

SUBSIDIARY REGISLATION

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THE ENERGY AND WATER UTILITIES REGULATORY AUTHORITY ACT,

(CAP. 414)

REGULATIONS

(Made under section 42A)

THE ENERGY AND WATER UTILITIES REGULATORY AUTHORITY
(COMPOUNDING OF OFFENCES) REGULATIONS, 2020

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THE ENERGY AND WATER UTILITIES REGULATORY AUTHORITY ACT, (CAP. 414)

THE ENERGY AND WATER UTILITIES REGULATORY AUTHORITY (COMPOUNDING OF OFFENCES) REGULATIONS, 2020

(Made under section 42A)

PART I PRELIMINARY PROVISIONS

- | | |
|----------------|---|
| Citation | 1. These Regulations may be cited as the Energy and Water Utilities Regulatory Authority (Compounding of Offences) Regulations, 2020. |
| Application | 2. These regulations shall apply to offences prescribed under the Act and sector legislation, except for offences:
(a) relating to quality of petroleum products;
(b) relating to theft and vandalism of infrastructure in regulated sectors;
(c) relating to economic crimes;
(d) relating to tax evasion; and |
| Cap. 392 | (e) prescribed under section 240(4) of the Petroleum Act. |
| Interpretation | 3. In these regulations, unless the context otherwise requires: |

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- Cap. 414 “Act” means the Energy and Water Utilities Regulatory Authority Act;
- “Authority” means the Energy and Water Utilities Regulatory Authority;
- “electrical installation activities” means activities undertaken by a person licensed by the Authority to undertake electrical installation services under the Electricity Act;
- Cap. 131 “highway” has the meaning as defined in the Highways Act;
- Cap. 167 “petroleum retail outlet” means any place where a petroleum product is sold or offered for sale to a customer on a retail basis and include the buildings, storage tanks and dispensing pumps in respect of which a retailer is conducting retail sale;
- “petroleum retail operations” means the sale or offer for sale of a petroleum product at a retail outlet;
- “regulated sector” means:
- (a) electricity;
 - (b) petroleum;
 - (c) natural gas; and
 - (d) water and sanitation.
- “rural area” means a peri-urban area or a village;
- “townships” means the area of jurisdiction of a township authority;
- “township authority” means a township authority established under section 13 of the Local Government (District Authorities) Act; and
- Cap. 287 “village” means a village registered under the provisions of the Local Government (District Authorities) Act.

PART II

PROCEDURE FOR COMPOUNDING OF OFFENCES

Notification of offence

4.-(1) Where a person has committed an offence under the Act or sector legislation, and the Authority wishes to compound such offence, it shall notify such person in the manner provided in the Notification Form set out in the Schedule.

(2) The notification referred to under sub-regulation (1) shall:

- (a) specify the offence committed and the relevant provision;

- (b) specify the relevant penalty for the offence(s) committed and compounded amount for the offence(s); and
- (c) be dated and signed by the Authority.

Procedure
after offence
notification

5.-(1) A person who receives a notification under regulation 4(1) shall, within seven days from the date of receipt of the notification, either admit an offence or state his intention to answer charge against an offence,

Provided that, the Authority may, on reasonable grounds, accept admission of commission of an offence after the expiry of seven days.

(2) Where a person admits the offence as required under sub-regulation (1), such person shall fill in the Admission Form set out in the Schedule.

(3) Where the person intends to answer charge against an offence, such person shall fill in the Intention to Answer Charge Form set out in the Schedule.

Procedure
upon dispute
of offence

6.-(1) Where a person intends to answer a charge against an offence, the Authority shall submit the Notification Form together with the Intention to Answer Charge Form, to the Director of Public Prosecution together with any other relevant information for further action.

(2) A person who fails or refuses to sign a Notification Form shall be deemed to have disputed commission of an offence, and the Authority shall proceed in the manner set out in sub-regulation (1).

Payment of
fine

7.-(1) A person who admits commission of an offence as per regulation 5 (2), shall pay to the Authority the sum of money equal to one half of the amount of the fine to which such person would otherwise have been liable to pay if he had been convicted of such offence.

(2) Notwithstanding the provisions of sub-regulation (1), for offences related to:

- (a) petroleum retail operations in a township or rural areas, the amount payable after compounding the offence shall be one million shillings provided that such retail outlet is not located within two hundred metres from the highway; and

(b) electrical installation activities, the amount payable after compounding the offence shall be five hundred thousand shillings.

