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THE WATER SUPPLY AND SANITATION ACT,
(CAP.272)

REGULATIONS

(Made under section 57)

THE WATER SUPPLY AND SANITATION (CLUSTERING OF WATER
AUTHORITIES) REGULATIONS, 2013

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THE WATER SUPPLY AND SANITATION ACT
(CAP.272)

THE WATER SUPPLY AND SANITATION (CLUSTERING OF WATER
AUTHORITIES) REGULATIONS, 2013

PART I
PRELIMINARY PROVISIONS

- Citation 1. These Regulations may be cited as the Water Supply and Sanitation (Clustering of Water Authorities) Regulations, 2013.
- Interpre-
tation
Cap.272 2. In these Regulations unless the context requires otherwise-
“Act” means the Water Supply and Sanitation Act;
“Board” means the Board of Directors of the Clustered Water Authority;
“commercial viability” means the ability of Clustered Water Authority to cover or meet all its operation and maintenance cost;
“Clustered Water Authority” means a Clustered Water Supply and Sanitation Authority established pursuant to section 9 of the Act;
“clustering” means grouping of water supply and sanitation services in a number of local government areas under one statutory autonomous body in order to achieve commercial viability;
clustering model one” means a clustering involving Water Supply and Sanitation in district, towns and townships;
“clustering model two” means a clustering involving regional headquarters town Water Supply and Sanitation Authority to form clusters with District towns and townships Water Supply and Sanitation Authorities;
- Cap. 287 “District Authorities” has the meaning ascribed to it under the Local Government Authorities Act;
- Cap. 414 “EWURA” has the meaning ascribed to it under the Energy and Water Utilities Regulatory Authority Act;
- Cap. 288 “Minister” means the Minister responsible for water;
“town” means an area over which a town council is established or deemed to have been established under the Local Government laws;

“township” has the meaning ascribed to it under the Local Government Authorities Act; and
“water authority” has the meaning as ascribed to it under the Act. Cap. 287

**PART II
POWERS TO CLUSTER WATER AUTHORITIES**

3.-(1) The Minister may, in consultation with the Minister responsible for Local Government Authorities and by notice published in the Gazette cluster water authorities in order to achieve commercial viability of water supply and sanitation services. Power to Cluster

(2) The notice under sub regulation (1) shall be in the prescribed form provided for under the First Schedule to these Regulations.

(3) The clustering of water authorities may be according to model one or model two as may be prescribed by the Minister in the notice.

4. In clustering water supply and sanitation authorities the Minister- Criteria in clustering water supply and sanitation authorities

- (a) shall consider the potential of the clustered water authority to attain commercial viability;
- (b) may consider the following-
 - (i) minimum population of a cluster of one hundred thousands;
 - (ii) access and use of common water sources;
 - (iii) social and cultural factors;
 - (iv) geographical proximity from the core to the outer limit of the cluster in an average of 100 km;
 - (v) existing level of staffing; and
 - (vi) any other criteria as the Minister may from time to time determine.

5.-(1) Without prejudice to the provisions of regulations 4, water authorities may apply to the Minister to be clustered. Application for clustering

(2) Upon receipt of clustering application under sub regulation (1), the Minister shall determine the application upon compliance with provisions of regulation 6.

PART III
ESTABLISHMENT OF CLUSTERED WATER AUTHORITY

Establish-
ment of
Clustered
Water
Authority

6.-(1) Whenever there is need or proposal to cluster water authorities, the Minister shall appoint -

- (a) a Clustering Implementation Coordination Team for coordinating clustering activities; and
- (b) a Clustering Implementation Committee to manage the process of establishing clustered water authority.

(2) The Clustering Implementation Coordination Team shall be composed of five representatives, two from the Ministry responsible for Regional Administration and Local Government and three from the Ministry responsible for Water whom one of them shall be the chairperson.

(3) The clustering implementation committee shall be composed of representatives from District Executive Director/Town Director/Municipal Director/City Director, and Managing Directors of constituent water authorities and shall be chaired by the representative of Regional Administrative Secretary.

