a service; “customer service charter” means a document prepared by a licensee and approved by the Authority setting minimum service standards including the

procedure of receiving and settling complaints from customers, metering and connections handling;

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“EWURA Act” means the Energy and Water Utilities Regulatory Authority Act;

“guaranteed service standards” means service standards that define a quality of service assured to the individual customer and must be met by a licensee otherwise failure will result in a licensee making a compensatory payment to the customer that has suffered a sub-standard level of service;

“Incident Management Plan” means procedures and protocols for the coordinated management of drinking water incidents, including media and stakeholder liaison and notifications to customers regarding risks and counter measures undertaken by the supplier that take into account concepts of good practice identified in the WHO Water Quality Guidelines;

“IFRS” means International Financial Reporting Standards issued by the International Accounting Standards Board;

“inspector” means an officer of the Authority or agent appointed by the Authority to act as such;

“licence” means water supply and sanitation services licence issued by the Authority;

“licensee” means the holder of a licence or a provisional licence as the case may be;

“licensed activity” means an activity related to and necessary to the fulfillment of the supplier’s obligations to provide services;

“licensed facility” includes water source infrastructures, buildings, water treatment plants, waste water treatment plants, pipes, associated equipment and accessories, storage tanks and parking areas from which a person conducts a service and which shall be described in a licence;

“ Minister” means the minister responsible for water supply and sanitation matters;

“performance agreement” means a contract developed pursuant to a licence and these rules concluded between the Authority and a licensee in which the parties agree that the Authority shall measure licensee’s performance and award and penalize accordingly;

“provisional licence” means a licence issued by the Authority pursuant to rule 5;

“sanitation” means the provision of appropriate facilities and services for the collection and disposal of human excreta and waste waters;

“services” means water supply and sanitation services;

“service area” means an area specified in a licence in which a licensee is authorized by the Authority to provide the services either exclusively or together with others for a specified period of time;

“service providers” means private and mainly informal suppliers of water and sewerage services to customers having insufficient or without water supply and sanitation services it includes private boreholes and water tankers;

“supplier” means any entity which provides services but does not include a community organization;

“tariff” means any charge, fee, price or rate charged for the provision of the services as shall be approved by the Authority;

“tariff methodology” means a methodology approved by the Authority which shall be used to compute the tariff;

“water authority” means a water supply and sanitation authority established under section 9 of the Act; and

“water supply” means the provisions of appropriate facilities and services for the sourcing, treatment and distribution of potable water.

PART II LICENSING PROCEDURES

Obligation to
Apply for a
Licence

4. - (1) No supplier other than a community organization shall provide any services without a licence.

(2) A supplier who is providing services without a licence shall, not later than three months after coming into force of these rules, apply to the Authority for a licence.

Provisional
Licences to be
Issued

5. – (1) Notwithstanding the provisions of rule 4 any existing water authority which had not fully complied with the conditions for licensing by 1st August 2009 shall apply and be issued with a provisional licence and shall within twenty four months from 1st August 2009 take measures to comply with the required conditions for issuance of a licence.

(2) The application for a provisional licence in sub-rule (1) shall be made in the same way as an application for a licence, provided that the Authority shall immediately after receiving such application evaluate and proceed in issuing the provisional licence.

Penalty

6. - Any person who contravenes the provisions of rule 4 or 5 shall be liable to a fine of three million shillings.

Licence
Application
Procedure

7. – (1) An applicant for a licence shall apply to the Authority for a licence or a provisional licence by filling in the appropriate form prescribed by the Authority, and shall lodge to the Authority such application together with such other documents or records as may be prescribed by the Act, the EWURA Act and other applicable law.

(2) Notwithstanding the provisions of sub-rule (1), an application for a licence shall be accompanied by:

- (a) a certified copy of its registration documents;
- (b) where applicable, a proof for establishment of the applicant by way of a Government Notice number pursuant to section 9 of the Act;
- (c) a proof of technical, financial and managerial capability of the applicant and any service provider to be engaged, if any;
- (d) description of a service area;
- (e) a business plan; and
- (f) any other information as may be required by the Authority.

(3) An application for a licence shall be accompanied by an application fee prescribed by the Authority from time to time.

Publication of
Licence
Applications

8. – (1) A licence application received by the Authority shall be evaluated to verify its completeness and legality of information contained therein and thereafter a notice of application shall be published in at least two newspapers of wide circulation in Tanzania one in English and another in Kiswahili with a view to soliciting comments and representations on the application.

(2) The public shall be invited to submit their comments and representations within twenty one days from the date of publication and the comments and representations shall be considered by the Authority while arriving at its decision on the application.