(3) Payment under sub-regulations (1) and (2) shall be made in such a manner as the Authority may direct, and within the time to be specified in the Admission Form.

(4) Where a person fails to pay the compounded amount by the end of the commitment period specified in the Admission Form, the Authority shall charge an interest of five percent per month of the unpaid compounded sum.

(5) In case the compounded amount and the interest thereof remain un-paid by the offender for more than ninety days, the Authority may issue a notice of default set out in the Schedule.

Enforcement
of
compounded
Order

8. The Authority may, for the purpose of enforcement of any compounding order under regulation 7, submit the order in a court of competent jurisdiction for execution.

PART III
GENERAL PROVISIONS

Measures by
Authority

9. An Order for compounding of offence shall not affect any measures for which the Authority may take in order to prevent significant damage to a person, property, or to protect the subject matter or public interest.

Report to
Director of
Public
Prosecutions

10. The Authority shall submit quarterly report of all compounded offences to the Director of Public Prosecution which shall contain the following information:

- (a) name and particulars of the offender;
- (b) offence committed and the relevant provision;
- (c) date and place in which the offence was committed;
- (d) compounded amount including any interest sum where applicable; and
- (e) any other relevant information as the Director of Public Prosecution may require.

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Authority to
enforce and
supplement
procedure

11.-(1) The Authority shall enforce these Regulations by virtue of the power conferred to it under section 42A(3) of the Act and such other provisions as may be provided under sector legislation.

(2) Where procedures are not provided for in these regulations, the Authority may do whatever is necessary and permitted by the Act and sector legislation to enable it to effectively and completely adjudicate on the matter before it.

SCHEDULE

THE UNITED REPUBLIC OF TANZANIA
THE ENERGY AND WATER UTILITIES REGULATORY AUTHORITY ACT (CAP. 414)

NOTIFICATION FORM

(Made under Regulation 4)

NOTIFICATION OF OFFENCE

To..... Address.....

1. You are charged with the following offence (s):
 - (a)contrary to..... of
 - (b)contrary to..... of
 - (c)contrary to.....of
2. If you WISH to admit commission of the offence (s) you should complete “ADMISSION FORM” attached hereto and return it together with this notification to the Director General of the Authority within seven (7) days from the date of service of this notification.
3. If you DO NOT WISH to admit to have committed the offence (s) you are required to complete “INTENTION TO ANSWER CHARGE FORM” attached hereto and return it together with this notification to the Director General of the Authority together with answers, in writing, to the charges mentioned above, within seven (7) days from the date of service of this notification.

Energy and Water Utilities Regulatory Authority (Compounding of Offences)

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4. In the event you admit to the offence(s) listed under paragraph 1 you shall be liable to pay a compoundable amount as follows:

S/N	Offence	Prescribed Fine under the Law (TZS)	Compounded Amount (TZS)

.....
Director General/Authorized Officer

.....
Signature

Date:

Received by:

Signature:

Date:

THE UNITED REPUBLIC OF TANZANIA
THE ENERGY AND WATER UTILITIES REGULATORY AUTHORITY ACT (CAP. 414)

ADMISSION FORM

(Made under Regulation 5)

I of (residential or business address) being the (owner/director/manager/representative) of..... (name of company/firm, etc) plead guilty to the charge (s) Nos.....set out in the Notification Form.

I request that the offence(s) be compounded as per rule/regulation/section..... of the..... Rules/Regulations/Act

I undertake to pay the requisite compoundable amount of TZS within a period of days from the date hereof.

I understand that an interest of five percent per month will be charged upon failure to pay the compounded amount within the period specified above.

Signature:

Date:

Signature of the person issued with the notification

Signature of the authorised officer

THE UNITED REPUBLIC OF TANZANIA
THE ENERGY AND WATER UTILITIES REGULATORY AUTHORITY ACT (CAP. 414)

INTENTION TO ANSWER CHARGES FORM

(Made under Regulation 5)

I of
(residential or

business address) being the (owner/director/manager/representative)
of.....

..... (name of company/firm, etc) intend to answer
charge (s)

Nos.....set out in the Notification Form.

I further provide my explanation attached hereto in writing in response to the charges.

Signature:

Date:

(Made under Regulation 7)

MAKAME MBARAWA
Minister for Water