(4) The clustering implementation committee shall manage the process of establishing clustered water authority within two years from the date of its appointment;

provided that the Minister may extend this period for the further duration not exceeding six months

(5) Where the Clustering Implementation Committee, after consulting the constituent water boards and other relevant stakeholders, is satisfied that the proposed cluster has met the requirements provided for under regulation 4, shall submit a report to the Minister recommending the establishment of the cluster water authority.

(6) Upon receiving the report under sub-regulation (3), the Minister may proceed to exercise the powers under regulation 3 of establishing the Clustered Water Authority.

7.-(1) During the period in which the Clustering Implementation Committee is managing the process of establishing a Clustered Water Authority, technical, management, financial and other support shall be provided by the Ministry responsible for Water. Support during transition period

(2) The regulatory support shall be provided by EWURA.

8. The name of the Clustered Water Authority shall be decided by the Minister, upon recommendations of the Clustering Implementation Committee. Name of a clustered water authority

9. The headquarters of a Cluster Authority shall be decided by the Minister, upon recommendations of the Clustering Implementation Committee, and shall be located at a suitable town, place and area which is favourable to achieve commercial viability. Head-quarters of Clustered Authority

10.-(1) The Clustered Water Authority shall exercise such powers, and perform such functions and duties as provided in the Act. Powers, duties and functions of clustered water authority

(2) Clustered Water Authority shall comply with the provisions of the Act and EWURA Act like any water authority established under the Act.

PART IV

BOARD OF DIRECTORS OF CLUSTERED WATER AUTHORITY

(a) Board of Directors

11.-(1) There shall be a Board of Directors of a Clustered Water Authority. Board of Directors of clustered water authority

(2) The Second Schedule to these Regulations shall have effect regarding the composition, appointment and procedures of the Board of Directors of the Clustered Water Authority.

Water Supply and Sanitation (Clustering of Water Authorities)

GN No. 437 (contd.)

Appoint
ment of
the
Members
of the
Board

12.-(1) The Minister shall, upon consultation with the Regional Administration or the relevant local government authority, appoint the chairman and members of the Clustered Water Authority other than those whose membership is by virtue of the office held.

(2) The Minister, in making appointments of members of the Board shall have regard to desirability that every person appointed possess such technical qualifications or experience by virtue of his involvement in commerce, industry, agriculture, finance, public services or administration, as may enable that person to make a useful contribution to the deliberations of the Board and to assist it in the furtherance of the functions of the Authority.

Powers
and
functions
of the
Board

13. The Board shall exercise such powers and functions as provided for the Act including to manage the affairs of the Clustered Water Authority.

(b) Managing Director and Staff

Managing
Director

14.-(1) There shall be a Managing Director of the clustered water authority who shall be appointed by the Minister on recommendation of the Board for a term not exceeding four years, as may be specified in the instrument of appointment, but shall be eligible for re-appointment.

(2) The Board shall make the recommendation in subsection (1) on the basis of a competitive recruitment process and shall provide evidence thereof as may be required by the Minister.

(3) The Managing Director shall be a person who-

- (a) possesses the relevant experience and knowledge of the functions of Water Supply and Sanitation Authorities; and
- (b) in the opinion of the Board, is suitable to perform the functions and duties competently and with integrity.

(4) The Managing Director shall be the Chief Executive of the Clustered Water Authority and, subject to the directions of the Board, be responsible for the day to day management of the affairs of the water authority.

15.-(1) The Board may appoint such number of staff on the basis of qualifications, experience and merit as may be necessary for the proper and efficient conduct of the business and activities of the Clustered Water Authority and upon such terms and conditions as it may determine.

Staff of a clustered water authority

(2) The Board shall comply with the competitive and transparent recruitment procedure whenever it appoints employees.

16. Existing staff employed by government ministry, regional administration or constituent local councils may be transferred to the clustered water authority.

Existing Staff

17.-(1) Every person who immediately before the commencement of these Regulations was employed by the previous water authority, in connection with the administration and provision of the water supply and sanitation services in any water supply and sanitation authority area, in relation to which the water authority becomes the clustered water authority, shall, in relation to that town, automatically be transferred to the Clustered Water Authority.