Grant of a
Licence

9. – (1) The Authority shall after the expiration of the twenty one days deadline to submit comments in rule 8 (2) evaluate application for a licence and decide to:

- (a) deny the application;
- (b) refer back the application;
- (c) grant the application and issue a licence; or
- (d) grant a provisional licence in lieu of a licence.

(2) The Authority shall while making a decision to grant or deny a licence, take into consideration:

- (a) legal status of the applicant;
- (b) managerial and technical competence;
- (c) financial viability;
- (d) adherence to health, safety and environmental requirements;
- (e) economic efficiency and benefit to the public in general; and
- (f) any other matter relevant to the orderly supply of services in

Tanzania.

(3) The Authority shall, in the event that it denies an application for a licence, inform the applicant of such decision in writing, including the reasons thereof.

(4) The applicant may, if aggrieved by the decision of the Authority in sub-rule (1) appeal to the Fair Competition Tribunal pursuant to the provisions of the Fair Competition Act.

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Validity,
Duration and
Transfer of a
Licence

10. – (1) The term of a licence and that of a provisional licence shall be stated on the face of such licence or provisional licence, as the case may be.

(2) A provisional licence shall remain valid for the term issued, provided, however, that the Authority may, on the written application of a licensee, extend the initial period for such further period as the Authority may determine.

(3) A licence and a provisional licence shall subject to these rules remain valid from the date of issue and shall not be assigned or transferred from a licensee to another person without an approval of the Authority.

Licence
Suspension and
Revocation

11. – (1) The Authority may revoke a licence where it determines that a licensee has failed to discharge its key obligations under the Act, the EWURA Act, these rules or any other applicable law.

(2) For the purpose of sub-rule (1) “key obligations” means:

- (a) provision of efficient and economical services in a service area;
- (b) satisfactory compliance to the performance agreement;
- (c) satisfactory implementation of the customer service charter; and
- (d) satisfactory implementation of the business plan.

(3) Notwithstanding the provisions of sub-rule (1) the Authority may suspend a licence for a period of twelve months where:

- (a) a licensee is in continuous violation of an Order or a directive of the Authority;
- (b) a licensee has been found to be in serious violation of the provisions of the Act, the EWURA Act or these rules on matters relating to reporting requirements, health, safety and environment requirements; or
- (c) a licensee fails to pay a regulatory levy to the Authority and such levy remains unpaid thirty days after it has become due and the Authority has given the licensee notice in writing that such payment is overdue and the licensee has not paid.

(4) Any licence issued shall cease to have effect where:

- (a) a licensee fails or refuses to commence operations within three months after issuance of the licence; or
- (b) a licensee is dissolved pursuant to section 58 of the Act.

(5) The Authority may in lieu of revoking or suspending a licence and pursuant to the procedure to be prescribed by the regulations to be made by the Minister appoint an administrator to take over the powers and responsibilities of a licensee whose licence is due to be revoked, suspended or cease to have effect.

PART III OBLIGATIONS OF A LICENSEE

Obligation to
Provide Services

12. - (1) A licensee shall provide services pursuant to the provisions of the Act, the EWURA Act, any applicable law and any service agreement provided that the provisions of the agreement are not at variance with the provisions of these rules, the Act, the EWURA Act or any other applicable law.

(2) Without prejudice to the generality of sub-rule (1) a licensee shall be required to:

- (a) provide reliable services in a service area;
- (b) charge the tariff to customers; and
- (c) carry out all works related to the licensed activity, including engineering, construction, rehabilitation, operation and maintenance of the facilities in accordance with applicable law.

General
Obligations of a
Licensee

13. - (1) A licensee shall while supplying services observe the rules and guidelines issued by the Authority in matters related to, among others:

- (a) tariffs;
- (b) tariff methodology;
- (c) water quality monitoring;
- (d) regulation of independent water suppliers;
- (e) performance agreements;
- (f) business plan;
- (g) customer service charter;
- (h) annual reports;
- (i) payment of fees and levies; and
- (j) codes of conduct in relation to licences, customer service and safety.

(2) Notwithstanding the generality of sub-rule (1) a licensee shall be obliged to supply services without any discrimination and bias, pursuant to agreements, if any, the Act, the EWURA Act and other applicable law and shall under no circumstances stop services save as provided in these rules and applicable laws.

Appointment of
Service
Providers

14. - (1) A licensee shall pursuant to the provisions of the Act and these rules appoint a service provider to exercise and perform all or any of the powers and functions under a licence and applicable law.

(2) Notwithstanding the generality of sub-rule (1) the appointment of service providers shall be done by way of registration of the service provider by a licensee and thereafter execution of an agreement between them which agreement shall make provisions for or with respect to:

- (a) the concurrent performance, by a licensee and a service provider of the same functions in different parts of the service area;
- (b) the indemnity of a service provider of any liability of a licensee arising from the performance or non-performance of functions conferred by a licence; and
- (c) maintenance, rehabilitation and development by a service provider of the infrastructures and facilities necessary for the provisions of the services.