Transfer of employees to the Clustered Water Authority

(2) After a person becomes an employee of the Clustered Water Authority by virtue of sub-regulation (1) the terms and conditions of his employment shall not be lesser favourable than those offered by the previous water authority.

(3) The Clustered Water Authority shall have a scheme of service to be approved by the Board.

(c) Provisions relating to Service Providers

18.-(1) The Clustered Water Authority may arrange for the exercise and performance of all or any of its powers and functions under the license by one or more agents, to be known as service providers.

Appointment of service providers

(2) The arrangement referred to under sub-regulation (1) shall specify the powers and functions under the license which shall be performed by the service provider during the currency of the agreement.

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(3) The arrangement may also make provision for or with respect to-

- (a) the concurrent performance, by the clustered Water Authority and the service provider, of the same functions in different parts of the area of jurisdiction of the clustered water authority;
- (b) the indemnity by the service provider of any liability of the clustered water authority arising from the performance or non-performance of functions conferred by the license; and
- (c) the maintenance, rehabilitation and development, by the service provider, of water and sanitation infrastructure and facilities of the clustered water supply and sanitation authority.

Power to enter into agreements

19. The Clustered Water Authority may enter into agreements with more than one service provider in respect of its area of jurisdiction.

Functions of service provider

20. A power or function conferred by a licence or otherwise conferred by or under the Act which, pursuant to an agreement may be exercised or performed by a service provider shall be deemed, when exercised or performed by the service provider, to have been exercised or performed under the authority of the license.

(d) Provisions relating to Memorandum of Understanding

Memorandum of Understanding

21. There shall be a Memorandum of Understanding to clarify roles and responsibilities between the Clustered Water Authority, local government authorities, the Ministry responsible for water and the Ministry responsible for regional administration and local government.

Facilitation of the Ministry of Water

22. After declaration of the clustered authority in the Gazette, the Minister shall facilitate the Board to enter into all the required Memorandum of Understanding.

PART V
GENERAL PROVISIONS

23. Subject to the provisions of Act, regulations and any other plan, rules or guidelines determined by the Board, the current operation guidelines issued by the Ministry responsible for Water on personnel, financial, purchases, reporting and monitoring mechanism and other general matters on the operation of Water Supply and Sanitation Authorities shall apply to the Clustered Water Authorities.

Operational Guidelines

24. Subject to the Act and the EWURA Act, clustered water authorities shall be regulated by EWURA.

Regulation by EWURA

25. Where procedures are not provided for in these Regulations, the Minister may do whatever is necessary and permitted by applicable laws to enable effective implementation of these Regulations.

Minister to Supplement Procedures

FIRST SCHEDULE

(Made under regulation 3(3))

NOTICE OF DECLARATION OF A CLUSTERED WATER SUPPLY AND SANITATION AUTHORITY

IN EXERCISE of the powers conferred upon me by section 9 of the Water Supply and Sanitation Act, I, Minister responsible for Water do hereby declare to be a Clustered Water Authority in Category effective fromday of20.....

The clustered water authorities are as follows:

- (a) Water Supply and Sanitation Authority;
- (b) Water Supply and Sanitation Authority; and
- (c) Water Supply and Sanitation Authority

Its area of operation is as appended hereto.

Made this day of 20....

.....
Dar es Salaam,

.....
Minister for Water

Water Supply and Sanitation (Clustering of Water Authorities)

GN No. 437 (contd.)

SECOND SCHEDULE

(Made under regulation 11(2))

COMPOSITION, APPOINTMENT AND PROCEDURES OF THE BOARD OF DIRECTORS

Composition and appointment of the Board	<p>1. The Board of Directors of a clustered water authority shall consist of members appointed by the Minister as follows-</p> <ul style="list-style-type: none">(a) Chairman who shall be resident in any of the constituent towns;(b) Managing Director of the clustered water authority who shall be the secretary of the Board;(c) Representative of relevant Regional Administration;(d) City Director or Town Director or District Executive Director as the case may be representing the constituent councils;(e) Representative of the ministry responsible for water;(f) One representative of each constituent towns shall be either the mayor or the chairman of the council as the case may be;(g) Representative of the locally based large scale water consumers;(h) Representative of women groups; and(i) Representative of Community Based Organisation(s) dealing with water supply and sanitation in the area of jurisdiction of the clustered water authority.
Tenure	<p>2.-(1) Members of the Board of Directors shall hold office for a period of three years but shall be eligible for re-appointment at the end of that period.</p> <p>(2) Members not appointed by virtue of their office shall be eligible for reappointment for one further term.</p> <p>(3) Notwithstanding the eligibility of members, for re-appointment to the Board of Directors, at each re-appointment of members, at least two members shall be new members who shall not have served previously as a member.</p>
Vice Chairman	<p>3. The members shall elect one of their members to be the Vice-Chairman of the Board and any member so elected shall, subject to his continuing to be a member, hold office for a term of one year from the date of his election and shall be eligible for re-election.</p>
Meeting of Board	<p>4.-(1) The Board shall ordinarily meet for the transaction of its business at the times and at the places determined by it, but shall meet at least once in every three months.</p>

Water Supply and Sanitation (Clustering of Water Authorities)

GN No. 437 (contd.)

(2) The Chairman, or in his absence the Vice-Chairman, may at any time call a special meeting of the Board upon a written request by a majority of the members in office, special meeting of the Board upon a written request by a majority of the members in office.

(3) The Chairman, or in his absence, the Vice-Chairman, shall preside at every meeting of the Board and in the absence of both the Chairman and the Vice-Chairman the Members present at a meeting shall appoint one of their member to preside at the meeting.

5. The Chairman or, in his absence, the Vice-Chairman, may invite any person who is not a member to participate in the deliberations at any meeting of the Board but a person so invited shall not be entitled to vote.

Attenda-
nce of
non
member

6. The quorum at any meeting of the Board shall be half of the members in office.

Quorum

7.-(1) Questions proposed at a meeting of the Board shall be decided by a majority of the votes of the members present and in the event of equality of votes, the person presiding shall have a second or casting vote in addition to his deliberative vote.

Decision

(2) Notwithstanding sub-paragraph (1) a decision may be made by the Board without a meeting by circulation of relevant papers among the Members, and the expression in writing of similar views by the majority of the Members shall constitute the decision of the Board.

8.-(1) The Board shall record and keep minutes of all business conducted or transacted at its meetings and the minutes of each meeting of the Board shall be read and confirmed, or amended and confirmed, at the next meeting of the Board and signed by the person presiding at the meeting.

Minutes
of
meetings

(2) Any minutes purporting to be signed by the person presiding at a meeting of the Board shall, in the absence of proof of error, be deemed to be a correct record of the meeting whose minutes they purport to be.

9. The validity of any act of proceedings of the Board shall not be affected by any vacancy among its members or by any defect in the appointment of any of them.

Meetings
of Board

10. All orders, directions, notices or other documents made or issued by or on behalf of the Board shall be signed by

Orders,
directions,
etc

- (a) the Chairman or the Vice Chairman; or
- (b) the Managing Director or any other officer of the authority authorized in writing to do so by the Managing Director.

11. The seal of a Clustered Water Supply and Sanitation Authority shall not be affixed to any instrument except in the presence of the Chairman or the Vice-Chairman or the Managing Director or some other officer of a Clustered Water Supply and Sanitation Authority and at least one other Member of the Board.

Affixing
seal of
the
Authority

Water Supply and Sanitation (Clustering of Water Authorities)

GN No. 437 (contd.)

Board
may
regulate
its own
proceed-
ings

12. The Board may regulate its own proceedings.

Power to
dissolve
the
Board

13. The Minister may, after consultation with the Minister responsible for local Government dissolve the Board of the Clustered Water Authority.

Dar es Salaam,
27th November, 2013

JUMANNE A. MAGHEMBE,
Minister for Water