(3) Any agreement concluded between a licensee and a service provider in sub-rule (2) without an approval of the Authority shall be void.

(4) Upon being registered pursuant to sub-rule (2) a service provider shall be deemed to be an agent of a licensee.

Provision of
Information and
Reporting
Requirements

15. – (1) A licensee shall furnish to the Authority, in such manner and at such times as it may reasonably require, such documents, accounts, estimates, budgets, returns or other information as the Authority may require for the purpose of exercising the functions of the Authority.

(2) Notwithstanding the generality of the provisions of sub-rule (1) a licensee shall submit to the Authority the following reports;

- (d) an estimated budget for each successive financial year not later than fifteen days after the commencement of the respective financial year;
- (e) monthly operational reports in accordance with MaJi's information system or any other system established by the Authority latest by 14th of the following month;
- (f) quarterly investment reports by 30th of the month following the end of a quarter;
- (g) draft annual reports prepared in accordance with the format established by the Authority detailing activities and operations of the licensee during the year to be submitted not later than three months after the closure of the financial year. It shall be accompanied by draft financial statements; and
- (h) final annual report prepared in accordance with the format established by the Authority detailing activities and operations of the licensee during the year to be submitted not later than six months after the close of the financial year. It shall be accompanied by a copy of the audited accounts together with the auditors report and replies thereto.

Maintenance of
Records

16. - A licensee shall keep complete and accurate data, information, reports and records related to its licensed activity for at least seven years.

Performance
Audit

17. – (1) A licensee shall on annual basis conduct a performance audit of its services and the licensed facility and shall submit such report to the Authority.

(2) Notwithstanding the generality of the provisions of sub- rule (1) the Authority may at any time audit or commission an auditor to undertake an audit of a licensee’s:

- (a) services and licensed facility;
- (b) compliance with its customer service charter;
- (c) compliance with its license obligations;
- (d) compliance with terms and conditions of a performance agreement; and
- (e) compliance with a business plan.

(3) Where a performance audit has been ordered pursuant to sub-rule (2), a licensee shall permit the Authority or the auditor commissioned by the Authority to:

- (a) have access to a licensed facility;
- (b) carry out inspections, measurements and test on, or in relation to, water works, premises or offices;
- (c) take on to any such premises, works or offices any other person or equipment as necessary for the purpose of performing the audit or verifying the report;
- (d) inspect and make copies of, and take extracts from, any books and records of a licensee that are maintained in relation to the performance of the services; and
- (e) discuss matters relevant to the audit or a report with the licensee.

Tariff Disclosure

18. – (1) A licensee shall immediately after approval of their tariff application by the Authority, publish tariffs in respect of its services by:

- (a) posting it on its information boards;
- (b) posting such information on its web site; and
- (c) making such information available at its bill payment centers.

(2) A licensee shall provide accurate tariff information, including any rules related to tariffs established by the Authority to any person who requests it.

PART IV FINANCIAL PROVISIONS

Accounting
Standards

19. - A licensee shall maintain its financial books and accounts, and shall provide information thereon to the Authority, in accordance with IFRS and any applicable regulations, including those requiring the licensee to adopt a uniform system of accounts.

Maintenance of
Separate

20. - A licensee shall maintain a separate set of account for activities not

Accounts related to the licensed activity.

Prohibition to Cross Subsidization **21.** - A licensee shall ensure that there is no cross subsidization between its services and any other activities including activities of its affiliates.

PART V TECHNICAL PROVISIONS

Compliance to Performance Standards **22.** – (1) A licensee shall conduct its services in a manner which it reasonably considers to be best calculated to achieve such quality of service standards and performance targets, as may be:

- (a) prescribed under the Act, EWURA Act, a licence or any applicable law; and
- (b) set out in the performance agreement and the customer service charter.

(2) A licensee shall be liable for and shall pay all applicable penalties or compensation associated with its failure to meet the guaranteed quality of service standards prescribed in the performance agreement or any applicable rule issued by the Authority.

Performance Agreements **23.** – (1) A licensee shall pursuant to the guidelines issued by the Authority and not later than two months after receiving a licence, prepare and submit to the Authority a draft performance agreement for review and execution as appropriate.

(2) Subject to any contrary agreement between the parties a performance agreement may be reviewed within three months prior to the beginning of the licensee’s financial year.

(3) A licensee shall submit to the Authority a progress report on the implementation of the performance agreement as a part of its annual report.

Customer Service Charter **24.** – (1) A licensee shall within one year after receipt of a licence prepares and submit to the Authority for its approval a customer service charter.

(2) The Authority shall approve any modification or amendment to the charter.

(3) The customer service charter shall be reviewed by a licensee at least once in every three years.

(4) The customer service charter described in sub-rule (1) shall include licensee’s commitment to:

- (a) deal with customers through a system that shall ensure speed and accuracy in completing transactions;
- (b) computerize all services rendered to customers and new service applicants;

- (c) prepare and publicize any periodic meetings with customer representatives for the purpose of:
 - (i) exchanging information or views;
 - (ii) clarifying the mutual duties, rights and responsibilities;
 - (iii) improving customer services; and
 - (iv) conducting any other appropriate activity aimed at improving customer services.
- (d) establish and properly furnish service centre to, among others,:
 - (i) handle customer complaints, disputes and inquiries; and
 - (ii) receive bill payments;
- (e) provision of information to customers regarding services, rates and performance.

(5) A licensee shall:

- (a) establish a mechanism pursuant to which it will receive service shortage reports or any reports related to quality and reliability of services; and
- (b) maintain a special register of complaints comprising:
 - (i) the identity of the complainant;
 - (ii) the type of complaint or malfunction;
 - (iii) the location and time of the occurrence complained of; and
 - (iv) the time required to correct such complaint or malfunction;

Implementation
of a Business
Plan

25. - (1) A licensee shall implement the business plan which accompanied the application for a licence in rule 7 (2) (e) throughout the licence term and not less than three months prior to the expiry of the plan, submit a revised version of the business plan to the Authority for review.

(2) Any proposed amendment to the business plan shall be forwarded to the Authority for review.

(3) A licensee shall ensure that its annual budget and any revision thereof are derived from the business plan.

(4) A licensee shall, as part of its annual report to the Authority, submit a report on its progress and activities in carrying out the business plan.

Service
Interruption
Notice

26. - A licensee shall notify the Authority and the customers in the event of a service interruption due to emergency repairs, rehabilitation or preventive maintenance that may affect a significant number of customers for more than two days.

Incident
Management
Plan

27. – (1) A licensee shall immediately report to the Authority any information or event in the delivery of the services or in its systems or operations that may pose risks to public health and the environment.

(2) A licensee shall not later than two months after receipt of a licence, submit

an Incident Management Plan to the Authority for its approval.

Environmental
Protection

28. – (1) A licensee shall comply with all applicable environmental laws and standards related to the licensed activity.

(2) A licensee shall:

- (a) take all necessary measures to prevent or reduce pollution resulting from operating its pumping stations, treatment plants, and networks to acceptable levels; and
- (b) observe environmental, health, and industrial safety standards as required by applicable laws.

(3) A licensee shall perform an environmental audit related to the licensed activity in accordance with applicable environmental laws.

Inspection

29. – (1) An inspector may as per the instructions from the Authority inspect the licensed facility and any document necessary for the supply of services; and a licensee shall render all required assistance in the course of such inspection.

(2) During inspection, an inspector may:

- (a) make copies or take extracts from any such book, accounts or records kept by the licensee under the applicable law; and
- (b) inspect machinery, equipment, appliances, meters, fittings and apparatus.

(3) If upon investigation, the Authority concludes that a licensee has not complied with any condition of these rules, any relevant agreement, the Act, the EWURA Act or other applicable law, the Authority may without prejudice to the penalties prescribed out in these rules, the Act and the EWURA Act:

- (a) take appropriate actions as provided in a licence; or
- (b) take such other actions as it deems appropriate to protect the interests of customers.

Prohibited Acts
to Inspectors

30. - A licensee shall not:

- (a) hinder or obstruct an inspector in the exercise of any of the powers conferred upon him by a licence under these rules, the Act and applicable law;
- (b) use abusive, threatening or insulting language to an inspector;
- (c) refuse or fail to comply with any order or direction of an inspector; and
- (d) when required by an inspector to answer a question, refuse or fail to answer such question to the best of the licensee's knowledge, information and belief.

PART VI
GENERAL PROVISIONS

General Penalty **31. -** (1) Any person who breaches any provision of these rules for which no specific penalty is prescribed shall be liable to pay a fine of fifty thousand shillings.

(3) A licensee who employs an agent, clerk, servant or other person, shall be answerable and liable for any acts or omissions of such persons in so far as the actions or omissions concern the services.

Penalty for Continued Violation **32. -** Any person who is in continuous breach of these rules shall be liable to a fine of fifty thousand shillings for everyday on which the contravention continues.

Authority to Supplement Procedures **33. -** Where procedures are not provided for in these rules, the Authority may do whatever is necessary and permitted by the Act, the EWURA Act and applicable law to enable it to effectively and completely adjudicate on the matter before it.

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Haruna Masebu
Director General